

WATCHUNG POLICE DEPARTMENT GENERAL ORDERS



VOLUME: IV

CHAPTER: 17

OF PAGES: 33

SUBJECT: BODY WORN CAMERAS / MOBILE VIDEO RECORDERS

EFFECTIVE DATE:

09/18/2023

**ACCREDITATION
STANDARDS:**

3.5.5

REVISION DATE

01/28/2022

09/18/2023

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BY THE ORDER OF:

Chief of Police Scott Anderle

SUPERSEDES ORDER #:

PURPOSE The purpose of this general order is to maintain guidelines for the use, management, storage, and release of audio-visual media recorded by body worn video/audio cameras (BWC) and mobile video recorders (MVR). BWC and MVR 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 Watchung 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 and MVRs shall be deployed and utilized by all personnel in a manner consistent with manufacturer's guidelines, the provisions in this general order, and those directives or guidelines issued by the New Jersey Attorney General, *specifically New Jersey Attorney General Directive 2021-5*, and the Somerset County Prosecutor's Office. Failure to use this technology in accordance with this general order and those directives or guidelines set forth in *New Jersey Attorney General Directive 2021-5* and the Somerset County Prosecutor's Office shall be subject to discipline.

The Watchung 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 general order. 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.

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

PROCEDURES

I. DEFINITIONS

A. For purposes of this general order, the following terms are defined:

1. Activate – means to actuate (put into operation) the recording mode/function of a BWC or MVR.
2. Advisement – a statement made by an officer at the outset of using a BWC camera to record a communication, conversation, or interaction with the public for the specific purpose of informing the public that the communication or conversation is being recorded.
3. 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).
4. Cabin microphone – refers to the internal microphone installed in the passenger compartment of the police vehicle.
5. Consent – Consent to record shall be considered obtained when the recording party (officer) has announced to all other parties engaged in the communication or conversation, in any reasonably effective manner, that the communication or conversation is being recorded. This announcement itself to the other parties must also be recorded.
6. Constructive authority – involves the use of an officer's authority to exert control over a subject (see this department's general order 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.).
7. Daily tour of duty – an officer's single workday.
8. Equipped with a BWC – means that an officer is wearing a BWC at the time in question, as opposed to simply receiving BWC equipment from the agency.
9. Force – has the same meanings as defined in this department's general order on *Use of Force*. The term force shall include physical, mechanical, enhanced mechanical, and deadly force.

10. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, petty disorderly offense, operating while intoxicated incident, 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.
11. Metadata – A created digital image may include metadata that describes how large the picture is, the color depth, the image resolution, when the image was created, and other data.
12. 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 where appropriate, other accessories necessary to operate the system.
13. 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.
14. 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.
15. Serious bodily injury – means bodily injury which creates a substantial risk of death, or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. for purposes of this general order, serious bodily injury and serious bodily harm have the same meaning.
16. Significant bodily injury – means bodily injury which creates a temporary loss of the function of any bodily member or organ or temporary loss of any one of the five senses.
17. 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.
18. 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.

19. Substantive report – means a report that includes a detailed accounting of the incident. It does not include a report which simply refers to other reports or to the existence of BWC or other camera recordings.
20. 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.
21. Tagging – is the electronic labeling of a video/audio file captured by a BWC or MVR. The terms categorizing or category can be used interchangeably with the terms tagging or tag.
22. 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.
23. Undercover officer – is a law enforcement officer operating with an assumed identity and/or disguise for the purposes of gaining the trust of an individual or organization to learn or confirm confidential information or to gain the trust of targeted individuals to gather information or evidence. Plain-clothed officers and detectives are not considered undercover officers unless working with an assumed identity and/or disguise.
24. Youth facility – means a facility where children (under 18) assemble under adult supervision for educational or recreational purposes, such as day-care centers, group homes, residential facilities, youth camps, pre-schools, tutoring locations, vocational schools etc.

