

TAOS POLICE DEPARTMENT	ADMINISTRATION
SUBJECT: <i>Use of Recording Devices</i>	NUMBER: <i>ADM.149</i>
EFFECTIVE DATE: <i>May 16, 2006</i>	REVIEW DATE: 06/22/2020
AMENDS/SUPERSEDES:	APPROVED: <u>John Wentz</u> Chief of Police
NMMLEPSC STANDARDS:	NMSA:

I. PURPOSE

- A. The purpose of this policy is to establish guidelines on the use of recording devices by department personnel.
- B. To collect evidence by assisting with accurate documentation of events, actions, conditions and statements made during arrests and critical incidents, thereby enhancing officer's reports, evidence collection and court testimony.
- C. To enhance the department's ability to review procedures and probable cause for arrest. Officer-suspect interaction and use for officer evaluation and training.
- D. To protect officers from false claims of improper conduct and other frivolous claims.

II. DISCUSSION

- A. Recording equipment has proven to be a valuable law enforcement tool. The Department issues and encourages the use of digital audio and audio/video recorders in order to enhance the effective and efficient delivery of police services, and to serve as an asset for the prosecution of criminal cases.

III. POLICY

- A. It is the policy of the Taos Police Department to utilize recording devices (Mobile, personnel affixed or fixed) only for Official Purposes in accordance with State Law and Municipal Ordinance.

IV. PROCEDURE

- A. Recording devices, such as audio recorders and video cameras, may be utilized by police officers solely for the following purposes:
1. Recording statements for use in the investigation of criminal and traffic cases;
 2. In the course of any investigation as an aid to assist in the conviction of a suspect.
 3. Documenting contacts with the public;
 4. During officially authorized administrative investigations and hearings: pre-determination hearings and related disciplinary meetings and grievance hearings.
 5. During administrative investigation interviews the only person(s) authorized to record will be the investigator(s). A copy of the transcript or audio recording will be provided to the employee in accordance with the Peace Officer's Employer-Employee Act.
 6. Unless authorized by policy or the Chief of Police, the use of recording devices by department employees to record conversations with other department employees is prohibited without the prior knowledge and consent of each employee.
 7. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
 8. Recordings are the property of the Taos Police Department 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.
 9. In the instance of a (Sudden Emergency or Sudden Incident) in which an officer of this agency cannot activate his or her recording device or the recording device malfunctions, it is the responsibility of the officer to articulate within their report narrative in circumstance as to why. Upon review of this articulated circumstance, in a justified instance within reason, the Taos Police Department may not hold the officer accountable as it relates to this policy.

B. OPERATIONAL PROCEDURES FOR PORTABLE RECORDING EQUIPMENT

- 1. Personnel shall adhere to the following procedures when utilizing portable recording equipment.**
 - a.* Equipment installed in vehicle is the responsibility of the officer assigned to that vehicle and will be maintained according to the manufacturer's recommendations and Department procedures.
 - b.* All officers are required to carry their issued portable recorder while on duty.
 - c.* At the beginning of each shift, officers shall determine whether their equipment and portable recorders are working properly and shall notify their immediate supervisor of any problems as soon as possible.
 - d.* In addition, officers with recording equipment shall ensure that the camera is properly positioned and adjusted to record events.
 - e.* The officer shall also ensure that the wireless microphone remains activated in order to provide narration with the video or digital video recording.
 - f.* Officers utilizing digital recorders, with optional recording quality settings, shall use a setting that provides adequate audio clarity.
 - g.* In-car camera equipment shall be activated when the vehicle's emergency equipment is in operation.
 - h.* Portable recording equipment shall **NOT** be deactivated until the enforcement action is completed. If the equipment is deactivated before enforcement action is completed, the officer shall state the reason within an **inter-department memorandum**. Officers are not required to cease recording an event, situation, or circumstance at the demand of any person.
 - i.* Officers shall use in car cameras and portable body cameras 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 recording range. Deviations from this will be documented by the officer on an offense/incident report or memorandum if appropriate.
 - j.* During traffic enforcement, the in-car and body camera 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).

- k.* The portable recorder shall be used to document contact with persons when answering all calls for service.
- l.* The portable recorder shall be used to document custodial interrogations in their entirety, including Miranda Warnings.
- m.* The portable recorder shall be used to document search warrant operations from the time of entry until the area is secured.
- n.* Any type of encounter not mentioned above in which a recording would prove useful in later judicial/administrative proceedings.

V. COMPLIANCE FOR ELECTRONIC RECORDING

- A. As provided by the Eighth Judicial District Attorney's Office, effective January 1, 2006 New Mexico Law Requires all state and local law enforcement officers to record all custodial interrogations on felony cases when reasonably feasible. The law requires the following:
 - 1.* The custodial interrogation be electronically recorded in its entirety.
 - 2.* If conducted in a police station the recording of the custodial interrogation shall be audio or visual or both, if available.
 - 3.* The recording must include the advice of constitutional rights.
- B. The law requires all law enforcement officers to record the entire custodial interrogation unless there is good cause not to record. Good cause is defined as:
 - 1.* Electronic recording equipment is not reasonable available.

2. Equipment failed and obtaining replacement equipment was not feasible.
3. The individual refused to be recorded.
4. The statement was made in a court proceeding or grand jury proceeding.
5. If the statement is not recorded, the law requires the officer to contemporaneously note the good cause for not recording the statement.
6. Custodial interrogation is defined by the law as questioning by law enforcement officers that requires advice of constitutional rights.
7. These provisions do not apply to the spontaneously volunteered statements that are not the result of custodial interrogation. The law indicates that nothing in it shall be construed to exclude otherwise admissible evidence.

VI. MAINTENANCE

- A. Department issued recording devices will be properly maintained and any malfunctioning device will be reported to the employee's supervisor, who will take the necessary steps to get the device replaced and/or repaired.
- B. Officers shall ensure that they have an adequate supply of recording media storage to last the duration of their shift and ensure the devices are charged and batteries are good in those recording devices requiring batteries.
- C. The maintenance and upkeep of personally owned devices is not the responsibility of the department. The department provides batteries and support for the operation of department issued recording devices only.
- D. Recording devices and related equipment is inspected during line inspections or quarterly inspections to ensure proper functioning.

VII. STORAGE

- A. All recording devices will be downloaded daily and all video and audio related to any case will be stored in the officer's case file for that case. In all cases, this procedure shall be done no later than weekly, to maintain adequate available memory on their issued devices. Once digital video or audio is placed in an officer's case file, it shall

remain there, in the proper case file, located in the Police Department's Database as it is Taos Police Department property and shall not be removed or tampered with in any way. This digital evidence can be copied to disc or thumb drive for utilization by the proper authorities only.

- B. All other recordings of public contact will be stored in the "Cloud" on Evidence.com.
- C. 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 completely erased by the officer's supervisor.
- D. 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.
- E. All media containing recordings shall be properly labeled 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.
- F. Officers shall note in Offense/Incident Reports when video, digital and/or audio recordings are made of the incident in question.