

TOMS RIVER POLICE DEPARTMENT POLICY & PROCEDURE			
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SUBJECT: MOBILE DIGITAL VIDEO RECORDERS			
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BY THE ORDER OF: Chief Mitchell A. Little			

PURPOSE The purpose of this policy is to establish procedures for the use of Mobile Digital Video Recorders (MDVR). MDVR is intended to enhance officer safety, produce effective materials for training and to produce an additional method of collecting evidence to prosecute those who violate the law.

POLICY It is the policy of the Toms River Police Department to utilize MDVR to its fullest extent for the day-to-day patrol function and to maintain the necessary safeguards that will ensure the non-discriminating use as well as the proper preservation of evidence that may be obtained through use of this or similar technology.

All personnel shall use this equipment consistent with manufacturer's guidelines, this policy, and those directives or guidelines issued by the Ocean County Prosecutor.

Nothing in this policy shall prohibit the Chief of Police from ordering operational testing and evaluation of new technology as it becomes available

PROCEDURES

I. Definitions

- A. MDVR (Mobile Digital Video Recorder) - A device that records video in a digital format. Car video systems are often referred to as MDVR.
- B. Server - A server is a computer program that provides services to other computer programs (and their users) in the same or other computers. The physical computer that runs a server program is also sometimes referred to as the server.
- C. Metadata (sometimes metainformation) - Data about other data of any sort in any media.
- D. Classifying – The Labeling or identifying a recording of an incident. The classification should minimally include the case number of the incident.
- E. Bookmark - An electronic method of indexing and recording metadata and other information about a recording.
- F. Snapshot - A photo taken with or captured from the video system.

II. General

- A. All references to MVR shall include the equipment installed in the police vehicles and where appropriate, the wireless transmitter, microphone, removable media (HDD/SSD), and other accessories necessary to operate the system.
- B. MDVR recordings are invaluable to law enforcement for evidential purposes. MDVR has consistently demonstrated its value in the prosecution of traffic and other related offenses and to protect personnel from false claims of misconduct. Additionally, this equipment will provide valuable instructional material that can be utilized for in-service training programs.
- C. While visual and audio evidence may be captured on the recordings, the use of MVR is not intended to document all evidentiary material relevant to court or administrative proceedings, but it can serve to supplement an officer's senses and eyewitness account. There is no intent to utilize the MVR as a management tool to punish officers for minor departmental rule infractions.
 - 1. Personnel shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
 - 2. MVR shall only be utilized for legitimate law enforcement purposes.
- D. Adequate safeguards are necessary to ensure that this technology is:
 - 1. Used in a non-discriminating way;
 - 2. Used to properly preserve evidence;
 - 3. Used to safeguard against potential violations of the New Jersey State Wiretap Laws, NJSA 2A:156A-1 et seq.
- E. When properly used, this equipment will have the following capabilities:
 - 1. Creation of accurate documentation of motorist contacts and other patrol related activities.
 - 2. Preservation of an audio and video record of events, actions and conditions during arrests, critical incidents, and prisoner transports.
- F. These records will serve the following purposes:
 - 1. Recordings serve as protection for police officers when there are complaints about their conduct or professionalism during encounters with the public.

2. The recordings can be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
 3. MVR recordings can resolve disputes concerning what occurred during particular incidents, thereby protecting both the public and the officers involved.
 4. When complete recall is not possible, such as when multiple events are happening simultaneously or out of an officer's line of sight, an audio/visual recording can provide an accurate record of events.
 5. The recording can provide a record of police/citizen interaction within the police vehicle itself when an officer's attention is on driving. For example, the recorder will record events during transportation of arrested persons, escape risks, mentally disturbed individuals, intoxicated persons, people who are physically injured and members of the opposite sex. The recording can provide accurate documentation of highly detailed and/or fast-moving incidents, such as roadside sobriety testing, violent encounters, and pursuits.
 6. Supervisors will be able to view the recordings with the permission of the Internal Affairs and select portions to use to train officers in safety, FTO training, interpersonal skills, proper police procedures, and legal doctrines.
 7. Recordings can permit supervisors to undertake more meaningful performance evaluations.
- G. Only officers who have received training in the use of MDVR are permitted to use the system and must demonstrate a satisfactory degree of familiarity and efficiency in the use of the system.
- H. MDVR equipment installed in a patrol vehicle is the responsibility of the officer assigned to the vehicle. Officers operating this equipment will verify that it is functioning satisfactorily and ready to record prior to the start of an assignment. If the equipment is not working properly or malfunctions at any time during the tour of duty, the officer will notify a supervisor and report the malfunction via established vehicle equipment reporting procedures. Only authorized personnel will attempt repairs to any component of the video and audio recording system
- I. Under no circumstances shall personnel tamper with or intentionally disable an MDVR.
- J. Watch Commanders and squad supervisors shall regularly monitor the activities of their personnel and to periodically review a sampling of the in-car recordings of traffic stops, citizen contacts, and other incidents and activities

