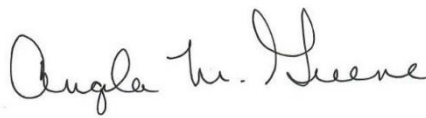
 <p style="text-align: center;">LEXINGTON POLICE DEPARTMENT</p> <p style="text-align: center;">POLICY AND PROCEDURE GENERAL ORDER</p>	Distribution ALL PERSONNEL	General Order Number 5.18
	Original Issue Date 01/06/2024	Reissue/Effective Date 05/01/2024
Order Title: MOBILE VIDEO/AUDIO RECORDING (MVAR) EQUIPMENT	CALEA Accreditation Standard: 41.3.8 VLEPSC: OPR 01.11	Section 5
	Rescinds: OPR 01-13	
Section Title: PATROL FUNCTIONS	 Angela M. Greene, Chief of Police	

This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

I. PURPOSE

The purpose of this General Order is to establish procedures and guidelines for the utilization of the Lexington Police Department’s Mobile Video/Audio Recording equipment.

II. POLICY

Mobile video/audio recording (MVAR) equipment has been demonstrated to be of value in the prosecution of traffic violations and other offenses, in evaluation of an officer’s performance, training, and for the protection of officers against the risks associated with wrongful accusations. In order to maximize the utility of this equipment in these and related areas, officers shall follow the procedures for MVAR equipment use as set forth in this policy.

It is the policy of Lexington Police Department (“Department”) that officers shall use the equipment in all situations outlined in this directive. In all other cases, the officer will make the choice as to whether or not to utilize the video and/or audio of the MVAR equipment. The Department, however, recommends the utilization of the equipment, in recognition of its accurate portrayal capabilities.

This agency has adopted the use of in-car video/audio recording systems in order to accomplish several objectives, including:

- Accurate documentation of events, actions, conditions and statements made during arrests and critical incidents, so as to enhance officer reports, collection of evidence and testimony in court and;
- The enhancement of this Department's ability to review probable cause for arrest, arrest procedures, officer and suspect interaction, and evidence for investigative purposes, as well as for officer training and evaluation.

Officers are prohibited from erasing, altering, or tampering with any mobile audio or video equipment or attempting to erase, alter or tamper with any video or audio equipment, including intentionally stopping/starting a recording.

III. PROCEDURES

A. General

1. The fleet manager is responsible for overseeing the overall maintenance and administration of the Department's MVAR program. The Department shall install and utilize Mobile Video/Audio recording equipment in police vehicles, as determined by the Chief of Police. Officers shall be trained on its operation in accordance with the manufacturer's and/or installer's recommendations. This directive shall include procedures for training, operation and inspection of the equipment, completing reports, and provisions for the collection and retention of recordings. There shall be no deviations from this directive without the authorization of the Chief of Police.
2. Mobile Video/Audio recording equipment has been demonstrated to be of value to police officers in the field. These benefits include:
 - a. Providing protection to officers in the field by allowing the department to review basic police practices and procedures used by officers and their interaction with the general public.
 - b. Acting as an invaluable instructional tool as it provides the department with the ability to train officers in proper police procedures through a process of review, analysis, and evaluation. These recordings can be utilized in recruit training as well as in service training sessions to demonstrate both acceptable and unacceptable techniques.
 - c. Maintaining a record of motor vehicle stops and patrol activities.
 - d. Providing corroboration and documentation of events, actions, conditions, and statements made during arrests, critical incidents, and other police reports. While evidence may be captured on the recordings, the use of Mobile Video/Audio recordings is not intended to document all evidentiary material for court proceedings.

B. Operation and Situations for Use

1. Inspection of Equipment

- a. MVAR equipment installed in vehicles is the responsibility of the officer assigned to that vehicle and will be operated and maintained according to the manufacturer's instructions and recommendations.
- b. Prior to each shift, officers will inspect the MVAR equipment to determine that it is functioning properly, both in-car video and audio equipment. The officer shall bring any problems or malfunctions, whether during initial inspection or any time during the shift, to the attention of his/her immediate supervisor as soon as possible.
- c. Officers will perform the following functions checks of the following components:
 - a. Remote Audio Transmitter – Officer's shall:
 - Check for adequate battery power level;
 - Test the device to ensure synchronization with the recorder;
 - Test the device to activate the recorder remotely; and
 - b. Camera(s) – Officer's shall:
 - Ensure the windshield is free of debris;
 - Ensure the camera is oriented in the proper direction for appropriate recording;
 - Manually activate the recorder using both the remote audio transmitter and the switch on the device of the vehicle; and
 - Manually activate the overhead emergency lights and ensure the automatic trigger functions properly.
- d. During each of the activations, the officer should also speak to activate the audio signals. Activation of the recorder will provide several seconds of recorded visual and audio signals to include two minutes of pre-event data. The officer should play back the audio and visual signals to ensure the system components are functioning properly.
- e. Officers assigned vehicles outfitted with MVAR equipment shall ensure that all required pre-operational checks are performed in accordance with their training and the manufacturer's recommendations.

