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# Tarentum Borough Police Department

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Guideline: 5.1

Mobile Video/Audio Recorder

Effective Date:

Revision Date:

Issued by: William S. Vakulick, Chief of Police

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## **01. PURPOSE**

The purpose of this policy is to provide police officers with general guidelines on the use of the Mobile Video Recorder while on patrol, as an effective tool to help audio/visually document incidents and events as they actually occur. Recent changes to **Pennsylvania Law** allow uniformed law enforcement officers or clearly identifiable law enforcement officers on official duty such usage. Future changes in law and procedure, technology, as well as training provided on this procedure, may give rise to modifications of this policy. Violations of this policy subjects the officer to the department disciplinary policy.

If Facial Recognition Software or Programs are developed which interface with MVRs, their use will be utilized in accordance with applicable law and approved by the Chief of Police or his designee.

## **02. POLICY**

This department has adopted the use of the Mobile Video Recorder in an effort to increase officer safety, accurately document events, actions and conditions during arrest situations and critical incidents, traffic enforcement, criminal investigation, intelligence gathering, traffic surveys, investigation of suspicious activity, Emergency Pursuit Vehicle Operations, and the prosecution of the Motor Vehicle Code and Crimes Code violations, so as to ensure the accuracy of reports, collection of evidence, and testimony in court and the enhancement of this department's ability to review probable cause for arrest, arrest procedures, officer and suspect interaction, as well as, for officer evaluation and training.

The Department recognizes that video images cannot always show the full story nor do video images capture an entire scene. The Department also recognizes that the MVR video does not mirror the perspective of the officer at the time of an incident, nor does the video include other factors known to or perceived by the officer that could impact the officer's judgement and decision-making, such as events beyond the scope of the camera, the officer's "reactionary gap", or the difference between human vision and the camera's video recording abilities. Therefore, the use of Mobile Video Recorders does not reduce the requirement to provide thorough written documentation of an incident.

## **03. DEFINITIONS**

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**Agency Administrator** – Member of the Department who will be identified at the administrator level, with full access to user rights.

**Mobile Video Recorder (MVR) System** – All cameras, accessories, docking stations, etc. related to MVR systems approved for use by the Pennsylvania State Police and published in the Pennsylvania Bulletin.

**MVR Technician** – Officers of the Department who are specifically trained in the maintenance and care of the MVR

equipment, and who are trained to maintain and administer the storage of the recordings.

**Confidential Information** - Any of the following:

- (1) The identity of a confidential source.
- (2) The identity of a suspect or witness to whom confidentiality has been assured.
- (3) Information made confidential by law or court order.

**Information Pertaining to an Investigation** - An audio recording or video recording which contains any of the following:

- (1) Complaints or depictions of criminal conduct, including all actions or statements made before or after the criminal conduct that are part of or relate to the same incident or occurrence.
- (2) Upon disclosure, information that would:
  - (i) reveal the institution, progress or result of a criminal investigation;
  - (ii) deprive an individual of the right to a fair trial or an impartial adjudication;
  - (iii) impair the ability of the Attorney General, a district attorney or a law enforcement officer to locate a defendant or codefendant;
  - (iv) hinder the ability of the Attorney General, a district attorney or a law enforcement officer to secure an arrest, prosecution or conviction; or
  - (v) endanger the life or physical safety of an individual.
- (3) Upon disclosure, information that would:
  - (i) Reveal the institution, progress or result of an agency investigation.
  - (ii) Deprive a person of the right to an impartial administrative adjudication.
  - (iii) Constitute an unwarranted invasion of privacy.
  - (iv) Hinder an agency's ability to secure an administrative adjudication.
  - (v) Endanger the life or physical safety of an individual.

**Digital Evidence** – MVR files, including photographs, audio recordings and video footage, captured by a MVR and stored digitally.

