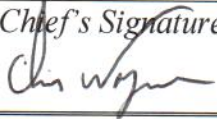


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| <i>Effective Date:</i><br><b>10 SEPTEMBER 2019</b>   |  | <i>Number:</i><br><b>7-2</b>                 |
| <i>Subject:</i><br><b>Mobile Video/Audio Recording Systems</b>   |  |  |
| <i>Reference:</i>  |  | <i>Accreditation Number:</i><br><b>2.1.2</b> |
| <i>Chief's Signature:</i><br> | <i>Re-Evaluation Date:</i><br><b>2-18-2020, 4-23-2020,<br/>9-30-2022</b> | <i>Number of Pages:</i><br><b>7</b>          |

## I. PURPOSE

The purpose of this policy is to provide Pocono Mountain Regional Police Department (PMRPD) Officers with guidelines for the use, management, storage, and retrieval of the Mobile Video/Audio Recording Systems (MVAR). MVAR Systems enhance the services provided to the community and are an additional tool for documenting events, actions, conditions and statements made during police contacts.

The MVAR systems are used to enhance the documentary process but cannot replace the entire human interactive experience. There are details that every human experiences that an electronic device neither detects nor records. These experiences include, thought processes, fear, intent, odor, touch, prior knowledge, experience, or investigative effort. There are also details that an MVAR may capture that an officer does not. The MVAR footage, however, should complement the ability to understand the totality of the circumstances.

## II. POLICY

The use of an MVAR system provides persuasive documentary evidence during police investigations. The MVAR systems also provide evidence in civil litigation and allegations of officer misconduct. Officers assigned the use of these devices shall adhere to the operational objectives and protocols outlined herein. This adherence is designed to maximize the effectiveness and utility of the MVAR and the integrity of evidence and related audio/video documentation. The use of in-car camera systems and/or body worn camera systems (BWC) shall be utilized in accordance with Federal and State Law to include (18 PA. C.S.) and Judicial Code (42 PA. C.S.) Chapter 57 as amended in Act 22 (P.L. 304) Section 67A07.

## III. PROCEDURES

### A. Program Objectives

The PMRPD has adopted the use of MVARs to accomplish the following objectives:

1. To enhance officer safety.
2. To accurately capture statements and events during the course of a police contact.
3. To enhance the officer's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.

4. To provide an impartial measurement for self-critique and field evaluation during recruitment and new officer training.
  5. To capture visual and audio information for use in current and future investigations.
- B. Officer Responsibilities:
1. Officers shall not use the MVAR systems until they have successfully completed the required PMRPD approved course of instruction.
  2. An officer acting in the performance of official duties, shall intercept and record an oral communication between individuals in accordance with the following:
    - a. At the time of the recording, the officer is in uniform or otherwise clearly identifiable as a law enforcement officer.
    - b. Is in close proximity to the individual's oral communication.
    - c. Is using an electronic, mechanical or other device which has been approved under PA 18 § 5706 (b)(4)
    - d. Informs, as soon as reasonably practicable, the individuals identifiably present that he has intercepted and recorded the oral communication.
  3. Inspection and general maintenance of MVAR equipment installed in PMRPD vehicles shall be the responsibility of the officer assigned to the vehicle. Inspection and general maintenance of Body Worn Cameras shall be the responsibility of the officer assigned. Prior to beginning each shift, the assigned officer shall perform an inspection to ensure that both MVARS are performing in accordance with the manufacturer's recommendations and in proper working order.
    - a. The officer will ensure that they are listed in the MVAR active directory and properly log in at the start of the shift.
    - b. Officers who are assigned an MVAR equipped vehicle and/or a BWC must use the equipment throughout their entire shift unless otherwise authorized by supervisory personnel.
  4. The MVAR wireless microphone will be properly synchronized with the Officer's patrol vehicle MVAR system. The wireless microphone and/or BWC shall be affixed upon the officer's uniform at the beginning of the shift in accordance with PMRPD regulations and manufacturer's guidelines.
  5. Officers shall document the use of MVAR systems within reports and upon citations and written warnings. Writing MVAR upon the citation or warning is sufficient.
  6. Officers are encouraged to review their own MVAR recording when preparing official reports of an event. Officers may only review recordings from their assigned MVAR. The review is to be utilized as a tool to ensure accuracy and consistency in the investigative report.
    - a. An exception to the above shall be in the event of a serious complaint requiring an internal investigation pursuant to policy 11-1 Internal Investigations.
    - b. An exception may also take place in the event of a use of force incident or other critical incident requiring an administrative review or investigation.

