

# POLICY & PROCEDURE

## EVANSVILLE POLICE DEPARTMENT

SUBJECT: **MOBILE AUDIO/VIDEO RECORDING EQUIPMENT** NUMBER: 06.28  
ISSUED: 02/15/2013  
SCOPE: All Sworn Personnel EFFECTIVE: 02/15/2013  
DISTRIBUTION: Policy & Procedure Manual  RESCINDS NEW  
X AMENDED  
11-16-15  
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WI State Statute: 19.32(2), 165.87, STANDARDS: N/A  
973.06(1)(av)

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INDEX AS: Audio/Video Recording Equipment  
Body Worn Camera  
Mobile Video/Audio Recording System (MVARs)  
Video Recording Equipment

PURPOSE: The purpose of this policy is to establish guidelines for the use, management, storage and retrieval of recordings from the department's body worn camera (BWC) system and squad camera system (MVARs).

This Policy & Procedure consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. PROGRAM OBJECTIVES
- IV. OPERATING PROCEDURES
- V. RECORDING CONTROL AND MANAGEMENT

## I. POLICY

This policy establishes standards and guidelines related to the capture and use of audio and video recordings produced by body worn cameras (BWC) and/or squad video cameras (MVARs). This policy applies to all members assigned a BWC and/or MVARs, and any members, investigative personnel, and support staff responsible for preparing cases for criminal and non-criminal prosecution and the release of public records.

- A. Evansville officers are required to use all available audio/video equipment throughout their tour. Body worn cameras (BWC) and squad video cameras (MVARs) shall be used by each officer to record contacts/events.
- B. Officers shall take a BWC at the start of their shift, wear one and use it to capture and record contacts/events, and download its contents at the shift's end, labeling it with name, date, case number, etc.
- C. Squad cameras (MVARs) are equipped in three of the department patrol vehicles. Officers shall always use a squad equipped with an MVARs unit if available, unless on special assignment directed by the Chief of Police and/or his/her designee.
- D. Whenever an officer has reason to believe that a contact has an enforcement nature, or believes it is in the best interest of the Evansville Police Department, the contact should be recorded. In general, contacts of an enforcement nature include but are not limited to:
  1. Citations
  2. Arrests
  3. Warnings
  4. Investigations
  5. Responding to complaints and/or calls for service
  6. When in Medical Facilities: Officers shall take into consideration the HIPAA laws that protects patients. Officers should be conscious to not record other patients in a medical setting. Officers will not turn on their body camera in a medical facility unless it is necessary to capture the following circumstances:
    - a) When responding to a crime or a situation where we are there to prevent a potential serious or imminent threat (out of control person) to an individual or the public.
    - b) Officer believes that they are able to obtain evidence of a crime that occurred on the premises.

- c) When there is a death at the medical facility that resulted from criminal conduct.
- d) When responding to an off-site medical emergency, where the victim came into the emergency room (example: for a gunshot wound, stabbing, etc.).
- e) When a search warrant/warrant has been obtained and is being executed.
- f) When responding to identify/locating a suspect of a crime, fugitive, material witness or missing person.
- g) When bringing a suspect or victim to the medical facility or responding to the medical facility to talk to a suspect or a victim of a crime (adult or child), when collecting evidence or obtaining evidence from talking to them.
- h) The Police Department will not release any information/video per policy that would be captured on our cameras that would violate the HIPAA laws or that contain medical information.

Note: See IV. D.7 for additional explanation of use requirements

## II. DEFINITIONS

- A. USE OF FORCE INCIDENT: Any amount of force beyond cooperative handcuffing used by an officer to control an uncooperative person.
- B. (BWC) BODY WORN CAMERA/TRANSMITTER: A portable audio and/or video recording device which can be worn on an officer's body.
- C. CLOUD STORAGE: A mode of data storage where the digital data is stored in computer servers located offsite and accessed via the internet. The storage is or may be maintained by a third party under contractual agreement.
- D. (MVARs) MOBILE VIDEO/AUDIO RECORDING SYSTEM: Portable, wireless, electronic devices designed for capturing audio and/or video recordings. This includes body worn cameras, and/or in squad mobile video/audio recording system.
- E. AUDIO/VIDEO RECORDING EQUIPMENT: MVARs and/or BWC recording units.

