

SCRANTON POLICE DEPARTMENT POLICY

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Mobile Video Recording

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2.4.2

I. PURPOSE

- A. The purpose of this policy is to provide officers with guidelines for the use of mobile video and audio recording equipment.
- B. This Department has adopted the use of in-car video/audio recording systems in order to accomplish several objectives, including:
 1. Accurate documentation of events, actions, conditions and statements made during arrests and criminal incidents, so as to enhance officer reports, evidence collection, and testimony in court.
 2. The enhancement of this Department's ability to review probable cause for arrest, arrest procedures, officer and suspect interaction, evidence for investigative procedures, as well as for the training program.

II. POLICY

Mobile video recording (MVR) has been demonstrated to be of value in the prosecution of serious traffic violations and related offenses, in the evaluation of officer performance, protecting the officer and the public from erroneous claims of civil liability resulting from wrongful accusations, and in training. In order to maximize the use of this equipment in these and related areas, officers shall follow the procedures for MVR set forth in this policy. Violations of this policy will subject the violator to disciplinary procedures.

This policy is written in accordance with the Pennsylvania Wire Tap Law (Title 18 Pa.C.S. Chapter 57); Recordings for Law Enforcement (Title 42 Pa.C.S Chapter 67A); and Act 22 of 2017.

III. DEFINITIONS

Agency Administrator – Member of the Scranton Police Department identified in the MVR system at the administrator level, with full access to user rights.

Designated Custodian of the Recordings – An employee designated by the Chief of Police that is assigned to manage the electronic recordings stored in the secure server vault.

Mobile Video Recording (MVR) System – Equipment that is vehicle based designed to capture audio and video signals and includes a minimum of a camera, a microphone (either fixed or mobile and worn by an officer) and a recorder.

IV. PROCEDURES

- A. Officers shall adhere to the following procedures when utilizing MVR equipment:
1. MVR audio recording equipment shall only be used to record conversations of individuals in the presence of an officer while the officer is on-duty or working an authorized extra duty assignment and is operating a marked police vehicle or while in police patrol uniform or while clearly identifiable as a police officer through other means (clearly visible badge, verbally identified as police officer, etc.).
 2. MVR Operations
 - a. MVR equipment will begin recording in the following manner:
 - 1) When the vehicle's emergency lights are activated. When this occurs, the camera and the mobile microphone will automatically be activated.
 - 2) The officer pressing the record button on the MVR located in the vehicle. When this occurs, the camera and the mobile microphone will be activated.
 - 3) The wireless microphone is turned on. This will not only activate the mobile microphone but will also activate the camera.
 - 4) When the vehicle's weapon rack is activated via the electronic switch, when equipped.
 - 5) The vehicle is involved in a crash or something significantly jars the MVR inside the vehicle. This will activate the mobile microphone and camera.
 - b. The MVR device currently has been set for a 30 second pre-record function. When the camera is activated, in any of the 5 ways described above, the video will begin 30 seconds prior to the activation. There is no audio pre-record

available; therefore the first 30 seconds recorded in the pre-record time frame will be without audio.

- c. Officers are encouraged to narrate the video recording during a recorded incident, which will assist in establishing probable cause for enforcement action and assist in report writing.
 - d. While there are 5 ways the camera and microphone can be activated to record there is only one way it can be stopped. The officer must press the STOP button on the MVR to stop all audio and video recordings.
 - e. MVR equipment must be turned off manually at the conclusion of a call or incident. The equipment may be manually deactivated during non-enforcement activities prior to the conclusion of an incident such as when protecting vehicle crash scenes from further vehicular traffic, parades, etc. However, during criminal enforcement actions, regardless of whether the overhead lights are activated, the recorder must be activated when enforcement actions are within the field of view of the cameras.
 - f. When the recording function is activated to document an incident it should only be turned off at the end of the incident that the camera was initially turned on to record. The cessation of recording prior to the conclusion of an incident may give the impression that the recording was halted to conceal an officer's improper conduct. To avoid any appearance of improper conduct a justification for halting a recording and the time and date should be verbally recorded prior to turning the MVR off. Upon conclusion of an incident, officers should record a short statement that the incident has been completed and give the date and time.
 - g. When the recording is stopped, officers shall tag the recording as an incident when appropriate. The incident shall be tagged according to the system-defined incident type.
 - h. The officer shall notify the Designated Custodian of the Recordings via DMS of a recorded incident tagged as evidence. At the request of the officer, the designated custodian of the recordings shall save the recording as evidence on the secure server. The Designated Custodian of the Recordings shall then write a supplement report to the requested case indicating what files were saved as evidence.
3. Officers *shall* use their MVR to record, when possible:
- a. All field contacts involving actual or potential criminal conduct within video and audio or audio range.
 - b. Traffic stops or other traffic enforcement actions.
 - c. The actions of suspects during interviews,
 - d. Standardized field sobriety testing, or

