


<b>PARSIPPANY-TROY HILLS POLICE DEPARTMENT</b>		
<b>STANDARD OPERATING PROCEDURE</b>		
BODY WORN CAMERAS / MOBILE VIDEO RECORDERS		
EFFECTIVE DATE:	NUMBER OF PAGES: 33	
ACCREDITATION STANDARDS: 3.5.5	BY THE ORDER OF: Chief of Police	

**PURPOSE** The purpose of this standard operating 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 documenting evidence to prosecute those who violate the law.

**POLICY** It is the policy of the Parsippany-Troy Hills Police Department to utilize BWCs and MVRs to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident.

BWCs shall be deployed and utilized by all personnel in a manner consistent with manufacturer’s guidelines, the provisions in this SOP, and those directives or guidelines issued by the New Jersey Attorney General, *specifically New Jersey Attorney General Directive 2022-1*, and the Morris County Prosecutor’s Office. Failure to use this technology in accordance with this SOP and those directives or guidelines set forth in *New Jersey Attorney General Directive 2022-1* and the Morris County Prosecutor’s Office shall be subject to discipline.

The Parsippany Police Department webpage shall publicize the official deployment of BWCs to the public. It shall contain a clear statement that this department utilizes body worn video/audio recorders and maintain a clearly identifiable link to this SOP. The website posting shall include an image showing what the device looks like and how it is to be worn by uniformed officers or plainclothes detectives so that the public will be able to determine whether an officer is equipped with the device. The Chief of Police shall provide certification to the Morris County Prosecutor’s Office of this general notification to the public.

Any willful or repetitive violations of this SOP shall be reported to the Internal Affairs section commander who shall report such directly to the Chief of Police and/or Morris County Prosecutor’s Office. The Chief of Police and/or Morris County Prosecutor’s Office is authorized to take such actions as are reasonable and necessary to ensure compliance with this SOP and to prevent future violations.

## PROCEDURES

### I. DEFINITIONS

- A. For purposes of this SOP, the following terms are defined:
1. **Activate** – means to actuate (put into operation) the recording mode/function of a BWC or MVR.
  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 this department's SOP on *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. **Daily tour of duty** – an officer's single workday.
  6. **Force** – has the same meanings as defined in this department's SOP on *Use of Force*. The term force shall include physical, mechanical, enhanced mechanical, and deadly force.
  7. **Investigation of a criminal offense** – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, petty disorderly offense, driving while intoxicated 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.
  8. **MVR** – is mobile video / audio recording equipment installed in a police vehicle. All references to MVR shall include the equipment installed in the police vehicles, removeable components and media devices, and as appropriate, other accessories necessary to operate the system.
  9. **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 anonymous.

10. **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.
11. **Significant event** – refers to any non-criminal event recorded on a BWC or MVR that could have administrative or evidentiary value and should be reviewed and/or saved. This would include alleged complaints against the members of the department.
12. **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.
13. **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.
14. **Tagging** – is the electronic labeling of a video/audio file captured by a BWC and/or MVR. The terms "categorizing" or "category" can be used interchangeably with the terms 'tagging' or 'tag'.
15. **Triggering event** – is any action that causes the MVR to create, record and save a recording. Triggering events can include activating emergency lights, manually pressing the record button on the front panel, or activating the transmitter/wireless microphone.
16. **Youth facility** – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, group homes, residential facilities, etc.

## II. GENERAL ADMINISTRATION

- A. BWC and MVR recordings are invaluable to law enforcement for evidential purposes. BWCs and MVRs have consistently demonstrated their 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. There is no intent to utilize BWCs or MVRs 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. BWCs and MVRs shall only be utilized for legitimate law enforcement duties and not for personal purposes.
- C. 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 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. Subject to the view restrictions in this SOP, 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. Subject to the view restrictions in this SOP, recordings can permit supervisors to undertake more meaningful performance evaluations.
  7. Subject to the view restrictions in this SOP, recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the public.
  8. Subject to the view restrictions in this SOP, recordings enhance management's ability to train personnel in proper police procedures.
- D. When properly used, this equipment will have the following capabilities:
1. Creation of accurate documentation of motorist contacts and other patrol related activities, including, but not limited to arrests, other police-citizen contacts, and other critical incidents.
  2. Preservation of an audio and video record of events, actions and conditions during arrests, critical incidents, and prisoner transports. These recordings enhance the department's ability to review probable cause determination, police-citizen interactions and evidence for investigatory purposes.
  3. This agency shall not utilize any biometric technology, such as facial recognition, to conduct searches of video files or passive searches of the public.
- E. Adequate safeguards are necessary to ensure that this technology is:
1. Used in a non-discriminating 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* (MVRs).
- F. While visual and audio evidence may be captured on the recordings, the use of BWCs and MVRs cannot always depict the full story of an encounter. It is also not intended to document all evidentiary material relevant to court or administrative proceedings, but they can serve to supplement an officer's senses and eyewitness account. The use of a BWC and/or MVR does not diminish the requirement to provide a thorough, text documentation of an incident. BWC and MVR recordings are only one piece of evidence that provides only one perspective regarding the situation that has been recorded.
  - G. 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 Parsippany Police Department make a personal copy of any recorded event or direct someone to make a personal copy, except where authorized in this SOP.
  - H. The training coordinator or his/her designee shall maintain a training program on the lawful and proper use of BWC and MVR equipment. Responsibilities include, but are not limited to:
    1. Provide initial training during a new officer's field training program or for all officers not previously trained.
    2. Providing initial and refresher training to non-sworn personnel whose responsibilities include accessing, copying, or distributing BWC and/or MVR records.
    3. Provide additional training as required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, a disciplinary matter, and to incorporate changes, updates, or other revisions in procedures and equipment.
    4. If this SOP or the operation of a BWC or MVR is unclear to any officer, he/she should contact their supervisor to arrange for additional training.
    5. The BWC and MVR user manuals are posted to DMS.
  - I. Only officers who are authorized by the Chief of Police and have received training in the use of BWC and/or MVR are permitted to use this system and must demonstrate a satisfactory degree of familiarity and efficiency in the use of these systems. Proper use of a BWC and MVR is considered an essential job requirement.
  - J. Police Technology Services (PTS) or his/her designee shall manage and coordinate the BWC and MVR equipment whose duties shall include maintaining the system and procedures to ensure the integrity and proper handling and storage of all BWC and MVR recordings. This system shall include provisions to:
    1. Maintain a record of all BWC serial numbers and assignments.
    2. Maintain a record of all MVR serial numbers and assignments.