**End User** – Officers of the Department who have been issued or assigned a vehicle with a MVR.

**Evidence Transfer Manager (ETM)** - A computer server with built-in, networked or wirelessly connected docking stations physically installed within the Department or a Department vehicle that simultaneously recharges the MVR equipment while digitally encrypting and uploading all data captured to the server.

**Law Enforcement Agency** - The Office of Attorney General, District Attorney's Office or an agency that employs a law enforcement officer.

**Law Enforcement Officer** - An officer of the United States, the Commonwealth or a political subdivision thereof, another state or political subdivision thereof or who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this chapter or an equivalent crime in another jurisdiction, a sheriff or deputy sheriff and any attorney authorized by law to prosecute or participate in the prosecution of the offense.

**Oral Communication** - Any oral communication uttered by a person possessing an expectation that such communication is not subject to interception under circumstances justifying such expectation. The term **does not** include the following:

- (1) An electronic communication.
- (2) A communication made in the presence of a law enforcement officer on official duty who is in uniform or otherwise clearly identifiable as a law enforcement officer and who is using an electronic, mechanical or other device which has been approved under section 5706(b)(4) (relating to exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices) to intercept the communication in the course of law enforcement duties.

**Storage Server** – Digital media storage that can be remotely accessed by Authorized End Users and Administrators. This virtual evidence warehouse stores digitally encrypted data in a highly secure environment that is only accessible to approved personnel based upon their security clearance.

**Victim** - An individual who was subjected to an act that was committed by another individual, including a juvenile, which constitutes any of the following:

- (1) An offense committed under any of the following:
  - (i) The act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.
  - (ii) 18 Pa.C.S. (relating to crimes and offenses).
  - (iii) 30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance).
  - (iv) 30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence).
  - (v) 75 Pa.C.S. § 3732 (relating to homicide by vehicle).
  - (vi) 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).
  - (vii) 75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).
  - (viii) 75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).
  - (ix) 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).
  - (x) Any other Federal or State law.
- (2) An offense similar to an offense listed under paragraph (1) committed outside of this Commonwealth.
- (3) An offense which would constitute grounds for the issuance of relief under Chapter 62A (relating to protection of victims of sexual violence or intimidation) or 23 Pa.C.S. Ch. 61 (relating to protection from abuse).
- (4) An offense against a resident of this Commonwealth which is an act of international terrorism.

**Victim Information** - Information that would disclose the identity or jeopardize the safety of a victim.

#### 04. **PROCEDURES**

##### A. Officers Responsibilities:

1. Officers must successfully complete department MVR training.
2. At the beginning of each officer's shift, he/she is to ensure that the Mobile Video Recorder is on, in working order and if applicable, a check will be made of the DVD to determine the length of recordable time remaining on it. If there is one hour or less, the officer shall change it with the next sequential disk for that MVR and note on the Daily Log. **In the event that any evidence of a crime or significant event is recorded, the audio and video recording will be processed as evidence according to Department Policy.** Routine traffic stops or routine audio and video recordings where there is no physical arrest are not considered significant events.
3. Officers will note in the incident, arrest and any related reports when audio and video recordings were made during the incident in question.
4. Officers shall inform the OIC of training of any audio and video recorded sequences that may be of value for training purposes.
5. If DVD format, under **NO** circumstances will any DVD's not issued by this department be used or played in the Mobile Video Recorder as the recorder may be damaged or contaminated.
6. Malfunctions of the Mobile Video Recorder should immediately, or as soon as practical, be brought to the attention of the shift supervisor and shall be recorded on the Daily Log.

7. Officers shall ensure the MVR is positioned and adjusted to record events and the use of the MVR will commence immediately upon activation of the emergency warning lights or from manual activation by the Officer.

8. Officers should utilize the MVR to record activities associated with their job duties and responsibilities whenever possible. The MVR should not be deactivated until the enforcement action or incident is completed. If the MVR is deactivated before the enforcement action or incident is completed the officer will be expected to articulate the reason(s).

