

WESTFIELD POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

BODY WORN CAMERAS / MOBILE VIDEO RECORDERS

BY THE ORDER OF:

Chief Christopher Battiloro

OF PAGES:

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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 (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 collecting evidence to prosecute those who violate the law.

POLICY It is the policy of the Westfield 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 SOP, and those policies or guidelines issued by the New Jersey Attorney General, *specifically New Jersey Attorney General Directive No. 2015-1* and Union County Prosecutor's Office. Failure to use this technology in accordance with this policy and those policies or guidelines set forth in *New Jersey Attorney General Directive No. 2015-1* and Union County Prosecutor's Office shall be subject to discipline.

The Westfield 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 Union County Prosecutor's Office of this general notification to the public.

Any willful or repetitive violations of this SOP shall be reported the Internal Affairs Bureau Supervisor who shall report such directly to the Chief of Police and/or Union County Prosecutor's Office. The Chief of Police and/or Union 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. Chapter: refers to a single segment recorded to an MVR. A chapter is started when the MVR is activated by a triggering event. A chapter is ended when the event button is pressed on the device or when stopped using Axon View XL. A chapter is saved to the server.
 5. 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.).
 6. Daily tour of duty – an officer's single workday.
 7. Deactivate – the process of stopping the recording mode / function of a BWC or MVR.
 8. Event button – Used to start and stop recording (double tap to start recording; long press to stop recording).
 9. 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.
 10. Function Button – Used in device pairing and to add markers to the video as it is recorded.
 11. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense including but, not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has

been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.

12. MVR – mobile video / audio recording equipment installed in a police vehicle. All references to MVR shall include the equipment installed in the police vehicles, removable components and media devices, and where appropriate, other accessories necessary to operate the system. MVRs shall be maintained in all marked vehicles with MVR mounts.
 13. Power off – Turn off the system by manually moving the on/off switch on the camera to the 'off' position.
 14. School – means an elementary or secondary school (i.e. middle school, high school).
 15. 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.
 16. Tagging – is the electronic labeling of a video/audio file captured by a BWC or MVR. The terms categorizing or category may be used interchangeably with the terms tagging or tag.
 17. Tour of duty – an officer's work week.
 18. Triggering event – any action that causes the MVR to create, record and save a chapter. Triggering events may include activating emergency lights, manually pressing the record button on the front panel, or activating the transmitter/wireless microphone.
 19. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, etc.
- B. All references to BWC and/or MVR include the body worn devices, the wireless transmitters, microphones, removable media, servers, and other accessories necessary to operate these systems.

II. GENERAL

- A. BWC and MVR recordings are invaluable to law enforcement for evidential purposes. BWC and MVR 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 shall provide valuable instructional material that may 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 official police duties and not for personal purposes.
- C. These recordings shall 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 may be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
 3. The recordings may resolve disputes concerning what occurred during particular incidents, thereby protecting both the public and the officers involved.
 4. When complete recall is not possible, such as when multiple events are happening simultaneously or out of an officer's line of sight, an audio/visual recording may provide an accurate record of events.
 5. Supervisors will be able to view the recordings and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.
 6. Recordings may permit supervisors to undertake more meaningful performance evaluations.
 7. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the general public.
 8. Recordings enhance management's ability to train personnel in proper police procedures.
- 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;
 2. Used to properly preserve 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 may 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, written 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. Personnel shall use only those BWCs and MVRs purchased by the department. The use of BWCs and MVRs with electronically enhanced audio/visual capabilities, such as infrared vision features, are not authorized.
 - H. BWC and MVR equipment and all data, images, video and metadata captured, recorded or otherwise produced by the equipment is the sole property of this department. Under no circumstances shall any member of the Westfield Police Department make a personal copy of any recorded event.
 - I. The Chief of Police shall appoint a BWC/MVR training coordinator to 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. The BWC and MVR user manuals are posted to DMS;
 5. If any officer is unclear with this SOP or the operation of a BWC or MVR, he/she should contact his/her supervisor to arrange for additional training.
 - 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 Chief of Police shall appoint a BWC/MVR system administrator to 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 [Evidence.com](https://evidence.com);
3. Repairs to any BWC/MVR equipment shall only be performed by the manufacturer or under the direction of the BWC/MVR system administrator;
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. Prevent unauthorized access to stored BWC/MVR recordings;
7. Document all instances where BWC/MVR recordings are accessed, viewed, copied, disseminated, or deleted;
8. Permit auditing of all instances where BWC recordings are accessed, viewed, copied, or deleted;
9. Review BWC/MVR internal audit to ensure compliance with the utilization of these devices in accordance with departmental policy. The Chief of Police shall be notified immediately if the system or audio/video recordings are compromised or accessed without proper authorization.