- e. When placing a suspect in custody if in view of the MVR and the recording would prove useful in later judicial proceedings.
 - f. The confiscation and documentation of evidence or contraband.
 - g. When transporting a civilian or prisoner in the rear of the police vehicle. The transporting officer shall begin recording of the MVR prior to placing a person into the police vehicle. Officers requested for transport (e.g. Car 18) shall begin recording upon arrival.
4. Officer should use their MVR to record:
 - a. To conduct legal, reasonable and appropriate surveillance of potential criminal suspects or crime scenes.
 - b. The circumstances at crime and vehicle crash scenes or other events.
 - c. Any incident an officer feels that there was something unusual that occurred or if he/she believes the incident may be scrutinized for any reason.
 - d. Any other incident that the officer determines is appropriate.
 5. Officers shall note in case reports when recordings were made during the incident. There may be certain circumstances (officer safety, rapidly developing hazardous condition, out of view of camera) or locations (medical treatment facility, courtroom) that may prevent or delay the recording an incident. If an officer is unable to document an incident required under Section IV A3 as listed above, the officer shall note in the incident report any extenuating circumstances preventing the recording.
 6. Prohibited use
 - a. The use of MVR equipment for any reason other than a law enforcement purpose is NOT authorized and will subject the officer misusing the equipment to disciplinary action.
 - b. Audio or video recording devices shall not be used in department locker rooms, restrooms or any other place where there would be a reasonable expectation of privacy. If a criminal offense has occurred in these locations, the MVR may be activated and every precaution shall be taken to respect the dignity of the victim by avoiding recording video and audio of persons who are nude or when sensitive areas are exposed.
 - c. The MVR shall not be used to record statements given by confidential informants or undercover officers.
 - d. The MVR shall not be intentionally activated to record conversations of fellow employees during routine, non-enforcement-related activities without their knowledge or during break periods, or in designated break areas unless an active pre-existing investigation is underway and authorized by law.

7. Supervisors shall ensure that all officers follow established procedures for the use and maintenance of MVR equipment, handling of recordings, and the completion of proper documentation.
- B. Notice to persons being recorded
1. Pennsylvania law (Act 22 of 2017) does not require officers to notify individuals that they are being recorded in accordance with this policy. This is extended into a person's residence while officers are lawfully conducting official duties.
 2. If asked, the officer will acknowledge the MVR is recording.
 3. An officer may at any time notify any person(s) that they are being video and/or audio recorded.
- C. Use of MVR recordings.
1. MVR recordings may be used in court proceedings to establish probable cause for arrest. Officers shall notify the Custodian of Recordings of any recordings which may be of value in future judicial proceedings. The following types of incidents shall be immediately requested for copy and tagged by the officer:
 - a. DUI arrests.
 - b. Misdemeanor or felony criminal or traffic violation incidents.
 - c. Incidents of use of force that have been captured on video or audio.
 - d. Accident scenes or major crime scenes with serious injuries or death.
 - e. Recordings of relevant information, interrogations, interviews, spontaneous utterances, or similar information relative to an investigation.
 - f. Any recording that an officer feels would help them in the successful prosecution of a case.
 2. The training department may use MVR recordings to assess the training needs of the department or to develop training programs. Refer to section F.2.c.
 3. MVR recordings may be used for the purpose of facial recognition by the Scranton Police Department where possible.
- D. Maintenance
1. MVR equipment installed in vehicles is the responsibility of the officer assigned to the vehicle and will be maintained according to manufacturer's specifications.
 2. 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 their immediate supervisor as soon as possible. Officers shall report damage, loss or theft of MVR equipment immediately.