3. Set permission, authority levels, and tag/retention categories in The Video Manager EL Cloud and/or L3 server.
  4. Ensure that all recordings are uploaded to a secure data storage system in a timely fashion.
  5. Prevent tampering with or deletion of recorded data both before and after uploading from the BWC/MVR and uploading to the storage system.
  6. Restrict unauthorized access to stored BWC/MVR recordings.
  7. Document all instances when BWC/MVR recordings are accessed, viewed, copied, disseminated, or deleted (this can be in Video Manager EL Cloud or L3 server, as appropriate).
  8. Permit auditing of all instances when BWC/MVR recordings are accessed, viewed, copied, or deleted.
  9. Review BWC/MVR internal audit to ensure compliance on the utilization of these devices in accordance with departmental policy. The Chief of Police will be notified immediately if the system or audio/video recordings are compromised or accessed without proper authorization.
- K. Repairs to any BWC and MVR equipment shall only be performed by the manufacturer or under the direction of PTS or his/her designee.

### **III. 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 sergeant or shift commander. The officer shall also enter the need for repair in '*Footprints*'.
1. No one is permitted to move the installed components of the system from its positions without authorization by the Support Services Division Supervisor or his/her designee or as permitted by this SOP.
  2. Likewise, no one is authorized to repair any MVR equipment or related component except those personnel authorized by the Support Services Division Supervisor 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 Support Services Division Supervisor 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 Support Services Division Supervisor, so that arrangements can be made to secure the removable media.
  4. Promptly notify the Support Services Division Supervisor 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.
  5. The Support Services Division Supervisor shall direct Property and Evidence personnel or Police Technology Services personnel to respond and remove the removable media and secure it as evidence.
- C. Officer shall wear and use their assigned BWC even when operating a vehicle equipped with a functioning MVR. The MVR body microphone can be left inside a MVR-equipped vehicle during an incident, and it is not required to be worn by the officer. In the event of a BWC failure while on a call, the officer, when possible, shall retrieve and use the MVR body microphone to record any audio. Prior to retrieving the MVR body microphone from the police vehicle, officers should consider factors including, but not limited to:
1. The type of incident to which they are currently attending.
  2. Scene safety.
  3. Whether distance from the police vehicle makes it infeasible to retrieve the body microphone.
  4. The transmission distance limitation between the police vehicle and body microphone. (The typical range for the MVR microphone is approximately fifty (50) feet with a clear line of sight).
- D. 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.
- E. 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 or shift commander as soon as possible.
1. Officers shall synchronize their wireless microphone to the MVR
  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.

3. Inoperable or damaged MVR equipment shall be immediately reported to the duty patrol sergeant and shall be entered in 'Footprints'.
4. The duty patrol sergeant shall check the MVR equipment to determine the problem. In the event all patrol vehicles are in use and a backup is not available, the officer can utilize the patrol vehicle with permission from the duty patrol sergeant.
5. 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.
6. This can be done once the recording has been downloaded to the server.
7. Not being able to sign into the L3 application is no reason to not utilize the MVR according to this SOP, nor have any recorded video not tagged and labeled properly.
8. Officers should also ensure they properly log off/sign out of the L3 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.

#### **IV. BODY WORN CAMERAS**

- A. 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.
- B. Each officer will be assigned a BWC that has a unique serial number. BWCs shall be worn and used consistent with the requirements and restrictions in this SOP as an authorized component of the uniform of the day.
  1. Officers shall wear and use a BWC consistent with this SOP when:
    - a. On aggressive driving, DWI interdiction assignments, or other proactive enforcement team.
    - b. On an extra duty assignment (except for traffic direction details).
    - c. When assigned to front desk assignments and interacting with the public on a law enforcement matter.
    - d. When assigned to or assisting any tactical team in the field.
    - e. Subject to availability, detectives and staff officers shall wear and use a BWC when in the field and participating in any law enforcement activity.
  2. BWCs shall be stored in their charging docks when not in use to permit charging of the device and downloading of recordings.



3. The use of a spare BWC must be authorized by the officer's supervisor. The supervisor must document the issuance of the spare BWC by email and forward such to the Support Services Division Supervisor. The supervisor shall assign the BWC to the officer in the Video Manager EL Cloud for the duration of its use.
4. Officers/detectives on loan to any outside agency, tactical team, proactive enforcement team, or task force shall use the agency issued BWC consistent with this policy, including restrictions, and any guidelines issued by the outside agency or task force. Such officers/detectives shall report any potential conflicts between this policy and the outside agency/task force's directives to the Chief of Police or his/her designee as soon as practicable.
5. BWCs shall only be used in conjunction with official law enforcement duties.
  - a. Officers engaged in undercover operations or surveillance activities are not required to utilize BWCs.
  - b. Officers assigned to administrative duties are not required to utilize BWCs while in headquarters except when interacting with a member of the public in a law enforcement incident.
  - c. BWCs shall not be used surreptitiously.
  - d. BWCs shall not be used to gather intelligence information based on 1<sup>st</sup> 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. Officer's responsibilities

