

7-416 Mobile Video Recorder Policy – Added October 21, 2015

The use of the Mobile Video Recorder (MVR) system provides a method to document law enforcement interaction with the public by providing audio and visual evidence for review by the public through formal request by agency specific method, for internal review, and when relevant, the judicial system.

The primary function of the MVR is for the safety of officers, as well as the public, and to provide an unbiased visual / audio record of statements and events during the course of an incident which may be used to supplement an officer's report.

Data is not directly collected to establish policy violations or misconduct for purposes of initiating disciplinary action against an officer, but the data collected on the MVR may be used as evidence relating to a complaint of misconduct made against an officer by any person present at the scene of the incident when such complaint could result in additional training, counseling or disciplinary action in accordance with Department policy.

7-416.01 Definitions –

- A. Audio Recording - is electronic recording of conversation or other spoken words.
- B. Evidence.com - is the online web-based digital media storage facility accessed at www.evidence.com. The virtual warehouse stores digitally-encrypted data (photographs, audio and video recordings) in a highly secure environment. The digital recordings are accessible to authorized personnel based upon a security clearance and maintain an audit trail of user activity.
- C. Evidence Transfer Manager (ETM) - is a docking station that simultaneously recharges the Mobile Video Recorder and uploads all data captured from the camera's point of view during the law enforcement operator's shift to Evidence.com. The ETM ensures that evidence handling is secured and cannot be altered.
- D. Law Enforcement Operator - Primarily a licensed police officer, but on occasion may be a non-sworn representative of the agency who would be authorized and assigned to operate MVR equipment.
- E. Mobile Video Recorder (MVR) - This refers to any system that captures audio and video signals that is worn individually by officers and that includes at a minimum a camera, microphone, recorder and monitor.
- F. MVR Technician – personnel certified or trained in the operational use of MVRs, duplicating methods, storage and retrieval methods and procedures, and who possess a working knowledge of video forensics and evidentiary procedures.

G. System Administrator - typically the Staff Services Lieutenant or Records Unit Supervisor, or their designee, who assigns, tracks and maintains MVR equipment, oversees needed repairs or replacement equipment through the vendor, controls user rights and access, and acts as a liaison with the vendor.

H. Video Recording - is the electronic recording of visual images with or without audio component.

7-416.02 Mobile Video Operational Objectives

This system will be issued to officers in all routine patrol positions for daily use. However, devices will also be made available to all officers, such as investigators for instances when the officer reasonably believes he / she will be in contact with the public. While the Department recognizes the system is not a failsafe tool, it should be used to document events and capture data to be preserved in a web-based digital storage facility at Evidence.com for law enforcement officers of the Rochester Police Department who are equipped with the Mobile Video Recording system. Recordings, once captured, are protected through multiple layers of encryption. Although a recording may be copied and edited / redacted, the original recording will continue to exist in its original form.

The Rochester Police Department has adopted the use of Mobile Video Recorders to accomplish the following objectives:

- A. To enhance officer safety, as well as the public's safety expectation.
- B. To document statements and events during the course of an incident.
- C. To enhance the law enforcement operator's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
- D. To preserve visual and audio information for use in current and future investigations.
- E. To provide an impartial measurement for self-critique and field evaluation during officer training.
- F. To enhance the public trust by preserving factual representations of officer-citizen interactions in the form of video and audio recordings.

7-416.03 Required Activation of Mobile Video Recorders

This policy is not intended to describe every possible situation in which the MVR system may be used, although there are many situations where its use is appropriate. An Officer shall activate the system at any dispatched call, civilian interview or contact where its use is appropriate.

In some circumstances it is not possible to capture images of the incident due to conditions, or the location of the camera. However, although an incident may be outside of the video range, the Officer should activate the MVR to capture the audio portion of the incident when practical.

When feasible, an Officer should activate the MVR system, without compromising the safety of the public and the Officer in the following circumstances:

- A. traffic stops (including, but not limited to, traffic violations, stranded motorist assistance, suspicious vehicle stops and all crime interdiction stops);
- B. suspicious person stops
- C. arrest or detention situations
- D. work related transports
- E. priority responses;
- F. vehicle pursuits;
- G. vehicle searches;
- H. physical or verbal confrontations;
- I. use of force situations;
- J. prisoner transports;
- K. crimes in progress;
- L. when taking a statement or information from a suspect or witness;
- M. when ordered by a supervisor for proper purposes;
- N. in any situation or during any incident where the Officer, through training and experience, believes evidence should be audibly and/or visually preserved.
- O. during any significant incident as defined herein
- P. when advising an individual of their Miranda rights

7-416.04 Deactivation of Mobile Video Recordings

Once activated, the MVR system shall remain in active recording mode until the incident has concluded unless:

- A. the incident has been resolved to a point where the Officer reasonably believes that deactivation will not result in the loss of critical evidence;
- C. deactivation is reasonable and necessary to protect the safety of the Officer or others; or
- D. deactivation is approved or ordered by a supervisor.

