
Audio/Video Recorders

450.1 PURPOSE AND SCOPE

The Novato Police Department has equipped marked patrol cars with Mobile Audio Video (MAV) recording systems, issued personal Digital Audio Recorders (DAR) and body-worn video/audio (BWV) recording devices to provide records of events and assist officers in the performance of their duties. All recordings are the property of the Novato Police Department and may be used for evidentiary purposes for court proceedings or testimonials. This policy provides guidance on the use of these systems.

450.2 POLICY

It is the policy of the Novato Police Department that all personnel will effectively and responsibly utilize all department provided audio/video recording technology as a tool to collect evidence, as a safeguard for the officer and the Department against false claims of misconduct and to ensure that all personnel are performing their duties to the highest standards of professional integrity.

450.2.1 DEFINITIONS

Definitions related to this policy include:

Activate – Any process that causes the MAV system to transmit or store video or audio data in an active mode or any process that causes the BWV device to record and 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 minimum, a camera, microphone, recorder and monitor.

Administrator – Sworn personnel tasked with the maintenance, auditing, configuration and reliable operation of the MAV, DAR and BWV systems. The Chief of Police shall designate the Administrator.

Custodian – Sworn personnel trained in the operational use of MAVs, duplicating methods, storage and retrieval methods and procedures, and who have a working knowledge of video forensics and evidentiary procedures. Custodians will be appointed by the system Administrator.

Media – For purposes of this policy, media is defined as video and audio files encoded digitally.

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

Recorder – Interchangeable term used to describe the MAV system, Digital Audio Recorder and BWV device.

System – Interchangeable term used to describe the storage systems, to include applicable hardware and software components, of the MAV system, Digital Audio Recorder and BWV device

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450.3 OFFICER RESPONSIBILITIES

Prior to going into service, each officer will properly equip himself/herself to record audio and video in the field. At the end of each shift, officers will follow the established procedures for the upload and booking of all recordings. Each officer should have adequate recording media for the entire duty assignment. In the event an officer determines their device is inoperable, they will immediately notify their supervisor in person and/or via email. Employees are to use only their assigned equipment.

At the start of each shift, officers shall test the MAV system's operation, Digital Audio Recorder and BWV device in accordance with manufacturer specifications and department operating procedures and training.

If the MAV system is malfunctioning, the officer shall take the vehicle out of service unless a supervisor requests the vehicle remain in service.

450.4 ACTIVATION

The MAV system is designed to turn on whenever the unit's emergency lights are activated. The system remains on until it is turned off manually. The audio portion is independently controlled and should be activated manually by the officer whenever appropriate. When audio is being recorded, the video will also record.

The BWV device is designed to be activated manually by moving the lens cover off of the lens.

The device remains on until it is turned off manually by reversing the activation movement. Audio and video are both turned on and off when the lens cover is manipulated.

The Digital Audio Recorder is designed to activate when the officer selects the record button on the device. The recording is stopped when the officer selects stop.

450.4.1 REQUIRED ACTIVATION OF BWV AND MAV RECORDERS

This policy is not intended to describe every possible situation in which the MAV system, Digital Audio Recorder or BWV device may be used, although there are many situations where its use is appropriate. An officer should activate the systems or devices any time the officer believes it would be appropriate or valuable to document an incident. In no way should the activation of the BWV or MAV jeopardize officer safety. The recording system that best fulfills the intent of this policy, section 450.2.1, will be selected (i.e.; The BWV activated to document a foot pursuit or other activity away from the camera view of the MAV system, or the MAV activated to document a vehicle pursuit or other activity within the view of the MAV system). In many instances, both systems will be required to completely and accurately capture the entirety of an incident.

In some circumstances it is not possible to capture images or video of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject

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to the same activation requirements as the MAV and BWV. Officers shall wear the BWV affixed to their uniform in a manner most conducive to recording both audio and video. This includes the front of the uniform shirt facing forward.

