

## 5.4 Mobile Video/Audio Recording Equipment [MVR]

### I. POLICY

It is the policy of the Johnstown Police Department to implement the use of Mobile Video/Audio Recording equipment to more accurately document events, actions, conditions and statements made during incidents and to protect the department and its members from civil liability resulting from wrongful accusations of misconduct.

### II. PURPOSE

This regulation establishes guidelines for the utilization of Mobile Video/Audio Recording equipment, retention, duplication, storage and purging of recordings to be followed by department personnel.

### III. PROCEDURES

#### A. Pre-operational

1. Members shall not use MVR equipment until they have received proper training **administered by the Captain of Police Administration or his designee.**
2. **At the beginning of each shift, members will ensure that all required pre-operational procedures are performed. This shall include:**
  - a. **Verifying the MVR equipment is powered on and functioning properly.**
  - b. **Completing an officer login by selecting the member's name from the active directory list.**
  - c. **Syncing the wireless microphone to the MVR system and securing it to the member's uniform, where it shall remain unless recharging is required. The microphone power button shall remain in the "ON" position, except when audio recording is exempted by this regulation.**

3. Damage and operational problems with MVR equipment shall be reported to the Captain of **Police Administration** or his designee.

## B. Utilization

Officers operating MVR equipped vehicles will ensure that the following types of incidents are recorded. Officers shall utilize both the visual and audible recording functions of the MVR equipment whenever it is employed.

When the recording function has been activated to record an incident, it should not be deactivated until the incident has been completed. Upon conclusion of the incident, officers shall, if possible, record a short statement that the incident has been completed. 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 reporting writing.

Examples of potential use include but are not limited to the following:

1. Traffic and criminal enforcement stops.
2. In-progress Vehicle and Crimes Code violations.
3. Police pursuits.
4. Field interviews, interrogations and tests.
5. Patrol vehicle travel and movements when emergency lights or siren are activated.
6. Fatal crash or major crime scenes, as necessary, to document the scene.
7. Traffic safety and sobriety checkpoints.
8. **Prisoner transports**
  - a. **The rear MVR camera shall be utilized when transporting a prisoner(s) in the rear seat.**
  - b. **The front MVR camera may, at the member's discretion based on the totality of the circumstances, be turned to record a prisoner being transported in the front seat.**
9. **Searches of vehicles and/or persons**
10. Any other incident the officer deems appropriate while acting in the performance of official duty.

### C. Post-operational

1. Officers shall not erase or alter MVR recordings.
2. Upon completion of an assigned shift, officers shall ensure the audio transmitter is placed in the docking station.

### D. Legal Requirements

Officers shall abide by the following legal requirements governing the use of the MVR equipment.

1. Officers shall not use MVR equipment unless acting in the performance of their official duties.
2. Officers shall only use department issued MVR equipment **which has been approved for use in accordance with the Pennsylvania Bulletin. The use of personally or privately owned recording equipment for documentation purposes is prohibited.**
3. Officers shall ensure that the visual or audible warning system of the patrol vehicle is activated, or the officer is otherwise clearly identifiable as a law enforcement officer. This requirement is satisfied if the officer is in full uniform and operating a marked patrol vehicle.
4. Only oral communications occurring in close proximity to the officer may be recorded. This legal requirement is satisfied by the current range settings of the wireless microphone.
5. Officers shall inform all individuals identifiable present as soon as reasonable practicable, that their oral communications will be or have been intercepted and recorded.
6. **Members may dim MVR system lighting in order to enhance officer safety.**

### E. Exemptions to Audio and/or Video Recording:

**There may be occasions when a member is unable or otherwise chooses not to activate the audio and/or video function on the MVR system, or may deem it necessary to temporarily deactivate the system. Members shall be prepared to articulate their rationale when exercising this discretion within the applicable report. Prior**

**to any deactivation, the member shall, when reasonable, declare on the recording the reason for the deactivation. Upon resuming the recording the member shall state that the recording is resuming. Situations when audio and/or video recordings may be inappropriate include, but are not limited to:**

- 1. Protecting the anonymity of an informant or other confidential source of information.**
- 2. Officer safety concerns.**
- 3. Administrative conversations.**
- 4. Conversations involving sensitive law enforcement information.**
- 5. Inside the residence of any individual unless the officer is in fresh pursuit of the individual and deactivation of the MVR equipment would create a risk to officer safety.**
- 6. Privacy during an attorney/client conversation.**

**F. Retention/Duplication of Mobile Video/Audio Recordings**

- 1. Mandatory Retention:** the following types of incidents recorded on MVR equipment shall be retained, duplicated and will be processed as evidence by the MVR Custodial Officer in accordance with this regulation as soon as practicable. Officers are responsible for notifying the MVR Custodial Officer of these incidents and the need for duplication and retention.
  - a. Incidents, which may result in the filing of misdemeanor or felony charges.
  - b. Incidents which are likely to become the subject of civil litigation against the department or its personnel, including, but not limited to, patrol vehicle crashes, incidents involving use of force and incidents involving verbal complaint[s] against the department or its personnel.
- 2. Requests for Retention/Duplication:** any officer who believes that duplication and retention of a recording of a nature not specified by the policy, shall immediately notify the Captain of Police Administration or his designee as soon as possible for retention purposes.

