
Mobile Video and Body-Worn Camera Procedures

446.1 PURPOSE

The use of Mobile Video Recording (MVR) and body-worn cameras (BWCs) in law enforcement is relatively new. The primary purpose of using these systems is to capture evidence arising from police-citizen encounters while enhancing the Department's mission by accurately documenting those encounters. While this technology allows for the collection of valuable information, it opens up many questions about how to balance public demands for accountability and transparency with the privacy concerns of those being recorded. In deciding what to record, this policy also reflects a balance between the desire to establish exacting and detailed requirements and the reality that officers must attend to their primary duties and the safety of all concerned, often in circumstances that are tense, uncertain, and rapidly evolving.

446.2 POLICY

It is the policy of the Hastings Police Department to authorize and require the use of department-issued MVR and BWCs as set forth below. This policy provides guidance on the use and management of the systems and the recorded media

446.3 SCOPE

This policy governs the use of the MVR and BWCs in the course of official duties. It does not apply to the use of surreptitious recording devices in undercover operations. The Chief of Police or Chief of Police's designee may supersede this policy by providing specific instructions for the use of MVR's or BWCs to individual officers, or providing specific instructions for the use of MVRs and BWCs pertaining to certain events or classes of events, including but not limited to political rallies and demonstrations. The Chief of Police or Chief of Police's designee may also provide specific instructions or standard operating procedures for MVR and BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

446.4 DEFINITIONS

Definitions related to this policy include:

Activate means any process that causes the MVR or BWC system to transmit or store audio-video signals.

Adversarial means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.

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Body-Worn Camera (BWC) means any system that captures audio and video signals that is capable of being individually worn by officers.

Critical Incident is an incident involving any of the following:

- Use of Deadly Force by or against a Hastings Police Officer;
- Death or Great Bodily Harm to an officer;
- Death or Great Bodily Harm to a person who is custody or control of an officer;
- Any action by an officer that causes or is intended to cause Death or Great Bodily Harm.

Deactivation is any process that causes the BWC or MVR to stop recording. Deactivation will be done manually.

Evidentiary value means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.

General Citizen Contact means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.

Law enforcement-related information means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision

MGDPA or Data Practices Act refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.

Mobile Video Recorder (MVR) means any system that captures audio and video signals that is capable of installation in a vehicle.

MVR/BWC Administrator means personnel certified or trained in the operational use of MVRs and BWCs, storage and retrieval procedures, who assigns, tracks and maintains MVR and BWC equipment, oversees needed repairs or replacement equipment through the vendor, controls user rights and access, and acts as a liaison with the vendor. Also responsible for the training of law enforcement operators on the use of MVR and BWCs.

Official duties, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency.

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

Records Retention Schedule refers to the General Records Retention Schedule for Minnesota Cities.

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Significant Incident includes, but is not limited to, any of the following situations occurring in the line of duty:

- Domestic abuse incident interview
- Felony Crime
- Pursuit
- Squad Accidents
- Any incident for which the officer or supervisor believes the recording to be of evidentiary or administrative value
- Any event that an officer or supervisor believes should be brought to the immediate attention of Command Staff.

Unintentionally recorded footage is a video recording that results from an officer's inadvertence or neglect in operating the officer's BWC, provided that no portion of the resulting recording has evidentiary or administrative value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.

446.5 MOBILE VIDEO RECORDER OBJECTIVES

The Hastings Police Department has adopted the use of MVRs and BWC's to accomplish the following objectives:

- A. To enhance officer safety.
- B. To document statements and events during the course of an incident.
- C. To enhance the officer's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.
- D. To preserve audio and visual information for use in current and future investigations.
- E. To provide a tool for self-critique and field evaluation during officer training.
- F. To enhance the public trust by preserving factual representations of officer-citizen interactions.
- G. To assist with the defense of civil actions against law enforcement officers and the City of Hastings.
- H. To assist with the training and evaluation of officers.

446.6 USE AND DOCUMENTATION

- A. Officers may use only department-issued MVRs and BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.

