

Field Audio Video Recordings

417.1 PURPOSE AND SCOPE

The Neenah Police Department provides Mobile Audio Video (MAV) recording systems and body worn camera (BWC) systems to provide records of events that assist officers in the performance of their duties, secure evidence, and enhance courtroom testimony. This policy provides guidance on the use of these systems.

417.1.1 DEFINITIONS

Activate - Any process that causes the MAV system to transmit or store video or audio data in an active mode.

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 minimum, a camera, microphone, recorder and monitor.

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

Body Worn Camera (BWC) - A recording instrument worn on the uniform/body for the gathering of video and audio information.

417.2 POLICY

It is the policy of the Neenah Police Department to use field audio and video technology during official police operations to more effectively fulfill the department's mission and to ensure these systems are used securely and efficiently. While this is primarily directed towards patrol operations, investigative operations and other assignments may benefit from the use of this technology.

417.3 INVESTIGATIVE SERVICES UNIT

Due to the varied nature of the Investigative Services Unit, this policy cannot cover every possible exception and situation to conduct video recordings. Various roles (e.g. PSLO and Undercover investigations) create a dynamic where actively recording every situation would not be possible or prudent. Discretion is to be used by ISU personnel on when to record, when to cease recording and when and how to document their recordings. When in doubt, ISU personnel will seek direction from an ISU supervisor.

417.4 OFFICER RESPONSIBILITIES

Prior to going into service, each officer will properly equip him/herself to record audio and video in the field. 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 Neenah Police Department recording equipment should be used.

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Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC/MAV recordings without prior written authorization and approval of the chief or his/her designee. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.

If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the department reserves the right to limit or restrict an officer from viewing the video file.

MAV Systems

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.

System documentation is accomplished by the officer recording his/her name, badge number and the current date and time at the start and again at the end of each shift. If the system is malfunctioning, the officer shall make note of the problem on a vehicle service sheet and take the vehicle out of service unless another patrol vehicle with a functioning recording system is not available for use.

At the conclusion of a recording, officers should make sure the recording is bookmarked appropriately with identifying information included. Recordings will upload to the department's server automatically.

BWC Systems

Each officer assigned a BWC should test the system's operation in accordance with manufacturer specifications and department operating procedures and training. If the BWC device is not in good working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. The officer shall turn in the malfunctioning unit to the BWC program coordinating supervisor as soon as reasonably practicable. The BWC program coordinating supervisor will then inspect the unit and send it in for repair/replacement.

System documentation is accomplished by officers entering the complaint number in the ID section and the subject's name (person they were speaking with) in the Title section. If no name is obtained, a description of the contact shall go in this field. Officers will also select the correct category the video will be saved under for retention purposes. This process can be done from a phone, iPod or from Evidence.com.

Officers will upload the recordings at the end of each shift, or as soon as practicable. Officers will store the BWC in the assigned docking station at the end of their shift.

Officers whose primary function is not patrol or investigations are not required to wear a BWC. Investigators assigned to Lake Winnebago Area Metropolitan Enforcement Group are also not required to wear BWC.

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417.5 ACTIVATION

The MAV systems are designed to turn on whenever the unit's emergency lights are activated or whenever the officer chooses to manually begin recording. The systems remain activated until they are turned off manually.

BWC systems must be turned on and off manually by the officer for each use.

417.5.1 REQUIRED ACTIVATION OF THE MAV AND BWC

This policy is not intended to describe every possible situation that should be recorded. As a general rule, officers should activate the BWC/MAV to record all contacts with citizens in the performance of official duties. Additionally, an officer should activate a recording system any time the officer believes it would be helpful 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 still be valuable evidence. Officers should consider using the cameras to capture audio information in those cases.

As a general rule, officers should activate their camera PRIOR to arriving on scene.

MAV and BWC systems should be used during official police operations in the following types of contact:

- Interviews with complainants, witnesses, and suspects in criminal cases
- Traffic contacts (with both MAV and BWC)
- Pedestrian contacts
- Contacts with subjects who are complaining about officer behavior or department response
- When counting or inventorying money or other valuables
- When collecting contraband

417.5.2 CESSATION OF RECORDING

Once activated, the recording systems should remain on until the incident has concluded. If an officer fails to activate the BWC/MAV, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated in the police report, or if no police report is generated, in a memo to their supervisor.

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417.5.3 WHEN ACTIVATION IS NOT REQUIRED

Activation of recording is not required when exchanging information with other officers or during breaks, lunch periods, when not in service, when actively on patrol or when speaking with members of the public while not on a call for service.

417.5.4 WHEN ACTIVATION IS PROHIBITED

- In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room, unless during a dynamic and active incident where the need to record outweighs the expectation of privacy.

- For personal use

No member of this department may surreptitiously record a conversation of any other member of this department except with a court order or when lawfully authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.

417.5.5 SUPERVISOR RESPONSIBILITIES

On reasonable intervals, supervisors should validate that:

- (a) Officers are utilizing the recording systems appropriately
- (b) The operation of recording systems by new employees is assessed and reviewed until the supervisor determines the employee knows how to utilize the recording systems.

