

## Mobile Audio/Video

### 422.1 PURPOSE AND SCOPE

The Fargo Police Department has equipped marked patrol cars with Mobile/Audio Video (MAV) recording systems to provide records of events and assist officers in the performance of their duties. This policy is to establish standard parameters by which the department's Mobile/Audio Video recording system is to be utilized by department personnel, to include how any video/audio recording captured or otherwise obtained through the use of the system is to be accessed and/or retained.

Department personnel having access to the department's Mobile/Audio Video recording system shall utilize the system as described within this policy. This includes the parameters associated with recording, accessing, viewing, duplicating, and/or managing any video and/or audio information captured or obtained through the use of the system. All video and/or audio recordings obtained through the use of the system shall be considered the property of the Fargo Police department and will only be used for the official business purposes of the department.

#### 422.1.1 DEFINITIONS

Definitions related to this policy include:

**Activate** - Any process that causes the MAV system to transmit or store video or audio data.

**In-car camera system and Mobile Audio Video (MAV) system** - Synonymous terms which refer to any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes at a minimum, a camera, microphone, recorder and monitor.

**In-custody** - Being in the custody of a sworn officer as the result of an arrest or judicial order.

**MAV technician** - Personnel certified or trained in the operational use and repair of MAVs, duplicating methods, storage and retrieval methods and procedures, and who have a working knowledge of video forensics and evidentiary procedures.

**Primary Officer** - The sworn officer designated or identified as being responsible for the police action, to include the completion of any case report, associated with a call for service or other incident involving department personnel.

**Recorded media** - Audio-video signals recorded or digitally stored on a storage device or portable media.

### 422.2 POLICY

It is the policy of the Fargo Police Department to use mobile audio and video technology to more effectively fulfill the mission of the Department and to ensure these systems are used securely and efficiently.

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#### **422.3 OFFICER RESPONSIBILITIES**

Prior to going into service, each officer will properly equip him/herself to record audio and video in the field; this includes department issued smart phones and digital audio recorders. At the end of the shift, each officer will follow the established procedures for providing to the Department any recordings or used media and any other related equipment. Each officer should have adequate recording media for the entire duty assignment. Only Fargo Police Department issued or approved recording systems are to be used.

At the start of each shift, officers should test the MAV system's operation in accordance with manufacturer specifications and department operating procedures and training. Any problems or defects with the system or equipment shall be reported to an on-duty Field Services Division supervisor as soon as practical. A problem or defect with the MAV recording system, which renders the system inoperable within that vehicle does not preclude an officer from using the vehicle in the performance of their work duties.

#### **422.4 ACTIVATION OF MAV**

The MAV system is designed to turn on whenever the unit's emergency lights are activated, the speed threshold is met, the vehicle is involved in a significant accident, or the system can be turned on manually. The system remains on until it is turned off manually. The audio portion can be independently controlled and can be activated manually by the officer whenever appropriate. When audio is being recorded, the video will also record.

##### **422.4.1 REQUIRED ACTIVATION OF THE MAV**

This policy is not intended to describe every possible situation in which the MAV system may be used, although there are many situations where its use is appropriate. An officer may activate the system any time the officer believes it would be appropriate or valuable to document an incident.

In some circumstances, it is not possible to capture images of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the MAV. The MAV system shall be activated in any of the following situations when it is practical, reasonable, and/or necessary for an officer to do so:

- (a) All field contacts involving actual or potential criminal conduct within video or audio range:
  - 1. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
  - 2. Priority responses
  - 3. Vehicle pursuits
  - 4. Suspicious vehicles
  - 5. Arrests
  - 6. Vehicle searches
  - 7. DUI investigations including field sobriety tests

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#### 8. Crimes in progress

- (b) Any other contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording.
- (c) Any other circumstance where the officer believes that a recording of an incident would be appropriate.

The requirement to record all enforcement actions taken by an officer does not extend to every action associated with an enforcement action. Officers may choose not to record certain activities associated with an enforcement action such as communicating with other officers, witnesses, or a complainant. Officers are expected to exercise their discretion and judgment towards determining the need or relevance of recording their work activities beyond those which are required.

Employees are strictly prohibited from intentionally manipulating the department's MAV recording system in any manner so as to avoid recording any enforcement action (except as described above), any activity associated with the operation of the police vehicle, or any other activity where the use of the MAV system is required.

