



## Newport News Police Department - Administrative Manual

# ADM-570 - IN-CAR MOBILE VIDEO CAMERAS AND AXON BODY CAMERAS®

**Amends/Supersedes:** ADM-570 (10/01/2012)

**Date of Issue:** 06/17/2013

### I. GENERAL

In order to maximize the effectiveness of Mobile Video Recording (MVR) equipment (i.e. in-car cameras) and Taser Axon® body camera equipment, police personnel shall follow the guidelines as set forth in this policy. All recorded information generated on the Department's MVR and Taser Axon® body camera equipment is the exclusive property of the Newport News Police Department. MVR and Taser Axon® body camera equipment **shall not** be used for non-official business. Copying or use of video or data for personal use is prohibited.

### II. IN-CAR MVR PROCEDURE

[83.2.2]

A. Police personnel will not utilize MVR equipment unless they have received appropriate training and have read any corresponding MVR procedures (i.e. SOP, etc.). The equipment will be operated and maintained according to the manufacturer's specifications and recommendations. The use and care of MVR equipment will be the responsibility of the officer assigned to the vehicle that is MVR equipped.

B. Prior to beginning their tour of duty, officers assigned a police vehicle equipped with a MVR shall inspect the system to ensure the hardware system is in proper working order and no damage exists. [53.1.1(a,b)]

1. The inspection will include ensuring the system is securely mounted, properly adjusted with all cables and wiring properly connected.
2. Any deficiencies shall be immediately reported to a supervisor in the form of a "To and From" letter, describing in detail the problem that exists. [53.1.1(d)]
3. The vehicle shall then be transported to the Operations Center where a work order shall be submitted for the system to be repaired by the City Electronic Maintenance Facility (Radio Shop). [53.1.1(d)]
4. No one is authorized to make any repair, adjustment or alteration to the MVR hardware system other than personnel assigned to the City Electronic Maintenance Facility or a representative from the manufacturer.

C. At the beginning and end of the officer's tour of duty, the officer will sign-in, activate the system, and ensure the following takes place:

1. The system powers up upon the vehicle starting;
2. The camera/recording software program is open;

3. The correct date and time are displayed on the monitor;
4. Officer's computer number is correct;
5. Vehicle number is correct;
6. The wireless microphone is fully charged, synchronized, and operational; and
7. A camera test is performed.

Therefore, if the video is later needed for evidence purposes, this will assist the officer in locating the exact incident.

D. Video Storage [83.2.2]

1. The officer will ensure that the frontend software is activated.
2. Upon reaching one of the wireless upload spots (i.e. the precincts, headquarters, or the radio shop), the officer shall confirm that the video is uploaded via the wireless system. An officer will ensure that he is logged out, a complete upload has occurred, and the MVR powered down at the end of his shift. [84.1.1(b)]
3. The video data for a non-event will remain in the Department's designated server for a period of 60 days, unless it is needed for a Departmental administrative investigation or later determined to be of evidentiary value. If any of these instances occur, the officer, supervisor, or Professional Standards investigator, will reclassify the data in the system. [84.1.1(b)]
4. If after 60 days, no issues have been raised concerning events captured by the video, it will be erased through the MVR System's automated retention schedule, according to the non-event classification designation.
5. When video footage is being treated as evidence, or used as part of an active investigation, the officer shall burn a DVD of the footage for court purposes in a format as set out by the court and/or Commonwealth's Attorney, and a DVD will be included with any arrest letter. A copy of the created DVD will be kept by the officer in his case information. If the officer is directly involved in a serious incident (i.e. police shooting, serious injury caused by use of force), then the shift supervisor shall be responsible for ensuring the DVD is created from the MVR System, and provided to the case investigator. [84.1.1(b)]
  - a. In addition to any required labeling by the court, any DVD created will be clearly labeled with the following:
    - 1) The case number;
    - 2) The date and time the information was captured/recorded; and
    - 3) The name and ID# of the officer who was involved in the video.

