



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-8

OPA Draft

2-8 USE OF ON-BODY RECORDING DEVICES

Related SOP(s): ~~None~~

- ~~1-87 Scientific Evidence Division~~
- ~~2-19 Response to Behavioral Health Issues~~
- ~~2-46 Response to Traffic Crashes~~

- ~~2-52 Use of Force – General~~
- ~~2-70 Execution of Search Warrants~~
- ~~2-80 Arrests, Arrest Warrants, and Booking Procedures~~
- ~~2-82 Restraint and Transportation of Individuals~~
- ~~3-30 Inspections Process~~

2-8-1 Purpose

The purpose of this policy is to ~~establish and communicate clear guidelines regarding the appropriate use of On Body Recording Devices (OBRD), provide personnel with instructions on when and how to use On Body Recording Devices (OBRDs) to record their contacts with the public.~~

2-8-2 Policy

It is the policy of the Department ~~to promote constitutional policing by providing transparency and accountability through the consistent use of OBRD and the trustworthy preservation of video(s) while recognizing logistical limitations or challenges and the need to respect privacy. Additionally, supervisory review of OBRD video allows recognition and encouragement of professional performance, to promote constitutional and community policing through consistent use of OBRDs.~~

2-8-34 Definitions

~~Axon~~

~~The digital recording platform used by the Department.~~

A. Buffer Mode

A pre-recording mode where the OBRD is powered on and has not been activated to record. The operation LED (light) will blink green. The camera will be capturing video but no audio.

B. Constitutional Policing



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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 actively protect 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 in every encounter, police can improve community relations, build public trust, and promote police legitimacy and procedural justice.

~~A balance of enforcing laws, keeping people in the community safe, respecting the rights of every individual who Department personnel interact with; At its most fundamental definition, Constitutional policing is legal policing. Law enforcement agencies and officers are obligated to protect people’s rights in every encounter, police can improve community relations, build public trust, and promote police legitimacy and procedural justice.~~

C. Certificate of Evaluations (COE)

~~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 Section 43-1-10.~~

~~C.D.~~ Event Mode

Record audio and video by double pressing the event button.

~~D.E.~~ Evidence.com

A cloud-based storage repository for OBRD recordings accessible by authorized personnel.

~~E.F.~~ Feasible

When an action can be ~~done or~~ carried out reasonably to achieve an arrest or lawful objective without increasing risk to Department personnel or other persons.

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~~F. Mute Function~~

~~The OBRD continues to record video footage without audio.~~

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G. On-Body Recording Device (OBRD)

A video and audio -recording device issued by the Department.

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On-Site Activity

~~Any call generated by on duty personnel.~~

H. Plainclothes Officers

~~Sworn personnel performing routine administrative duties~~ On-duty sworn personnel not wearing their Department issued uniform. .

~~H.I.~~ Uniformed ~~Department~~ Personnel

Personnel wearing a Department authorized uniform.

2-8-4 Procedures Rules

5 A. All sworn ~~personnel, Police Service Aides, Property Crime Reporting Technicians, Crime Scene Specialists, Prisoner Transport Unit, and all uniformed civilian personnel and uniformed Department personnel~~ will wear Department-issued OBRDs while on duty or at training. Exceptions to wearing the OBRD include:

- 1. Written approval by the Chief of Police or designee; or
- ~~2. Personnel in an undercover capacity shall not be required to wear their OBRD with the approval of the direct supervisor unless directed to do so by their supervisor.~~

~~3. Personnel shall use only Department-issued OBRDs.~~

~~5-2.~~

~~A. Only Department issued OBRD shall be used.~~

6 B. The OBRD shall be worn at the beltline or above, or the ~~above the midline~~ middle of their torso ~~and in a position intended to maximize the camera's ability to record capture mandatory recording incidents. However, plainclothes officers may wear OBRD at the position of the beltline or above while performing routine administrative duties. The OBRD will be positioned in a forward facing, unobstructed, location and affixed at the belt level or above.~~

C. When not recording, the OBRD shall be in buffer mode for personnel while on duty. Exceptions include the following:

- 1. a) When OBRD is docked; or
- 2. b) When personnel are engaged in administrative duties.

~~C. Personnel wearing OBRDs shall keep t~~While on duty, personnel shall keep the OBRD in the buffer mode, unless performing routine administrative duties.