III. BODY WORN CAMERAS

- A. Each uniformed officer shall be assigned a BWC. Each BWC has a unique serial number and has been assigned an internal tracking number (i.e., officer's badge number). When on duty, the device shall be worn as an authorized component of the uniform of the day.
 1. Wearing of any personally owned video/audio recorder by department personnel is not authorized without the expressed permission of the Chief of Police, the Union County Prosecutor's Office, or the New Jersey Division of Criminal Justice. Violations shall be subject to disciplinary action, up to and including termination.
 2. BWCs shall only be used in conjunction with official law enforcement duties. The Chief of Police has authorized the direct assignment of BWCs to the following police personnel:
 - a. Officers assigned to the uniform patrol division including but, not limited to, patrol sergeants, and detectives while engaged in patrol duties;
 - b. Officers assigned to the traffic bureau including the Traffic Bureau Supervisor while engaged in traffic enforcement duties.

- c. Officers assigned to the detective bureau, the school resource officer program or a specialized unit in which a BWC has not been assigned to a specific officer (i.e., CIU), who wish to be issued and wear a BWC in the course of a particular assignment may submit a request to utilize a spare BWC through the *Westfield Police Department's Intranet Help Desk*.
 - d. Officers engaged in undercover operations or surveillance activities are not required to utilize BWCs.
 - e. Officers assigned to administrative duties are not required to utilize BWCs.
 - f. Additional sworn police personnel may be authorized or removed from the direct assignment of BWCs at the discretion of the Chief of Police.
 - g. Members assigned to a task force, team or unit composed of officers from more than one law enforcement agency (i.e., UCERT/SWAT) shall be immediately authorized to use a BWC if the chief law enforcement officer overseeing the task force authorizes its use.
3. The use of a spare BWC must be requested via the *Westfield Police Department's Intranet Help Desk*, where a ticket shall be generated for each request. Once the supervisor's request is submitted, he or she shall be authorized to assign the spare BWC to the affected officer.

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 his/her 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 stand-by or buffering mode (during which time the device does not make a permanent record of images or sounds unless the officer activates the record mode function), prior to leaving headquarters at the beginning and/or during the course of their daily tour of duty.
4. The main power switch of the device shall be placed in the OFF position while in headquarters unless the officer is dealing with a walk-in complaint (subsection VI.J.1.e of this SOP).
5. 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.

