

SUBJECT: USE OF RECORDING EQUIPMENT

1.0 PURPOSE

The purpose of this policy is to establish a procedure for the proper use of Body-Worn Camera (BWC) utilized by the Española Police Department (EPD) Police Officer's (Officer) as well as the storage and management of the recordings.

2.0 POLICY

It is the policy of EPD that an officer shall activate the BWC when such use is appropriate for the proper performance of official duties, where the recordings are consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in undercover police operations.

3.0 APPLICABILITY

This policy applies to all personnel issued BWC and portable audio recorders.

4.0 REFERENCES

- A. 29-1-16 NMSA 1978**

5.0 DEFINITIONS

- A. EPD** – The Española Police Department.
- B. DVMS** – Digital Video Management System -Technologically advanced in-car digital video system which provides higher quality of video and audio recordings.
- C. BWC** – Body-Worn Camera.
- D. Portable Recorder** – Department issued audio recording device that is small enough to be carried on an officer's person.

6.0 PROCEDURE

BWC, DVMS, and portable recording equipment is to be utilized by EPD commissioned personnel to collect evidence for the prosecution of criminal violations, training, evaluating work performance, protection against false allegations, and other uses as approved by supervisors. The BWC and DVMS equipment will be utilized to document traffic stops and citizen encounters within close proximity of the patrol unit. The BWC will be utilized to document citizen encounters that take place outside the close proximity of the patrol unit.

- A. General Guidelines** – The Department has adopted the use of BWC, DVMS, and portable audio recording systems in order to accomplish several objectives, including but not limited to:

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1. Collect evidence by assisting with accurate documentation of events, Police-Public contact, Officer Safety, actions, conditions, and statements made during arrests and critical incidents, thereby enhancing officer's reports, evidence collection, and court testimony.
2. Audio and video recordings enhance the Department's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
3. The BWC is useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.
4. Protect officers from false claims of improper conduct and other frivolous claims.

B. Operational Procedures for BWC, DVMS, and Portable Recording Equipment

Personnel shall adhere to the following procedures when utilizing BWC, DVMS, and portable recording equipment.

1. BWC equipment shall be issued to officers as authorized by the Department. Officers that are assigned BWC equipment must use the equipment within the guidelines of this General Order.
2. Officers shall use only BWCs issued by the Department. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the City of Española.
3. Officers assigned BWCs must complete a Department approved or provided training program to ensure proper use and operation. Officers may be required to additional training to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment. The BWC will be utilized only by personnel who have been properly trained in its use.
4. BWC equipment is the responsibility of each individual officer to which it is assigned and shall be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that replacement equipment may be procured.
5. Officers shall inspect and test the BWC at the start of each shift in order to verify proper functioning and shall notify their supervisor of any problem with the functioning or operation of the equipment.
6. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior written authorization and approval of the Chief of Police or his or her designee.

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7. Officers shall inform their supervisor of any recordings that may be of value for training purposes.
8. Requests for deletion of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the Chief of Police or his or her designee in accordance with state record retention laws. All requests and final decisions shall be kept on file.
9. Officers shall note an incident, arrest, and related reports when recordings were made during the incident in question. BWC recordings are not a replacement for written reports.
10. The BWC or DVMS equipment may be manually deactivated during non-enforcement activities such as protecting accident scenes, roadblocks, etc.
 - a. BWC or DVMS equipment shall **NOT** be deactivated while responding to an incident with emergency equipment activated.
 - b. DVMS equipment shall **NOT** be manually overridden by shutting the system or power supply off.
 - c. There are limited circumstances when officers have discretion to activate or deactivate the BWC. These include when an officer has reason to believe that the use of the BWC would impede or limit the cooperation of a victim or witness during an investigative contact.
- 10.1 The BWCs shall not generally be used to record:
 - a. Communications with other police personnel (i.e.: discussing details of a case, preparing for a crime scene walk through, or when discussing management issues);
 - b. Encounters with undercover officers or confidential informants;
 - c. When on break or otherwise engaged in personal activities; or
 - d. An encounter where the officer is being provided confidential information. Note: The officer may not know at the start of the recording that confidential information is to be provided. In this instance, the recording will be stopped and the officer will narrate to the camera the reason for terminating the recording.
 - e. Inside medical or psychiatric facilities, except when a situation arises that the officer reasonably believes to serve a proper police purpose. Reasonable attempts shall be made to avoid recording persons other than the suspect.
11. The BWC, DVMS, and/or portable recording equipment shall **NOT** be deactivated until enforcement action is completed. If the equipment is deactivated before enforcement action is completed, the officer shall state the reasons on their daily recap. Officers are not required to cease recording an event, situation, or circumstance at the demand of any person.
12. Officers shall use the BWC, DVMS, and portable recorder in the following manner:

