
STANDARD OPERATING PROCEDURES

ESTANCIA POLICE DEPARTMENT

SUBJECT: USE OF ON-BODY RECORDING DEVICES

NUMBER: SOP800

CANCELS ORDER DATED: NONE

DATE: 06-20-22



ESTANCIA POLICE DEPARTMENT



USE OF ON-BODY RECORDING DEVICES

Estancia Police Department

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Values

The members of the Estancia Police Department are committed to a set of values that guide the work of the organization that will help contribute to the quality of life for all citizens of the community.

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Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):

A. Related SOP(s)

None

B. Form(s)

None

C. Other Resource(s)

NMSA 1978, § 29-1-18 Law Enforcement requirements for body-worn cameras.

NMSA 1978, §§ 14-2-1 to 14-2-12 Inspection of Public Records Act

NMSA 1978, §§ 31-26-1 to 31-26-16 Victims of Crime Act

NMSA 1978, § 43-1-10 Emergency Mental Health Evaluation and Care

D. Rescinded Special Order(s)

None

800 PURPOSE

The purpose of this policy is to enhance public trust and to promote constitutional policing and professionalism through the consistent use of on-body recording devices (OBRD).

801 POLICY

It is the policy of the Estancia Police Department to establish and communicate clear guidelines regarding the appropriate use of OBRDs.

802 DEFINITIONS

A. Certificate for Evaluation (C for E)

A document, completed by a qualified, licensed mental health professional, which certifies that a person, as a result of a mental disorder, presents a likelihood of harming themselves or others and that immediate detention is necessary to prevent such harm or grave passive neglect, pursuant to NMSA 1978, § 43-1-10.

B. Community Caretaking Function

The community caretaking function encompasses police duties that do not involve conduct related to crime solving or the enforcement of law, and which are motivated by the intention of providing aid. These functions include acting under the emergency aid doctrine, the impoundment and inventory doctrine, and the public servant doctrine.

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C. Confidential Informant (C.I.)

A paid or unpaid individual who is providing information to the Department; who for reasons of personal safety or other valid considerations, requests that his/her identity be kept confidential. For the purposes of this policy, confidential informants are not considered members of the public.

D. Constitutional Policing

At its most fundamental definition, constitutional policing is legal policing. Law enforcement agencies and officers are obligated to uphold the U.S. Constitution, state constitution, court decisions, and the law. Constitutional policing promotes a keen awareness of the civil liberties of society. It is the responsibility of the police to protect actively people's constitutional rights in every interaction and maintain the consent of the people. True constitutional policing goes above and beyond the letter of the law. By seeking to protect people's rights during every encounter, police can improve community relations, build public trust, and promote police legitimacy and procedural justice.

E. On-Body Recording Device (OBRD)

A video and audio recording device issued by the Department.

F. Plainclothes Officer

An on-duty sworn officer not wearing their Department-issued uniform but carrying their EPD badge and firearm.

G. Sync Cable

A cable that allows data transfer and charging of the OBRD.

H. Uniformed Personnel

Personnel wearing a Department-authorized uniform.

803 RULES

- A. All uniformed and plainclothes sworn personnel will wear Department-issued OBRD while on duty. Exceptions to wearing the OBRD include:
1. Written approval by the Chief of Police, which will be limited to law enforcement personnel who do not routinely interact with the public and only when those personnel are not engaging in law enforcement or investigative encounters with the public, including any mandatory recording events. Notwithstanding a written exception by the Chief of Police, all Department personnel shall record mandatory recording events.