II. GENERAL ADMINISTRATION

- A. BWC and MVR recordings are invaluable to law enforcement for evidential purposes. BWC and MVR have consistently demonstrated its value in the prosecution of criminal, traffic, and other related offenses and to protect personnel from false claims of misconduct. Additionally, this equipment will provide valuable instructional material that can be utilized for in-service training programs.
- B. There is no intent to utilize the BWC or MVR 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 and MVR 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 viewing restrictions in this general order, supervisors will be able to view the recordings and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.
 6. Recordings can permit supervisors to undertake more meaningful performance evaluations.
 7. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the public.
 8. Recordings enhance management's ability to train personnel in proper police procedures.
- 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-public 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-public 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.
 2. Used to document evidence.
 3. Used to safeguard against potential violations of N.J.S.A. 2A: 156A-1, et seq., *New Jersey Wiretapping and Electronic Surveillance Control Act* (MVR).

- F. While visual and audio evidence may be captured on the recordings, the use of BWC and MVR 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, it can serve to supplement an officer's senses and eyewitness account. The use of a BWC or MVR does not diminish the requirement to provide a thorough, text documentation of an incident. The BWC and MVR recordings are only one piece of evidence that provides only one perspective regarding the situation that has been recorded.
- G. Officers shall use only the BWCs and MVRs purchased by the department. The use of BWCs and MVRs with electronically enhanced audio/visual capabilities, such as infrared vision features, is not authorized.
- H. BWC and MVR equipment and all data, images, video, audio, and metadata captured, recorded or otherwise produced by the equipment is the sole intellectual property of this department. Under no circumstances will any employee of the Watchung Police Department make a personal copy of any recorded event or direct someone to make a personal copy, except where authorized in this general order.
- I. The Chief of Police or his/her designee shall maintain a training program on the lawful and proper use of BWC/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/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 any officer is unclear with this general order or the operation of a BWC or MVR, he/she should contact his/her supervisor to arrange for additional training.
 - 5. A link to the BWC and MVR user manuals is posted to DMS.
- J. Only officers who are authorized by the Chief of Police and have received training in the use of BWC/MVR are permitted to use these systems and must demonstrate a satisfactory degree of familiarity and efficiency in the use of these systems. Proper use of a BWC/MVR is considered an essential job requirement.
- K. The Captain or his/her designee shall manage and coordinate the BWC/MVR equipment whose duties shall include maintaining the system and procedures to ensure the integrity and proper handling and storage of all BWC/MVR recordings. This system shall include provisions to:
 - 1. Maintain a record of all BWC/MVR serial numbers and assignments.

2. Set permission, authority levels, and tag/retention categories in the AXON server.
 3. Ensure that all recordings are uploaded to a secure data storage system in a timely fashion.
 4. Prevent tampering with or deletion of recorded data both before and after uploading from the BWC/MVR and uploading to the storage system.
 5. Restrict unauthorized access to stored BWC/MVR recordings.
 6. Document all instances where BWC/MVR recordings are accessed, viewed, copied, disseminated, or deleted (this can be generated by the AXON server software).
 7. Permit auditing of all instances where BWC recordings are accessed, viewed, copied, or deleted.
 8. 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.
- L. Prior to the destruction, erasing or deletion of any BWC/MVR recording, other than by automated retention, the Captain 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.
- M. Repairs to any BWC/MVR equipment shall only be performed by the manufacturer or under the direction of the Captain or his/her designee.

III. BODY WORN CAMERAS

- A. Each patrol officer and patrol sergeant will be assigned a BWC. Each BWC has a unique serial number and has been assigned an internal tracking number. The device shall be worn as an authorized component of the uniform of the day and utilized daily consistent with the requirements and restrictions in this general order.
1. Officers are not required to activate their BWCs in police headquarters unless they are investigating a walk-in complaint, processing an arrestee, or other similar related functions. Officers are not required to activate their BWCs while processing an arrestee if the processing room video is activated and recording audio and video.
 2. Detectives and staff officers shall wear BWCs when conducting arrests and while engaged in field duties (e.g., patrol coverage, search warrant executions, raids, etc.) consistent with the requirements and restrictions in this general order.
 3. BWCs shall be worn and used on all extra duty assignments except for traffic direction/control extra duty jobs.