III. Permissions and Security

- A. Levels of Access
1. Operator: This level of access will be assigned to all police officers using MDVR equipment. Officers will be able to view and append only recordings made with their user identification.
 2. Supervisor: This level of access will be assigned to police officers at the rank of sergeant and above. They will be able to view and append all recordings.
 - a. Supervisor access may be granted to other TRPD personnel at the Chief's discretion.
 3. Evidence: This level of access will be assigned only to staff involved in the processing, organization and retention of evidence; this level of security will be permitted to reproduce video for official police use.

4. System Administrator: Appropriate level of access to manage hardware, software, and data in order to properly operate the video recording system.

IV. Incidents to Record

- A. Mandatory Recording - Officers assigned to patrol duties or any detail directed by a supervisor and operating or riding as a second officer assigned to patrol cars equipped with MDVR systems will record audio and video for the following types of incidents:
 1. Traffic stops
 2. Sobriety testing
 3. Criminal motor vehicle stops
 4. Prisoner transports
 5. Non-custodial citizen transports
 6. Motor vehicle pursuits
 7. Emergency responses
 8. Stranded motorist or motorist assists
 9. Criminal activity
 10. Suspicious persons or Suspicious vehicles
 11. Stationary details, such as sobriety checkpoints, shoulder riders
 12. Vehicle searches and trunk inspections
 13. Motor vehicle crash scenes
 14. Motorist interviews
 15. Motor vehicle assistance calls
 16. Other incidents or situations based on officer training and experience
- B. Incidents will be video recorded from the beginning of an officer/citizen interaction, or the time a violation is observed, until conclusion of the incident or interaction.
- C. Whenever possible, field sobriety testing will take place in view of an MDVR system. The car and MDVR system used to record the testing may be assigned to and operated by a supplemental officer not conducting the investigation. When this occurs the supplemental officer will classify the video appropriately and the investigating officer will indicate the use of the video system in accordance with this policy.
- D. Normal System Operation and Activation
 1. Normal patrol operation of in-car video systems will be as follows:
 - a. Video only (no audio) is active and recording a thirty (30) second pre-event back loop;
 - b. Video camera is pointed toward the front of the patrol car;
 - c. Wireless microphones in use will be synchronized with the assigned video camera;
 - d. Wireless microphone is worn by police officer, turned on, and ready to record; and
 - e. Passenger compartment microphone is active and ready to record.
 2. System activation will be set as follows by the system administrator:

- a. System will activate upon use of emergency lights;
 - b. System will activate when car speed exceeds eighty (80) miles per hour;
 - c. System will activate upon a significant impact or crash; and
 - d. Manual activation from camera, mobile car computer, and wireless microphone.
3. When the MDVR system is activated and recording, AM/FM news and entertainment radios should be off. Care should be taken that other sound producing devices such as cellular phones are silent and do not interfere with the audio recording of the system.

V. Classifying, Bookmarking and Reports

- A. Whenever an incident is recorded that results in the issuance of a motor vehicle or Township Ordinance summons, during which a vehicle or person is searched, evidence is seized, an arrest occurs, or a significant event is captured, the recording will be classified. Additionally, any incident recorded that required a police incident report will be classified. At minimum, the classification will include the following information:
 1. Type (see Incident Type List)
 2. Incident number
 3. Enter code in Law Screen in "Circumstances" box
 - a. Code is "VIDEO – In Car Video"
 4. Other supporting information as needed or desired
- B. Whenever an incident is recorded on the MDVR system and an incident report, motor vehicle summons, written warning or other written documentation or notes are generated, the report or documentation will include clear language that the incident was recorded on the MDVR system. The written documentation will include the car number from which the recording was made. In addition, the following specific procedures will be followed:
 1. Motor Vehicle Summons or Special Complaint Summons (Ordinance). The Officer will write "Video" on the front bottom of the summons.
 2. Law Incident Reports – Law Incident Reports will be titled to indicate that an in-car video is part of the case. (For example: A DWI case will be titled "DWI-With Video"). Specific to the Spillman® reporting system, a property involvement will be completed indicating that there is video evidence.
- C. Officers will select the incident type from the drop-down menu when classifying on mobile data computers (MDCs). Classifying on a police headquarters PC requires that the incident type be manually entered exactly as written on the below list. Misspelled or other incident types entered in the system will not set the appropriate retention time. Whenever possible, incident types should be entered prior to arrival at police headquarters on an MDC. The case number for the event should be included in the "notes" section.
 1. Incident Type List
 - a. No_Evidence
 - b. Traffic_Violation
 - c. Ordinance_Violation
 - d. Parking_Violation
 - e. DWI

