

**CHAPTER 15**  
**STORAGE OF DEPARTMENTAL VIDEO/AUDIO RECORDINGS**  
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## CHAPTER 15

### STORAGE OF DEPARTMENTAL VIDEO/AUDIO RECORDINGS

1. INTRODUCTION. This chapter pertains to the booking, storage, inspection, inventory, and retention of digital media obtained through departmental recording systems, such as Mobile Video/Audio Recording System (MVARs) DVDs, Wireless Mobile Video/Audio Recording System (WMVARs), and Body-Worn Camera (BWC) recordings. Areas shall be responsible for creating an Area Standard Operating Procedure (SOP) with specific instruction on how MVARs DVDs shall be issued and handled if the Area's procedures deviate from the Department's policy established within this manual or GO 100.61, Use of Mobile Video/Audio Recording Systems.
  
2. POLICY. Uniformed employees utilizing a patrol vehicle equipped with a DVD based MVARs during the course of their duties shall utilize a DVD in the MVARs in accordance with General Order (GO) 100.61, Use of Mobile Video/Audio Recording System. These policy and procedures also apply to all sworn employees who operate an enforcement vehicle equipped with WMVARs, or who have been issued and trained in the use of a departmentally owned BWC. For specific policy pertaining to MVARs equipment usage, training, DVD duplication, review of recordings, and other procedures not covered in this chapter, refer to GO 100.61. Under no circumstances shall an employee make a copy, record a copy, or permanently retain the contents of an MVARs, WMVARs, or BWC recording.
  
3. COORDINATORS. The Area commander is responsible for selection of the MVARs/WMVARs/BWC coordinators. The evidence officer may be appointed as the MVARs/WMVARs/BWC coordinator. The coordinator and back-up coordinator shall be uniformed employees. Commanders shall ensure that the coordinator(s) understand the requirement of maintaining confidentiality due to the potential sensitive material in the MVARs/WMVARs/BWC recordings.
  
4. DEFINITIONS.
  - a. Significant Event. A significant event is any important, meaningful, or momentous event. Significant events that may be captured by an MVARs/WMVARs/BWC device include, but are not limited to, felony arrests, misdemeanor arrests, pursuits, use of force incidents, conductive energy weapon deployment, patrol vehicle collisions, shootings, or any threshold incident as defined in GO 100.86, Risk Management Response Protocol.
  
  - b. Routine Event. A routine event is any event that does not meet the criteria or

definition of a significant event. For example, an enforcement contact that resulted in an infraction citation, verbal warning, or assistance to a disabled vehicle.

## 5. DOCUMENTS AND SUPPLIES.

### a. Documents.

(1) CHP 36D, Departmental Video/Audio Recording Evidence Log. A sergeant, officer-in-charge (OIC), or coordinator(s) shall complete a CHP 36D documenting all DVDs issued for the Area each day. This form contains a chain of possession page similar to a CHP 36, Property Receipt. The date entered in the "Date Out" box shall be the same on all the pages printed for the day. If a significant event is captured on an MVARs DVD, the case or citation number tied to the event shall be entered on the CHP 36D, if available. If a significant event is captured on WMVARs or BWC recording, the officer shall complete and sign the CHP 36D, and note "WMVARs" or "BWC" under the 'Significant Event' column.

(2) CHP 36F, Departmental Video/Audio Recording Request Form. A CHP 36F is an internal form and shall be completed when requesting a copy of an event recorded on an MVARs DVD, or WMVARs/BWC recordings. The original form shall be placed in a suspense file until the copy is returned. Once returned, the original form shall be attached to the original CHP 36D and filed.

(3) CHP 36M, Departmental Digital Media Admin Per Se Disclosure and Use Agreement. A CHP 36M shall be completed when a copy of a departmental video/audio recording is subpoenaed by the respondent for use in an Administrative Per Se Hearing (Admin Per Se). Refer to Section 5.f., Request for Copies, for additional information. Contact the Office of Internal Affairs (OIA), Evidence Unit, or Division Property and Evidence Program Coordinator for a sample of the form. A DMV hearing officer is not required to complete a CHP 36M.

