# Mobile Video Recorder Policy

## 446.1 PURPOSE AND SCOPE

The Duluth Police Department has equipped marked patrol cars and law enforcement operators with Mobile Video Recording (MVR) systems. The purpose of this policy is to provide law enforcement operators with guidelines for the use, management, access, storage, retrieval and retention of audio-visual media recorded by MVR systems.

## 446.1.1 DEFINITIONS

Definitions related to this policy include:

**Activate** - Any process that causes the MVR system to transmit or store audio-visual signals.

**Audio Recording** - any media that captures and records audio signals.

**Mobile Video Recorder (MVR)** - Any system that captures audio-visual signals that is capable of installation in a vehicle or worn by an LEO and that includes at minimum, a camera, microphone and recorder.

**Law Enforcement Operator (LEO)** - Primarily a licensed peace officer but on occasion may be a non-licensed representative of the Duluth Police Department who is authorized and assigned to operate MVR equipment.

**MGDPA** - The Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13.

**PODPA** – The Peace Officer Discipline Procedures Act, Minnesota Statutes Section 626.89.

**Property and Evidence Technician** - Personnel certified or trained in receiving and storing evidence and property, maintaining property inventory reports with proper "chain of custody" notations and any and all actions associated with the property or evidence.

**MVR Administrator –** Typically a Sergeant or a 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.

**MVR Technician** - Personnel certified or trained in the operational use and repair of MVRs, duplicating methods, storage and retrieval methods and procedures, and who possess a working knowledge of video forensics and evidentiary procedures.

**Recorded media** – Audio-visual signals that are recorded or stored.

**Smart Device** - A smart device is a device that is digital, active, computer networked, is user reconfigurable and that can operate to some extent autonomously. Devices that fall into this category are smartphones, and tablets.

## 446.2 POLICY

It is the goal of the Duluth Police Department to use MVR technology to more effectively fulfill the department's mission and to ensure these systems are used securely, efficiently and in compliance with the law. The MVR is not intended to be used for the purpose of surveillance of officers or initiating disciplinary action against an officer.

## 446.3 MVR OPERATIONAL OBJECTIVES

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

A. To enhance LEO safety.

B. To document statements and events during the course of an incident.

C. To enhance the LEO'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 a tool for self-critique and field evaluation during LEO training.

F. To enhance the public trust by preserving factual representations of LEO-citizen interactions in the form of recorded media.

G. To assist with the defense of civil actions against LEOs and the City of Duluth.

H. To assist with the training and evaluation of officers.

## 446.4 LEO RESPONSIBILITIES

LEO safety shall be the primary consideration for the use and activation of the MVR system. LEOs that are issued a body-worn MVR will wear the MVR as part of their uniform. Inspection and general maintenance of MVR equipment shall be the responsibility of the LEO to whom the MVR is assigned. LEOs should periodically test the MVR system operation in accordance with manufacturer specifications and department operating procedures and training, as determined at the discretion of the Duluth Police Department. If a vehicle mounted MVR system is malfunctioning, the LEO shall as soon as reasonably possible, notify a supervisor who will determine whether the vehicle will remain in service. If the body worn MVR is malfunctioning the LEO shall as soon as reasonably possible notify a supervisor. If any MVR system is damaged or stolen, the LEO shall, as soon as reasonably possible, notify a supervisor.

At the end of each shift, the LEO will follow the established policies and procedures for documenting and retaining any recorded media.

The LEOs that are issued a body-worn MVR will wear the MVR as part of their uniform

while engaged in extra-duty employment. Due to the unique demands of some extra-duty jobs, a LEO wearing an MVR while engaged in extra-duty employment is not required to activate the MVR for every contact made. However, such officer shall be expected to activate the MVR if a situation or incident occurs which would otherwise require activation, when safe to do so. The body-worn MVR shall not be worn while LEOs are engaged in outside agency employment or non-duty employment.

## 446.5 MVR OPERATING PROCEDURES

The MVR may be activated either automatically in the case of vehicle mounted MVR's or manually by the LEO.

