


<b>Rahway Police Department</b> <b>STANDARD OPERATING PROCEDURES</b>		
SUBJECT: BODY WORN CAMERAS / MOBILE VIDEO RECORDERS		
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**PURPOSE** The purpose of this standard operating procedure is to maintain guidelines for the use, management, storage, and retrieval of audio-visual media recorded by mobile video recorders (MVR) and body worn cameras (BWC). MVRs-BWCs 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 Rahway Police Department to utilize MVRs/BWCs to assist its personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident and to maintain the necessary safeguards that will ensure the non-discriminating use as well as the proper preservation of evidence that may be obtained through use of this technology.

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

The Rahway Police Department website and other social media outlets shall contain a clear statement that this department utilizes BWCs. The postings 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 SOP shall be reported to the internal affairs supervisor who shall report directly to the Chief law enforcement officer and Union County Prosecutor’s Office. The Union County Prosecutor 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 an MVR or BWC.
  2. Body worn camera (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. 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.
  4. Constructive authority – involves the use of an officer's authority to exert control over a subject (see this department's directive on *Use of Force*), except that the term shall apply only to constructive authority directed against a person who is subjected to an investigative detention or arrest or is directed against any person if the officer has unholstered a firearm or CED.
  5. Deactivate – means to shut off the recording mode of an MVR and/or BWC.
  6. Digital evidence – includes photographs, images, audio, and video recordings that are stored digitally.
  7. Equipped with a BWC – means that an officer is wearing a BWC at the time in question, as opposed to simply receiving BWC equipment from this agency.
  8. Force – has the same meanings as defined in this department's SOP on *Use of Force*.
  9. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, or operating while intoxicated offense including, but not limited to responding to a report of a possible criminal offense, an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed, an arrest for a criminal offense, an interview of a potential witness to a criminal offense, or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.

10. Law enforcement incident (as defined in *New Jersey Attorney General Directive 2019-4*):
  - a. Any use of force by a law enforcement officer resulting in death.
  - b. Any use of force by a law enforcement officer resulting in serious bodily injury.
  - c. Any use of deadly force (including the discharge of a firearm) by a law enforcement officer, regardless of whether such force resulted in injury.
  - d. The death of any civilian during an encounter with a law enforcement officer; and
  - e. The death of any civilian while in the custody of law enforcement.
11. Mobile video recorder (MVR) – is a vehicle mounted device that makes an electronic audio/video recording of activities that take place during any law enforcement action in the view or proximity of the device.
12. Proactive enforcement team – includes officers who are typically assigned to target vice, drugs, organized street crime, violent crime and/or any other targeted enforcement. Unlike officers who are responsible for responding to traditional calls for service, these officers are typically assigned the singular responsibility of addressing these activities (e.g., street crime unit, crime suppression unit, etc.). The nature of their work may include being dressed in traditional uniform, modified uniform, or plain clothes. These officers may work alongside undercover officers, conduct surreptitious surveillance, engage in high intensity enforcement via motor vehicle/pedestrian stops and/or interact with confidential informants or witnesses who wish to remain anonymous.
13. School – means a public or nonpublic elementary or secondary school within this State offering education in grades kindergarten through 12, or any combination of grades, at which a child may legally fulfill compulsory school attendance requirements.
14. Serious bodily injury – means bodily injury which creates a substantial risk of death, or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. for purposes of this SOP, serious bodily injury and serious bodily harm have the same meaning.
15. Significant bodily injury – means bodily injury which creates a temporary loss of the function of any bodily member or organ or temporary loss of any one of the five senses.

16. Subject of the video footage – means any law enforcement officer, suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body worn camera recording and shall not include a person who only incidentally appears on the recording.
17. Substantive report – means a report that includes a detailed accounting of the incident. It does not include a report which simply refers to other reports or to the existence of BWC or other camera recordings.
18. Tactical team – is a group of officers who are specially selected, trained, and equipped to handle high-risk incidents including, but not limited to, those involving snipers, barricaded persons, warrant services, apprehensions, acts of terrorism, and other situations or activities as deemed necessary by command leadership.
19. Tagging – is an electronic labeling of an electronic file captured by an MVR or BWC. Synonymous terms include categorizing, classifying, labeling, bookmarking, etc.
20. Undercover officer – is a law enforcement officer operating with an assumed identity and/or disguise for the purposes of gaining the trust of an individual or organization to learn or confirm confidential information or to gain the trust of targeted individuals to gather information or evidence. Plain-clothed officers and detectives are not considered undercover officers unless working with an assumed identity and/or disguise.
21. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, residential and/or treatment facilities, etc.