4. Officers shall also wear and use a BWC consistent with this general order when:
 - a. On aggressive driving, DWI interdiction assignments, or other proactive enforcement team.
 - b. When assigned to front desk assignments and interacting with the public on a law enforcement matter.
 - c. When assigned to or assisting any tactical team in the field.
 - d. When assigned to duties at demonstrations or potential civil disturbances.
5. Wearing of any personally owned video/audio recorder by department personnel is not authorized without the expressed permission of the Chief of Police, the Somerset County Prosecutor's Office, or the New Jersey Division of Criminal Justice. Violations will be subject to disciplinary action, up to and including termination.
6. BWCs shall be stored in their charging sleeves when not in use to permit charging of the device and downloading of recordings.
7. BWCs shall only be used in conjunction with official law enforcement duties.
8. Officers engaged in undercover operations or surveillance activities are not required to utilize BWCs.
9. Officers assigned to administrative duties are not required to utilize BWCs except when dealing with the public in a law enforcement matter.

B. 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 assigned BWCs shall use the device specifically assigned to them unless otherwise authorized or directed by a supervisor.
3. Officers shall place the BWC in sleep mode while in headquarters. Officers shall return the BWC to buffering/ready mode when exiting headquarters or when encountering an incident requiring recording while in headquarters.
4. Officers shall not place their BWC into stealth mode except with a supervisor's approval.
5. Officers shall not record while in headquarters unless the officer is dealing with a walk-in complaint (subsection VI.I.1.e of this general order).

6. 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.
7. When appropriate and in accordance with *New Jersey Attorney General Directive 2021-5*, undercover officers and plain clothes detectives will wear BWCs on their outer most garment or belt, so long as the device is secured properly and will maximize the device's recording function.
8. Prior to beginning a shift, officers assigned a BWC will ensure the system's readiness by conducting an operational inspection. The inspection shall include, but is not limited to, ensuring the battery is adequately charged before going into the field. The officer shall:
 - a. Ensuring the battery is adequately charged prior to leaving headquarters.
 - b. Ensuring the device has sufficient memory to complete their daily tour of duty.
 - c. Ensuring 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.
 - e. Tag/classify the recording as a test recording.
9. At the conclusion of the officer's shift, he/she shall inspect his/her BWC to ensure system integrity. The officer shall:
 - a. Unpair the BWC and log out of the system.
 - b. Place their BWC in the docking station at headquarters for battery charging and video uploads to [evidence.com](#).
 - c. Tag or categorize all uploaded video/audio recordings properly for retention purposes (see section IX of this general order)
10. Officers finding any BWC that is found 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.
11. 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.
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.

IV. MOBILE VIDEO RECORDERS

- A. Equipment installed in a patrol vehicle is the responsibility of the officer assigned to that vehicle. The officer must ensure that the MVR is operating properly prior to the start of his/her shift and must report all malfunctions, damage or other problems to the duty watch commander or shift commander.
 - 1. No one is permitted to move the installed components of the system from its positions without authorization by the Captain or his/her designee or as permitted by this general order.
 - 2. Likewise, no one is authorized to repair any MVR equipment or related component except those personnel authorized by the Captain 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 Captain 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 Captain or his/her designee so that arrangements can be made to secure the removable media.
 - 4. Promptly notify the Captain concerning any MVR equipped vehicle involved in:
 - a. A crime.
 - b. A collision with serious bodily injuries to any party.
 - c. A motor vehicle pursuit involving any crash or injury.
 - 5. The Captain or his/her designee shall respond and remove the removable media and secure it as evidence.
- C. It is the officer's responsibility to exercise reasonable care when using the equipment. Misuse of the equipment that results in damage or loss may result in disciplinary action and/or replacement of such equipment by the officer.
- D. Prior to each shift, officers shall determine whether their MVR equipment is working satisfactorily and shall bring any problems at this or other times to the attention of the duty watch commander as soon as possible.