6. Prior to beginning a shift, officers assigned a BWC shall ensure the system's readiness by conducting an operational inspection. The officer shall include, but not be limited to, the following:
 - a. Ensure that the battery is adequately charged prior to leaving headquarters;
 - b. Ensure that the device has sufficient memory to complete his/her 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.
 - 1) If an officer is assigned to a patrol vehicle that is equipped with the *Axon Fleet MVR system*, and he/she is considered the primary officer of that vehicle, he/she shall pair his/her BWC with the MVR system prior to or after conducting the pre-shift inspection. The new version of Axon View XL allows a second officer to login simultaneously.
 - 1) An officer shall not be required to pair his/her BWC with an MVR system if he/she is not assigned to a vehicle equipped with an MVR.
 - e. Categorize the test video once it is made available through the upload in [Evidence.com](#) as 'Test'. Test recordings do not require an incident identification number, but do require an *Incident Title*, and an *Incident Category* (see subsection VII.A of this SOP for further instructions on tagging a video).
 - 1) [Evidence.com](#) can be accessed via the Internet at or under the *Axon View XL Application*, located on the mobile data terminal inside each patrol vehicle.
 - 2) The *Axon View XL Application* has the ability to integrate with [Evidence.com](#) via the cloud-based system and allows officers to quickly categorize or tag uploads.
 - f. View the recording to ensure that the system is functioning properly.
7. 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 the docking station, located on the wall outside the conference room; and /or
 - b. If an officer is assigned to a patrol vehicle that is equipped with the *Axon Fleet MVR system*, MVR uploads will occur automatically via the cloud-based system once a MVR video is categorized under the *Axon XL Application* on the patrol vehicle's MDT. If a MVR video is not categorized, it will upload automatically in approximately six (6) hours and may be tagged thereafter. BWC videos may be tagged

from the patrol vehicle but must be placed in the docking station at headquarters for upload to Evidence.com.

8. At the conclusion of the officer's shift, he/she shall inspect his/her BWC to ensure system integrity. The officer shall:
 - a. Place his/her BWC in the docking station at headquarters for battery charging and BWC video uploads to Evidence.com.
 - b. Tag or categorize all uploaded video/audio recordings properly for retention purposes (see *section VII of this SOP*)
9. 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.
10. Officers are prohibited from downloading and utilizing the *Axon Capture* application on their personal smartphones, which allows them to capture video, audio, and photo evidence on such. Use of this application shall only be approved for personnel who were issued Westfield Police Department owned smartphones and utilized in conjunction with their current job assignment.
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. Any time an officer accesses a BWC recording for any purpose (e.g., report preparation, meaningful 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, his/her initials and badge number. ***Officers shall only be permitted to view their own recordings when authorized by a supervisor.***
13. Officers shall indicate with the typed letters BWC (and the control ledger or log number) at the end portion of the narrative section on all investigation reports, operation reports, supplementary reports, peripheral reports (e.g., tow reports, property reports, evidence reports, etc.), NJTR-1, and arrest reports, when video/audio recording are available for the incident.
14. 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. Officers shall be provided with at least thirty (30) days' notice if recordings intended for use for training purposes were either made by them or captured their image or voice.
15. Any officer who is issued a BWC and then transfers or is promoted to a position or bureau that does not require authorization to wear this device shall surrender the BWC to his/her immediate supervisor, who shall forward the BWC to the BWC system administrator for redistribution.

IV. MOBILE VIDEO RECORDERS

- A. Equipment installed in a patrol vehicle is the responsibility of the officer assigned to that vehicle. The officer must ensure that the MVR is operating properly prior to the start of his/her shift and must report all malfunctions, damage or other problems to the duty patrol supervisor or watch commander.
 - 1. No one is permitted to move the installed components of the system from its positions without authorization from the BWC/MVR system administrator 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 BWC/MVR system administrator. All repair requests must be submitted via the *Westfield Police Department's Intranet Help Desk*.
 - 3. Equipment shall be maintained according to manufacturer's recommendations.

- B. Installation, removal or repairs to any of the MVR equipment shall only be performed under the direction of the BWC/MVR system administrator.
 - 1. MVRs will upload automatically to the MVR modem inside the patrol vehicle.
 - 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 and disciplinary action may result.
 - 3. If a police vehicle is towed due to a collision or having become disabled, contact the BWC/MVR system administrator so that arrangements can be made to secure the removable media.
 - 4. The BWC/MVR system administrator shall be promptly notified 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.

- C. Officer's responsibilities:
 - 1. 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.
 - 2. 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 Watch Commander and/or Patrol Supervisor as soon as possible.