## **II. GENERAL ADMINISTRATION**

- A. MVR/BWC are invaluable to law enforcement for evidential purposes. MVR/BWC have consistently demonstrated their value in the prosecution of criminal, traffic, and other related offenses and to protect personnel from false claims of misconduct. Additionally, this equipment will provide valuable instructional material that can be utilized for in-service training programs.
- B. While visual and audio evidence may be captured on the recordings, the use of MVR/BWC is not intended to document all evidentiary material relevant to court or administrative proceedings, but it can serve to supplement an officer's senses and eyewitness account. There is no intent to utilize the MVR/BWC as a management tool to punish officers for minor departmental rule infractions.
  1. Officers shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
  2. MVR/BWC shall only be utilized for legitimate law enforcement purposes.
- C. Adequate safeguards are necessary to ensure that this technology is:
  1. Used in a non-discriminating way; and
  2. Used to document visual evidence; and

3. Used to safeguard against potential violations of N.J.S.A. 2A: 156A-1, et seq., *New Jersey Wiretapping and Electronic Surveillance Control Act* (MVR).
- D. When properly used, this equipment can:
1. Create accurate documentation of law enforcement encounters.
  2. Preserve an audio and/or video record of events, actions and conditions during arrests, critical incidents, and arrestee/prisoner/civilian transports.
  3. Recordings serve as protection for police officers when there are complaints about their conduct or professionalism during encounters with the public.
  4. Recordings can be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
  5. Recordings can resolve disputes concerning what occurred during incidents, thereby protecting both the public and the officers involved.
  6. 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.
  7. Subject to the viewing restrictions in this SOP, supervisors will be able to view the recordings with the permission of the Chief law enforcement officer or his/her designee and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.
  8. Subject to the viewing restrictions in this SOP, recordings can permit supervisors to undertake more meaningful performance evaluations.
  9. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the public.
  10. Recordings enhance management's ability to train personnel in proper police procedures.
- E. The chief law enforcement officer shall approve a training program on the lawful and proper use of MVR/BWC equipment. Only officers who have received training in the use of MVRs/BWCs are permitted to use these systems and must demonstrate a satisfactory degree of familiarity and efficiency in the use of this system. The proper use of an MVR and a BWC is considered an essential job function.
1. Initial training via [watchguard.com/training](http://watchguard.com/training) shall be provided to all potential BWC/MVR operators who were not previously trained.
  2. Periodic refresher training will be provided to ensure continued effective use and operation of the equipment, and to incorporate changes, updates, or other directive revisions as necessary or required.
  3. Supervisors shall cause supplemental training to any officer who has demonstrated a lack of knowledge of the proper use of MVR/BWC or as part of a disciplinary matter.

- F. Officers will use only those MVRs/BWCs approved and issued by the chief law enforcement officer. Such MVRs/BWCs are not able to record images or conversations that cannot be seen or heard by the officer wearing the device (e.g., infrared night vision or thermal imaging, sound amplification that would record conversations occurring at a remote distance). Wearing any personally owned video/audio recorder is not authorized without the expressed written permission of the chief law enforcement officer, internal affairs supervisor, the Union County Prosecutor's Office, or the New Jersey Division of Criminal Justice. Violations will be subject to disciplinary action up to and including termination.
1. All recording media, images, audio, and related metadata are the intellectual property of the Rahway Police Department and will not be copied, released, or disseminated in any form or manner outside the parameters of this SOP without the expressed written consent of the chief law enforcement officer.
  2. Under no circumstances will any employee of the Rahway Police Department make a personal copy of any recorded event or permit another to make a personal copy of any recorded event without the expressed permission of the chief law enforcement officer.
  3. MVRs and BWCs are intended for official police department use only and are not to be used for frivolous or personal activities. Intentional misuse or abuse of the units will result in disciplinary action.
  4. Officers engaged in undercover operations or surveillance activities are not required to utilize MVRs or BWCs.
- G. This department will not tolerate the reliance by any officer on race, ethnicity, gender, gender identity, gender expression, sexual orientation, religion, economic status, age, culture, LGBTQ+ status, or any other immutable characteristic of a group or class of persons, in determining whether to activate or deactivate a BWC or MVR.
- H. Repairs to any MVR or BWC equipment shall only be performed under the direction of the IT Office or its designee.

### **III. MOBILE VIDEO RECORDERS**

- A. Officers shall wear their assigned BWC when operating a vehicle with an MVR. The BWC replaces the wireless microphone for vehicles equipped with WatchGuard MVRs.
1. Officers without working BWCs or operating vehicles without WatchGuard MVRs are required to wear the MVR's wireless microphone and transmitter in addition to the BWC.
  2. If the BWC is not synchronized to the assigned vehicle with a WatchGuard MVR, the officer shall synchronize the BWC with the MVR.