## III. PROGRAM OBJECTIVES

- A. The Evansville Police Department has adopted the use of mobile audio/video recording equipment (MVARs) & (BWC) in order to accomplish the objectives listed herein. Each audio/visual recording system will be used to document various events that occur during the duty shift of the assigned member. Upon completion of the assigned member's shift, all captured data will be securely preserved.
- B. BWC/MVARs technology facilitates the department's objectives to collect evidence for prosecutions, ensure both officer and citizen accountability, facilitate administrative inspection functions, and provide a valuable training aid by allowing for the evaluation of officer and citizen behavior.
- C. BWC/MVARs accurately documents events, actions, conditions, and statements made during arrests and critical incidents so as to enhance officer reports, collection of evidence and testimony in court.
- D. BWC/MVARs enhances the police department's ability to review probable cause for arrest, arrest procedures, officer/suspect interaction, evidence for investigative purposes, as well as officer evaluation and training.
- E. BWC/MVARs protects officers from false allegations of improper police conduct.
  - 1. Note...Under s. 973.06 (1) (av) of the Wisconsin Statutes, the costs, fees, and surcharges taxable against the defendant shall consist of the following items and no others if a defendant violates s. 946.41, Wis.Stats., by obstructing an officer; the reasonable costs expended by a state or local law enforcement agency or emergency response agency to respond to or investigate the false information that the defendant provided or the physical evidence that the defendant placed. Costs allowable under this paragraph may include personnel costs and costs associated with the use of police or emergency response vehicles.
- F. The Department recognizes that cameras can't always capture everything that is seen by the officer or that happens at a scene, but can act as a tool to help explain an event. Sometimes the cameras are unintentionally obstructed, on a fixed mount, or may not have enough frames per second to capture what the human eye saw or perceived.

#### IV. OPERATING PROCEDURES

- A. Care and use of the mobile audio/video recording equipment is the responsibility of the officer assigned to that equipment and shall be used in conformity with Department policy and training.

B. Prior to each shift, officers shall take the following steps to determine whether their recording equipment is working properly and shall report any problems to a supervisor as soon as practical.

1. Officers will power on the MVARs/BWC and ensure each is functioning properly throughout their shift.
2. The systems power supply shall be checked by one of these three available methods - manually, activating emergency lights, and activating remote wireless microphone/transmitter. (MVARs)
3. The officer will ensure the encoded MVARs date/time is accurate.
4. The MVARs audio and video camera shall be zoomed back to its widest point of view and positioned to record events.
5. The "Time Left" on the MVARs media display shall be checked. If there is 20 minutes or less remaining, a supervisor shall be notified.
6. Verify that the assigned MVARs microphone/transmitter is properly functioning.
7. Any malfunction shall be reported to a supervisor as soon as practical.
8. Body worn camera is fully charged before each shift

C. Available body worn wireless microphone transmitters (BWC) will be located in the Department squad room. These wireless transmitters should generally be worn on the officer's uniform in a manner as to not interfere with the recording (shirt pocket, lapel, etc).

1. The purpose is to put the transmitter in the best position to record as much information as possible.
2. Officers are not expected to jeopardize their safety in exchange for obtaining better audio/video recordings.

D. Operating Guidelines:

1. The MVARs record mode will be automatically activated whenever the emergency lights are activated. BWC's must be activated manually.
2. Once recording, personnel shall ensure there are no obvious obstructions to recording.
3. Subject to the exceptions set forth elsewhere in this policy, once recording has begun it shall remain on until the incident has reached its conclusion or the officer has left the scene. Officers must remember to turn off the recording at the conclusion of the incident.

