

**SECTION 6.67 MOBILE VIDEO RECORDERS**

**1. POLICY:**

The use of the MVR systems provides documentation of law enforcement interaction with the public by providing evidence for the judicial system, internal review, or review by the public through a formal request and as determined by the Minnesota Government Data Practices ACT (MGDPA).

**2. PURPOSE:**

The purpose of this policy is to provide guidelines for the use, management, access, retention, handling of evidence, storage and retrieval of Mobile Video Recording (MVR) data. Compliance with these guidelines is mandatory, but it is recognized that deputies must also attend to other primary duties and the safety of all concerned, sometimes in circumstances that are tense, uncertain, and rapidly evolving.

**3. DEFINITIONS:**

For the purpose of this policy, the terms set forth below are defined as follows:

**Recorded Media** – Audio-video signals recorded or digitally stored on a storage device or portable media.

**Mobile Video Recorder (MVR)** – This refers to any system that captures audio and video signals that is capable of installation in a vehicle or individually worn by deputies.

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

**MVR Administrator** – Designated personnel trained in the operational use of MVRs, storage and retrieval methods and procedures 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. Also responsible for the training of law enforcement operators on the use of the MVR.

**Activate** – Any process that causes the MVR system to transmit or store video or audio data.

**Records Retention Schedule** – Refers to Minn. Stat. 13.825, Portable Recording Systems, subd. 3., Retention of Data.

**Law Enforcement Related Information** –Information captured or available for capture by an MVR that has evidentiary value because it documents events with respect to a stop, arrest, search, citation or charging decision.

**Evidentiary Value** –The information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or deputy.

**General Citizen Contact**– An informal encounter with a citizen that is not and does not become law enforcement related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a tow truck, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.

**Adversarial** - A law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.

**Unintentionally Recorded Footage** – A video recording that results from a deputy's inadvertence or neglect in operating the MVR, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to, recording made in the Sheriff's Office locker rooms, restrooms, and recordings made while deputies were engaged in conversation of a non-business, personal nature with the expectation that the conversation was not being recorded.

**Official Duties** – For the purpose of this policy, means that the deputy is on duty and performing authorized law enforcement services on behalf of this agency.

**BWC** – Body Worn Camera. This refers only to the individually issued camera(s) carried on the deputy's uniform.

**Fleet Camera** – This refers only to the MVR system mounted on the squad car.

#### **4. SCOPE:**

This policy governs the use of MVR's in the course of official duties. The sheriff or sheriff's designee may supersede this policy by providing specific instructions for MVR use to individual deputies or providing specific instructions pertaining to particular events or classes of events, including but not limited to, political rallies and demonstrations. The sheriff or designee may also provide specific

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instructions or standard operating procedures for MVR use to deputies assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

## **5. PROCEDURE:**

### **A. OPERATIONAL OBJECTIVES**

1. To enhance deputy safety.
2. To accurately document statements and events during an incident.
3. To enhance the deputy's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
4. To provide impartial measurement for self-critique and field evaluation during recruitment and new deputy training.
5. To enhance the public trust by preserving objective factual representations of deputy citizen interactions in the form of video and audio recordings made via the MVR system.
6. To identify training needs.

### **B. GENERAL PROCEDURES**

It is the responsibility of this agency to ensure that the MVR equipment is functioning and installed properly according to the manufacturer's recommendations.

1. MVR fleet camera(s) installed equipment shall automatically activate when emergency equipment (lights, siren) is operating, or the deputy can start recording when they are outside their vehicle via wireless transmitter. The system may also be activated manually from the control panel affixed to the interior of the vehicle.
2. Placement and operation of the system components within the patrol car shall be based on deputy safety requirement and manufacturer's recommendations.
3. All Morrison County Sheriff's Office staff shall successfully complete training on all MVR equipment prior to being deployed in an operational setting.
4. The Morrison County Sheriff's Office will establish and maintain a method for the public to view recorded events to the extent that such data is classified as public under MGDPA.
5. The Morrison County Sheriff's Office will ensure deputies, investigators and prosecutors have access to the recorded events according to accepted practices for making the recordings accessible within the criminal justice system.

## **6. USE AND DOCUMENTATION:**

### **A. AGENCY RESPONSIBILITIES**

The Morrison County Sheriff's Office will maintain the following records and documents relating to BWC use which are classified as public data.