3. Maintenance or adjustments of equipment shall only be performed by MVR maintenance personnel who have been specifically trained and authorized to conduct such adjustments or repairs.
4. All officers shall secure an MVR microphone from the charging area within the vehicle. The microphone shall be returned to the charging area at the end of their shift.
5. Officers shall not be disciplined or be responsible for damage to MVR equipment that occurs in the ordinary course of duty.

E. Training

1. All sworn personnel shall be trained in the proper operation and use of the MVR equipment and this regulation prior to their authorization to use the MVR equipment.
2. The Training Unit shall maintain a record of all trained personnel.

F. Review of recordings

1. Officer review
 - a. Officers may review MVR recordings to assist with investigations and the completion of required reports. Officers may also use MVR recordings to assist investigators and supervisors in evaluating on-going situations.
 - b. Officers and witness officers involved in any use of force incident or accident causing injuries will be permitted, but will not be required, to review MVR recordings prior to providing a recorded statement or completing reports.
 - c. Field Training Officers (FTO) may use MVR recordings to provide immediate training to recruits and to assist with the completion of agency reports and FTO evaluations.
2. Supervisor review
 - a. The Chief of Police or his designee may periodically review or copy MVR recordings to assess the training needs of the department, to evaluate Department policies and procedures, or to supplement any investigation or intelligence function.

- b. Shift Commanders or designated Supervisors may review MVR recordings after receiving a specific complaint to determine if any apparent violation(s) of department policies or procedures has occurred.
 - 1) In the event an officer believes a recorded event may lead to a complaint, he/she should bring the recording to the attention of his/her immediate supervisor. The Shift Commander or the Captain in his/her absence should review the recording and conduct any further investigation that he/she deems appropriate.
 - 2) The Department shall not solicit complaints.
 - 3) If an officer self-reports minor violations of policy and no complaint is received, the Department shall not take disciplinary action against the officer.
 - 4) An officer shall be granted such amnesty once per each 180 days.
 - 5) If a complaint is received, the officer's self-reporting shall mitigate the discipline.
 - 6) Failure to self-report shall not be a basis for additional discipline.
 - c. Routine audits of MVR recordings shall be used for maintenance and training purposes only and not for formal discipline, absent additional corroborating evidence or complaint, unless an act would be defined as criminal activity or civil rights violations. Protection from discipline as defined in this section shall not extend to an officer's failure to use MVR when required.
 - 1) Monthly audits will be conducted by the Shift Lieutenant.
 - 2) The Shift Lieutenant will randomly view at least 4 MVR recordings belonging to officers and supervisors assigned to his/her shift. The Shift Lieutenant should not select a single officer's MVR recordings for consecutive months without specific, justifiable cause. Each officer and supervisor on the Lieutenant's shift should be selected at least every 6 months.
 - 3) The Shift Lieutenant shall document the audit on the Scranton Police Mobile Video Recording Audit Form (SPD Form 18-008). The audit forms shall be forwarded to the Captain monthly. The audit forms shall be retained for the current and previous calendar year.
 - 4) The Shift Lieutenant is encouraged to view the video in the presence of the recording officer, discuss any positive or development issues found, and document corrective actions taken. The Lieutenant shall notify the recording officers via PowerDMS when their videos are audited.
3. Union review
- a. A union representative of the Fraternal Order of Police, upon the request to the Chief of Police, shall have the right to a copy of any video footage that

will be utilized for disciplinary purposes. This copy may be shared with the FOP attorney.

- b. If a copy of said video is provided for viewing it shall not be released and/or transferred to any other party, including the media, without the prior approval of the Chief of Police.

