



MESILLA MARSHAL DEPARTMENT

P.O. BOX 10 MESILLA, NM 88046 PHONE 575-526-4138 FAX 575-652-3776

MARSHAL

EDWARD "EDDIE" LERMA

Inter-Departmental Memorandum

TO: Mesilla Marshal Staff

From: Marshal Eddie Lerma

Subject: Police Audio Visual Recordings

DATE: 09/11/2020

PURPOSE

This policy will go into effect September 20, 2020. Deputy Marshal's and non-certified law enforcement personnel shall be called "Personnel" from here forward. It is the intent of this policy to provide personnel within the Mesilla Marshal's Office guidelines in the operation, use, and maintenance of issued wearable body cameras and in-car audio/video equipment.

POLICY

Wearable body cameras and in-car audio/video equipment has proven to be an invaluable tool for prosecution of law enforcement related offenses. The use of this equipment can assist agencies in real-time evaluations of personnel performance as well as a unique training tool.

APPLICABILITY

This policy applies to all commissioned police personnel. School resource officer(s), animal control and/or Codes (Environmental Crimes) personnel who may not be certified Law Enforcement Officers, Codes and/or Animal Control who are issued wearable body cameras and/or in-car video equipment will follow this policy for any and all citizen contacts.

PROGRAM OBJECTIVES

The Mesilla Marshal's has adopted the use of wearable body cameras and/or in-car audio video recording systems in order to accomplish several objectives, including:

- A. Accurate documentation of events, actions, conditions, and statements made during arrests and critical incidents, to enhance personnel reports, collection of evidence and testimony in court.
- B. The enhancement of this agency's ability to review probable cause for arrest, arrest procedures, personal and suspect/citizen interaction, and evidence for investigative purposes, as well as for personal evaluation and training.

- C. Documenting criminal and crash scenes or other events that include the confiscation and documentation of evidence or contraband.

PROCEDURES

I. OPERATING PROCEDURES

- A. Personnel shall adhere to the following procedures when utilizing wearable body cameras and/or in-car audio/video equipment. Personnel shall follow the procedures for wearable body cameras and in-car audio/video systems and equipment as set forth in this policy to achieve compliance with the operation and care of this equipment required by New Mexico State law:
 - 1. Prior to the beginning of each shift, personnel shall ensure their wearable body cameras and in-car audio/video equipment is properly worn and working. Should any component not be working properly, personnel shall immediately notify a supervisor.
 - 2. Personnel shall record all police related public interaction, to include but not limited to:
 - a. Consensual encounters or field interviews;
 - b. Interviews and interaction with victims, suspects or witnesses;
 - c. Traffic stops;
 - d. Field sobriety tests;
 - e. Any enforcement action;
 - f. Transportation and interaction with arrested persons;
 - g. Transportation of any person, male or female;
 - 3. It is the intent of the Mesilla Marshal's to place a high priority on recording the above stated events, however, nothing in this policy is intended to prevent or delay Personnel from acting during a rapidly evolving situation where their immediate action is necessary.
 - 4. Personnel shall also use their wearable body cameras and audio/video equipment to record the circumstances at crime and accident scenes or other events such as the confiscation and documentation of evidence or contraband.
 - 5. Where possible, personnel should ensure that the in-car and wearable audio/video equipment is operating in order to record public interactions. This will ensure that:
 - a. The audio/video system is positioned and adjust properly to record events;
 - b. The wearable body cameras and/or audio/video system is **NOT** deactivated or stopped until the enforcement action and all accompanying contact is completed;
 - c. The wearable body camera should be activated once personnel receives a call by Central Dispatch. Personnel, once the wearable body camera is activated provides some narration as to the type of the call responding to. This narration should also include whenever