6. The original video footage, and any created DVD used for evidence purposes, containing evidence of a crime or civil litigation will be retained for at least three (3) years after the case is disposed of and all appeals are exhausted, or until released by the appropriate court and/or the Commonwealth's or City Attorney . [84.1.1(g)]
  - a. The original video footage will automatically purge from the secure server as its retention period expires.
  - b. The original footage will be maintained on the Department's secure data server, and cannot be altered or modified. The security and access to the MVR files will be monitored and controlled by the MVR System Administrator. [41.3.8 (b)]

E. Digital MVR System

1. Maintenance [41.3.8(b,c)]
  - a. Precinct Commanders shall designate one individual per precinct who shall be responsible for basic maintenance and a monthly inspection of the assigned MVR systems for that precinct.
  - b. If problems arise with the wireless upload system, or MVR software, supervisors will notify the IT Technician designated as the MVR System Administrator, or in his absence, his designee.
2. Auto-Recording Triggers – the following events will automatically trigger the recording mechanism of the MVR: [41.3.8(a)]
  - a. Activation of emergency lights;
  - b. Opening of vehicle rear passenger door;
  - c. Vehicle operation over 80 m.p.h.; or
  - d. Vehicle crash.
3. Pre-event recording – the MVR is set up with the capability of capturing pre-event recording for the 30 seconds prior to a trigger activation. Once a triggering event occurs, the recording captures the prior 30 seconds of video, with no audio capture.

F. Events that shall be recorded include, but are not limited to: [41.3.8(a)]

1. Emergency responses.
2. Traffic stops (or any time the MVR operator backs another officer on a traffic stop).
3. Vehicle pursuits.
4. Observation of DUI suspects prior to stop, during performance of field sobriety tests and during transport, if arrested.

NOTE: In the event that another officer has stopped a driver for a suspected DUI offense, the MVR operator shall attempt to respond to the scene, as soon as possible, and assist that officer. The video will then be burned to a DVD and turned over to the primary officer to be used as evidence in court. The MVR

operator must be placed as a witness in the Commonwealth's Attorney Package.

5. Transportation of all prisoners (the rear camera will be triggered to activate when the rear passenger door is opened).
6. Vehicle searches and/or inventories.
7. Acts of hostility or physical violence (whenever possible).
8. Domestic situations (both audio and video portions, if possible).
9. Any confrontational contact with a citizen/violator.
10. Any other incident that the officer feels may become an issue of some importance at a later date.
11. Major Crimes Incident/Crime Scene.

NOTE: Officers should aim the MVR at the crime scene to get the most panoramic view. If more than one MVR is on the scene, then different angles of the scene should be recorded.

#### G. Recording Guidelines

1. Officers may inform the person that MVR equipment is in use if they feel it will be beneficial to do so.
2. Officers will not discontinue videotaping at the request of anyone other than a supervisor.
3. Officers may **only** stop audio/video recording in situations where its use may compromise police operations (i.e. conversations with confidential informants, private conversations between officer and/or command personnel).
4. Officers will indicate in their incident and related reports when MVR videotaped recordings are made. Officers will indicate the date and the start and end time of the incident. Officers will classify each video recorded according to the categories set out in the MVR system.
5. Once the recording of an incident has been initiated, the recording of both the audio and video portions **shall** continue until the incident is concluded. If for any reason the recording is discontinued, the reason will be audibly documented on the videotape.
6. Officers will not attempt to erase or, in any manner alter MVR recordings.

#### H. Viewing Videos

1. If the supervisor determines that a recorded event may be of value as a training aid, the

supervisor(s) will contact the Personnel Support Division Commander, who, in turn may request a DVD copy of the video through the Administration and Support Operations Bureau Commander.