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- a. The BWC and DVMS will be used while conducting traffic enforcement. The portable recorder shall be used to capture all audio interactions between an officer and person(s) should they move out of BWC or DVMS recording range. Deviations from this will be documented by the officer on their daily recap and on an Offense/Incident Report, if appropriate.
 - b. During traffic enforcement, the BWC or DVMS shall be used until the enforcement action is concluded, and the officer completes his/her contact with the occupants. In the event that a traffic stop leads to the arrest of one or more occupants, the recording shall continue until the prisoner(s) is properly restrained in a transport vehicle. If the prisoner is cooperative and non-combative, the recording may be stopped. Recording equipment shall be reactivated if the prisoner becomes uncooperative and/or combative. This shall be documented in an Offense/Incident Report. Nothing in this section precludes an officer from recording throughout transport and processing of cooperative prisoners at his/her discretion (e.g. male officer transporting female).
 - c. The BWC shall be used to document contact with persons when answering all calls for service.
 - d. The BWC shall be used to document custodial interrogations in their entirety, including Miranda Warnings.
 - e. The BWC shall be used to document search warrant operations from the time of entry until the area is secured.
 - f. The BWC shall be used to document the arrest of persons from the time initial contact is made until the prisoner is secured in a transport vehicle. The recording equipment shall be reactivated if the prisoner becomes uncooperative and/or combative while being transported or while at a temporary holding facility. The recording equipment shall remain activated until the prisoner is no longer in the officer's custody. This shall be documented in an Offense/Incident Report.
 - g. The portable recorder shall be used for documentation purposes at crime and accident scenes, or other events, such as the seizure of evidence or contraband during the execution of search warrants.
 - h. Any type of encounter not mentioned above in which a recording would prove useful in later judicial/administrative proceedings.
 - i. Officers are not required to disclose to the public the fact that recording equipment is in use.
13. Officers who are assigned units equipped with DVMS and are involved in a pursuit shall, as soon as practical, classify the recording as a pursuit. The recording of the pursuit will be retained indefinitely by the Chief of Police or his or her designee.
 14. Under no circumstances will a conversation between EPD employees be recorded without all parties to the conversation being aware of the fact that the conversation

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is being recorded. The only exception to this rule will be instances involving the criminal investigation of Department personnel.

15. Officers shall not erase, reuse, or in any manner alter recordings or recording media, except as authorized by this policy. When the recording is no longer needed for court proceedings or Departmental purposes, it may be erased and re-issued.
16. Officers shall ensure that they have an adequate supply of recording media to last the duration of their shift.
17. All media containing recordings shall be properly labeled with a case number and identified with the officer's name, date(s) of the recording(s), and any other pertinent information prior to being submitted with related documentation.
18. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
19. Officers shall note in Offense/Incident Reports when video, digital, and/or audio recordings are made of the incident in question.

C. Procedure for Control and Management

1. Recordings with evidentiary value for court proceedings shall be safeguarded in accordance with Department policy.
2. Officers may store all other recordings in a secure storage facility, such as a locked desk drawer or filing cabinet, accessible only by the officers and their supervisor.
3. Recordings shall not be released to another criminal justice agency without approval of the Director of Public Safety or Designee Chief of Police or his or her designee. When recordings are released, the Department shall maintain the original and provide the other agency with a duplicate unless there are specific reasons for releasing the original recording. Once the duplicate copy is made, the original should be returned to safe storage.
4. Recordings not scheduled for court proceedings or departmental use shall be maintained for at least one-hundred eighty (180) days from the date the recording was made, after which they may be re-issued upon being completely erased.
5. Recordings are the property of the EPD and shall not be viewed by unauthorized persons. Unauthorized persons include the media, family, friends, and other employees not involved in a supervisory or investigatory capacity. Employees are not authorized to copy or release recordings without supervisory approval. Members of the media requesting to view recordings must go through the normal release of records procedure.
6. All recordings deemed to be of value for training purposes should be forwarded to the Training and Recruiting Bureau once they are no longer needed for court proceedings.

