

# Stowe Police Department

<b>General Order:</b> 1.19  <b>Mobile Communication Devices</b>	<b>Related General Orders:</b> 1.22 Mobile Data Computers
This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.	
<b>Applicable Vermont Statutes:</b> 23 VSA 1099, 23 VSA 1095b	
Date Implemented: 04/24/2012	Date Revised: 10/02/2013, 09/19/2014, 04/14/2015, 09/05/2016

## I. **PURPOSE:**

1. The purpose of this policy is to provide officers with guidelines for the use of cellular phones as well as similar mobile communication devices, hereafter referred to as "MCDs." This policy does not cover the use of Mobile Data Computers (MDC).

## II. **POLICY:**

1. It is the policy of this Department to use MCDs in the course of police operations to enhance departmental communication. MCDs may be used by officers to conduct official business when the use of radio communication or landline telephones is inappropriate, unavailable, or inadequate to meet communication needs and when the device is used in accordance with this policy. Information or data housed in personal or departmental MCDs related to the course and scope of employment is the property of this police department.

## III. **DEFINITIONS:**

**Course and Scope of Employment:** Employee work or actions, whether performed on or off duty, to further the department's law enforcement responsibilities and goals as authorized by law; statute; or departmental policies, procedures, rules, and training.

**Disruptive Activity:** Any time that MCDs would be considered disturbing, such as in meetings, training sessions, court, or public places when their use would reasonably be deemed inappropriate or intrusive.

**Distraction:** Any time the use of an MCD would divert, hinder, or delay the attention of an officer from official duties and/or cause a potentially hazardous situation.

**Mobile Communication Device (MCD):** Cellular telephones, personal digital assistants (PDAs), tablets (ipad, etc.) and any such device designed to record, transmit, and/or receive voice communications, text messages, e-mail, sound, video, or photographic images.

**Personal Use:** Use of an MCD, to include verbal conversations, texting, Internet use, game playing, and similar functions, that is unrelated to an officer's employment.

IV. **PROCEDURE:**

1. **Use of MCD's:**

- A. MCDs shall be used only to conduct official police business while the officer is on duty. Departmentally issued MCDs, including cell phones, may be used off-duty for conducting department police related business. Only department issued cell phones shall be used for any department police related business while on-duty. The use of personally owned cell phones for conducting department police related business while on-duty is prohibited.
- B. Use of personally owned MCD's, other than cell phones, is prohibited while on-duty.
- C. MCDs are an augmentation to the department's communication system, not a substitute for radio communication designated for transmission through the department's emergency communication center. Approved uses include, but are not limited to, the following types of communications:
  - a. Conveyance of sensitive or restricted information
  - b. Transmission of information related to undercover operations
  - c. Lengthy communication with other personnel on a department-related matter
  - d. Communication beyond normal radio range
  - e. Incidents in which use of a landline telephone would be appropriate but where one is not available
- D. Personnel should not normally provide the number of their MCDs to members of the public. Exceptions may be made when immediate future contact between an officer and a victim, witness, or other person may be important.
- E. Personnel shall not provide the MCD number of any other member of this agency to a member of the public without that member's authorization.
- F. Department personnel will adhere to any law that pertains to the operation of a vehicle while using an MCD. Department personnel are prohibited from using a

cellular phone when operating a Department vehicle, unless the vehicle is equipped with Bluetooth or hands-free devices.

- G. Non-department police use of an assigned cell phone, is permitted and shall be occasional or for emergencies. If the non-department police related usage of the cell phone results in a direct cost to Town, it is the employee's responsibility to reimburse Town.
- H. Audits of departmentally issued MCD may be conducted at the department's discretion.
- I. The records of a department MCD may be subject to review by the department.
- J. This department reserves the right to deny the use of any personal MCDs while the officer is on duty. When authorized, officers electing to carry personally owned cell phone while on duty must provide the department with the calling number.
- K. Department personnel who are charged with traffic violation(s) resulting from violating this General Order, will be solely responsible for all liabilities that result from such actions.

