



Police filming and audio recording of operations and events

Executive summary

This chapter outlines:

- Police policies relating to covert and open and observable video and audio recording by Police of Police operations and events
- approval requirements before operations and events may be recorded, including the need for approved equipment to be used
- the circumstances in which privately owned mobile phone recording applications and cameras may be used for Police purposes
- the circumstances in which Police-issued smartphones or tablets may be used to record photographic and video images
- requirements for ensuring any images taken will be accepted by the court as reliable evidence.

The key, critical points for staff to note are:

- Recording equipment must be Police-issued and approved.
- Approval is required for wearing covert or overt body worn cameras or recording devices.
- Fitting of any recording devices to Police vehicles requires approval of National Manager: Response and Operations and the Manager: Fleet Management.
- Your first option for collecting photographic or video evidence should be a Police photographer; however, if urgent, and a photographer is not available, then a smartphone or tablet may be used.
- Tascam should not be used for the sole purpose of obtaining video and audio evidence.
- Where approval is given, it is permissible to record everything in a public place or on private property so long as the employee records only what they personally see and hear.
- Images or recordings taken on a police device must be downloaded or emailed to a police computer as soon as practicable.
- It is not an offence for members of the public to film or take photos of police employees carrying out their duties, and you have no powers to prevent this from happening.

This chapter should be read in conjunction with the Search and Surveillance Act 2012 and the 'Search' chapters of the Police Manual.

Recording equipment must be Police-issued and approved

Where visual or audio recording is approved for particular operations or events, (see 'Covert body worn cameras and video recording devices' and 'Open and observable use of cameras and recording devices' above), it should only be carried out using **Police issued and approved equipment** following standard purchasing practices.

All covert recording equipment must be supplied and approved by the Technical Support Unit (TSU). Except for cameras used by Police photographers and investigators for forensic or investigative purposes, any other equipment to be used to record Police operations and events must be approved by the National Manager: Response and Operations.

The requirements outlined in this chapter do not affect existing policies around the approval and use of cameras and recording equipment by specialist groups such as Police photographers, CIB (), STG (), or Road Policing for authorised purposes.

Benefits for Police of recording operations and events

Police routinely use cameras and video recordings in watchhouses, front counters, for investigations and in public places for road policing purposes. It is also normal practice for Police to record calls to its' Communications Centres.

Photographs, video and audio recordings of Police operations and events can also be valuable resources for briefings, orders groups, debriefings and subsequent enquiries. Video recordings are particularly useful for recording instructions or 'cease and desist' orders by operation commanders to counter subsequent complaints against Police employees.

Police photographers using still or video cameras may also be approved for deployment by the operation commander at demonstrations in some situations. (See the 'Operation commander' section in the 'Demonstrations' chapter for more information).

Media filming of Police operations and activities

See the 'Media filming of Police operations' Police Manual chapter for information about when media accompanying Police may film Police operations or policing activities.

Approval required for wearing body worn cameras or recording devices

You must have approval before:

- using any body worn camera or recording device (see the sections on covert and open and observable use below)
- fitting any video recording devices to Police vehicles.

Covert body worn cameras and other video recording devices

Covert body worn cameras, or other covert video recording devices or equipment can only be used to record policing activities with the prior approval of the Manager: Covert Operations Group at PNHQ.

Improper or unauthorised use of any covert recording equipment may compromise the effectiveness of other operations and the safety of Police involved in authorised covert policing activities. (See 'Covert backstopping' in the Police Manual for more information about using covert resources).

Specialist units such as the STG and AOS have authority to obtain and use covert equipment specific to their area of policing.

Open and observable use of body worn cameras and recording devices

Employees must not be overtly equipped with or use body worn cameras or other video recording devices (which may also include audio) to record policing activities without prior authorisation from the National Manager: Response and Operations.

Authorisation may only be given if the National Manager: Response and Operations is satisfied that the use of the camera or recording device is for a legitimate policing purpose and that there are strict controls and adequate safeguards in place to avoid breaching the Information Privacy Principles in the Privacy Act 1993, the New Zealand Bill of Rights Act 1990, Search and Surveillance Act 2012 and other relevant legislation.

It is expected that any authorisation given will be an individual exception and for a strictly limited period. This includes projects, trials and evaluations.

(See also 'Recording equipment must be Police-issued and approved' above).

Fitting devices to vehicles

Fitting of overt or covert video recording devices (which may also include audio) or other equipment to Police vehicles requires additional written approval (to that of the National Manager: Response and Operations) from the Manager: Fleet Management, PNHQ. See 'Police vehicle management'.

Use of Police-issued smartphones and tablets

Police-approved smartphones and tablets are being increasingly issued and used for Police purposes as part of the Policing Excellence Mobility initiative. This chapter does not impose any additional approval requirements for their issue. However, the guidance in this chapter for the use of the phone's or tablet's recording applications applies.

