

**3.02-7**

DAYTON POLICE DEPARTMENT  
GENERAL ORDER  
**IN-CAR DIGITAL VIDEO  
RECORDING EQUIPMENT**



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**POLICY STATEMENT**

It is the policy of the Dayton Police Department to use in-car data capture systems to provide accurate documentation of events, actions, conditions, and statements made during law enforcement activities. In-Car video enhances our ability to review probable cause for arrest, arrest procedures, suspect/officer interaction, provides valuable officer training and establishes an impartial witness to officer/citizen contacts. The use of the in-car data capture system shall be in accordance with applicable statutory and case law.

**I. IN-CAR DIGITAL VIDEO RECORDING (DVR) EQUIPMENT**

The department has equipped marked patrol cars with in-car digital audio/video recording (DVR) systems. If an officer's assigned cruiser DVR system is out of order, out of service or not functioning properly then the officer must drive another cruiser in which the audio/ video system is functioning properly. The DVR **MUST** be used to record all outdoor encounters that meet the following criteria, either on a dispatched call or on self-initiated activity:

- **Vehicle/traffic stops**
  - **Occupied suspicious vehicles or stranded motorists**
  - **Pursuits - video should be left on when responding and during the entire length of the pursuit**
  - **Emergency runs**
  - **Any arrest or detention situation within range or view of camera**
  - **FIC's**
  - **Transports – Prisoners, Mental Health, Removals and Citizens**
  - **Any situation or incident that the officer, through training and experience, believes should be audibly and visually recorded.**
- A. Each officer shall inspect and test the DVR equipment as a part of their routine vehicle inspection at the start of their shift to ensure that the system is working properly. Officers shall report any problems to their supervisor; if there is a problem with the unit, it shall be recorded on the vehicle service request form. Cruisers with DVR equipment that is not fully functional or is in need of repair will be assigned for use only as a last resort.
- Officers will note on their on-duty screen for each shift the operability of the DVR equipment, remaining storage space and operability of microphones. If the storage space is full, the officer will attempt to upload the data before using the cruiser or will contact a supervisor.
- B. Each Patrol Operations Division officer will be issued and required to use while on duty, a microphone and an audio transmitting device. The microphone and transmitter will be tested, along with the camera test, to ensure proper operation. *For the audio /video test, the officer will record their name, pda, date and time of the test.* Officers will also inspect the transmitter battery before their shift and replace/recharge as necessary.
- If operating as a two-unit crew, the officer with the microphone will be designated as the contact officer and will make contact with the driver during traffic stops so that the audio portion of the stop can be transmitted. Only one microphone at a time can be synced with the DVR, this must be done prior to using the cruiser.
- C. The DVR will automatically engage when the emergency overhead lights are activated, speed reaches 65 MPH or higher, the rear prisoner doors are opened and during cruiser impact.
- Officers will ensure video and audio recording equipment is activated and remains active for the duration of any Emergency Response.
  - The equipment can also be activated manually inside the cruiser or by use of the wireless microphone (body and/or vehicle microphones).
  - The audio portion of the equipment is automatically activated anytime the video system is recording.
  - The in-car microphone can also be used to record conversations of anyone inside the cruiser;



- **Officers are prohibited from altering any DVR equipment in any way that would make it inoperable.**
- D. Deactivation of Camera System and/or Muting of Microphone
1. The DVR may be manually deactivated during non-enforcement activities such as protecting accident scenes from other vehicular traffic, traffic posts, parades, etc. At a critical incident scene, a lieutenant, or in their absence a sergeant, can approve the deactivation of cameras once the scene has been stabilized and there is likely no additional enforcement action to be taken.
  2. If it becomes necessary to mute or deactivate the wireless audio microphone, the officer will advise on the microphone prior to deactivation. (Reasons for deactivation/muting would include speaking with personnel from other agencies during the event, speaking with non-involved personnel, etc.).
- E. It is legal for officers to record video and audio of a defendant who is being detained in a police vehicle. The defendant has no expectation of privacy in the patrol vehicle.
1. Video and audio recording of pre-arrest activity is not deemed to violate constitutional rights and are admissible in a court of law [*United States v. Turner*, 209 F.3d 1198 (10<sup>th</sup> Cir. 2000); *See generally State v. Henderson*, 51 Ohio St. 3d 54, 554 N.E.2d 104 (Ohio 1990); *State v. Brandenburg*, 41 Ohio App. 3d 109, 534 N.E.2d 906 (Montgomery Cty. 1987)]. Therefore, the use of audio/video recording equipment in order to record pre-arrest activity is possible.
  2. In a situation where the defendant or co-defendant is seated in the rear of the police cruiser outside the presence of a police officer, the element of compulsion is not present and there is no legitimate expectation of privacy. [*State v. Wynter*, C.A. No. 97 CA 36, 1998 Ohio App. LEXIS 975 (Miami Cty. March 13, 1998); *United States v. Sallee*, 1991 U.S. Dist. LEXIS 20553 (N.D. Ill. Oct. 24, 1991); *United States v. Turner*, *supra*; *See generally Illinois v. Perkins*, 496 U.S. 292 (1990)].
  3. An officer will not stop recording an event at the request of anyone, except at the direction of a supervisor.
  4. Officers shall inform person(s) who inquire that audio and video equipment is being used. Any person, who is informed of said procedure, should also be advised that the audio/video recording may be used as evidence against them.
  5. Although DVR data is primarily used for evidence, it may be reviewed by a supervisor periodically for training purposes.
  6. Supervisors are required to use the DVR to record Citizen Complaints if practical (e.g. Supervisor is in a cruiser equipped with an DVR when approached by a Citizen Complaint, supervisor goes to contact a citizen reference to a complaint, etc.). Recordings will be marked appropriately.