4. Subject to the exceptions set forth elsewhere in this policy, with automatic MVARs activation, officers will record all of the events outside and inside the squad and the recording unit will not be powered off until after the officer clears the scene, unless directed by a supervisor. Automatic activation occurs at a specific preset speed and upon a collision.
5. Manual activation is required for any citizen contact other than the listed exceptions, any situation where there is potential evidence to be recorded, or where directed by a supervisor.
  - a. MVARs manual activation is accomplished by:
    1. Activating the emergency lights
    2. Pressing the GPS button
    3. Pressing the record button on the rear view mirror
    4. Pressing the record button on the wireless transmitter
  - b. BWC manual activation is accomplished by sliding the front button up.
6. Manual activation is not required for:
  - a. Station calls
  - b. Lunch breaks; breaks
  - c. Foot patrols, {unless an occurrence during foot patrol becomes an incident}
  - d. Non-investigative contacts
7. Officers will make every effort to record their interactions while conducting enforcement or investigative contact with the public including but not limited to:
  - a. Officer/subject contacts
  - b. All officer/subject contacts during an arrest including approach, custody, statements, transportation, department booking process and release.
  - c. All officer/subject contacts of arrested subjects taken to the Rock County Jail, Juvenile Detention Center, or other facility. Such recordings may cease once custody of the subject has been transferred.

d. Additional nonexclusive examples:

1. Vehicle contacts/traffic stops
2. Impaired driver investigations
3. Field interviews and pedestrian stops
4. Transporting citizens or prisoners
5. Searches of persons or property
6. Dispatched calls for service
7. Crime scenes
8. Crash scenes
9. Advising a subject of Miranda warnings
10. Suspect/witness statements and interviews
11. Vehicle and foot pursuits
12. Emergency response to critical incidents

e. Any other contacts with persons under circumstances that lead the officer to believe that the specifics of the contact may need to be retrieved or reviewed.

8. Exceptions to recording

- a. Police members have discretion in whether or not to record potentially sensitive events or circumstances and/or those events that might unduly embarrass a citizen or unreasonably invade citizen privacy (e.g., victims of a sexual assault, child victim statements /interviews, nude persons who are not the target of enforcement action, or a citizen victim/witness who requests he or she not be recorded while giving a statement, or where otherwise authorized in this policy).
- b. Continuous, non-stop recording during contacts or incidents of an enforcement nature is not required when officers are not in direct contact with the suspect, or other persons involved. Examples when officers may choose to deactivate their recording equipment include, but are not limited to:
  1. Member to member conversations about crime charging issues or other general conversations.
  2. Traffic control at fires, crime scenes, or crash scenes when the member's likelihood of being involved in enforcement activities is low.
  3. Lengthy hospital stays awaiting medical clearance unless

enforcement actions are likely, the likelihood of additional criminal activity or escape attempt is high, the suspect is making voluntary statements, or the member is gathering additional evidence, such as OWI blood draws.

4. Running checks and completing paperwork in a squad car, away from the violator, during a traffic stop.
  5. Conferring with backup officers away from the suspect or any person involved in the incident.
  6. While speaking with anyone who is not directly involved in the incident such as medical or fire personnel.
  7. When recording might lead to citizen embarrassment or substantial interference with privacy and recording is not otherwise required to meet the objectives of this policy.
- E. Officers shall document in all incident reports whenever recordings are made during an incident in question. This should be done at the beginning of the report when the officer(s) identify if bank or juvenile information is included in the report.
- F. Each officer equipped with a body worn camera shall record enforcement contacts he or she is participating in. If multiple officers are involved in an enforcement contact, all officers will record the contact.
- G. Officers shall not intentionally alter recordings in any way. If accidental recordings of nonpublic interaction or recordings are made in error that infringes on an officer's reasonable expectation of privacy (i.e. accidental recording of bathroom breaks), an edited copy may be created with supervisor approval. The original recording will be maintained along with the edited copy per the retention guidelines.
- H. Officers are encouraged to inform their supervisors of any recorded sequences that may be of value for training purposes, court, or unusual circumstances or events.
- I. Officers shall not use mobile audio/video recording equipment to record administrative conversations, i.e. disciplinary actions, supervisor's directives, or talks between employees.
- J. Use of MVARs/BWC is for on-duty, official police business only.
- K. Officers are reminded of the restrictions in s. 175.22, Wis. Stat., prohibiting audio or video recording in locker rooms.

## V. RECORDING CONTROL AND MANAGEMENT

- A. Recordings are subject to existing State of Wisconsin open records laws.