Officers should make every reasonable effort to activate the BWV during any of the following situations:

(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. Vehicle and foot pursuits

3. Suspicious vehicles

4. Arrests

5. Vehicle searches

6. Physical or verbal confrontations or use of force

7. Pedestrian contacts that have the potential for enforcement action

8. DWI/DUI investigations including field sobriety tests

9. Crimes in progress

(b) All self-initiated activity in which an officer reasonably believes recordings of evidentiary value may be obtained

(c) Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect:

1. Domestic violence calls

2. Disturbance of peace calls

3. Offenses involving violence or weapons

(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

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(e) Any other circumstance where the officer believes that a recording of an incident would be appropriate

(f) Special consideration should be taken when recording critical incidents and confidential contacts. Depending on the circumstances at hand, officers should consider recording or not recording the following types of contacts:

1. SRT Operations
2. Contact with confidential informants
3. Child sexual assault interviews

450.4.2 CESSATION OF RECORDING

Once an officer activates the MAV system, DAR and/or BWV, they should make every reasonable effort to have the device(s) remain on until the incident has concluded. For purposes 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. Recording may cease if an officer is simply waiting for a tow truck or a family member to arrive. Additionally, recording may cease where extended periods of time will elapse when no audio or video of value will be recorded. Officers may deactivate the BWV when exchanging information with other officers and/or supervisors. Upon completion of the information exchange, the BWV should be reactivated as described above

450.4.3 WHEN ACTIVATION IS NOT REQUIRED

Activation of the MAV system, DAR or BWV device is not required 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 lawfully authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

450.4.4 RECORDINGS AS EVIDENCE

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

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450.4.5 VIDEO FILE RETENTION

Digital video recordings shall be downloaded and stored within the Department's video retention system. The use, duplication and/or distribution of video/audio files for anything other than booking a physical copy of a video into evidence for the use in a criminal case requires prior authorization from the system administrator.

It shall be the responsibility of the individual officer to download all files that are evidentiary to the assigned server prior to the end of their shift. Video/Audio files which are not of evidentiary value shall be downloaded to the server as soon as practical. The officer is responsible for filling in and completing the category and comment section for each evidentiary video recorded.

- (a) Any video/audio files downloaded to physical media, including but not limited to CD-ROM, DVD, and or thumb drives, shall be booked into evidence prior to the end of the shift.
- (b) Employees are prohibited from attaching video/audio files to email.
- (c) Employees shall not post video/audio videos to the internet (i.e. YouTube or another website or social media)
- (d) Employees shall not electronically forward or physically remove any video/audio video from the police department, unless a video is being signed out from the evidence section for use in a criminal court case or downloaded for use in traffic Court.
- (e) Digital video files not associated with an investigation are automatically deleted after one year

450.4.6 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if non-functioning MAV systems should be placed into service. If placed into service, the appropriate documentation should be made, including notification to the system administrator and VMO.

At reasonable intervals, supervisors should validate that:

- (a) Beginning and end-of-shift recording procedures are followed.
- (b) Logs reflect the proper chain of custody, including:
 - 1. The tracking number of the MAV system media.
 - 2. The date it was issued.
 - 3. The law enforcement operator or the vehicle to which it was issued.
 - 4. The date it was submitted.
 - 5. Law enforcement operators submitting the media.

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6. Holds for evidence indication and tagging as required.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, department-involved collisions), a supervisor shall respond to the scene and ensure that the appropriate supervisor, MAV/BWV custodian or crime scene investigator properly retrieves the recorded media. The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

450.5 REVIEW OF 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 department MAV/BWV custodian. 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
 1. This includes following incidents where officers will be obligated to provide an administrative statement.
- (b) By a supervisor to assist them in their duty to oversee, supervise and manage day to day law enforcement responsibilities
- (c) To assess proper functioning of MAV systems
- (d) By department investigators who are participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation
- (e) By department personnel who request to review recordings with a legitimate law enforcement purpose such as court preparation or report writing

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- (f) By court personnel through proper process or with permission of the Chief of Police or the authorized designee

- (g) By the media through proper process or with permission of the Chief of Police or the authorized designee (See 450.12)

- (h) By department corporals and field training officers for the sole purpose of providing training and/or for performance evaluation of their assigned police officer trainees

- (i) 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 desiring to view any previously uploaded or archived media recording for reasons not listed above shall submit a request to the Watch Commander. Approved requests should be forwarded to the MAV/BWV custodian for processing before any video is viewed.