1. BWC equipment is the responsibility of the assigned officer and shall be used with reasonable care for ensuring proper functioning during their daily tour of duty.
2. Officers shall use the BWC device specifically assigned to them unless otherwise authorized or directed by a supervisor.
3. Officers shall ensure the BWC is turned on and not recording prior to leaving headquarters at the beginning and/or during the course of their daily tour of duty.
4. Officers shall wear their assigned BWC mounted to the front left, center, or right side of the outmost garment on the upper chest area, facing forward, using the mounting equipment provided by the manufacturer. No object shall be placed in front of the BWC in such a manner that it interferes with or obstructs the recording.
5. Prior to beginning a shift, officers assigned a BWC shall verify that they are using the BWC assigned to them and will ensure the system's readiness by conducting an operational inspection. The officer shall:

- a. Ensure the battery is adequately charged prior to leaving headquarters.
  - b. Ensure the device has sufficient memory to complete their daily tour of duty.
  - c. Ensure the proper positioning of the BWC on his/her uniform.
  - d. Activate the BWC and verbally state the date, time, name, vehicle # *(if applicable)* and that a pre-shift inspection is being conducted.
    - i. If an officer is assigned to a patrol vehicle that is equipped with a BWC dock, he/she shall pair their BWC to the vehicle prior to conducting the pre-shift inspection.
    - ii. An officer will not be required to pair his/her BWC with a vehicle if he/she is not assigned to a vehicle equipped with a BWC dock.
  - e. Categorize the pre-shift test video once it is made available on the the Video Manager EL Cloud as 'Test'.
  - f. View the recording to ensure that the system is functioning properly by placing the BWC in the vehicle dock or the docking stations inside HQ which will make the video available on the Video Manager EL Cloud.
6. Officers assigned a BWC shall periodically, and no later than the end of each shift, upload the contents of their specific device by either:
- a. Placing the device in its docking station; and /or
  - b. If an officer is assigned to a patrol vehicle that is equipped with the in-vehicle dock, uploads occur automatically via the in-vehicle dock.
7. At the conclusion of the officer's shift, he/she shall inspect his/her BWC to ensure system integrity. The officer shall:
- a. Place their BWC in the docking station at headquarters for battery charging and remaining video uploads to the Video Manager EL Cloud. This also unpairs the BWC from the vehicle.
  - b. Categorize and tag all uploaded video/audio recordings properly for retention purposes (see section IX of this SOP).
8. Officers finding any BWC to be damaged, lost, or not functioning properly, thereby preventing the use of the device during the shift, shall report such to their immediate supervisor upon discovery and report any malfunction in Footprints.

9. Officers are prohibited from tampering with any BWC including, but not limited to, attempting to take the device apart, disable, alter, or repair it in any way.
10. Any time an officer accesses a BWC recording for any purpose (e.g., report preparation (unless restricted), command review, etc.), except pre- and post-inspections, he/she shall document in the 'Notes' box under the recording, the date, purpose for viewing the recording, their initials and badge number. **Officers are only permitted to view their own recordings unless authorized by a supervisor.**
11. Officers shall indicate when BWC footage is available by selecting the checkbox on the *Case Data* screen for incident and supplemental reports. For peripheral NJTR-1 reports, officers shall type "BWC footage available" at the end portion of the narrative section when BWC footage is available for the case.
12. Officers shall inform their immediate supervisor of any recordings that may be of value for training purposes. Recordings may be shown for training purposes upon completion of a criminal case, pursuant to written authority from the Chief of Police. All such use shall be pursuant to the written authority of the Chief of Police.

## V. SUPERVISORY RESPONSIBILITIES

- A. Patrol sergeants are responsible for ensuring that on-duty officers are equipped with functioning MVRs at the beginning of each shift. Patrol sergeants shall:
  1. Ensure that all officers follow proper procedures for the use and operation of the MVR equipment.
  2. Document requests for repairs and replacement of damaged or inoperable MVR equipment via '*Footprints*' in accordance with this SOP.
  3. The vehicle can still be used for patrol purposes if the assigned officer is equipped with a working BWC.
- B. Supervisors are responsible for ensuring that on-duty officers are equipped with functioning BWCs at the beginning of each shift. This section applies to all divisions or sections assigned the use of BWCs (i.e., patrol, traffic, etc.). Supervisors shall:
  1. Ensure that all officers follow proper procedures for the use and operation of BWC equipment.
  2. Ensure that officers document requests for repairs and replacement of damaged or inoperable BWC equipment in *Footprints*, in accordance with this SOP.
- C. Upon discovery of a BWC that is damaged or non-functioning, the officer's supervisor will remove a BWC from service, ensure that officers document requests for repairs and replacement of damaged or inoperable BWC equipment in *Footprints*, and request a spare BWC until repairs are made. Once the *Footprints* entry is completed, he/she will be immediately authorized to assign the spare BWC to the affected officer. The malfunctioning BWC shall be placed in a small plastic

evidence bag clearly marked with the officer's name / badge number and placed in the PTS manager's mailbox.

- D. A supervisor shall take protective custody of the BWC from any officers that are involved in a serious incident 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 incident resulting in the incapacitation of the on-duty officer, or any other incident that the supervisor feels is necessary to protect the recordings. The process shall take place as follows:
1. The supervisor shall take custody of the BWC after the entire incident has concluded and the BWC has been deactivated in accordance with the parameters set forth in this SOP.
  2. The supervisor who takes custody of the BWC shall forward it to Police Technology Services and issue the officer a spare unit, following the same protocol as listed above, under subsection V.C. of this SOP.
  3. Accordingly, the Support Services Division Supervisor or his/her designee shall upload and categorize any footage captured of the incident.
  4. Such BWCs shall only be placed back in service at the direction of the Chief of Police.
- E. Patrol and Investigative sergeants/supervisors shall formally review one (1) recording of selected non-evidential BWC/MVR recordings for each officer under their supervision during each monthly tour of duty using a *Supervisory Review of Digital Video/Audio Recordings Form* (see Attachment), to:
1. Assess officer performance (positive or negative activities).
  2. Ensure the equipment is operating properly.
  3. Assess officer performance and adherence to this SOP.
  4. Flag video/audio recordings that may be deemed appropriate for training and/or disciplinary purposes.
- F. Reviewing supervisors shall formally review the recordings of officers under their supervision using a *Supervisory Review of Digital Video/Audio Recordings Form* for every BWC/MVR event involving:
1. All arrests.
  2. Recovery of contraband.
  3. Use of force (unless restricted).
  4. Warrantless searches (any type).
  5. Pursuits.
  6. Officer-involved injuries.