- B. 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 shift supervisor.
1. None of the installed components of the system may be removed from its positions without the expressed authorization from the chief law enforcement officer, the IT Office, or their designees.
  2. Recordings will automatically upload to the MVR server when a vehicle returned to headquarters and is in proximity to the server's antenna.
  3. If a police vehicle is towed due to a collision, the IT Office will decide whether to immediately remove the media card/hard drive or wait until the next working day.
  4. 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
  5. The IT Office shall be promptly notified concerning any MVR equipped vehicle directly involved in:
    - a. A serious crime; or
    - b. A collision with serious bodily injuries to any party; or
    - c. A motor vehicle pursuit with any collision.
  6. The IT Office shall either respond and collect the removable media or designate someone to collect the removable media and secure it as evidence.
  7. In any case, the removable media shall be removed from the patrol vehicle and handled in accordance with evidence submission standards. The removable media shall be packaged, labeled, and secured in a temporary evidence storage locker.
- B. Under no circumstances shall anything be hung on the camera bracket or be permitted to obstruct the camera.
- C. Equipment shall be maintained according to manufacturer's recommendations.
- D. MVR equipment is preprogrammed to automatically begin recording when the vehicle's emergency lights are activated, when the wireless transmitter is activated, or when the record button is pressed on the unit.
1. Officers with WatchGuard MVRs, activating the BWC will activate the NVR.
  2. Activation of the vehicle's horn will not activate recording.
  3. Whenever the MVR is activated, officers shall ensure that the audio portion is also activated.

4. Video recording may not completely document events as they occur. Therefore, officers are encouraged to provide narration as the events are occurring.
  5. The system is programmed with a pre-record feature (video only).
- E. At the beginning of each shift, officers shall determine whether their MVR equipment is working satisfactorily. An audio/video check shall be conducted at the beginning and end of the officer's tour of duty. Normally, this will be done during the exterior check of the vehicle at the beginning of the officer's tour in conjunction with the BWC pre-operational check. If the officer needs to quickly depart headquarters for a call, this exterior check shall be completed at the completion of the call.
1. The MVR unit shall be turned on at the beginning of the officer's tour of duty and shall not be turned off until the end of his/her tour of duty unless on a relief break, restroom break, childcare facility, community center, or in a school or medical facility.
  2. Officers shall ensure the MVR is working properly by recording themselves in front of the vehicle with video.
  3. Officers shall log into the MVR system using their name/badge#. Officers should log out at the end of the tour. However, this will automatically be done upon the log-in of the following officer.
  4. All malfunctions and/or damaged or missing parts to the system shall be immediately reported to the shift supervisor and then documented in a CAD record. This shall be forwarded to the IT Office or his/her designee for remedy.
  5. Vehicles with an inoperable or damaged MVR system will not result in the automatic non-use of the vehicle pending repair. The officer's supervisor shall first determine if another MVR equipped vehicle is available. If another vehicle is available, the supervisor or his/her designee should assign the officer to this other MVR equipped vehicle. If not, the vehicle with the non-operating MVR can still be used for patrol purposes.
- F. While it is recognized that not every event takes place in the field and that subjects may move off camera, officers are encouraged to position their patrol vehicle in the best position to allow the camera to record the pertinent event. If necessary, an officer can reposition a camera to capture the event, when possible, making sure to never rotate any camera more than 180 degrees. The camera shall be placed back into the original position as soon as practicable. In all cases, officer safety always comes first, and such repositioning of the MVR shall never compromise officer or public safety.
- G. To prevent allegations of arbitrary and capricious utilization of the system, the following procedural guidelines shall be followed:
1. Recordable incidents shall be both video and audio recorded from beginning to end.
    - a. This procedure applies to primary as well as secondary/back-up units on these incidents.



- b. Officers can manually activate the MVR by depressing the 'Record' button located in the police vehicle or on the switch located on the belt microphone transmitter. This feature permits a recording to be made without alerting the potential subject with emergency lights.
    - c. During any of the mandatory recordable incidents, the MVR must be activated and left on until the investigation/detention is complete except for circumstances specifically described within this SOP.
    - d. Officers are required to wear and use their BWCs during recordable incidents.
  2. Officers shall not deactivate the MVR when responding to calls for service with a multiple unit response. All units shall record the incident and shall follow the same guidelines in this section.
    - a. If an MVR recording is ceased prior to the conclusion of an incident, the officer shall provide justification by recording the reason verbally on the system (e.g., "*MVR is being turned off; at the scene of down utility pole; MVR not needed*") and document the reasons for such termination in the report or CAD record of the incident.
    - b. Only the assigned officer or his/her supervisor is authorized to manually turn off the recording system.
    - c. At no time should the MVR be deactivated while an officer is interacting with a subject.
    - d. Any officer found to have purposely deactivated the MVR (video or audio) without justification in violation of this SOP shall be the subjected of an internal affairs or administrative investigation and potential discipline.
  3. When transporting an arrestee, prisoner, or EDP, the rear seat camera shall be activated to record the rear compartment for the duration of the person's stay in the vehicle. Any non-custodial transport shall also be recorded. Under no circumstances shall an officer audio record any passenger (including arrestees/prisoners) when the officer isn't present.

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

- A. When not in use, BWCs shall be stored in the designated docking station inside headquarters. The docking station allows for the units to be charged and for the download of events to the secure server. Officers shall dock their BWCs at the completion of their shifts in headquarters. BWCs shall not be left in vehicles when not in use.
- B. Officers shall assign themselves a BWC at the BWC kiosk prior to going on duty. Officers shall wear and utilize the BWC consistent with the requirements and restrictions in this SOP throughout their shift.
  1. Officers are not required to activate their BWCs in police headquarters unless they are investigating a walk-in complaint or other similar related functions.

