


ROCKAWAY TOWNSHIP POLICE DEPARTMENT					
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SUBJECT: BODY WORN CAMERAS / MOBILE VIDEO RECORDERS					
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BY THE ORDER OF: Police Chief Martin McParland				PAGE #	
SUPERSEDES ORDER #:					

PURPOSE The purpose of this policy 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). BWCs and MVRs 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 Rockaway Township 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, N.J.S.A. 2C: 28-7 et seq, N.J.S.A. 40A:14-118.4 et seq., the provisions in this policy, and those directives or guidelines issued by the New Jersey Attorney General, *specifically New Jersey Attorney General Directive 2015-1*, and the Morris County Prosecutor’s Office. Failure to use this technology in accordance with this policy and those directives or guidelines set forth in *New Jersey Attorney General Directive 2015-1* and the Morris County Prosecutor’s Office shall be subject to discipline.

The Rockaway Township 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 policy. The website posting shall include an image showing what the device looks like and how it is to be worn by uniformed officers or plainclothes detectives so that the public will be able to determine whether an officer is equipped with the device. The Chief of Police shall provide certification to the Morris County Prosecutor’s Office of this general notification to the public.

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

PROCEDURES

I. DEFINITIONS

- A. For purposes of this policy, the following terms are defined:
1. Activate – means to actuate (put into operation) the recording mode/function of a BWC or MVR.
 2. Advisement – a statement made by an officer at the outset of using a BWC camera to record a communication, conversation, or interaction with the public for the specific purpose of informing the public that the communication or conversation is being recorded.
 3. Body worn audio/video recorder (BWC) – is an officer worn device that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity nor does the term include an electronic recording device when used to comply with the requirements of *Court Rule R. 3:17* (electronic recording of station house custodial interrogations).
 4. Cabin microphone – refers to the internal microphone installed in the passenger compartment of the police vehicle.
 5. Consent – Consent to record shall be considered obtained when the recording party (officer) has announced to all other parties engaged in the communication or conversation, in any reasonably effective manner, that the communication or conversation is being recorded. This announcement itself to the other parties must also be recorded.
 6. Constructive authority – involves the use of an officer's authority to exert control over a subject (see this department's policy on *Use of Force*), except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g., "...*show me your hands*," "...*get out of the vehicle*", etc.), or directed against any person if the officer has unholstered a firearm (e.g., "...*move out of the way*", "...*get down*", etc.).
 7. Daily tour of duty – an officer's single workday.
 8. Deactivate – the process of stopping the recording mode / function of a BWC or MVR.
 9. Digital evidence – includes photographs, audio and video recordings that are stored electronically.
 10. Force – has the same meanings as defined in this department's policy on *Use of Force*. The term force shall include physical, mechanical, enhanced mechanical, and deadly force.

11. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, petty disorderly offense, or operating while intoxicated 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. Metadata – A created digital image may include metadata that describes how large the picture is, the color depth, the image resolution, when the image was created, and other data.
13. Mobile video recorder – is a mobile video / audio recording equipment installed in a police vehicle. MVRs shall be maintained in all marked vehicles with MVR mounts.
14. 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.
15. 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.
16. 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.
17. 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.
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 the electronic labeling of a video/audio file captured by a BWC or MVR. The terms categorizing or category can be used interchangeably with the terms tagging or tag.

20. Triggering event – is any action that causes the MVR to create, record and save a recording. Triggering events can include activating emergency lights, manually pressing the record button on the front panel, or activating the transmitter/wireless microphone.
21. 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.
22. Youth facility – means a facility where children (under 18) assemble under adult supervision for educational or recreational purposes, such as day-care centers, group homes, residential facilities, youth camps, pre-schools, tutoring locations, vocational schools etc.

