

MADISON POLICE DEPARTMENT POLICY & PROCEDURES



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SUBJECT: BODY WORN CAMERAS / MOBILE VIDEO RECORDERS

BY THE ORDER OF:

Chief of Police John R. Miscia

ACCREDITATION STANDARDS:

3.5.5

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PURPOSE: The purpose of this policy and procedure is to maintain guidelines for the use, management, storage, and release of audio-visual media recorded by body worn video/audio cameras (BWCs) and mobile video recorders (MVRs). BWCs and MVRs are intended to enhance officer safety, produce effective materials for training and to produce an additional method of collecting evidence to prosecute those who violate the law. A further purpose is to define the media storage and retention system for the events recorded by these devices.

POLICY: It is the policy of the Madison Police Department to utilize body worn video/audio recorders (BWCs) and mobile video recorders (MVRs) to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident.

All personnel shall use this equipment consistent with manufacturer's guidelines, this policy and procedure and those policies or guidelines issued by the New Jersey Attorney General and Morris County Prosecutor's Office. Failure to use this technology in accordance with this policy and those policies or guidelines issued by the New Jersey Attorney General and Morris County Prosecutor's Office can result in discipline.

The use of BWCs or MVRs with electronically enhanced audio/visual capabilities, such as infrared vision features, is not authorized.

The Madison Police Department website/webpage shall contain a clear statement that this department utilizes body worn video/audio cameras. The website posting shall include an image showing what the device looks like and how it is to be worn by uniformed officers so that citizens will be able to determine whether an officer is equipped with the device.

Any willful or repetitive violations of this policy shall be reported the internal affairs supervisor who shall report such directly to the Chief of Police and Morris County Prosecutor's Office. The Morris County Prosecutor's Office is authorized to take such actions as are reasonable and necessary to ensure compliance with this policy and to prevent future violations.

PROCEDURE:

I. DEFINITIONS

- A. For purposes of this policy, the following terms are defined:
1. Activate – means to actuate (put into operation) the recording model / function of a BWC.
 2. Body worn audio/video recorder (BWC) – is an officer worn device that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity nor does the term include an electronic recording device when used to comply with the requirements of Court Rule R. 3:17 (electronic recording of station house custodial interrogations).
 3. Cabin microphone – refers to the internal microphone installed in the passenger compartment of the police vehicle.
 4. Constructive authority – involves the use of an officer's authority to exert control over a subject (see V3-C2, Use of Force), except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g., "...show me your hands," "...get out of the vehicle", etc.), or directed against any person if the officer has unholstered a firearm (e.g., "...move out of the way", "...get down", etc.).
 5. Digital evidence – includes photographs, images, audio, and video recordings that are stored digitally.
 6. DVD means a digital video disk.
 7. Equipped with a BWC – means that an officer is wearing a BWC at the time in question, as opposed to simply receiving BWC equipment from the agency.
 8. Force – has the same meanings as defined in Policy V3C2 *Use of Force*.
 9. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, driving while intoxicated, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.
 10. Metadata – A created digital image may include metadata that describes how large the picture is, the color depth, the image resolution, when the image was created, and other data.
 11. Mobile video recorder MVR – is mobile video / audio recording equipment installed in a police vehicle.

12. Proactive enforcement team – includes officers who are typically assigned to target vice, drugs, organized street crime, violent crime and/or any other targeted enforcement. Unlike officers who are responsible for responding to traditional calls for service, these officers are typically assigned the singular responsibility of addressing these activities (e.g., street crime unit, crime suppression unit, etc.). The nature of their work may include being dressed in traditional uniform, modified uniform, or plain clothes. These officers may work alongside undercover officers, conduct surreptitious surveillance, engage in high intensity enforcement via motor vehicle/pedestrian stops and/or interact with confidential informants or witnesses who wish to remain.
13. School – means a public or nonpublic elementary or secondary school within this State offering education in grades kindergarten through 12, or any combination of grades, at which a child may legally fulfill compulsory school attendance requirements.
14. Serious bodily injury – means bodily injury which creates a substantial risk of death, or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. for purposes of this policy, serious bodily injury and serious bodily harm have the same meaning.
15. Significant bodily injury – means bodily injury which creates a temporary loss of the function of any bodily member or organ or temporary loss of any one of the five senses.
16. Subject of the video footage – means any law enforcement officer, suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body worn camera recording and shall not include a person who only incidentally appears on the recording.
17. Substantive report – means a report that includes a detailed accounting of the incident. It does not include a report which simply refers to other reports or to the existence of BWC or other camera recordings.
18. Tactical team – is a group of officers who are specially selected, trained, and equipped to handle high-risk incidents including, but not limited to, those involving snipers, barricaded persons, warrant services, apprehensions, acts of terrorism, and other situations or activities as deemed necessary by command leadership.
19. Tagging – is the electronic labeling of a video/audio file captured by a BWC or MVR. The terms categorizing or category can be used interchangeably with the terms tagging or tag.
20. Undercover officer – is a law enforcement officer operating with an assumed identity and/or disguise for the purposes of gaining the trust of an individual or organization to learn or confirm confidential information or to gain the trust of targeted individuals to gather information or evidence. Plain-clothed officers and detectives are not considered undercover officers unless working with an assumed identity and/or disguise.
21. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, residential facilities, etc.

- B. All references to BWCs and MVRs include the body worn devices, equipment installed in a police vehicle and when appropriate, the wireless transmitter, microphone, removable media (if any) recordings, metadata server and other accessories necessary to operate this system.

II. GENERAL ADMINISTRATION

- A. BWC and MVR recordings are invaluable to law enforcement for evidential purposes. BWC and MVR have consistently demonstrated its value in the prosecution of criminal, traffic, and other related offenses and to protect personnel from false claims of misconduct. Additionally, this equipment will provide valuable instructional material that can be utilized for in-service training programs.
- B. While visual and audio evidence may be captured on the recordings, the use of BWC and/or MVR is not intended to document all evidentiary material relevant to court or administrative proceedings, but it can serve to supplement an officer's senses and eyewitness account. There is no intent to utilize the BWC and/or MVR as a management tool to punish officers for minor departmental rule infractions.
 - 1. Officers shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
 - 2. BWCs and MVRs shall only be utilized for legitimate law enforcement purposes.
- C. Adequate safeguards are necessary to ensure that this technology is:
 - 1. Used in a non-discriminatory way; and
 - 2. Used to document visual evidence; and
 - 3. Used to safeguard against potential violations of N.J.S.A. 2A: 156A-1, et seq., *New Jersey Wiretapping and Electronic Surveillance Control Act* (MVR).
- D. These recordings will serve the following purposes:
 - 1. Recordings serve as protection for police officers when there are complaints about their conduct or professionalism during encounters with the public.
 - 2. The recordings can be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
 - 3. The recordings can resolve disputes concerning what occurred during particular incidents, thereby protecting both the public and the officers involved.
 - 4. When complete recall is not possible, such as when multiple events are happening simultaneously or out of an officer's line of sight, an audio/visual recording can provide an accurate record of events.
 - 5. Supervisors will be able to view the recordings and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.