### b. Supplies.

(1) Digital Versatile Discs. Only departmentally approved DVDs shall be used with MVARs. The MVARs DVDs shall be ordered through the Supply Services Unit. Each disc comes in a white DVD sleeve.

(2) Red Digital Versatile Disc Sleeves. All submitted MVARs DVDs containing significant events shall be placed in a red DVD sleeve. Red DVD sleeves shall be ordered through Supply Services Unit.

(3) Cabinets and Caddies. Submitted MVARs DVDs should be stored in the evidence room in a departmentally approved storage cabinet. The cabinet shall be used if the MVARs DVDs are stored outside of the evidence room. To reduce the likelihood of unauthorized entry, the hinges shall be internal and/or constructed in a manner that prevents unauthorized access. The cabinets shall be secured in a manner that prevents tampering or unauthorized entry. Cabinets designated for MVARs DVD storage shall only be used for the storage of such items. When practical, the cabinet should be placed within the evidence room. If stored outside of the evidence room, it should be properly secured to the floor or wall. The coordinators and the commander shall be the only persons in possession of keys to the DVD cabinet. The locks shall be changed upon change of coordinators or commander. Custom made caddies or trays are required to file the DVDs. The cabinets and caddies shall be ordered through Facilities Section. The caddies are ordered separately and do not automatically come with the cabinets.

(4) Fine Point Markers. Only permanent fine point markers shall be used to write on the MVARs DVDs. The markers shall be purchased through the Area's local office supplier/vendor.

## 6. PROCEDURE.

a. Pre-flighting. An MVARs DVD shall be pre-flight the day of the officer's shift and prior to placing it in an MVARs. At a minimum, the date, shift, patrol vehicle number, and officer ID number shall be completed.

b. Submission.

(1) The MVARs DVDs shall be submitted at the conclusion of each shift.

(2) The shift supervisor, OIC, or MVARs/MMVARs/BWC coordinator shall verify the issued MVARs DVDs are properly marked.

(3) The CHP 36D shall be verified to make sure that all issued MVARs DVDs were submitted and the CHP 36D was completed, along with the required signatures.

(4) Any MVARs DVDs determined to contain a significant event shall be placed in a red sleeve.

(5) The original CHP 36D and the MVARs DVDs shall be secured in a temporary evidence locker or given directly to the coordinator(s).

c. Receiving and Verification. Entries into the evidence RMS shall not be made,

as the evidence RMS may not be able to support the volume of entries required for the MVARs system.

(1) Only coordinators, supervisors, or managers shall retrieve the MVARs DVDs from the temporary evidence locker.

(2) The retriever shall verify all the MVARs DVDs are accounted for and are consistent with the CHP 36D.

(3) The retriever shall sign the bottom of the CHP 36D, confirming receipt of the MVARs DVDs listed on the CHP 36D.

d. Filing.

(1) The MVARs DVDs shall be filed chronologically. A divider should be used to keep the DVDs separated by month.

(2) The CHP 36Ds shall be filed chronologically.

e. Resident Posts and K-9 Units. Commands that contain resident posts or K-9 Units may develop an SOP for officers with permanently assigned vehicles. When practical, MVARs DVDs may be retained in the patrol vehicle until the MVARs DVD has neared its recording capacity. It is recommended that DVDs be replaced periodically, as needed. An MVARs DVD containing a significant event shall be submitted to the assigned Area office as soon as possible.

f. Request for Copies.