1. 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.
 - a. Each officer shall test activate the MVR at the beginning of their tour to ensure it is properly recording audio and video, this test shall be documented on the *Vehicle Maintenance Report*.
 - b. This test shall consist of the officer standing outside of their vehicle, while the MVR is activated/recording, at the minimum the officer will state his/her name, date and time. The officer will review this test by using the playback feature on the MVR, to ensure proper working order.
 2. Inoperable or damaged MVR equipment shall be immediately reported to the duty watch commander. All MVR problems or technical issues shall be documented on a *Vehicle Inspection Report*.
 3. The duty watch commander 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 unit with permission from the duty watch commander.
 4. Officers shall log into the L3 application on the mobile data computer (MDC) and utilize that to pair the MVR with their BWC. This will ensure that any MVR recording will be assigned to that particular officer, and not to a previous user or unassigned.
 5. If the patrol vehicle does not have a functioning MDC and officers are unable to sign onto the L3 application to fully utilize the MVR, and there are no patrol vehicles available with a functioning MDC, the MVR system shall not be used.
- E. In the event an officer who has reported for duty needs to immediately respond to a priority call and is unable to sign onto the MDC or fully check the MVR system prior to his/her response, he/she shall still operate the MVR within this general order until such time he/she is able to fully check the system later.
- F. If for any reason (e.g., officer did not have time to pair his/her BWC to the MVR or had to operate the MVR manually, etc.) video is recorded on an MVR that is not automatically assigned to that officer, it that officer's responsibility to ensure he/she tags/labels any such videos as soon as possible.
1. All supervisors have the ability to reassign recordings and cameras to any officer in the agency.
 2. If video is recorded and not assigned to that particular officer, the officer is to notify his/her supervisor so that video can then be re-assigned to that officer so it can be labeled properly.
 3. This can be done once the recording has been downloaded to the L3 server.
 4. Not being able to sign into the L3 application is no reason to not utilize the MVR according to this general order, nor have any recorded video not tagged and labeled properly.

5. 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.

V. SUPERVISORY RESPONSIBILITIES

- A. Watch commanders 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 bureaus assigned the use of BWCs (i.e., patrol, traffic, detectives, staff, etc.). Watch commanders shall:
 1. Ensure that all officers follow proper procedures for the use and operation of BWC and MVR equipment.
 2. Document requests for repairs and replacement of damaged or inoperable BWC and MVR equipment in accordance with this general order.
- B. Upon discovery of a BWC that is damaged or non-functioning, the watch commander will remove a BWC from service and then notify the Captain with the details of the malfunction, problem or deficiency via email and request a spare BWC until repairs are made to it. Once the supervisor's request is submitted, 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 Captain's mailbox.
- C. Upon discovery of an MVR that is damaged or non-functioning, the watch commander shall notify the Captain with the details of the malfunction, problem or deficiency via email. The vehicle can still be used for patrol purposes if the assigned officer is equipped with a working BWC.
- D. Watch commanders 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 in which the supervisor feels is necessary to protect the recordings. The process shall take place as follows:
 1. The watch commander 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 general order.
 2. The watch commander who takes custody of the BWC shall forward it to the Captain and issue the officer a spare unit, following the same protocol as listed above, under subsection III.A.2 of this general order.
 3. The Captain or his/her designee shall upload and categorize any footage captured of the incident accordingly.
 4. Such BWCs shall only be placed back in service at the direction of the Chief of Police.

- E. Watch commanders/supervisors shall ensure that a monthly review of MVR recordings is performed.
 - 1. Monthly supervisor BWC/MVR reviews shall be conducted at a minimum of 3 reviews for each subordinate. This review will be documented on the *WPD Monthly Supervisory BWC/MVR Review Sheet*.
 - 2. Monthly reviews provide an excellent base as a training tool and an assessment of officer performance.
 - 3. Supervisors shall add additional comments to the monthly review if any policy violations or compromises of officer safety are observed. (This will not alleviate the supervisor of documenting his/her observations in any of the employee's performance or personnel files).
 - 4. Supervisors shall document their monthly supervisor BWC/MVR reviews each month utilizing Guardian Tracking. These supervisory entries will provide a brief synopsis of their observations during the review.
- F. Subject to the viewing restrictions in this general order and as a component of the meaningful review process, 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. Uses of force.
 - 3. Warrantless searches (any type).
 - 4. Pursuits.
 - 5. Officer involved injuries.
 - 6. Officer-involved motor vehicle crashes.
- G. Reviewing supervisors are responsible for ensuring all BWC/MVR recordings are tagged, or categorized, properly as listed under section IX of this general order. Officers under their supervision will be retrained on proper tagging, as needed.
- H. Each reviewing supervisor who accesses a BWC/MVR recording in evidence.com (BWCs) or the L3 server (MVRs) 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 watch commander or traffic bureau commander, respectively, no later than the last day of each month.
- I. Watch commanders shall formally review all instances when a BWC/MVR is deactivated prior to the conclusion of an incident or if they are made aware of recordings that are subject to a meaningful command review. They will prepare a written report or email of that specific incident and forward the documented review through proper chain of command upon every occurrence to the Captain.

