

**HOPEWELL TOWNSHIP  
POLICE DEPARTMENT  
STANDARD OPERATING PROCEDURE**



**MOBILE VIDEO RECORDERS (MVR)**

**BY THE ORDER OF:  
Chief Lance Maloney**

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**EFFECTIVE DATE: October 16, 2018**

**ACCREDITATION STANDARDS: 3.5.5**

**PURPOSE** The purpose of this standard operating procedure is to establish procedures for the use of mobile video recording equipment (MVR). MVR 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 Hopewell Township Police Department to utilize MVR 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 technology.

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

## PROCEDURES

### I. GENERAL

- A. All references to MVR shall include the equipment installed in the police vehicles and where appropriate, the wireless transmitter, microphone, removable media, server, and other accessories necessary to operate the system.
- B. MVR recordings are invaluable to law enforcement for evidential purposes. MVR has consistently demonstrated its value in the prosecution of criminal, 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 N.J.S.A. 2A: 156A-1, et seq., *New Jersey Wiretapping and Electronic Surveillance Control Act*.
- E. These recordings 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. The 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. Recordings can permit supervisors to undertake more meaningful performance evaluations.

6. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the general public.
  7. Supervisors will be able to view the recording media and select portions for use in training officers concerning safety, interpersonal skills, proper procedures and legal doctrines.
- F. Only officers trained in the use of an MVR are permitted to operate the system. Each authorized operator must have demonstrated his/her competence to the satisfaction of the MVR coordinator. Use of an MVR is considered an essential job requirement.
  - G. If any officer is unclear with this SOP or the operation of the MVR, he/she should contact duty sergeant or senior officer to arrange for additional training.
  - H. Equipment installed in a police vehicle is the responsibility of the officer assigned to that vehicle. The officer must ensure that the MVR is operating properly prior to the start of his/her shift and must report all malfunctions, damage or other problems to the duty sergeant or senior officer.
  - I. Installation, removal or repairs to any of the MVR equipment shall only be performed under the direction of the MVR coordinator or his/her designee.
    1. If a police vehicle is towed due to a collision, the MVR coordinator will decide whether to immediately remove the memory card/hard drive or wait until the next working day.
    2. The internal affairs supervisor shall be promptly notified concerning any MVR equipped vehicle involved in:
      - a. A serious crime;
      - b. A collision with serious bodily injuries to any party;
      - c. A motor vehicle pursuit involving a collision.
    3. The internal affairs supervisor shall either respond and collect the removable media or designate someone to collect the removable media and secure it as evidence.
    4. In any case, the memory card/hard drive shall be removed and be handled in accordance with this department's *SOP on Property and Evidence*.

## **II. INCIDENTS TO RECORD**

- A. MVR equipment is preprogrammed to automatically begin recording when the vehicle's emergency lights are activated, when the wireless microphone is activated, when the vehicle reaches a speed of 80 mph, or in the event of a crash. Whenever the MVR is activated officers shall ensure that the audio portion is also activated. Video recording may not completely document events as they occur. Therefore, officers are encouraged to provide narration as the events are occurring.

- B. The following types of incidents shall be recorded:
1. All traffic stops from the time the violation is observed (when feasible) until the stop is concluded;
  2. Motor vehicle collision scenes, including motorist interviews on the scene, at least until the officer clears the call;
  3. Major crime scenes, to the extent possible;
  4. Motor vehicle pursuits and all emergency responses. (While the MVR activates as the emergency lights are activated, officers are reminded that the MVR is not to be shut down until the incident is complete);
  5. Violations of criminal law, including domestic violence;
  6. Disturbances;
  7. Encounters with individuals displaying threatening behavior or abusive language;
  8. Pedestrian contacts, including emotionally disturbed persons;
  9. Motor vehicle assistance calls;
  10. All transports of prisoners and other civilians;
  11. Special incidents or projects, which should be documented including crowd control situations, strikes, pickets, etc.;
  12. All other situations, which by virtue of the officers training and experience, he/she believes should be recorded.
- C. Whenever the MVR is activated, officers shall ensure that the audio portion is also activated and the volume on the patrol vehicle's AM/FM radio is turned OFF and the volume on the radar unit is turned off or at its minimum setting.
- D. Officers shall not cease recording an event at the request of any person or entity other than a police supervisor, which will be documented in the applicable investigation report. If a citizen makes an inquiry whether or not they are being recorded, officers shall inform him/her that there is an MVR in use.
- E. When an officer has a passenger or prisoner in the patrol vehicle, officers should activate the rear camera and microphone to capture any interaction. This shall include, but not be limited to, anytime the recording may be of value in a prosecution or to document unusual or bizarre behavior, or any behavior that may cause personal injury to the occupant.
1. In all circumstances when a person will be video or audio recorded in the vehicle, the officer shall advise the suspect/occupant that he/she is being recorded with both audio and digital equipment. Unless impracticable, this notification should take place when the MVR is recording.