6. Recordings can permit supervisors to undertake more meaningful performance evaluations.
 7. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the public.
 8. Recordings enhance management's ability to train personnel in proper police procedures.
- E. The use of a BWC or MVR does not diminish the requirement to provide a thorough, text documentation of an incident. The BWC and MVR recordings are only one piece of evidence that provides only one perspective regarding the situation that has been recorded.
 - F. BWCs and MVRs shall not be capable of recording images or conversations that cannot be seen or heard by the officer wearing/using the device without the expressed approval of the Morris County Prosecutor or his/her designee or the Director of Criminal Justice or his/her designee.
 - G. Officers shall use only BWCs and MVRs purchased by the department. The use of BWCs and MVRs with electronically enhanced audio/visual capabilities, such as infrared vision features, is not authorized. Wearing any personally owned video/audio recorder is not authorized without the expressed permission of the Chief of Police, the Morris County Prosecutor's Office, or the New Jersey Division of Criminal Justice. Violations will be subject to disciplinary action, up to and including termination.
 - H. BWC and MVR equipment and all data, images, video, audio, and metadata captured, recorded or otherwise produced by the equipment is the sole intellectual property of this department. Under no circumstances will any employee of the Madison Police Department make a personal copy of any recorded event or direct someone to make a personal copy, except where authorized in this policy.
 - I. The Chief of Police shall maintain a training program on the lawful and proper use of BWC equipment. The Chief of Police may designate one or more persons to coordinate and/or conduct such training.
 1. Only officers who have received training in the use of BWCs and MVRs are permitted to use this system and must demonstrate a satisfactory degree of familiarity and efficiency in the use of this system.
 2. Proper use of a BWC/MVR is considered an essential job requirement.
 3. If any officer is unclear with this policy and procedure or the operation of a BWC or MVR, he/she should contact their supervisor to arrange for additional training.
 - J. Repairs to any BWC/MVR equipment shall only be performed by the manufacturer or under the direction of the BWC/MVR Coordinator and/or his/her designee. The BWC/MVR coordinator is responsible for:
 1. Providing initial training to all newly hired officers or to officers who were not previously trained. Such training for new officers can take place during the new officer's field training and evaluation program.

2. Providing periodic refresher training, as required, to ensure the continued effective use and operation of the equipment.
 3. Providing initial and refresher training to non-sworn personnel whose responsibilities include accessing, copying, or distributing BWC/MVR records.
 4. Ensuring proper calibration and performance of the BWC/MVR equipment.
 5. Incorporating changes, updates, or other revisions in policy and equipment.
 6. Providing supplemental training as part of this department's progressive disciplinary processes.
 7. Ensure that all recordings are uploaded to a secure data storage system in a timely fashion.
 8. Prevent tampering with or deletion of recorded data both before and after downloading from the BWCs/MVRs and uploading to the storage system.
 9. Prevent unauthorized access to stored BWC and MVR recordings.
 10. Document all instances when BWC/MVR recordings are accessed, viewed, copied, disseminated, or deleted; Permit auditing of all instances when BWC/MVR recordings are accessed, viewed, copied, or deleted.
 11. Authorize access to downloaded BWC and MVR files.
- K. BWCs and MVRs are intended for official police department use only and are not to be used for frivolous or personal activities. Intentional misuse or abuse of the units will result in disciplinary action.
- L. Under no circumstances will any member of the Madison Police Department make a personal copy of any recorded event.
- M. Prior to the destruction, erasing or deletion of any BWC/MVR recording, other than by automated retention, the BWC/MVR coordinator or his/her designee shall review the specific recording, as well as any relevant department investigation, supplemental reports or any other reports in the case file to confirm proper retention schedule compliance.

III. BODY WORN CAMERAS

- A. The BWC/MVR coordinator shall register all BWCs and docking stations into agency records prior to use.
1. BWCs will be assigned a unit number for ease of reference in officers' reports and other communications.
 2. Each unit number will correspond to the electronic and physical serial number assigned to each BWC.
 3. BWC unit numbers will not be reused and will count up sequentially each time the agency purchases new devices.

- B. BWCs shall be used only in conjunction with official law enforcement duties.
1. Officers engaged in undercover operations or surveillance activities are not required to utilize BWC.
 2. BWCs shall be used only in conjunction with official law enforcement duties. BWCs shall not be used to record:
 - a. Encounters with undercover officers or confidential informants.
 - b. Strip and/or body cavity searches.
 - c. When on break or otherwise engaged in personal activities.
 - d. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
 - e. When engaged in police union business.
 - f. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction. NOTE: the use of a BWC is authorized to record internal affairs interviews (e.g., principal, witness, complainant, etc.) if the interviews are overtly conducted and that the interviewees are fully aware that such interviews are being audio/video recorded.
 - g. While discussing criminal investigation strategies.
 - h. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording, see section V of this policy.
 3. Officers are not required to wear and use a BWC:
 - a. When engaged in hostage negotiations.
 - b. When processing crime scenes.
 - c. When conducting searches of cellphones, tablets, computers, or other electronic devices pursuant to a search warrant, when such items have already been seized and the search is performed at a location other than the premises of the initial search and seizure.
 - d. When conducting searches of cellphones, tablets, computers, or other electronic devices that are suspected to contain images of child sexual exploitation.
 4. This agency will not tolerate the reliance by any officer on race, ethnicity, gender, gender identify, gender expression, transgender status, sexual orientation, religion, economic status, age, culture, or any other immutable characteristic of a group or class of persons, in determining whether to activate or deactivate a BWC.