## II. DATA STORAGE, RETENTION AND ACCESS

The following guidelines will be implemented for the storage, retention and access of recorded data.

- A. All recorded data is automatically downloaded at the Division Headquarters onto the local server then uploaded to the Central Server.
- Data will be held for a period of 90 days.
  - Only supervisory personnel and detectives will have access to the stored data and the ability to record a local copy to DVD or flag for an auto-burn onto DVD.
- B. Recordings of criminal evidentiary value, such as an OVI arrest or a pursuit should be requested through the Public Records Administrator to be recorded to DVD. It will be the responsibility of the person making the requests to tag and submit the DVD to the property room in compliance with General Order 1.06-1 or to place it in secure cases files. These DVD's will be retained as long as the adjudication/litigation process is continuing concerning the event that was recorded and in compliance with the established records retention schedule.
- C. Recordings of administrative evidentiary value will be saved to DVD and included in the accompanying supervisory investigative packet. These DVD's will become a part of the investigation and will be retained



with the Administrative Investigation in the Professional Standards Bureau in compliance with the established records retention schedule.

- D. All DVD's that could be used in criminal or administrative investigations shall not be intentionally altered, destroyed or recorded over until the retention of DVD has expired. Any DVD that has been altered, destroyed or recorded over without a supervisor's approval could result in disciplinary action up to and including discharge and/or criminal prosecution.
- E. All criminal evidentiary DVD generated on departmental equipment are and shall remain the property of the City of Dayton Police Department and shall not be duplicated or released outside the department without the proper authorization of the Chief of Police or his designee, except those copies made for prosecution and/or subject to motion for discovery and/or a court order or subpoena through the PRA.
- F. Any criminal evidentiary DVD that also contains administrative evidentiary value will be duplicated and the copy will be placed in the Administrative Investigation.
- G. Supervisors will only use DVD's issued by the Dayton Police Department.
- H. For DVR data that is not copied to DVD and placed in the Property room but may have Audio/Video evidence that does not meet the guidelines for placing a DVD and is tagged in the Property Room, Officers will note in the narrative section of the D.I.B.R.S. **Investigative** report and/or Uniform Traffic Citation that DVR data is available.
- I. DVD burners will be placed in the Divisions, the PRA office and Professional Standards Bureau. Any copies of DVR data will be made at those locations only.

### III. PUBLIC REQUESTS FOR DATA

- A. DVR data will be retained for a period of 90 days.
- B. Requests for copies of DVR data must be submitted on a Form RF-012 - Public Records Request Form through the Public Records Administrator (PRA). The request should contain the name of the officer, the date and time of the incident and the location where the incident occurred. The PRA will then determine if the request is legitimate, reasonable and/or releasable. The PRA will retrieve the data from the server and copy the data for the requester. The data will be redacted by the PRA prior to release to the requester. The requester will then be notified that their request is ready. The PRA will charge the appropriate duplication fee to the requester.
- C. Any public record/media request for data that has criminal or administrative value will be assessed by the Public Records Administrator and/or the Law Department for review prior to being released.

### IV. MDC AND IN CAR CAMERA ISSUE TICKETING SYSTEM

The Strategic Planning Bureau maintains a support ticket system for New Mobile Data Computers and the In-Car Digital Camera System.

Officers that need to report issues with the New MDCs or In-Car Digital Camera System are required to send an e-mail to [REDACTED]. An alternative way to report issues while on the City internal network is to go to the following internet link: [REDACTED]. It is important to be as descriptive as possible so that the issue can be resolved in a timely manner (i.e., car number, MDC terminal number, MIC#, etc.). A valid email address is required to submit a ticket.

Once a support ticket is entered into the system, the request is assigned a unique ticket number, which can be used to track the progress and responses online. For reference, complete archives and history of all previous support requests are available.