2. Officer Responsibilities:

- a. Officers are encouraged to inform their supervisors of any recorded sequences that may be of value for training.
- b. All digital recordings of evidentiary value shall be duplicated, properly labeled and identified, and placed into evidence holding.
- c. Officers will note in incident, arrest, and related reports when video/audio recordings were made during the incident in question.
- d. Officer's shall not erase, reuse, or in any way alter MVAR recordings.
- e. Upon contact with a person the officer may advise the person that they are being recorded.

3. Supervisor Responsibility:

- a. Supervisory personnel who manage officers utilizing MVAR equipment shall ensure that:
 - 1) All officers follow established procedures for the use and maintenance of MVAR equipment, handling of video/audio recordings, and the completion of MVAR documentation.
 - 2) On at least a quarterly basis, randomly review video and recordings to assist in periodic assessment of officer performance, determine whether MVAR equipment is being fully and properly used, and to identify material that may be appropriate for training.
 - 3) Ensure repair and replacement of damaged or non-functional MVAR equipment is performed.
- b. Shift supervisors shall:
 - 1) Counsel or recommend disciplinary actions for any officer found to fail to properly use or care for their assigned MVAR equipment.

4. Equipment Repair/Maintenance

- a. Installation and maintenance shall be performed by authorized service personnel. Alterations to the system by unauthorized personnel are prohibited.
- b. Damage, theft, or malfunctioning of any component of the equipment

shall be immediately reported to a shift Supervisor. Supervisors shall ensure that all equipment is operated in accordance with department directives and manufacturer's recommendations.

- c. If equipment is malfunctioning, the officer will forward an equipment repair request through the proper channels to the fleet manager, who will authorize the necessary repairs. The equipment shall be repaired only by qualified technicians who have been specifically trained and are authorized to do so.

5. Operating Procedures

a. Wireless Microphone:

- 1) The wireless microphone transmitter may be worn on the duty belt, or external vest carrier. By turning on the wireless microphone transmitter, video and audio recording will both be activated.
- 2) Audio recording shall be used for investigative purposes only and per current legal guidelines. Video and audio can be simultaneously recorded up to 1,000 feet of the vehicle. The wireless microphone transmitter will be stored in the charging base when not in use.

b. Powering the Unit:

- 1) The power on the console unit shall be turned off at the end of each shift in order to preserve the life of the battery.
- 2) In the event that the vehicle requires jumpstarting, the main cable harness must be disconnected from the trunk unit beforehand, or the system fuse removed beforehand.

c. Activating the Unit:

- 1) MVAR equipment shall remain on throughout the tour and be set to automatically activate in the following situations:
 - a) Upon the activation of the emergency lights or siren on the vehicle; or
 - b) When the vehicle's speed exceeds 80; or
 - c) When the unit inside the vehicle experiences a significant jolt indicating a crash; or
 - d) When the wireless body microphone is activated.

The equipment will continue to record until it is manually stopped

- 2) The equipment can be manually activated from inside the

vehicle.

- 3) The equipment may be manually deactivated during non-enforcement activities, such as when protecting accident scenes from other vehicular traffic.
- 4) When deactivating the system, officers should verbally record the reason for the system shut down.
- 5) Officers relying on an automatic trigger should always visually check the system to ensure activation occurred.

d. Required Use:

Officers will be required to use the equipment under the following circumstances:

- 1) All responses to calls when emergency lights, siren, or both are engaged;
- 2) All vehicle pursuits;
- 3) All traffic stops, including high risk/felony stops;
- 4) All DUI investigations;
- 5) When a person is detained and placed in the rear of the patrol vehicle;
- 6) During contacts with any person suspected of criminal activity;
- 7) Response to in-progress crimes;
- 8) Prisoner transports;
- 9) Consent to search a vehicle;
- 10) Deployment of canines;
- 11) Physical or verbal confrontations or use of force;
- 12) Domestic violence calls;
- 13) Any situation or event that the officer believes should be recorded; and
- 14) Whenever directed to do so by a Supervisor

e. Suggested Use:

Officers should consider and may use the equipment in the following situations:

- 1) When making “Terry” stops or dealing with suspicious persons
- 2) Training scenarios
- 3) Events that are major criminal incidents, serious accidents, or any time, when the officer deems the recording of events would be beneficial to the department’s mission or the protection of the

officer

f. General Use:

The following guidelines shall be used by officers when operating MVAR equipment:

- 1) Ensure that the video camera is positioned and adjusted to record events.
- 2) The equipment shall not be deactivated until the enforcement action/event being recorded has completed.
- 3) The equipment will not be used in a manner that would bring discredit upon the officer, the department, or the City of Lexington.

g. Prohibited Recordings:

- 1) No Department member may knowingly and surreptitiously use the MVAR system to record a conversation of any other Department member except with a court order, when documenting or reporting criminal activity, or as authorized by the Chief of Police or their authorized designee. This prohibition does not apply to recording of off-duty Department officers who are subject to recording in any interactions with the Department as subjects or witnesses in the same manner as the general public.
- 2) The MVAR system may not be used for the purpose of intimidating an individual or to discourage an individual from observing police activity, making appropriate inquiries of an officer, or making a complaint.
- 3) The MVAR system shall not be used to make recordings of members of the public that do not have a legitimate law enforcement purpose or are designed to embarrass or otherwise harass any person.

h. In-Car Camera Modes of Operation:

- 1) Pre-Event Buffering Mode – A device feature in which the camera continuously records and hold the most recent one hundred and twenty (120) seconds of video prior to record activation. With this feature, the initial event that causes the officer to activate recording is likely to be captured automatically, thereby increasing the capability of recording the entire activity.
- 2) Event Record Mode: The system is designed to automatically

activate during certain activation triggers (as referenced above). The system may also be manually activated by the monitor record button.

