**SAMPLE POLICE DEPARTMENT**

**Mobile Audio/Video Recorders (In-Car Cameras)**

NOTE: The following guidelines address both safety and policy and are for internal use only. This document does not nor is intended to enlarge an employee’s civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense with respect to third-party claims. Violations of these guidelines if proven, can only form the basis of a complaint by this department and then only in a non-judicial administrative setting.

**I. PURPOSE AND SCOPE**

1. Mobile Audio/Video Recorders (MVR) are an effective law enforcement tool that can reduce violent confrontations and complaints against officers. MVR provide additional documentation of police-public encounters and may be an important tool for collecting evidence and maintaining public trust.
2. The SAMPLE Police Department has equipped marked law enforcement patrol vehicles with MVR to accomplish several objectives, including:
3. MVR allow for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony.
4. Audio and video recordings enhance the department’s ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
5. MVR may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.
6. The Department recognizes that video images cannot always show the full story nor do video images capture an entire scene. The use of MVR does not reduce the requirement to provide thorough written documentation of an incident. Persons reviewing recordings must also be cautious before conclusions are reached about what the recordings show.
7. This policy is applicable to officers equipped with MVR and provides guidelines and instructions on their use.

**II. POLICY**

Mobile Audio/Video Recorders (MVR) should be utilized to (1) collect evidence that can be used in the prosecution of criminal offenses, (2) record contacts with the public in order to secure unbiased evidence in connection with investigations, (3) allow for supervisory review to ensure that department policies and procedures are followed, and (4) capture footage that would be helpful for training.

**III. DEFINITIONS**

1. Mobile Audio/Video Recorder (MVR): A system that captures digital multimedia evidence capable of installation in a vehicle, and includes at a minimum, a camera, microphone, recorder, and monitor. May be commonly referred to as an in-car or dash cam.
2. Digital Multimedia Evidence (DME): consists of all digital recordings, to include but not limited to audio, video, photographs, and their associated metadata. Metadata includes any digital identifiers that are captured as part of the actual recording, such as date/time, GPS coordinates, labeling, etc.

**IV. LEGAL ISSUES**

1. Mobile Audio/Video Recorders (MVR) and all data, images, audio, video, and metadata captured, recorded, or otherwise produced by the equipment are the property of this department. The personal use, or any dissemination outside the department, is strictly prohibited except as defined herein without prior written approval of the Chief of Police or their designee.

B. Use of MVR for any purpose other than in accordance with this policy is prohibited.

1. All data, images, audio, video, and metadata captured by MVR are subject to state statutes and City policies regarding retention of records.

**V. PROCEDURE**

1. Mobile Audio/Video Recorders (MVR) are not a replacement or substitute for the use of body-worn cameras and shall be used in conjunction with one another when available and appropriate.
2. All officers assigned vehicles equipped with MVR must use the equipment as provided herein unless otherwise authorized by supervisory personnel.
	1. Failure to activate and utilize MVR as provided herein without legitimate justification shall result in disciplinary action unless due to technical problems outside the control of the officer (does not include forgetting to activate or dead batteries).
3. Prior to using MVR, officers shall receive department-approved training on its proper operation and care and the department’s policy with respect to the use of the MVR. Additional training shall be provided at periodic intervals to ensure the continued effective use of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policies or equipment.
4. Newly hired officers will be trained in the proper use of MVR equipment prior to being assigned to patrol duties.
5. Police personnel shall only use MVR equipment issued by this department. The use of personally owned MVR is prohibited.
6. MVR are the responsibility of officers assigned to that vehicle, should be maintained according to the manufacturer's recommendations, and will be used with reasonable care to ensure proper functioning.
7. Officers shall inspect and test the MVR prior to each shift in order to verify proper functioning and shall notify their supervisor of any problems, including ensuring the battery of the remote microphone is adequately charged.
8. Equipment malfunctions shall be brought to the attention of the officer’s supervisor as soon as possible so that a replacement unit may be procured.
9. Officers shall not edit, alter, erase, duplicate, or otherwise distribute in any manner MVR recordings, nor shall any non-departmental personnel be allowed to review a recording without prior written authorization and approval of the Chief of Police or their designee.
10. Officers shall note in incident, arrest, and related reports when recordings were made during the incident in question. However, MVR recordings are not a replacement for written reports.
11. To help ensure accuracy and consistency, officers are encouraged to review recordings prior to preparing reports.
12. If the officer is giving a formal statement about the use of force or if the officer is the subject of a disciplinary investigation, the officer has:
	1. the option to review recordings in the presence of the officer’s attorney or labor representative; and
	2. the option to review recordings from other MVR capturing the officer’s image or voice during the underlying incident.
13. If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the department reserves the right to limit or restrict an officer viewing of the camera recordings.
14. Officers in a vehicle equipped with an MVR shall use the equipment at approved off-duty employment for all law enforcement related contacts or activities as if on-duty and in accordance with this policy. When used for this purpose, the officer shall download all digital multimedia evidence (DME) during their next regularly assigned on-duty shift.
15. Officers are encouraged to inform their supervisor of any MVR recordings that may be of value for training purposes.

