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|  <p>Winter Garden<br/>Police Department<br/>General Order</p> | <p>Number:</p> <p style="text-align: center;"><b>88</b></p> |
|  | <p>Rescinds:</p> <p style="text-align: center;">2003-01</p> |
| <p><b>SUBJECT: Mobile and Body Worn Video/Audio Recording Systems</b><br/> <b>EFFECTIVE: August 24, 2015</b><br/> <b>REVISED:</b></p>          |   |

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**88.1 PURPOSE:**

It is the purpose of this policy to provide members with guidelines for the use of mobile and body worn video/audio recording (MVR and BVR) equipment so that officers may reliably record their contacts with the public in accordance with the law.

**88.2 SCOPE:**

The use of a MVR and BVR system provides persuasive documentary evidence and helps defend against civil litigation and allegations of officer misconduct. Officers assigned the use of these devices shall adhere to the operational objectives and protocols outlined herein to maximize the effectiveness and utility of the MVR and BVR and the integrity of evidence and related video documentation. This policy does not govern the use of surreptitious recording devices used in undercover operations.

**88.3 DEFINITIONS:**

- 88.3.1 Mobile Video/Audio Recording System (MVR): Any system that is capable of capturing audio and video signals capable of installation in a vehicle and will include a camera, microphone, and data/video/audio storage system. A mobile unit may also include a monitor.
- 88.3.2 Body Worn Video/Audio Recording System (BVR): Any system that is capable of capturing audio and video signals and is worn upon the body. System includes a camera, microphone, and data/video/audio storage system.
- 88.3.3 Technician: Personnel trained in the operational use and repair of MVR and BVR systems, duplicating methods, storage and retrieval methods/procedures, and who have a working knowledge of video forensics and evidentiary procedures.

- 88.3.4 Approved MVR and BVR Devices: Digital devices approved by the Chief of Police or the chief's designee and issued by the department.
- 88.3.5 Digital Evidence: Information and data of investigative value stored on, or transmitted by, an electronic device (e.g.; photographs, video segments, audio recordings, computer files, etc.).
- 88.3.6 Digital Evidence Capturing Devices: Electronic devices that capture digital evidence or other digital data (e.g.; digital cameras, digital audio recorders, digital camcorders, digital answering machines, digital video recorders).
- 88.3.7 Electronic Document Management System: A department authorized electronic network-based system for the storage of digital files such as photographs, audio clips, video clips, documents, and others as approved.
- 88.3.8 Flash Memory/Flash Media: Computer memory that can be electronically erased and reprogrammed. This memory may be built into an electronic device or on a removable media (e.g.; Secure Digital Card, Compact Flash Card, USB "Flash Drive").
- 88.3.9 Long-term Storage Media: A digital media capable of long-term storage of digital data capable of maintaining congruent memory in the event of lost power. This includes optical discs, network storage devices, hard disc drives, and digital recording libraries.
- 88.3.10 Department: The Winter Garden Police Department

**88.4 GENERAL:**

- 88.4.1 The department has adopted the use of MVR and BVR systems in order to accomplish objectives including, but not limited to, the following:
- A. Accurate documentation of events, actions, conditions and statements made during arrests, traffic stops and other incidents, to enhance officers' reports, collection of evidence and testimony in court.
  - B. The enhancement of this department's ability to review probable cause for arrest, arrest procedures, officer and suspect interaction, evidence for investigative purposes, and for officer evaluation and training.
  - C. The documentation of crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.
  - D. The MVR and BVR systems equipment and all data, images, audio, and video captured, recorded, or otherwise produced by this equipment is the sole property of the department.
- 88.4.2 When installed in a department vehicle, MVR equipment shall be installed and maintained according to manufacturer's recommendations and department policy.
- 88.4.3 MVR and BVR equipment may not be purchased by an officer and only devices issued by this department are approved for use.

88.4.4 MVR equipment shall only be installed, modified, or removed by a designated qualified technician approved by the Chief or the chief's designee.

