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| **126 Body Worn Camera** |
| Effective Date: | January 1, 2020 | Rescinds:Amends: | All Prior |
| Distribution: | ALL PERSONNEL | Re-evaluation Date: | January 1, 2021 |
| Related CALEA Standards: | 41.3.8 |

1. **PURPOSE**
	1. The purpose of this directive is to provide employees with instructions on when and how to use body worn cameras (BWC’s) so that employees may reliably record their contacts with the public in accordance with Department Policy and applicable law. All recordings captured by Department issued BWCs are the exclusive property of the Los Alamos Police Department. (41.3.8 (a))
2. **POLICY**
	1. It is the policy of the Department that employees activate the BWC when such use is appropriate to the proper performance of his or her duties, where the recordings are consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in authorized undercover operations.
	2. Recording equipment has proven to be a valuable law enforcement tool. The Department has adopted the use of Body Worn Camera’s (BWC) to assist in the prosecution of criminal cases, to enhance the accuracy of employees’ reports and testimony in Court, to potentially reduce violent confrontations, for training and evaluation, and to maintain public trust.
3. **REFERENCES**
	* + 1. Katz v. United States, 389 U.S. 347 (1967) (reasonable expectation of privacy)
			2. § 30-12-1 NMSA 1978 (single party consent/interference with communications)
			3. § 14-2-1 et. seq. NMSA 1978 (Inspection of Public Records Act)
4. **PROCEDURES**
	1. **Wearing of BWC**
		1. All uniformed shift patrol personnel will wear Department-issued BWCs while on duty or performing law enforcement functions.
		2. All plain clothed Police personnel will use the BWC when interacting with the public during an investigation or during any enforcement of the law.
		3. All SRO’s and Officers working specialty assignments will utilize the BWC while on duty or performing law enforcement functions.
		4. Detention and Public Service Aides will wear the BWC as assigned.
		5. Police personnel shall only use the BWC provided by this Department while in the scope of their duties**.**
		6. BWC’s shall be positioned forward facing, affixed at the chest level or on the belt where the lens is adjusted to properly capture all events consistent with the manufacturer’s recommendations. Such positioning shall ensure recordings are not obstructed.
	2. **Use of BWC**
		1. Employees shall activate BWCs only in conjunction with official law enforcement duties.
		2. Employees shall activate their BWC as soon as practical when responding to a call for service or at the initiation of any law enforcement or investigative encounter between an employee and a member of the public such as: (41.3.8 (b)(d))
			1. Traffic stops
			2. Crimes in progress
			3. Investigative contacts and detentions
			4. Arrests
			5. Searches
			6. Pursuits
			7. Interrogations
		3. If the immediate activation of the BWC is not feasible due to immediate risk to the safety of employee or others, the employee will activate the BWC at the first available opportunity when the immediate threat has dissipated and it is safe to do so.
		4. An employee has discretion to record consensual encounters and any other circumstances where the employee, through training and experience, believes that a recording of an incident would be appropriate within the scope of their law enforcement duties. Employees will not surreptitiously record other employees, or create any recording without a valid law enforcement purpose.
		5. Department personnel that are not involved in direct interactions with witnesses, victims, or suspects and are performing duties, including but not limited to scene security, supervision, guard duty, holding a perimeter, administrative duties, etc., shall not be required to record these activities.
		6. Employees are not required to inform every individual being contacted that the recording device is enabled.
		7. In locations where an individual has a reasonable expectation of privacy, such as a residence, he or she may decline to be recorded unless the recording is made pursuant to a lawful purpose. As a general rule, if the employee must legally ask permission to enter a premise, he or she should also ask if the resident will allow recording. Individuals may be asked to relocate themselves to a different area if doing so would protect the event while balancing the privacy interests of the individual.
		8. The BWC shall remain activated until the event is concluded in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy (see Restrictions). Conclusion will depend on the type of incident and individual circumstances, but typically, the incident has concluded when Department personnel terminates contact with the individual or has cleared the scene. If an employee wishes to pause the audio portion of a recording while the video remains active, i.e. to discuss tactical considerations, the employee shall indicate “Administrative Pause” prior to the audio being de-activated. Any use of an Administrative Pause will be documented within the Employee’s report.
		9. Employees will respect the dignity of all and use sound judgment during recording and will try to avoid recording persons who are nude or when sensitive human areas are exposed, or when dealing with victims of abuse.
		10. Civilians shall not be allowed to view video at the scene unless doing so is necessary to further an investigation.
	3. **Recording of Traffic Stops:**
		1. If the Department vehicle is equipped with a video camera, the video and sound shall be activated prior to the stop in order to record the behavior of the vehicle or person and shall remain activated until the person or vehicle is released. Exigent circumstances will be taken into consideration if the Officer fails to activate the video equipment.