**VI. OPERATION OF MOBILE AUDIO/VIDEO RECORDER (MVR)**

1. When the Mobile Audio/Video Recorder (MVR) is in use both the video and audio recording shall be activated and shall not be deactivated until the encounter has fully concluded and the law enforcement officer leaves the scene unless otherwise allowed in this policy.
2. MVR equipment will automatically activate when:
3. The vehicle's emergency warning devices are activated.
4. The vehicle is involved in a crash.
5. The vehicle exceeds 80 mph.
6. Other designated triggering events.
7. If automatic activation does not occur, officers, including back-up or assisting officers, shall manually activate the MVR in the following specific situations:
8. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance, and all crime interdiction stops).
9. Issuance of a summons or complaint.
10. Emergency responses.
11. Vehicle pursuits.
12. Suspicious vehicles.
13. Arrests and transports.
14. Vehicle searches.
15. Consent to Search.
16. Physical or verbal confrontations or use of force.
17. Pedestrian checks/Terry Stops.
18. DUI investigations including field sobriety tests.
19. Domestic violence calls.
20. Statements made by individuals in the course of an investigation or complaint.
21. Advisements of Miranda rights.
22. Documentation of injury.
23. Seizure of evidence.
24. Calls for service.
25. Warrants, arrest, or search.
26. When requested by an involved individual.
27. Any contact that becomes adversarial or an individual behaves erratically after the initial contact in a situation that would not otherwise require recording.
28. Any other law enforcement investigative contact including self-initiated activity in which an officer would normally notify dispatch.

NOTE: The MVR shall be used for audio only recording even when the scene may not be within view of the MVR unless the event is being recorded by a body-worn camera (BWC).