II. GENERAL ADMINISTRATION

- A. BWC and MVR recordings are invaluable to law enforcement for evidential purposes. BWC and MVR have consistently demonstrated its value in the prosecution of criminal, traffic, and other related offenses and to protect personnel from false claims of misconduct. Additionally, this equipment will provide valuable instructional material that can be utilized for in-service training programs.
- B. There is no intent to utilize the BWC or MVR as a management tool to punish officers for minor departmental rule infractions.
 1. Personnel shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
 2. BWC and MVR shall only be utilized for legitimate law enforcement duties and not for personal purposes.
- C. These recordings will serve the following purposes:
 1. Recordings serve as protection for police officers when there are complaints about their conduct or professionalism during encounters with the public.
 2. The recordings can be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
 3. The recordings can resolve disputes concerning what occurred during incidents, thereby protecting both the public and the officers involved.
 4. When complete recall is not possible, such as when multiple events are happening simultaneously or out of an officer's line of sight, an audio/visual recording can provide an accurate record of events.
 5. Subject to the viewing restrictions in this policy, supervisors will be able to view the recordings and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.

6. Subject to the viewing restrictions in this policy, recordings can permit supervisors to undertake more meaningful performance evaluations.
 7. Subject to the viewing restrictions in this policy, recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the public.
 8. Recordings enhance management's ability to train personnel in proper police procedures.
- D. When properly used, this equipment will have the following capabilities:
1. Creation of accurate documentation of motorist contacts and other patrol related activities, including, but not limited to, arrests, other police-public contacts, and other critical incidents.
 2. Preservation of an audio and video record of events, actions and conditions during arrests, critical incidents, and prisoner transports. These recordings enhance the department's ability to review probable cause determination, police-public interactions, and evidence for investigatory purposes.
 3. This agency shall not utilize any biometric technology, such as facial recognition, to conduct searches of video files or passive searches of the public.
- E. Adequate safeguards are necessary to ensure that this technology is:
1. Used in a non-discriminating way; and
 2. Used to document 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).
- F. Officers shall use only the BWCs and MVRs purchased by the department. The use of BWCs and MVRs with electronically enhanced audio/visual capabilities, such as infrared vision features, is not authorized.
- G. While visual and audio evidence may be captured on the recordings, the use of BWCs and MVRs cannot always depict the full story of an encounter. It is also not intended to document all evidentiary material relevant to court or administrative proceedings, but it can serve to supplement an officer's senses and eyewitness account. The use of a BWC or MVR does not diminish the requirement to provide a thorough text documentation of an incident. The BWC and MVR recordings are only one piece of evidence that provides only one perspective regarding the situation that has been recorded.
- H. BWC and MVR equipment and all data, images, video, audio, and metadata captured, recorded, or otherwise produced by the equipment is the sole intellectual property of this department. Under no circumstances will any employee of the Rockaway Township Police Department make a personal copy of any recorded event or direct someone to make a personal copy, except as authorized in this policy.

- I. The Chief of Police or his/her designee shall maintain a training program on the lawful and proper use of BWC/MVR equipment. Responsibilities include, but are not limited to:
 1. Provide initial training during a new officer's field training program or for all officers not previously trained.
 2. Providing initial and refresher training to non-sworn personnel whose responsibilities include accessing, copying, or distributing BWC/MVR records.
 3. Provide additional training as required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, a disciplinary matter, and to incorporate changes, updates, or other revisions in procedures and equipment.
 4. If any officer is unclear with this policy or the operation of a BWC or MVR, he/she should contact their supervisor to arrange for additional training.
 5. The BWC and MVR user manuals are posted to DMS.
- J. Only officers who are authorized by the Chief of Police and have received training in the use of BWC/MVR are permitted to use these systems and must demonstrate a satisfactory degree of familiarity and efficiency in the use of these systems. Proper use of a BWCs and MVRs is considered an essential job requirement.
- K. The administrative captain or his/her designee shall manage and coordinate the BWC/MVR equipment whose duties shall include maintaining the system and procedures to ensure the integrity and proper handling and storage of all BWC/MVR recordings. This system shall include provisions to:
 1. Maintain a record of all BWC/MVR serial numbers and assignments.
 2. Set permission, authority levels, and tag/retention categories in the BWC/MVR server.
 3. Ensure that all recordings are uploaded to a secure data storage system in a timely fashion.
 4. Prevent tampering with or deletion of recorded data both before and after uploading from the BWC/MVR and uploading to the storage system.
 5. Restrict unauthorized access to stored BWC/MVR recordings.
 6. Document all instances where BWC/MVR recordings are accessed, viewed, copied, disseminated, or deleted (this can be generated by the BWC/MVR server software).
 7. Permit auditing of all instances where BWC recordings are accessed, viewed, copied, or deleted.