- a. Officers shall log into the *Axon View XL* application on the mobile data terminal (MDT) and utilize that to pair the MVR with their BWC. This shall ensure that any MVR recording shall be assigned to that particular officer, and not to a previous user or unassigned. (*Refer to help.axon.com for assistance*).
 - b. To verify operation of the video portion, activate the MVR and place it in record mode to test operability. The record mode may be activated by:
 - 1) Activating the overhead emergency lights;
 - 2) Manually depressing event button on the front of the camera;
 - 3) Click inside the camera box, which appears on the MDT monitor after log in.
 - c. Inoperable or damaged MVR equipment shall be immediately reported to the Watch Commander and/or Patrol Supervisor and submitted via the *Westfield Police Department's Intranet Help Desk*.
 - d. The Watch Commander and/or Patrol Supervisor shall check the MVR equipment to determine the problem. In the event all patrol vehicles with MVRs are in use and a backup is not available, the officer may utilize the patrol unit without an MVR with permission from the Watch Commander and/or Patrol Supervisor.
 - e. If the patrol vehicle does not have a functioning MDT and officers are unable to sign onto the AXON View XL application to fully utilize the MVR, and there are no patrol vehicles available with a functioning MDT, the MVR system shall not be used.
- D. 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 MDT or fully check the MVR system prior to his/her response, he/she shall still operate the MVR within this SOP until such time he/she is able to fully check the system at a later time.
- E. If for any reason (e.g., officer did not have time to pair his/her MVR or had to operate the MVR manually, etc.) a 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 may then be re-assigned to that officer so it may be labeled properly.
 3. This may be done once the recording has been uploaded to Evidence.com.

- F. Not being able to sign into the Axon View XL application and tag and label recorded videos properly is not a valid reason to not utilize the MVR according to this SOP.
- G. Officers should also ensure they properly log off/sign out of the Axon View XL 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.
- H. Officers are not permitted to power off the MVR during their tour of duty without authorization from a duty patrol supervisor or the BWC/MVR system administrator. Any violation to this order shall be subject to discipline.

V. SUPERVISORY RESPONSIBILITIES

- A. 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 bureaus assigned the use of BWCs (i.e., patrol, traffic, etc.). Patrol supervisors shall:
 - 1. Ensure that all officers follow proper procedures for the use and operation of BWC and MVR equipment.
 - 2. Document requests for repairs and replacement of damaged or inoperable BWC and MVR equipment in accordance with this SOP.
 - 3. Identify material or incidents that may appropriate for training.
- B. Upon discovery of a BWC that is damaged or non-functioning, the supervisor shall remove a BWC from service and then notify the BWC/MVR system administrator with the details of the malfunction, problem or deficiency via the *Intranet Help Desk* and request a spare BWC until repairs are made to it. Once the supervisor's request is submitted, he/she shall 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 BWC/MVR system administrator's mailbox.
- C. Upon discovery of an MVR that is damaged or non-functioning, the supervisor shall notify the BWC/MVR system administrator with the details of the malfunction, problem or deficiency via the *Intranet Help Desk*. The vehicle may still be used for patrol purposes as long as the assigned officer is equipped with a working BWC.
- D. A supervisor shall take protective custody of the BWC from any officers that are involved in a serious incident in order to safeguard the recordings. 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 supervisor shall take custody of the BWC after the entire incident has concluded and the BWC's has been deactivated in accordance with the parameters set forth in this SOP.

