

GENERAL ORDER

CEDARBURG POLICE DEPARTMENT

SUBJECT: **BODY WORN CAMERAS**

SCOPE: All Sworn Personnel
DISTRIBUTION: General Orders Manual

REFERENCE: WI State Statutes: 19.32(2), 165.87,
175.22, 973.06(1)(av)

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

PURPOSE: The purpose of this policy & procedure is to establish guidelines to be followed by members of the Cedarburg Police Department during the use of mobile audio/video recording equipment (MAVRS), to include Body Worn Cameras.

This policy & procedure consists of the following numbered sections:

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

I. POLICY

- A. All uniformed officers assigned to patrol duties shall be issued MAVRS equipment prior to the beginning of each duty assignment. This includes uniformed supervisors who perform patrol duties. Non-uniformed members may be issued MAVRS equipment at the discretion of the Chief of Police or his/her designee or for certain circumstances.
1. Any member wearing, using, maintaining, storing, or releasing data from MAVRS equipment shall be trained in its use, data retention, and release requirements prior to using the equipment or releasing data.
- B. Whenever an officer has reason to believe that a contact has an enforcement nature, or believes it is in the best interest of the Cedarburg Police Department, the contact should be recorded. (An officer shall not jeopardize their safety or the safety of the public in order to activate a camera system). In general, contacts of an enforcement nature include but are not limited to:
1. Citations
 2. Arrests
 3. Warnings
 4. Investigations to be submitted for Complaint
 5. When in Medical Facilities: Officers should be conscious to not record other patients in a medical setting. Officers shall take into consideration the HIPAA laws that protect patients. 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/arrest 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, or that would violate the privacy of a recorded subject who is a victim of a sensitive or violent crime or is a minor. NOTE....information/videos may be released IF the areas noted above are redacted in a recognized and approved manner.

II. DEFINITIONS

- A. AXON: A company that provides equipment and support needed for Body Worn Cameras and in-car camera systems issued to the Cedarburg Police Department.
- B. BODY WORN CAMERA: A portable audio and/or video recording device which can be worn on an officer's body.
- C. EVIDENCE.COM: A secure website run through AXON where recorded media captured by the Cedarburg Police Department is stored and maintained.
- D. MAVR TECHNICIAN: Personnel trained in the operational use and repair of the MAVRS, duplicating methods, storage and retrieval methods and procedures, and who possess a working knowledge of video forensics and evidentiary procedures.
- E. MOBILE AUDIO/VIDEO RECORDING SYSTEM (MAVRS): Portable, wireless, electronic devices designed for capturing audio and/or video recordings. This includes body worn cameras, and/or the in squad mobile audio/video recording system.
- F. RECORDED MEDIA: Refers to audio-video signals recorded on any of several storage devices, including analog tape (VHS, SVHS, Hi 8mm), digital tape (DV), or other digital storage devices (CD, DVD, USB, hard drive, etc.). This also includes audio-video signals captured with Axon Fleet in-car camera systems or Axon Body Worn Cameras with the recordings being stored on Evidence.com.
- G. SIGNAL SIDE ARM: A device from AXON that transmits a signal activating an officer's body worn camera when their firearm is drawn from the holster.
- H. SUPERVISOR: Sworn personnel officially appointed responsibility for a Departmental component.
- I. USE OF FORCE INCIDENT: Any amount of force beyond cooperative handcuffing used by an officer to control an uncooperative person.

III. PROGRAM OBJECTIVES

- A. The Cedarburg Police Department has adopted the use of mobile audio/video recording equipment (MAVRS) in order to accomplish the following objectives:
1. Accurate documentation of events, actions, conditions, and statements made during arrests and critical incidents so as to enhance officer reports, collection of evidence and testimony in court.
 2. The enhancement of the 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.
 3. Protect officers from false allegations of improper police conduct.
 - (a) Note...Under s. 973.06 (1) (av) 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 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.
 4. 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. TRAINING

- A. All officers for the Cedarburg Police Department shall be trained on the authorized use of MAVRS, including body worn cameras.
- B. Training for MAVRS/body worn cameras shall be the responsibility of the Administrative Captain (or their designee), the MAVR Technician, and/or Field Training Officers.
- C. Training for MAVRS/body worn cameras shall include, but not be limited to review of WI Statute 165.87, care of equipment, access and use of Evidence.com, use of AXON Signal Side arm, limitations on wearing or recording with a body worn camera, guidelines on how to distinguish between general data retention and that which has evidentiary value, etc.