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D. Personnel shall ensure ~~their that~~ OBRDs ~~assigned to them are is~~ functioning properly at the beginning and end of each shift.

1. Any malfunctions of the OBRD shall be immediately reported to a supervisor.

~~Malfunctions will tracked be by the Department.~~

~~2.~~

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E. Only Department-issued OBRD shall be used.

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F. At least once per shift, personnel shall dock their OBRD in a docking station. During OBRD docking, ~~upload videos~~ videos will upload, ~~charge batteries~~ batteries will charge, and ~~update firmware~~ will automatically update as necessary if one is available.

G. When a case number is assigned more than 40 days after the incident occurred, personnel shall manually categorize the recording in Evidence.com.

6 2-8-5 Mandatory Recording

A. Personnel shall activate their OBRDs for the following mandatory recording incidents:

A.

1. Law enforcement-related encounters and activities with all individuals, including but not limited to stops based on reasonable suspicion or probable cause, pat downs and warrantless searches;

1.

2. Traffic crashes;

2.

3. ~~U~~All use of force encounters and any encounter with an individual who is known to be adversarial or becomes adversarial after the initial contact;

3.

~~Injury to an officer or other individual;~~

4. ~~A~~All arrests;

4.

a. Personnel shall inform arrestees they are being recorded, unless doing so would be unsafe, impractical, or impossible.

a.



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~~5. Detention and transport of individuals based on a COE for emergency evaluation and care (consistent with SOP – Response to Behavioral Health Issues) pursuant to NMSA 1978 Section 43-1-10;~~

~~5. _____~~

~~6. Vehicle searches performed without a warrant;~~

~~6. _____~~

~~_____ Service of search warrants of structures from the time of entry until the location is secured at which time the execution of the search warrant is documented consistent with SOP – Scientific Evidence Division.~~

~~7. _____~~

~~B. Personnel shall activate their OBRD while en-route to a call for service or prior to initiating a law enforcement related encounter or activity involving mandatory recording incidents, except when an immediate response is required. When an immediate response is required, personnel shall activate their OBRD at the first available opportunity.~~

~~_____ For all mandatory recording incidents, personnel shall will record the entire law enforcement related encounter or activity until its conclusion. Any time it is not captured in its entirety, personnel shall document why it was not recorded in the CAD or in an offense/incident report when one is required. their report.~~

~~C. _____~~

~~_____ Personnel will be authorized to use the mute function only when having conversations with other Department personnel which involve case strategy or tactics.~~

~~0. Prior to muting the OBRD, personnel shall audibly state the reason why they are using the mute function.~~

~~0. Personnel shall re-activate audio on their OBRD when conversations involving case strategy or tactics conclude.~~

~~0. Personnel shall document the reason for the use of the mute function in the CAD, or offense/incident report.~~

7 ~~_____ Personnel may deactivate their OBRD in extremely limited circumstances when a compelling need to protect an individual's privacy or dignity outweighs the need to record the event. Personnel shall document the reason for deactivation in the CAD, or offense/incident report. Circumstances justifying deactivation may include but not be limited to the following:~~

~~_____ Natural death scenes;~~

~~_____ Child or sexual assault victim interviews;~~

~~_____ Situations involving cultural or religious objections to being recorded; and~~

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~~When the use of OBRD would impede or limit the cooperation of a victim or witness.~~

~~1.~~

6 ~~B. During tactical activations, tactical units may turn off their OBRDs during planning and decision-making. Personnel shall start recording before executing the plan at the direction of the Tactical Commander. Circumstances justifying deactivation may include but not be limited to the following:~~

~~D.~~

6 ~~Natural death scenes;~~

~~Child or sexual assault victim interviews;~~

~~Situations involving cultural or religious objections to being recorded; and~~

~~When the use of OBRD would impede or limit the cooperation of a victim or witness.~~

2-8-6 Prohibited Recording

~~A. Personnel shall not activate their OBRD under the following circumstances:~~
~~Non-Mandatory Recording Incidents:~~

~~1. Encounters with undercover officers and confidential informants;~~

~~1.~~

~~2. Personal activities and private conversations between Department personnel that do not involve calls for service or contact with individuals;~~

~~2.~~

~~3. Locations where recordings are prohibited by law, unless permission is obtained to record; and~~

~~d~~

~~3. Sensitive areas such as restrooms, locker rooms, or hospitals, or in the presence of medical personnel, unless the encounter is considered a mandatory recording incident.~~

~~—~~

~~4.~~

7 ~~B. In the event personnel inadvertently record a prohibited recording incident, personnel shall categorize the video as "Restricted" and "120 Day Delete".~~

N/A 2-8-7 Discretionary Recording

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~~A. Unless prohibited from recording an event, Department personnel~~ Personnel have discretion to ~~manually activate~~ activate their OBRD for law enforcement purposes when the device any time an officer reasonably believes it would be appropriate or valuable to document an incident. In exercising this discretion, officers should balance the need to record with legitimate privacy concerns.