2. Detectives, specialized unit personnel, and administrative/command officers shall wear BWCs when conducting arrests and while engaged in field duties (e.g., patrol coverage, search warrant executions, raids, investigative detentions, etc.) consistent with the requirements and restrictions in this SOP.
  3. BWCs shall be worn and used on all extra duty assignments except for assignments involving solely traffic direction.
  4. Officers shall also wear and use a BWC consistent with this SOP 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. BWCs are considered issued equipment until relinquished at the direction of a supervisor.
  6. Officers shall inspect their BWCs at the commencement and conclusion of each shift to guarantee both video and audio recording readiness of the system. The inspection shall include, but not be limited to:
    - a. Ensuring that the battery is fully charged,
    - b. Ensuring that the device has sufficient memory to complete their tour of duty; and
    - c. Ensuring the proper positioning of the BWC on their uniform.
  7. When conducting the pre-shift inspection, the officer shall activate the BWC and verbally state the date, time, and that a test is being performed on the unit. Malfunctions or deficiencies shall be noted in a CAD record.
- C. Officers engaged in undercover operations or surveillance activities are not required to utilize BWCs. BWC shall be used only in conjunction with official law enforcement duties. The BWC shall not be used to record:
1. Courtroom proceedings, unless responding to a call for service or incident; or
  2. Strip and body cavity searches; or
  3. Encounters with undercover officers or confidential informants; or
  4. When on break or otherwise engaged in personal activities; or
  5. When engaged in police union business; or

6. In any location where individuals have a reasonable expectation of privacy, such as a restroom, locker room or break room; or
  7. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction (except for internal affairs interviews); or
  8. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording; or
  9. While discussing criminal investigation strategies; or
  10. When engaged in conversations with individuals with whom the officer has a privileged relationship (e.g., spouse, attorney, minister, etc.).
  11. BWCs shall not be used surreptitiously.
  12. BWCs shall not be used to gather intelligence information based on 1<sup>st</sup> Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public, except in accordance with any applicable guidelines or directives promulgated by the New Jersey Attorney General.
- D. Officers are not required to wear and use a BWC:
- a. When engaged in hostage negotiations.
  - b. When processing crime scenes.
  - c. When conducting searches of cellphones, tablets, computers, or other electronic devices pursuant to a search warrant, when such items have already been seized and the search is performed at a location other than the premises of the initial search and seizure.
  - d. When conducting searches of cellphones, tablets, computers, or other electronic devices that are suspected to contain images of child sexual exploitation.
- E. When a BWC is activated to transport an arrestee/prisoner, it shall remain activated while the BWC-equipped officer is in the presence of the arrestee and until the arrestee is secured in the processing room or a cell, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee.
- F. When wearing a BWC, officers shall notify the subject of the recording that they are being recorded unless it is unsafe or unfeasible to provide such notification. Such notification shall be made as close to the inception of the encounter as is reasonably possible.

1. Prior to entering a private residence, officers shall notify the occupant that the occupant is being recorded and, if the occupant requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that the officer will be required to use constructive authority or force.
  2. 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.
  3. 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.
  4. 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.
  5. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
- G. 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.
1. 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 (e.g., prior to providing such information, the person indicates that he/she will only provide such information if it were not recorded; provided however, that the agreement to participate under that condition is itself recorded).
    - a. Officers shall not suggest to the person that the BWC should be deactivated; nor shall the officer ask the person whether he or she would prefer that the BWC be deactivated. Rather, the request for deactivation must be self-initiated by the civilian. The officer may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded).
    - b. In deciding whether to deactivate the BWC, the officer shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide is important to the investigation but is not critical to require recording.

2. Officers may deactivate a BWC when a person, other than an arrestee, is seeking emergency medical services for him or herself or another and requests that the BWC be deactivated. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance (e.g., a victim of an assault during a fight does not want to be recorded, etc.). However, in situations when an officer reasonably believes that the officer or another person is likely to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.
3. Supervisors must approve officers' requests to discontinue a recording (e.g., awaiting a tow truck, etc.). When an officer deactivates a BWC:
  - a. The conversation between the officer and the civilian concerning the request for deactivation shall be electronically recorded; and
  - 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.*"); and
  - c. The officer shall report the circumstances concerning the deactivation to the shift supervisor as soon as is practicable; and
  - d. The officer shall document the circumstances of the deactivation in the incident report concerning the incident under investigation, including the time of activation and/or deactivation.
4. If an officer declines a request to deactivate a BWC, the reasons for declining the request (e.g., the officer believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter) must be memorialized on the recording and documented and shall be reported to the shift supervisor as soon as it is safe and practicable to do so.
  - a. If 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.
5. In any instance where a BWC was deactivated, the device shall be reactivated as soon as it is safe and practicable to do so when the circumstances justifying deactivation no longer exist (e.g., the interview of the person requesting deactivation is completed, etc.) and the officer would otherwise be required to activate the BWC.