1. If a watch commander is out for an extended time, 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 watch commander/supervisor will label the recording for indefinite retention.
 3. The Captain or his/her designee shall retain all administrative reports generated in accordance with this general order 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/MVR footage if circumstances arise that requires an investigation to commence.
- J. Supervisors shall encourage and assist officers in using BWC/MVR as a training aid.
- K. Supervisors must understand that minor infractions (not criminal in nature) discovered while reviewing the recorded material should be viewed as training opportunities and not as routine disciplinary actions. Should the behavior or action become habitual after being informally addressed the appropriate disciplinary or corrective action shall be taken. If the failure to utilize the BWC/MVR equipment is confirmed during an IA investigation such incident shall be viewed as a new allegation.

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. Whenever the MVR is activated officers shall ensure that the audio portion is also activated. Video recording might not completely document events as they occur. Therefore, officers are encouraged to provide narration as the events are occurring to the extent possible.
 3. Officers equipped with body worn cameras (BWC) are still required to utilize the vehicle's MVR, if so equipped.
 4. Nearby BWCs could activate when the emergency lights are activated on a vehicle. This includes the possibility of BWCs worn by officers in headquarters being activated when a vehicle's emergency lights are activated just outside the building.

5. MVRs are also equipped with a microphone that will record audio while recording video. This can be muted similar to the BWC. The indicator light will blink blue while the mute feature is activated. Mute should only be used for the same reasons as it would be used for a BWC recording and shall be unmuted as soon as possible.
 6. 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. Except when otherwise restricted in this general order, 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 or MVR impossible or dangerous, the officer shall activate the BWC/MVR at the first reasonable opportunity to do so. Examples of such required recordings include, but are not limited to:
1. All traffic stops from the time of the stop until the stop is concluded, including field sobriety testing.
 2. An officer is responding to a call for service and is at or near the location to where the officer has been dispatched.
 3. Any call for service related to a violation or suspected violation of possessing or consuming marijuana, hashish, or cannabis item.
 4. Stationary police details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, etc.
 5. Crime scenes except for crime scene processing.
 6. Motor vehicle and foot pursuits.
 7. Uniformed officer interviews in the field of witnesses when conducting investigations of criminal violations (not to include undercover investigations, related surveillance activities, or stationhouse recordings of custodial interrogations/interviews).
 8. Investigative detentions/field interviews.
 9. Warrantless searches (all types, including frisks, but not strip or body cavity searches).
 10. Search or arrest warrant service (entire service).
 11. Out-of-court identifications (i.e., show ups, lineups).
 12. Arrests.
 13. Drug recognition expert evaluations.
 14. Overdose and suspected overdose investigations.

15. Emotionally disturbed person investigations/encounters.
 16. Arrestee/prisoner/civilian transportation.
 17. When an officer uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this subsection based on specific and articulable facts warranting heightened caution (must be documented by narration on the recording and/or in any law report).
 18. Crowd control, unruly crowds, or any incident requiring activation of the all-hazards or emergency operations plan.
 19. Domestic violence investigations.
 20. Strikes, picket lines, demonstrations.
 21. Officer initiated pedestrian stops.
 22. The officer is conducting a motorist aid or community caretaking check.
 23. An officer reasonably believes that any other officer on the scene has undertaken, or is engaged, in any of the foregoing police actions/activities.
- C. NOTE: BWCs will automatically activate when an officer's handgun is unholstered. When an officer is removing their handgun for storage, cleaning, etc., they should place their *Signal Sidearm* device into mute mode to prevent the BWC from activating inadvertently.
- D. Whenever the BWC/MVR is activated, officers shall ensure that the audio portion is also activated and the volume on the patrol vehicle's AM/FM radio is turned OFF.
- E. 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. The officer has informed the dispatcher or a supervisor that the incident has concluded; the incident is closed in CAD; and
 4. During the transportation of all arrestees from the scene of the arrest to headquarters and shall remain active until:
 - a. The vehicle is parked and turned off (MVR).
 - b. The arrestee is secured in the holding cell or processing room (BWC).