The MVR may also be deactivated at the officer's discretion while an Officer is doing any of the following:

- A. Speaking in private deliberation with another officer
- B. Protecting an accident scene
- C. Monitoring assigned traffic posts
- D. Assisting motorists

- E. Seeking to protect the identity of an officer in an undercover capacity
- F. Seeking to protect the identity of a confidential reliable informant

Once an event has been stabilized, if it is necessary to discuss issues surrounding the incident/investigation with a supervisor or another officer in private, officers may turn off the MVR. For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and witnesses and victims have been interviewed.

When contacting an individual for a formal statement, an officer should advise that the statement is being recorded, unless the officer believes it would undermine the investigation. If the party being contacted makes a request that the MVR be deactivated, the officer should consider the overall circumstances before honoring the request. For example, an officer may choose to turn off the MVR if activation will inhibit a victim or witness from giving a statement. The individual officer must make a determination as to what approach is best for the particular investigation or contact. If the Officer decides to deactivate the MVR, the officer should note the reason for doing this in his or her report.

7-416.05 Prohibited Mobile Video Recordings

Unless on a call for service, the Mobile Video Recorder shall not be activated in places or circumstances where a reasonable expectation of privacy exists; for example, a locker room, dressing room or restroom. Special consideration for expectations of privacy must also be given when recording a subject in a private dwelling.

To respect the dignity of others, law enforcement operators will try to avoid recording videos of persons who are nude or when sensitive human areas are exposed. The Mobile Video Recorder shall not be used to record non-work related personal activity.

The Mobile Video Recorder will not be intentionally activated to record conversations of fellow employees without their knowledge during routine, non-enforcement related activities.

In addition, mobile video recording of individuals who are picketing or engaged in a protest or First Amendment demonstration will be avoided unless an officer has reason to believe that an obvious violation of criminal law is likely to occur, or is occurring. The law enforcement operator may also record if in the same vicinity for other legitimate law enforcement purposes.

7-416.06 Mobile Video Operating Procedures

A. General Procedures:

1. Law enforcement operators shall receive mobile video training prior to being deployed with Mobile Video Recorders in an operational setting.

2. The department will ensure officers and investigators have access to the recorded events for legitimate law enforcement purposes or other articulable reasons.
3. Law enforcement operators will not make copies of any recordings for their personal use and are prohibited from using a recording device (such as a phone camera or secondary video camera) to record media from Evidence.com or the MVR device.
4. Law enforcement operators will typically not allow citizens to review the recordings; however, officer discretion is allowed to replay the recording to citizens at the scene in order to mitigate possible complaints.

B. Mobile Video Recorder Modes of Operation:

1. Normal (Buffering) Mode - In the "normal" mode the Mobile Video Recorder shall be configured to record for 30 seconds prior to an event. Audio is not recorded during buffering.
2. Event Mode - In the "event" mode the Mobile Video Recorder saves the buffered video and continues recording audio and video for up to eight hours or the life of the battery.

C. Operational Protocols:

1. Inspection and general maintenance of Mobile Video Recorder equipment shall be the responsibility of the law enforcement operator assigned to the equipment. MVR equipment shall be operated in accordance with the manufacturer's recommended guidelines and department training and policies.
2. Prior to beginning each shift, the assigned law enforcement operator shall perform an inspection to ensure that the Mobile Video Recorder is performing in accordance with the manufacturer's recommendations. If problems are encountered with any component of the system, the MVR equipment will not be used.
3. Malfunctions, damage, loss or theft of Mobile Video Recorder equipment shall be reported to the immediate supervisor prior to placing the unit into service, or as soon as reasonably possible, but in no case later than the end of that employee's shift. An Event Report shall be filed in the case of property stolen or damaged as the result of criminal activity. The Staff Services Unit shall be notified in writing of the suspected cause of equipment failure or recommendations for corrective action as required by SOP 4-202.
4. Once the Mobile Video Recorder is activated it should remain on until the incident has reached a conclusion or the law enforcement operator reasonably believes that deactivation will not result in the loss of critical evidence. The intention to stop the recording will be noted by the law enforcement operator either verbally on the MVR or in a written notation.