- possible an explanation or the reason for their current or planned enforcement action;
- d. They are not required to inform the public that audio and video recording equipment is being used, however, shall promptly advise so if or when asked;
 - e. They refrain from muting the microphone during a contact or incident unless the conversation is between personnel and does not actively involve any participant (non-law enforcement) of the call.
 - f. They refrain from powering off **any** assigned recording device while they are on any call or traffic stop until the call or traffic stop is completed and personnel are back in their unit leaving. Whenever possible personnel should provide a brief synopsis of the outcome of the call/stop and attitude of the citizen(s) who personnel have dealt with:
6. Personnel are encouraged to inform their supervisor of any recorded sequences that may be of value for training purposes. The Marshal or his/her designee will determine selection of audio/video used for training.
 7. Personnel will note-in incident, arrest, and all related reports when video/audio recordings were made during the incident in question. If there is any break in recordings, personnel fails to record, or the event is not recorded due to unforeseen operational malfunction, personnel will annotate the reason for the absence of recordings in a formal Inter-departmental memorandum up the chain of command the day of the incident or immediately after they or the marshal discover that a device had not been activated or properly recorded.
 8. Civilians, including the media, **WILL NOT** be allowed to review any recordings **WHILE ON-SCENE** unless first approved by a supervisor. All wearable body camera recordings and audio/video recordings will be considered evidence and treated as such according to department policy.
 9. All wearable body cameras and in-car audio/video recording systems used by department personnel shall only be that which is issued by the department. **The use of personally owned equipment is not authorized.**
 10. The Mesilla Marshal's reserves the right to limit or restrict personnel from viewing any audio/video files that recorded any suspicious activity from personnel or those files documenting "officer-involved shootings".
 11. Any requests for deletion of portions of recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the Marshal or his/her designee in accordance with State record retention laws. All requests and final decisions shall be kept on file.
 12. Audio and video recordings shall not be replacements for written reports.

II. EQUIPMENT INSPECTION AND MAINTENANCE

- A. Department Personnel are responsible for operating wearable body cameras and/or in-car audio/video equipment and shall inspect the equipment prior to use and monitor its performance throughout their tour of duty. Any deviations in operating condition, appearance, or suitability for its intended use shall be reported immediately to a supervisor.
1. If a problem is found during operation, a deficiency report by way of inter-departmental memorandum shall be completed and forwarded to any supervisor for correction.
 2. Department Personnel will not attempt any repair of the wearable body cameras or in-car audio/video equipment.
 3. Any and all keys belonging to the in-car video system shall be maintained by a designated supervisor. It is recommended that all supervisors obtain a copy of a key in order to facilitate any emergency removal of audio/video evidence.
 4. Field Training Officers (FTO) will be responsible for training new personnel in the operation of the wearable body camera and/or in-car audio/video recording equipment and will document that training. FTO's will also be responsible for ensuring their trainee has been inputted into the video equipment system.
 5. All audio and video recording equipment installed or portable, and any and all devices associated with the recording equipment is the property of the Mesilla Marshal's Office. All recordings shall remain in the sole custody of the Mesilla Marshal's Office, unless used in court as evidence or obtained legally by lawful order.
 6. Only standard issued removeable equipment shall be used to store recorded events on external hard drives, jump drives, flash drives, USB's, etc. These drives shall first be approved by a supervisor.
 7. Disabling any wearable body camera and/or in-car audio/video recording equipment and/or altering, duplicating, or destroying any recordings are prohibited, except when done by authorized personnel.
 8. Department Personnel will be responsible for monitoring the storage on the equipment's hard drive. Should the hard drive become full and fail to upload, it is the responsibility of the personnel to notify the appropriate designee for correction.

III. AUDIO/VIDEO EVIDENCE AND MANAGEMENT

- A. All wearable body cameras and audio/video will be uploaded **DAILY** to the corresponding server and maintained there for a period of one hundred and eighty (180) days. Department Personnel are responsible for properly labeling each event on the server. These events will be purged from the server after the designated time has elapsed. The events have been identified and maintained as: Any and every contact with any citizen, foreign or national to include all traffic stops, arrests, pursuits, citizen contacts,

animal control and codes calls. Audio/video recordings needed for court as evidence will be copied onto a removeable storage device (i.g. USB, CD, DVD, etc..) and submitted into evidence and safeguarded in the evidence room. Whenever possible, the department personnel who is responsible for the case should create a separate folder labeled on the server to safely store all audio/videos needed for court. Only after a case has been completely disposed of (criminal/civil) can an audio/video recording and/or any removeable storage device be deleted and/or destroyed. SEE IV. RESTRICTIONS BELOW FOR EXCEPTIONS.

