

MADISON POLICE DEPARTMENT POLICY & PROCEDURES



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SUBJECT: BODY-WORN VIDEO CAMERAS

BY THE ORDER OF:

Chief of Police Darren P. Dachisen Sr.

ACCREDITATION STANDARDS:

3.5.5

EFFECTIVE DATE:

January 26, 2017

SUPERSEDES ORDER #:

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 camera recorders (BWC). BWC is 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 (BWC) 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 general order 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 body worn recorders 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 recorders. 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 & Procedure, 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. 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 un-holstered a firearm (e.g., "...move out of the way", "...get down", etc.).
 4. Force – has the same meanings as defined in Policy V3-C2 Use of Force.
 5. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, 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.
 6. School – means an elementary or secondary school (i.e. middle school, high school), public or private.
 7. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, etc.
 8. Tagging - is the electronic labeling of a video/audio file captured by a BWC.
- B. All references to BWC include the body worn devices and where appropriate, the wireless transmitter, microphone, removable media (if any) recordings, metadata server and other accessories necessary to operate this system.

II. GENERAL

- A. BWC recordings are invaluable to law enforcement for evidential purposes. BWC 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 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 as a management tool to punish officers for minor departmental rule infractions.
 - 1. Personnel shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
 - 2. BWC 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;
 - 2. Used to properly preserve evidence;
 - 3. Used to safeguard against potential violations of the New Jersey State Wiretap Laws, NJSA 2A: 156A-1, et seq.
- D. When properly used, this equipment will have the following capabilities:
 - 1. Creation of accurate documentation of motorist contacts and other patrol related activities.
 - 2. Preservation of an audio and video record of events, actions and conditions during arrests, critical incidents, and prisoner transports.
- E. 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 general public.
 8. Recordings enhance management's ability to train personnel in proper police procedures.
- F. The Chief of Police shall establish 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 BWC 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 is considered an essential job requirement.
- G. The Chief of Police shall appoint a BWC coordinator, who is responsible for:
1. Providing initial training to all newly hired officers or to officers who were not previously trained;
 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 records;
 4. Ensuring proper calibration and performance of the BWC 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.
- H. Repairs to any BWC equipment shall only be performed by the manufacturer or under the direction of the designated BWC Coordinator and/or his/her designee.
1. Ensure that all recordings are uploaded to a secure data storage system in a timely fashion;
 2. Prevent tampering with or deletion of recorded data both before and after downloading from the BWC and uploading to the storage system;
 3. Prevent unauthorized access to stored BWC recordings;
 4. Document all instances when BWC recordings are accessed, viewed, copied, disseminated, or deleted; Permit auditing of all instances when BWC recordings are accessed, viewed, copied, or deleted; and

5. Authorize access to downloaded BWC files
 - I. BWC is 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.
 - J. All recording media, images and audio are intellectual property of the Madison Police Department and will not be copied, released or disseminated in any form or manner outside the parameters of this general order without the expressed written consent of the Chief of Police or the Morris County Prosecutor.
 - K. BWCs shall not be capable of recording images or conversations that cannot be seen or heard by the officer wearing the device without the expressed approval of the Morris County Prosecutor or his/her designee.
 - L. Under no circumstances will any member of the Madison Police Department make a personal copy of any recorded event.
 - M. Officers will use only those BWCs approved and issued by the Chief of Police. 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.
 - N. 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. BWC shall be used only in conjunction with official law enforcement duties. The BWC shall not be used to record:
 - a. Encounters with undercover officers or confidential informants;
 - b. Communications with other police personnel without the advanced permission of the Chief of Police, the Morris County Prosecutor's Office or the New Jersey Division of Criminal Justice;
 - c. When the officer is 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 the officer is engaged in police union business;
 - f. When the officer is involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction;
 - g. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording, see section III.A; or

- h. While discussing criminal investigation strategies.

III. INCIDENTS TO RECORD

- A. 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.
 - 1. All traffic stops to include all Field Sobriety Testing;
 - 2. All calls for service;
 - 3. 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.).
 - 4. Crash scenes, including interviews on the scene;
 - 5. Crime scenes;
 - 6. Motor vehicle pursuits;
 - 7. Investigations of criminal violations;
 - 8. Investigative detentions/field interviews;
 - 9. Warrantless Searches (all types, including frisks);
 - 10. Arrests;
 - 11. Arrestee booking process;
 - 12. Arrestee/prisoner transportations;
 - 13. All use of force or potential use of force situation(s)/incident(s).
 - 14. Special events or projects, including but not limited to crowd control, unruly crowds, or incidents requiring activation of the all hazards or emergency operations plan;
 - 15. Domestic violence investigations;
 - 16. Strikes, picket lines, demonstrations;
 - 17. Officer initiated pedestrian stops;
 - 18. Welfare checks of residents and motorists
- B. When an officer equipped with a BWC is dispatched to a call for service, upon acknowledging dispatch, the officer shall immediately begin to record the response.
- C. When an officer equipped with a BWC 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 operations or incident report.

