

Personal Communication Devices

701.1 PURPOSE AND SCOPE

Best Practice **MODIFIED**

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the California Department of State Hospitals (DSH) or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games and accessing sites or services on the Internet.

701.2 POLICY

Best Practice **MODIFIED**

DSH allows employees to utilize DSH-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. DSH-issued or funded PCDs will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, employees are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the employee and the employee's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Employees who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

701.3 PRIVACY EXPECTATION

Best Practice **MODIFIED**

Employees forfeit any expectation of privacy with regard to any communication accessed, transmitted, received or reviewed on any PCD issued or funded by DSH and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities (see the Information Technology Use Policy for additional guidance).

701.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

State **MODIFIED**

No employee is authorized to be the sole possessor of a DSH-issued PCD. DSH-issued PCDs can be retrieved, reassigned, accessed or used by any employee as directed by a supervisor without notice. Employee use of a DSH-issued PCD constitutes specific consent for access for DSH purposes. Prior to conducting an administrative search of a PCD, supervisors should consult

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legal counsel to ensure access is consistent with CalECPA (Pen. Code § 1546; Pen. Code § 1546.1).

701.4 DSH-ISSUED PERSONAL COMMUNICATION DEVICES

Best Practice **MODIFIED**

Depending on an employee's assignment and the needs of the position, DSH may, at its discretion, issue or fund a PCD. DSH-issued or funded PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of DSH and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Unless an employee is expressly authorized by the Chief of Police or designee for off-duty use of the PCD, the PCD will either be secured in the workplace at the completion of the tour of duty or will be turned off when leaving the workplace.

701.5 PERSONALLY OWNED PERSONAL COMMUNICATION DEVICES

Discretionary **MODIFIED**

Employees may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Personally own PCDs are prohibited inside secure treatment areas without direct authorization from the Chief of Police.
- (b) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.
- (c) The Department accepts no responsibility for loss of or damage to a personally owned PCD. In accordance with Policy Directive 7100-Bring Your Own Device, if the PCD is damaged a claim should be submitted through the California Victims Compensation Board (Cal VCB).
- (d) The PCD and any associated services shall be purchased, used and maintained solely at the employee's expense.
- (e) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Employees will have no expectation of privacy with regard to any DSH business-related communication.
 - (a) Employees may use personally owned PCDs on-duty for routine administrative work as authorized by the Chief of Police.
- (f) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with DSH, without the express authorization of the or the Chief of Police or designee (e.g., Pen. Code § 647.9 and Pen. Code § 1524).
- (g) All work-related documents, emails, photographs, recordings or other public records created or received on an employee's personally owned PCD should be transferred

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to DSH and deleted from the employee's PCD as soon as reasonably practicable but no later than the end of the employee's shift.

Except with prior express authorization from their supervisor, employees are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty. If an employee is in an authorized status that allows for appropriate compensation consistent with policy or existing memorandum of understanding or collective bargaining agreements, or if the employee has prior express authorization from his/her supervisor, the employee may engage in business-related communications. Should employees engage in such approved off-duty communications or work, employees entitled to compensation shall promptly document the time worked and communicate the information to their supervisors to ensure appropriate compensation. Employees who independently document off-duty DSH-related business activities in any manner shall promptly provide DSH with a copy of such records to ensure accurate record keeping.

701.6 USE OF PERSONAL COMMUNICATION DEVICES

Best Practice **MODIFIED**

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct DSH business:

- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.
- (b) All PCDs in the workplace shall be set to silent or vibrate mode.
- (c) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Employees shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.
- (d) Employees may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid or in lieu of regular radio communications.
- (e) Officers are prohibited from taking pictures, audio or video recordings or making copies of any such picture or recording media unless it is directly related to official DSH business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or designee, may result in discipline.
- (f) Unless on an authorized break, employees will not access social networking sites for any purpose that is not official DSH business.
- (g) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any employee having knowledge of such conduct shall promptly notify a supervisor.

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701.7 SUPERVISOR RESPONSIBILITIES

Best Practice **MODIFIED**

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that employees under their command are provided appropriate training on the use of PCDs consistent with this policy.
- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a employee is observed or reported to be improperly using a PCD.
 - (a) An investigation into improper conduct should be promptly initiated when circumstances warrant.

701.8 USE WHILE DRIVING

State **MODIFIED**

Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Employees who are operating DSH vehicles that are not authorized emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use. In an emergency, a wireless phone may be used to place an emergency call to DSH or other emergency services agency (Veh. Code § 23123; Veh. Code § 23123.5). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

701.9 OFFICIAL USE

Discretionary **MODIFIED**

Employees are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, employees shall conduct sensitive or private communications on a land-based or other DSH communications network.

The following situations are examples of when the use of a PCD may be appropriate:

- (a) Barricaded suspects
- (b) Hostage situations
- (c) Mobile Command Post
- (d) Catastrophic disasters, such as plane crashes, earthquakes, floods, etc.
- (e) Major political or community events
- (f) Investigative stakeouts
- (g) Emergency contact with an allied agency or allied agency field unit
- (h) When immediate communication is needed and the use of the radio is not available or appropriate and other means are not readily available