2. The supervisor who takes custody of the BWC shall forward it to the watch commander and issue the officer a spare unit, following the same protocol as listed above, under *subsection III.C.2 of this SOP*.
 3. The watch commander 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. Reviewing supervisors shall formally review the recordings of officers under their supervision for **ALL** BWC/MVR recordings involving the following and document the review on a *Supervisory Review of BWC/MVR Form*:
1. All arrests;
 2. Recovery of contraband;
 3. Use of force;
 4. Warrantless searches (any type);
 5. Pursuits;
 6. Officer involved injuries;
 7. Officer-involved motor vehicle crash.
- F. In addition, Patrol and Traffic supervisors shall formally review, minimally, one (1) recording of selected non-evidential BWC and MVR recordings for **each officer** under their supervision, during each weekly tour of duty and document the review on a *Supervisory Review of BWC/MVR*, in order 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.
- G. Supervisors shall forward each hardcopy of the *Supervisory Review of BWC/MVR* form to the Operation Captain through the chain of command.
- H. Reviewing supervisors are responsible for ensuring all BWC/MVR recordings are tagged, or categorized, properly as listed under *Section IX* of this SOP. Officers under their supervision shall be retrained on proper tagging, as needed.
- I. Each reviewing supervisor who accesses a BWC/MVR recording in [Evidence.com](https://evidence.com) shall post the purpose for viewing the recording in the 'Notes' box under the video.

- J. Watch Commanders and the Traffic Bureau Supervisor 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 review. They shall prepare a *Supervisory Review of BWC/MVR* form of that specific incident and forward each documented review to the Operations Captain through chain of command.
- K. In the event that the reviewing supervisor is out for an extended period of time, and recording reviews cannot be accomplished, another supervisor on the shift shall be assigned to conduct the reviews until the return of the assigned supervisor.
- L. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the reviewing supervisor shall label the recording for indefinite retention.
- M. The Internal Affairs Bureau Supervisor shall retain all administrative reports generated in accordance with this SOP and a copy shall be forwarded to the Chief of Police for review.
- N. Separate from the above-mentioned formal review of one (1) audio/video recording of selected non-evidential BWC/MVR recordings of each officer, the Chief of Police or Internal Affairs Bureau Supervisor may review specific BWC/MVR footage if circumstances arise that requires an investigation to commence.
- O. The reviewing supervisor shall enter each review session into Guardian Tracking under 'Supervisory Review-BWC/MVR' as a confidential document, specific to his/her assignment (e.g. A-Platoon Days Supervisory Group, etc.). Additionally, The *Supervisory Review of BWC/MVR* form shall be uploaded and attached to each entry.
- P. This section applies to supervisors, whose subordinates are not assigned a specific BWC, but utilize a spare BWC for a particular assignment. In these instances, each video recorded shall be reviewed and documented as mentioned within this section (*Refer to Section III.A.2.c for a list of affected personnel*).

VI. ACTIVATION / OPERATION

- A. MVR equipment is preprogrammed to begin recording when the vehicle's emergency lights are activated, the vehicle is involved in a crash, or the record button is pressed manually either on the device or on the *Axon View XL* application.
 - 1. MVRs are programmed to pre-record 30 seconds of video only.
 - 2. Whenever the MVR is activated, officers shall ensure that the synced BWC 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.
 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. Officers *shall* activate their BWC without unnecessary delay and as soon as it is safe and practicable for the officer to do so under the following circumstances (*multiple police activities listed in the below section will often occur during the course of a single police-civilian encounter*):
- C. Incidents to record:
1. During all calls for service (involving those to which the officer is dispatched or volunteers);
 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. Providing assistance or back up to an officer on a call for service, on a motor vehicle stop, or with a civilian contact;
 5. During motor vehicle 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;
 9. Interviewing a witness in the course of investigating a criminal offense;
 10. Investigating criminal violations (not to include undercover investigations or related surveillance activities);
 11. Conducting domestic violence investigations;
 12. Investigating an arson for witness and/or suspect identification;