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2. During training, unless required to wear the OBRD for training purposes;
 3. Any duty assignment where personnel do not carry an EPD badge and firearm, including restricted duty, administrative assignment, or administrative leave.
- B. The OBRD shall be worn forward facing at the beltline or above, or the middle of the torso, in a position intended to maximize the OBRD's ability to record.
- C. While on-duty, the OBRD shall be turned on, unless personnel are working in an administrative capacity. Personnel working in an administrative capacity are still subject to the requirements of mandatory recording incidents.
- D. Personnel shall ensure their OBRD is functioning properly at the beginning and end of each shift.
1. Any malfunctions of the OBRD shall be immediately reported to a supervisor.
 2. Failure to report OBRD malfunction may result in corrective action.
- E. Only Department-issued OBRDs shall be used.
- C. Any video created during a shift shall be uploaded by the end of the next shift. To accomplish this, personnel shall upload their OBRD at least once per shift using a docking station.
1. Personnel who have scheduled days off beyond their normal duty weekends (i.e., vacation/comp time, military leave, FMLA, etc.) shall upload video(s) prior to starting their time off from work.

For personnel who do not have daily recorded videos, OBRDs shall be docked at least once per workweek to charge the batteries and complete firmware updates. Personnel may do this by using a docking station.

- D. Personnel are prohibited from intentionally manipulating or deleting any OBRD recording.

804 MANDATORY RECORDING

- A. Personnel shall activate their OBRD for any call for service, for any other law enforcement activities that involve contact with members of the public, and for any investigative encounters involving personnel and members of the public.
- B. For all mandatory recording incidents, personnel shall activate their OBRD prior to contact with individuals, except when faced with an emergency situation requiring immediate action to preserve life or safety. At the first available opportunity, personnel shall activate their OBRD immediately.

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C. Examples of mandatory recording events include, but are not limited to:

1. Law enforcement encounters;
2. Traffic crashes;
3. Use of force encounters and any encounter with an individual who is known to be combative, or who becomes adversarial after the initial contact;
4. Arrests;
 - a. Personnel shall inform arrestees they are being recorded unless doing so would be unsafe, impractical, or impossible.
 - b. If an arrestee is taken to a medical facility, personnel shall strive only to record their interaction with the arrestee.
5. Detention and transport of individuals based on a C for E for emergency evaluation and care in response to behavioral health issues;
6. Incidents involving individuals known to have a behavioral health disorder or who are in a behavioral health crisis;
7. Community caretaking encounters; and
8. Searches;
 - a. Vehicle searches performed without a warrant from the time the vehicle is entered until the search is concluded. Service of search warrants of vehicles will be consistent with current SOPs; and
 - b. Service of search warrants of structures from the time of entry until the location is cleared and secured to allow the warrant to be executed. During the execution of the search warrant, the search will be consistent with SOPs.
 - c. When a search of a person is conducted, the OBRD shall be used, through the entirety of the search.
 - i. When conducting a strip search, officers shall position their camera to collect audio data only. Officers shall verbally record the reason for not capturing visual data. Once the strip search is over, officers shall resume recording audio and visual.
 - ii. When officers are present for a body cavity search being conducted by qualified medical personnel pursuant to a search warrant, officers shall position their camera to collect audio data only. Officers shall verbally record the reason for not capturing visual data. Once the body cavity search is over and the suspect is clothed, officers shall resume recording audio and visual.

D. For mandatory recording incidents, personnel shall record the entire law enforcement-related encounter. The law enforcement-related encounter ends when contact with the individual(s) is terminated.

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- E. Any time one of these mandatory recording incidents is not captured in its entirety, personnel shall document why it was not recorded in a report, when one is required. When no report is required, personnel shall document the reason in the Computer-Aided Dispatch (CAD).

805 PROHIBITED RECORDING

A. Personnel shall not activate their OBRD:

1. During interactions with a CI;
2. During personal activities and private conversations between Department personnel that do not involve calls for service or do not involve any other law enforcement or investigative encounters with a member of the public;
3. At locations where recordings are prohibited by law, unless permission is obtained to record; and
4. In sensitive areas such as restrooms or locker rooms, unless the encounter is a mandatory recording incident.