V. 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 retrieve their equipment from storage in the Squad Room and determine whether their recording equipment is working properly. Officers shall report any problems to a supervisor as soon as practical.
 - 1. Officers will power on the MAVRS and ensure it is functioning properly throughout their shift.
 - 2. The video camera should be zoomed back to its widest point of view and positioned to record events.
 - 3. Should a body worn camera reach low battery power (approximately 5%) throughout a shift, officers shall make an effort to swap it out with a fully charged body worn camera in the Squad Room and make notification to the MAVR Technician that another camera was used during shift.
 - 4. Verify the camera lens is not obstructed.
 - 5. Any malfunction shall be reported to a supervisor or MAVR Technician as soon as practicable.
- C. Officers are not expected to jeopardize their safety in exchange for obtaining better audio/video recording.
- D. BWC Activation:
 - 1. The body worn camera record mode will be automatically activated whenever the emergency lights or signal side arm are activated.
 - 2. Once recording, personnel shall ensure there are no obvious obstructions to recording.
 - 3. Once recording has begun it shall remain on until the incident has reached its conclusion or the officer is no longer directly involved with the scene. Officers must remember to turn off the recording at the conclusion of the incident.
 - 4. 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) Manual activation is accomplished by:
 - (1) Activating the emergency lights
 - (2) Pressing the record button on the physical recording device
 - (3) Pressing the record button on AXON View XL

5. Officers should record their interactions while in direct contact with the public on incidents or contacts as outlined above. Additional examples include but are not limited to:
 - a) All officer/subject contacts during traffic stops.
 - 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 Ozaukee County Criminal Justice Facility or designated Juvenile Detention Center. Recordings will cease upon entry to these facilities unless approved by facility staff.
 - d) 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.
6. Manual activation is not required for:
 - a) Lunch breaks; breaks
 - b) Foot patrols
 - c) Non-investigative contacts
- E. 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. Running checks or completing paperwork in a squad car, away from the violator, suspect, or witnesses.
 2. Confering with backup officers away from the suspect or any person involved in the incident.
 3. While speaking with anyone who is not directly involved in the incident such as medical or fire personnel.
- F. The equipment may be deactivated during non-enforcement activities such as protecting accident scenes from other vehicular traffic or perimeter assignments at critical incidents.
- G. Officers shall document in all incident reports whenever recordings are made during an incident in question.
- 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 intentionally alter or attempt to alter recordings in any way not associated with the duties of the MAVR Technician.
- J. Officers shall not use mobile audio/video recording equipment to record administrative conversations, i.e. disciplinary actions, supervisor's directives, or talks between employees.
- K. Use of MAVRS is for on-duty, official police business only.
- L. Officers are reminded of the restrictions in Wisconsin State Statute 175.22 prohibiting audio or video recording in locker rooms, refer to Cedarburg General Order 13-03 Harassment.

VI. 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 or designee.
- B. Recordings may be shown to Cedarburg Police Department employees for training and evaluation purposes.
 - a) Recordings may be shown to persons other than Cedarburg Police Department employees provided prior approval is obtained from the Chief or designee.

C. Storage of Media

MAVRS media will be uploaded to Evidence.com at the conclusion of an officer's shift and labeled with appropriate call/incident report numbers.

- 1. 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) Incident involving citizen complaint
 - i) Any search conducted during temporary questioning (a "Terry stop") provided in Wisconsin State Statute 968.25
 - j) Any other incident in the officers or supervisors judgment that should be secured as evidence
 - k) Any creation of an incident report through Phoenix RMS
2. Storage of Media not held as evidence
- a) MAVR Technicians may erase or alter MAVRS recordings when it is determined that in-car camera systems or body worn cameras have captured audio-video signals not associated with any mandatory recording circumstances and the recorded media does not contain any evidentiary value. This may include instances where the in-car camera systems were accidentally activated by wireless signals (i.e. officers activating lights during a squad equipment check or false AXON Signal Side Arm activations). These types of recordings may be removed to prevent storage overload on Evidence.com.
 - b) After 120 days, pursuant to Cedarburg General Order 24-01: Records, any recorded data not containing evidentiary value will be erased.

D. Media integrity

1. The MAVRS recordings generated are property of the Department.
2. MAVRS recordings are subject to Wisconsin Open Records Laws.
3. Release of copies of recordings for prosecution shall be coordinated through the District Attorney and/or the City Attorney's Office. The MAVR Technician shall be responsible for providing copies of these recordings.
4. Release of copies of recordings for civil proceedings shall be coordinated through the City Attorney's Office.
5. All MAVRS media and recordings are possessions of the Department. As such, no recording shall be released, shared, duplicated or distributed without authorization from the Department records custodian.
6. 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 Cedarburg Police Department and can only be released with authorization of the Chief of Police.