13. 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)*;
 14. Out-of-court identifications (i.e., show-ups);
 15. Investigative detentions or officer-initiated pedestrian stops;
 16. Conducting warrantless searches (all types, including protective frisks, consent, etc.);
 17. Motor vehicle assistance calls;
 18. Conducting arrests;
 19. 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*);
 20. During arrestee/prisoner transports to police station, county jail or other place of confinement, as well as hospitals or other medical care facilities and mental health facilities;
 21. During special events or projects, including but, not limited to crowd control, unruly crowds, strikes, picket lines, demonstrations or incidents requiring activation of the all hazards or emergency operations plan;
 22. 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;
 23. Conducting welfare checks of residents and motorists (motorist aid) / community caretaking function;
 24. 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. Whenever the BWC/MVR is activated, officers shall ensure that the synced BWC 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' may 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/MV R 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; and
 5. 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 shall 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 Smith coming upon the scene of a serious motor vehicle accident at the corner of West Broad Street and Rahway Avenue...*”).
1. Officers may also audibly narrate or actually bookmark significant events while recording and provide details of the marked segments utilizing the function button on the BWC.
 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 crime victims / civilians within a place of abode:
1. When an officer wearing a BWC is required to activate the device during an encounter, officers shall verbally notify crime victims and citizens inside of their homes or place of abode (e.g., *hotel/motel rooms, boarding houses, etc.*) that they are being recorded unless it is unsafe or unfeasible to provide such notification.
 - a. If the officer decides not to provide notification of BWC activation because it is unsafe or unfeasible to do so, the officer shall document the reasons for that decision in the incident report of the incident and/or by narrating the reasons on the BWC recording.
 - b. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.

- c. Officers equipped with a BWC are not required to provide verbal notification in other specified circumstances.
- H. Truthful response to civilian inquiry:
 1. If a civilian inquires whether the officer is equipped with a BWC/MVR or inquires whether the device is activated, the officer shall answer truthfully unless the Union 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 SOP, 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 SOP, an officer while at the scene of a police deadly force event or the on-scene investigation of that event shall not deactivate his/her BWC/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 may provide such instruction telephonically.
- J. Deactivation of a BWC:
 1. A BWC-equipped officer may deactivate a device when:
 - a. Discussions pertaining to criminal investigation strategy / planning – Officers may deactivate a BWC while participating in a discussion pertaining to criminal investigation strategy and planning (*e.g., to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to summon a drug/explosives detection canine, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.*), provided that

the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation (e.g., "...I am now turning off my BWC to discuss investigative strategy with my supervisor, detective or other on scene personnel as required").

- b. Assistant prosecutor/deputy attorney general authorization – Officers may deactivate a BWC 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 pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor who authorized the deactivation (e.g., "...I am now turning off my BWC as per the instruction of assistant prosecutor (insert name)").
- c. Electronic breath testing – BWCs 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 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 when a person, other than an arrestee, is seeking emergency medical services for him/herself or another and requests that the BWC be deactivated. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance.
- e. 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 re-activate the BWC each time contact with the civilian is reestablished.

2. When an officer deactivates a BWC:

- a. The conversation between the officer and the civilian concerning the request for deactivation shall be electronically recorded;

- b. The officer, before deactivating the BWC, shall narrate the circumstances of the deactivation (e.g. "...I am now turning off my BWC as per the victim's request");
 - 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, 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 has been turned off when in fact it is operating unless the Union 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 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;
 - 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, or inquires whether the device is activated, the officer shall answer truthfully unless the Union 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.

- 1) 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 shall not be recorded).
- 2) In deciding whether to deactivate the BWC, the officer shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide only if the deactivation request is honored.

G. 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 investigation report why a recording was not made, was interrupted, or was terminated prematurely. Furthermore, an officer shall submit an *Officer's Report* detailing the reason why the event was not captured on a BWC and the same shall be forwarded through the chain of command.

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 shall result in disciplinary action.
- 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 SOP. The BWC/MVR shall not be used to record:
 1. Communications with other police personnel without the advanced permission of the Chief of Police, the Union County Prosecutor's Office or the New Jersey Division of Criminal Justice;
 2. When on break or otherwise not actively performing a law enforcement function;
 3. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room (BWC only);
 4. When engaged in police union business;

5. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction;
6. While discussing criminal investigation strategies.
7. While in a courtroom during court proceedings, unless the officer is responding to a call for service in the courtroom or is authorized to use constructive force or authority, or unless the presiding judge expressly authorizes such activation (BWC only).