B. In the event personnel inadvertently record a prohibited recording incident, personnel shall notify their immediate supervisor and the vide will be categorized as "Restricted".

806 DISCRETIONARY RECORDING

A. For non-mandatory recording events and unless prohibited from recording, personnel have discretion to activate their OBRD when personnel reasonably believe it would be appropriate or valuable to document circumstances. In exercising this discretion, personnel should balance the need to record with legitimate privacy concerns.

B. Discretionary recording is allowed when a scene is being processed by investigative units in which the scene is secured and absent of public contact.

807 SUPERVISOR RESPONSIBILITIES

A. Supervisors shall:

1. Verify the OBRD of personnel under their command is functioning properly by observing the OBRD is on and functioning during routine equipment inspections.
2. Ensure any reported malfunctioning OBRDs are exchanged for a working OBRD upon discovery of the malfunction or that the OBRD is returned to proper working order as quickly as possible.

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3. Supervisors shall review the OBRD recordings involving a use of force consistent with Department policy.
4. Review entire OBRD recording(s) of any duty-related injuries to officers listed in areport not resulting in a use of force.
5. Review entire OBRD recording(s) for officers involved in a foot pursuit not resultingin a use of force.
6. Review all related OBRD recording(s) for complaints involving Department personnel reported directly to the supervisor.
7. Refer any policy violation consistent with SOP Complaints Involving Department Policy and conduct an internal review.
8. Perform a monthly video inspection, which will be completed on or before the last day of each month.
 - a. To complete the video inspection, the supervisor will review two randomly selected mandatory recording incident videos in their entirety for each assignedpersonnel to:
 - i. Ensure personnel are using OBRD per the policy;
 - ii. Identify any concerns or deficiencies in training, equipment, tactics, and/or policy;
 - iii. Identify and report policy violations;
 - iv. Identify other areas in which additional training or guidance is needed; and,
 - v. Identify commendable work performance.
 - b. When concerns or deficiencies in training, equipment, tactics and/or policy, orpolicy violations are identified, supervisors shall initiate an internal review request.
 - c. When commendable work performance, which merits recognition for a "job well done" or award nomination is identified, the Supervisor will send notice to the Chief of Police.

808 RETENTION AND RELEASE

- A. Any public release of an OBRD shall comply with the Inspection of Public Records Act(IPRA), NMSA 1978, §§ 14-2-1 to 14-2-12.
- B. All non-evidentiary videos will be retained for 120 days and then they will be deleted from the system. § 29-1-18(A)(3)

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809 TRAINING

- A. All personnel must complete mandatory training before using OBRDs.

- B. Personnel shall receive additional training when an upgrade of the system occurs or then there is a policy change.

- C. Newly promoted supervisors shall receive additional training related to supervisor responsibilities related to OBRDs.

- D. The OBRDs and their content belong to the Department and may be used for training purposes. Any OBRD footage used for training purposes shall be pulled from adjudicated cases. The Department shall not use OBRD footage that would otherwise be protected by N.M. Const. art. II, § 24. Victim's Rights, and the Victims of Crime Act, NMSA 1978, §§ 31-26-1 to 31-26-16, unless the victim provides written consent.

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POLICY AUTHORITY

These Standard Operating Procedures become effective upon the date of the signature of the last signatory and rescind all previous Estancia Police Department rules and regulations pertaining to the subject.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto, personally or by their authorized representatives, have subscribed to and signed these Standard Operating Procedures on the dates noted below.

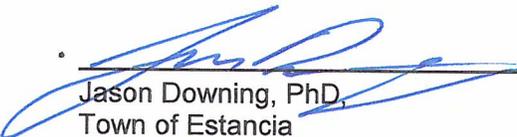
APPROVED BY:



Nathan Dial, Mayor
Town of Estancia, New Mexico

7/5/2022

Date



Jason Downing, PhD,
Town of Estancia

7/20/2022

Date

Estancia Police Department

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Values

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