7. Officer-involved motor vehicle crash.
- G. Reviewing supervisors are responsible for ensuring all BWC and MVR recordings are properly tagged or categorized as listed under section IX of this SOP. Officers under their supervision will be retrained on proper tagging, as needed.
  - H. Each reviewing supervisor who accesses a BWC/MVR recording shall post in the 'Notes' box under the video the date, purpose for viewing the recording, his/her initials, and badge number. They will also complete a *Supervisory Review of Digital Video/Audio Recordings Form* for each officer's video/audio recording viewed. These reports shall be submitted to the section commander, respectively, no later than the last day of each month.
  - I. Supervisors shall formally review all instances when a BWC or 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 written report or email of that specific incident and forward the documented review through proper chain of command upon every occurrence to the internal affairs supervisor.
    1. If a supervisor is out for an extended period and monthly reviews cannot be accomplished, another supervisor on the shift shall be assigned to conduct the reviews until the return of the assigned supervisor.
    2. 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 patrol sergeant/supervisor will label the recording for indefinite retention.
    3. The internal affairs supervisor or his/her designee shall retain all administrative reports generated in accordance with this SOP and a copy will be forwarded to the Chief of Police for review.
    4. Separate from the above-mentioned formal review of one (1) audio/video recording of selected non-evidential BWC/MVR recordings of each officer, shift commanders, section commanders, or the internal affairs section commander or his/her designee may review specific BWC footage if circumstances arise that requires an investigation to commence.

## **VI. ACTIVATION / OPERATION**

- A. MVR equipment is preprogrammed to begin recording when the vehicle's emergency lights/siren are activated, the vehicle operator's BWC is activated, the vehicle is involved in a crash, or the record button is pressed manually on the L3 unit.
  1. MVRs are programmed to pre-record 30 seconds of video only.
  2. Officers equipped with body worn cameras (BWC) are still required to utilize the vehicle's MVR, if so equipped, only for video recording. The use of the body microphone is not required.
  3. MVRs are also equipped with a body microphone that will record audio while recording video. The indicator light will blink blue while the mute feature is activated.

4. Officers are encouraged to manually activate the MVR prior to activating overhead emergency lights when appropriate to record actions, which may assist in demonstrating probable cause or capturing video evidence of a violation. (e.g., moving violations committed prior to stopping the vehicle).
- B. When on duty, the officer's BWC will remain powered on ready to be activated at any time. When an officer activates the recording mode / function, the device will record the prior 30 seconds without audio. Audio will be recorded from the moment the record start / stop button is pressed. Activation should occur before arriving at the scene, when feasible.
- C. Except when otherwise restricted in this SOP, officers shall video and audio record all law enforcement activity 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 body worn camera at the first reasonable opportunity to do so. Examples of such required recordings include, but are not limited to:
1. During all calls for service (involving those to which the officer is dispatched or voluntarily responds).
  2. Prior to civilian engagement and/or immediately upon observing circumstances supporting constitutional justification regarding self-initiated events.
  3. Conducting motor vehicle stops from the time of the stop until the stop is concluded, to include conducting field sobriety tests.
  4. Assisting or backing up to an officer on a call for service, on a motor vehicle stop, or with a civilian contact.
  5. During motor vehicle and foot pursuits.
  6. During 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.) when police-civilian contact initiated.
  7. Investigation of crash scenes, including interviews on the scene.
  8. Investigation of crime scenes, except for crime scene processing.
  9. Any call for service related to a violation or suspected violation of possessing or consuming marijuana, hashish, or cannabis item.
  10. Interviewing a witness while investigating a criminal offense.
  11. Investigating criminal violations (not to include undercover investigations or related surveillance activities).
  12. Conducting domestic violence investigations.
  13. Overdose and suspected overdose investigations.

14. Investigating an arson for witness and/or suspect identification.
15. Custodial interrogation of a suspect unless the interrogation is otherwise being recorded in accordance with *Court Rule 3:17 (Electronic Recordation of Station House Interrogations)*.
16. Out-of-court identifications (i.e., show ups, lineups).
17. Investigative detentions or officer-initiated pedestrian stops.
18. Conducting warrantless searches (all types, including protective frisks, consent, etc., but not strip or body cavity searches).
19. Motor vehicle assistance calls.
20. Conducting arrests.
21. Drug recognition expert evaluations.
22. Domestic violence investigations.
23. During arrestee/prisoner/civilian transports to police station, county jail or other place of confinement, as well as hospitals or other medical care facilities and mental health facilities (e.g., EDPs).
24. Crowd control, unruly crowds, strikes, picket lines, demonstrations or incidents requiring activation of the all-hazards or emergency operations plan.
25. When an officer uses force or constructive authority, 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 investigation report).
26. During police response to any type of civil disorder in circumstances where officer is engaged with, or in the presence of civilians, and the officer, or any other officer, on the scene may be required to employ constructive authority or force.
27. Conducting welfare checks of residents and motorists (motorist aid) / community caretaking function.
28. An officer reasonably believes that any other officer on the scene has undertaken, or is engaged, in any of the foregoing police actions/activities.