C. Schools, houses of worship, health care facilities, substance abuse centers, etc. (BWC):

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.
 - 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 Union 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 Union 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 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).

- D. Image of undercover officers / confidential informants (BWC):
1. Officers shall not activate a BWC, and shall deactivate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would capture the image of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (*e.g., active shooter, actual use of police force, officer in distress, etc.*) require that the encounter/incident be recorded, in which event the officer shall inform their supervisor that the image of an undercover officer or confidential informant was recorded.
 2. The BWC 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 Union 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 (BWC) – BWCs, at the discretion of the Chief of Police, may be worn during tactical operations (*execution of arrest and/or search warrant, etc.*) In the event that 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 in accordance with section IX.A ‘Special Privacy’ of this SOP to prevent its unauthorized release.

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. The use of BWCs allow for a clearly documented, first-hand and completely objective account of an incident from beginning to end. The recordings will produce the maximum amount of information regarding the incident to be captured, such as events that transpire while on the way to a call for service and violations committed by a motorist during a motor vehicle stop.
- C. Whenever practical, the officer should review the recording prior to completing the written report. **(NOTE: not applicable to use of deadly force incidents except when authorized by the assistant prosecutor or deputy attorney general supervising the investigation.)**

- D. 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 have an understanding of the events that occurred.
- E. 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, operation 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.

IX. TAGGING (CATEGORIZING) BWC/MVR RECORDINGS

- A. Officers shall uniformly tag their recordings during the course of their assigned shift or at the conclusion of their shift in [Evidence.com](#). Officers are required to enter specific information for each uploaded BWC/MVR recording. Tagging a recording consists of entering all of the following information into [Evidence.com](#):
 - 1. Incident identification - The CAD/case number *must* be entered here (e.g., 20-12345)
 - 2. Incident title - Officers shall enter their last name followed by a brief description of the recording event (e.g., *Walsh-Driving While Intoxicated*).
 - 3. Incident categories - (*Check all that apply*). The category options shall be as follows:
 - a. Accidental;
 - b. Alarm;
 - c. Animal call;
 - d. Arrest;
 - e. Internal affairs;
 - f. Investigation;
 - g. Juvenile matter;
 - h. Medical / fire call;
 - i. MV crash;
 - j. MV pursuit;
 - k. MV stop;
 - l. Non-criminal public contact;
 - m. Pending review;

- n. Search;
- o. Special privacy;
- p. Suspicious incident;
- q. Test / road job;
- r. Transport;
- s. Uncategorized;
- t. Use of force.

(NOTE: *If an arrest is made during an incident, the incident category 'Arrest' must be selected, accompanied by the incident category that corresponds with the arrest.*)

- 4. 'Notes' section: When any personnel access a BWC/MVR recording for any reason, they must document the date, purpose for viewing the recording, their initials and badge number under the 'Notes' section under the video.

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 victim of a criminal offense;
- 2. Images of a child;
- 3. Images made in a residential premise (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; and
- 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. Personnel shall not erase or in any other unlawful manner alter, tamper with, destroy, conceal any BWC or MVR recordings or remove or disable any camera. **Any such tampering is a violation of N.J.S.A. 2C:28-7, a crime of the 4th degree.**
- B. Recordings are considered criminal investigatory records of the Westfield Police Department and shall be maintained on Evidence.com 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 2015-1*.
- C. Except for recordings being stored for criminal, civil and administrative proceedings, or evidentiary purposes, BWC/MVR recordings shall be retained for a period of not less than ninety-days (90), and shall be subject to the following additional retention periods:
 1. When a BWC/MVR recording pertains to a criminal investigation or otherwise recorded information they 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 properly and uniformly tag all recordings.
 2. 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 - 1st, 2nd, 3rd, 4th degree crime (at least 5 years);
 - c. Non-criminal arrest, excluding DWI (at least 2 years);
 - 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.
 3. When a BWC/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. Prior to the destruction, erasing or deletion of any BWC/MVR recording, other than by automated retention, the BWC system administrator 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.