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- B. Officers who are issued a BWC or an MVR will activate the systems consistent with this policy. Officers shall conduct a function test of their issued BWCs at the beginning of each shift to make sure the devices are operating properly. Officers noting a malfunction during testing or at any other time shall promptly report the malfunction to the officer's supervisor and shall document the report in writing. Supervisors shall take prompt action to address malfunctions and document the steps taken in writing.
- C. Officers should wear their issued BWCs at the location on their body and in the manner specified in training.
- D. Any damage, loss or theft of MVR and BWC equipment shall immediately be reported to the Shift Sergeant and MVR administrator in writing.
- E. During their shift, officers will follow the established policies and procedures for documenting, categorizing and retaining any recorded media.
- F. Officers must document MVR and BWC use and nonuse as follows:
 - 1. Whenever an officer makes a recording, the existence of the recording shall be documented in the applicable incident report or citation.
 - 2. Whenever an officer fails to record an activity that is required to be recorded under this policy or captures only a part of the activity, the officer must document the circumstances and reasons for not recording in an incident report. Supervisors shall review these reports and initiate any corrective action deemed necessary.
- G. Any time an officer reasonably believes a recorded contact may be beneficial in a noncriminal matter (e.g., adversarial contact), the officer should promptly notify a supervisor of the existence of the recording and label it accordingly.
- H. The department will maintain the following records and documents relating to BWC use, which are classified as public data:
 - 1. The total number of BWCs owned or maintained by the agency;
 - 2. A daily record of the total number of BWCs actually deployed and used by officers and, if applicable, the precincts in which they were used;
 - 3. The total amount of recorded BWC data collected and maintained; and
 - 4. This policy, together with the Records Retention Schedule.

446.7 SUPERVISOR RESPONSIBILITIES

Supervisors shall ensure officers are using their MVR and BWC equipment per policy. Supervisors should determine corrective action for non-functioning MVR and BWC equipment.

When a **significant incident** arises that requires the immediate retrieval of the recorded media, a supervisor shall respond to the scene and ensure that the MVR and BWC is properly uploaded.

When a **critical incident** arises, the supervisor shall ensure the involved and/or witness officers maintain custody of their MVR and BWC equipment until the BCA or other authorized investigative authority takes custody of the equipment.

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446.8 GENERAL GUIDELINES FOR ACTIVATION

Officers shall activate their MVR and BWCs when responding to all calls for service and during all law enforcement-related encounters and activities, including but not limited to traffic stops, suspicious person stops, suspicious vehicle stops, pursuits, suspicious person stops, arrests, searches, suspect interviews and interrogations (Miranda), and during any police/citizen contacts that becomes adversarial. However, officers need not activate their cameras when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines, part (g) above.

- A. Once activated, the MVR and BWC should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. The officer having charge of a scene shall likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. If the recording is discontinued while an investigation, response, or incident is ongoing, officers shall state the reasons for ceasing the recording on camera before deactivating their BWC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.
- B. Officers shall not intentionally block the MVR or BWC's audio or visual recording functionality to defeat the purposes of this policy.
- C. Officers are prohibited from using department-issued MVR and BWC equipment for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.
- D. There shall be no audio or video recordings made in any court of law, unless authorized by a judge (Minn. Court Rule 4, General Rules of Practice).
- E. Officers will try to avoid recording videos of persons who are nude or when sensitive human areas are exposed.
- F. Officers shall not intentionally edit, alter, or erase any MVR or BWC recording unless otherwise expressly authorized by the Chief of Police or their designee.

446.8.1 SURREPTITIOUS RECORDINGS

- A. Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded. Minnesota law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Minn. Stat. § 626A.02).
- B. Officers may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be lawful and beneficial to the investigation.
- C. Notwithstanding any other provision in this policy, officers shall not use their BWCs to record other agency personnel during non-enforcement related activities, such as during pre- and post-shift time in locker rooms, during meal breaks, or during other

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private conversations, unless recording is authorized as part of an administrative or criminal investigation.

- D. Further, officers shall not surreptitiously record another department member using any device without a court order unless lawfully authorized by the Chief of Police, or authorized designee.

