

SOUTH PORTLAND POLICE DEPARTMENT

STANDARD OPERATING PROCEDURES

Subject:	BWC / MVR Equipment	Policy #	8-83-A
Effective Date:	September 14, 2018	Review:	Semi-Annual
Distribution:	All Personnel	# of pages:	4

I. PURPOSE:

To provide guidelines for the use of body worn camera (BWC) and mobile video recording (MVR) equipment.

II. POLICY:

It is the policy of this department to maintain and require uniformed and other officers who routinely respond to calls for service, or are involved in a special event mandated for recording, to use BWC and MVR equipment, as operationally available, to fulfill the objectives outlined below. Plainclothes officers may also use the devices, as available. Officers shall operate the BWC and MVR equipment in accordance with this policy.

III. PROCEDURES:

A. Objectives:

1. To accurately document events, actions, conditions and statements made during police – public contacts, arrests and critical incidents, so as to enhance case preparation, collection of evidence, and testimony in court.
2. To enhance transparency, police and public accountability, and the department's ability to review arrests, traffic stops and other events, for investigative, training and officer evaluation, and to help evaluate legal claims and / or allegations of officer misconduct.

B. Training:

1. An officer from each shift will receive training or otherwise become familiar with the BWC and MVR equipment, so as to be able to train other personnel in its correct use and application, in accordance with this SOP. Supervisors should additionally receive training related to reviewing recordings and creating events of MVR recordings not initially created at the time of the event.
2. All personnel are encouraged to recognize the value of recordings for subsequent training purposes. If a recording may have training value, the officer or supervisor should notify the Training Officer, who will obtain a copy of the recording.

C. General Use / Responsibilities:

1. At the beginning of their shift, officers are responsible for inspecting the mobile audio / video equipment in accordance with SOP #4-41-A, VEHICLE ASSIGNMENTS AND INSPECTIONS. This should include confirming the presence and power of the BWC and the functionality of the audio and video of the MVR. Officers will promptly bring any malfunction, missing equipment or other issue to the attention of the Shift Commander, who will resolve the issue or notify the designated supervisor¹ of the issue before the end of that tour of duty.
2. At the beginning of their shift, and excluding any outside detail assignments, unless otherwise desired or directed, officers shall log in as themselves into the BWC / MVR equipment and, if assigned to a cruiser, synchronize the MVR and BWC units, allowing for the appropriate identification and download of related incident recordings. With the exception of while on a break, officers shall wear the BWC in an unobstructed location on the front of their bodies and at all times while on-duty.