2. Officers may view recorded videos for the purpose of critiquing their own performance, assist in writing their incident and related reports, as well as preparing themselves to testify in cases where such recordings may be used as evidence.
  3. Supervisors should periodically review non-evidentiary recorded videos to:
    - a. Determine if departmental rules, regulations and procedures are being followed.
    - b. Ensure officer safety is not being compromised.
    - c. Evaluate the Department's operational procedures and recommend changes when necessary.
    - d. Investigate allegations of misconduct.
    - e. Evaluate incidents for the purpose of correcting improper or inefficient actions.
  4. The Executive Staff may review non-evidentiary, recorded video at their discretion.
  5. Sworn personnel assigned to the Professional Standards Division shall have the authority to view any MVR recorded video/copy whenever a recorded event may pertain to an administrative investigation.
  6. Recorded video relevant to a pending or contemplated criminal and/or civil action may not be viewed by others, including defendants and defense attorneys, without the permission of the arresting officer and/or prosecutor. [41.3.8(b)]
    - a. Dissemination of video information is subject to the same laws and policy as any other departmental record.
    - b. Authorized viewing shall take place at one of the designated computers with the installed backend software. Copies of duplicate video DVD's will be requested through FOIA, or subpoena duces tecum, procedure as set out in ADM-160 "Privacy/Dissemination of Information". [82.1.1(c)]
  7. Any viewing of MVR recorded video not covered in this policy will be conducted as specifically authorized by the Chief of Police.
- I. Duplication of Recorded Video Footage [82.1.1(c)]
1. The primary officer, officer's supervisor, or Professional Standards investigator shall be responsible for burning any DVD of the recorded video.
  2. The MVR System Administrator shall assist officers with the necessary equipment and instruction in order to burn a DVD as requested in accordance with this policy and approved by the Chief of Police.
  3. Requests from other law enforcement agencies shall be made on official departmental letterhead and signed by the agency head. The requesting agency must submit the number of high quality DVDs sufficient to cover the requested videotaped incident(s),

or a fee sufficient to cover the cost of purchasing suitable DVDs. This is considered a Freedom of Information Act (FOIA) request and must follow all request guidelines.

- a. The MVR System Administrator will respond to FOIA and subpoena duces tecum requests as forwarded by the Records Unit Commander (See also, ADM-160 “Privacy/Dissemination of Information”).
4. Requests for recorded videos from the media or other non-law enforcement agencies or individuals under the Virginia Freedom of Information Act will be charged a fee equal to actual costs associated with duplication (i.e., cost of DVD(s), packaging and shipping costs and employee salary and benefits).

NOTE: Active cases and evidence are exempt from being released to the public without consent from the Chief of Police

### III. AXON<sup>®</sup> BODY CAMERA PROCEDURE

#### A. Definitions

1. *Agency Administrator*: Evidence.com system administrator(s) with full access to user rights. The Department’s system administrator is a member of the Newport News Police Training Academy staff as assigned by the Academy Director.
2. *End User*: Axon user with individual account access rights to Evidence.com.
3. *Taser Axon<sup>®</sup>*: An on-officer audio-video system currently authorized as the sole means of overt on-officer audio-video recording.
4. *Evidence Transfer Machine (ETM)*: A server with built-in docking stations physically installed at the police department. The ETM simultaneously recharges the device while uploading all digitally encrypted data. The ETM then transfers the data to Evidence.com.
5. *Evidence.com*: Online Web-based digital media storage facility. The virtual warehouse stores digitally encrypted data in a highly secure environment accessible to personnel based on security clearance. The Newport News Police Department account is accessed at: <https://nnpd.evidence.com>
6. *Media/Data*: Includes photographs, audio recordings and video footage. The media is stored digitally.
7. *Axon Tactical Computer (ATC)*: Mounted on a belt, holster or concealed on the officer’s uniform.
8. *Normal (Buffering) Mode*: The on-officer body camera continuously loops video recording for up to 30 seconds before recording is started by officer. Records video only (no audio) while buffering.

9. *Event Mode:* In the Event Mode, the ATC saves the buffered video, and continues recording audio and video for up to eight hours. Continuously pressing the event button turns the recording off and on and also placed markers on the media segment for later viewing.

NOTE: Audio or video recordings of investigative or enforcement actions are evidence, and subject to rules of disclosure. The Department regulates and controls all forms of evidence collection and storage.