9. Although notice is not required by law, in certain circumstances, it may prove beneficial to provide notice of the recording, using a phrase such as, "Our actions and words are being recorded. Such notice may assist an officer to deescalate confrontational situations.

10. Once activated in accordance with this policy, officers shall not deactivate their MVR until:

- a. they have cleared the assignment or, in the case of arrest, have transferred custody of the arrestee to another member;
- b. their involvement in the citizen contact or detention has concluded;
- c. they receive an order from a supervisor (in these cases, officers shall document the order via a MVR recording prior to deactivation);
- d. the incident requiring activation has concluded, and the officer has returned to service.

11. Exceptions:

- a. In situations when community members, witnesses, crime victims or other parties wish to share information related to criminal activity, but refuse to do so while being recorded, officers will have the discretion to turn off their MVR during the interview. In such situation, the officer must record a brief verbal explanation for the deactivation prior to turning off the recording.
- b. The MVR may be deactivated during conversations among/with officers or supervisors during information sharing sessions or discussing tactics and strategy. The same notification of cessation shall be noted as in above in subsection-a.

12. Officers shall use appropriate discretion when recording confidential informants or undercover officers.

13. When a prisoner(s) is being transported in a Mobile Video Recorder equipped vehicle, the camera should be positioned and adjusted to record the actions of the prisoner(s) in the backseat of the vehicle.

14. The lockable box in which the MVR is located shall be locked at all times.

15. Officers shall not:

- a. Remove, dismantle, or tamper with any hardware or software component or part associated with MVRs.
- b. Attempt to change any functions or controls on the audio and video recording unit for which they have not been trained including, but not limited to, date, time, taping speed, etc.
- c. Erase, destroy, disseminate, edit, alter, or otherwise use MVR recordings without the written permission of the Chief of Police, except for approved annotation in accordance with the training and capabilities of the MVR system (e.g., flagging a location in the retrieval video for use in court at a later date).
- d. Copy, convert, record, or disclose the contents of a MVR recording including posting to any public and/or social media site without written approval of the Chief of Police. MVR recordings shall only be shared for official law enforcement purposes.
- e. Allow unauthorized personnel to view the MVR recordings without permission from his/her immediate supervisor. Governmental employees who are directly involved in the investigation and/or prosecution of a criminal case related to the digital evidence, or who are previously authorized to interact with Department evidence, are exempt from this restriction.
- f. Delete any MVR recording.
- g. Download or convert any MVR recording for personal use.
- h. Use Department-issued MVRs while off-duty.
- i. Record conversations of officers without their knowledge during routine, non-enforcement related activities such as

- in Department locker rooms, restrooms or any other place where there would be a reasonable expectation of privacy.
- j. Record gratuitously violent or obscene images, unless necessary for evidentiary documentation or required by this policy.
- k. Record a particular person based solely on the person's race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, physical disability status, or political affiliation.
- l. Use any other electronic device or other means in order to intentionally interfere with the capability of the MVR.
- m. End a recording based solely on a citizen's request/demand. Officers may end a recording if the citizen wishes to provide anonymous information; however, officers must balance the value of the proffered information versus the value of the ongoing MVR recording.
- n. View recordings for other than official law enforcement purposes.
- o. Record strip searches.