¹ See SOP #9-92, ADMINISTRATIVE ASSIGNMENTS

3. Subject to the exceptions in Paragraph 4 below, officers shall activate and use the BWC and MVR equipment from the point of arrival at and for the duration of any call for service, and during:
 - a. Any law enforcement contact with the public likely to result in use of the officer's authority or generation of a police call for service (e.g., traffic stop, field interview, etc.);
 - b. All prisoner transports (*officers should also activate the rear MVR camera*);
 - c. All K-9 tracks or searches; and
 - d. All entries related to high risk or tactical incidents (e.g., search or arrest warrant executions or barricaded persons), as directed.
4. Unless the officer deems it otherwise appropriate for safety, tactical, investigative or other lawful and legitimate purposes, the BWC and MVR equipment should generally not be used:
 - a. For general communications with co-workers or other law enforcement personnel without their knowledge or permission;
 - b. For communications involving strategic, tactical, or safety planning with law enforcement, victims and / or victim advocates;
 - c. For encounters with undercover officers and confidential informants;
 - d. While conducting strip searches;
 - e. While conducting an Intoxilyzer test, due to the likelihood of radio frequency (RF) interference;
 - f. While appearing before an officer of the court;
 - g. Unless in response to a call for service or otherwise assigned, to gather intelligence, record activities or identify persons not engaged in any unlawful conduct but who are solely exercising their constitutionally protected rights of freedom of speech, religious expression, or peaceful assembly.²
 - h. When officers are on break or otherwise engaged in personal activities; or where there is a reasonable expectation of privacy, such as in offices, restrooms or locker rooms;
 - i. When specifically requested by a *victim* or *witness* being interviewed;
 - j. When specifically requested by a person having a reasonable expectation of privacy in a location, such as a residence, when the officer's presence is based solely upon consent or permission;
 - k. When approved or directed by a supervisor;
 - l. When present with a victim during what may otherwise be a privileged communication, such as with a healthcare or mental health provider, or a domestic or sexual abuse advocate; and
 - m. If complying with a medical, correctional or other facility's official directives or requests.
5. Except as appropriate in response to a request by victims, witnesses, or individuals within a location having a high expectation of privacy during a consensual contact, as set forth in Paragraph 4(i) and (j) above, officers should not cease recording an incident or scene because of a request from any member of the public. When officers are present without consent and upon other authority, such as when serving a warrant, or based upon an exception to the warrant requirement, recordings will be made of the incident from its inception until its conclusion. Officers should inform anyone who asks that BWC or MVR equipment is in use. Officers should also consider advising belligerent or hostile subjects that they are being recorded, as this may help alter their demeanor and de-escalate the situation.
6. Officers shall note in related reports when video recordings were made. If an officer fails to activate the MVR / BWC, fails to record the entire contact, or interrupts, mutes or stops the recording, or if a supervisor approves any such actions, as provided in Paragraph 4(k) above, the officer or supervisor, as appropriate, will document the reason(s) in the recording prior to deactivation, and / or in the related report or CAD notes. Officers will not be disciplined for failing to turn off a BWC or MVR recorder, or for turning off a BWC or MVR recorder if, upon subsequent review, it is determined that there were legitimate safety, tactical, investigative or other lawful purposes for doing so.
7. To facilitate recording, the MVR system can be manually activated, either in the car, or with the BWC. The MVR system will also be configured to trigger or automatically begin recording:

² See SOP #4-46-E, CROWD CONTROL & MANAGEMENT

- a. when the emergency lights are activated;
 - b. when the cruiser speed reaches 70mph; or
 - c. due to a collision or other significant impact.
8. The following are authorized system settings: The MVR equipment will be set up to continuously and passively record and will pre-record video (not audio) for up to 60 seconds prior to actual activation. MVR recordings will be retrievable from the system, whether initially saved or not, allowing for an event to be “created” after the fact, if available and not overwritten. The BWC equipment will not be configured to allow for creation of an event after the fact, but will allow for pre-recording of video (not audio) for up to 30 seconds prior to actual activation.
 9. Recordings that may result in Court action or formal proceedings (e.g., all arrests, summonses, citations, DA reviews, etc.), or that involve pursuits, uses of force and control and / or cruiser-involved collisions, are considered evidence for the purposes of this policy. Officers shall “tag” evidentiary recordings as “Keep” within the BWC / MVR system, and notify their supervisor and the ET by email, identifying the recording and allowing for it to be duplicated / cloud shared and retained. Other non-evidentiary recordings may be tagged, “Don’t Keep.”
 10. Officers may review the recordings to aid in case accuracy and preparation. Officers must note in the body of any report (offense, supplemental, summons, etc.) that the event was recorded. Involved civilians will not be allowed to review recordings at the scene, but supervisors are authorized to allow such civilians, and / or their parent or guardians, if a juvenile is involved, to view recordings of incidents in which they are involved *after the fact* in order to aid in inquiry or complaint resolution.
 11. Officers will place the BWC units in the designated download cradle at the end of their tour of duty to allow for their automatic download. The MVR units will automatically and wirelessly download when the cruiser is parked at the police station. The ET will download any MVR units unable to wirelessly download for whatever reason.