- H. Officers can deactivate a BWC when specifically authorized to do so by an assistant prosecutor for good and sufficient cause as determined by the assistant prosecutor. When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor who authorized the deactivation (e.g., "...I am now turning off my BWC as per the instruction of assistant prosecutor (insert name).").
- I. Officers should deactivate/mute a BWC while participating in a discussion pertaining to criminal investigation strategy and planning (e.g., to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to summon a drug/explosives detection canine, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.), provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation (e.g., "...I am now turning off my BWC to discuss investigative strategy with my supervisor.").
- J. **If** an officer is required to deactivate the BWC when entering a school, house of worship, health care facility, substance abuse treatment center, etc., the officer shall narrate the reason for deactivation (e.g., "...I am entering a school building where children are present). The BWC shall be reactivated as soon as it is safe and practicable to do so when the circumstances requiring deactivation no longer exist (e.g., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWC) 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.). School resource officers should not activate their BWC unless involved in any incident listed in section IV.C of this SOP.
- K. If a BWC captures the image of a patient in a substance abuse treatment facility, the Chief law enforcement officer 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 § 290dd-2, 42 CFR §23.1 to 23.41). The recording shall not be accessed without the permission of the Union County Prosecutor or his/her designee.
- L. 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 the shift supervisor that the image of an undercover officer or confidential informant was recorded. The BWC shall be activated/reactivated as soon as it is safe and practicable to do so when the risk of capturing the image of an undercover officer or confidential informant no longer exists.

- M. BWC shall be deactivated and removed while in the ALCOTEST area when the ALCOTEST 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 ALCOTEST area while the ALCOTEST device is being operated. If this provision requires deactivation of a BWC, the officer shall narrate the reasons for deactivation (e.g., "...*I am deactivating the BWC because the suspect is about to take a breath test*"), and the BWC shall be reactivated when safe and practicable to do so following the completion of the breath testing operation.
- N. Officers shall not activate a BWC while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority, or unless the presiding judge expressly authorizes such activation.
- O. When a BWC is activated, officers are encouraged to provide narration when practical and appropriate to augment the value of the recording and to provide clarity for the viewer.
- P. 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 report the reason why a recording was not made, was interrupted, or was terminated.
- Q. 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*. All other requests to view and/or obtain footage by the public shall be handled in accordance with section VI of this SOP.
- R. No later than the end of each shift, officers shall download the contents of their BWC by placing the unit in the designated docking station. Each file downloaded shall contain information related to the date, BWC identifier, and assigned officer.

## **V. INCIDENTS TO RECORD**

- A. All personnel assigned to or assisting in that event shall activate their BWC and/or MVR immediately upon acknowledging dispatch to a call for service or in the performance of a proactive event as soon as is safely possible.
- B. Except when otherwise restricted in this SOP, officers shall video and audio record all law enforcement activity including any interaction with a civilian. However, if an immediate threat to the officer's life or safety makes activating the BWC or MVR impossible or dangerous, the officer shall activate the BWC and/or 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 initiation of the stop until the stop is concluded, including sobriety testing.
  - 2. Investigative detentions / field interviews.
  - 3. Any call for service related to a violation or suspected violation of possessing or consuming alcohol, marijuana, hashish, or cannabis item.

4. An officer is responding to a call for service and is at or near the location to which the officer has been dispatched.
5. The officer is conducting a motorist aid or community caretaking check.
6. When interacting with motorists and passengers during stationary police details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, etc.
7. Crime scenes except for crime scene processing.
8. Motor vehicle and foot pursuits.
9. Interviews of witnesses when conducting investigations of criminal violations (not to include undercover investigations or related surveillance activities).
10. Out-of-court identifications (i.e., show ups and lineups).
11. When conducting a custodial interrogation of a suspect unless the interrogation is otherwise being recorded in accordance with *R. 3:17 (electronic recordation of stationhouse interrogations)*.
12. Warrantless searches (all types, including frisks, canine sniffs, and consent searches, but not strip or body cavity searches).
13. Search or arrest warrant service (entire service).
14. Arrests.
15. All civilian transportations.
16. Drug recognition expert (DRE) evaluations.
  - a. If the arresting officer is the DRE, he/she shall have his/her BWC activated for the evaluation.
  - b. If the DRE is recalled from being off duty or responds to another law enforcement agency, another officer (this agency's arrest) or member of the arresting agency (other agency) should be present and record the evaluation on a BWC
17. Overdose and suspected overdose investigations.
18. Emotionally disturbed person encounters or investigations.
19. 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 incident report).
20. When an officer is involved in a vehicle collision, including subsequent actions at the scene.