**B. Supervisor Responsibilities**

- 1. Supervisors shall ensure officers use the MVR equipment.
- 2. Supervisors shall review the following recordings:
  - a. Recordings of any officer injury.
  - b. Recordings of any actor injury.
  - c. Recordings of any use of force incident.
  - d. Recordings of any vehicle pursuit and actions taken following the pursuit.
  - e. Recording of any citizen complaint.
  - f. Random recordings as designated by the Chief of Police.
- 3. Supervisors will utilize the information from the recordings during the completion of performance evaluations.
- 4. Supervisors shall take appropriate administrative action if an officer is found to have failed to properly use or care for the MVR equipment.
- 5. In a critical incident (such as an officer involved shooting, in-custody death or other officer involved incident that results in serious injury or death), a supervisor or their designee shall immediately take custody of involved MVRs and, in such case, will assume responsibility for the upload.
- 6. In the event a malfunction is brought to the attention of a supervisor, he/she will, as soon as practical, notify the proper company for repairs to be made.
- 7. On at least a bimonthly basis, the OIC of Training will randomly review audio and video recordings to assist in periodic assessment of Officer Performance, determine whether the MVR recording equipment is being fully and properly used and to identify material that may be appropriate for training.

**05. If DIGITAL FORMAT**

- a. The original digital file transferred from the recorded media will be stored on the network server to prevent destruction.
- b. Non-evidentiary audio and video recordings from the MVR will be maintained in accordance with Pennsylvania Law, after their creation. The data files may be archived to a DVD.
- c. Only supervisory personnel or the Chief's designee shall have access to the network location for the MVR digital files.
- d. Officers requesting a copy of a digital video shall submit a written request to the supervisor or person responsible identified to duplicate the video.

**06. OFFICER ACCESS AND REVIEW**

**A. Officer Access and Review**

- 1. Officers may review MVR recordings prior to documenting an incident, arrest, search, interview, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate

and complete.

2. Deadly Force or In Custody Death/Near Death Incident: The officer shall be provided the opportunity to review MVR recordings of the incident prior to giving an initial statement to an investigator.

## **07. AUDIO AND VIDEO RECORDINGS CONTROL & MANAGEMENT**

### **A. Duplication/Retention of MVR Recordings**

1. The recordings produced on the MVR equipment are property of the Department, and will be subject to applicable law and Department policies regarding the viewing, release, retention and destruction of such recordings.
2. Mandatory Retention: The following types of incidents recorded on MVR equipment shall be retained and processed as evidence:
  - a. Incidents which may result or have resulted in the filing of criminal charges.
  - b. Incidents which are likely to become the subject of civil litigation against the Department or its personnel, including but not limited to, patrol vehicle crashes, pursuits, critical incidents, incidents involving the use of force, and incidents involving verbal complaint(s) against the Department or its personnel.
  - c. Incident involving injuries to officers and injuries incurred or alleged to have been incurred by others as the result of police actions.
  - d. Recordings which have been properly requested shall be retained pursuant to Title 42, Chapter 67A.
  - e. Recording shall be retained for no less than 75 days to accommodate any delays in processing a request.
  - f. If a request is denied additional retention time is necessary.
3. Other Requests for Retention:
  - a. Any member who believes that the retention of a recording not specifically required by this regulation is advisable (e.g., for use in a summary proceeding involving a traffic violation or training), shall notify the MVR Technician as soon as possible. The MVR Technician shall evaluate each request in accordance with this regulation. Officers are advised, per this regulation, that all recordings collected by the MVR equipment which are not regulated by a regular retention schedule will be purged no later than 120 days from the date of the last recording. All requests for duplication/retention are to be requested on a Department Form, "MVR Video/Audio Recording /Request Form." The completed form must be sent to the MVR Technician.
  - b. When properly requested and approved, the MVR Technician will duplicate the recording of the incident from the Storage Server system and ensure its delivery to the requesting officer in a timely manner. The Department MVR Request Form will specify the reason that the recording is requested (e.g., court), and the date that the recording is needed.
  - c. Additional requests for retention of MVR recordings may be made of the evidence custodian:
    - 1) Recordings requested to be preserved by an officer on the recording, a supervisor, or the Office of the Chief, where the recording may be necessary for use in any criminal or forfeiture proceeding. The recording shall be retained until destruction is authorized by the Office of the Chief.
    - 2) Recordings requested to be preserved by an officer on the recording or a supervisor, where the recording may be necessary for use in any summary proceeding involving a traffic violation. The retained recording shall be purged no later than 120 days from the conclusion of all proceedings related to the citation.
    - 3) Recordings requested to be preserved by a supervisor or solicitor where the recording may be necessary for use in any civil, administrative, or disciplinary proceeding. The recording shall be retained until destruction is authorized by the Chief of Police.
    - 4) Recordings that are the subject of a subpoena or court order shall be retained until destruction is authorized by the Chief of Police.
    - 5) **In criminal cases, notice shall be provided to the prosecuting attorney of any request for MVR recordings.**
    - 6) MVR Evidence Custodians shall ensure that all recordings are purged no later than 120 days from the date of the last recorded incident, after all properly requested and approved duplications have been made, unless otherwise regulated by this policy.