8. Review BWC/MVR internal audit to ensure compliance on the utilization of these devices in accordance with departmental policy. The Chief of Police will be notified immediately if the system or audio/video recordings are compromised or accessed without proper authorization.
9. Prior to the destruction, erasing or deletion of any BWC/MVR recording, other than by automated retention, the administrative captain or his/her designee shall review the specific recording, as well as any relevant department investigation, supplemental reports, or any other reports in the case file to confirm proper retention schedule compliance.
10. Repairs to any BWC/MVR equipment shall only be performed by the manufacturer or under the direction of the administrative captain or his/her designee.

III. BODY WORN CAMERAS

- A. Each officer will be assigned a BWC. Each BWC has a unique serial number and has been assigned an internal tracking number. When on duty or an extra-duty assignment, the device shall be worn as an authorized component of the uniform of the day.
 1. Wearing any personally owned video/audio recorder by department personnel is not authorized without the expressed permission of the Chief of Police, the Morris County Prosecutor's Office, or the New Jersey Division of Criminal Justice. Violations will be subject to disciplinary action, up to and including termination.
 2. BWCs shall be stored in their charging sleeves when not in use to permit charging of the device and downloading of recordings.
 3. The use of a spare BWC must be authorized by the shift supervisor. The shift supervisor must document the issuance of the spare BWC by email and forward such to the administrative captain. The administrative captain or his/her designee shall assign the BWC to the officer in the BWC/MVR software for the duration of its use.
 4. BWCs shall only be used in conjunction with official law enforcement duties.
 5. Officers engaged in undercover operations or surveillance activities are not required to utilize BWCs.
 6. Officers are not required to use their BWCs in police headquarters unless they are investigating a walk-in complaint or other similar related functions.
 7. Detectives and staff officers shall wear BWCs when conducting arrests and while engaged in field duties (e.g., patrol coverage, search warrant executions, raids, etc.) consistent with the requirements and restrictions in this policy.
 8. BWCs shall be worn and used on all extra duty assignments except for assignments involving solely traffic direction.

9. Officers shall also wear and use a BWC consistent with this policy 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.
10. BWCs shall not be used surreptitiously.
11. BWCs shall not be used to gather intelligence information based on 1st 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.

B. Officer's responsibilities

1. BWC equipment is the responsibility of the assigned officer and shall be used with reasonable care for ensuring proper functioning during their daily tour of duty.
2. Officers assigned BWCs shall use the device specifically assigned to them unless otherwise authorized or directed by a supervisor.
3. Officers shall place the BWC in 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 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.
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 will ensure the system's readiness by conducting an operational inspection. The inspection shall include, but not limited to, ensuring the battery is adequately charged before going into the field. The officer shall:
 - a. Ensuring the battery is adequately charged prior to leaving headquarters.
 - b. Ensuring the device has sufficient memory to complete their daily tour of duty.
 - c. Ensuring the proper positioning of the BWC on his/her uniform.

- d. Activate the BWC and verbally state the date, time, name, vehicle # *(if applicable)* and that a pre-shift inspection is being conducted.
 - 1) If an officer is assigned to a patrol vehicle that is equipped with an 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.
 - 2) An officer will not be required to pair his/her BWC with an MVR system if he/she is not assigned to a vehicle equipped with MVR system or is not considered the primary officer of that vehicle.
 - e. Categorize the test video once it is made available through the BWC/MVR server as 'Test'. (See subsection IX of this policy for further instructions on tagging a video).
 - f. View the recording to ensure that the system is functioning properly.
7. At the conclusion of the officer's shift, he/she shall inspect his/her BWC to ensure system integrity. The officer shall:
- a. Unpair the BWC and log out of the system.
 - b. Place their BWC in the docking station at headquarters for battery charging and remaining video uploads to the BWC/MVR server.
 - c. Tag or categorize all uploaded video/audio recordings properly for retention purposes (see section IX of this policy)
8. Officers finding any BWC that is found to be damaged, lost, or not functioning properly, thereby preventing the use of the device during the shift shall report such to their immediate supervisor upon discovery.
9. Officers are prohibited from tampering with any BWC including, but not limited to, attempting to take the device apart, disable, alter, or repair it in any way.
10. Any time an officer accesses a BWC recording for any purpose (e.g., report preparation, command review, etc.), except pre-shift inspections, he/she shall document in the 'Notes' box under the recording, the date, purpose for viewing the recording, their initials and ID number.
11. Officers shall indicate with the typed letters BWC (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 case.