		2. Audio may be interrupted while Officers are having discussions with other Public Safety Officials and outside the hearing ability of involved parties, but the video shall remain activated at all times.
		3. Broken or malfunctioning recording equipment must be immediately brought to the attention of the employee’s immediate Supervisor and Operations Commander. Members will be responsible for promptly coordinating and scheduling repairs through the Department’s Fleet Manager. Shift Sergeants are required to test the operational status of the recording equipment and document the results on the vehicle inspection forms.
	4. **Restrictions and Non-Recording Incidents (41.3.8 (b))**
		1. Department personnel shall not use recording devices to document:
			1. Encounters with undercover Department personnel or confidential informants.
			2. Personal activities or private conversations of Department or County personnel that do not involve calls for service or contact with the public.
			3. Conversations between Department personnel that involve case strategy or tactics.
			4. DWI Checkpoints do not require continuous recording, but all citizen encounters during a checkpoint shall be recorded including all field sobriety tests.
			5. Locations where individuals may have a reasonable expectation of privacy, such as: restrooms, locker rooms, the presence of medical personnel, or in hospitals. (Katz v. US) However, Department personnel will record in these locations if the contact is subject to mandatory recording if the totality of the circumstances leads the employee to believe that recording is appropriate for a valid law enforcement purpose.
			6. Department personnel shall not solely stop recording in response to an individual’s request if the recording is required by this directive or the employee deems that continued recording is necessary. If the recording is not mandatory, the employee may evaluate the situation and, when appropriate, honor the individual’s request.
			7. The individual’s request to stop recording should be documented with the BWC. In the event that it is not reasonably possible to record the individual’s request not to record with the BWC, Department personnel shall document the request via CAD system or report.
			8. During tactical activations, tactical units may turn off their BWCs during planning and decision-making. Due to the duration of tactical activations, in order to conserve battery life, tactical units may turn off their BWCs when not conducting directed action.
			9. Conversations outside of the scope of a call for service.
		2. **Calls for Service at LANL**
			1. When responding for emergency calls for service at LANL or buildings leased by LANL, the BWC will be activated and utilized as any other call for service prescribed in this policy.
			2. In the event there is a non-emergency call for service at LANL, members must be cognizant of classified areas and material. Victims or witnesses of potential crimes can be asked to relocate themselves into a different area in the event they are within a secured/classified area.
			3. For situations that require follow-up to an existing investigation, the BWC does not have to be initiated.
			4. For follow-up investigations, if the need to turn on and initiate the BWC presents itself, the employee will exercise this right.
			5. BWCs shall not be initiated at trainings, meetings or lunches while at LANL.
			6. BWCs shall not be used to intentionally capture or record classified material or information unless such recording would serve as evidence within an investigation. In the event classified or potential classified material or information was captured during the use of the BWC during an investigation:
			7. Contact the Protective Force Operations Group at (505)667-0900 or (505)500-2513. A representative from this group could do an on-site/scene review of video captured. If this cannot be done, the representative will provide further guidance.
				1. In the event you cannot reach anyone from Protective Force Operations, please contact the Emergency Operation’s Center dispatch at (505) 667-7080 and request a representative from the Protective Force Operations Department contact you immediately. In addition to this, a notification to a Senior Staff member, via telephone, is required.
		3. **The BWC shall not be used during the Lethality Assessment Protocol (LAP).**
			1. The LAP will take place at the conclusion of a domestic violence investigation and is considered non-evidentiary in nature. The BWC will not be used to record the interaction of a victim and an advocate. The LAP is not part of the criminal investigation and is not used to determine whether a crime occurred, gather evidence or to support prosecution. It is considered a special circumstance which promotes victim safety and encourages service utilization. If any information is obtained from the LAP in which the employee further investigates, the BWC may be turned back online after the hotline conversation is concluded and the investigation resumes.
		4. If Department personnel record any of the encounters listed above, they shall notify their Supervisor who shall consult with a member of Senior Staff on how to proceed.
	5. **Training (41.3.8 (f))**
		1. All employees who are authorized to use BWCs must complete mandatory training to familiarize themselves with the devices and Departmental procedures prior to their use.
		2. Recordings may be used for training purposes. If an involved employee objects to the showing of a recording, his or her objection will be submitted to the Chief to determine whether the training value outweighs the involved employee’s objection. The Chief’s decision is final.
	6. **Viewing & Accessing Recordings**
		1. Department personnel will be assigned access to digital storage applications appropriate to their rank and/or duties.
		2. Department personnel are encouraged to review their own BWC recordings to use them for quality and accuracy in their reports and investigatory interviews.