7. MVAR equipment shall be operated in accordance with the manufacturer's recommended guidelines and PMRPD training and policies.
8. Malfunctions, damage or theft of MVAR equipment shall be reported to the immediate supervisor prior to placing a patrol vehicle into service. Any malfunctions or damage shall also be documented on the daily log. Theft of a MVAR unit shall be reported in a records management system (RMS) report.
9. Malfunctions, damage, theft or loss of a BWC shall be reported to the immediate supervisor at the time of discovery. Any malfunctions or damage shall also be documented on the daily log. Theft and loss of a BWC shall be documented in an RMS report.
10. With the exception of police radios, officers shall ensure that the volume from other electronic devices or vehicle radio, within the patrol vehicle does not interfere with MVAR recordings.
11. Officers are prohibited from erasing, deleting, or otherwise altering any MVAR capture.
  - a. Officers are permitted to isolate and duplicate segments of an MVAR capture, so long as the original capture in its entirety is maintained and disclosed through the legal process.
12. Upon the completion of an assigned shift, the officer logged into the MVAR System shall:
  - a. Ensure the MVAR microphone and/or BWC is powered off and placed in the designated docking port.
  - b. Log out of the MVAR system.
  - c. Ensure that the in-car MVAR system is not turned off manually. This will ensure proper wireless upload of recorded data to the PMRPD server. The in-car MVAR system will shut down automatically after 30 minutes.

C. Department Responsibilities:

1. It shall be the responsibility of the PMRPD to ensure that the in-car MVAR equipment is properly installed according to the manufacturer's recommendations.
2. It shall be the responsibility of the PMRPD to ensure that MVARS are repaired upon the notice of a malfunctioning unit.
3. Placement, storage, and operation of system components within the vehicle shall be based on officer safety requirements, along with manufacturer and up-fitter recommendations. Initial training shall be provided for officers upon the commencement of their probationary period.
4. Update training shall be provided anytime there are significant changes to MVAR equipment including vendor and software changes.
5. Update training shall be provided anytime there are changes in the law regarding MVAR operations or accreditation standards.

#### D. Supervisor Responsibilities:

1. Supervisors will ensure that PMRPD officers have stored their assigned wireless microphone and/or BWC in the department docking port prior to going off duty.
2. Supervisors shall assign BWC's during roll call, special operations, or other events where BWC systems will be utilized. All assignments of BWC will be documented by the supervisor issuing the equipment.
3. In the event of a reported malfunction to an in-car MVAR unit, the supervisor shall determine if the vehicle shall be placed in service. If the vehicle is placed in service without an operating MVAR, the Monroe County Control Center shall be so informed at the start of the shift and a notation shall be made in the roll call book.
4. In the event of a reported malfunction of an assigned BWC unit, the supervisor shall determine if a spare unit is available for assignment. If the officer is deployed without a replacement BWC, the Monroe County Control Center shall be so informed at that time and a notation shall be made in the roll call book.
5. Supervisors who are informed or otherwise become aware of a malfunctioning MVAR system shall ensure that information is forwarded through the chain of command.
6. Supervisors who are informed or otherwise become aware of a violation of this policy shall refer to policy 11-1 Internal Investigations.
7. When an incident arises that requires the immediate retrieval of MVAR data for chain of custody purposes (including, but not limited to: serious crime scenes, officer involved shootings or others as determined by policy/supervision) a supervisor will respond to the scene and ensure that the MVAR systems remains secure. Through direct and uninterrupted supervision, the supervisor is responsible for the care and custody of the MVAR systems until it has uploaded to the PMRPD server.
8. Supervisors may view recordings in the field in order to mitigate citizen complaints, however permission must be obtained from the Chief of Police or designee in order to playback MVAR recordings for citizen viewing.

#### E. MVAR Technician Responsibilities

1. Ensure proper retrieval, duplication, storage, purging and dissemination of MVAR data occurs in accordance with policy and procedure.
2. Conduct an audit of MVAR recordings on at least a bi-annual basis to confirm that officers are following PMRPD policy and procedure.
3. Remain current in MVAR systems related training, updates, equipment, software and coordinate department wide updates.

#### F. Activation and Deactivation of the MVAR Systems

1. There are many situations where the activation of the MVAR is appropriate and/or required. This policy is not intended to describe every possible circumstance. It is recognized that not all situations will clearly start out as necessitating MVAR activation nor will recorded incidents have a clear and defined ending for when the MVAR is no longer required. Officers are expected to follow departmental policy

and procedure for mandatory recording. Officers must also utilize sound judgement when activating and deactivating the MVAR system.