- D. When a BWC is activated, officers are encouraged to provide narration where practical and appropriate in an effort to augment the value of the recording and to provide clarity for the viewer.
- E. Notwithstanding any other provision of this policy/procedure, when an officer equipped with a BWC 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 before arriving at the scene unless impracticable to do so.
- F. Notwithstanding any other provision of this policy/procedure, an officer while at the scene of a police deadly-force event or the on-scene investigation of that event shall not deactivate his/her BWC unless instructed to do so by the assistant prosecutor supervising the investigation of the deadly force incident pursuant to *Attorney General Law Enforcement Directive 2006-5*. The assistant prosecutor or his/her designee supervising the investigation may provide such instruction telephonically.
- G. BWCs shall remain activated for the entire duration of citizen contacts (calls for service, pedestrian/MV stop, etc.) until either the officer or citizen has departed the scene and the officer has notified communications that the event is closed.
- H. When a BWC is activated to transport an arrestee/prisoner, it shall remain activated at all times while the BWC-equipped officer is in the presence of the arrestee and until the arrestee is secured in a holding cell 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.
 - 1. The BWC shall be re-activated when the prisoner is removed from the holding cell until custody of the arrestee has been transferred to his/her final location.
- I. When wearing a BWC, officers shall notify crime victims and civilians inside of their homes or place of abode (e.g., hotel/motel rooms, boarding houses, etc.) that they are being recorded unless it is unsafe or unfeasible to provide such notification.
 - 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 incident 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.
- I. 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 incident report why a recording was not made, was interrupted, or was terminated.

- J. 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.

IV. DEPLOYMENT AND USE OF THE BWC

- A. All regular officers and special police officers will be assigned an individual BWC.
- B. All officers, when in uniform, shall wear (and utilize if necessary) the BWC prior to engaging in field activities, such as: patrol, special assignments, DWI checkpoints, third party/overtime details, etc.
- C. All investigative personnel, shall wear (and utilize if necessary) the BWC prior to engaging in pre-planned field activities, such as prisoner transports, motor vehicle stops, executing search warrants, etc.
- C. Administrative officers are not required to wear a BWC until engaging in pre-planned field activities.
- D. BWCs shall be worn on the outer-most garment.
 - 1. The BWC battery pack will be worn on the duty belt using either 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.
- E. All officers are responsible for their assigned BWC, its use and maintenance.
- F. Prior to beginning a patrol shift, officers assigned a BWC will ensure its readiness by conducting an operational inspection.
 - 1. The officer shall activate the BWC during the daily patrol vehicle check and verbally state the date, time, shift and assigned vehicle number.
 - 2. The officer shall keep the BWC 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".
 - 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 entry.

- b. If a temporary BWC is utilized, the shift supervisor issuing the BWC must notify the system administrator accordingly, to log the proper police officer utilized the BWC.
- G. 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 operations/incident report why a recording was not made, was interrupted, or was terminated.
- I. BWC recordings are not a replacement for written reports. Under no circumstances shall officers simply refer to a BWC recording on an investigation report instead of detailing the facts and circumstances of their investigation/observations.
- H. Officers shall tag all recordings that correspond to their name. Tagging of recordings shall not be used as a means to generate overtime.
 - 1. Categories for tagging will automatically set retention purposes:
 - a. Vehicle Check / Test;
 - b. Traffic Stop;
 - c. Call For Service;
 - d. Search;
 - e. Field Interview;
 - f. Domestic Violence;
 - g. Arrest;
 - h. DWI Arrest;
 - i. Pursuit;
 - j. Use of Force;
 - k. Officer Involved Crash;
 - l. Planned Event;
 - m. Internal Affairs
 - n. Special Privacy;
 - o. Other;
 - 2. At the conclusion of each shift, the officer shall return his/her BWC to the charging dock.

- I. 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 the image of a victim of a criminal offense;
 - b. Captures the image of a child;
 - c. Were made in a residential premises (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;
 - d. Captures a conversation with a person whose request to deactivate the BWC was declined;
 - e. Captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded;
 - f. Captures the image of an undercover officer or confidential informant; or
 - g. Captures the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
 - h. Captures something that is private or inappropriate,
 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'.
- J. Supervisors are responsible for ensuring that on-duty officers assigned a BWC unit are equipped with functioning BWC's at the beginning of each shift.
 1. Patrol supervisors will conduct a formal weekly review of BWC recordings in order to assess officer performance as well as to flag video/audio that may be appropriate for training purposes.
 2. In the event that a patrol supervisor is out of work for an extended period of time and reviews cannot be accomplished, a substitute supervisor shall be assigned to conduct the reviews until the return of the assigned supervisor.
 3. Patrol supervisors shall formally review all instances when a BWC is deactivated prior to the conclusion of an incident.
 4. 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 "internal affairs".