446.9 SPECIAL GUIDELINES FOR RECORDING

Officers may, in the exercise of sound discretion, determine:

- A. To use their MVR and BWC to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value, unless such recording is otherwise expressly prohibited.
- B. To use their MVR and BWC to take recorded statements from persons believed to be victims and witnesses of crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.
- C. Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. When responding to an apparent mental health crisis or event, BWCs shall be activated as necessary to document any use of force and the basis for it, and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors believed to be attributable to the mental health issue.
- D. Officers should use their MVR and BWC to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails, but otherwise should not record in these facilities unless the officer anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use-of-force incident.

446.10 DOWNLOADING AND LABELING DATA

Each officer using a BWC/MVR is responsible for transferring or assuring the proper transfer of the data from his or her camera to appropriate storage location by the end of the officer's shift. However, if the officer is involved in critical incident, the involved and/or witness officers maintain custody of their MVR and BWC equipment until the BCA or other authorized investigative authority takes custody of the equipment.

Officers shall label MVR and BWC data files at the time of video capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. Officers should assign one of the following labels to each file:

- A. **Report** - Video created when an incident report is generated, whether it is for an initial report, arrest, or supplemental report. This agency requires a report when any of the below LMCIT categories apply. * **NOTE** this label encompasses all MVR and BWC media evidence as recommended by LMCIT (i.e. Evidence-criminal, Evidence- force, Evidence - property, Evidence- administration, & Evidence- other).

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- B. **Citation - No Report** - Video created when a citation is issued where no case number is assigned nor a police report generated. (i.e. traffic citation).
- C. **Event – No Report** - Video created when any law enforcement activity (Normally CAD calls and/or self-initiated calls) where there is no written report or citation. * **NOTE** this label reflects the LMCIT recommended “Not Evidence” category.
- D. **Accidental** - Video created accidentally and has no law enforcement value.
- E. **Test** - Video created when conducting a functional test of the equipment
- F. **Permanent** - Video that will be retained indefinitely as determined by the Records Division.

Any MVR and BWC media may be evaluated for training value by the MVR/BWC Administrator and used with the consent of the Chief of Police or their designee.

446.11 MVR AND BWC ADMINISTRATOR RESPONSIBILITIES

The BWC/MVR administrator is responsible for managing media:

- A. Pursuant to a court order.
- B. In accordance with established records retention policies, including reissuing all other media deemed to be of no evidentiary value.
- C. In instances where privacy issues are noted.
- D. Ordering, issuing, retrieving and storing all MVR and BWC equipment.
- E. Electronic logs reflecting BWC equipment assignments, serial number, the date it was issued, and the officer to which it was issued.

446.12 ADMINISTERING ACCESS TO BWC DATA

- A. **Data subjects.** Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:
 - 1. Any person or entity whose image or voice is documented in the data.
 - 2. The officer who collected the data.
 - 3. Any other officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording.
- B. **BWC data is presumptively private.** BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result:
 - 1. BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.
 - 2. Some BWC data is classified as confidential (see C. below).
 - 3. Some BWC data is classified as public (see D. below).

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- C. **Confidential data.** BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes Precedence over the "private" classification listed above and the "public" classifications listed below.
- D. **Public data.** The following BWC data is public:
1. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
 2. Data that documents the use of force by a peace officer that results in substantial bodily harm.
 3. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted [*if practicable*]. In addition, any data on undercover officers must be redacted.
 4. Data that documents the final disposition of a disciplinary action against a public employee.
- E. **However**, if another provision of the Data Practices Act classifies data as private or otherwise not public, the data retains that other classification. For instance, data that reveals protected identities under Minn. Stat. § 13.82, subd. 17 (e.g., certain victims, witnesses, and others) should not be released even if it would otherwise fit into one of the public categories listed above.
- F. **Access to BWC data by non-employees.** Officers shall refer members of the media or public seeking access to BWC data to the Police Records Manager or their designee, who shall process the request in accordance with the MGDPA and other governing laws. In particular:
1. An individual shall be allowed to review recorded BWC data about him- or herself and other data subjects in the recording, but access shall not be granted:
 - (a) If the data was collected or created as part of an active investigation.
 - (b) To portions of the data that the agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. § 13.82, subd. 17.
 2. Unless the data is part of an active investigation, an individual data subject shall be provided with a copy of the recording upon request, but subject to the following guidelines on redaction:
 - (a) Data on other individuals in the recording who do not consent to the release must be redacted.
 - (b) Data that would identify undercover officers must be redacted.
 - (c) Data on other officers who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted.
 3. Notwithstanding any law to the contrary, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement

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agency must allow the following individuals, upon their request, to inspect all portable recording system data, redacted no more than what is required by law, documenting the incident within five days of the request, except as otherwise provided in this clause and clause (5): (Minn. Stat. § 13.825)

- (a) the deceased individual's next of kin;
- (b) the legal representative of the deceased individual's next of kin; and
- (c) the other parent of the deceased individual's child.

4. A law enforcement agency may deny a request if the agency determines that there is a compelling reason that inspection would interfere with an active investigation. If the agency denies access, the chief law enforcement officer must provide a prompt, written denial to the individual who requested the data with a short description of the compelling reason access was denied and must provide notice that relief may be sought from the district court pursuant to section 13.82, subdivision 7;4.
5. When an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency shall release all portable recording system data, redacted no more than what is required by law, documenting the incident no later than 14 days after the incident, unless the chief law enforcement officer asserts in writing that the public classification would interfere with an ongoing investigation, in which case the data remain classified by section 13.82, subdivision 7; (Minn. Stat. § 13.825)

G. Access by peace officers and law enforcement employees. No employee may have access to the department's BWC data except for legitimate law enforcement or data administration purposes:

1. Officers may access and view stored BWC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Except as provided in the Officer Involved Shootings and Deaths policy (310), officers may review video footage of an incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident.
2. Agency personnel shall document their reasons for accessing stored BWC data in the notes portion of the viewing screen at the time of each access. If the stored BWC data is accessed more than once, a new entry into the notes section is required. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency to public and social media websites.
3. Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.
4. Any member who accesses or releases recordings without authorization may be subject to discipline (Minn. Stat. 626.8473)

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- H. **Other authorized disclosures of data.** Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, subd. 15, as may be amended from time to time. Officers should generally limit these displays in order to protect against the incidental disclosure of individuals whose identities are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio but not displaying video. In addition,
1. BWC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.
 2. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

446.13 DATA SECURITY SAFEGUARDS

- A. The City of Hastings complies with the CJIS Security Policy version 5.5, Policy Area 8, Media Protection. Digital media is stored within a controlled area of the Hastings Police Department. Digital media is sanitized using DoD 5220.22 M option of Active KillDisk.
- B. Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view agency BWC data.
- C. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief's designee.
- D. As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time, this agency shall obtain an independent biennial audit of its BWC program.

446.14 AGENCY USE OF DATA

- A. At least once a month, supervisors will randomly review BWC usage by each officer to ensure compliance with this policy and to identify any performance areas in which additional training or guidance is required.
- B. In addition, supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.
- C. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.
- D. Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

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446.15 DATA RETENTION

- A. All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.
- B. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous, must be maintained for a minimum period of one year.
- C. Certain kinds of BWC data must be retained for six years:
 1. Data that documents the use of deadly force by a peace officer, or force of a sufficient type or degree to require a use of force report or supervisory review.
 2. Data documenting circumstances that have given rise to a formal complaint against an officer.
- D. Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period.
- E. Subject to Part F (below), all other BWC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days.
- F. Upon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
- G. The department shall maintain an inventory of BWC recordings having evidentiary value.
- H. The department will post this policy, together with its Records Retention Schedule, on its website.
- I. The following retention periods have been assigned to Hastings Police Department Media Labels. If information comes to light indicating that non-evidentiary data has evidentiary value or value for training, it may be reclassified and retained for a longer period:
 1. Report (Minimum of Seven year retention)
 2. Citation - No Report (Three year retention)
 3. Event – No Report (90 day retention)
 4. Accidental (90 day retention)
 5. Test (90 day retention)
 6. Permanent (permanent)

446.16 TRAINING

Users of the MVR and BWC systems and supervisors shall successfully complete an approved course of instruction prior to being deployed. This training shall be documented by the Sergeant.

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446.17 MISUSE

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