21. Domestic violence investigations, neighborhood disputes, noise complaints, disorderly conduct investigations, suspicious person/vehicle investigations.
  22. Crowd control, unruly crowds, or any incident requiring activation of the all-hazards or emergency operations plan.
  23. Strikes, picket lines, demonstrations.
  24. When an officer is engaged in a police response to any type of civil disorder in circumstances when the 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.
  25. When an officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.
  26. Any contact that becomes adversarial when the body camera has not already been activated.
  27. Any contact with a person who is known to complain about officers' actions.
  28. During foot patrol for enforcement purposes.
  29. Internal affairs interviews of civilians, witnesses, and principles when no other recording system is available.
- C. BWCs and MVRs shall remain activated for the entire duration of a public contact required in section V.B above until the officer has departed the scene and the officer has notified communications that the event is closed.
- D. Notwithstanding any other provision of this SOP, when an officer equipped with a BWC or MVR is dispatched to or otherwise goes to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance (e.g., an officer in distress, shots fired, etc.), the officer shall activate his/her BWC and MVR before arriving at the scene, when feasible.
- E. Notwithstanding any other provision of this SOP, an officer while at the scene of a police deadly-force event, pursuit resulting in a death or serious bodily injury, in-custody death, or the on-scene investigation of such events shall not deactivate his/her BWC/MVR unless instructed to do so by the independent investigator supervising the investigation of the incident pursuant to *Attorney General Law Enforcement Directive 2019-4*. The independent investigator or his/her designee supervising the investigation can provide such instruction telephonically.
1. Officers can deactivate their BWCs once they leave the scene of the incident.
  2. BWCs do not need to remain activated while officers are receiving medical evaluation, medical treatment, or have returned to headquarters.
  3. Once officers deactivate their BWCs in these instances, they shall surrender their BWCs to a supervisor, who shall submit them as evidence in accordance with this agency's SOP on *Evidence and Property*.

## VI. OFFICER AND SUPERVISORY RESPONSIBILITY

- A. Officers shall document the BWC number (and/or vehicle number for MVRs) in the narrative section of the appropriate investigation report when a device is used to capture the incident.
  - 1. Officers shall also identify other officers with working BWCs and MVRs in the narrative of such reports.
  - 2. Under no circumstances shall officers simply refer to an BWC and/or MVR recording in an investigation/supplemental report (or CAD record) instead of detailing the facts and circumstances of their investigation/observations
- B. The recordings should be classified to include not be limited to:
  - 1. Incident #; and
  - 2. Type of incident (e.g., MV stop, crime scene, etc.); and
  - 3. CAD entry (if different from the incident #).
  - 4. Officers are responsible for adding additional tags to assist in identifying the recording throughout their shifts or at the end of their shifts.
- C. To identify BWC/MVR recordings that may raise special privacy or safety issues, officers shall appropriately label (tag) recordings as 'special privacy' that:
  - 1. Captured a law enforcement incident, as defined in *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; and
    - d. The death of any civilian while in the custody of law enforcement.
  - 2. Captured the image of a victim of a criminal offense.
  - 3. Captured the image of a juvenile.
  - 4. Were made in a residence (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.
  - 5. Captured a conversation with a person whose request to deactivate the BWC was declined.

6. Captured a special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded.
  7. Captured the image of an undercover officer or confidential informant; or
  8. Captured the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
- D. Supervisors shall:
1. Ensure that all officers follow procedures for proper use of MVR/BWC as outlined in this SOP.
  2. Ensure that MVR/BWC equipment is being fully and properly used.
  3. Identify material or incidents that may be appropriate for training.
  4. Ensure that requests for repairs, maintenance, or replacement for non-functioning MVR/BWC equipment is documented.
  5. Subject to the viewing restrictions in this SOP, randomly review recordings to assist in appraising performance and objectives.
  6. Ensure that MVR/BWC digital video procedures are followed.
- E. Supervisors shall encourage and assist officers in using MVR/BWC as a training aid.
- F. Supervisors shall conduct random reviews of at least two MVR/BWC segments per subordinate every calendar month to assist in the following:
1. Review of officer safety techniques on car stops/incidents.
  2. Periodic assessment of officers' performance.
  3. Determination if the MVR/BWC equipment is being used in accordance with departmental SOPs.
  4. Identify training needs.
  5. Such reviews shall be documented in Guardian Tracking.
- G. 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.
1. Such minor infractions should be logged as an early warning record with the corrective action noted.
  2. Should the behavior or action become habitual after being informally addressed the appropriate disciplinary or corrective action shall be taken.

3. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the shift supervisor will tag the recording for indefinite retention and restrict access to the recording to only the chief law enforcement officer, deputy chief law enforcement officer, and the internal affairs supervisor.
  4. Supervisors shall formally review all instances when a BWC is deactivated prior to the conclusion of an incident and forward the documented review through the chain of command to the Chief law enforcement officer or his/her designee.
- H. Subject to the viewing restrictions in this SOP and as part of the meaningful review process, supervisors shall review all BWC/MVR footage involving the below:
1. Use of force; and
  2. Motor vehicle and foot pursuits; and
  3. Officer involved collisions; and
  4. Officer involved injuries.
- I. All BWC recordings capturing an officer-involved deadly force event shall be tagged and not be accessed or viewed by anyone, including the chief law enforcement officer, without prior authorization of the independent investigator assigned by the Office of Public Integrity and Accountability (DCJ).