1. The total number of BWCs owned or maintained by the agency.

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2. A daily record of the total number of BWCs actually deployed and used by deputies.
3. The total amount of recorded BWC data collected and maintained.
4. This policy, together with the Records Retention Schedule.

## **B. DEPUTY RESPONSIBILITIES**

1. Deputies may use only department-issued MVR equipment in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.
2. Deputies who have been issued a BWC, as part of their uniform, wear and activate the BWC consistent with this policy. Prior to going into service, each deputy will properly equip him/herself to record audio and video in the field. The exception is if the deputy's BWC system is not functioning and the MVR administrator and/or a supervisor have been notified.
3. At the start of each shift, deputies will confirm that the MVR systems are operational in accordance with manufacturer specifications and department procedures and training. This includes both BWC and fleet cameras.
4. During their shift, deputies will follow the established policies and procedures for documenting, categorizing, and retaining any recorded media.
5. Any time a deputy reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., an adversarial contact) the deputy should notify a supervisor of the existence of the recording.
6. Malfunctions, damage, loss, or theft of MVR equipment shall immediately be reported to a supervisor or MVR administrator.
7. BWCs shall not be worn while deputies are engaged in outside agency employment, unless previously authorized by the sheriff or designee.
8. Deputies must document MVR data use and non-use as follows:
  - a. Whenever a deputy makes a recording, the existence of the recording shall be documented in an incident report, CAD or activity log.
  - b. Whenever a deputy fails to record an activity that is required to be recorded under this policy or captures only part of the activity, the deputy must document the circumstances and reasons for not recording in an incident report. Supervisors shall review these reports and initiate any corrective action deemed necessary.

## **C. SUPERVISOR RESPONSIBILITIES**

1. Supervisors shall ensure deputies are using their MVR equipment per policy.
2. Supervisors should determine corrective action for non-functioning

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MVR equipment.

- a. When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, deputy-involved shootings, department-involved collisions), a supervisor shall ensure that the MVR is properly uploaded.

## **7. 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. A deputy may activate the MVR system any time the deputy believes its use would be appropriate and/or valuable to document an incident.

At no time is a deputy expected to jeopardize his/her safety in order to activate the MVR. However, the MVR should be activated in the following situations as soon as practicable.

### **A. REQUIRED ACTIVATION**

1. All field contacts involving actual or potential criminal conduct, including but not limited to:
  - a. Traffic stops (to include traffic violations, stranded motorists and all crime interdiction stops).
  - b. Priority responses.
  - c. Vehicle pursuits.
  - d. Suspicious vehicles.
  - e. Arrests.
  - f. Vehicle searches.
  - g. Physical or verbal confrontations or use of force.
  - h. Prisoner transports. (Squad video)
  - i. Non-custody transports to include juveniles. (Squad video)
  - j. Pedestrian checks.
  - k. DWI investigations including field sobriety tests.
  - l. Taking a statement or information from a suspect or witness.
  - m. Medical incidents attended to by members of this department.
2. All self-initiated activity in which a deputy would normally notify dispatch.
3. Any call for service involving a crime where the MVR may aid in the apprehension and/or prosecution of a suspect, including but not limited to:
  - a. Family violence calls.
  - b. Disturbance of the peace calls.
  - c. Offenses involving violence or weapons.
4. Any other contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording.
5. Any other circumstance where the deputy, through training and experience, believes that a recording of an incident would be appropriate.

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6. Deputies have discretion to record or not record general citizen contacts.
7. Deputies have no affirmative duty to inform people that an MVR is being operated or that the individuals are being recorded.

## **B. CESSATION OF RECORDING**

1. Once activated, the MVR should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. The deputy having charge of a scene shall likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. If the recording is discontinued while an investigation, response, or incident is ongoing, deputies shall state the reasons for ceasing the recording on camera before deactivating the MVR. If circumstances change, deputies shall reactivate their cameras as required by this policy to capture information having evidentiary value.
2. Deputies shall not intentionally block the MVR's audio or visual recording functionality to defeat the purposes of this policy.
3. Deputies may, in the exercise of sound discretion, decide to momentarily mute their BWC microphone for the purpose of strategic consultation amongst law enforcement personnel or legal counsel. If the recording is discontinued or paused while an investigation, response, or incident is ongoing, the deputy shall state the reasons for ceasing the recording on camera before deactivating the device.