**2. Use of Audio and Visual Recordings:**

- A. Voice, text, or image recordings obtained during the course and scope of an officer's employment—whether by personal or departmentally issued equipment—are the property of this department and are governed by evidentiary policies of this department, and any public records retention and disclosure laws of this state.
- B. Audio recordings of conversations may be subject to federal and state wiretapping laws.
- C. The use of personal audio- or video-recording devices, where authorized by the department, may be used to preserve perishable evidence when better options are not reasonably available. Officers shall make their supervisor aware of any recorded information that is obtained during the course and scope of the officer's employment or that may be reasonably considered germane to an investigation or other departmental business.
- D. No officer will erase or attempt to delete, remove or alter any image, video, or audio file related to department business or taken while on duty from an MCD, prior to being saved on department server or appropriately copied.
- E. Officers shall not keep personal copies of any image, video, or audio file related to department business.

- F. Text, voice, or photographic images made in the course of conducting official police business, whether on or off duty, may be shared with other personnel in this department or outside agencies for the purpose of official departmental business.
- G. Personnel shall not use MCDs to share messages or visual or audio recordings with social or other print or electronic media, when such communications could reasonably be considered positions of this police department, could undermine departmental integrity, or bring disrepute to the department or its members.
- H. In no case will any photograph, digital or other media be published in any manner outside the proper investigative practices and department policy.
- I. Public Records Law and Administrative Investigations.
  - a. Employees must recognize that calls, text, messages, e-mails, video and photographic images sent or received on a department MCD is subject to Vermont's Public Records Law and may be covered by the State of Vermont's retention schedule for municipal records.
  - b. Employees shall be aware that syncing a personal MCD with department devices, i.e. phones, computers, e-mails, calendars, etc. may bring the officers private communications within the realm of a public record.
  - c. Employee's use of a personal cellular phone during work hours may also make the data stored within the cellular phone as well as data stored on the server, subject to the civil and criminal discovery process.

**3. Other Requirements and Regulations:**

- A. Department personnel should limit use of MCD's while working paid details.
- B. Department personnel shall limit their use of MCD such that their duties to the Department are not compromised.
- C. Department personnel are not permitted to loan or let anyone use a department MCD, other than a cell phone to another Town employee or volunteer for Department for municipal purposes
- D. Department personnel must report the theft or loss of his/her department MCD immediately to the Chief of Police through the chain of command.
- E. Upon separation of employment a department employee must return the department provided MCD.
- F. Department issued MCD's shall not be used for personal financial gain or for illegal purposes. MCD use shall be treated with the same degree of propriety,

professionalism, and confidentiality as written correspondence. Except for police acting within the scope of their official duties (e.g. investigation), the following are examples of uses of the department MCD that are prohibited:

- a. The transmission of materials or messages that involve the use of obscene/offensive language, images or jokes, sexually explicit materials or messages that disparage any person, group or classification of individuals.
  - b. Access to internet resources, including but not limited to sexually explicit websites, that are inappropriate in a business setting.
- G. MCD's used in the course of department business may not be used to defame, harass, intimidate or threaten any other person(s).

### ***MESSAGING***

1. MDC messaging is defined as any message sent or received from one MDC to another.
2. MDC messaging, on a department MDC, shall be used for department business and is subject to the following restrictions:
  - A. The message shall have a reasonable communicative purpose.
  - B. Messages must be authored in a professional business-like manner, which would be considered acceptable as public record.
  - C. The communication shall not be used to harass, annoy or alarm any recipient or third party.
  - D. The communication shall not contain language, acronyms or symbols representing language that would be considered offensive or obscene to a reasonable member of the public.
  - E. The content shall not bring discredit to any public safety employee (including coworkers) or public safety agency.
  - F. The content shall not bring unwarranted discredit to a member of the public.
  - G. The communication shall not contain any home address or telephone number of law enforcement personnel unless that employee has given express permission to transmit the information.
  - H. The communication shall not contain any slanderous statements toward any group, organization or individual.

**V. DISCIPLINE:**

Any violation of this policy may be grounds for disciplinary action consistent with any applicable collective bargaining agreement, statute, Department policy or Town policy.

Issued by: \_\_\_\_\_

Donald Hull  
Chief of Police