5. BWCs shall not be used to gather intelligence information based on 1st Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public, except in accordance with any applicable guidelines or directives promulgated by the New Jersey Attorney General.
- C. All regular officers and special law enforcement officers (SLEO) will be assigned an individual BWC.
1. When in uniform, officers and SLEO personnel shall wear (and utilize if necessary) BWCs prior to engaging in field activities (e.g., patrol, special assignments, DWI checkpoints/interdiction, proactive enforcement team details, third party/overtime details, etc.).
 2. When assigned to 'front desk' assignments and interacting with the public on a law enforcement matter, officers and supervisors shall wear and use a BWC consistent with the requirements and restrictions in this policy.
 3. Officers and supervisors shall wear and use a BWC consistent with the requirements and restrictions in this policy when assigned to or assisting any tactical team in the field.
 4. Officers and supervisors shall wear and use a BWC consistent with the requirements and restrictions in this policy when assigned to duties at demonstrations or potential civil disturbances.
 5. All investigative personnel shall wear (and utilize if necessary) BWCs prior to engaging in pre-planned field activities (e.g., special assignments, DWI checkpoints, third party/overtime details, etc.), or prisoner transports, motor vehicle stops, executing search/arrest warrants, etc.
 6. Administrative staff officers are not required to wear a BWC unless engaging in pre-planned field activities (e.g., special assignments, DWI checkpoints, third party/overtime details, etc.).
 7. SLEO personnel assigned to school resource officer positions are not required to wear a BWC until engaging in pre-planned field activities.
- D. Prior to beginning a shift, officers assigned a BWC will ensure its readiness by conducting an operational inspection.
1. Officers shall activate the BWC during the daily patrol vehicle check and verbally state the date, time, shift and assigned vehicle number.
 2. Officers shall keep the BWC activated during the vehicle check and inspection of the rear prisoner compartment. The officer will narrate that the '*prisoner compartment checks clear of weapons and contraband*' (if accurate) or note any problems/abnormalities.
 3. Any problems preventing the use of the officer's assigned BWC during the shift/assignment will be reported immediately to the patrol supervisor.
 - a. The patrol supervisor will assign a spare BWC and note such in the *Daily Assignment CAD Record*.

- b. If a temporary BWC is utilized, the patrol supervisor issuing the BWC must notify the BWC/MVR coordinator, to log the BWC to the officer using that spare BWC.
- E. BWCs shall be worn on the outer-most garment.
 1. The BWC battery pack will be worn on the duty belt using the case/clip supplied.
 2. The camera will be secured to the garment using the mount/clip supplied by manufacturer that is part of the BWC equipment.
 3. The BWC will be in the center of the chest, facing the officer's point of view.
 4. Officers are responsible to ensure that the BWC remains in a position to allow the recording of an encounter or incident to the extent possible.
- F. Officers are responsible for their assigned BWC, its use and maintenance.
- G. When assigned to an officer for duty, the BWC will remain in standby mode ready to be activated at any time. When an officer activates the recording mode / function, the device will record from the moment the record start / stop button is pressed.
- H. At the conclusion of each shift, the officer shall return his/her BWC to the charging dock/transfer station.
- I. When wearing a BWC, officers shall notify the subject of the recording that they are being recorded unless it is unsafe or unfeasible to provide such notification. Such notification shall be made as close to the inception of the encounter as is reasonably possible.
 1. If the officer decides not to provide notification of BWC activation because it is unsafe or unfeasible to do so, the officer shall document the reasons for that decision in the investigation report of the incident and/or by narrating the reasons on the BWC recording.
 2. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
- J. Prior to entering a private residence, officers shall notify the occupant that the occupant is being recorded and, if the occupant requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that the officer will be required to use constructive authority or force.
- K. When interacting with an apparent crime victim, officers shall, as soon as practicable, notify the apparent crime victim that he or she is being recorded and, if the apparent crime victim requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC.

- L. When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, if the person requests that the officer discontinue use of the body worn camera, officers shall evaluate the circumstances and, if appropriate, discontinue use of the BWC.
- M. If a civilian inquires of an officer whether the officer is equipped with a BWC, or inquires whether the device is activated, the officer shall answer truthfully unless the Morris County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, has expressly authorized the officer to make a covert electronic recording.
 - 1. Officers can deactivate a BWC when a civilian conversing with the officer requests that the device be turned off under circumstances when it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected (e.g., prior to providing such information, the person indicates that he/she will only provide such information if it were not recorded; provided however, that the agreement to participate under that condition is itself recorded).
 - a. Officers shall not suggest to the person that the BWC should be deactivated, nor shall the officer ask or indicate to the person whether he or she would prefer that the BWC be deactivated. Rather, the request for deactivation must be self-initiated by the civilian.
 - b. In deciding whether to deactivate the BWC, the officer shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide is important to the investigation yet, is not critical to require recording.
 - c. The officer may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded).
 - 2. Officers may deactivate a BWC when a person, other than an arrestee/prisoner, is seeking emergency medical services for him or herself or another and requests that the BWC be deactivated. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance (e.g., a victim of an assault during a fight does not want to be recorded, etc.). However, in situations when an officer reasonably believes that the officer or another person is likely to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.
 - 3. When an officer deactivates a BWC:
 - a. The conversation between the officer and the civilian concerning the request for deactivation shall be electronically recorded.
 - b. Before deactivating the BWC, the officer shall narrate the circumstances of the deactivation (e.g., "...I am now turning off my BWC as per the victim's request.").
 - c. The officer shall report the circumstances concerning the deactivation to their supervisor as soon as is practicable; and