- D. BWCs/MVRs shall remain activated for the entire duration of an incident and shall not be deactivated until the incident is concluded. The term concluded can be interpreted as:
1. BWC/MVR equipped officer has left the scene.
  2. BWC/MVR equipped officer providing assistance or back up to another BWC/MVR equipped officer is no longer needed and has left the scene.
  3. All the civilians involved in the encounter have left the scene.
  4. The officer has informed the dispatcher or a supervisor that the incident has concluded; the incident is closed in CAD.
  5. During the transportation of all arrestees from the scene of the arrest to headquarters and shall remain active until:
    - a. The arrestee is secured in the holding cell or processing room.
    - b. Until custody of the arrestee has been transferred to the county jail personnel and the officer is no longer in the presence of the arrestee.
    - c. Until the arrestee is admitted or being treated with hospital, medical, or mental health personnel and the officer is no longer in the presence of the arrestee. However, the BWC will be immediately reactivated at the commencement of any violent, confrontational, argumentative, or accusatory interaction, or at any indication that constructive authority or force may become necessary.
  6. The officer is complying with the recording restrictions in subsection VI.I of this SOP (pages 18-20)
- E. Upon activation of a BWC, officers shall, if possible, provide verbal narration of the circumstances at the start of the encounter audibly so that the recordings on the BWC will be easier to locate if review of the video is necessary at a later time (e.g. an officer arriving upon the scene of a serious motor vehicle accident may narrate the recording by stating as the BWC is activated, "...*Officer Doe coming upon the scene of a serious motor vehicle crash at the intersection of Route 46 and Main Street...*").
1. Officers can also audibly narrate or bookmark significant events while recording and provide details of the marked segments.
  2. 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. Notifications to civilians, crime victims, civilians within a place of abode, anonymous persons:
1. 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.



2. Prior to entering a private residence or place of abode (*e.g., hotel/motel rooms, boarding houses, etc.*), 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.
3. 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.
4. 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.
5. 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 and/or by narrating the reasons on the BWC recording.
  - a. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
  - b. Officers equipped with a BWC are not required to provide verbal notification in other specified circumstances.

G. Truthful response to civilian inquiry:

1. If a civilian inquires 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. This section does not apply to:
  - a. Officers while operating in an undercover capacity.
  - b. While conducting or participating in stationhouse custodial interrogation electronically recorded in accordance with Court Rule 3:17.
2. Nothing in this section shall be construed to establish a basis for suppressing a statement or other evidence.

H. Special activation rules governing deadly force incidents and other exigent circumstances when officers are in danger:

1. Notwithstanding any other provision of this SOP, 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 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/MVR before arriving at the scene, unless impracticable.

2. Notwithstanding any other provision of this SOP, an officer while at the scene of a police deadly force event, pursuit resulting in death or serious bodily injury, in-custody death incident, or the on-scene investigation of such events, shall not deactivate his/her BWC 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 designee supervising the investigation can provide such instruction telephonically.

I. Deactivation of a BWC/MVR:

1. A BWC/MVR-equipped officer may deactivate a device when:

- a. Discussions pertaining to criminal investigation strategy / planning – Officers may deactivate a BWC/MVR 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/MVR to discuss investigative strategy with my supervisor, detective or other on scene personnel as required").
- b. Assistant prosecutor/deputy attorney general authorization – Officers may deactivate a BWC/MVR when specifically authorized to do so by an assistant prosecutor/deputy attorney general for good and sufficient cause as determined by the assistant prosecutor. When an officer deactivates a BWC/MVR 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/MVR as per the instruction of assistant prosecutor (insert name)").
- c. Electronic breath testing – BWCs (and MVR transmitters) shall be deactivated while in the area where the **ALCOTEST 7110 MKIII-C** is being used and shall be removed from the area where such device is being used. 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 breath testing area while the **ALCOTEST 7110 MKIII-C** is being operated. 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.

- d. Emergency medical assistance – Officers may deactivate a BWC/MVR when a person, *other than an arrestee*, is seeking emergency medical services for him/herself or another and requests that the BWC/MVR be deactivated. In deciding whether to deactivate the BWC/MVR, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance.
  - e. Walk-in reports at headquarters – In order to prevent the recording of events unrelated to calls for service, officers at police headquarters investigating walk-in complaints are authorized to deactivate their BWC when not in the presence of the complainant (*e.g., typing of complaints, or other follow-up activities conducted in the dispatch area, booking room, report writing room, etc.*). The officer shall narrate on the BWC the reason for the deactivation and immediately reactivate the BWC each time contact with the civilian is reestablished.
2. When an officer deactivates a BWC/MVR:
    - a. The conversation between the officer and the civilian concerning the request for deactivation should be electronically recorded.
    - b. The officer, before deactivating the BWC/MVR, shall narrate the circumstances of the deactivation (*e.g., "...I am now turning off my BWC/MVR as per the victim's request"*).
    - c. The officer shall report the circumstances concerning the deactivation to their supervisor as soon as practicable.
    - d. The officer shall document the circumstances of the deactivation in any incident report concerning the incident under investigation.
  3. If an officer declines a request to deactivate a BWC/MVR, 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. If 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/MVR 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 authorized covert recording.

4. In any instance when a BWC/MVR was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so when:
  - a. The circumstances justifying deactivation no longer exist (e.g., the interview of the person requesting deactivation is completed, etc.).
  - b. The officer would otherwise be required to activate the BWC/MVR.
  - c. Circumstances develop so that an officer is authorized to use force.

J. Civilian request to stop recording:

1. Civilian request to stop recording – If a civilian inquires of an officer whether the officer is equipped with a BWC/MVR, 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. An officer has no obligation to deactivate the recording in response to a civilian's request if the recording is pursuant to an investigation, arrest, or lawful search, or if the circumstances dictate that the continuous recording is necessary.
  - a. 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.
    - i. Officers shall not suggest to the person 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).
    - ii. 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.