- c. 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 (BWC).
 - d. 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 (BWC). 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
- F. Upon activation of a BWC/MVR, officers shall, if possible, provide verbal narration of the circumstances at the start of the encounter audibly so that the recordings on the BWC/MVR 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/MVR is activated, “...*Officer Doe coming upon the scene of a serious motor vehicle crash at the intersection of Route 22 and Somerset Street...*”).
 - 1. Officers can also audibly narrate or actually bookmark significant events while recording and provide details of the marked segments.
 - 2. 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.
- G. Notifications to subjects of the recording / crime victims / anonymous complaints / civilians within a place of abode:
 - 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 investigation report of the incident and/or by narrating the reasons on the BWC recording.
 6. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
- H. 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 Somerset 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/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.
- I. Special activation rules governing deadly force incidents and other exigent circumstances when officers are in danger:
1. Notwithstanding any other provision of this general order, when an officer equipped with a BWC/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 general order, 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/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.
- J. 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/MVR 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 where such device is being used. Nothing herein shall be construed to preclude the use of a BWC/MVR 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. However, in situations when an officer reasonably believes that the officer or another person is likely to use force, the BWC/MVR shall be re-activated as soon as it is safe and practicable to do so.
- 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/MVR 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/MVR the reason for the deactivation and immediately re-activate the BWC/MVR 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 is practicable; and
 - d. The officer shall document the circumstances of the deactivation in any investigation 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. In the event that the officer declines a deactivation request, the officer immediately shall 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 Somerset County Prosecutor or his/her designee or the Director of the Division of Criminal Justice or his/her designee expressly has 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.

F. 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 Somerset 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.

- a. Officers may deactivate a BWC/MVR 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 that the BWC/MVR should be deactivated; nor shall the officer ask the person whether he or she would prefer that the BWC/MVR 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/MVR, 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.
- G. Failure to activate, record an entire event or interrupt recording:
 - 1. If an officer fails to activate the BWC/MVR, fails to record the entire event contact, or interrupts the recording, the officer shall document in the applicable investigation report why a recording was not made, was interrupted, or was terminated prematurely.

VII. RESTRICTIONS ON BWC/MVR ACTIVATIONS

- A. BWC/MVR 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.
 - 1. BWCs shall not be used surreptitiously.
 - 2. This department will not tolerate the reliance by any officer on race, ethnicity, gender, gender identify, gender expression, transgender status, sexual orientation, religion, economic status, age, culture, or any other immutable characteristic of a group or class of persons, in determining whether to activate or deactivate a BWC or MVR.
- B. BWCs/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 general order. The BWC/MVR shall not be used to record:
 - 1. Encounters with undercover officers or confidential informants.
 - 2. Strip and body cavity searches.
 - 3. When on break or otherwise engaged in personal activities.

4. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room (BWC).
 5. When engaged in police union business.
 6. When involved in internal affairs interviews, counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction.
 7. While discussing criminal investigation strategies.
- C. Officers are not required to wear and use a BWC:
1. When engaged in hostage negotiations.
 2. When processing crime scenes.
 3. When conducting searches of cellphones, tablets, computers, or other electronic devices pursuant to a search warrant, when such items have already been seized and the search is performed at a location other than the premises of the initial search and seizure.
 4. When conducting searches of cellphones, tablets, computers, or other electronic devices that are suspected to contain images of child sexual exploitation.
- D. 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/MVR, or shall deactivate a BWC/MVR 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/MVR.
 - b. Is in a place of worship under circumstances where worshipers would be in view of the BWC/MVR.
 - 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/MVR.
 - 1) 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 Somerset 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).

- 2) The recording shall not be accessed without the permission of the Somerset 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 (or MVR transmitter) 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/MVR transmitter 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/MVR).

E. 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 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.
2. The BWC/MVR shall be activated/reactivated as soon as it is safe and practicable to do so if and 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 Somerset County Prosecutor or his/her designee, may provide specific instructions to any BWC/MVR-equipped officers participating in the operation on whether to activate their BWCs/MVRs.