417.6 REVIEW OF MAV AND BWC RECORDINGS

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

To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the agency ISU Staff or forensic media investigator. When reasonably possible, a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

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 recording systems

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- (e) By department investigators who are 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) By an officer who is captured on or referenced in the video or audio data and reviews and uses such 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 Command staff to determine if the training value outweighs the officer's objection

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

417.7 DOCUMENTING BWC/MAV USE

If any incident is recorded, the existence of that recording shall be documented in the officer's report. If a citation is issued, the officer shall make a notation in the narrative indicating that the incident was recorded. Existence of any BWC recording should be noted in any related incident report.

417.8 RECORDING MEDIA STORAGE AND INTEGRITY

All recording media that is not retained as evidence will be retained for a minimum of 120 days and disposed of in compliance with the established records retention schedule.

417.8.1 MAV RECORDINGS AS EVIDENCE

Officers who reasonably believe that a recording is likely to contain evidence relevant to a criminal offense, a citation, a potential claim against the officer or against the Neenah Police Department should bookmark the recording appropriately to ensure relevant recordings are preserved. Body camera recordings should be downloaded to the system.

417.9 TRAINING

All members who have BWC systems issued to them and who use vehicles equipped with MAV systems will be instructed in the use of the recording equipment and related policy.

417.10 PROHIBITIONS

Personnel shall not:

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- (a) Destroy, alter or tamper with audio/or video.
- (b) Tamper with the MAV or BWC systems, files, or other related equipment.
- (c) Operators will not make copies of any recordings for their personal use and are prohibited from using a recording device (such as a phone camera or secondary video camera) to record media captured from the MAV or BWC.
- (d) Intentionally record undercover officers, confidential informants, or other sources of confidential information.
- (e) Intentionally record personal activity not related to official duties or use a BWC in places where a reasonable expectation of privacy exists, such as, locker rooms, dressing rooms and restrooms. Unless the MAV or BWC are being used for the purposes of a criminal investigation.
- (f) Intentionally record any person in contradiction with or in violation of Wisconsin wiretapping laws, as outlined in W.S.S. 885.365. In addition to subjecting yourself to criminal prosecution, violating the Wisconsin wiretapping law can expose you to a civil lawsuit for damages by an injured party.
- (g) Intentionally record conversations of fellow employees without their knowledge during non-enforcement related activities.
- (h) Use a body camera not assigned to them. Each BWC is assigned and configured for use by individual officers. No supervisor shall order any officers to utilize a BWC not assigned to them.
- (i) Share passwords and/or usernames to Evidence.com. It is the responsibility of all authorized personnel to keep their passwords and usernames confidential.
- (j) Post MAV or BWC footage to any social media without the prior written approval from the Chief of Police, or designee.

417.11 CITIZEN CONTACTS & PRIVACY CONCERNS

While the general rule is to record all contacts, there are times when the use of a BWC/MAV is not prudent or is too intrusive. The following types of contacts provide guidance for those situations.

- (a) If a citizen contact is made with a victim, complainant, or witness in a place where the citizen has a reasonable expectation of privacy (such as in their home), the officer should activate the video and audio function and notify the citizen that the contact is being recorded. If the citizen requests the contact NOT be recorded, officers should consider whether it would be appropriate under the circumstances to end the contact, or to continue the contact without recording. This section does not apply to suspect or arrest contacts.
- (b) Officers should be sensitive to privacy concerns in cases of nudity, in situations involving abuse, and in sexual assault investigations. Officers should use their discretion on when to record in these circumstances.
- (c) Officers should use careful discretion in cases in which a person may be unwilling or reluctant to share information about a crime if they are being recorded. Consideration

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should be given to whether obtaining the information outweighs the potential evidentiary value of capturing the statement on video.

417.12 BWC/MAV FILE RETENTION AND DELETION

BWC's are uploaded to a third party website, Evidence.com, owned and maintained by Axon. Retention and deletion parameters for files uploaded to this digital platform are set by the NPD Evidence.com administrator and should be in accordance with NPD retention policies.

Refer to the Records Maintenance and Release policy regarding retention schedules and/or procedures regarding BWC/MAV file retention and deletion for files saved on Department run servers and on the Evidence.com platform.

417.12.1 EXCEPTIONS TO RETENTION REQUIREMENTS FOR BODY-WORN CAMERAS

Exceptions to the 120-day retention period for body-worn cameras are as follows (Wis. Stat. § 165.87):

- (a) Recordings should be retained until the final disposition of any investigation, case, or complaint to which the recordings pertain to any of the following:
 - 1. Death or actual or alleged physical injury to any person in the recording
 - 2. An encounter resulting in custodial arrest
 - 3. A search during a temporary detention pursuant to Wis. Stat. § 968.25
 - 4. An encounter resulting in the use of force except when the only use of force involves the use of a firearm to euthanize an injured wild animal
- (b) Recordings used in any criminal, civil, or administrative proceeding may not be destroyed except upon a final disposition from the court or hearing officer after a determination the recordings are no longer needed, or by an order from the court or hearing officer.
- (c) Recordings may be retained for a period beyond 120 days if a request or directive to preserve the recordings is made before the expiration of that time period by an officer from this department or another law enforcement agency, member of a board of fire and police commission, prosecutor, defendant, or a court.