- B. All recordings containing information that may be of value for case prosecution or in any criminal or civil adversarial proceeding shall be safeguarded as other forms of evidence. As such, these recordings will:
 - 1. Be subject to the same security restrictions and chain of evidence safeguards as detailed in this agency's evidence control policy;
 - 2. Not be release to another criminal justice agency for trial or other reasons without having a duplicate copy made and returned to safe storage. The original will remain/returned back into evidence;
 - 3. Will not be released to other than bona fide criminal justice agencies, including the District Attorney's office or United States Attorney's office without prior approval of the designated command officer.
- C. Department Personnel will be responsible for copying their own recorded audio/video events for the submission into evidence.
- D. Shift supervisors will continually review audio/video from each member of their shift to verify recording equipment is working properly and to ensure the proper conduct of officers during their encounters with citizens.

IV. RESTRICTIONS

- A. Wearable Body Cameras and In-car audio/video recording systems shall be used only in conjunction with official law enforcement duties and official business of the Mesilla Marshal's Office to include all department personnel. The wearable body cameras and in-car audio/video recording systems shall not generally be used to record:
 - 1. Communications with other department personnel.
 - 2. Encounters with undercover officers or confidential informants.
 - 3. When on break or otherwise engaged in a personal capacity.
 - 4. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
 - 5. In a hospital or medical setting where you must first inform the charge nurse or supervisor that you are required to video/audio record and that your camera is actively running and for hospital staff to take caution about

openly discussing other patient diagnosis within hearing range of your device.

V. STORAGE

- A. Portable body cameras and In-car audio/video recordings will be downloaded daily at the end of each shift onto the server. Personnel assigned to the wearable body camera and/or in-car audio/video recording device should be the individual tasked with downloading his/her assigned wearable body camera or audio/video recording onto the server.
- B. Files should be securely stored in accordance with State record retention laws and no longer than specified in III (A) or for training purposes.

VI. COMPLIANCE

The wearable body camera and/or in-car audio/video recording device will be used as described above. Only the Deputy Marshals and supervisors of the Mesilla Marshal's Office work 12-hour shifts. The current body camera assigned to the Deputy Marshal's is designed to operate continuously for ten (10) hours. Officers, animal control and codes are going to have to remember to:

- 1. Activate the camera before the encounter described above occurs.
- 2. De-activate the camera after the contact concludes.
- 3. Should personnel forget to activate the camera prior to the contact occurring personnel shall:
 - I. Submit a written Inter-departmental memorandum detailing why the wearable body camera was not activated.
 - II. Accurately describe the events that transpired during this encounter and;
 - III. What the department can do to assist personnel to remember to activate his/her wearable body camera.
 - IV. Animal Control/Codes/School Resource may not work 12-hour shifts but will follow the same protocols regarding recording.

This policy shall be effective as of September 20, 2020.

THE ACTIVATION OF THE WEARABLE BODY CAMERA IS A REQUIREMENT PER THIS POLICY AND NEW MEXICO STATE LAW. CONTINUED NON-ACTIVATIONS OF THIS PIECE OF EQUIPMENT WILL RESULT IN DISCIPLINARY ACTION UP TO AND INCLUDING TERMINATION FROM EMPLOYMENT.

Acknowledgement of Wearable Body Camera and in-car audio/video devices Policy

The employee whose signature appears below agrees to review and abide by all terms stated in this Inter-Departmental Memo dated 09/11/2020. The signature below also signifies that the employee has received a copy of this for his/her personal use.

Signature: _____

Printed Name: _____

Date: _____