K. Failure to activate, record an entire event, or interrupt recording:

1. 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 the reasons why a recording was not made, was interrupted, or was terminated prematurely.

## VII. RESTRICTIONS ON BWC/MVR ACTIVATIONS

- A. BWCs and MVRs are intended for official police department use only and shall not be used for frivolous or personal activities. Intentional misuse or abuse of the units will result in disciplinary action.
- B. BWCs and MVRs shall be used only in conjunction with the purpose of recording incidents, investigations and police-civilian encounters involving official law enforcement activities specified in this SOP. Recording with the BWC and/or MVR (including the wireless transmitter) shall not be used:
  - 1. When on break or otherwise not actively performing a law enforcement function.
  - 2. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
  - 3. When engaged in police union business.
  - 4. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction.
  - 5. While discussing criminal investigation strategies.
  - 6. 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.
  - 7. During hostage negotiations by hostage negotiators.
  - 8. During crime scene processing by crime scene technicians, detectives, or officers trained in crime scene processing.
  - 9. During strip and body cavity searches.
  - 10. When investigating or searching for potential explosive or incendiary devices (e.g., electrostatic interference might trigger explosive devices).
- C. Schools, houses of worship, health care facilities, substance abuse centers, etc.:
  - 1. Unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that he or she will be required to use constructive authority or force, the officer shall not activate a BWC, or shall deactivate a BWC that has been activated while the officer:
    - a. Is in a school or youth facility; or on school or youth facility property under circumstances where children would be in view of the BWC.
    - b. Is in a place of worship under circumstances where worshipers would be in view of the BWC.

- c. Is in a patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances where patients would be in view of the BWC.
  - i. 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 § 290dd2, 42 CFR §23.1 to 23.41).
  - ii. 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).*
2. 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 transmitter 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*).

D. Image of undercover officers / confidential informants:

1. Officers shall not activate a BWC/MVR, and shall deactivate a BWC/MVR that has been activated, if the officer knows or reasonably believes that the BWC/MVR would capture the image of an undercover officer or confidential informant or would otherwise 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.)* requires 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.
2. The BWC/MVR 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.
3. In the event of a planned arrest/search warrant execution where it is expected that an undercover officer or confidential informant would be present (*e.g., a raid where an undercover operative will be arrested to preserve his or her cover*), the Morris County Prosecutor or his/her designee may provide specific instructions to any BWC-equipped officers participating in the operation on whether to activate their BWCs.

- E. Tactical operations – BWCs shall be worn during tactical operations (e.g., *execution of arrest and/or search warrant, etc.*). If a BWC worn during the execution of tactical operations 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.), such recordings shall be tagged as special privacy in accordance with section VIII.B.

## VIII. WRITTEN DOCUMENTATION REQUIRED

- A. BWC and MVR recordings shall not be utilized as a replacement for written reports. Officers shall not simply refer to the recording in lieu of submission of a narrative portion of the written report.
- B. At a minimum, officers shall document in the written reports when BWC and/or MVR recordings were made during the incident in question and give a summary of the events in adequate detail that allows the reader of the report to understand the events that occurred.
- C. Officers shall indicate when BWC footage is available by selecting the checkbox on the *Case Data* screen for incident and supplemental reports. For peripheral NJTR-1 reports, officers shall type "*BWC footage available*" at the end portion of the narrative section when BWC footage is available for the case.
- D. Officers shall indicate when MVR footage is available by selecting the '*In-car video available*' checkbox on the *Case Data* screen for incident and supplemental reports. For peripheral NJTR-1 reports, officers shall type '*MVR footage available*' at the end portion of the narrative section when video/audio recording is available for the case.

## IX. TAGGING (CATEGORIZING) BWC/MVR RECORDINGS

- A. Officers shall uniformly tag their recordings during their assigned shift or at the conclusion of their shift in the Video Manager EL Cloud or L3 server. Officers are required to enter specific information for each uploaded BWC/MVR recording. Tagging a recording consists of entering the required information into Video Manager EL Cloud or L3 server.
- B. Additionally, officers shall categorize recordings that capture any of the following circumstances that the New Jersey Attorney General has deemed "special privacy" issues. The following BWC recordings must be specifically tagged as they raise special privacy or safety issues:
  - 1. Recordings capturing a law enforcement incident, as defined by *New Jersey Attorney General Directive 2019-4*:
    - a. Any use of force by a law enforcement officer resulting in death or serious bodily injury.
    - b. Any use of deadly force (including the discharge of a firearm) by a law enforcement officer, regardless of whether such force resulted in injury.
    - c. The death of any civilian during an encounter with a law enforcement officer.

- d. The death of any civilian while in the custody of law enforcement.
2. Images of a victim of a criminal offense.
  3. Images of a juvenile.
  4. Images made in a residence/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.
  4. Videos of conversation wherein a person's request to deactivate the BWC was declined.
  5. Video of special operations event of an arrest and/or search warrant where confidential tactical information (e.g., verbal codes and hand signals used to give direction to officers, techniques for interior movements and clearing rooms during execution of a warrant, techniques for convincing persons to open doors during warrant execution, etc.) may have been recorded.
  6. Images of any screen of a police computer monitor that is displaying confidential personal or law enforcement sensitive information.
- C. If more than one officer captures video/audio of an event that will be stored as evidence, it is the responsibility of the supervisor to ensure that all recordings of such event are tagged properly and uniformly.