3. Recordings made from MVR equipment may be duplicated/retained on any of the following types of recording mediums:
  - a. Non-rewritable compact disc (CD).
  - b. Non-rewritable digital video disc (DVD), to include dual-layer and Blu-ray.
  - c. Universal serial bus (USB) drives.

**NOTE:** Recordings over 1 ½ hours in length may need to be downloaded to an 8 gigabyte or greater USB, Blu-ray disc, or dual-layer DVD.

4. All recordings uploaded to the MVR server will be automatically deleted 60 days after the date the recording was uploaded to the server. Therefore; recordings required to be duplicated/retained in accordance with this regulation must be duplicated within 60 days of the incident/recording. A request for duplication/retention of a recording after the automatic 60-day deletion period cannot be processed.

#### G. Duties and Responsibilities

1. The Captain of Police Administration shall ensure that a sufficient number of Sergeants are designated as MVR Custodial Officers.
2. The Captain of Police Administration and MVR Custodial Officers shall ensure that a sufficient number of MVR's are reviewed each month to ensure that officers in the department are following department policies and procedures.
3. The Captain of Police Administration and MVR Custodial Officers shall be responsible for the retention and duplication of MVR recordings.

#### H. Mobile Video/Audio Recordings

1. MVR Custodial Officers shall ensure that the below listed recordings are stored in accordance with this regulation. A supplemental report shall be prepared for the applicable incident report when an incident recording is duplicated. Duplicated

recordings shall be retained for the time period specified in 3.6.1 Security and Storage of Property, unless otherwise indicated below:

- a. Recordings requested to be preserved by a member on the recording, a supervisor or detective where the recording may be necessary for use in any criminal or forfeiture proceeding.
- b. Recordings requested to be preserved by an officer on the recording or by a supervisor where the recording may be necessary for use in any summary proceeding involving a serious traffic violation. The duplicated recording shall be destroyed 90 days from the conclusion of all proceedings related to the citation.
- c. Recordings requested to be preserved by a supervisor where the recording may be necessary for use in any civil, administrative or disciplinary proceeding. The duplicated recording shall be retained until the requester authorizes destruction.
- d. Recordings requested to be preserved by any individual who is a participant on the recording for use in any criminal proceeding. Such requests must be in writing and should contain the date, time and location of the recording and the names of the parties involved.
- e. Recordings requested to be preserved by any individual who is a participant on the recording for use in any civil proceeding against the department or its personnel. Such requests must be in writing and should contain the date, time, and location of the recording and the names of the parties involved. Notice of the request shall be immediately provided to the Chief of Police and the duplicated recordings shall be retained for a minimum of two years from the date of the incident and shall not be destroyed without the permission of the Chief of Police.
- f. Recordings requested to be preserved by any individual who is a participant on the recording for use in any civil proceeding that is not against the department or its personnel. Such requests must be in writing and should contain the date, time, location of the recording and the names of the parties involved. The recordings shall be duplicated and retained for a period of two years or until a copy of the recording has been provided to the requester when authorized under department regulations, whichever comes first.

- g. Recordings that are the subject of a subpoena, court order or request for pretrial discovery or inspection. Copies of the recording shall be furnished to the requester in accordance with existing department regulations.
- i. A criminal cases, notice shall be provided to the prosecuting attorney.
- ii. In civil cases against the department or its personnel, notice shall be immediately provided to the Chief of Police. The duplicated 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 Chief of Police.
- iii. In civil cases not against the department or its personnel, the recordings shall be retained for a period of two years or until a copy of the recording has been provided to the requester when authorized under department regulations, whichever comes first.

#### H. Mobile Video/Audio Recording Storage

1. **MVR compact discs, which contain recordings required to be maintained pursuant to this policy shall be placed into evidence. The incident number, date of incident, and investigating officer's name should be written on the CD with a permanent marker prior to being placed into an evidence envelope.**

Effective Date: May 22, 2018

By Order Of:



Robert F. Johnson  
Chief of Police