2. The internal microphone shall be activated when anyone is in the rear/prisoner/occupant seat.
  3. At no time, shall an officer audio record the rear-seat compartment of a patrol vehicle, when an arrested person is placed into custody and detained, or another party is in the rear passenger compartment and the officer is not present.
- F. To prevent allegations of arbitrary and capricious utilization of the system, the following procedural guidelines shall strictly followed:
1. Recordable incidents shall be video and audio recorded from beginning to end.
    - a. This procedure applies to primary as well as secondary/back-up units on these incidents.
    - b. This procedure applies to both adult and juvenile incidents.
    - c. MVR shall remain activated (audio and video recording) during motor vehicle stops and other law enforcement actions until the entire enforcement action has been completed and either the officer or stopped motorist has departed the scene.
    - d. Officers should record the plate number audibly into the microphone/transmitter to verify the plate is recorded.
    - e. To the extent possible under the circumstances, officers should position the camera to capture the officer-subject interaction at the outset of the incident. Ask the subject to speak up if necessary. Be cognizant of where you stand.
    - f. If necessary, an officer may elect to reposition the camera to capture other images relevant to the enforcement action. The officers may want to verbally describe the action(s) taken and the video obtained.
  2. Officers shall maintain activation of the wireless transmitter at **all** times when they are out of the vehicle on a car stop/incident that is being recorded.
    - a. In some instances an officer may wish to mute the audio portion of the MVR to discuss strategy with another officer or to share intelligence. This is acceptable as long as the subject(s) of the police activity remains visible on the camera.
    - b. The officer should verbally record the reasons for muting, prior to muting the transmitter and should re-activate the audio portion as quickly as possible.
    - c. **At no time** should the MVR be turned off or transmitter muted while an officer is interacting verbally or physically with a subject.

3. The system will continue to record video after the emergency lights are shut off. The operator of the system must stop the recording **manually** at the conclusion of the stop/event.
  4. No recording of video or audio is required in non-enforcement situations where prolonged recording from a stationary position is unlikely to capture information that may be useful in any prosecution or civil proceeding. Prior to stopping the MVR, officers shall announce on the audio their intention to stop recording along with the reason for such action (e.g., traffic post etc.).
  5. If an MVR recording is ceased prior to the conclusion of an incident, the officer shall provide justification by recording the reason verbally on the system.
  6. Officers shall note in the narrative portion of any reports (or on the officer's copy of a uniform traffic ticket) related to the incident, arrest, investigative detention, or motor vehicle stop, etc., the fact that audio/video recordings were made and also indicate the unit number of the police vehicle that was used for each incident recorded, Under no circumstances shall an officer simply note in a report, "...see MVR recording for details."
  7. Officers who capture evidence or critical incidents on a recording shall bring it to the attention of the duty sergeant or senior officer.
- J. MVR recordings shall be maintained on the MVR server in accordance with section IV.D of this SOP.
1. The MVR coordinator or his/her designee will replicate copies of MVR recordings upon receiving a request for discovery, upon receiving a request from the Mercer County Prosecutor's Office or municipal prosecutor, or if the recording has value in an internal affairs or other administrative investigation.
  2. Internal affairs personnel are also authorized to replicate MVR recordings for evidential, internal affairs or administrative matters.
  3. Copies of any replicated media shall be maintained as evidence or in the appropriate case file.

### III. OFFICER RESPONSIBILITIES

- A. Officers shall wear their department-issued microphones and wireless transmitter at all times clipped to their outermost garment (e.g., jacket, coat, shirt, or lapels) in order to obtain the best audio clarity.
- B. In the event a microphone is not synchronized to that vehicle, the officer shall synchronize the microphone in that vehicle and wait until confirmation is complete.
- C. It is the officer's responsibility to exercise reasonable care when using the equipment. Officers will maintain and secure the microphone and wireless transmitter similar to any other equipment issued to him/her. Misuse of the equipment that results in damage or loss may result in disciplinary action and/or replacement of such equipment by the officer.