- d. The officer shall document the circumstances of the deactivation in the applicable report concerning the incident under investigation, including the approximate time of activation and/or deactivation.
4. If an officer declines a request to deactivate a BWC, the reasons for declining the request (e.g., the officer believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter) must be memorialized on the recording and documented in the applicable report and shall be reported to a supervisor as soon as it is safe and practicable to do so.
 - a. In the event that the officer declines a deactivation request, the officer shall immediately inform the person making the request of that decision.
 - b. Officers are prohibited from misleading the person making the deactivation request into believing that the BWC has been turned off when in fact it is operating unless the Morris County Prosecutor or his/her designee or the Director of the Division of Criminal Justice or his/her designee expressly has authorized covert recording.
5. Officers can deactivate a BWC when specifically authorized to do so by an assistant prosecutor or deputy attorney general for good and sufficient cause as determined by the assistant prosecutor/deputy attorney general. When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the name of the assistant prosecutor/deputy attorney general who authorized the deactivation.
6. Officers should mute a BWC while participating in a discussion pertaining to criminal investigation strategy and planning (e.g., to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to summon a drug/explosives detection canine, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.), provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation.
7. If an officer is required to deactivate the BWC when entering a school, house of worship, health care facility, substance abuse treatment center, etc., the officer shall narrate the reason for deactivation (e.g., "*...I am entering a school building where children are present.*"). The BWC shall be reactivated as soon as it is safe and practicable to do so when the circumstances requiring deactivation no longer exist (e.g., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWC).
8. If a BWC captures the image of a patient in a substance abuse treatment facility, the Chief of Police or his/her designee shall notify the Morris County Prosecutor or his/her designee to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information (42 USC § 290dd-2, 42 CFR §23.1 to 23.41).

The recording shall not be accessed without the permission of the Morris County Prosecutor or his/her designee. (Note that destruction of the recording would be inappropriate until it has been determined that it had not captured exculpatory information that must be provided to a defendant in discovery.)

9. In any instance when a BWC was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so if and when the circumstances justifying deactivation no longer exist (e.g., the interview of the person requesting deactivation is completed, etc.) and the officer would otherwise be required to activate the BWC.
- N. Officers shall not activate a BWC while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority, or unless the presiding judge expressly authorizes such activation.
- O. In the event that a BWC worn during the execution of tactical operations (e.g., execution of pre-planned arrest and/or search warrant, etc.) records confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms, techniques to convince persons to open doors, etc.), the recording shall be tagged accordingly to prevent its unauthorized release.
- P. BWC shall be deactivated or removed while in the ALCOTEST area and stored in another room when the ALCOTEST device is being used prior to the 20-minute observation period. Nothing herein shall be construed to preclude the use of a BWC to record the behavior of a person arrested for driving while intoxicated other than while the person is in the ALCOTEST area while the ALCOTEST device is being operated. If this provision requires deactivation of a BWC, the officer shall narrate the reasons for deactivation (e.g., "*...I am deactivating the BWC because the suspect is about to take a breath test*"), and the BWC shall be reactivated when safe and practicable to do so following the completion of the breath testing operation.
- Q. Officers shall not activate a BWC, and shall deactivate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would capture the image of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (e.g., active shooter, use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the officer shall inform the duty shift commander that the image of an undercover officer or confidential informant was recorded. The BWC shall be activated/reactivated as soon as it is safe and practicable to do so when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
- R. When a BWC is activated, officers are encouraged to provide narration when practical and appropriate to augment the value of the recording and to provide clarity for the viewer.

- S. If an officer fails to activate the BWC, fails to record the entire event contact, or interrupts the recording, the officer shall document in the applicable investigation report the reason why a recording was not made, was interrupted, or was terminated.

IV. MOBILE VIDEO RECORDERS

- A. Equipment installed in a patrol vehicle is the responsibility of the officer assigned to that vehicle. The officer must ensure that the MVR is operating properly prior to the start of his/her shift and must report all malfunctions, damage or other problems to the duty patrol supervisor.
 - 1. No one is permitted to move the installed components of the system from its positions without authorization by the BWC/MVR coordinator or his/her designee or as permitted by this policy.
 - 2. Likewise, no one is authorized to repair any MVR equipment or related component except those personnel authorized by the BWC/MVR coordinator or his/her designee.
 - 3. Equipment shall be maintained according to manufacturer's recommendations.
- B. Installation, removal or repairs to any of the MVR equipment shall only be performed under the direction of the BWC/MVR coordinator or his/her designee.
 - 1. MVRs will upload automatically to the MVR server when a vehicle is close to headquarters.
 - 2. No officer or other police employee shall conduct him/herself in any way that would intentionally interfere with any data upload from occurring. If an officer or police employee is found to have intentionally interfered with any upload, an internal affairs investigation shall be initiated.
 - 3. If a police vehicle is towed due to a collision or having become disabled, contact the BWC/MVR coordinator or his/her designee so that arrangements can be made to secure the removable media.
 - 4. MVRs will automatically activate when the vehicle's emergency warning devices are in operation. Manual deactivation should only occur during non-enforcement activities.
 - 5. At no time shall an officer deactivate the MVR when responding to an incident while using the patrol vehicle's emergency warning devices.
 - 6. Promptly notify the BWC/MVR coordinator concerning any MVR equipped vehicle involved in:
 - a. A crime; or
 - b. A collision with serious bodily injuries to any party; or
 - c. A motor vehicle pursuit involving any crash or injury.

7. The support services sergeant or his/her designee shall respond and remove the removable media and secure it as evidence.
- C. It is the officer's responsibility to exercise reasonable care when using the equipment. Misuse of the equipment that results in damage or loss may result in disciplinary action and/or replacement of such equipment by the officer.
- D. Prior to each shift, officers shall determine whether their MVR equipment is working satisfactorily and shall bring any problems at this or other times to the attention of the patrol sergeant supervisor as soon as possible.
1. Patrol officers shall log onto the digital video recorder with his/her memory stick prior to the start of his/her patrol tour and log-off at the conclusion of his/her patrol tour.
 2. To verify operation of the video portion, activate the MVR and place it in record mode (manually or via activation of overhead lights) to test operability and reciting his/her badge number/name the date, assigned shift and patrol unit number.
 3. Vehicle checks shall be conducted with the MVR recording/activated. The officer shall check the rear compartment area of the patrol vehicle for weapons and contraband at the start of each shift. The officer will state out loud that this check has taken place and the rear compartment area is free of contraband (if applicable) or report any anomalies.
 4. At the conclusion of the vehicle check the MVR should reflect '*Vehicle Check*' via the stop code.
 5. Inoperable or damaged MVR equipment shall be immediately reported to the duty patrol supervisor.
 - a. The duty patrol supervisor shall check the MVR equipment to determine the problem.
 - b. In the event all patrol vehicles are in use and a backup is not available the officer can utilize the patrol unit with permission from the duty patrol supervisor.
 6. Officers shall log into the WatchGuard application and utilize that to pair the MVR with their BWC. This will ensure that any MVR recording will be assigned to that officer, and not to a previous user or unassigned.
- E. If for any reason (e.g., officer did not have time to pair his/her MVR with their BWC or had to operate the MVR manually, etc.) video is recorded on an MVR that is not automatically assigned to that officer, it that officer's responsibility to ensure he/she tags/labels any such recordings as soon as possible.
1. All supervisors have the ability to reassign recordings and cameras to any officer in the agency.
 2. If video is recorded and not assigned to that officer, the officer is to notify his/her supervisor so that video can then be re-assigned to that officer so it can be labeled properly.