E. Tactical operations – BWCs, at the discretion of the Chief of Police, may 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.).

- F. Any recordings from a BWC recorded in contravention of this general order or any other applicable law shall be immediately brought to the attention of the command staff and immediately destroyed by the command staff following consultation and approval by the Somerset County Prosecutor or Director of the Office of Public Integrity and Accountability. Such recordings shall not be admissible as evidence in any criminal, civil, or administrative proceeding, except as evidence in any proceeding related to the unauthorized use of a BWC.

VIII. WRITTEN DOCUMENTATION REQUIRED

- A. BWC/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/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 with the typed letters BWC/MVR (including control ledger or log number) at the end portion of the narrative section on all investigation reports, supplementary reports, peripheral reports (i.e., tow reports, property reports, evidence reports, etc.), NJTR-1, and arrest reports, when video/audio recording are available for the case. Officer shall also document at the end portion of the narrative section of all reports the other officers who were on scene with activated BWC and/or MVR (i.e., badge and vehicle #).

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 evidence.com (BWCs) or the L3 server (MVRs). Officers are required to enter specific information for each uploaded BWC/MVR recording. Tagging a recording consists of entering all the required information into evidence.com (BWCs) or the L3 server (MVRs).
- B. Additionally, officers shall categorize recordings that capture any of the following circumstances that the New Jersey Attorney General has deemed 'special privacy' issues as such. The following BWC recordings must be specifically tagged as they raise special privacy or safety issues:
 - 1. Images of 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 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 with a person who requested to deactivate the BWC/MVR 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 videos of such event are tagged properly and uniformly.

X. RETENTION OF BWC RECORDINGS

- A. Officers shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC/MVR recordings or remove or disable any camera. Officers shall not instruct another to alter, tamper with, destroy, or conceal BWC/MVR recordings or remove or disable any camera. If an officer, employee, or agent fails to adhere to the recording or retention requirements contained in this general order, N.J.S.A. 2C: 28-7, N.J.S.A. 40A:14-118.5 et seq., or intentionally interferes with a BWCs/MVRs ability to accurately capture audio or video recordings:
1. The officer, employee, or agent shall be subject to appropriate disciplinary action and potential 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.

- B. Recordings are considered investigatory records of this police department and shall be maintained on evidence.com (BWCs) or the L3 server (MVRs) and disposed of in accordance with law and New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
1. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes, recordings shall be retained for a period of at least 180 days.
 2. Recordings that are being held for criminal or civil purposes shall be processed and submitted as evidence or maintained with the case file.
 3. Recordings that are being held for administrative purposes (e.g., internal affairs investigations) shall be maintained with the investigative file.
 4. 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.
 5. 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.
 6. 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 (subsections X.B.6 (e)(f)(g)) 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

7. 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.
- C. Prior to the destruction, erasing or deletion of any BWC/MVR recording, other than by automated retention, the Captain 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.
- D. 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 Somerset 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 BWC AND MVR RECORDINGS

- A. Viewing of BWC/MVR events 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 general order.
- B. BWC/MVR recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- C. NOTE: 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, use of, and receiving an account 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, except:
 - a. 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
 - b. The incident involved the discharge of a firearm or any use of deadly force by the officer (see this agency's general order on *Use of Force*); or

- c. The incident involved the death of a person while in law enforcement custody; or
- d. The incident involved the death of a person during an encounter with a law enforcement officer; or
- e. 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.
- f. 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.
- g. Officers shall only be permitted to review or receive an accounting of such BWC recordings once the investigating entity concludes that (a) the officer has in fact completed the specified incident memorialization and (b) the officer's review or receipt of an accounting of the BWC recording will not otherwise interfere with the ongoing investigation.
 - 1) In cases subject to *Attorney General Directive 2019-4*, the independent investigator is the investigating entity.
 - 2) In all other cases, the Chief of Police or his/her designee is the investigating entity.
 - 3) The appropriate investigating entity shall document the authorization to review or receive an accounting of a BWC of a specified incident.
- 5. When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency.
- 6. To show to a civilian who intends to file a complaint against an officer to demonstrate what 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, threatened the safety or privacy interests of other individuals who appear on the recording, or is otherwise prohibited under this policy*).