B. Axon Policy - Generally

1. Officers are only authorized to audio and video record investigative and/or enforcement activities using departmentally assigned body camera equipment and following the procedures prescribed within this order.
2. Axon equipment shall only be utilized by officers who have received the Department's training in its use.
3. In general, officers should not activate the Axon device or shall use caution when entering a public locker room, changing room, restroom, doctor's office or other place(s) where an individual - unrelated to the investigation - would have a reasonable expectation of privacy.
  - a. Use of the Axon device in a hospital setting shall be limited to investigative use only. Officers will not record a patient's medical interaction and procedures with hospital personnel unless it directly relates to the investigation and hospital staff is made aware prior to the recording taking place. Officers will remain cognizant of HIPAA laws and guidelines.
4. Officers shall not intentionally record confidential informants or undercover officers unless the recording is conducted specifically for the purpose of documenting a sting, drug purchase/sale or other undercover operation in furtherance of a criminal investigation.
5. Officers will not make surreptitious recordings of conversations with other department members except when necessary in the course of a criminal investigation and/or for departmental administrative investigations without the express consent of the Chief of Police.
6. Whenever an officer believes that a recorded contact may lead to a citizen complaint, he should bring the recording to the attention of his supervisor as soon as possible. If no incident report or supplementary report is prepared as a result, details of the contact will be documented via a memorandum.
7. Officers are responsible for the proper care of the Axon equipment assigned to them and will immediately report any loss of, or damage to, any part of the Axon camera equipment to their immediate supervisor.

8. Officers will download the footage from assigned Axon equipment daily and categorize each video, unless circumstances prevent it.
9. All Axon recordings shall be considered property of the Newport News Police Department. Accessing, copying or releasing any media - for other than official law enforcement purposes and as described elsewhere in this policy - is strictly prohibited and subject to disciplinary action.

### C. Procedures

1. The assigned Axon shall be worn at all times by the officer on duty.
  - a. When engaged in secondary employment, officers who are assigned Axon devices shall wear them as part of their issued equipment.
2. At the beginning of each shift, the officer shall determine whether their recording equipment is working satisfactorily. If a problem is found, the officer shall arrange for repair or adjustment and immediately report this to his supervisor.

NOTE: If the Axon malfunctions or becomes inoperable, the officer shall report to a supervisor immediately. This shall be noted in all written reports so that there is a contemporaneous record. Officer should not utilize other Officers' assigned Axon equipment at any time.

Exception: A scene where the Officer does not have an assigned Axon and needs an audio and video recording for criminal investigative purposes. This equipment use is temporary, and upon conclusion of the video, the Axon will be returned to the assigned officer.

3. The Axon shall be utilized during all investigative or enforcement contacts. (e.g., pedestrian and vehicle stops, consensual encounters, calls for service, on-view events, et cetera).
  - a. Officers shall place the Axon in the "Event Mode" as soon as practical at the onset of a given situation.
    - 1) When engaged in secondary employment, during any circumstance requiring police action, officers shall utilize the Axon device as set out.
  - b. Once in the Event Mode, officers shall continue to record until the completion of the event or until they have left the scene. This is to include the recording of associated statements.
  - c. Additional arriving units to a scene shall place their Axon cameras in the Event Mode as soon detailed in b. above.

NOTE: If circumstances prevent an officer from recording a contact, then this must be noted - along with the explanation - in any subsequent report or memorandum.



4. Once activated, a recording should not be intentionally terminated until the conclusion of the encounter unless tactical, safety or practical reasons dictate otherwise.
  - 1) In instances of response to an ongoing crime scene where extended waiting time takes place, recording may be terminated early with supervisor approval.
  - 2) Anytime a recording is terminated early, the reasons shall be documented in any subsequent report or memorandum.
5. Nothing in this policy shall prohibit an officer from activating their Axon whenever they deem the use of the camera appropriate. (See #2, #3, and #4 under Section III.B. above.)

D. Axon Video Storage

1. The Axon unit will be placed in the Evidence Transfer Machine (ETM) prior to, or at the end of shift for charging and uploading to Evidence.com, unless there are articulable circumstances preventing it.
2. Each event must be categorized according to event type so that proper retention periods will be applied.
3. Officers may use media captured via the AXON to assist with investigations or to assist with completing reports.
4. Officers involved in any significant use of force incidents or accidents causing injuries will be permitted, but will not be required, to review their own video and/or audio recordings prior to providing a recorded statement or completing reports.
5. Officers may use media captured via the Axon for training purposes, with proper authorization from the investigative unit assigned the case.

NOTE: Field Training Officers may use media captured via the Axon to provide immediate training to recruits and to assist with the completion of the Daily Observation Report.

6. If an Axon video contains evidence, the video should be uploaded no later than the end of the officer's workday.
7. Officers shall note in all IBR, Arrest and other reports when an Axon recording was made associated with that incident.
8. The Axon identifier name shall be noted on the report for any incident where a report is taken.
9. No person shall tamper with, or in any other manner alter the Axon data except as authorized elsewhere within this policy.