## **X. RETENTION OF BWC AND MVR RECORDINGS**

- A. Personnel shall not erase or in any other unlawful manner alter, tamper with, destroy, conceal any BWC/MVR recordings, or remove or disable any camera. Personnel shall not instruct another to alter, tamper with, destroy, or conceal BWC/MVR recordings or remove or disable any camera. If an officer fails to adhere to the recording or retention requirements contained in this SOP, N.J.S.A. 40A:14-118.5 et seq., N.J.S.A. 2C:28-7, or intentionally interferes with a BWC's/MVR's ability to accurately capture audio or video recordings:
1. The officer shall be subject to appropriate disciplinary action 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 N.J.S.A. 40A:14-118.5 et seq. or any other applicable law shall be immediately destroyed and shall not be admissible as evidence in any criminal, civil, or administrative proceeding.



- B. Recordings are considered criminal investigatory records of the Parsippany Police Department and shall be maintained on the Video Manager EL Cloud or L3 server and disposed of in accordance with the guidelines set forth by the New Jersey Bureau of Records Management, as well as the guidelines outlined in *Attorney General Directive 2022-1*.
- C. Except for recordings being stored for criminal, civil and administrative proceedings, or evidentiary purposes, all MVR recordings shall be retained for a period of not less than thirty-one days (31), and shall be subject to the following additional retention periods:
1. Recordings being stored for criminal, civil, or administrative purposes must be retained until the conclusion of the case plus any retention period. Examples of retention periods after the conclusion of the case include, but are not limited to:
    - a. Any death investigation (at least 7 years).
    - b. Criminal arrest - 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> degree crime (at least 5 years after adjudication).
    - c. Non-criminal arrest, excluding DWI (at least 2 years after adjudication).
    - d. DWI arrest (at least 10 years following adjudication of the case).
    - e. Use of force incidents (at least 2 years).
    - f. Internal affairs investigations (6 years after separation from employment or following any discipline or appeal, whichever is later).
    - g. Normally, recordings of warrant arrests or violation of TRO arrests without any other criminal charges need not be preserved as evidence, except when law enforcement force is used.
  2. When an MVR records an incident that is the subject of an internal affairs complaint, the recording shall be tagged appropriately and kept pending final resolution of the internal affairs investigation and any resulting administrative action.
- D. Except for recordings being stored for criminal, civil and administrative proceedings, or evidentiary purposes, all BWC recordings shall be retained for a period of not less than 180 days and shall be subject to the following additional retention periods:
1. When a BWC recording pertains to a criminal investigation or otherwise recorded information that may be subjected to discovery in a prosecution, the recording shall be treated as evidence and shall be tagged appropriately and kept in accordance with the retention period for evidence in a criminal prosecution. Furthermore, it is the responsibility of every officer to tag all recordings properly and uniformly.
  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 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 recordings shall be retained for not less than three years if requested by:
    - a. The officer whose BWC 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 recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
    - c. Any immediate supervisor of an officer whose BWC made the recording or who is a subject of the BWC recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value; or
    - d. Any officer, if the BWC 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 recording; or
    - f. Any parent or legal guardian of a minor who is a subject of the BWC 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 shall be permitted to review the body worn camera recording in accordance with N.J.S.A. 47:1A-1 et seq. to determine whether to request a three-year retention period
  3. When a BWC 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.
- E. Prior to the destruction, erasing or deletion of any BWC/MVR recording, other than by automated retention, the Support Services Division Supervisor 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.

- F. When seeking authorization to purge/erase BWC/MVR recordings being held for evidence in criminal matters, the Chief of Police or his/her designee must submit a destruction request to the Morris County Prosecutor's Office before purging/erasing any recordings. In DWI cases, consult with the municipal prosecutor before purging/destroying any DWI-related BWC/MVR recordings.

## **XI. RESTRICTIONS ON ACCESS TO, USE, AND DISSEMINATION OF RECORDINGS**

- A. Viewing of BWC and MVR recordings is strictly limited to authorized employees of this department. Viewing by any other person is prohibited unless authorized by the Chief of Police, his/her designee, or consistent with the provisions of this SOP.
- B. BWC and MVR recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- C. This subsection (XI.C) applies to BWCs only. No law enforcement officer or civilian employee of this agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose as specified in this section. 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. 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 SOP 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. Non-law enforcement personnel shall not be allowed to review the recordings at the scene of contact. Officer complaints shall be handled in accordance with the policies set forth in this department's SOP on *Internal Affairs*.
  7. 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; (*NOTE: It is the policy of this department to show footage of the prospective complaints unless doing so would interfere with an ongoing investigation, threatens the safety or privacy interests of other individuals who appear on the recording, or is otherwise prohibited under this SOP*).
  8. 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 (DVD or hyperlink).
  - c. The Parsippany Police Department reserves the right to redact video as applicable by law.
    - i. 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.
    - ii. 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.
  - d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing ordinance.
- 9. To comply with any other legal obligation to turn over the recording to a person or entity.
  - 10. To show or disseminate the recording to a civilian or 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 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.
  - 11. 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 not required from Parsippany Police officers appearing in the recording.
    - b. BWC 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.
  - 12. To conduct an audit to ensure compliance with this SOP.
  - 13. 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 Morris County Prosecutor or his/her designee.
  - 14. Any other specified official purpose where the Morris County Prosecutor or his/her designee finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.

- D. The assistant prosecutor or assistant or deputy attorney general, or his/her designee, overseeing an investigation pursuant to *Attorney General Law Enforcement Directive No. 2019-4*, 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 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/her credibility as a witness, notwithstanding any other provision of this SOP, no civilian or law enforcement witness, including the principles of the investigation, shall be given access to or view a recording of the incident, or a 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 his/her designee.
- E. Recordings marked 'special privacy', pursuant to subsection IX.B of this SOP, shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Morris County Prosecutor or his/her designee. Except for when a BWC recording captures the image of a patient at a substance abuse treatment facility and subject to the requirements of Section X (requiring notice to the Morris County Prosecutor's Office prior to complying with a subpoena, court order, or request for records under the Open Public Records Act or the common law right to know), the Morris County Prosecutor may authorize the Chief of Police, and one or more superior officers or duty positions (e.g., Detective Bureau Commander) identified by the Chief of Police, to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC recordings tagged pursuant to subsection IX.B.
- F. If disclosure of a 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 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.
- G. Except as otherwise provided in subsection IX.B of this SOP, a recording of an event or encounter that involves an investigation of a criminal offense, as defined in subsection I.A.7 of this SOP, 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 or his/her designee 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.