### 446.5.1 ACTIVATION OF THE MVR

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 LEO may activate the system at any dispatched call, on-view or contact in which 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, even when the incident may be outside of the video range, the LEO is encouraged to activate the MVR to capture the audio portion of the incident.

An officer shall activate the MVR system, if practical and without compromising the safety of the officer or the public, in the following circumstances:

- traffic stops (to include, but not limited to traffic violations, stranded motorist assistance and all crime interdiction stops);
- priority responses;
- vehicle pursuits;
- arrests;
- vehicle searches;
- physical or verbal confrontations;
- use of force;
- prisoner transports;
- crimes in progress;
- taking a statement or information from a suspect or witness;
- when ordered by a supervisor for proper purposes; or
- any situation or incident that the officer, through training and experience, believes should be audibly and/or visually preserved.

Portable MVR equipment shall be activated in these circumstances even if the in-squad system is activated, provided it is safe for the officer to do so.

### 446.5.2 CESSATION OF RECORDING

Once activated, the MVR system shall remain on until the incident has concluded unless:

a. . the incident or event is of such duration that the MVR is deactivated to conserve power or storage capacity;

b. the officer does not reasonably believe that deactivation will 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.

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. Recording may be temporarily paused to exchange information with other LEOs. The intention to pause and resume the recording will be noted by the LEO either verbally on the MVR or in a written notation. Recording may cease during non-enforcement activities such as waiting for a tow truck or a family member to arrive, protecting accident scenes or in other non-enforcement situations.

### 446.5.3 PROHIBITED RECORDINGS

An MVR shall not be activated with regard to interactions solely among other employees.

The MVR shall not be used to record non-work related activity.

The LEO shall not use any external device to record media that has been captured by the MVR, nor shall they allow any person to record such media.

The LEO will cease recording once they have entered the sally port at the St. Louis County Jail.

### 446.5.4 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if vehicles with non-functioning MVR systems should be placed into service. If these vehicles are placed into service, the appropriate documentation should be made. The MVR administrator is to be notified in writing of the suspected cause of equipment failure or recommendations for corrective action.

At reasonable intervals, supervisors should verify that:

(a) MVR policies and procedures are followed.

(b) Logs reflect the proper chain of custody, including:

1. The tracking number of the MVR system media;
2. The date it was issued;
3. The LEO or the vehicle to which it was issued;

4. The date it was submitted;
5. LEOs submitting the media; and
6. Holds for evidence indication and tagging as required.

(c) It is recommended that the operation of MVR systems by new employees is assessed and reviewed no less than biweekly or until the new employee demonstrates a working knowledge of the MVR system and the applicable policies and procedures.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, peace LEO-involved shootings, department-involved collisions), a supervisor should respond to the scene and ensure recorded media is secured in accordance with department policy. The media shall be processed and retained in accordance with current procedures for recorded media.

## 446.6 REVIEW OF MVR RECORDINGS

All recording media, recorded images and audio recordings are the property of the agency and is government data subject to the provisions of the MGDPA. Dissemination outside of the agency is strictly prohibited except to the extent permitted or required under the MGDPA, PODPA or other applicable law.

Access to MVR data will be determined in a manner consistent with the MGDPA, PODPA or other applicable law. When access to MVR data is authorized by applicable law, the Duluth Police Department will also provide to the person accessing the data a copy of the Department's Video and Audio Advisory (Appendix A).

To prevent damage to, or alteration of, the original recorded media; it should not be copied, viewed or otherwise inserted into any device not approved by the department MVR technician or forensic media staff. When reasonably possible a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

Recordings may be reviewed in any of the following situations:

(a) For use when preparing reports or statements;

(b) By a supervisor investigating an official complaint;

(c) By a supervisor to assess LEO performance;

(d) To assess proper functioning of MVR systems;

~~(e)~~ By department investigators assigned to a related criminal investigation, or after approval of a supervisor, for official investigations~~;~~

(f) By an LEO who is captured on or referenced in the video or audio data and reviews and uses the data for any purpose relating to his/her employment;

(g) By court personnel through proper

(h) Recordings may be shown for staff or public safety training purposes. If an involved

LEO objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the LEO's objection.