## E. Supervisory Responsibilities

1. Supervisors will insure that all established procedures for the use and maintenance of the Axon devices are followed and all related documentation associated with an Axon activation is completed, as required elsewhere within this policy.
2. Supervisors shall ensure that all personnel assigned to their unit have placed their Axon devices in the ETM unit for charging and uploading to Evidence.com prior to the officers securing from duty, or that any circumstances preventing this from taking place are articulated by the user and approved by them.
3. Supervisors will review all Axon video files related to:
  - a. injury to prisoners;
  - b. use of force by a department member;
  - c. injury to officers;
  - d. vehicle pursuits;
  - e. "Officer Needs Assistance" calls; or
  - f. known citizen complaints.
4. Each shift lieutenant will ensure that a supervisor on that shift shall randomly select and review at least four Axon videos during each month.
  - a. Supervisors will not review incidents known to have been previously reviewed.
  - b. Supervisors conducting these reviews will document and forward their findings, in the form of an email, to the bureau commander and the Commander of the Personnel Support and Training Division, along with a copy to the recording officer.

NOTE: These reviews will be conducted for training and integrity purposes.

5. Supervisors will conduct inspections of the issued Axon equipment to insure it is in proper working order as part of regular line inspections. Supervisors may conduct random inspections at any time, and will ensure that all Axon units are accounted for and/or immediately report any discrepancies to their bureau commanders.

## F. Review of Videos

1. Recordings may be reviewed as follows:
  - a. By any officer, at any time, who may wish to view those recordings made by him.
    - 1) Any officer wishing to create a DVD of an Axon recording made by him shall articulate the purpose and secure permission from his supervisor.
    - 2) Footage burned to a DVD shall be original and unaltered.
    - 3) Any DVDs burned by the recording officer shall remain the property of the Newport News Police Department, and shall not be used for any purpose other than set out for Axon video recordings.
  - b. By any supervisor investigating a specific incident.

- c. By any detective or other law enforcement agent, as sanctioned by a supervisor, if they are participating in an official investigation (e.g., a criminal investigation, a personnel complaint or an administrative inquiry) or for other official reasons.
- d. By any Personnel Support and Training Division personnel.
- e. By the staff of the Public Information Office for possible release to media representatives in accordance with the law and with permission of the Chief of Police.
  - 1) Due to the heightened privacy concerns associated with a video recording, any Axon video recording disclosed to the media may be edited/redacted to preserve the privacy of individuals unrelated to the case who were captured on a recording.
  - 2) When appropriate, court orders preventing or limiting the dissemination of an Axon video recording shall be secured prior to distribution.

NOTE: Axon recordings shall be treated as other forms of direct evidence and subject to discovery and disclosure in accordance with law.

#### G. Deletion of Unintentional Recordings

In the event of an activation of an Axon system during non-enforcement or non-investigative activities (e.g., restroom or meal breaks, personal and/or private conversations of an officer unrelated to any ongoing criminal or internal affairs investigation, a situation that otherwise has no valid official purpose or no apparent evidentiary or investigatory value), the recording officer may request for the deletion of the accidentally recorded video file by emailing his supervisor. If the supervisor concurs that the video has no valid official purpose and/or no apparent evidentiary or investigatory value, he shall denote his approval on the email and forwarded it to the system administrator for subsequent deletion of the video.

NOTE: The system administrator shall keep a copy of the email authorizing the deletion should any future issues arise regarding the deleted recording.

#### H. Video Retention

- 1. The retention period for any Axon recordings shall be no less than that required by the Virginia Records Retention Act (See also: Virginia Records Retention Schedule, General Schedule Virginia Localities, GS-17, series 100796 and 100797).
- 2. For retention purposes, Axon recordings relating to incidents where criminal charges are filed are considered part of the case file associated with the case and are retained in accordance with Virginia Retention Schedule guidelines for that case.
- 3. Axon recordings relating to potential criminal charges that are not filed shall be retained for at least one year after the statute of limitations has expired.
- 4. Axon recordings relating to Professional Standards Division Complaints - whether externally or internally generated - shall be retained in accordance with ADM-270 "Administrative/Internal Investigations" or until the matter has been resolved, whichever is later;

5. Axon recordings of routine events that are not associated with either a criminal investigation or a Professional Standards Division Complaint, as evidence, shall be retained for at least 30 days.
6. Axon recordings that have met the appropriate retention times defined above may be destroyed in compliance with the Library of Virginia guidelines.