1. When an immediate threat to the officer's life or safety makes activating the MVR impossible or dangerous, the officer shall activate the MVR at the first reasonable opportunity to do so.
	1. If an officer fails to activate the MVR, or fails to record the entire contact, when required, the officer shall document the reasons for doing so.
2. Officers are encouraged to narrate events while recording, when possible and appropriate. The purpose of this narration is to explain the reasoning for any current or planned action, provide supporting probable cause, and to provide additional documentation for pretrial and courtroom presentation.
3. If an officer deactivates the MVR in the middle of an event or apart from the guidelines listed below, the reason for the deactivation shall be documented on camera and in a written report.
4. Deactivation of the MVR can occur when:
5. the event has concluded.
6. victim and/or witness contact has concluded.
7. all persons stopped have been released.
8. an arrestee has been placed into a vehicle to be transported to a detention facility.
	1. The MVR of the officer transporting the arrestee to the detention facility shall remain activated until custody of the individual is transferred to the detention facility.
9. at a crime scene, once the scene is contained.
10. during non-enforcement activities such as when protecting accident scenes, waiting for a tow truck or family member to arrive.
11. when emergency lights are activated solely for the purpose warning traffic, blocking traffic lanes, or similar situations.
12. Officers utilizing an MVR are not required to notify the subject(s) of the recording that the subject(s) is/are being recorded by an MVR unless the officer determines it is safe to do so for the officer and members of the public.
13. Often officers are required to approach suicidal, homicidal, or mentally disabled persons whose response to notification that they are being recorded could cause adverse and violent reactions. The officer on the scene should make the determination if notice furthers the law enforcement goals of the encounter.
14. When interacting with an apparent crime victim, a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, officers may ask the individual if they want the officer to discontinue use of the MVR. If the individual responds affirmatively, the officer may discontinue use of the MVR as soon as practicable, unless the officer believes it is necessary to continue recording the event, for the officer’s safety, the safety of others, or to ensure an accurate account of the event.
15. Alternatively, an officer may record audio only or position themselves so as not to identify the individual on the video recording.
16. Officers shall not be required to activate an MVR when engaged in conversations with individuals with whom the officer is in a privileged relationship (e.g., spouse, attorney, police peer counselor, labor representative, minister, etc.).
17. Where activation is not required as listed herein and/or a crime has not been committed, MVR shall not be used to record:
18. Communications with other police personnel.
19. Encounters with undercover officers or informants.
20. When an officer is on break or is otherwise engaged in personal or nonwork-related activities.
21. In any location where individuals have a reasonable expectation of privacy, such as a restroom, locker room, or break room and there is no legal reason to be present.
22. When an officer would be recording a patient during a medical or psychological evaluation by a clinician or similar professional, or during treatment.
23. When recording in hospitals or other medical facilities, officers shall be careful to avoid recording persons other than the suspect.
24. Communications made in a psychiatric facility, unless responding to a call
25. Other city officials/personnel unless the recording is for a law enforcement purpose. A supervisor shall be notified of any situation where city officials/personnel have been recorded.
26. MVR shall not be used to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public.

**VII. SUPERVISOR RESPONSIBILITIES**

1. Supervisory personnel shall ensure policy compliance, document non-compliance, identify training needs, and monitor overall utilization of equipment of officers equipped with Mobile Audio/Video Recorders (MVR).
2. On a monthly basis or more often as needed, supervisors will randomly review MVR recordings to ensure that the equipment is operating properly, that officers are using the devices appropriately and in accordance with policy, and to identify any areas in which additional training or guidance is required.
	1. A review shall be conducted and documented for each officer assigned an MVR. The review should provide insight into an officer’s ability to operate the equipment in the most productive and beneficial manner.
	2. Supervisors will use these reviews as a quality control measure. Following such a review, the supervisor will discuss their review with the officer to provide positive reinforcement and/ or constructive criticism as appropriate.
	3. Constructive criticism may relate to officer safety issues, demeanor, policy issues or legal issues related to the stop as well as any other supervisory observation relative to performance.
	4. Minor policy and/or procedural violations noted during the review process of the recordings (not criminal in nature) should be viewed as remedial training opportunities and not as routine disciplinary actions. Should the behavior or action become habitual after being informally addressed, the appropriate disciplinary or corrective action shall be taken.
	5. In cases of median and serious infractions requiring disciplinary actions and after review of all information regarding the incident, the Chief of Police or their designee, shall determine the proper disciplinary action.
3. Supervisors will conduct a mandatory review of MVR recordings in conjunction with all after-action reports (use of force, pursuits, TASER, etc.), critical incidents, and incidents involving injury or property damage to include all motor vehicle accidents regardless of injury.

**VIII. STORAGE, RETENTION, AND DESTRUCTION OF DIGITAL MULTIMEDIA EVIDENCE (DME)**

A. All files from Mobile Audio/Video Recorders (MVR) shall be securely downloaded and stored on a designated network server or other network storage no later than the end of the officer’s shift. Each file shall contain information related to the date, MVR identifier and assigned officer.