#### 422.4.2 CESSATION OF RECORDING

Once activated, the MAV system shall remain on until the incident has concluded. For the purpose of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and all witnesses and victims have been interviewed. Employees are not prohibited from manipulating the MAV system to avoid or limit the unnecessary recording of an activity which is routine in nature such as travel, the transportation of a person not in custody, or the extended transportation of a person who is in custody from one jurisdiction to another.

#### 422.4.3 WHEN ACTIVATION NOT REQUIRED

Activation of the MAV system is not required when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol.

No member of this department may surreptitiously record a conversation of any other member of this department except with a court order or when authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation (N.D.C.C. § 12.1-15-02).

#### 422.4.4 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if vehicles with non-functioning MAV systems should be placed into service.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, department-involved accidents), a supervisor shall ensure all applicable vehicles with recordings relative to the incident are driven to a data download site as soon as possible. The recordings may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

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### **422.5 REVIEW OF MAV RECORDINGS**

All recording media, recorded images and audio recordings are the property of the Department. Dissemination outside of the Department is strictly prohibited, except to the extent permitted or required by law.

When reasonably possible, a copy of the original media shall be used for external viewing or listening (unless otherwise directed by the courts).

Recordings may be reviewed in any of the following situations:

- (a) For use when preparing reports or statements
- (b) By a supervisor investigating a specific act of officer conduct
- (c) By a supervisor to assess officer performance
- (d) To assess proper functioning of MAV systems
- (e) By an investigator participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation
- (f) By department personnel who request to review recordings
- (g) An officer who is captured on or referenced in the video or audio data may review such data and use the data for any purpose relating to his/her employment.
- (h) By court personnel through proper process or with permission of the Chief of Police or the authorized designee
- (i) By the media through proper process or with permission of the Chief of Police or the authorized designee
- (j) To assess possible training value
- (k) Recordings may be shown for training purposes. If an involved officer objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the officer's objection.

Employees are strictly prohibited from deleting and/or altering any video and/or audio recording captured through the use of the department's MAV recording system. Employees may add notes or commentary to any such recording as long as the accuracy and integrity of the video and/or audio recording is not compromised.

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

### **422.6 DOCUMENTING MAV USE**

All video and/or audio recordings obtained through the use of the department's MAV recording system related to the arrest of any person for a criminal offense, or those recordings obtained as

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part of any criminal investigation, felony motor vehicle stop, motor vehicle pursuit, or response to resistance incident, shall be appropriately categorized and identified with a corresponding case report number by the officer responsible for capturing the recording. The officer shall further note the existence of any such recording with the corresponding case report's arrest narrative.

In the absence of an arrest associated with a case report in which a video and/or exists, the officer shall complete the department's Arbitrator 360 Video/Audio Disclosure report and submit it for attachment to the case report.

[See attachment: Video-Audio Disclosure Form.pdf](#)

All video and/or audio recordings obtained through the use of the department's MAV recording system related to traffic enforcement actions shall be appropriately categorized by the officer responsible for capturing the recording. In addition, officers shall note the existence (or non-existence) of any video/audio recording upon any traffic citation issued by the officer.

It shall be the responsibility of the primary officer involved in an incident or traffic enforcement action where a video and/or audio recording obtained through the use of the department's MAV recording system exists, to ensure all video and/or audio recordings associated with the incident or traffic enforcement action are categorized appropriately and retained in accordance with the parameters of this policy.

#### **422.7 RECORDING MEDIA STORAGE AND INTEGRITY**

All video and/or audio recordings obtained through the use of the department's MAV recording system shall be appropriately categorized by the officer responsible for capturing the recording and retained for no less than 90 days from the date of the recording or as otherwise determined by the following categories:

| <b><u>Category</u></b>  | <b><u>Retention Period</u></b> |
|-------------------------|--------------------------------|
| Test                    | 90 days                        |
| No Event                | 90 days                        |
| Non-Criminal Traffic    | 180 days                       |
| RTR/Other Policy        | 365 days                       |
| Criminal Traffic        | three (3) years                |
| Misdemeanor Non-Traffic | three (3) years                |
| Felony                  | ten (10) years                 |

All video and/or audio recordings shall be automatically purged and deleted from the storage server at the end of the established retention period unless a command officer determines there is reason to retain the video/audio recordings longer.

Only upon authorization received from the Chief of Police or a division commander may a video/audio recording obtained through the use of the department's MAV system be

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deleted, destroyed, or purged from retention by the department outside the parameters established above (ex. purging video/audio recordings once the Evidence Property Manager has received notice from the courts that the department can purge physical evidence relative to a case which is located in the department's property room).