- D. Prior to each shift, officers shall determine whether their MVR equipment is working satisfactorily and shall bring any problems at this or other times to the attention of the duty sergeant or senior officer as soon as possible. Officers shall also notify communications to note such in CAD.
  - 1. Ensure that the unit's power switch is in the ON position.
  - 2. Pre-operational steps:
    - a. Turn volume knob up for testing.
    - b. Check monitor for picture and camera position.
    - c. Manually depress REC button (red REC light should appear), video recorder should begin recording. After verifying that the MVR is recording, manually stop the recorder.
    - d. Activate the overhead lights. MVR should automatically begin recording. Manually stop the recorder.
    - e. Turn on your body microphone. MVR should automatically begin recording. Test the audio verbally. ***First***, turn off the microphone; ***then*** manually stop the recorder. This process should be performed at a distance equal to that of a motor vehicle stop.
  - 3. The power switch on the overhead monitor and the remote transmitter shall be left in the ON position at all times.
- E. Remove the wireless transmitter and place it in the charging cradle in the patrol vehicle.

#### IV. RECORDS RETENTION AND REVIEW

- A. Except in officer involved use of force incidents, when an officer is requested to provide information regarding an event that has been recorded on a MVR, the officer may be given the opportunity to review the recording prior to making any statements.
  - 1. Officers are permitted to conduct a review of the contents of MVR recordings to ensure accurate reporting and to assist in articulation of probable cause.
  - 2. Viewing of MVR recordings is strictly limited to sworn members of this department. Viewing by any other person is prohibited unless authorized by the Chief of Police, his/her designee, or consistent with this SOP.
  - 3. Officers can view their own officer involved deadly force incidents ONLY with the expressed permission of the Mercer County Prosecutor's Office.
- B. At no time is it permissible for police employees to record/copy or photograph any of the recorded contents of the MVR through the means of any phone, camera or any other electronic device. Any violation of this paragraph shall result in discipline up to and including termination.

- C. 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 4<sup>th</sup> degree crime.
- D. Recordings 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, routine recordings shall be maintained for the following periods:
    - a. Test recordings at least 31 days;
    - b. Alarm responses, emergency responses, motorist aids, suspicious vehicles, traffic warnings at least 90 days;
    - c. All other 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 until the conclusion of the case plus any retention period. Examples of retention periods include, but are not limited to:
    - a. Any death investigation (at least 7 years);
    - b. Criminal arrest - 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> degree crime (at least 5 years following adjudication of the case);
    - c. Non-criminal arrest, excluding DWI (at least 2 years following adjudication of the case);
    - d. DWI arrest (at least 10 years following adjudication of the case);
    - e. Normally, recordings of warrant arrests or violation of TRO arrests without any other criminal charges need not be preserved as evidence.
    - f. Any video recordings that is required as evidence shall be transferred to DVD and maintained in the appropriate case file.
- E. MVR recordings are subject to release under the *Open Public Records Act* N.J.S.A. 47: 1A-1 et seq. and prevailing municipal ordinance regarding fees.
- F. MVR recordings shall be provided in discovery to defendants and their attorneys, in accordance with R. 3:13-3, R. 7:4.2, and R. 7:7-7.
  - 1. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.

2. Only those portions of the recording pertinent to the request shall be forwarded.
  3. All requests for copies or review of MVR recordings are subject to the fee requirements of the prevailing municipal ordinance.
  4. Requests for copies of the entire contents of an MVR recording shall only be provided upon issuance of an order by a superior court judge.
- G. In the event that a recording is required for use in court or by another law enforcement agency, that recording shall not be released without the prior approval of the Chief of Police or his/her designee and only if a duplicate copy is retained by the department.
1. Duplicate copies shall be maintained as evidence in accordance with this department's property and evidence guidelines or in the appropriate case file.
  2. Departmental procedures for security and chain of custody must be followed for media of evidential value.
  3. The property/evidence custodian shall ensure that any media used for duplicate recordings is properly stored away from magnetic fields (speakers, etc.) or other areas that may facilitate corruption in the property room.
- H. Except where otherwise authorized by this section (i.e., OPRA, discovery), MVR recordings will not be released to any other agency or individual without the written permission of the Chief of Police or his/her designee.
- I. All requests by the media or general public to view video/hear audio related to a crime must be referred to the Mercer County Prosecutor's Office and or municipal prosecutor, depending on jurisdiction.
- J. Arrangements may be made through the Chief of Police or designee to exhibit, display and demonstrate department MVR equipment to prosecutors, judges and others reasonably affected by its use. Every effort should be made to ensure that the demonstration is both positive and thorough. The goal of this effort is to foster positive support for the use of MVR equipment and to resolve any questions that may hamper the effectiveness and efficiency of the equipment as an enforcement tool.
- K. The Chief of Police reserves the right to view any and all files captured by the MVR system in order to provide for the efficient and professional operations of the agency. The viewing of files is to be used only for departmental purposes and shall never be used to embarrass an officer and such use will not be tolerated.
- L. If a request is made to use a video/audio file for training purposes then that request must be made in writing and approved by the Chief of Police or his/her designee. The Chief of Police will designate additional departmental personnel who are authorized to copy audio/video files from the server.