7. 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 general order on *Internal Affairs*.
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. This agency reserves the right to redact video as applicable by law.
 - 1) NOTE: when providing discovery in a domestic violence matter, ensure that the recording is reviewed prior to release to verify that there is no confidential information that should be redacted.
 - 2) This confidential information includes, but is not limited to, the location where the victim is being sheltered or contact phone numbers for those assisting the victim, etc.
 - 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 Somerset 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. 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 video, unless the depicted individuals have consented to the recording being used for training purposes.
12. To conduct an audit to ensure compliance with this general order.
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 Somerset County Prosecutor or his/her designee.
14. Any other specified official purpose where the Somerset 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 independent investigator 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.
- E. Recordings marked 'special privacy', pursuant to subsection IX.B of this general order, shall not be accessed, viewed copied, disseminated, or otherwise used without first obtaining the permission of the Somerset County Prosecutor or his/her designee, except the prosecutor authorizes the chief of police and one superior officer designated by the Chief of Police to access, view, copy, disseminate or otherwise use BWC recordings tagged pursuant to subsection IX.B of this general order, except in investigations conducted pursuant to *Attorney General Law Enforcement Directive No. 2019-4*.
1. Except for when a BWC/MVR recording captures the image of a patient at a substance abuse treatment facility and subject to the requirements of Section XI (requiring notice to the Somerset 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 Somerset 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/MVR recordings tagged pursuant to subsection IX.B.
- F. If disclosure of a BWC/MVR recording as part of the State's discovery obligations in a prosecution might present a danger to any officer or civilian (*e.g., reveal an undercover officer, confidential informant, surveillance site, etc.*), or might reveal confidential tactical information the disclosure of which might jeopardize future operations or officer safety (*e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms during execution of warrant, techniques for convincing persons to open doors during warrant execution, etc.*), the Somerset 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 (See section VII of this general order).
- G. Except as otherwise provided in subsection IX.B of this general order, a BWC/MVR recording of an event or encounter that involves an investigation of a criminal offense, as defined in subsection I.A.9 of this general order, 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 Somerset 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 evidence.com (BWCs), the L3 server (MVRs) or another authorized device 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 Somerset 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. BWC/MVR 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 BWC/MVR software shall be designated as the activity tracking software for all BWC recordings.
 - 2. All BWC/MVR 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. BWC/MVR recordings authorized for release shall be copied to portable media 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/MVR system in the BWC/MVR software and are authenticated by an internal audit program with the BWC/MVR system that includes:
 - 1. The date and time of access.
 - 2. The specific BWC/MVR recording(s) that was/were accessed.
 - 3. The officer or civilian employee who accessed the stored BWC/MVR recording.
 - 4. The person who approved access, where applicable; and
 - 5. The reason(s) for access, specifying the purpose or purposes for access authorized, pursuant to subsection IX.B or subsection IX.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 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 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/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. Any member of 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/MVR recording shall, within one (1) business day of receipt of such subpoena, court order, or request, and before complying with it, provide notice to the Somerset County Prosecutor. Such notice shall state clearly the deadline by which a response must be made.
 - 1. Notice shall be made by emailing a *Somerset County Prosecutor's Office Body-Worn Camera Recording Request Notification Form* to the Prosecutor's Office at: scpobwc@co.somerset.nj.us.
- B. Open public record requests. Only the following recordings shall be exempt from public inspection:
 - 1. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection X.B.5 of this general order if the subject of the recording making the complaint requests the body worn camera recording not be made available to the public.
 - 2. Recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection X.B.6 of this general order.
 - 3. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection X.B.6(a)(b)(c)(d) of this general order.
 - 4. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection X.B.6(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

XIV. DELETION REQUESTS

- A. Only the Captain or his/her designee can delete BWR/MVR recordings with the expressed consent of the Chief of Police or the Somerset County Prosecutor's Office.
- B. If an officer has inadvertently recorded data that is private or in appropriate, 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 Captain. The actual BWC shall be taken out of service and turned over to the Captain 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 BWR/MVR 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 and request permission to delete the recording if warranted.