3. This can be done once the recording has been downloaded to the WatchGuard server.
 4. Not being able to sign into the WatchGuard application is no reason to not utilize the MVR according to this policy, nor have any recorded video not tagged and labeled properly.
 5. Officers should also ensure they properly log off/sign out of the WatchGuard application when their shift ends. Failure to properly sign off will result in that camera still being assigned to that officer when used by the next officer until they are able to pair it.
- F. Officers should ensure that the MVR is positioned in a way that will allow for the recording of traffic stops and other enforcement action. De-activation shall not occur until the enforcement action is complete. The audio transmitter is activated to provide narration with the video recording to explain the reason for current or planned enforcement action. The officer's BWC shall be always used and placed on the patrol officer's outermost clothing (see section III of this policy).
- G. The MVR/BWC will be activated during ALL motor vehicle stops. Prior to exiting the patrol vehicle, officers shall ensure the camera is centered on the rear of the vehicle being stopped.
1. When the patrol officer concludes a motor vehicle stop or call for service, he/she shall select the appropriate video MVR/BWC category.
 2. Back-up/secondary officers shall activate their MVR when they arrive on scene. Additionally, back-up/secondary officers should manually operate the primary officer's MVR during field sobriety evaluations, to capture the best view of the field sobriety evaluation.
 3. At the scene of the incident, officers shall manually direct the camera to capture the immediate scene and/or event.
 4. When an officer recognizes that the memory system drops below 1GB, the officer should return to headquarters to allow the patrol vehicle's digital hard drive to download onto the server.
 5. If the equipment accidentally malfunctions, the patrol officer should immediately inform the shift supervisor.
 6. At no time shall any officer notify the service contractor for any problems with the digital video recorder.

V. INCIDENTS TO RECORD

- A. When on duty, the officer's BWC will remain in standby mode ready to be activated at any time. When an officer activates the recording mode / function, the device will record from the moment the record start / stop button is pressed. Activation should occur before arriving at the scene, when feasible. Likewise, the vehicle's MVR shall be activated when the officer is assigned to an MVR-equipped vehicle.

- B. Except when otherwise restricted in this policy, officers shall video and audio record all law enforcement incidents including any interaction with a civilian. However, if an immediate threat to the officer's life or safety makes activating the BWC/MVR impossible or dangerous, the officer shall activate the BWC/MVR at the first reasonable opportunity to do so. Examples of such required recordings include, but are not limited to:
1. All law enforcement interactions with public.
 2. Conducting motor vehicle stops from the initiation of the stop until the stop is concluded, to include conducting or monitoring field sobriety tests.
 3. During all calls for service (involving those to which the officer is dispatched or volunteers).
 4. When responding to a call for service at or near the location to which the officer has been dispatched.
 5. Stationary police details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, extra duty assignments at ABC establishments where alcohol is consumed (ABC establishments, festivals, etc.).
 6. Crash scenes, including interviews on the scene.
 7. Crime scenes, except crime scene processing.
 8. Motor vehicle and foot pursuits.
 9. Investigations of criminal violations.
 10. Any call for service related to a violation or suspected violation of possessing or consuming marijuana, hashish, or cannabis item.
 11. Investigative detentions/field interviews.
 12. Out-of-court identifications (i.e., show ups, lineups).
 13. Warrantless searches (all types, including protective frisks, but not strip or body cavity searches).
 14. Search or arrest warrant service (entire service).
 15. Emotionally disturbed person investigations / encounters.
 16. Arrests.
 17. Drug recognition expert evaluations.
 18. Arrestee / prisoner / emotionally disturbed persons / civilian transportations.
 19. Domestic violence investigations:
 - a. Confidential information could be recorded on BWCs during the domestic violence incident, especially during the completion of the VINE form.

- b. Other segments include, but are not limited to, the location where the victim is being sheltered or contact phone numbers for those assisting the victim.
 - 20. When an officer uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this subsection based on specific and articulable facts warranting heightened caution (must be documented by narration on the recording and/or in any applicable report).
 - 21. Crowd control, unruly crowds, or incidents requiring activation of the all-hazards or emergency operations plan.
 - 22. Strikes, picket lines, demonstrations, civil disorders.
 - 23. Welfare checks of residents and motorists
- C. When an officer equipped with a BWC and/or MVR is dispatched to a call for service, upon acknowledging dispatch, the officer shall immediately begin to record the response.
 - D. When an officer equipped with a BWC and/or MVR volunteers for a call for service or assistance, upon advising dispatch, the officer shall immediately begin to record the response unless impracticable. In a situation where it is impractical to record the situation, the officer must notify their immediate supervisor, as soon as it is safe to do so. Reasons for not recording the incident shall be documented in the appropriate report.
 - E. When a BWC and/or MVR is activated, officers are encouraged to provide narration where practical and appropriate to augment the value of the recording and to provide clarity for the viewer.
 - F. Notwithstanding any other provision of this policy/procedure, when an officer equipped with a BWC and/or MVR is dispatched to or otherwise goes to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed or goes to a scene where an officer has requested emergency assistance (e.g., an officer in distress, shots fired, etc.), the officer shall activate his/her BWC and/or MVR before arriving at the scene unless impracticable to do so.
 - G. Notwithstanding any other provision of this policy/procedure, an officer while at the scene of a police deadly-force event, police involved motor vehicle pursuit resulting in a death or serious bodily injury, or in-custody death or the on-scene investigation of these events shall not deactivate his/her BWC and/or MVR unless instructed to do so by the assistant prosecutor or deputy attorney general supervising the investigation of the deadly force incident pursuant to *Attorney General Law Enforcement Directive 2019-4*. The assistant prosecutor, deputy attorney general, or his/her designees supervising the investigation may provide such instruction telephonically.
 - 1. Officers can deactivate their BWCs once they leave the scene of the incident.
 - 2. BWCs do not need to remain activated while officers are receiving medical evaluation, medical treatment, or have returned to headquarters.