## **88.5 PROCEDURES:**

88.5.1 Officers shall adhere to the following operational procedures when utilizing MVR equipment.

- A. MVR equipment installed in a vehicle is the responsibility of the officer assigned to that vehicle and will be maintained according to manufacturer's recommendations and department policy.
- B. Prior to each shift, to include off-duty assignments when in uniform, officers shall determine whether their MVR equipment is working properly and shall immediately inform their supervisor of any malfunctions and make arrangements for repair. Officers shall never attempt any repair of the equipment that would require going into the internal components of the unit.
- C. Officers providing assistance to other law enforcement officers or agencies will notify them that the incident is being recorded.
  - 1. Back-up officers with an MVR who arrive on scene to assist another officer shall ensure their MVR is activated and in position to record the events, if feasible, and in accordance with the requirements of this policy.
- D. MVR equipment shall be used to record all formal law enforcement related contacts with citizens. MVR equipment will automatically activate when the vehicle's emergency warning devices are in operation. Deactivation shall not occur until the event is completed or terminated. The MVR is to be used for, but not limited to, all the below listed events:
  - 1. Emergency responses to calls.
  - 2. All traffic stops, including the investigation of an already stopped occupied vehicle and pedestrian stops.
  - 3. All vehicle pursuits.
  - 4. All searches and deployments of drug-detection canines involving vehicles, when practical.
  - 5. All arrests and/or citations and their associated investigations.
  - 6. Any incident upon direction from a supervisor, at the request of another police officer or anytime an officer deems it appropriate to activate a MVR unit.
  - 7. Any incident where it may become reasonably necessary for the officer to invoke his or her authority as a law enforcement officer. This requirement may include calls for service, requests for service and/or self-initiated activity requiring some type of police service.
- E. MVR equipment may be manually deactivated during non-enforcement activities such as directing traffic, disabled vehicle assists, extended traffic

crash or traffic homicide investigations. Whenever equipment is manually deactivated, officers shall properly document the reason(s) by audio recording the action before deactivating the device.

- F. Prior to deactivating the MVR the officer will provide a brief explanation of the recording (e.g. stating the case number, location, parties involved, etc.).
  - G. Officers will note in the narrative of the offense or arrest reports relative to the recorded incident when video/audio recordings were made during the incident in question and that they have been submitted to evidence.
  - H. Officers shall ensure that MVR equipment is operating in order to record traffic stops or other enforcement actions. In so doing they will ensure that:
    - 1. The video recorder is positioned and adjusted to record events.
    - 2. At the time the MVR is activated, all radio equipment except the department's mobile and portable radios shall be turned off or the volume decreased to prevent interference with the audio recording quality.
- 88.5.2 Officers shall adhere to the following operational procedures when utilizing BVR equipment:
- A. BVR equipment assigned to an officer is the responsibility of that officer and will be maintained according to manufacturer's recommendations and department policy.
  - B. Prior to each shift, to include off-duty assignments when in uniform, officers shall determine whether their BVR equipment is working properly and shall immediately inform their supervisor of any malfunctions and make arrangements for repair. Officers shall never attempt any repair of the equipment that would require going into the internal components of the unit.
  - C. Officers providing assistance to other law enforcement officers or agencies will notify them that the incident is being recorded.
  - D. Officers shall activate the BVR to record all official contacts with citizens or any contact where the officer can be reasonably expected to take law enforcement action. Officers should refrain from recording informal or causal encounters with members of the public. Once the BVR has been activated it will not be deactivated until the incident causing the activation has been concluded. The BVR is to be used for, but not limited to, all the below listed events:
    - 1. Emergency responses to calls.
    - 2. All traffic stops, including the investigation of a vehicle and occupants already stopped or parked.
    - 3. All vehicle pursuits and foot pursuits
    - 4. All searches and deployments of drug-detection canines involving vehicles, when practical.
    - 5. All arrests and/or citations.