12. Officers shall inform their immediate supervisor of any recordings that may be of value for training purposes. Recordings may be shown for training purposes upon completion of a criminal case, pursuant to written authority from the Chief of Police. All such use shall be pursuant to the written authority of the Chief of Police.
13. Any officer who is issued a BWC and then transfers or is promoted to a position or unit that does not require authorization to wear this device shall surrender the BWC to their immediate supervisor, who will forward the BWC to the administrative captain for redistribution.

IV. MOBILE VIDEO RECORDERS

- A. Officers shall wear a working BWC when operating a vehicle with an MVR. The BWC serves as the wireless transmitter/microphone for the MVR.
- B. Installation, removal, or repairs to any of the MVR equipment shall only be performed under the direction of the administrative captain or his/her designee.
 1. MVRs will upload automatically to the MVR server when a vehicle is close to headquarters.
 2. No officer or other police employee shall conduct him/herself in any way that would intentionally interfere with any data upload from occurring. If an officer or police employee is found to have intentionally interfered with any upload, an internal affairs investigation shall be initiated.
 3. If a police vehicle is towed due to a collision or having become disabled, contact the administrative captain or his/her designee so that arrangements can be made to secure the removable media.
 4. Promptly notify the administrative captain concerning any MVR equipped vehicle involved in:
 - a. A crime; or
 - b. A collision with serious bodily injuries to any party; or
 - c. Any in-custody death involving the vehicle; or
 - d. A motor vehicle pursuit involving any crash or injury.
 5. The administrative captain or his/her designee shall respond and remove the removable media and secure it as evidence.
 6. No one is permitted to move the installed components of the system from its positions without authorization by the administrative captain or his/her designee or as permitted by this policy.
 7. Likewise, no one is authorized to repair any MVR equipment or related component except those personnel authorized by the administrative captain or his/her designee.

8. Equipment shall be maintained according to manufacturer's recommendations.
- C. 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.
 - D. It is the officer's responsibility to exercise reasonable care when using the equipment. Misuse of the equipment that results in damage or loss may result in disciplinary action and/or replacement of such equipment by the officer.
 - E. Activation of MVR equipment:
 1. The system will turn on when the car is started.
 2. The equipment will automatically activate when:
 - a. The patrol vehicle's emergency lights are in operation; and
 - b. The patrol car speed reaches a preset threshold; and
 - c. Release of a shotgun; and
 - d. When the patrol car is involved in a motor vehicle collision severe enough to trigger the sensors on MVR; and
 - e. When the officer activates his/her BWC; and
 - f. When the officer presses the 'Record' button located on the control panel.
 3. Upon activation of the MVR for any reason the AM/FM radio, satellite radio, CD player, iPod, etc. shall be turned off completely so as not to affect the quality of the audio recording.
 4. The front camera can be swiveled or adjusted as needed to bring the area or object being recorded into view of camera. Other features include:
 - a. Auto zoom feature - is used to automatically zoom in on subject license plate and will then automatically zoom back out to full view after 5 seconds. Officers should adjust the camera after coming to a stop, so the license plate is centered in the display on the screen. Once centered then push 'Auto Zoom'.
 - b. Bookmark feature - used by an officer during playback of video to add notes to certain spots on video as reminders or to point things out. To bookmark during playback, push the 'Bookmark' tab and type in the necessary notes and click 'apply' to save.
 - c. Snapshot feature - this feature is used to take a single shot of an image on the screen. Push the 'snapshot' button to take the shot of the image and it will be saved. The snapshot will then be uploaded to server during wireless transfer.