1. The Records Custodian will establish a reproduction fee for the duplication of recordings. The fee will include the cost of storage media and the actual necessary costs of the reproduction effort.
  2. Recordings may be duplicated for another criminal justice agency when required for trial, or otherwise authorized by the Chief of Police or the Chief's designee.
- B. Recordings may be shown to Evansville Police Department employees for training and evaluation purposes.
1. Recordings may be shown to persons other than Evansville Police Department employees provided prior approval is obtained from the Chief of Police or the Chief's designee.

C. Storage of Media

1. MVARs media will be downloaded as determined by an assigned supervisor to an allocated hard drive. This hard drive shall be kept in a secured location only accessible by the assigned supervisor.
2. BWC media (body cams) will be downloaded and stored internally or via cloud storage, daily. This shall be done after each shift by the officer ending his/her tour.
  - a. Officers who capture audio and video will be responsible for labeling each audio/video and connecting the camera to the docking station used to upload videos to the storage, and re-charge the battery.
  - b. The labeling of media will include, but not be limited to, category and case number, date, time, and officer ID.
3. Storage of Media as Evidence: the recording media will be recorded as evidence when any of the following events are captured:
  - a. Operating while intoxicated arrests
  - b. Physical altercation(s) or any use of force
  - c. Patrol vehicle collision
  - d. Injury to officer or citizen
  - e. Pursuit
  - f. Any custodial arrest
  - g. Any death related to a shooting/use of force incident (actual or alleged)

h. Any search conducted during temporary questioning (a “Terry stop”) provided in Wisconsin State Statute 968.25

i. Incident involving citizen complaint

j. Any other incident in the officers or supervisors judgment that should be secured as evidence-subject of litigation, a criminal case, municipal court cases, discovery, etc.

4. Storage of media not held as evidence

a. The assigned supervisor shall remove the recorded MVARs media weekly from each squad car and download it onto the assigned hard drive.

b. The recorded media will be stored in files identified in weekly increments.

c. After 120 days, pursuant to policy 10.05 Retention of Records, the recorded data may be erased.

5. Media categories of recording control and management.

a. Audio/Video evidence

1. Evidentiary recordings will be categorized and saved in the designated storage file under “Audio/Video Evidence” and maintained as required by law.

2. All recordings of use of force incidents/reports will be maintained as evidence.

b. Audio/Video general

1. All audio/video files of contact with the public that have no apparent evidentiary value at the time they were taken will be categorized and saved in the designated storage file under “Video General”.

6. Audio/Video Retention periods as outlined in Policy 10.05 “Retention of Records.”

a. “Audio/Video General” recordings will be saved a minimum of 120 days.

b. “Audio/Video Evidence” recordings will be saved for a minimum 10 years.

c. Body camera video retention period will be 120 days. 10 years if evidence.

- d. Building security camera video retention will be 120 days ONLY IF it shows an "incident."
- e. Evansville Police Department In-car video recordings retention will be 120 days.

#### D. Media integrity

1. All audio/video recordings generated are property of the Evansville Police Department
2. All audio/video recordings are subject to Wisconsin Open Records Laws. All Recordings are considered records as defined by s. 19.32(2), wis. stats.
3. Release of copies of recordings for prosecution shall be coordinated through the District Attorney and/or the City Attorney's Office
4. Release of copies of recordings for civil proceedings shall be coordinated through the City Attorney's Office
5. All audio/video recordings are the sole possession of the Evansville Police Department. As such, no recording shall be released, shared, duplicated or distributed without authorization from the Department Records Custodian (Chief of Police).
6. Unauthorized accessing, copying, or releasing captured audio and video without the approval of the Chief of Police or his/her designee is strictly prohibited. Members are prohibited from making copies of a BWC/MVARS audio/video recording by using another recording device such as a cell phone.
7. Members will not allow citizens to review audio and video captured by a BWC unless there is an investigative reason to do so and such viewing has been approved by a supervisor. Members shall advise citizens that they may request a copy of the recording through the public records process.
8. The release of audio and video requested through a public records request will be handled in accordance with existing department policy and public records laws. Reproduction fees for duplication of recordings will be established by the City of Evansville.
9. If an officer uses a personal recording device (although not recommended) while working as an on duty officer; the images, video, recordings, and audio captured by the officer's device will be considered property of the Evansville Police Department and can only be release with authorization of the Chief of Police.