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~~A.~~

~~— Once the OBRD is activated, the duration, content, and documentation of the recording shall be consistent with the requirements for mandatory recording. Personnel shall activate their OBRD while on route to a call for service or prior to initiating a law enforcement related encounter or activity involving mandatory recording incidents, except when an immediate response is required. When an immediate response is required, personnel shall activate their OBRD at the first available opportunity.~~

~~B. For all mandatory recording incidents, personnel should deactivate their OBRD when the law enforcement related encounter or activity has concluded. Personnel shall record the entire law enforcement related encounter or activity until its conclusion. Anytime it is not captured in its entirety, personnel shall document why it was not recorded in their report.~~

~~— Personnel may deactivate their OBRD in extremely limited circumstances when a compelling need to protect an individual's privacy or dignity outweighs the need to record the event. If unable to audibly provide a reason prior to muting, personnel shall document the reason for deactivation in the CAD, or offense/in the incident report. During tactical activations, tactical units may turn off their OBRDs during planning and decision making. Personnel shall start recording before executing the plan at the direction of the Tactical Commander. Circumstances justifying deactivation may include but not be limited to the following:~~

~~— Natural death scenes;~~

~~— Child or sexual assault victim interviews;~~

~~— Situations involving cultural or religious objections to being recorded; and~~

~~C. When the use of OBRD would impede or limit the cooperation of a victim or witness.~~

~~D.~~

~~E.~~

~~F. Personnel will be authorized to use the mute function only when having conversations with other Department personnel which involve case strategy or tactics, while on scene of an active call.~~

~~G.~~

~~H. Prior to muting the OBRD, personnel shall audibly state the reason why they are using the mute function.~~

~~I.~~

~~J. Personnel shall re-activate audio on their OBRD when conversations involving case strategy or tactics conclude.~~

~~K.~~



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~~Personnel shall document the reason for the use of the mute function in the CAD, or offense/incident report.~~

~~L.~~

~~M. Personnel may stop recording when personnel are no longer in contact with the individual or have left the scene.~~

~~N.~~

~~O. In the event personnel inadvertently record a non-recording incident, personnel shall categorize the video as "Restricted" and "120 Day Delete".~~

~~P.~~

~~Q. During tactical activations, tactical units may turn off their OBRDs during planning and decision-making. Personnel shall start recording before executing the plan at the direction of the Tactical Commander.~~

~~R.~~

~~S. Personnel shall document why a recording was not made, was interrupted, or was stopped.~~

~~T.B.~~

5 **2-8-5 Supervisor Responsibilities**

~~2-8-6 Personnel shall verify that recordings are properly categorized in evidence.com.~~

~~2-8-7~~

~~2-8-8 Personnel who pull When a case number is assigned more than 40 days after the incident occurred, personnel shall manually categorize the recording in Evidence.com.~~

~~2-8-9~~

~~2-8-10 Recordings shall be classified according to:~~

~~2-8-11 Type of incident or event captured in the footage;~~

~~2-8-12 Date;~~

~~2-8-13 Time; and~~

~~2-8-14 Department personnel.~~

~~2-8-15 2-8-8~~

Supervisor responsibilities:

A. ~~Supervisors shall:~~

~~A.~~

~~1. Daily~~

~~1.~~

~~1. Verify each officer's OBRD is functioning properly by observing the OBRD in buffer mode. The operation LED (light) will blink green.~~

~~3. Ensure all reported OBRD equipment problems malfunctions have been appropriately addressed. The Scientific Evidence Division is available 24/7 to ensure officers are equipped with a functioning OBRD.~~

~~2.~~

~~by verifying officers have a properly functioning OBRD have acquired a new OBRD.~~

~~A pre-recording mode where the OBRD is powered on and has not been activated to record. The operation LED (light) will blink green. The camera will be capturing video but no audio.~~