(1) Internal. Authorized employees requiring copies of MVARs DVDs or WMVARs/BWC recordings shall complete a CHP 36F and submit the form to a supervisor for approval. The supervisor shall consider any request for approval if it is for legitimate departmental use. If approved, the request shall be forwarded to the coordinator. The coordinator will complete the request form and provide a copy to the requestor. Requests from the Office of Legal Affairs (OLA) do not require supervisor approval. The original CHP 36F shall be attached and filed to the original CHP 36D. Upon conclusion of the employee's use of the DVD, it shall be destroyed and/or returned to the coordinator to be used to fulfill additional requests. Copies booked into evidence shall be purged in accordance with HPM 70.1, Evidence Manual. Copies attached to reports shall be purged in accordance with the retention of the report.

(2) External. Area commanders are strongly encouraged to meet with the local district attorney's (DA) office to establish mutually agreeable procedures concerning the submission of MVARs DVDs or WMVARs/BWC recordings to the DA's office. Any discovery requests or legal questions not covered in this

section shall be referred to the Office of Legal Affairs (OLA). Public Records Act (PRA) requests shall be referred to the Office of Risk Management (ORM), Public Records Act Unit (PRU).

Prior to releasing copies of MVARs DVDs or WMVARs/BWC recordings pursuant to a PRA request, the DVD or recording should be reviewed for any private third-party information or officer safety issues. Private third-party information is information that allows the viewer to gain otherwise private information about, or to identify parties not related to, the incident in question. An example of private third-party information would be the name and date of birth of a person broadcasted on the CHP radio and is audible on a DVD or WMVARs/BWC recording. An example of an officer safety tactic that shall be protected from disclosure would be felony stop procedures being employed by officers. Currently, Areas do not have the capability of redacting recorded private third-party information or officer safety issues contained on DVDs or WMVARs/BWC recordings. Contact the ORM, PRU for assistance with redactions.

Generally, a requestor is entitled to a copy of their specific MVARs/WMVARs/BWC recording(s); however, requests for copies of recordings shall be handled as follows:

(a) Criminal Cases.

1 Charges filed. Advise the defendant to go through the formal discovery process through the DA's office.

2 Charges not filed and the investigation is ongoing. The request shall be treated as a PRA request. Contact the ORM, PRU for any questions.

(b) Traffic Citations.

1 A copy of a DVD or WMVARs/BWC recording may be released to the defendant.

(c) Admin Per Se.

1 The requestor shall complete and sign a CHP 36M prior to release of the recording, prohibiting the use of the DVD copy outside the scope of the Admin Per Se hearing process. Contact the OIA, Evidence Unit, or Division Property and Evidence Program Coordinator for direction on completing the form.

2 Advise the requestor that a formal request through the DA is

required to use a copy of the video/audio recording in a criminal case.

3 Upon receipt of the binding agreement, a copy of the recording and the agreement shall be provided to the requestor.

4 If Area is informed of the requestor's refusal to sign the CHP 36M the officer appearing at the Admin Per Se Hearing pursuant to a properly served subpoena shall bring a copy of the recording to the hearing and make an oral request to the hearing officer for a Protective Order. The officer shall be prepared to explain why the Protective Order is necessary. If the hearing officer denies the request for the Protective Order, then provide the record per the hearing officer's direction.

(d) Civil Cases.

1 Parties in a civil case are generally entitled to a copy of the recording.

2 For cases where the Department or a departmental employee is named in the lawsuit, the request shall be handled by the OLA. The request should be forwarded to the OLA within one working day.

3 For cases not involving the Department or a departmental employee, refer to HPM 11.1, Administrative Procedures Manual, Chapter 10, Subpoenas/Subpoenas Duces Tecum Compliance Criminal/Civil Appearances, or Chapter 13, Information Disclosure-Public Records and Rights of Privacy.

(3) Allied Agencies. Allied agency requests for copies will be handled on a case-by-case basis by OIA, Evidence Unit, or ORM, PRU. Contact the OIA, Evidence Unit or ORM, PRU for further guidance.

(4) Cost. Do not charge for the copy of the recording unless the request was made under IPA, PRA, Admin Per Se, or for a civil case. Refer to HPM 11.1, Chapter 4, Miscellaneous Sales-Transmittal of Collections. The copy of the recording cost will be similar to the cost charged for a CD.