## **VII. RECORDS RETENTION AND REVIEW**

- A. Viewing of BWC events is strictly limited to sworn officers of this department. Viewing by any other person is prohibited unless authorized by the Chief law enforcement officer, his/her designee, or consistent with the provisions of this SOP.
- B. BWC recordings shall not be divulged or used for any commercial or other non-law enforcement purpose. This does not mean OPRA or media requests for recordings provided in compliance with this SOP.
- C. NOTE: this subsection (VIII.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. Access to, use, and accounting of a stored BWC recording is permitted only:
1. When relevant to and in furtherance of a criminal investigation or prosecution.
  2. When relevant to and in furtherance of an internal affairs investigation.
  3. When relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of possible misconduct.

4. To assist the officer whose BWC made the recording in preparing his/her **own** substantive police report, providing a statement, or submitting to an interview.
  - a. Except:
    - 1) The incident involves the use of force by the officer, when the officer knows or should know that the use of force resulted in significant or serious bodily injury or death; or
    - 2) The incident involved the discharge of a firearm or any use of deadly force by the officer (see this agency's SOP on *Use of Force*); or
    - 3) The incident involved the death of a person while in law enforcement custody; or
    - 4) The incident involved the death of a person during an encounter with a law enforcement officer; or
    - 5) An incident the officer knows or has been advised is or will be the subject of an internal affairs or civilian complaint relating to the officer's use of force, bias, or dishonesty.
  - b. Whenever an officer reviews or receives an accounting of a BWC recording prior to the creation of any report, statement, or interview, the officer shall acknowledge that prior review or receipt of an accounting of the BWC recording either verbally or in writing within each such report, statement, or interview.
    - 1) The officer shall document each BWC recording that was reviewed and the date of the review.
    - 2) If the officer received an accounting of a BWC recording, the officer shall document the name of each person who provided an accounting of the BWC recording, the date of the accounting, and the specific BWC recording for which an accounting was provided.
  - c. Officers shall only be permitted to review or receive an accounting of such BWC recordings once the investigating entity concludes that (a) the officer has in fact completed the specified incident memorialization and (b) the officer's review or receipt of an accounting of the BWC recording will not otherwise interfere with the ongoing investigation.
    - 1) In cases subject to *Attorney General Directive 2019-4*, the independent investigator is the investigating entity.
    - 2) In all other cases, the chief law enforcement officer or his/her designee is the investigating entity.

- 3) The appropriate investigating entity shall document the authorization to review or receive an accounting of a BWC of a specified incident.
5. When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency.
  6. To show to a civilian who intends to file a complaint against an officer to demonstrate what occurred during the encounter so that the person can make an informed decision whether to file the complaint. Only a supervisor or the internal affairs unit can provide such showing.
  7. To comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court.
    - a. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.
    - b. Only those portions of the recording pertinent to the request shall be forwarded.
    - c. Such recordings can be sent by hyperlink or physical media.
    - d. This agency reserves the right to redact video as applicable by law. Such redacting software must be approved for use by the BWC manufacturer or the Union County Prosecutor's Office.
      - 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.
    - e. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing administrative code.
    - f. Advise the attending assistant prosecutor at the Union County Prosecutor's Office when releasing any BWC recordings for discovery in a criminal matter under its jurisdiction. Ensure that the BCPO receives a copy.
    - g. Advise the municipal prosecutor when releasing any BWC recordings in matters under the jurisdiction of the municipal court. Ensure that the municipal prosecutor receives a copy.
    - h. Contact the city attorney before releasing any BWC recordings in civil matters when this commission, police department, or any officer/agent of the city is the subject of a tort/civil claim. If authorized for release under discovery, ensure that the city attorney/solicitor receives a copy.