V. DEACTIVATION

- A. ROUTINE: Deactivation for routine incidents/situations will occur after the officer clears the incident via the radio with dispatch.
- B. WITNESS NOT PROVIDING INFORMATION: Officers may deactivate a BWC when a civilian conversing with the officer requests that the device be turned off under circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected provided however, that the agreement to participate under that condition is itself recorded.
1. Officers shall not suggest to the person being recorded that the BWC should be deactivated; nor shall the officer ask 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. The officer may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded).
 2. 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 only if the deactivation request is honored.
- C. VICTIM OF MEDICAL CALL: Officers may deactivate a BWC when a person, other than an arrestee, is seeking emergency medical services for him/herself or another person 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.
1. 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 and shall be reported to an immediate 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.
- D. ASSISTANT PROSECUTOR: Officers may deactivate a BWC when specifically authorized to do so by an assistant prosecutor for good and sufficient cause as determined by the assistant prosecutor. When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor who authorized the deactivation (e.g., "...I am now turning off my BWC as per the instruction of assistant

prosecutor (insert name)").

- E. INVESTIGATION STRATEGY/PLANNING: Officers may deactivate 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 (e.g., "...I am now turning off my BWC to discuss investigative strategy with my supervisor").
- F. SCHOOL / HOUSE OF WORSHIP: 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 if and 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).
- G. SUBSTANCE ABUSE TREATMENT FACILITY: In the event that 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.)
- J. UNDERCOVER OFFICER/CONFIDENTIAL INFORMANT: 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, actual use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the officer shall inform their supervisor that the image of an undercover officer or confidential informant was recorded.
- K. COURTROOM TESTIMONY: 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.
- L. ALCOTEST: The BWC shall be deactivated and removed while in the ALCOTEST area when the ALCOTEST device is being used. 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. This shall be documented in the alcotest operators supplemental report.

- H. RE-ACTIVATION: In any instance where a BWC was deactivated, 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.
- I. When an officer deactivates a BWC:
 - 1. The conversation between the officer and the civilian concerning the request for deactivation shall be electronically recorded;
 - 2. The officer before deactivating the BWC shall narrate the circumstances of the deactivation (e.g. "...I am now turning off my BWC as per the victim's request");
 - 3. The officer shall report the circumstances concerning the deactivation to their supervisor as soon as is practicable; and
 - 4. The officer shall document the circumstances of the deactivation in any incident report concerning the incident under investigation.
 - 5. The officer shall tag the recording as "Special Interest".

VI. RECORDS RETENTION AND REVIEW

- A. Viewing of BWC 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. 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 possible police misconduct or to determine the existence of a pattern or practice of possible misconduct;
 - 4. Except in officer involved deadly force incidents To assist the officer whose BWC made the recording in preparing his/her own police report.
 - 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 actually occurred during the encounter so that the person can make an informed decision whether to file the complaint;

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. The Madison Police Department reserves the right to redact recordings as applicable by law.
 - d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing municipal ordinance.
 8. To comply with any other legal obligation to turn over the recording to a person or entity;
 9. For 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 recording unless the depicted individuals have consented to the recording being used for training purposes;
 10. To enhance officer safety 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 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 to a non-law enforcement entity or to disseminate it to the public, where the Morris County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, determines that disclosure to that particular 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 review/audit;
 13. Any other specified official purpose when 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 BWC recording.
- C. Personnel shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. Any such tampering is a violation of N.J.S.A. 2C: 28-7, and is a 4th degree crime.
- D. Recordings are considered investigatory routine business records of this police department and shall be maintained on a secure server and disposed of in accordance with 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 no less than 90 days.

2. Recordings that are being stored for criminal, civil, or administrative purposes are to be transferred to a DVD/CD and preserved as evidence.
 3. Recordings being stored for criminal, civil, or administrative purposes must be maintained until the conclusion of the case, plus the required retention period. Recordings maintained for these purposes can only be erased or destroyed in accordance with New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
 4. When a BWC records an arrest that did not result in an ongoing prosecution, or records the use of police force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency (currently two years).
 5. When a BWC records an incident that is the subject of an administrative internal affairs complaint, the recording shall be maintained pending final resolution of the internal affairs investigation and any resulting administrative action plus the required retention period.
- E. 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 request for a BWC recording before complying with the request. Such notice shall clearly state the deadline by which a response must be made.
- F. A BWC 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 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 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 recordings tagged pursuant to this policy and procedure.

3. The assistant prosecutor overseeing a police use of force investigation pursuant to Attorney General Law Enforcement Directive 2006-5 as amended, or his/her designee, may in the exercise of sound discretion authorize a civilian or law enforcement witness to be given access to or view a BWC recording of the incident under investigation. To ensure the integrity of investigations of police-involved shootings and other use of force incidents 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 recording of the incident, or a BWC 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.
- G. The Chief of Police or his/her designee shall maintain a record of all BWC 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:
1. The date and time of access;
 2. The specific recording(s) that was/were accessed;
 3. The officer or civilian employee who accessed the stored recording;
 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.
- H. In the event that a 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 designee.
- I. 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.
- J. 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 and Procedure.

VII. DELETION REQUESTS

- A. Only the Internal Affairs Unit can delete BWC recordings with the expressed consent of the Chief of Police or the Morris County Prosecutor's Office.
- B. BWC 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 system administrator and the internal affairs bureau commander. The actual BWC shall be taken out of service and turned over to the internal affairs bureau for downloading. The officer shall be issued a spare unit 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 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.