		3. Employees may copy BWC recordings for a case file or for a Prosecuting Attorney handling a criminal case related to the recording. Any BWC recording that has been copied must be documented. Otherwise, accessing, copying, or releasing BWC recordings for any purpose is strictly prohibited, unless authorized by law and approved by the County Attorney’s Office and the Chief. (41.3.8 (c))
	7. **Management of BWC Recordings**
		1. All recordings shall normally be downloaded by the employees at the end of each shift. The shift Supervisor may allow an employee to download the recordings on the next shift, but in no circumstance will this be allowed if the recordings include information relevant to a significant criminal case, serious complaint, or event requiring a phone notification (Chief’s Report) to Senior Staff. Employees must download BWC footage by placing their respective device in the smart docking station to be downloaded onto a dedicated secure server solely used for data storage.
		2. Evidence Technicians shall ensure that the recordings are properly identified by BWC identifier and assigned employee. Evidence Technicians shall verify within the server the employee is properly identified and issued a correct number.
		3. Recordings will be stored on a dedicated server for a period of no less than 60 days. After 60 days, unless a particular file is purposely maintained, the data will be automatically purged. It is the responsibility of each employee to properly maintain recordings. (41.3.8 (d))
		4. When an event requires a copy to be made, the first copy shall be labeled and submitted to the Property Room. For evidentiary cases, the first copy is considered evidence. Additional copies are then recorded and maintained and/or distributed i.e. Prosecutor, case report copies in accordance with IV F (3) above.
		5. All recorded media created by this policy is required to be kept in accordance with Records Retention by the member for a period not less than one month from the time it was created and must be available to Supervisory inspection at any time. The exception will be for media entered into evidence associated with a case.
		6. All recorded media shall be the property of the Department and shall not be distributed outside of the Department by any means other than for official Law Enforcement functions of the Department or as approved by the Chief of Police.
	8. **Duties of Personnel**
		1. **Department personnel shall:**
			1. Ensure, at the beginning of their shift that BWCs assigned are functioning properly and the date and time are displayed correctly. Function tests shall be conducted before and after an Employee’s shift according to the instructions of their system’s manufacturer and shall report immediately any improperly functioning equipment to a Supervisor. Employees shall not be responsible for verified equipment failure during an incident if the BWC had no signs of functioning improperly prior to the incident.
			2. Articulate in writing their reasoning if they: fail to activate their BWC, fail to record the entire contact/incident, or interrupt the recording for incidents required to be recorded by this directive. This does not include an Administrative Pause as outlined in IV B (8).
			3. Not attempt to erase, alter, modify, or tamper with any recording or recording equipment.
		2. **Supervisors** - In addition to the above responsibilities, Supervisors shall:
			1. Should check their employees’ recordings 2 times every month, at a minimum, to ensure personnel are using the systems appropriately, in accordance with policy, and identify areas in which additional training or guidance is needed. Supervisors shall make a note on the monthly report, if positive feedback and/or training opportunities arise during the reviews. (41.3.8 (g))
			2. Review recordings of assigned personnel listed in any misconduct complaints made directly to the Supervisor and report any potential violations of policy.
			3. Review recordings of assigned personnel involving injuries, uses of force, shows of force, or foot pursuits.
			4. Report, via email, equipment problems and seek to have equipment immediately repaired or replaced as needed. Supervisors shall be issued additional equipment in order to temporarily replace defective BWCs. (41.3.8 (e))
			5. Supervisors shall refer assigned personnel for investigation who intentionally or repeatedly fail to activate his or her BWC during incidents required under this policy to be recorded. Intentional or otherwise unjustified failure to activate a BWC, when required by this directive, shall subject the employee to discipline.
	9. **Redaction, Retention, and Release**
		1. The Department will comply with all existing laws and regulations, including those governing retention and public disclosure of information.
		2. A recording may be redacted pursuant to applicable laws. Redaction should be narrowly tailored to the appropriate legal exemption from disclosure. If applicable, only the redacted recording shall be produced to the requesting party. There may be instances where the un-redacted recording shall be provided in criminal or civil proceedings. Personnel assigned to handle IPRA requests will consult with the County Attorney and the Chief of Police prior to redacting or exempting recordings from public inspection.
		3. In the event Department personnel inadvertently record a non-recording incident identified above, the following procedures shall be followed:
			1. Notify immediate Supervisor of unintentional recording who will notify Senior Staff via email of the circumstances. Senior Staff will then determine the proper course of action.

**Approved by:**

Dino Sgambellone

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