While Smartphones and tablets have photographic, video and voice recording applications, your first option for the collection of photographic or video evidence should **always** be the standard Police procedures, i.e. **using the Police photographer or a Police-issued digital camera**. However, if there is an urgent and identifiable need to record the evidence and a photographer or Police-issued camera is not available, images may be recorded on the smartphone or tablet using the camera App within the secure environment.

A Police-issued smartphone may be used to record evidential interviews of family violence victims or complainants, but only as part of an authorised trial or proof of concept run by the National Prevention Centre.

Follow the procedures for 'Securing images taken on smartphones, tablets or personal cell phones' if you take any images on a smartphone or tablet. Note however, that there may be limitations on using these images for evidential purposes later because of the difficulty of maintaining their original format during the process of downloading/ securing them.

Use of TASER cameras (Tasercam)

The Electronic Control Device approved for use by the New Zealand Police is the "TASER" X2 and the devices Tasercam records video and audio.

Under no circumstances should the TASER and Tasercam be employed or used in situations where the sole purpose of the deployment is the gathering of digital video and audio evidence. (See the 'TASER (Conducted Electrical Weapons)' Police Manual chapter for more information).

Privately owned mobile telephones and cameras should not be used

Images should **not** be taken for Police purposes using non-Police issued equipment, unless there is an urgent and identifiable need to do so, e.g. where vital evidence would be lost or inclement weather would intervene before a Police owned camera or other recording device would be available.

Follow the procedures for 'Securing images taken on smartphones, tablets or personal cell phones' if any images are taken on privately owned devices.

Note however, that there may be limitations on using these images later for evidential purposes because of the difficulty of maintaining their original format during the process of downloading/ securing them.

What can be recorded or filmed?

Where approval is given, it is permissible to video record (may include audio) everything in a public place, or on private property when lawfully present, so long as the employee records only what they personally see and hear (i.e. you can not leave a camera recording while you move to another place on private premises out of sight or hearing of the camera). The video recording may be done overtly or covertly, and with or without the other party's permission.

Audio recording of interactions with the public

As a general principle, employees should not make audio / voice recordings of interactions with the public in a public place; however, one-off exceptional circumstances may exist to do so, but this should only occur if authorised by a District Commander, National Manager or by the National Manager: Response and Operations.

An example may be where it is necessary to visit a person who is a recidivist complainant about Police where there has previously been disagreement about what was said. In this circumstance the person should be advised that the conversation will be recorded to ensure that an accurate record is kept.

It is permissible to lawfully make audio recordings without warrant, so long as one party consents. (This is normal, permissible practice for the Police Communications Centres and the like).

Securing images taken on smartphones, tablets or personal cell phones

Images / recordings taken as evidence on Police smartphones, tablets or personal cell phones are subject to disclosure. It is therefore critical that all images / recordings taken are downloaded and secured as soon as possible in accordance with the Police Manual chapter 'Photography (Forensic imaging)'.

This ensures the images / recordings:

- are associated with the appropriate case file and will be disposed of when no longer required for legitimate policing purposes
- will be accepted by courts as reliable evidence and to minimise the risk of legal challenges around whether they could have been compromised.

Evidential images / recordings must not be retained on Police smartphones and tablets or personal cell phones or used for purposes other than for what they were intended.

Procedures for downloading and securing images

Step	Action
1	Record details (date, time and location) of the images / recordings in your notebook.

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2	<p>Email or download all images / recordings to a Police computer as soon as possible after being taken. Ensure the images are saved according to your local standard operating procedures.</p> <p>Do not email or download images / recordings taken as evidence to a personal computer.</p> <p>The way in which the image should be downloaded will vary depending on the type of device. Follow the guidance on downloading and securing captured images to computer in the 'Digital imaging guidelines' section of the '<u>Photography (Forensic imaging)</u>' chapter where applicable. However, be aware that generally, downloading from smartphones, tablets or cell phones will alter the format and resolution of the image. These issues relating to evidential quality and reliability may limit the later use of the image for evidential purposes.</p> <p>If you are unsure of what to do in any case, seek advice immediately from your local Photography section.</p>
3	<p>Delete the images from the Police issued smartphone or tablet or privately-owned cell phone or recording device once they have been downloaded to a Police computer.</p>
4	<p>Any evidential images taken that are no longer required for legitimate policing purposes must be disposed of as soon as practicable. The standard retention and disposal periods apply in cases where the images are retained as part of Police files. See '<u>Retention and disposal of Police records</u>'.</p>

Public photographs of Police activities

Occasionally, members of the public film or take photographs of Police employees carrying out their duties. This is **not an offence** and **you have no power** to prevent the photographs being taken or to seize the camera or digital storage media.

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