In no event shall any recording be viewed, used or shown for the purpose of ridiculing or embarrassing any employee, or for mere entertainment or curiosity.

In the event an incident or conversation has been recorded which serves no law enforcement purpose and may prove to be embarrassing to the individual and/or department, an employee may petition the administrator to have the recording erased. The system administrator shall have final approval on the disposition of such recordings.

450.5.1 SUPERVISOR RESPONSIBILITIES

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

450.6 DOCUMENTING RECORDER USE

If any incident is recorded with either the video or audio system of the MAV system, DAR or BWV device, the existence of that recording shall be documented in the officer's report. If a citation is issued, the officer shall make a notation on the back of the records copy of the citation, indicating that the incident was recorded. The MAV system is designed to turn on whenever the unit's emergency lights are activated. The system remains on until it is turned off manually. The

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audio portion is independently controlled and should be activated manually by the officer whenever appropriate. When audio is being recorded, the video will also record.

450.6.1 PROHIBITED USE OF RECORDERS

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the [watchCommander]. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment or ridicule.

Any member who may have questions regarding the application of this policy is encouraged to seek clarification from supervisory personnel.

450.7 POLICY VIOLATIONS

Unauthorized access to the system, misuse of the system, unauthorized reproduction and/or distribution of video, images or audio recordings may result in disciplinary action up to and including termination.

450.8 RECORDING MEDIA STORAGE AND INTEGRITY

Once submitted for storage, all recording media will be labeled and stored in a designated secure area. All recording media that is not booked as evidence will be retained for a minimum of one year after which time it will be erased, destroyed or recycled in accordance with the established records retention schedule (Government Code § 34090.6).

450.8.1 COPIES OF ORIGINAL 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. In the event that an original recording is released to a court, a copy shall be made and placed in storage until the original is returned.

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450.9 MAV SYSTEM OPERATIONAL STANDARDS

- (a) MAV system vehicle installations should be based on officer safety requirements and the vehicle and device manufacturer's recommendations.

- (b) The MAV system should be configured to minimally record for 30 seconds prior to an event.

- (c) The MAV system shall 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.

- (f) Officers shall not erase, alter, reuse, modify or tamper with MAV recordings. Only a supervisor, MAV custodian or other authorized designee may erase and reissue previous recordings and may only do so pursuant to the provisions of this policy.

- (g) To prevent damage, original recordings shall not be viewed on any equipment other than the equipment issued or authorized by the MAV custodian.

450.10 TRAINING

All members who are authorized to use the MAV and/or BWV system shall successfully complete an approved course of instruction prior to its use.

450.11 MAINTENANCE AND CARE

Routine maintenance and care of the BWV and DAR equipment is the responsibility of the individual officer. Each officer will ensure that the equipment is kept clean and in working order, that the rechargeable battery is fully charged when reporting for duty each day, and the video files are downloaded daily. Any malfunction should be reported to the Patrol Watch Commander and System Administrator through the chain of command.

450.12 MEDIA/PUBLIC RECORDS ACT REQUESTS

All media requests for audio/video recordings shall be accepted and processed in accordance with federal, state, and local statutes and department policy related to media relations. The Chef

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of police will have the final approval of media requests of audio/video releases. The Chief of Police shall make all reasonable/lawful efforts to preserve the privacy of community members and employees of the Novato Police Department.

450.13 COORDINATOR

The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including (Penal Code § 832.18):

- (a) Establishing a system for downloading, storing and security of recordings.
- (b) Designating persons responsible for downloading recorded data.
- (c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining logs of access and deletions of recordings.