E. Miscellaneous

1. It is not necessary for officers to volunteer the fact that the enforcement contact is being recorded. However, if asked, officers shall advise persons as to whether the MAVRS 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. Supervisors will coordinate the repair or replacement of MAVRS equipment.
 - a) Supervisors will perform periodic reviews to ensure officers follow established procedures for the storage, use of, and maintenance of MAVRS 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.
4. Recordings used for training purposes.
 - a) When an incident that is recorded and is perceived to be of value as a training aid, the officer responsible for the recording will notify his/her supervisor.
 - b) The supervisor will review the recording to determine the value for training.
 - c) The supervisor will obtain expressed permission from the Chief of Police or designee to use the recording for training.
5. Review of MAVRS or Body Worn Camera recordings.
 - a) The MVARS recordings may be routinely or randomly reviewed by supervisors to monitor officer performance.
 - b) Field Training Officers should routinely use the recordings of probationary officers during the FTO process for constructive critique review.
 - c) Officers may review their own recordings on Evidence.com. (This may be beneficial when dictating a report). Officers may request access to other officer's recordings from the MAVR Technician if it is necessary to investigate a case and with authorization of a supervisor.
 - d) No recording shall be used or shown for the purpose of officer ridicule or embarrassment. If an officer does not have Evidence.com permissions to view a video or recorded media, they shall not view it without authorization of a supervisor. Officers with permissions to view all videos and recorded media on Evidence.com shall not allow others to view those videos unless it is for investigative purposes and under the authorization of a supervisor.
 - d) Sergeants should review body camera and MVARS data bases at random to make sure the cameras are being used.

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

F. Restrictions on Using Recording Devices

1. Recording Devices shall only be used in conjunction with official duties primarily including but not limited to the investigation and/or reporting of crimes or other violations of the law.
2. Officers may not activate Recording Devices to surreptitiously record:
 - a) Communications with other police personnel without the permission of the Chief of Police.
 - b) Conversations that concern matters over which the person being recorded would have a reasonable expectation of privacy.
3. Limitations on law enforcement officers wearing body worn cameras:
 - b) Officers are prohibited from wearing an activated body worn camera in the locker rooms of the police department pursuant to Cedarburg General Order 13.06.
 - c) Officers are not required to wear their body worn cameras for special events such as but not limited to law enforcement funerals when Class A uniforms may be required.
 - d) Officers shall not wear their body worn camera home upon completion of duty and shall ensure the cameras are charging between shifts. However, K-9 officers and SRT members may take their BWC and charging equipment home.
4. Recording devices are utilized primarily by sworn personnel as authorized by this agency. Officers who are assigned recording devices must utilize such equipment unless otherwise authorized by supervisory personnel.
 - a) All Department issued recording devices and recorded media in any form issued by the Department remain the exclusive property of the Department for use only as outlined in this policy & procedure.

G. Recordings Retention; 120 Day Hold

1. Recordings are considered records as defined by Wisconsin Statute 19.32(2). Pursuant Cedarburg General Order 24-01: Records, recordings will be saved at minimum of 120 days.
2. Recordings noted as evidence above shall be retained until final disposition of any investigation, case, or complaint to which it pertains.

3. Officers shall make the MAVR technician aware of any potential recorded media with evidentiary value that needs to be maintained longer than the general retention period of 120 days on Evidence.com. This can be accomplished by officers labeling files to have a longer retention cycle themselves or by directly notifying the MAVR technician.
4. For further guidance and additional information regarding recordings retention and release, refer to Wisconsin State Statute 165.87 (2) and (3).
5. Cedarburg Police Department Axon Evidence.com Retention Categories

NAME	RETENTION DURATION
1 – TRAFFIC STOP	18 weeks
2 – CALL FOR SERVICE	18 weeks
3 – INCIDENT REPORT	1 year
4 – CRASH INVESTIGATION	1 year
5 – INTERVIEW / INVESTIGATIONS	1 year
6 – ARREST	2 years
7 – NEVER DELETE	Until manually deleted
8 – RESPONSE TO RESISTANCE	Until manually deleted
9 – TRAINING / TEST / NOT NEEDED	120 days

Michael D. McNerney
Chief of Police

This Order cancels and supersedes any and all written directives relative to the subject matter contained herein.

MDM 01/24/2024

Replaced the previous BWC GO with this new GO and with 16.20 for