8. To comply with any other legal obligation to turn over the recording to a person or entity (e.g., discovery, subpoena, etc.).
  9. Solely and exclusively for internal training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video, unless the depicted individuals have consented to the recording being used for training purposes:
    - a. Note: consent is not required from Rahway police officers appearing in the recording.
    - b. Recordings retained beyond 180 days solely and exclusively for training purposes shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.
  10. To 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 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. To conduct an audit to ensure compliance with this SOP.
  12. 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 the Director of the Division of Criminal Justice or his/her designee.
  13. Any other specified official purpose when the Union County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.
- D. Officers shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC/MVR recordings or remove or disable any camera. Officers shall not instruct another to alter, tamper with, destroy, or conceal BWC/MVR recordings or remove or disable any camera. If an officer, employee, or agent fails to adhere to the recording or retention requirements contained in this SOP, 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 this SOP 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 Union County Prosecutor or Director of the Office of Public Integrity and Accountability. Such recordings shall not be admissible as evidence in any criminal, civil, or administrative proceeding, except as evidence in any proceeding related to the unauthorized use of a BWC.
- E. Recordings are considered criminal investigatory records of this police department and shall be maintained on a secure server and disposed of in accordance with law and New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
1. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes:
    - a. BWC recordings shall be retained for a period of at least 180 days.
    - b. MVR recordings shall be retained for a period of at least 31 days.
  2. Recordings being stored for criminal, civil, or administrative purposes must be retained until the conclusion of the case plus any retention period in accordance with evidence retention requirements. Examples of retention periods include, but are not limited to:
    - a. Any death investigation (at least 7 years).
    - b. Criminal arrest - 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> degree crime (at least 5 years).
    - c. Non-criminal arrest, excluding DWI (at least 3 years).
    - d. DWI arrest (at least 10 years following adjudication of the case).
    - e. Use of force incidents (at least 3 years).
    - f. Normally, recordings of warrant arrests or violation of TRO arrests without any additional criminal charges need not be preserved as evidence, except when law enforcement force is used.
  3. Recordings of an arrest that did not result in an ongoing prosecution, or records the use of police force, shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer or the employing law enforcement agency.
  4. 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/MVR recording.



5. Recordings shall be retained for not less than three years if requested by:
    - a. The officer whose BWC/MVR made the recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
    - b. The officer who is a subject of the BWC/MVR recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
    - c. Any immediate supervisor of an officer whose BWC/MVR made the recording or who is a subject of the BWC/MVR recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value; or
    - d. Any officer, if the BWC/MVR recording is being retained solely and exclusively for police training purposes; or
    - e. Any member of the public who is a subject of the BWC/MVR recording; or
    - f. Any parent or legal guardian of a minor who is a subject of the BWC/MVR recording; or
    - g. A deceased subject's next of kin or legally authorized designee.
    - h. NOTE: the member of the public, parent, or legal guardian, or next of kin or their designee (subsections VIII.E.5 (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
  6. When a BWC/MVR records an incident that is the subject of an administrative internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation, any resulting administrative action and required retention.
- F. The chief law enforcement officer or his/her designee shall notify the Union County Prosecutor's Office within one business day upon receiving any subpoena, court order or OPRA request for a BWC recording before complying with it. Such notice shall clearly state the deadline by which a response must be made. Only the following BWC recordings shall be exempt from public inspection:
1. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection VIII.E.4 of this SOP if the subject of the BWC recording making the complaint requests the recording not be made available to the public.
  2. Recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection VIII.E.5 of this SOP.
  3. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection VIII.E.5(a)(b)(c)(d) of this SOP.

4. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection VIII.E.5(e)(f)(g) if an officer, parent, or legal guardian, or next of kin or designee requests the recording not be made available to the public.
- G. A BWC/MVR recording of an event or encounter that involves an investigation of a criminal offense shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or officer or authorized civilian employee of such agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by a court order, or unless the chief law enforcement officer 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.
1. All BWC/MVR recordings capturing the image of an undercover officer or confidential informant shall not be accessed or viewed without the permission of the chief law enforcement officer or his/her designee and shall not be copied, disseminated, or otherwise used without first obtaining the permission of the Union County Prosecutor or his/her designee.
  2. 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 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.
  3. An MVR/BWC recording tagged pursuant to subsections VII.C.2 through VII.C.8 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, or the Director of the Division of Criminal Justice or his/her designee except supervisors (i.e., sergeant and above) may access and view such recordings. Under no circumstances shall such supervisors disseminate the contents of any recording subject to an investigation pursuant to *Attorney General Law Enforcement Directive 2019-4* prior to any initial reports being created.
  4. The independent investigator or his/her designee overseeing an investigation pursuant to *Attorney General Law Enforcement Directive 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 recording of the incident under investigation.
- H. The Watchguard software maintains a record of all MVR/BWC recordings that are accessed, viewed, copied, disseminated, or deleted. The chief law enforcement officer shall cause a periodic audit of these records to ensure compliance with this policy. Minimally, the record keeping system shall document the following information:

1. The date and time of access.
  2. The specific recording(s) that was/were accessed.
  3. The officer or civilian employee who accessed the stored recording.
  4. The person who approved access, where applicable.
  5. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.
- I. If an original recording is required for use in court or by another law enforcement agency, that recording shall not be released without the prior approval of the chief law enforcement officer or his/her designee and only if a duplicate copy is retained by the department.
1. Duplicate copies shall be maintained as evidence in accordance with this department's property and evidence guidelines.
  2. The property/evidence custodian shall ensure that any media used for duplicate recordings is properly stored away from magnetic fields (speakers, etc.) or other areas that may facilitate corruption in the property room.
- J. Employees shall not reproduce or store any recordings to any device or storage medium. This shall include, but not limited to, cell phones, electronic notebooks, etc.
- K. Recorded video of unusual or significant incidents, deemed to be beneficial for departmental training, may be utilized for departmental in-service training purposes only with the approval of the chief law enforcement officer.