

Orono Police Department

Standard Operating Procedures **Mobile Video & Audio Recording Equipment Number: 5-36**

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ADOPTED: 09/13/00

**SUBJECT: Mobile Video & Audio Recording
Equipment**

EFFECTIVE DATE: 04/24/18

REVIEW DATE: 05/01/19

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APPROVED: _____
Joshua W. Ewing
Chief of Police

I. Purpose

The purpose of this policy is to establish procedures regarding the use, management, storage, and retrieval of digital mobile video/audio recorders (DMVR's) in departmental vehicles and audio-visual media recorded by wearable video recorders (WVR's). This equipment can provide additional documentation of police-public encounters and be an important tool for collecting evidence and maintaining public trust.

II. Policy

It is the policy of the Orono Police Department that officers will use the digital mobile video/audio recording (DMVR) equipment and, when issued, the wearable video recording (WVR) equipment, when such use is appropriate to the proper performance of his or her official duties. To maximize the utility of this equipment and maintain public trust and confidence, officers will follow the procedures for DMVR and WVR equipment use as set forth in this directive.

III. Definitions

- a. Digital Multimedia Evidence or DME consists of all digital recordings including, but not limited to, audio, video, photographs, and their associated metadata.
- b. Digital Mobile Video/Audio Recorders are cruiser mounted camera systems, with wearable "body microphones", designed to capture digital media evidence related to traffic law enforcement and incident response.
- c. Metadata includes any digital identifiers that are captured as part of the actual recording, such as date/time, GPS coordinates, labeling, etc.
- d. Wearable Video/Audio Recorders are Department-issued cameras designed to be worn by police officers to capture digital media evidence related to police-public encounters and incident response.

IV. Administration

The Orono Police Department has adopted the use of video/audio recording equipment to accomplish several objectives, including:

1. DMVR and WVR equipment allows for accurate documentation of police-public contacts, arrests, and critical incidents and serve to enhance the accuracy of officer reports and testimony.
2. Video and audio recordings enhance the Department's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
3. DMVR and WVR equipment may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

The Department recognizes that video images cannot always show the full story, nor do video images capture an entire scene. The use of DMVR and WVR equipment does not reduce the requirement to provide thorough written documentation of an incident. Persons reviewing recordings must also be cautious before conclusions are reached about what the recordings show.

The DMVR and WVR equipment should be utilized to:

1. Collect evidence that can be used in the prosecution of criminal/civil offenses.
2. Record contacts with the public in order to secure unbiased evidence in connection with investigations.
3. Allow for supervisory review to ensure that department policies and procedures are followed.
4. Capture footage that can be utilized for training purposes.

V. Legal Matters

- a. DMVR and WVR equipment and all data, images, video and metadata captured, recorded, or otherwise produced by the equipment is the property of the Orono Police Department. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited, except with expressed written consent from the Chief of Police.
- b. Use of DMVR or WVR equipment for any purpose other than in accordance with this policy is prohibited.
- c. All data, images, video, and metadata captured by video/audio recording equipment are subject to State of Maine Statutes and Town of Orono policies regarding retention of records.

VI. Procedures--Digital Mobile Video/Audio Recorder (DMVR), Wearable Video/Audio Recorder (WVR)

1. Training: Prior to using DMVR equipment, officers will receive training on its proper operation and care, and on the Department's policy with respect to the use. Additional training shall be provided as changes, updates, or other revisions to policies or equipment occur.
2. Inspection: Equipment malfunctions, damage, or loss shall be brought to the attention of the officer's supervisor as soon as practical so that a replacement unit may be issued. Officers shall inspect and test equipment at the start of each shift to verify proper functioning.
3. Operation: All DMVR equipment is to be operated per the manufacturer guidelines, and the unit configuration as determined by the Orono Police Department.
4. Safety During Operation: Officers shall follow existing safety policies when conducting enforcement stops as outlined in Department policies and procedures. Officer safety shall be the primary consideration when

contacting citizens or conducting vehicle stops, not the ability to record the event.

5. Activation: All Orono Police Officers shall use the DMVR or WVR equipment, if trained on its use, in the following circumstances:
 - a. Traffic Stops – to record the entire duration of all traffic stops. The equipment may be deactivated only after the stop has ended and the violator or officer has left the scene.
 - b. Emergency Response – to record the entire duration of any emergency response (as defined in SOP 5-3, Operation of Vehicles).
 - c. Prisoner Transport – to record the entire duration of the transportation of any prisoner.
 - d. Arrests/Uses of Force – when practical, to record encounters that are likely to result in an arrest or use of force
 - e. Investigations – to record the actions and/or statements of suspects if the recording would prove useful in later judicial proceedings. For example: interviews, field sobriety tests, while in custody.
 - f. Citizen interactions – to record citizen interactions that an officer deems appropriate or prudent due to any situational uncertainty.
 - g. All other calls for service involving citizen contact unless specifically addressed in VI (8) as a restricted time in which equipment shall not be used to protect the privacy rights of officers and members of the public.
6. Deactivation: Deactivation of the DMVR or WVR equipment should occur when:
 - a. The event has concluded;
 - b. Victim and/or witness contact has concluded;
 - c. All persons stopped have been released
 - d. All prisoners have been transported to a detention facility and are in the care of said facility.
7. Notice:
 - a. When a person inquires whether DMVR or MVR equipment is in use, they will be informed of its use.
 - b. An Orono Police Officer is not required to cease recording an incident or scene because of a request of any non-member of this agency.
 - c. **Individuals being interrogated (custody plus questioning) shall be informed that they are being recorded.**
8. Restrictions: DMVR and WVR equipment shall only be used in conjunction with official law enforcement duties, and shall not be used while off duty.
 - a. When recording in hospitals or other medical facilities, officers should be careful to avoid recording persons other than the suspect.