- a. When deactivating the MVAR system, the intention to stop the recording shall be noted by the officer either verbally or in a written notation and the officer does not reasonably believe that deactivation will result in the loss of critical documentary information.
  - b. The recording is of such a duration and of non-evidentiary value that the officer deactivates the recording to conserve data storage.
2. MVAR in-car equipment shall automatically activate when emergency equipment (lights and or audible signal) is activated or in the case of a hard application to the vehicle braking system. The system may also be activated manually from the control panel or mobile data terminal within the interior of the vehicle or by activating the wireless microphone. BWC equipment shall be activated manually by the assigned officer.
- a. Mandatory Recordings
    - (1) All Traffic stops to include roadway safety intervention such as disabled motorists.
    - (2) Upon arrival for all calls for service.
    - (3) Emergency response mode
    - (4) Vehicle pursuits
    - (5) Foot Pursuits
    - (6) Crimes in progress
    - (7) Warrantless Searches
    - (8) Terry frisk
    - (9) When reading Miranda Rights
    - (10) Prisoner Transports
    - (11) A mere encounter that becomes confrontational, investigative, or enforcement in nature.
  - b. Discretionary Recordings
    - (1) Any situation or incident that the officer, through training and experience, believes should be audibly and visually recorded.
    - (2) In addition to the aforementioned incidents, officers may record with the audio portion disabled anytime the officer believes such recording has a legitimate law enforcement purpose.
    - (3) Taking statements relating to crimes under investigation
    - (4) When circumstances make it unsafe, impossible, or impractical to activate the MVAR system.

- (a) Officer in these circumstances shall begin the recording at the first reasonable opportunity to do so and shall document in their report the circumstances preventing them from activating the system/s.

c. Prohibited Recordings

- (1) The recording of other agency personnel during routine, non-enforcement activities unless required by court order or as part of a criminal or internal investigation.
- (2) Any non-work related activity
- (3) Where a reasonable expectation of privacy exists including bathrooms, locker rooms, strip searches, and attorney / client privilege.
- (4) Any conversations between a confidential informant, undercover Officer or sensitive law enforcement information.
- (5) Any recording from a personally owned MVAR system.

d. Record After the Fact (RATF)

- (1) If an officer was unable to trigger an event recording or otherwise believes buffered video on the MVAR system may have captured evidentiary or other relevant information regarding a law enforcement investigation, the RATF function can be used by the officer to retrieve and preserve the buffered video
- (2) If the officer is unable to retrieve or initiate the RATF function, the officer should seek the assistance of the MVAR technician.

G. Data Management and Retention/Disclosure

- 1. All captured recorded MVAR data will be uploaded and retained for 60 days after which the data will be automatically deleted unless it has been tagged for retention.
  - a. Any MVAR data that has been tagged for retention will be moved to long term storage.
    - (1) It is the responsibility of the assigned officer to properly tag the MVAR capture to ensure that data is moved to long term storage.
- 2. All retained data will comply with applicable Pennsylvania State statutory requirements regarding criminal justice record management and evidence retention.
  - a. At the conclusion of the trial proceedings or as otherwise authorized by law or the Monroe County District Attorney's office for which the MVAR data was required, the original recording can be deleted in accordance with evidence purging by the MVAR technician.
- 3. Access to all stored MVAR data will be restricted to authorized users. The viewing of any MVAR data will be restricted to legitimate law enforcement purposes.
- 4. Any requests for MVAR data from outside of the PMRPD will comply with PMRPD MVAR policy and Pennsylvania Title 42 Chapter 67.

- a. All recorded audio and video images are the property of the Pocono Mountain Regional Police. Any dissemination outside of the agency is strictly prohibited without specific written authorization of the Chief of Police or designee. Lead investigators providing working copies in the normal course of investigation and discovery are exempt from this prohibition.
- b. To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed, uploaded or otherwise inserted into any device or software not approved by the departmental MVAR technician.

#### H. Facial Recognition Software or Programs

1. Police personnel utilizing facial recognition software or programs, to analyze data collected through the MVAR or other sources, shall complete appropriate training in the proper use of facial recognition software or programs prior to use. Appropriate training will consist of maintaining compliance with policies and procedures as outlined by the facial recognition software provider.
2. Any use of facial recognition software must be for legitimate law enforcement purposes. Using the application and information that is not relevant to criminal justice purposes or for non-criminal justice, non-governmental or non-work related, personal use is prohibited and considered a misuse of the system.
3. The primary use of facial recognition technology by law enforcement is as an investigative tool only. The results of a facial recognition search is only as an investigative lead and is not to be considered a positive identification of any individual.
4. Any possible connection or involvement of any individual to the investigation must be determined through further investigation and investigative resources. All authorized users must conduct a thorough and complete investigation on a candidate before an arrest can be made.

#### IV. DEFINITIONS

Recorded data: Refers to audio-video signals recorded on any of several storage devices, including portable digital storage devices (CD, DVD, hard drive, etc.).

Mobile Video and Audio Recording System (MVAR): These are synonymous terms and refer to body worn and in-car systems that captures audio and video signals, includes at minimum, a camera, microphone, recorder.

Supervisor: Sworn personnel officially promoted to a position of responsibility for a departmental component.

MVAR Technician: Personnel trained in the operational use and repair of MVARs, duplicating methods, storage and retrieval methods and procedures, and who possess a working knowledge of video forensics and evidentiary procedures.