I. Court and Evidentiary Video Files

1. When Axon video files are to be held for court and/or evidentiary purposes, the officer will include that information in the Evidence.com submission and will denote that a video was taken in the “Narrative” portion of his associated IBR report.
2. Anytime an Axon unit is involved in an auto accident where the unit is recording or when an Axon unit records a police vehicle involved in an auto accident, the involved officer’s supervisor shall insure that the appropriate reports have a notation in the “Narrative” section(s) indicating that an Axon video was taken.

NOTE: The City Attorney’s Office shall have access to these Axon video files as needed for any action on behalf of the city.

- a. The agency’s Fleet Coordinator will maintain a computer database of these files and act as a liaison with the City Attorney’s Office.
  - b. The Fleet Coordinator is responsible for final disposition of these Axon video files as part of an auto accident file that is not needed after the state mandated records retention period has expired. When this criterion is met, the Fleet Coordinator will notify the System Administrator that a particular Axon file(s) can be deleted.
3. Anytime an Axon unit has recorded an arrest of an individual, the arrest report shall indicate that an A/V recorded file of the arrest exists and the prosecutor’s office shall be so notified.

J. Request for Copies and/or Access to Axon Video Files

1. Any request for an Axon file should be made prior to the end of the 30-day retention period. All lawful requests for any copy of an existing Axon file will be honored according to department approved protocol for the release of information and in compliance with state law governing Freedom of Information Act (FOIA) requests.
2. Requests from outside the agency must be accepted by any member of the organization and forwarded to the Axon System administrator.
  - a. All Axon video files held as evidence will only be released with the written approval of the Commonwealth’s Attorney’s Office. All other files will be released according to department procedure and in compliance with state law governing freedom of information requests.

- b. When a request for an Axon file is made from outside of the department, a notation will be completed and the original file will be maintained in Evidence.com for the period of one year.
- c. All files requested by the Commonwealth's Attorney's Office will be honored in accordance with state and federal laws governing same.
- d. All media request for Axon video files will be referred to and processed by the Public Information Office. These requests will be processed in accordance with departmental policy and in compliance with state law governing freedom of information requests.

NOTE: This policy will not affect the release of recordings pursuant to a court order or subpoena.

- 3. The release of any Axon video recording to the general public will be subject to the parameters for release as defined in ADM-160 "Privacy/Dissemination of Information".
- 4. Recordings that contain audio or video of legitimate confidential nature will be redacted or obscured from downloaded copies of the original data file in Evidence.com. The original data file will remain complete and cannot be manipulated by system administrators or users. Following arrest or initiation of prosecution for felony or misdemeanor crimes, either the arresting officer, detective or, (for follow up disclosure requests) system administrator, will download a segmented copy of the original data file from Evidence.com. Markers will be created to identify redacted sections and will include a brief description of the reason the information is excluded. The redacted video file and marker descriptions will then be written to DVD or other portable media and provided to the Commonwealth's Attorney's Office. Upon release to the Defense, challenges to redacted information will be handled via a two-step process:
  - a. The Defense will communicate their intent to challenge and legal justification(s) to the Commonwealth's Attorney's Office in writing.
  - b. If the Commonwealth's Attorney's Office agrees that the challenge is justified, the section may be released following consultation with the Chief of Police or his designee. If the Commonwealth's Attorney's Office disagrees with the justification for the challenge and/or if the Chief of Police requests further review, the Commonwealth's Attorney's Office will advise the Defense that a motion for an "In Camera" Hearing before a judge of appropriate jurisdiction will be required if the Defense wishes to challenge the redaction further.

NOTE: Examples of legitimate confidential information include, but are not limited to; confidential informants or undercover officers revealed; tactical plans discussed; audible or visible information from investigative criminal history checks or criminal intelligence files; victim/witness personal identifiers, addresses, phones, et cetera.

James D. Fox  
Chief of Police