Equipment shall not be used to record:

- b. Communications with other police personnel;
 - c. Encounters with undercover officers or informants;
 - d. A particular person based solely on the person's race, color, religion, national origin, sex, age, marital status, sexual orientation, gender identity or expression, homelessness status, physical disability, or political affiliation.
 - e. When an officer is on break or is otherwise engaged in personal activities;
 - f. In any location where individuals have a reasonable expectation of privacy, such as a restroom, locker room, or break room.
 - g. When an officer would be recording a patient during a medical or psychological evaluation by a clinician or similar professional, or during treatment.
 - h. Communications in a psychiatric facility, unless responding to a call involving a suspect who is thought to be present in the facility.
9. Reporting: Officers will note in offense, arrest, use of force, and related reports when video/audio recordings were made during the incident in question. If an officer fails to activate the DMVR or WVR equipment, or fails to record the entire contact, when required to record the contact under VI (4) of this policy, the officer shall document the reasons for doing so.
10. Digital Multimedia Evidence (DME) File Download:
As soon as practical, all files from recorded encounters/incidents shall be downloaded to secure Department storage as per the manufacturer's guidelines.
- i. If wireless capabilities exist, this will take place automatically. Any issues with file downloads shall be immediately reported to a supervisor.
 - ii. If wireless capabilities do not exist, Supervisors will have the necessary access permissions to download files to the Department's secure server.
 - iii. **Wearable Video/Audio Recorders must be placed in the manufacturer's docking station for automatic download at the end of the officer's shift.**

VII. Storage and Retention of Digital Multimedia Evidence (DME)

- 1. All DME will be stored on the Department's secure server, and identified by the associated incident number.
- 2. Officers shall not attempt to edit, erase, or otherwise tamper with DME.
- 3. Retention of all DME – See Appendix A

VIII. Reviewing and Dissemination of Digital Multimedia Evidence (DME)

- 1. Files may be duplicated, or reviewed, for court, investigative, training, or other purposes authorized by the Chief of Police. All file duplication will be

conducted by the Detective, or Chief's designee. Officers shall not make copies of any recording for personal use.

2. Access to information requests from the public shall be reviewed by the Chief of Police for determination of confidentiality, per SOP 1-5, Public Access to Records. Special care will be taken to protect the identity of minors captured in any recording.

IX. Supervisors Responsibilities

1. Supervisory personnel shall ensure that officers are equipped with DMVR and WVR equipment and that officers utilize them in accordance with policy and procedures defined herein.
2. At least once per quarter, supervisors will conduct a **documented** review of recordings of officers who report to them.
 - a. At least 2 recordings per officer shall be viewed, including one random recording and one recording of a use of force, arrest, or other serious incident, to ensure that the equipment is operating properly and that officers are using the devices appropriately and in accordance with policy and to identify any areas in which additional training or guidance is required.
 - b. When reviewing DME recordings, the supervisor shall immediately notify the Chief of Police upon observing, or becoming aware of, an alleged violation of Department policies, laws, rules, regulations, or directives.
 - c. The documented review should include a synopsis of what was reviewed, any issues or concerns about equipment use, and any issues or concerns about adherence to department policies and procedures.

Appendix A. Audio/Video Recording Retention Schedule

The Orono Police Department recognizes that the use of audio/video recording offers significant benefits to law enforcement and judicial officers; they further recognize that retention of such audio/video recordings can create an information security concern for citizens. The following audio/video recording retention schedule shall be followed in order to honor both sets of interests.

The following categories of recordings reflect instances where it has been determined that an audio or video recording has captured evidentiary information. The categories have been broken down by the seriousness of the offense to which the audio/video recording corresponds.

- A. Homicide: Audio and video recordings containing information regarding any homicide. RET: Permanent
- B. Felony Arrest and/or Charge: Audio and video recordings determined to have evidentiary value where suspects have been arrested, issued citations, and/or a report has been forwarded to the prosecutor for a charging decision. RET: 90 days after sentencing, or disposition.
- C. Felony with No Suspect(s): Audio and video recordings determined to have evidentiary value where no suspect(s) have been developed, and/or no individuals have been formally charged. RET: Statute of limitation for corresponding crime(s) (crimes are as labeled by the police department; when there is more than one crime labeled by the police department retention shall be based upon the crime with the longest statute of limitation)
- D. Misdemeanor Crimes with Arrest and/or Charge: Audio and video recordings deemed to have evidentiary value where suspects have been arrested, issued citations, and/or a report has been forwarded to the prosecutor for a charging decision. RET: 90 days after sentencing, or disposition.
- E. Misdemeanor Crimes with No Suspect(s): Audio and video recordings determined to have evidentiary value where no suspect(s) have been developed and/or no individuals have been formally charged. RET: Statute of limitation for corresponding crime(s) (crimes are as labeled by the police department; when there is more than one crime labeled by the police department retention shall be based upon the crime with the longest statute of limitation)
- F. Civil Offense: Audio and video recordings containing information regarding any civil offense. RET: 1 day after disposition or after statute of limitation has run, whichever is longer

The following categories of recordings reflect different situations where audio and video recordings may have been created.

- G. Use of Force: Audio and video recordings containing information of any incident where force was used and supervisory review is completed. RET: 6 years

- H. Internal Investigation: Audio and video recordings determined to have evidentiary value in any internal investigation. RET: 6 years
- I. Extraneous Audio and Video Recordings: Audio and video recordings which cannot be categorized under A-H of this Appendix A and hold no value to the police department for training and compliance. RET: 10 days