- H. BWCs and MVRs shall remain activated for the entire duration of public contacts (e.g., calls for service, pedestrian/MV stop, etc.) until the officer has departed the scene and the officer has notified communications that the event is closed.
- I. When a BWC and/or MVR is activated to transport an arrestee/prisoner, it shall remain activated at all times while the officer is in the presence of the arrestee/prisoner and until the arrestee/prisoner is re-searched and secured in the processing/booking room or until custody of the arrestee has been transferred to county jail personnel or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee.

VI. TAGGING RECORDINGS

- A. As soon as practicable, but no later than the end of their shifts, officers shall tag all recordings that correspond to their name. Tagging of recordings shall not be used to generate overtime.
- B. Categories for tagging will automatically set retention purposes:
 - 1. Traffic stop; or
 - 2. Call for service; or
 - 3. Vehicle check / test; or
 - 4. Other; or
 - 5. Field interview; or
 - 6. Arrest; or
 - 7. Search; or
 - 8. Domestic violence; or
 - 9. DWI arrest; or
 - 10. Attempt to stop a motor vehicle; or
 - 11. Pursuit; or
 - 12. Use of force; or
 - 13. Internal affairs; or
 - 14. Planned event; or
 - 15. Special privacy (see below).

C. Special privacy

1. Officers shall categorize recordings that capture any of the following circumstances that the New Jersey Attorney General has deemed 'special privacy' issues.
 - a. Captures a law enforcement incident, as defined by *New Jersey Attorney General Directive 2019-4*:
 - 1) Any use of force by a law enforcement officer resulting in death or serious bodily injury.
 - 2) Any use of deadly force (including the discharge of a firearm) by a law enforcement officer, regardless of whether such force resulted in injury.
 - 3) The death of any civilian during an encounter with a law enforcement officer.
 - 4) The death of any civilian while in the custody of law enforcement.
 - b. Captures the image of a juvenile.
 - c. Captures the image of a victim of a criminal offense.
 - d. Were made in a dwelling (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship.
 - e. Captures a conversation with a person whose request to deactivate the BWC was declined.
 - f. Captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded.
 - g. Captures the image of an undercover officer or confidential informant.
 - h. Captures the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
 - i. Captures something that is private or inappropriate.
 - j. Internal affairs interviews.
2. Recordings marked 'special privacy' will have viewing immediately restricted to commanding officers only.
3. All initial police reports must be written prior to a recording being categorized '*Special Privacy*'.

VII. SUPERVISORY RESPONSIBILITIES

- A. Supervisors are responsible for ensuring that on-duty officers assigned a BWC unit are equipped with functioning BWCs at the beginning of each shift.
- B. Supervisors are responsible for ensuring that on-duty patrol officers are assigned to a vehicle with an operational MVR, unless such vehicles are unavailable.
- C. Supervisors shall:
 - 1. Ensure that all officers follow proper procedures for the use and operation of BWC and MVR equipment.
 - 2. Document requests for repairs and replacement of damaged or inoperable BWC and MVR equipment in accordance with this policy.
- D. Patrol supervisors shall take protective custody of the BWC from any officers that are involved in a serious incident in order to safeguard the recording. Such incidents include, but are not limited to use of deadly force, use of force resulting in serious bodily injury or death, serious motor vehicle crashes involving an on-duty officer, any in-custody death incident, any incident resulting in the incapacitation of the on-duty officer or any other incident in which the supervisor feels is necessary to protect the recordings. The process shall take place as follows:
 - 1. The patrol supervisor shall take custody of the BWC after the entire incident has concluded and the BWC's has been deactivated in accordance with the parameters set forth in this policy.
 - 2. The patrol supervisor who takes custody of the BWC shall forward it to the BWC/MVR coordinator and issue the officer a spare unit.
 - 3. The BWC/MVR coordinator or his/her designee shall upload and categorize any footage captured of the incident accordingly.
 - 4. Such BWCs shall only be placed back in service at the direction of the Chief of Police.
- E. Patrol sergeants/supervisors shall formally review one (1) recording of selected non-evidential BWC and MVR recordings for each officer under their supervision, during each weekly tour of duty to:
 - 1. Assess officer performance (positive or negative activities); and
 - 2. Ensure the equipment is operating properly; and
 - 3. Assess officer performance and adherence to this policy and procedure; and
 - 4. Flag video/audio recordings that may be deemed appropriate for training and/or disciplinary purposes.
- F. If a patrol supervisor is out of work for an extended time and reviews cannot be accomplished, a substitute supervisor shall be assigned to conduct the reviews until the return of the assigned supervisor.

- G. Patrol supervisors shall formally review all instances when a BWC/MVR is deactivated prior to the conclusion of an incident or if they are made aware of recordings that are subject to a meaningful command review. They will prepare a *Supervisory Review of Digital Video/Audio Recordings Form* for that specific incident and forward the completed form through chain of command.
- H. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the reviewing supervisor will tag the recording for indefinite retention under '*Internal Affairs*'.
- I. The officer or shift supervisor shall notify the patrol lieutenant if an BWC or MVR records an event that should be preserved as evidence. The patrol lieutenant shall copy the incident to a DVD and preserve it as evidence in accordance with standard evidence procedures or maintain it with the case file.