## **C. ACTIVATION NOT REQUIRED**

1. Notwithstanding any other provision in this policy, deputies shall not use their MVR to record other agency personnel during non-enforcement related activities, such as during pre-shift and post-shift time in locker rooms, during meal breaks, or during other private conversations, unless recording is authorized as part of an administrative or criminal investigation.

## **D. SPECIAL CIRCUMSTANCES**

Deputies may, in the exercise of sound discretion, determine:

1. To use their MVR to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value unless such recording is otherwise prohibited.
2. To use their MVRs to take recorded statements from persons believed to be victims of and witnesses to crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect. Digital recorders are still required to be used during the taking of formal statements.

3. Deputies need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. When responding to an apparent mental health crisis or event, MVRs shall be activated as necessary to document any use of force and the basis for it, and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors believed to be attributed to the mental health issue.
4. Deputies shall use their MVRs to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health facilities, juvenile detention centers, and jails, but otherwise should not record in these facilities unless the deputy anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use of force incident.

## **8. DOWNLOADING AND LABELING DATA**

- A.** Each deputy using BWCs is responsible for transferring or assuring the proper transfer of the data from his or her own BWC by the end of their shift. However, if the deputy is involved in a shooting, in-custody death, or other law enforcement activity resulting in great bodily harm or death, a supervisor or investigator shall take custody of the deputy's BWC and assume responsibility for transferring the data from it.
- B.** Deputies shall label the MVR data files at the time of the video capture or transfer to storage and should consult with a supervisor if in doubt as to the appropriate labeling. Deputies should assign as many of the following labels as are applicable to each file. Noted in parenthesis is the data retention period for that label.
  1. **Major Case Recordings:** (Until Deleted) Would include cases in which an indefinite retention period is set by statute, including; Criminal Sexual Contact, Arson, Death Investigations (Homicide), or others which may contain a permanent retention period.
  2. **Evidentiary-Case File:** (4 Years) The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision above the level of Petty Misdemeanor. The recording has potential evidentiary value for reasons identified by the officer at the time of labeling. Whether or not enforcement action was taken, or an arrest resulted, an officer seized property from an individual or directed an individual to dispossess property.
  3. **Use of Force-Pursuit:** (7 Years) Whether or not enforcement action was taken, or an arrest resulted, the event involved the application of force by a law enforcement officer of this or another agency.
  4. **Restricted:** (Until Deleted) The incident involved is part of a sensitive investigation, or one in which an administrative decision is made to restrict access to it.

5. **Training Value:** (Until Deleted) The event was such that it may have value for training.
6. **Unintentional Recording:** (90 Days – Restricted Access) Footage captured through unintentional activation will be deleted at the end of the officer shift.
7. **Pending Review:** (Until Deleted) Set by Evidence.com as a default category, in general not utilized in our classifications.
8. **Uncategorized:** (1 Year) The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value beyond that of a Traffic/Petty Summons. Recordings of general citizen contacts are not evidence.
9. **Civil Process/Warrant Checks:** (90 Days) This category would be used for civil process paper service and warrant checks (not arrests).
10. **Citizen Contact:** (90 Days) This category means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a tow truck, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.

**C.** In addition, deputies shall make an attempt to identify those persons whose image may have been captured in the BWC video footage. The identity of these persons is important in order to comply with MGDPA requirements related to data subjects. This data should be documented within the deputy's narrative report or CAD notes. At times it will be impractical to identify every individual at a scene, but special attention should be given to identifying the following: Victims, undercover deputies, informants, mandated reporters, juvenile witnesses (if the nature of the event or activity justifies protecting their identity) and juvenile delinquents, and individual complainants.

## **9. ACCESS TO MVR DATA**

### **A. DATA SUBJECTS:**

Under Minnesota Law, the following are considered data subjects for purposes of administering access to MVR data:

1. Any person or entity whose image or voice is documented in the data.
2. The deputy who collected the data.
3. Any other deputy whose voice or image is documented in the data, regardless of whether that deputy is or can be identified by the recording.

### **B. MVR DATA IS PRESUMPTIVELY PRIVATE**

MVR recordings are classified as private data about the data subjects unless there is a specific law that provides differently.

As a Result:

1. MVR data pertaining to people is presumed private, as is MVR data pertaining to businesses or other entities.

2. Some MVR data is classified as confidential. (see C. below).
3. Some MVR data is classified as public. (see D. below).