D. Supervisor Responsibilities:

1. Supervisors who become aware of missing equipment shall investigate further to determine its whereabouts. Supervisors who become aware of malfunctioning equipment shall promptly notify the designated supervisor. If a cruiser’s MVR equipment is missing or malfunctioning, that, in and of itself, need not require the cruiser to be taken out of service, but the supervisor may decide to assign another cruiser to the officer until resolved.
2. In order to secure critical evidence, supervisors may, as appropriate and necessary, access and remove the MVR media, and / or access recordings on the MVR system that were not created or did not properly download. Any time such media is removed, the supervisor must tag and submit it as evidence, consistent with SOP #8-84, PROPERTY MANAGEMENT / EVIDENCE CONTROL.
3. Patrol supervisors shall conduct periodic reviews of the BWC / MVR recordings generated by officers under their command in order to assure proper functioning and use of the equipment; identify recordings that may be appropriate for department training; and assess officer performance and compliance with department policy. These reviews will be conducted at least two (2) times per year, with at least three (3) videos reviewed for all patrol officers; a *monthly* review of at least three (3) videos will be completed for any probationary personnel.
4. The supervisors will review the above footage with the involved officer(s) and document the results of these reviews, as appropriate, during the officers’ performance evaluations. The discovery of any *minor* behavioral infractions or performance issues should be viewed as training opportunities. If the behavior is serious, or has previously been addressed, but is then repeated, appropriate corrective action should be taken consistent with SOP #3-26, DISCIPLINE. In instances in which video evidence exists of the underlying facts, the department will only impose discipline based upon a consideration of the totality of the facts and circumstances and not solely upon the video evidence.

E. Recordings - Management / Evidence:

1. All recordings, including those tagged “Don’t Keep,” will be maintained for no less than 180 days. Evidentiary recordings will be retained pending the final disposition and appeal period of the case.³
2. Officers may request, in writing to the Chief of Police, that any specific inadvertent recording of a strictly personal nature be purged. The Chief of Police or designee(s) will review the request and the recording. If the recording is strictly personal, does not involve any interaction with another person, does not involve response to any call for service, and does not indicate any violation of law or department policy, the Chief may authorize the purging of the video by advising the ET, in writing.
3. The designated supervisor will be responsible for coordinating the maintenance of the BWC / MVR units, database and system, establishing the recording triggers and retention schedule per this SOP, providing staff access to review recordings and create events, and ensuring relevant training.
4. The ET will be responsible for downloading the media of any unit that will not wirelessly download, and for archiving the recordings requested for evidentiary purposes. The ET will maintain evidentiary recordings on the server, and will arrange for duplication or cloud sharing of recordings needed for case preparation or prosecution purposes, or as otherwise authorized.

F. Recordings – Access / Release:

1. The MVR / BWC equipment and all data, images, sounds, video, and metadata captured, recorded, or otherwise produced by the equipment shall be the exclusive property of the department.
2. Officers are generally authorized to record and to review recordings. No officer shall in any way attempt to erase, alter, reuse, modify, duplicate or tamper with any recordings, settings or equipment, unless explicitly authorized to do so by command staff personnel for legitimate and lawful purposes:
 - a. The department retains the right to limit or restrict officer access to recordings related to critical, unusual or other incidents or investigations on a case-by-case basis. All other access to MVR / BWC data must be specifically authorized by the Chief of Police or designee.
 - b. Accessing, copying or releasing video files for non-law enforcement purposes is strictly prohibited.
 - c. Access to the MVR / BWC system may be subject to audit to ensure that only authorized users are accessing the data for legitimate and authorized purposes.
3. Video recordings shall not be publicly inspected or released if there is a reasonable possibility that such public inspection or release would interfere with law enforcement and prosecutorial proceedings related to crimes, prejudice or interfere with the ability of a court to impanel a jury, constitute an unwarranted invasion of privacy, endanger the safety of an individual, cause a suspect to flee or evade detection, result in the destruction of evidence, or otherwise implicates the harms listed in the *Intelligence and Investigative Information Act*.⁴
4. Recordings will not be released to other than bona fide criminal justice agencies without prior approval of the Chief of Police or designee. Any outside requests for recordings will be handled in accordance with SOP #8-82-C, PUBLIC INFORMATION AND RECORDS.

By Order Of:

Timothy B. Sheehan
Chief of Police

³ See SOP #8-82-H, DEPARTMENT RECORDS RETENTION

⁴ 16 M.R.S.A. § 804