C. Downloading/Server Control and Management

1. Digital recordings will be downloaded automatically to the secure server when an officer returns to Department headquarters. Officers should verify all videos have completed downloading prior to the end of shift. If there is a problem with a system downloading, the Fleet Manager will be notified and he/she will perform a manual download.
2. The server will automatically delete videos based on type and required VA retention requirements, therefore, eliminating the risk of running out of space.

D. Server Security and Access

1. Access to the server is limited only to the IT representative designated by the Chief of Police.
2. The digital recording equipment is accessible only to Chief of Police, Deputy Chief of Police and designees.
3. All recordings on the MVAR are the property of the Lexington Police Department.
4. All recordings on Department equipment are subject to random unannounced review by supervisory staff for training purposes and to ensure compliance with the policy.

E. Storage and Retention

1. All digital recordings held for evidentiary purposes will be stored in accordance with the guidelines for retention consistent with the Code of Virginia.
2. Upon the completion of the tour of duty, the officers shall note in any reports or summons that a video recording of the incident was made.
3. Recordings may be duplicated for court, investigative, training, criminal, administrative or other authorized purposes. Officers required to produce digital recordings for court will make advance arrangements with a Sergeant for a copy of the recording. No member of the department will view or duplicate any digital recording, for other purposes, without first submitting a written request to the Chief of Police or designee.
4. Protocols shall be followed for releasing recorded data externally to the public and/or news media. Freedom of Information Act (FOIA) will be

followed; however, requests for digital recordings will be processed through the Chief of Police, or designee. The Chief of Police retains the authority to release recorded data at their discretion, in accordance with FOIA.

5. Requests to release MVAR recordings pursuant to Virginia FOIA and subpoena duces tecum
 - a. The Records Manager is the designated point of contact for handling all requests for information by subpoena duces tecum or under the Virginia FOIA.
 - b. The Records Manager will be responsible for processing recording for approved FOIA requests and responses to subpoenas duces tecum.
 - c. All such requests to review MVAR recordings shall be made to the Records Manager and the request(s) will be considered after consultation with the City Commonwealth Attorney's Office.
6. Release of MVAR recordings to community members, media, and attorneys
 - a. It is the practice of the Department to provide access to MVAR recordings of traffic accident incidents once any related criminal case has been adjudicated. If the accident results in only a traffic summons, the video will be released upon a FOIA request in accordance with Title 2.2 of the *Code of Virginia*.
 - b. It is the practice of the Department to provide access to the MVAR recordings of an arrest for a traffic infraction or misdemeanor to those defendants not represented by an attorney and who have made a request to view the video prior to the court date. Release of the video(s) is contingent on approval by the Records Manager.
 - c. In all other situations it is the practice of the Department to use all applicable FOIA exemptions to withhold MVAR recordings from release to community members or media outlet representatives. This practice is based on the belief that:
 - i. The release of MVAR recordings may show community members during difficult and/or traumatic situations. It is our responsibility to protect their privacy.
 - ii. Once MVAR recordings are released there is no control of the integrity of the video and its use.
 - iii. The release of MVAR recordings could prejudice the ability of a community member to receive a fair trial.
 - d. It is the practice of the Department to allow community members and media outlet representatives to view MVAR recordings at the Police Department, however they may not record any portion of the MVAR recording in audio or video format.
7. MVAR recordings containing information that may be of value for case

prosecution, or in any criminal or civil adversarial proceeding shall be safeguarded as other forms of evidence. As such, these recordings will:

- a. Be subject to the same security restrictions and chain of evidence as detailed in the Department evidence collection policies.
- b. Not be released to other bona fide criminal justice agencies without prior approval of the designated command officer.
- c. Not be released to another criminal justice agency for trial until the actual trial date.
- d. A true and attested copy of the digital recording marked as a copy will be submitted to the criminal justice agency for any pre-trial purpose.

F. Training

1. The Department shall provide training for all users of the MVAR system.
2. Only those officers who have received training in the use of the MVAR system are authorized to activate and utilize the MVAR equipment.
3. The designated Training Coordinator shall is responsible for providing:
 - a. Basic user training
 - b. Periodic refresher training
4. The Training Coordinator is responsible for updating the course of training as necessitated by changes in policy or equipment.
5. System users are encouraged to report to the Training Coordinator any event that may be considered valuable for training purposes.