### **C. CONFIDENTIAL DATA**

MVR data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the "private" classification listed above and the "public" classification listed below.

### **D. PUBLIC DATA**

The following MVR data is public:

1. Data documenting the discharge of a firearm by a deputy in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
2. Data that documents the use of force by a deputy that results in substantial bodily harm.
3. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a deputy) who has not consented to the public release must be redacted (if practicable). In addition, any data on undercover deputies must be redacted.
4. Data that documents the final disciplinary action against a public employee.

However, if another provision of the Data Practices Act classifies data as private or otherwise not public, the data retains that other classification. For instance, data that reveals protected identities under Minn. Stat. 13.82, subd. 17 (e.g., certain victims, witnesses, and others) should not be released even if it would otherwise fit into one of the public categories listed above.

### **E. ACCESS TO MVR DATA BY NON-EMPLOYEES**

Deputies shall refer members of the media or public seeking MVR data to the responsible authority or data practices designee, who shall process the request in accordance with the MGDPA and other governing laws.

In particular:

1. An individual shall be allowed to review recorded MVR data about themselves and other data subjects in the recording, but access shall not be granted:
  - a. If the data was collected or created as part of an active investigation.
  - b. To portions of the data that the agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. 13.82, subd. 17.
2. Unless the data is part of an active investigation, an individual data subject shall be provided with a copy of the recording upon request, but subject to the following guidelines on redaction:

- a. Data on other individuals in the recording who do not consent to the release must be redacted.
- b. Data that would identify undercover law enforcement officers must be redacted.
- c. Data on other law enforcement officers who are not undercover, and who are on duty and engaged in the performance of official duties, shall not be redacted.

#### **F. ACCESS BY DEPUTIES AND LAW ENFORCEMENT EMPLOYEES**

No employee may have access to the department's BWC data except for legitimate law enforcement or data administration purposes:

1. Deputies may access and view stored MVR video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Deputies may review video footage of an incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident.
2. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency to public and social media websites.
3. Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.
4. Notes should be entered to document why the video is being accessed (e.g. "Report writing", "Court prep", "Pursuit review", "Routine audit", "Case investigation", etc.)

#### **G. OTHER AUTHORIZED DISCLOSURES OF DATA**

1. Deputies may display portions of MVR footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. 13.82, subd. 15, as may be amended from time to time. Deputies should generally limit these displays in order to protect against the incidental disclosure of individuals whose identities are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing audio and not displaying video. In addition:
  - a. MVR data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.
  - b. MVR data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

## **10. DATA SECURITY SAFEGUARDS – Review prior to going live**

1. All safeguards in place by Evidence.com will meet or exceed required security parameters.
2. Access to BWC data from county or personally owned and approved devices shall be managed in accordance with established county policy.
3. Deputies shall not intentionally edit, alter, or erase any MVR recordings unless otherwise expressly authorized by the sheriff or the sheriff's designee.
4. As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time, this agency shall obtain an independent biennial audit of its BWC program.

## **11. AGENCY USE OF DATA**

1. Periodically supervisors will randomly review MVR usage by deputies to ensure compliance with this policy and will identify any performance areas in which additional training or guidance is needed.
2. In addition, supervisors and other assigned personnel may access MVR data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about deputy misconduct or performance.
3. Nothing in this policy limits or prohibits the use of MVR data as evidence of misconduct or as a basis for discipline.
4. Deputies should contact their supervisors to discuss retaining and using MVR footage for training purposes. Deputy objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training deputies may utilize MVR data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

## **12. DATA RETENTION**

- A.** All MVR data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded non-evidentiary data.
- B.** Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous, must be maintained for a minimum period of one year.
- C.** Certain kinds of MVR data must be retained for six years:
  1. Data that documents the use of deadly force by a peace deputy, or force of a sufficient type or degree to require a use of force report or supervisory review.
  2. Data documenting circumstances that have given rise to a formal complaint against a deputy.

- D.** Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period.
- E.** Subject to part F (below), all other MVR footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days.
- F.** Upon written request by an MVR data subject, the agency shall retain a recording to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
- G.** The department shall maintain an inventory of MVR recordings having evidentiary value.
- H.** The department will post this policy on its website.

### **13. COMPLIANCE**

Supervisors shall monitor for compliance with this policy. The unauthorized access to or disclosure of MVR data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. 13.09.