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~~Report any equipment problems and seek to have equipment immediately repaired or replaced as needed.~~

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~~3. Review entire OBRD recording(s) for For all incidents. Review recordings of assigned personnel involving any duty-related injuries to an officer, uses of force, shows of force, or foot pursuits.~~

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~~the supervisor shall review the entire OBRD recording(s).~~

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~~4. Review all related OBRD recording(s) for For all incidents involving a report of potential misconduct.~~

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~~the supervisor shall review all the related OBRD recordings.~~

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~~3. Review recordings of any misconduct complaint assigned to the supervisor~~

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~~4. Supervisors shall refer any policy violations through Blue Team. See consistent with SOP - 3-44 Complaints Involving Department Policy and Personnel and initiate an Internal Affairs (IA) request through Blue Team.~~

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~~5.~~

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6. Perform a monthly video inspection.

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~~a. Verify assigned personnel's OBRDs are working properly;~~

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~~b. a. For each assigned personnel assigned an OBRD, Review two randomly selected mandatory recording incident videos in their entirety for each assigned personnel per assigned personnel;~~

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~~i. Ensure personnel are using the systems OBRD appropriately and in accordance with policy.~~

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~~ii. Identify any concerns or deficiencies in training, equipment, tactics, and/or policy.~~

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~~iii. Identify policy violations.~~

~~iv. Identify and other areas in which additional training or guidance is needed.~~

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~~v. Identify and recognize commendable work performance.~~

~~b. If any concerns or deficiencies in training, equipment, tactics and/or policy, or policy violations and commendable work performance is identified, supervisors shall initiate an Internal Affairs request through Blue Team.~~

~~c. Complete the monthly video line inspection form for each video reviewed complete the monthly line inspection form found under the Supervision tab on the APD Web Protogage.~~

2-8-9 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. The portion of OBRD that includes information



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pertinent to an individual's protected personal identifier information shall be redacted.

B. Additionally, the following shall not be released pursuant to an IPRA request:

1. OBRD records pertaining to an individual's physical or mental examinations, medical treatment, or confinement to an institution;

2. OBRD records ~~that reveal~~ revealing confidential sources, methods, information or individuals accused but not charged with a crime, including both active and inactive cases;

3. OBRD records ~~that reveal~~ revealing a crime victim's address when such a release could put a victim's life in danger, and when such belief is supported by substantial justification.

4. OBRD records related to a victim of the following crimes, once a crime is charged and until a final disposition of the charges: arson resulting in bodily injury, aggravated arson, aggravated assault, aggravated battery, dangerous use of explosives, negligent use of a deadly weapon, murder, voluntary manslaughter, involuntary manslaughter, kidnapping, criminal sexual penetration, criminal sexual contact of a minor, homicide by vehicle, great bodily injury by vehicle, stalking or aggravated stalking, aggravated assault against a household member, aggravated assault against a household member with intent to commit a violent felony, battery or aggravated battery against a household member, or abandonment or abuse of a child. See Article II, Section 24 of the New Mexico Constitution; see also the Victims of Crimes Act, NMSA 1978, §§ 31-26-1 to -14.

~~A.C. Inspection of Public Records Act (IPRA) Unit personnel~~ Prior to any public release of OBRD recordings, Department personnel will consult with the City Attorney's Office to appropriately address privacy concerns and to eliminate potential for interfering with a criminal investigation. ~~prior to redacting or exempting recordings from public inspection.~~

~~B.D.~~ Viewing and downloading OBRD recordings is for criminal investigation and prosecution, administrative investigations, or authorized administrative purposes only.

~~C.E.~~ For all recordings assigned a case number, the Department shall treat the recordings as evidence. For all recordings not assigned a case number, the ~~The~~ Department shall retain and preserve ~~non-evidentiary recordings~~ for 120 calendar days.

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- A. All personnel must complete mandatory training prior to using OBRDs.
- B. Personnel shall receive additional training ~~when an upgrade of the system occurs or when there is a policy change~~ on OBRD.
- ~~B.C.~~ Newly promoted supervisors shall receive additional training relating to supervisor responsibilities pertaining to OBRDs ~~upon promotion, upgrade of the system, or policy change.~~
- ~~C.D.~~ The OBRDs and their content ~~do~~ 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 Article II, section 24 of the New Mexico Constitution and the Victims of Crimes Act, NMSA 1978 §§ 31-26-1 to -14, unless the victim provides written consent.

DRAFT