6. Any incident upon direction from a supervisor, at the request of another police officer or anytime an officer deems it appropriate to activate a BVR unit.
  7. Any incident where it may become reasonably necessary for the officer to invoke his or her authority as a law enforcement officer. This requirement may include calls for service, requests for service and/or self-initiated activity requiring some type of police service.
- E. When practical, officers should inform individuals that they are being recorded. An officer who is lawfully present in an area protected by the Fourth Amendment shall activate their BVR when there is reasonable suspicion that a crime is being committed, has been committed, or is about to be committed, or that evidence of a crime is present. In the absence of such criteria, the officer must turn off the BVR if asked to do so by a person with apparent authority over the constitutionally-protected area. As a reminder, entry into a Fourth Amendment protected area requires probable cause and a warrant or warrant exception.
- F. BVR equipment may be deactivated during non-enforcement activities such as directing traffic, disabled vehicle assists, extended traffic crash or traffic homicide investigations.
- G. Prior to turning off or deactivating the BVR, the officer will provide a brief audio explanation of the recording (e.g. stating the case number, location, parties involved, etc.).
- H. If an officer fails to activate the BVR, fails to record the entire contact, or interrupts the recording, the officer shall notify their supervisor when practical and document why they failed to activate their equipment as outlined below:
1. If the officer fails to activate the device they must document the failure to activate and explain the circumstances that led to the failure. This can be accomplished by adding "notes" to a CAD event or if an offense report was generated then an explanation will be provided in the report's narrative.
  2. If the officer fails to record the entire contact, interrupts or terminates the recording prematurely, he/she will record the reason(s) before deactivating the device.
  3. Human error is unavoidable, though repeated instances of failing to activate or unexplained interruptions may result in progressive discipline.
- I. Officers will note in the arrest and related reports when video/audio recordings were made during the incident in question and that they have been submitted to evidence.
- J. Officers are not required to wear their BVR when attending training, court, funerals, award ceremonies or any other event that is approved by their supervisor.

**88.6 DATA MANAGEMENT AND SECURITY:**

- 88.6.1 Officers shall not destroy, alter or manipulate any MVR or BVR recordings in any manner unless authorized to do so by policy. Tampering with any MVR or BVR recordings may be cause for progressive disciplinary action and/or criminal charges.
- 88.6.2 It is the responsibility of the officer to ensure they have uploaded all MVR and BVR recordings at an authorized department server location in order to maintain the ability to continue recording using their equipment. The inability to activate the device due to lack of storage space will not be an acceptable explanation.
- 88.6.3 Officers shall ensure all captured videos are labeled with the proper category and when applicable, department case number. The case number shall be in the same format as listed in CAD (e.g. WGPD##CAD##### or WGPD##OFF#####).
- 88.6.4 MVR and BVR recordings shall be retained, at a minimum, in accordance with Florida Public Records Law.
- 88.6.5 All MVR and BVR recordings will be stored and retained by the department.
- 88.6.6 A department Evidence Custodian/Technician is responsible for the storage and maintenance of all MVR and BVR recordings uploaded onto the server.
- 88.6.7 Access to the server shall be limited to department members with the proper authorization or members escorted by those with proper authorization.
- 88.6.8 Officers are encouraged to inform their supervisor of any video sequences that may be of value for training purposes. In instances where a recorded audio/video contains material that is deemed beneficial for training purposes, the video may be utilized after receiving approval from the Chief or their designee. Members are encouraged to recommend videos for this purpose.
- 88.6.9 MVR and BVR audio/video recordings shall be safeguarded as any other form of evidence. As such, these audio/video recordings will:
  - A. Be subject to the same security restrictions and chain of custody evidence safeguards as detailed in department policy.
  - B. Only be released to another criminal justice agency upon first ensuring a duplicate copy remains with the department.
  - C. Not be released to other criminal justice agencies without prior approval of the Evidence Custodian or a higher authority.

**88.7 DISSEMINATION OF MOBILE AND BODY WORN AUDIO/VIDEO RECORDINGS:**

- 88.7.1 Except for evidentiary purposes or official requests, reproduction of MVR and BVR recordings by personnel is prohibited unless authorized by the Chief or the chief's designee.
- 88.7.2 Only portions applicable to the request will be copied. The original recording will be retained by the department and handled in accordance with all applicable department evidence policies and court orders.

- 88.7.3 Unusual or exceptional incidents related to law enforcement activities generate the interest of many. However, members shall not afford individuals outside the parameters of law enforcement the opportunity to review a segment of any recording without prior authorization of the Chief or the chief's designee.
- 88.7.4 All digital media collected using video recording systems are public record as defined in Chapter 119, Florida Statutes. Public records requests shall be handled pursuant to established policy.
- A. A body camera recording or a portion thereof, is confidential and exempt from § 119.07(1) and Section 24(1), Article I of the State Constitution if the recording:
1. Is taken within the interior of a private residence.
  2. Is taken within the interior of a facility that offers health care, mental health care, or social services.
  3. Is taken in a place that a reasonable person would expect to be private such as a bathroom or dressing room.
- B. Notwithstanding the above, a body camera recording may be disclosed by a law enforcement agency:
1. In furtherance of its official duties and responsibilities.
  2. To another governmental agency in the furtherance of its official duties and responsibilities.
- C. A body camera recording, or a portion thereof, shall be disclosed upon official request:
1. To a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the person's presence in the recording.
  2. To the personal representative of a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the represented person's presence in the recording.
  3. To a person not depicted in a body camera recording if the recording depicts a place in which the person lawfully resided, dwelled, or lodged at the time of the recording; however, a law enforcement agency may disclose only those portions that record the interior of such a place.
- 88.7.5 The Chief or the chief's designee may authorize the release of BVR footage in specific instances.
- 88.7.6 Accessing, copying, or releasing any recordings for other than official law enforcement purposes is strictly prohibited, except where required by law. The evidence storage solution's digital records are accessible only to authorized personnel; the system will maintain an audit of user activity.