**B. MVR Media Categorization, Notation and Use in Reports**

1. Each event must be categorized according to event type, to ensure proper retention periods are applied.
2. The use of the MVR shall be recorded in the appropriate section of Department reports, and in the remarks section of citations.
3. Officers may use media captured via the MVR to assist with investigations and the completion of required reports in accordance with this policy. Officers may also use the media captured by the MVR to assist investigators and supervisors in evaluating on-going situations.
4. Using the capabilities of the storage server (if applicable), officers may add markers and/or create clips in order to assist investigators and/or prosecutors.
5. Officers may use media captured on the MVR for training purposes, with proper authorization from the Chief of Police. Additionally, Field Training Officers may use media captured via the MVR to provide immediate training to recruits and to assist with the completion of the Daily Observation Report (DOR).

**C. Storage and Erasure**

1. Storage and Erasure of audio and video recordings will be in accordance with Pennsylvania Law and will be the responsibility of the Supervisor in charge of Property and Evidence.
2. If applicable, the only time a DVD is to be erased and reused is during the normal rotation sequence.
3. MVR audio and video recordings containing information that may be of value for case prosecution or any criminal, civil or administrative proceeding shall be safeguarded as evidence. Any time an officer marks a audio and video recording as evidence, he/she will, as soon as practical, notify the person in charge of Property and Evidence that such recording is to be stored as evidence. These audio and video recordings will be subject to the same security restrictions and chain of evidence safeguards as detailed in this department's Property & Evidence control procedures.
4. If DVD format, each MVR equipped vehicle will have two DVD's marked with unit number and A or B. As previously indicated, when a DVD indicates one hour or less of available audio and video recording time, it is to be taken out of service and replaced with the next numerically assigned DVD. This procedure shall also be followed when a DVD is taken out of service for evidentiary reasons.
5. Disks not requiring retention as described in this policy shall be saved for 75 days and then placed back in the rotation sequence.
6. When an audio and video recording is taken out of service for evidentiary reason, the following procedure shall be followed:
  - a. Document of Video Log.
  - b. Chief or designee will download the original video of incident in question, make a copy and store accordingly.

**08. DISSEMINATION**

Dissemination of audio and video recordings shall be in accordance with provisions of Pennsylvania Law.



**Tarentum Borough Police Department  
Video Surveillance Request Form**

All video is the property of the Tarentum Borough Police Department and the release of any video footage is subject to all Federal and Commonwealth of Pennsylvania Laws.

**Date:** .....

**Requestor name:** .....

**Department or Agency:** \_\_\_\_\_

**Date of incident/ Incident#:** .....

**Time frames: Start time:** .....

*End time:* .....

**Reason for request:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By signing below I agree that the above statement is true and request that the Tarentum Borough Police Department release the video surveillance requested. I also take full responsibility for the security of the video surveillance released to me and will not distribute to any outside party.

**SIGNATURE** \_\_\_\_\_

**PRINT NAME** \_\_\_\_\_

**TITLE** \_\_\_\_\_

**DATE** \_\_\_\_\_

**APPROVED** \_\_\_\_\_

**TITLE** \_\_\_\_\_

**DATE** \_\_\_\_\_