5. When the Mobile Video Recorder is used in any incident, investigation, or during a traffic stop, this fact will be documented on any citation and/or report prepared regarding the use of the MVR.
6. Whenever a law enforcement operator obtains a video statement, the fact the statement was recorded will be listed in the Officer's narrative. A video statement is not a replacement for a written or audio recorded statement.
7. Law enforcement operators may have access to review the recordings when preparing written reports or statements of events to help ensure accuracy and consistency of accounts. This can be done directly from the Mobile Video Recorder worn by the law enforcement operator or accessing Evidence.com. To prevent damage, original recordings shall not be viewed in any equipment other than the equipment issued or authorized by the Staff Services Unit / MVR Technician.
8. Law enforcement operators shall not use other electronic devices or other means in order to intentionally interfere with the capability of the Mobile Video Recorder system.
9. Law enforcement operators shall not erase, alter, reuse, modify or tamper with audio-video recordings.
10. Upon approval by the Chief of Police or a Division Commander, only the MVR Technician or System Administrator may erase previously recorded digital recordings.
11. Law enforcement operators are to select a category (ie. case file, citation, miscellaneous or training) for each recording. Recordings shall be retained according to the department's retention schedule or as required by the rules of evidence, unless a specific request is made to store them for a longer period of time. Law enforcement operators will document in a written report the existence of a digital recording when related to an incident.
12. When an incident arises that requires the immediate retrieval of a digital recording (e.g., serious crime scenes, agency shootings, department-involved crashes) a supervisor shall respond to the scene to secure the officer's MVR and maintain chain of custody.

D. Mobile Video Recorder Impounding Procedure - At the end of their shift, law enforcement operators shall place the MVR device into any open slot on the Evidence Transfer Manager (docking station). This will allow the data to be transferred from the MVR device through the docking station to Evidence.com. The data is considered impounded at this point and the MVR device is cleared of existing data. The MVR device cannot be removed from the docking station until the data has been uploaded and the battery has been fully recharged.

E. Accessing Mobile Video Recorder Impounded Data - Evidentiary copies of digital recordings will be accessed and copied from Evidence.com using department-approved equipment and for official law enforcement purposes only. Temporary access rights may be given to the Olmsted County Attorney, the Rochester City Attorney, or other

prosecutorial agencies associated with any future prosecution arising from an incident in which the Mobile Video Recorder was utilized. The release of digital media through a public records request will be subject to the same statutory exemptions from disclosure as any other department records classified as public under current law and/or the Minnesota Government Data Practices Act.

Any time a video is redacted for evidentiary purposes, the original copy of the un-redacted video shall also be kept.

In the event a recording is linked to potential criminal activity or an active investigation, it shall be the responsibility of the prosecutor in the responsible jurisdiction to decide when to properly release a copy of the recording in accordance with the Minnesota Government Data Practices Act.

F. Security of Mobile Video Recorder Media - All digital media collected using mobile video recordings is considered a record of the Rochester Police Department and subject to the provisions of current law and/or the Minnesota Government Data Practices Act.

Access to digital recordings shall be granted to authorized users only. It is the responsibility of authorized users to keep their user name and password confidential. Accessing, copying, or releasing any recordings for other than official law enforcement purposes is strictly prohibited, except as required by law.

G. Agency Review of Mobile Video Recorder Media:

1. Department personnel may review their own digital recordings for work related purposes.

2. The Professional Standards Manager or an outside investigator who is designated by the Chief of Police and participating in an official department investigation, may review specific incidents contained on digital recordings. Any other review will require the express approval of the Chief of Police.

3. A supervisor may review a specific incident contained on digital media for the purpose of training, critique, early intervention inquiries, civil claims, administrative inquiry, or other articulable reason.

4. In no event shall any recording be used or shown for the purpose of officer or citizen ridicule or embarrassment. This does not apply to individuals or entities which may have lawfully obtained a copy of the recorded material.

H. Classification of MVR Data - Nothing in this policy shall be interpreted as changing the underlying classification of data collected by the MVR systems. The classification of data collected by the MVR systems will need to be determined on a case by case basis. The factors that will determine the classification include the specific facts and circumstances surrounding the data, the application of the relevant policies and procedures.

7-416.07 MVR Data Storage and Retention

Once submitted for storage all recorded media will be labeled and stored in a designated secure area. All recorded media that is not booked in as evidence will be retained in compliance with the established records retention schedule or as required by the rules of evidence, unless a specific request is made to store them for a longer period.

Current retention periods for recorded media are:

- A. Uncategorized - 60 Days
- B. Arrest, citation and charge 60 Days after sentencing or relevant statute of limitations if no charge.
- C. Interview - If determined to have evidentiary value, then same as item (B).
- D. Pending Review - Until manually deleted, but no sooner than 60 days.
- E. Officer Misconduct – 6 years
- F. Training – Until manually deleted

7-416.08 Disposition

Recorded media that is relevant to a criminal proceeding shall be retained until its proper disposition in accordance with the law. The Records Unit and its authorized technicians are responsible for clearing of evidence items.

Evidence may be cleared when:

- A. Prosecution is complete and the applicable appeal time has lapsed.
- B. The statute of limitations has expired.
- C. The complainant has provided a written request to close their case.

When an investigator is assigned to the case, the investigator should be notified prior to final disposition of the evidence.