D. Digital Audio Recorder Storage and Management

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1. Upon receipt/issuance of a digital recorder, the officer shall make a recording and initial upload onto the server to ensure functionality. The following procedure shall be followed when uploading files from the recorder to the network:
 - a. Depending on the type of digital recorder being used, the officer will either separate the recorder and plug it into an available USB port, or place it in the cradle it came with, which should be plugged into a USB port.
 - b. Once the recorder is successfully connected, an option window should appear and the officer will choose the "Open Folder to View Files" option.
 - c. Once the folder has opened, the officer will select the "Upload Audio Files" option.
 - d. The officer will then be prompted for his/her username and password to log in. The username and password are the same as those used to initially log onto a network computer.
 - e. Once the officer is successfully logged on, the computer will begin to download the audio files to the network. The recorder should not be disconnected until a message appears indicating that the process is complete.
 - f. These files will be stored on the network in the "X" drive and placed in designated folders assigned to individual officers. The files will be labeled under the format of Year Month Day-Hour Minute Second.
 - g. All files shall be securely downloaded periodically and no later than the end of each shift and or last regular duty day each week. Each file shall contain information related to the date, BWC identifier, Case number and assigned officer.
 - h. Officers shall generally be permitted to review their own BWC footage for routine report writing and court preparation. They may not generally review the BWC footage of other officers.
2. A failure to connect to the server will be reported to the Information Technology Bureau.
3. All officers will upload their digital audio recorders onto the server daily or as soon as practical, but in all cases no later than weekly. This will not preclude officers from uploading their files more often, if necessary, to maintain adequate available memory.
4. Once the audio files are uploaded to the "hard drive", they are stored for 180 days, after which they are automatically purged.
5. Any files, which may **possibly** hold any evidentiary value in any court proceeding or are needed for departmental use should be copied onto the "Y" drive for long-term storage in the officer's folder.

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6. Once it has been determined that a file holds evidentiary value, it shall be transferred to permanent storage media as outlined.
7. Supervisors will be responsible for auditing the "L" drive folders of the officers under their command. Any files no longer needed or that have been transferred to permanent storage media should be deleted in order to preserve storage space.

E. Supervisory Responsibilities

Supervisory personnel who manage employees with MAVR, DVMS, or portable recording equipment shall ensure the following:

1. All employees follow established procedures for the use and maintenance of the equipment, handling of the recordings, and accurate completion of required documentation.
2. Supervisors shall randomly review recordings on a bi-weekly basis to assist in the periodic assessment of an employee's performance, to determine whether the recording equipment is being fully and properly utilized, and to identify material that may benefit others in training. It is within the supervisor's discretion to view the videos more frequently.
 - a. Supervisors may review the BWC footage of their assigned personnel for administrative, compliance, and performance reviews.
 - b. The investigating supervisor will review BWC audio and video following a use of force, a complaint, and/or a critical incident.
 - c. All requests for BWC recordings must be in writing. No recordings shall be released without the expressed approval of the Chief of Police or appointed designee. All BWC recordings must be reviewed and redacted if necessary before release.
 - d. The Chief of Police or appointed designee shall conduct an annual analysis of the BWC program, including policy review
3. BWC, DVMS, and portable recording equipment is inspected during line inspections to ensure proper functioning.
4. Non-functional or damaged equipment is repaired or replaced.
5. An adequate supply of recording media is available for officer use.
6. All media containing recordings of evidentiary value are properly stored.
7. Recordings are not released to or viewed by unauthorized persons.

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NOTE: THIS POLICY SUPERSEDES ANY PREVIOUS POLICY OR DIRECTIVE RELATING TO BWC OR DVMS EQUIPMENT AND PORTABLE AUDIO RECORDERS.

APPROVED BY:  DATE: **October 16, 2019**
Chief of Police Roger P. Jimenez

Española Police Department