5. Field training officers may turn off the audio portion of the system if they are discussing training issues with the officer with whom they are training.
- F. Prior to the beginning of a tour of duty, the officer will power up the system and determine if the MVR is working properly.
1. Ensure that the system powers up when the vehicle is started.
 2. Activate the system by turning on the vehicle's emergency lights. Once the system is in recording mode, exit your vehicle and state your name, the current date, and the shift you are presently working while you walk around inspecting your vehicle. This will allow you to check operation of the audio. Exiting the vehicle will eliminate the in-car microphone from picking up the audio test. This will help ensure proper operation and reception of the BWC.
 3. Upon stopping the recording, you will be prompted to classify the video. From the drop box, classify it as TEST.
 4. Review the test to determine if the video and audio is working properly. Be sure to check audio was received on both microphones.
 5. If any part of the test does not operate properly, the officer shall notify the shift supervisor. If the supervisor verifies the MVR is not working the patrol vehicle may be taken out of service as long as another patrol vehicle is available that is equipped with a working MVR. The officer will then begin the pre-shift testing again with the second patrol vehicle.
 6. If no other patrol vehicle with a working MVR is available, the officer may take out a patrol vehicle without a working MVR as long as he/she receives approval from the shift supervisor.
 7. The shift supervisor will notify the administrative captain by department email of all inoperative MVRs.
- G. If an officer who has reported for duty needs to immediately respond to a priority call and is unable to fully check the MVR system prior to his/her response, he/she shall still operate the MVR within this policy until such time he/she is able to fully check the system as soon as practicable thereafter.
- H. If for any reason (e.g., officer did not have time to pair his/her BWC to the MVR or had to operate the MVR manually, etc.) video is recorded on an MVR that is not automatically assigned to that officer, it that officer's responsibility to ensure he/she tags/labels any such videos as soon as possible.
1. All supervisors can reassign recordings and cameras to any officer in the agency.
 2. If video is recorded and not assigned to that officer, the officer is to notify his/her supervisor so that video can then be re-assigned to that officer so it can be labeled properly.
 3. This can be done once the recording has been downloaded to the BWC/MVR server.

4. Not being able to sign into the BWC/MVR application is no reason to not utilize the MVR according to this policy, nor have any recorded video not tagged and labeled properly.
5. Officers should also ensure they properly log off/sign out of the BWC/MVR application when their shift ends. Failure to properly sign off will result in that camera still being assigned to that officer when used by the next officer until they are able to pair it.

V. ACTIVATION / OPERATION

- A. Except when otherwise restricted in this policy, 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 impossible or dangerous, the officer shall activate the body worn camera at the first reasonable opportunity to do so. Examples of such required recordings include, but are not limited to:
 1. During all calls for service (involving those to which the officer is dispatched or 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. Aiding 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 and foot pursuits.
 6. During stationary police details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, extra duty assignments at ABC establishments where alcohol is consumed (ABC establishments, festivals, etc.) when police-civilian contact initiated.
 7. Investigation of crash scenes, including interviews on the scene.
 8. Investigation of crime scenes.
 9. Any call for service related to a violation or suspected violation of possessing or consuming alcohol, marijuana, hashish, or cannabis item.
 10. Interviewing a witness while investigating a criminal offense.
 11. Investigating criminal violations (not to include undercover investigations or related surveillance activities).
 12. Conducting domestic violence investigations.
 13. Investigating an arson for witness and/or suspect identification.

14. 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)*.
 15. Out-of-court identifications (i.e., show ups, lineups).
 16. Emotionally disturbed person investigations/encounters.
 17. Drug recognition expert evaluations.
 18. Investigative detentions or officer-initiated pedestrian stops.
 19. Conducting warrantless searches (all types, including protective frisks, consent, etc., but not strip or body cavity searches).
 20. Motor vehicle assistance calls.
 21. Conducting arrests.
 22. Domestic violence investigations:
 23. During arrestee/prisoner/civilian transports to police station, county jail or other place of confinement, as well as hospitals or other medical care facilities and mental health facilities.
 24. Unruly crowds, strikes, picket lines, demonstrations or incidents requiring activation of the all-hazards or emergency operations plan.
 25. When an officer uses force or constructive authority, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this subsection based on specific and articulable facts warranting heightened caution (must be documented by narration on the recording and/or in any investigation report).
 26. During police response to any type of civil disorder in circumstances where officer is engaged with, or in the presence of civilians, and the officer, or any other officer, on the scene may be required to employ constructive authority or force.
 27. Conducting welfare checks of residents and motorists (motorist aid) / community caretaking function.
 28. An officer reasonably believes that any other officer on the scene has undertaken, or is engaged, in any of the foregoing police actions/activities.
- B. BWCs/MVRs shall remain activated for the entire duration of an incident and shall not be deactivated until the incident is concluded. The term concluded can be interpreted as:
1. BWC/MVR equipped officer has left the scene; or
 2. BWC/MVR equipped officer providing assistance or back up to another BWC/MVR equipped officer is no longer needed and has left the scene; and