#### **422.7.1 COPIES OF RECORDING MEDIA**

Upon proper request, a copy of the original recording media will be made for use as authorized in this policy.

Original recording media may only be released in response to a court order or upon approval by the Chief of Police or the authorized designee. Requests to duplicate, copy, or release any video/audio recording obtained through the use of the department's MAV system and retained by the department, shall be in writing and submitted to the Administrative Services Division commander.

Only upon authorization received from the Administrative Services Division commander may any such video/audio recording be duplicated, copied, or released. The Administrative Services division commander may appoint a designee, who shall have the authority to duplicate, copy, and/or release any video/audio recordings obtained through the use of the department's MAV system unless otherwise permitted within this policy.

Personnel assigned to the Office of Professional Standards (OPS) may duplicate any video/audio recording obtained through the use of the department's MAV system for the purpose of examining or resolving any personnel complaint or other internal affairs issue.

#### **422.7.2 MAV RECORDINGS AS EVIDENCE**

Officers who reasonably believe that a MAV recording is likely to contain evidence relevant to a criminal offense, potential claim against the officer, or against the Fargo Police Department should indicate this in an appropriate report. Officers should ensure relevant recordings are preserved.

### **422.8 SYSTEM OPERATIONAL STANDARDS**

- (a) MAV system vehicle installations should be based on officer safety requirements and vehicle and device manufacturer recommendations.
- (b) The MAV system should be configured to minimally record for 30 seconds prior to an event.
- (c) The MAV system may not be configured to record audio data occurring prior to activation.
- (d) Unless the transmitters being used are designed for synchronized use, only one transmitter, usually the primary initiating officer's transmitter, should be activated at a scene to minimize interference or noise from other MAV transmitters.
- (e) Officers using digital transmitters that are synchronized to their individual MAV shall activate both audio and video recordings when responding in a support capacity. This is to obtain additional perspectives of the incident scene.

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- (f) With the exception of law enforcement radios or other emergency equipment, other electronic devices (such as audio and video playing devices) should not be used inside MAV-equipped law enforcement vehicles while the MAV system is recording in order to minimize the possibility of causing electronic or noise interference with the MAV system.
- (g) Officers shall not erase, alter, modify, or tamper with MAV recordings. Only MAV technicians (select IS personnel) have the ability to erase MAV Recordings at the authorization of the Chief of Police or division commander.

### **422.9 MAV TECHNICIAN RESPONSIBILITIES**

The MAV technician is responsible for:

- (a) Retrieving and storing of all recorded media.
- (b) Collecting all completed media for oversight and verification of wireless downloaded media. Once collected, the MAV technician:
  - 1. Ensures it is stored in a secured location with authorized controlled access.
  - 2. Monitors the system to ensure adequate server storage is available.
- (c) Erasing of media:
  - 1. Pursuant to a court order.
  - 2. In accordance with established records retention policies, including reissuing all other media deemed to be of no evidentiary value.
- (d) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the records retention schedule.

### **422.10 AUDIO RECORDINGS**

Any time the MAV system is used in the capacity of an audio recorder, the Use of Audio/Video Recorders Policy shall apply.

### **422.11 TRAINING**

All members who are authorized to use the MAV system shall receive instruction on how to properly operate the MAV system prior to its use. This is generally accomplished by a Police Training Officer (PTO) when a new officer is in the PTO program.

## **Attachments**



## **Video-Audio Disclosure Form.pdf**

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### Arbitrator 360 Video/Audio Disclosure Form

Case Number: \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_

**\*\* CASE NUMBER RECORDED WITHIN SYSTEM MUST INCLUDE 13 CHARACTERS (Example: 2012-00053535)**

Suspect/Subject Name: \_\_\_\_\_

Police Vehicle #: \_\_\_\_\_

Date/Time of Video/Audio Recording: \_\_\_\_/\_\_\_\_/\_\_\_\_ @ \_\_\_\_hrs

Officer Name (print): \_\_\_\_\_ Computer #: \_\_\_\_\_

Type of Offense: \_\_\_\_\_

Category (circle one):      Felony                      Misdemeanor Non Traffic  
   RTR/Other Policy              Other \_\_\_\_\_

Police vehicle #'s for other units that recorded video/audio relative to this case - **(include only if other unit video/audio contains evidentiary value and ensure it is categorized with same case number)**:      \_\_\_\_\_

\*\*\*\*\*

Date/Time of Disclosure: \_\_\_\_\_

Officer Name and Computer # (print): \_\_\_\_\_

**\*\* Officer completing form please forward to Records**