G. Access to MVR data

1. Officers may request a recording of an incident be recorded to DVD/storage media. The DVD/storage device will be secured and may be reproduced as described below in section H5.
2. In compliance with PA Rules of Criminal Procedure, Pretrial Discovery and Inspection (Title 234 Rule 573), a DVD/storage device may be reproduced and released to the District Attorney's office. The Custodian of Recordings and the Prosecuting Officer shall ensure the correct recording is presented and properly identified.
3. In compliance with subpoenas served upon the Chief of Police in civil cases, a DVD/storage device may be reproduced. Only those portions of the recording relevant to the incident should be reproduced and furnished in compliance with the subpoena. The Custodian of Recordings shall ensure the correct recording is presented and properly identified.
4. When an officer believes that a recording has value as a training aide, they are encouraged to advise his/her supervisor. Upon approval of the Chief of Police, the recording may be reproduced for educational purposes. Approval will not be granted for any recording that documents an active investigation or ongoing litigation. The Chief of Police shall obtain consent from any officer depicted in a video that is to be utilized for educational purposes.
5. Upon approval of the Chief of Police, recordings may be reproduced for public information purposes.
6. Recordings may be reproduced by the Chief of Police or his/her designee in cases where the recording would be of use in any investigation or litigation involving Department personnel.
7. Pursuant to Act 22 of 2017 and Title 42 Pa.C.S Chapter 67A, public requests for audio and video recordings, made by the Scranton Police Department MVRs under the guidelines of this policy, shall be made in writing within 60 days of the date when the audio or video recording was made. The written request shall be

made to the Chief of Police's Office at 100 S. Washington Ave. during normal operating business hours. Service of the request is effective upon receipt of the written request by the Chief's Office from personal delivery or certified mail with proof of service. Audio and video recordings requests will be processed pursuant to the guidelines established in Act 22 of 2017 and Title 42 Pa.C.S Chapter 67A.

8. The Designated Custodian of the Recordings shall write a supplemental report to the requested case indicating what recordings were copied, what media they were downloaded to, how many copies were made and who the copies were given to.
9. It shall be a direct violation of this policy for any officer or employee of the City of Scranton to release any video without the direct consent from the Chief of Police or his/her designee.

H. Storage of Data

1. The Scranton Police Department shall store MVR Data through wireless download during normal operation with the possibility of a manual download.
2. Officers shall notify their supervisor if they receive notice that their MVR hard drive is almost full. Supervisors shall notify (the Designated Custodian of Recordings so that data may be transferred to the secure server.
3. All MVR recording shall be stored in the secure server for a period of 90 days at which point it will be automatically overwritten. Any recordings tagged as an incident shall be maintained for 90 days. Any recordings tagged as evidence in cleared cases shall not be disposed of until the court proceedings and appeal periods of all known accused have expired, or upon prior approval from the Attorney for the Commonwealth. For convictions of criminal homicide, the appeal period shall be deemed to extend until the conclusion of the sentence or the death of all convicted accused in the same case.
4. In civil cases against the Scranton Police Department or its personnel, notice shall be immediately provided to the City Law Department and the Designated Custodian of Recordings. Recordings shall be retained for a minimum of two years from the date of the incident and may not be destroyed without the permission of the City Law Department.
5. Requests for evidentiary recordings shall be made to the designated custodian of the Recordings. Reproductions of the DVD/storage device may be made for the officer for use in the preparation for prosecution of a case. Recordings of

summary traffic violations will not be logged into evidence. The DVD/storage device will be provided to the issuing officer and the officer will maintain the DVD/storage device if required for court.

6. The Designated Custodian of the Recordings shall then write a supplement report to the requested case indicating what files were copied, what media they were downloaded to, how many copies were made and who the copies were given to.
7. In the event of an unintentional activation of the MVR system during non-enforcement or non-investigative activities (restroom or meal breaks), or in other areas where a reasonable expectation of privacy exists, officers may request that the Designated Custodian of the Recordings delete the recording. Notification shall be made via the chain of command to the Chief of Police. To be approved, the request for deletion requires two-party authorization. One of those parties will be the Chief of Police or his/her designee and the other will be an Agency Administrator.

By Order Of:

Chief Carl R. Graziano
Superintendent of Police
Scranton Police Department