(5) Documents. Copies of documents received or collected pertaining to the request shall be attached to the original CHP 36D.

(6) Corrupted Disc. If the MVARs/WMVARs/BWC coordinator is unable to duplicate a DVD, the original shall not be released to the requestor. Contact the OIA, Evidence Unit, for further guidance. If the request is urgent and the DVD is playable, the requestor may schedule a time to view the requested

event with the Area MVARs/WMVARs/BWC coordinator. Before showing the event, the requestor shall be informally advised that the scope of the session will be limited. Questions regarding the event will not be answered and the use of recording devices is permitted. The MVARs/WMVARs/BWC coordinator shall retain the copy of the recording at all times, be present during the viewing of the event, and log the viewer(s) information on the CHP 36D chain of possession.

(7) Use of MVARs/WMVARs/BWC Recordings for Training Purposes. Video recordings captured by MVARs/WMVARs/BWC may be used for training purposes in accordance with GO 100.61. Commanders should be cognizant of videos which may result in liability or embarrassment to the Department. Graphic videos should not be used, even if the subject(s) is not identifiable. The MVARs/WMVARs/BWC recordings shall not involve an active investigation, legal proceedings, or any incident likely to result in litigation. The OLA should be contacted should any questions or concerns arise in this regard. The unauthorized use, copying, or distribution of MVARs DVDs or WMVARs/BWC recordings is prohibited.

g. Inventory and Inspections.

(1) Inventories. An annual or a change of command inventory of MVARs DVDs will not be required due to the high volume of DVDs and WMVARs/BWC recordings. However, a 100 percent inventory shall be completed if a reasonable amount of discrepancies are revealed during the quarterly inspection, or the commander deems it necessary.

(2) Quarterly Inspection. The evidence supervisor shall conduct a quarterly inspection of the MVARs DVDs and WMVARs/BWC recordings. The evidence supervisor shall select ten percent of the CHP 36Ds for the quarter and verify each MVARs DVD corresponds with the appropriate CHP 36D, the DVDs and/or sleeves are properly marked, and are filed in sequential order. The evidence supervisor shall also verify any significant events listed on the CHP 36D are also verified in the Safe Fleet Command Center. Additionally, the evidence supervisor should check one recording from each of the recording types (i.e., MVARs DVDs, WMVARs, and BWC recordings) per month to ensure it plays properly and the recording is free from degradation. The recordings shall not be viewed for content during a quarterly inspection. If discrepancies are discovered during the inspection, an additional ten percent shall be inspected. If further discrepancies are revealed, a 100 percent inventory for the quarter shall be completed. The quarterly inspection shall be documented via memorandum. The memorandum shall be filed at the Area office and retained for two years from the date of the inspection. Contact the OIA, Evidence Unit, or Division Property and Evidence Program Coordinator

for a sample memorandum.

h. Retention. MVARs DVDs and WMVARs/BWC recordings shall be retained for a minimum of one year. Certain recorded incidents, such as a significant event, may require longer retention. If the original MVARs DVD contains both a routine and a significant event, the DVD shall be retained for the duration of the significant event. Contact the OIA, Evidence Unit, or Division Property and Evidence Program Coordinator for a current retention schedule. All MVARs DVDs and WMVARs/BWC recordings used for administrative purposes shall be retained for five years.

Prior to purging, the evidence officer shall make sure any appeal process has expired and/or been exhausted. Refer to HPM 70.1, Chapter 9, Disposal of Property and Evidence. Refer to HPM 70.1, Chapter 9, Section 4.i. for recordings containing video footage that falls under the purview of Penal Code Sections 799-804, statute of limitations.

The CHP 36Ds and corresponding documents, such as CHP 36Fs, CHP 36Ms, shall be retained for the life of the recording, associated cases, or citation/report, whichever is longer.

The recordings (i.e., DVDs) and documents shall be destroyed at Area or through a contract shredding company in accordance with HPM 11.1.