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 SOP.
- B. No law enforcement officer or civilian employee of this agency shall access, view, copy, disseminate, or otherwise use a BWC/MVR 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/MVR made the recording in preparing his/her own police report (*subject to restrictions established in subsections XI.C and XI.D below*);
 - 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 SOP 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.
 - c. The Westfield Police Department reserves the right to redact video as applicable by law.
 - 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 Union County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, determines that disclosure to that particular person, entity, or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality;
 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 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 Union County Prosecutor or his/her designee; or
 14. Any other specified official purpose where the Union County Prosecutor or his/her designee finds in writing that good and sufficient cause exists to authorize access to a particular BWC/MVR recording.
- C. The assistant prosecutor or assistant or deputy attorney general, or his/her designee, overseeing a police use-of-force 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:
1. 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.
 2. 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 BWC/MVR recording of the incident, or a BWC/MVR recording of the response or on-scene investigation of the incident, without the expressed prior approval of the assistant prosecutor, assistant or deputy attorney general, or his/her designee.

- D. 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 Union County Prosecutor or his/her designee.
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 Union 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 Union 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.
- E. 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 Union 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 SOP*).
- F. Except as otherwise provided in *subsection IX.B of this SOP*, 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 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 Union 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.
- G. BWC/MVR recordings could be subject to release under the *Open Public Records Act* N.J.S.A. 47: 1A-1 et seq. and prevailing municipal ordinance regarding fees, except:
1. In accordance with [New Jersey Attorney General Directive 2018-1](#), the Union County Prosecutor's Office must authorize the release of any video/audio recordings (e.g., MVR, surveillance, etc.) in the agency's possession resulting from a police-involved use of force incident involving death or serious bodily injury.
 2. The Union County Prosecutor's Office will determine on a case-by-case basis whether and when such recordings will be made publicly available.

3. The Chief of Police or his/her designee shall promptly notify the Union County Prosecutor's Office upon receiving such a request and provide the name and contact information of the requestor.
4. In other criminal matters, the Chief of Police or his/her designee shall contact an assistant prosecutor for guidance when receiving an OPRA request for BWC/MVR recordings.
5. In other than in criminal matters, the Chief of Police or his/her designee shall contact the town attorney for guidance when receiving an OPRA request for BWC/MVR recordings.

XII. CONTROL AND MANAGEMENT

- A. Contents downloaded from BWCs/MVRs shall be stored on the storage device(s) 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 shall not be released to other criminal justice agencies other than the Union 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 designated storage device shall be the sole storage device utilized for all BWC/MVR recordings.
 2. The BWC/MVR software shall be designated as the activity tracking software for all BWC recordings.
 3. 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.
 4. 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 thirty (30) 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 Union County Prosecutor where the recording was made by a state-level law enforcement agency. Such notice shall state clearly the deadline by which a response must be made.

XIV. DELETION REQUESTS

- A. Only the Internal Affairs Bureau Supervisor and/or BWC/MVR System Administrator can delete BWC/MVR recordings with the expressed consent of the Chief of Police or the Union 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 an officer's report to their immediate supervisor, who will then forward to the Operation Captain. The Operation's Captain will then forward the officer's report to the Internal Affairs Bureau, as well as the BWC/MVR System Administrator. The actual BWC shall be taken out of service and turned over to the Internal Affairs Bureau Supervisor for uploading. The officer shall be issued a spare device until it is returned.
 2. Depending on the circumstances, the Internal Affairs Bureau Supervisor shall investigate the incident.

3. If an investigation is warranted, the Internal Affairs Bureau Supervisor 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 Bureau Supervisor shall notify the Chief of Police and request permission to delete the recording if warranted.