B. All files from MVR cameras shall be securely stored in accordance with state public records retention laws and for as long as useful for purposes of training, for use in an investigation or prosecution (including appeals), or for use in resolving a claim, pending litigation, or disciplinary investigation.

1. The retention and destruction of digital multimedia evidence (DME) shall be pursuant to state public records retention laws.
2. DME shall be automatically retained for no less than this state’s statute of limitations if the recording captures images involving:
3. Any use of force.
4. Arrest for a felony-level offense or events that constitute a felony-level offense.
5. Encounter for which a complaint has been registered.
6. Recordings which may be used solely and exclusively for police training purposes.
7. Member of the public who is a subject of the recording if that person reasonably asserts that the recording has evidentiary or exculpatory value.
8. Parent or legal guardian of a minor who is a subject of the recording if that parent or guardian reasonably asserts that the recording has evidentiary or exculpatory value.
9. A deceased subject's next of kin or legally authorized designee if that person reasonably asserts that the recording has evidentiary or exculpatory value.
10. Agency may limit access to recording for matters under investigation; however, the department must retain the recording until it gives the person authorized reasonable opportunity to review the recording.
11. Possible evidence in any criminal or civil proceeding, or incident that may lead to a criminal or civil claim, lawsuit, or other action.
	1. Recordings determined to be evidentiary in any criminal or civil proceeding shall be copied to DVD, USB, or other media and maintained before release to other agencies for court or other purposes.
12. Requests for deletion of portions of a recording from an MVR (e.g., in the event of a privileged or personal recording) must be submitted in writing to the Chief of Police and in accordance with state records retention laws.

**IX. VIEWING AND/OR RELEASE OF DIGITAL MULTIMEDIA EVIDENCE (DME)**

1. All digital multimedia evidence (DME) is considered official investigative records or material unless and until otherwise designated. All stored DME is subject to viewing and/or release in accordance with the state public records laws.
2. Any public viewing and/or release must be approved by the Chief of Police or their designee except as defined herein.
	* 1. All recordings that are needed for use by department officers in the prosecution of criminal cases either in the city, state, or federal court have the approval of the Chief of Police.
	1. Media requests for copies of video/audio will be referred to and handled by the Chief of Police or their designee.
3. Individuals requesting to view and/or receive copies of a recording must submit a written request and provide the following information:
4. the date and approximate time of the recording;
5. the specific location where the recording occurred; and
6. the name of one or more persons known to be a subject of the recording.
7. Individuals requesting to view and/or receive copies of a recording must pay the costs of retrieval and if any, the costs of redacting confidential or exempt material from the recording and must pay a deposit based on the estimate of that cost before the law enforcement agency can be required to comply with the request.
8. The necessity of, and if needed the level of any redaction of potentially sensitive information shall be determined prior to the viewing and/or release of any recording. Preserving the dignity of individuals should be a priority. Some considerations for redaction may include but are not limited to:
	1. faces,
	2. personally identifiable information,
	3. medical information,
	4. juveniles,
	5. nudity,
	6. other information of a private or sensitive nature.
9. The following recordings may be exempt from the public inspection requirements. Recordings from/that:
10. within the interior of a private residence.
11. within the interior of a facility that offers health care, mental health care, or social services.
12. within a place that a reasonable person would expect to be private.
13. within a school building or on school property.
14. would violate rape shield laws.
15. may identify juveniles who are victims or offenders of crimes.
16. Recordings from MVR may be shown for training purposes upon completion of a criminal case.

APPROVED: CHIEF OF POLICE DATE

I HAVE READ AND UNDERSTAND THIS ORDER

SIGNATURE OF OFFICER DATE

***DISCLAIMER***

***NOTE****: These documents are being provided to you from the AMIC/MWCF Loss Control Division and are not intended to be legal advice. They do not identify all the issues surrounding a particular topic. Laws and “Best Practices” change and policies must be continually reviewed and updated as needed. Public agencies are encouraged to review their procedures with an expert or an attorney who is knowledgeable about the topic. Reliance on this information is at the sole risk of the user.*