

DRAFT

CITY OF SAN PABLO ADMINISTRATIVE POLICY

Subject: DRAFT PUBLIC RECORDS AND ELECTED OFFICIALS INCLUDING CITY-PROVIDED MOBILE DEVICES FOR ALL CITY ELECTED OFFICIALS

Purpose:

To establish and provide guidelines and criteria regarding potential public records held on private or City mobile devices.

Scope:

This policy generically refers to all such devices as mobile devices and is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets and similar wireless two-way communication and/or portable internet access devices. Mobile device 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.

Policy:

The City of San Pablo recognizes that emails and text messages sent or received by Elected Officials may be considered a public record under the Ralph M. Brown Act (Cal. Gov't Code section 54950 *et seq.*), the Public Records Act (Cal. Gov't Code section 6250 *et seq.*) and records retention laws (e.g. Cal. Gov't Code section 34090 *et seq.*). In addition, these communications may be subject to a civil or criminal subpoena. In order to comply with these laws, Elected Officials should:

1. Use their City provided email addresses to discuss or conduct City business so that such emails may be handled and retained as required by the law.
2. If an Elected Official uses private email addresses or texts or other such communication methods to discuss or conduct City business, then one of the two following actions should be taken so that these communications may be handled and retained as required by law:
 - a. Copy ("cc") the communications to "LehnyC@Sanpabloca.gov"; or
 - b. Forward or otherwise copy (e.g. screenshot) the communications and send to LehnyC@Sanpabloca.gov.

All mobile device use must comply with Federal, State, and local laws and regulations.

In addition to violating the law, the use of a mobile device while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public.

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

In addition, the City of San Pablo authorizes Elected Officials to utilize City-issued mobile devices for City-related purposes. Any issued mobile device may be subject to monitoring and inspection consistent with the standards set forth in this policy.

Elected Officials who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from the City Attorney or City Manager.

Privacy Expectation

Elected Officials forfeit any expectation of privacy with regard to any communication accessed, transmitted, received or reviewed on a mobile device issued by the City or through a City email address and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities (see Information Technology Use Policy for additional guidance).

CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

No Elected Official is authorized to be the sole owner of a City-issued mobile device. Elected Official use of a City-issued mobile device constitutes specific consent for access for City purposes.

Procedures for City-issued Mobile Device

Although the mobile device and the associated telephone number shall remain in the Elected Official's possession, the City-issued mobile devices and the associated telephone number shall remain the sole property of the City and shall be subject to inspection or monitoring (including all related records and content) at any time. The City has the discretion to restrict or rescind an Elected Official's access to a City-issued mobile device at any time.

The City will require the return of such mobile devices when the Elected Official's term is over.

Elected Officials acknowledge, by receiving a City-issued mobile device, that software applications and any type of files installed on, or sent to an Elected Official's mobile device by the City, are intended for City business use only and remain the property of the City.

Call records for City-issued mobile devices are not confidential and may be subject to public records requests. The City Clerk and/or City Attorney should be consulted for advice and resolution of public record concerns.

Elected Officials shall engage in safe usage practices as recommended by the equipment manufacturer and/or service provider.

Elected Officials are responsible for maintaining adequate physical protection for all equipment issued to them by the City. Elected Officials shall promptly notify the City Manager, or designee, if any City-owned mobile device is damaged or stolen. If a City-issued mobile device is stolen, the Elected Official responsible for the device will be required to file a police report and notify the City Manager's Office and Information Technology so that the data on the device may be secured. No additional allowance is provided by the City to purchase new equipment or replace lost or damaged personal mobile devices.

Use of City-issued Mobile Device

The following protocols shall apply to all mobile devices used to conduct City business:

- a) Elected Officials are prohibited from accessing social networking, dating, shopping, or gaming sites of any type for any purpose that is not official City business and shall not install or download unauthorized software.
- b) Using a City-issued mobile device to harass, threaten, coerce, or otherwise engage in inappropriate conduct with any third party is prohibited. Any Elected Official having knowledge of such conduct shall promptly notify the City Manager, or designee.