(i) An officer is entitled to access audio and video data: derived from MVR equipment issued to him/her; in which his/her voice or image appears; when reasonable and necessary for the officer to perform the essential functions of his/her job; or to defend against allegations of substandard performance or misconduct.

(j) An officer shall not make a copy of any audio or video data without the prior approval of a supervisor.

(k) Supervisors shall not access or review audio or video data involving an employee under their supervision for the purpose of surveillance of the employee or initiating disciplinary action against the employee. However, data collected by the MVR may be used as evidence relating to a complaint of misconduct made against an officer.

(l) The Department shall restrict by password protection access to all audio and video data and shall maintain an electronic record of the date, time and person with regard to each access to data.

Employees desiring to view any previously uploaded or archived MVR recording should submit a request in writing to the Watch Commander. Approved requests should be forwarded to the MVR technician for processing.

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

## 446.7 DOCUMENTING MVR USE

If any incident is recorded with the video or audio system, the existence of that recording shall be documented in the LEO's report. If a citation is issued, the LEO shall make a notation on the records copy of the citation indicating that the incident was recorded.

## 446.8 RECORDED MEDIA 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:

| | |
|---|---|
| 1. Department | Until Manually Deleted |
| 2. Uncategorized | 60 Days |
| 3. Arrest, citation and charge | 90 days after sentencing or relevant statute of limitations if no charge |
| 4. Interview | If determined to have evidentiary value, then same as item 3., above |
| 5. Pending Review | Until Manually Deleted |

Recorded media that is relevant to a criminal proceeding shall be retained until its proper disposition in accordance with Evidence Retention Policy 803.5, quoted below:

803.5 DISPOSITION

Evidence and Property Technicians are responsible for clearing of evidence items.

Evidence may be cleared when:

- Prosecution is complete and the applicable appeal time has elapsed
- The statute of limitations has elapsed
- 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.

The LEO, MVR Technician or MVR Administrator may prevent automated deletion by changing the category of the media at any time prior to deletion or within one week after the deletion date.

Any media related to an internal investigation of a LEO or from an incident in which a signed complaint is made regarding a LEO, shall be retained for a minimum of six years

Destruction of data in accordance with this policy does not alter the duty to defend and indemnify set forth in Minnesota Statutes Section 466.07.

## 446.9 SYSTEM OPERATIONAL STANDARDS

(a) MVR system vehicle installations shall be based on LEO safety requirements, Duluth Police Department discretion and vehicle and device manufacturer recommendations.

(b) The MVR system shall be configured to minimally record no more than 30 seconds prior to activation.

(c) The MVR system shall not be configured to record audio data occurring prior to activation.

(d) LEOs using digital transmitters that are individually synchronized to their individual MVR should activate both audio and video recordings when responding in a support capacity in order to obtain additional perspectives of the incident scene.

(e) With the exception of law enforcement radios or other emergency equipment, other electronic devices should not be used within the law enforcement vehicle in order to intentionally interfere with the capability of the MVR system to record audio data.

(f) LEOs shall not intentionally erase, alter, reuse, modify or tamper with MVR recordings. Only a supervisor, MVR administrator, MVR technician or other approved designee may erase and reissue previously recorded media in accordance with this policy.

## 446.10 PROPERTY AND EVIDENCE TECHNICIAN RESPONSIBILITIES

The Property and Evidence Technician is responsible for:

(a) Retrieving, storing, erasing and duplicating of all recorded media.

(b) Collecting all completed media for oversight. Once collected, the Property and Evidence Technician:

1. Ensures it is stored in a secured location with authorized controlled access; and
2. Makes appropriate entries in the chain of custody log.

(c) Erasing of media:

1. Pursuant to a court order; and/or
2. In accordance with established records retention policies.

(d) Ensuring that an adequate supply of recording media is available.

(e) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the records retention schedule.

## 446.11 TRAINING

Users of the MVR systems and supervisors shall successfully complete an approved course of instruction prior to being deployed with MVR systems in operational settings.

## 446.12 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 as well as application and interpretation of the MGDPA and other laws.