**88.8 SUPERVISORY RESPONSIBILITIES:**

88.8.1 Supervisory personnel who manage officers equipped with MVR and BVR devices shall:

- A. Randomly review videos and recordings to assist in periodic assessment of officer performance, determine whether MVR and BVR equipment is being fully and properly used in accordance with policy, and identify material that may be appropriate for training.
- B. If for any reason a MVR or BVR is found to be inoperable or malfunctioning, the officer will immediately notify a supervisor. It is the supervisor's responsibility to ensure arrangements are being made to correct the malfunctioning equipment.
- C. All statistical reporting requirements are being completed as required to ensure adequate program evaluation.
- D. Supervisors will review the audio/video files of all MVR and BVR equipment of all officers listed in any department report, or any member who was present at any incident involving:
  - 1. Injury to prisoners
  - 2. Use of force by a department member
  - 3. Injury to department members
  - 4. Vehicle pursuits
  - 5. An officer needs emergency assistance (Signal 43)
  - 6. Citizen complaints

**88.9 TRAINING/CERTIFICATION:**

88.9.1 MVR equipment users will successfully complete proficiency training with an approved experienced user / instructor covering:

- A. Unit set-up procedures; care and proper cleaning of camera lens.
- B. Testing of the equipment.
- C. Operation during patrol.
- D. Video recording evidence procedures.
- E. Data file uploading and required notation of recordings with evidentiary or administrative value.

88.9.2 When unusual, exceptional, or felonious incidents are recorded and perceived to be of value as a training aid, the following procedure will apply:

- A. The officer will notify their immediate supervisor who will then view the



recording.

- B. If the recording is of value for training purposes and will not be required as evidence the supervisor will notify the Professional Standards Supervisor.
- C. Applicable trainers will review and evaluate the recording segment to determine its training value and reproduce it if needed upon the approval of the Chief or the chief's designee.

#### **88.10 RESTRICTIONS:**

88.10.1 The following uses of the MVR and BVR systems are strictly prohibited:

- A. Using a mobile video recording system to take a statement in lieu of a sworn written statement, unless approved by a supervisor or exigent circumstances exist.
- B. Video-recording undercover officers or confidential informants.
- C. Actively recording other agency personnel during routine, non-enforcement related activities unless recording is required by a court order or is authorized as part of an administrative or criminal investigation.
- D. Officers should avoid, when practical, recording when tactics or strategy is being discussed.
- E. Officers shall not record in any place that a person will have a reasonable expectation of privacy (e.g. bathrooms, dressing rooms and locker rooms). This should not preclude an officer from properly recording in those locations should an investigation require it or no privacy is expected.
- F. Officers shall not lead a person to believe MVR or BVRs have been deactivated when in fact they were intentionally left active.
- G. Duplicating or distributing recordings for other than official law enforcement purposes.
- H. Modifying, tampering or altering the MVR or BVR in any way. This includes removing any non-fixed memory cards from either device.
- I. Permitting citizens to review recordings for other than official law enforcement purposes.
- J. Altering captured data.
- K. Accessing recordings except for case-related purposes, responses to resistance, formal or informal complaints, legal review, supervisory review, pursuant to established policy, or as directed by the Chief or the chief's designee.
- L. Making, creating, or broadcasting by separate device or otherwise, a copy of any recording except as directed by the Chief or the chief's designee.

- M. Posting properly obtained video to social media sites without direct approval from the Chief.
- N. BVRs shall not be used to record in areas or activities such as pre-shift conferences, department locker rooms, break rooms, or other activities not related to a criminal investigation.
- O. BVR equipment shall not be utilized for personal use.