- f. Arrest
 - g. Fatality
 - h. Use_of_Force
 - i. Crash
 - j. Prisoner/Public Transport
 - k. Vehicle/Person_Search
 - l. PESS Transport
 - m. Training
 - n. Other
- D. All officers that were documented as having responded to the scene or were present on a scene that resulted in police action shall classify their video similar to that of the primary officer and indicate the case number for this event in the “notes” section.
 - E. Bookmarking is to identify aspects of the video that have significance. When bookmarking an item contained in the video, the officer shall indicate in the “notes” section what specifically viewers should be aware of when viewing the bookmarked area
 - F. To ensure that video retention periods are correct, video from all incidents involving arrests or other significant events will be reviewed by a supervisor to insure that video classifications for each video are correct and incident types are correct

VI. Officer Responsibilities

- A. MDVR equipment installed in a patrol vehicle is the responsibility of the officer assigned to that vehicle and will be maintained according to that manufacturer’s recommendation.
- B. Drivers of vehicles operating MDVR systems will wear the wireless transmitter and microphone while on patrol, selective enforcement, etc. Microphones are not required when using a vehicle as a conveyance to training, errands, etc.
 - 1. Officers shall activate the MVR system mic in and out of the car when engaged in recording an event. A “Tactical Mute” may be initiated to protect the identity of confidential informants, protect tactical information, at the direction of a supervisor or to discuss information not associated with the current event being recorded.
 - 2. Officers should document the reason for the “Tactical Mute” in their narrative.
- C. Prior to starting each shift, the officer assigned shall ensure that the equipment is operating properly. Any problems should be brought to the attention of the supervisor as soon as possible.
 - 1. Officers will conduct and complete a full log-in on the MDVR system. The log-in will include the officer’s name, user identification, shift date and time, patrol area and other information requested by the MDVR system at the time of log-in. When two (2) officers are assigned to the same car, both officers will be entered during the log-in
- D. If a vehicle is equipped with an in-car MVR system and the event is not documented on the system in the form of video and/or audio for any reason (including but not limited to system malfunction, user error, etc...), this must be noted in the narrative of the report as to why.

VII. Records Retention and Review

- A. Personnel shall not erase or in any other manner alter, tamper with, destroy, or conceal video/audio recordings or remove or disable any camera or monitoring device installed in a police vehicle. Any such tampering is a violation of N.J.S.A. 2C:28-7, and is a 4th degree crime.
- B. Video and/or audio recordings MAY be subject to release under the *Open Public Records Act* N.J.S.A. 47: 1A-1 et seq. and prevailing municipal ordinance regarding fees. All OPRA requests for Video recordings will be reviewed by the township legal advisors and in accordance with Attorney General Guidelines and/or County Prosecutor direction.
- C. Video and/or audio recordings shall be provided in discovery to defendants and their attorneys, in accordance with *R. 3:13-3*, *R. 7:42*, and *R. 7:7-7*.
- D. The digital information will be downloaded into the area designated for digital storage.
- E. Recordings are considered routine business records of this police department and shall be maintained and disposed of in accordance with New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
 - 1. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes, recordings shall be retained for a period of at least 90 days.
 - 2. Recordings that are being stored for criminal, civil, or administrative purposes are to be retained as evidence or in the appropriate case file.
 - 3. Recordings being stored as evidence for criminal, civil, or administrative purposes must be retained in accordance with NJ Attorney General Law Enforcement Directive 2011-1 and companion OCPO LED 2013-015 of retention periods include, but are not limited to:
 - a. Any death investigation (7 years);
 - b. Criminal arrest - 1st, 2nd, 3rd, 4th degree crime (5 years);
 - c. Non-criminal arrest, excluding DWI (2 years);
 - d. DWI arrest (10 years);
 - e. Normally, recordings of warrant arrests or violation of TRO arrests without any other criminal charges need not be preserved as evidence
- F. Except as permitted by this policy, video recordings will not be released to any other agency or individual without the written permission of the Chief of Police. A copy of the request and release shall be placed into the pertinent case file. Attorneys requesting information regarding the contents of a video will be afforded the opportunity to view the tape at police headquarters during normal business hours.
- G. Personnel shall not produce or maintain copies of video or audio files recorded or stored on the MDVR system for personal use or other purpose not specifically authorized by the Chief of Police.
 - 1. No officer or other party may make a 3rd party copy (via cell phone, video recorder or other device) of any video for any reason.