## **XII. CONTROL AND MANAGEMENT**

- A. Contents downloaded from BWCs/MVRs will be stored on the Video Manager EL Cloud, L3 server, or other authorized devices as designated by the agency. All images and sounds recorded by the BWC/MVR are the exclusive property of the agency. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.
- B. Copies of an event captured on BWCs/MVRs will not be released to other criminal justice agencies other than the Morris County Prosecutor's Office and/or the New Jersey Division of Criminal Justice without the expressed permission of the Chief of Police or their designee.
- C. Recordings containing information that may be of value for case prosecution or in any criminal or civil adversarial proceeding shall be safeguarded, as are other forms of evidence. As such:
  - 1. The software shall be designated as the activity tracking software for all recordings.
  - 2. All recordings covered in this subsection shall be maintained on the designated storage device until such time as they are authorized to be destroyed by statute, rule, or other directive governing the record.
  - 3. Recordings authorized for release shall be copied to portable media, or in lieu of this, be placed in an online share folder, and shall be subject to the same security restrictions and chain-of-evidence safeguards and documentation in accordance with the agency's evidence policy.
- D. All recordings are maintained within the BWC system in the BWC software and are authenticated by an internal audit program with the BWC system that includes:
  - 1. The date and time of access.
  - 2. The specific BWC recording(s) that was/were accessed.
  - 3. The officer or civilian employee who accessed the stored BWC recording.
  - 4. The person who approved access, where applicable.
  - 5. The reason(s) for access, specifying the purpose or purposes for access authorized, pursuant to subsection X.B or subsection X.C, and specifying the relevant case/investigation number, where applicable.
- E. Officers shall not reproduce or store any recordings to any device or storage medium to include, but not be limited to cellular phones, electronic notebooks, etc. Officers shall not direct another to reproduce or store any recordings to any device or storage medium, to include, but not be limited to, cellular phones, electronic notebooks, etc.
- F. Officers shall inform their supervisor of any recordings that may be of value for training purposes. Recordings from BWCs or MVRs may be shown for training purposes upon completion of a criminal case. All such use shall be pursuant to the written authority of the Chief of Police. Officers shall be provided with at least fifteen

(15) days' notice if recordings intended for use for training purposes were either made by them or captured their image or voice.

### **XIII. NOTICE TO PROSECUTOR OF SUBPOENA, COURT ORDER, OR OPRA / COMMON LAW REQUEST**

- A. Open public record requests. Only the following BWC recordings shall be exempt from public inspection:
1. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection X.D.3 of this SOP if the subject of the BWC recording making the complaint requests the body worn camera recording not be made available to the public.
  2. BWC recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection X.D.4 of this SOP.
  3. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection X.D.5(a)(b)(c)(d) of this SOP.
  4. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection X.D.5(e)(f)(g) if an officer, parent, or legal guardian, or next of kin or designee requests the body worn camera recording not be made available to the public.
- B. Upon this agency receiving a subpoena, court order, or request pursuant to the *Open Public Records Act*, or the common law right to know, for a BWC recording the Support Services Division Supervisor or his/her designee shall, within one (1) business day of receipt of such subpoena, court order, or request, and before complying with it, provide notice to the Morris County Prosecutor. Such notice shall clearly state the deadline by which a response must be made.
1. Do not release BWC recordings to the requestor for a minimum of two (2) business days following notification to the Morris County Prosecutor's office. Following the passage of two (2) business days:
    - a. When the requested BWC footage is related to indictable conduct or a Morris County Prosecutor's Office involved investigation or prosecution, the Support Services Division Supervisor or his/her designee cannot release the BWC footage until receipt of approval from the Morris County Prosecutor's Office.
    - b. When the requested BWC footage is not related to indicatable conduct or a Morris County Prosecutor's Office involved investigation or prosecution, the Support Services Division Supervisor or his/her designee can release the BWC footage after consultation with the municipal prosecutor or municipal attorney, as applicable.
  2. The Support Services Division Supervisor or his/her designee shall complete a MCPO *Body Worn Camera Request Notification Form* and promptly mail it to [ProsecutorBWC@co.morris.nj.us](mailto:ProsecutorBWC@co.morris.nj.us).
  3. Requests for MVR recordings do not need such notification to the MCPO.



4. Pursuant to the *Open Public Records Act* (N.J.S.A. 47:1A-5c and N.J.S.A. 47:1A-5d), the department will 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.
5. BWC/MVR 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.
6. The fee will be based at the lowest hourly rate of the personnel authorized to review/redact/approve the request.
7. The records custodian or his/her designee will provide the requestor an estimate before any copies are made.

#### **XIV. DELETION REQUESTS**

- A. Only the Support Services Division Supervisor or his/her designee can delete BWC recordings with the expressed consent of the Chief of Police or the Morris County Prosecutor's Office.
- B. 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 video shall not be viewed, but the officer shall tag the recording as "*special privacy*" and submit a report to their immediate supervisor, who will then forward such to the Support Services Division Supervisor. The actual BWC shall be taken out of service and turned over to the Support Services Division Supervisor for uploading. The officer shall be issued a spare device until it is returned.
  2. Depending on the circumstances, the internal affairs supervisor may investigate the incident.
  3. If an investigation is warranted, the internal affairs section commander or his/her designee shall conduct the 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 section commander or his/her designee shall notify the Chief of Police through the internal affairs chain of command and request permission to delete the recording if warranted.