VI. RECORDS RETENTION AND REVIEW

- A. Viewing of BWC/MVR events is strictly limited to employees of this department. Viewing by any other person is prohibited unless authorized by the Chief of Police, and/or his/her designee.
- B. BWC recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- C. NOTE: this subsection applies to BWCs ONLY. No law enforcement officer or civilian employee of this department shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose. Access to and use of a stored BWC recording is permitted only:
 - 1. When relevant to and in furtherance of a criminal investigation or prosecution.
 - 2. When relevant to and in furtherance of an internal affairs investigation.
 - 3. When relevant to and in furtherance of a management review process to identify circumstances indicating police misconduct or to determine the existence of a pattern or practice of possible misconduct.
 - 4. To assist the officer whose BWC made the recording in preparing his/her **own** substantive police report, providing a statement, or submitting to an interview.
 - a. Except:
 - 1) The incident involves the use of force by the officer, when the officer knows or should know that the use of force resulted in significant or serious bodily injury or death; or
 - 2) The incident involved the discharge of a firearm or any use of deadly force by the officer (see this agency's policy on *Use of Force*); or
 - 3) The incident involved the death of a person while in law enforcement custody; or

- 4) The incident involved the death of a person during an encounter with a law enforcement officer; or
 - 5) An incident the officer knows or has been advised is or will be the subject of an internal affairs or civilian complaint relating to the officer's use of force, bias, or dishonesty.
- b. Whenever an officer reviews or receives an accounting of a BWC recording prior to the creation of any report, statement, or interview, the officer shall acknowledge that prior review or receipt of an accounting of the BWC recording either verbally or in writing within each such report, statement, or interview.
- 1) The officer shall document each BWC recording that was reviewed and the date of the review.
 - 2) If the officer received an accounting of a BWC recording, the officer shall document the name of each person who provided an accounting of the BWC recording, the date of the accounting, and the specific BWC recording for which an accounting was provided.
- c. Officers shall only be permitted to review or receive an accounting of such BWC recordings once the investigating entity concludes that (a) the officer has in fact completed the specified incident memorialization and (b) the officer's review or receipt of an accounting of the BWC recording will not otherwise interfere with the ongoing investigation.
- 1) In cases subject to *Attorney General Directive 2019-4*, the independent investigator is the investigating entity.
 - 2) In all other cases, the Chief of Police or his/her designee is the investigating entity.
 - 3) The appropriate investigating entity shall document the authorization to review or receive an accounting of a BWC of a specified incident.
5. When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency.
6. To show to a civilian who intends to file a complaint against an officer to demonstrate what occurred during the encounter so that the person can make an informed decision whether to file the complaint. Only the Chief of Police or his/her designee can show such a recording to a civilian.
7. To comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court:
- a. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.
 - b. Only those portions of the recording pertinent to the request shall be forwarded.

- c. This agency reserves the right to redact video and audio as applicable by law.
 - 1) NOTE: when providing discovery in a domestic violence matter, ensure that the recording is reviewed prior to release to verify that there is no confidential information that should be redacted.
 - 2) This confidential information includes, but is not limited to, the location where the victim is being sheltered or contact phone numbers for those assisting the victim, etc.
 - 3) Consult with the Morris County Prosecutor's Office prior to redacting any recording in a criminal matter under its jurisdiction.
 - 4) Consult with the municipal prosecutor prior to redacting any recording in a matter under his/her jurisdiction.
 - 5) Consult with the borough attorney/solicitor prior to redacting any recording in a civil matter involving the borough or any of its subdivisions.
 - d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing ordinance.
- 8. To comply with any other legal obligation to turn over the recording to a person or entity.
 - 9. Solely and exclusively for internal training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video unless the depicted individuals have consented to the recording being used for training purposes.
 - a. Note: consent is required from Madison police officers appearing in the recording.
 - b. Recordings retained beyond 180 days solely and exclusively for training purposes shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.
 - 10. To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the Chief of Police, Morris County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee.
 - 11. To show or disseminate the recording to a civilian or a non-law enforcement entity or to disseminate it to the public, when the Chief of Police, Morris County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, determines that disclosure to that person entity or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.

12. To conduct an audit to ensure compliance with this policy.
 13. Any other specified official purpose where the Morris County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, finds in writing that good and sufficient cause exists to authorize access to a particular recording
- D. Officers shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC/MVR recordings or remove or disable any camera. Officers shall not instruct another to alter, tamper with, destroy, or conceal BWC/MVR recordings or remove or disable any camera. If an officer, employee, or agent fails to adhere to the recording or retention requirements contained in this general order, N.J.S.A. 2C:28-7, or N.J.S.A. 40A:14-118.5 et seq., or intentionally interferes with a body worn camera's ability to accurately capture audio or video recordings:
1. The officer, employee, or agent shall be subject to appropriate disciplinary action and/or criminal sanctions; and
 2. There shall be a rebuttable presumption that exculpatory evidence was destroyed or not captured in favor of a criminal defendant who reasonably asserts that exculpatory evidence was destroyed or not captured; and
 3. There shall be a rebuttable presumption that evidence supporting a plaintiff's claim was destroyed or not captured in favor of a civil plaintiff suing the government, a law enforcement agency, or a law enforcement officer for damages based on police misconduct if the plaintiff reasonably asserts that evidence supporting the plaintiff's claim was destroyed or not captured.
 4. Any recordings from a BWC recorded in contravention of this policy or any other applicable law shall be immediately brought to the attention of the command staff and immediately destroyed by the command staff following consultation and approval by the Morris County Prosecutor or Director of the Office of Public Integrity and Accountability. Such recordings shall not be admissible as evidence in any criminal, civil, or administrative proceeding, except as evidence in any proceeding related to the unauthorized use of a BWC.
- E. Recordings are considered criminal investigatory records of this police department and shall be maintained on a secure server and disposed of in accordance with law and New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
1. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes, recordings shall be retained for a period of at least 180 days.
 2. Recordings being stored for criminal, civil, or administrative purposes must be retained until the conclusion of the case plus any retention period.
 3. Recordings of an arrest that did not result in an ongoing prosecution, or records the use of police force, shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer or the employing law enforcement agency.

4. BWC/MVR recordings shall automatically be retained for not less than three years if it captures images involving an encounter about which a complaint has been registered by a subject of the BWC recording.
 5. BWC/MVR recordings shall be retained for not less than three years if requested by:
 - a. The officer whose BWC/MVR made the recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
 - b. The officer who is a subject of the BWC/MVR recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
 - c. Any immediate supervisor of an officer whose BWC/MVR made the recording or who is a subject of the BWC/MVR recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value; or
 - d. Any officer, if the BWC/MVR recording is being retained solely and exclusively for police training purposes; or
 - e. Any member of the public who is a subject of the BWC/MVR recording; or
 - f. Any parent or legal guardian of a minor who is a subject of the BWC/MVR recording; or
 - g. A deceased subject's next of kin or legally authorized designee.
 - h. NOTE: the member of the public, parent, or legal guardian, or next of kin or their designee (subsections VI.E.5(e)(f)(g)) shall be permitted to review the BWC/MVR recording in accordance with N.J.S.A. 47:1A-1 et seq. to determine whether to request a three-year retention period
 6. When a BWC/MVR records an incident that is the subject of an administrative internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation, any resulting administrative action and required retention.
- F. Open public record requests. Only the following BWC/MVR recordings shall be exempt from public inspection:
1. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection VI.E.5 of this general order if the subject of the BWC recording making the complaint requests the recording not be made available to the public.
 2. Recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection VI.E.6 of this policy.
 3. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection VI.E.6(a)(b)(c)(d) of this policy.

4. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection VI.E.6(e)(f)(g) if an officer, parent, or legal guardian, or next of kin or designee requests the recording not be made available to the public.
- G. The Chief of Police or his/her designee shall notify the Morris County Prosecutor's Office within one business day upon receiving any subpoena, court order or OPRA or common law right to access request for a BWC/MVR recording before complying with the request.
1. Such notification must contain the date the request was received, the deadline by which a response must be made, whether the agency intends to release or deny the request, and the justification for that decision.
 2. Provide the type of police action or activity depicted in the recording, including but not limited to, whether the officer was involved in an investigative detention, an arrest, an interrogation of a suspect, a witness interview, a search, a protective frisk for weapons, or was using constructive or actual force.
 3. Indicate whether the recording is part of an ongoing criminal or internal affairs investigation or whether release of the recording potentially infringes upon a victim and/or juvenile privacy rights.
 4. The Chief of Police or his/her designee will receive an email acknowledgement. If no further communication is received within 72 hours, the records supervisor or his/her designee should respond to the request as deemed appropriate.
 5. Pursuant to the *Open Public Records Act* (N.J.S.A. 47:1A-5c and N.J.S.A. 47:1A-5d), the department can apply service fees for any extraordinary expenditure of time and effort to accommodate a request. The service fees will be based upon the actual direct cost of providing the service or extraordinary time. If the requester objects to the fee, the request is closed and access to the records is not granted.
 6. BWC footage requests requiring a substantial amount of manipulation or programming of information technology will be assessed a special service fee that shall be reasonable and shall be based on the cost for the labor cost of personnel providing the service, that is actually incurred for the programming, clerical, and supervisory assistance required, or both, if a request is for a copy of a record.
 7. The fee will be based at the lowest hourly rate of the personnel authorized to review/redact/approve the request.
 8. The Chief of Police or his/her designee will provide the requestor an estimate before any action is taken.
- H. A BWC/MVR recording of an event or encounter that involves an investigation of a criminal offense shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or officer or authorized civilian employee of such agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by a court order, or unless the Chief

of Police in consultation with the Morris County Prosecutor or his/her designee determines that the person's/entity's/non-law enforcement agency's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.

1. If disclosure of a BWC/MVR recording as part of the state's discovery obligations in a prosecution might present a danger to any officer or civilian (e.g., reveal an undercover officer, confidential informant, surveillance site, etc.), or might reveal confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms during execution of a warrant, techniques for convincing persons to open doors during warrant execution, etc.), the Morris County Prosecutor or his/her designee shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or court rule to protect the information from disclosure, such as by seeking a protective order from the court.
 2. A BWC/MVR recording tagged '*Special Privacy*' shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Morris County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee. The Morris County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee may authorize the Chief of Police and one or more supervisory officers to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC/MVR recordings tagged pursuant to this policy.
 3. The assistant prosecutor or deputy attorney general, or his/her designee, overseeing a an investigation pursuant to *Attorney General Law Enforcement Directive 2019-4*, as amended, may in the exercise of sound discretion authorize a civilian or law enforcement witness to be given access to or view a BWC/MVR recording of the incident under investigation. To ensure the integrity of such investigations and to avoid possible contamination of a witness's personal recollection of events that could undermine his or her credibility as a witness, notwithstanding any other provision of this general order, no civilian or law enforcement witness, (including the principals) of the investigation, shall be given access to or view a BWC/MVR recording of the incident, or a BWC/MVR recording of the response or on-scene investigation of the incident, without the expressed prior approval of the assistant prosecutor, assistant or deputy attorney general, or designee.
- I. The BWC/MVR coordinator or his/her designee shall maintain a record of all BWC/MVR recordings that are accessed, viewed, copied, disseminated, or deleted. The Chief of Police shall cause a periodic audit of these records to ensure compliance with this general order. Minimally, the record keeping system shall document the following information and can be maintained electronically by the system software:
 1. The date and time of access; and
 2. The specific recording(s) that was/were accessed; and
 3. The officer or civilian employee who accessed the stored recording; and

4. The person who approved access, where applicable; and
 5. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.
- J. If an original recording is required for use in court or by another law enforcement agency, that recording shall not be released without the prior approval of the Chief of Police or his/her designee.
- K. Officers and employees shall not reproduce or store any recordings to any device or storage medium. This shall include, but not limited to, cell phones, electronic notebooks, etc.
- L. Recorded video of unusual or significant incidents, deemed to be beneficial for departmental training, may be utilized for departmental in-service training purposes only with the approval of the Chief of Police. Officers are encouraged to notify their supervisors of recordings, which may be beneficial for training purposes.
- K. All other requests to view and/or obtain footage by the public shall be handled in accordance with this policy.

VII. DELETION REQUESTS

- A. Only the Internal Affairs Unit can delete BWC/MVR recordings with the expressed consent of the Chief of Police or the Morris County Prosecutor's Office.
- B. BWC/MVR footage from cases involving an arrest shall not be deleted without the expressed authorization of the Morris County Prosecutor's Office.
- C. If an officer has inadvertently recorded data that is private or inappropriate, a request to delete the recording should be made to their immediate supervisor as soon as possible.
1. The recording shall not be viewed, but the officer shall tag the recording as "Special Privacy" and submit a memorandum to his/her immediate supervisor, the BWC/MVR coordinator, and the internal affairs unit commander. The actual BWC (if applicable) shall be taken out of service and turned over to the internal affairs bureau for downloading. The officer shall be issued a spare BWC as a replacement.
 2. If necessary, the internal affairs commander shall assign an investigator to the incident.
 3. Internal affairs shall conduct an investigation, respecting all rights to personal privacy, having the BWC/MVR recording viewed only by an officer of the same sex, if necessary.
 4. Upon completion of the investigation, the internal affairs commander shall notify the Chief of Police and request permission to delete the recording if warranted.