## E. Miscellaneous

1. While not required by policy or state law, members assigned a BWC may find it valuable to inform other parties that they are being recorded. This has proven to be influential in garnering cooperation of subjects and has been shown to reduce incidents of use of force. However, it is not necessary for officers to volunteer the fact that the enforcement contact is being recorded. If asked, officers shall advise persons as to whether the MVARs/BWC are recording or not.
2. Officers are not required to cease or initiate recording based on the demand on of a citizen, involved party, or suspect.
3. No employee shall attempt to erase, alter, or cause to be erased or altered, any MVARs/BWC media. The only exception would be pursuant Department Policy 10.05, Retention of Records.

Note: Any act done determined to erase, alter, destroy or cause to be erase, altered, destroyed etc., or any intentional termination of recording outside this policy is considered an extremely serious policy violation that could result is suspension and/or termination.

4. Supervisors will coordinate the repair or replacement of audio/video equipment.
  - a) Supervisors will perform periodic reviews to ensure officers follow established procedures for the storage, use of, and maintenance of MVARs equipment and the proper documentation of its use
  - b) In addition, The Chief or his/her designee will perform periodic reviews of the release of data to ensure established procedures in this policy are followed.
5. Supervisors will ensure officers follow established procedures for the use of maintenance of audio/video equipment and the proper documentation of its use.
6. Recordings used for training purposes.
  - a. The supervisor will review the recording to determine the value for training.
  - b. The supervisor will obtain express permission from the Chief of Police or his or her designee to use the recording for training.

7. Media review.

- a. The audio/video recordings may be routinely or randomly reviewed by supervisors to monitor officer performance.
- b. Field Training Officers are encouraged to routinely use the recordings of probationary officers during the FTO process for constructive critique review. Requests for this purpose require prior Department administration authorization.
- c. Officers may review their own recordings within the squad car prior to the data being downloaded. This may be beneficial when dictating a report. Exception: See G.9 Critical Incident Protocol.

8. No recording shall be used or shown for the purpose of officer/citizen ridicule or embarrassment.

- a. Sergeant and/or Chiefs designee should review body camera and MVARs data bases at random to make sure the cameras are being used.

9. Unauthorized accessing, copying, and/or releasing any captured audio and/or video from any department source, without the approval of the Chief of Police or his or her designee is strictly prohibited. Members are prohibited from making copies of a BWC/MVARs audio/video recording by using another recording device such as a cell phone.

Note: Any violation of this section is considered an extremely serious policy violation that could result in suspension and/or termination.

- a. The release of audio and video requested through a public records request will be handled in accordance with existing Department policy and public records laws. Reproduction fees for duplication of recordings will be established by the City of Evansville.
- b. Prior to the release of any BWC/MVARs recording to the public, open records requirements will ensure that proper redactions have been made in accordance with state law.

10. Critical Incident Protocol

- a. A critical incident for the purpose of this policy is any police action or activity that directly or indirectly results in great bodily harm or death to a department member and/or a citizen.

- b. In the event of a critical incident, members assigned a BWC/MVARS will refrain from viewing the recorded data until the investigative entity responsible for the investigation arrives on scene and any permitted viewing can be done in conjunction with current critical incident protocols. This section does not prohibit members in critical incidents with ongoing exigency from viewing BWC/MVARS recordings that may aid the present investigation (e.g., suspect descriptions, suspect vehicles, direction of travel).
  
- c. If there are BWC's/MVARS in use during a critical incident, a police supervisor assigned to the investigation and not involved in the actual critical incident will take physical custody of any BWC's/MVARS that may have captured the incident and deliver them to the Police Department where the same police supervisor will immediately upload them into evidence.

11. This policy shall be made available to the public on any internet site the Department maintains or is maintained on its behalf.

Patrick J Reese  
Chief of Police

This Policy & Procedure cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

02/15/2013 SMC

11/16/2015 Updated SMC (Approved by City Council 11-10-15)

12/02/2016 Review SMC

06/28/2017 Updated SMC

{Reviewed by Jamie O.}

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