3. The officer has informed the dispatcher or a supervisor that the incident has concluded; the incident is closed in CAD.
 4. During the transportation of all arrestees from the scene of the arrest to headquarters and shall remain active until:
 - a. The vehicle is parked and turned off (MVR).
 - b. The arrestee is secured in the holding cell or processing room (BWC).
 - c. Until custody of the arrestee has been transferred to the county jail personnel and the officer is no longer in the presence of the arrestee (BWC).
 - d. Until the arrestee is admitted or being treated with hospital, medical, or mental health personnel and the officer is no longer in the presence of the arrestee (BWC). However, the BWC will be immediately reactivated at the commencement of any violent, confrontational, argumentative, or accusatory interaction, or at any indication that constructive authority or force may become necessary
- C. Upon activation of a BWC/MVR, officers shall, if possible, provide verbal narration of the circumstances at the start of the encounter audibly so that the recordings on the BWC/MVR will be easier to locate if review of the video is necessary at a later time (e.g. an officer arriving upon the scene of a serious motor vehicle accident may narrate the recording by stating as the BWC/MVR is activated, "...*Officer Doe coming upon the scene of a serious motor vehicle crash at the intersection of Green pond Road and Sanders Road...*").
1. Officers can also audibly narrate or bookmark significant events while recording and provide details of the marked segments.
 2. Officers are encouraged to provide narration where practical and appropriate to augment the value of the recording and to provide clarity for the viewer.
- D. 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 civilians inside of their homes or place of abode (e.g., *hotel/motel rooms, boarding houses, etc.*) that they are being recorded unless it is unsafe or unfeasible to provide such notification.
 - 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 investigation 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.

- E. Truthful response to civilian inquiry:
1. If a civilian inquires whether the officer is equipped with a BWC or inquires whether the device is activated, the officer shall answer truthfully unless the Morris County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, has expressly authorized the officer to make a covert electronic recording. This section does not apply to:
 - a. Officers while operating in an undercover capacity; or
 - b. While conducting or participating in stationhouse custodial interrogation electronically recorded in accordance with Court Rule 3:17.
 2. Nothing in this section shall be construed to establish a basis for suppressing a statement or other evidence.
- F. Special activation rules governing deadly force incidents and other exigent circumstances when officers are in danger:
1. Notwithstanding any other provision of this policy, 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 policy, 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 can provide such instruction telephonically.
- G. Deactivation of a BWC/MVR:
1. A BWC/MVR-equipped officer may deactivate a device when:
 - a. Discussions pertaining to criminal investigation strategy / planning – Officers may deactivate a BWC/MVR while participating in a discussion pertaining to criminal investigation strategy and planning (*e.g., to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to summon a drug/explosives detection canine, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.*), provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the BWC/MVR-equipped officer is not actively engaged in the collection of physical evidence (*i.e., conducting a search*). When an officer deactivates a BWC/MVR pursuant to this section, the officer shall narrate the

circumstances of the deactivation (e.g., "...I am now turning off my BWC/MVR to discuss investigative strategy with my supervisor, detective or other on scene personnel as required").

- b. Assistant prosecutor/deputy attorney general authorization – Officers may deactivate a BWC/MVR when specifically authorized to do so by an assistant prosecutor/deputy attorney general for good and sufficient cause as determined by the assistant prosecutor. When an officer deactivates a BWC/MVR pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor who authorized the deactivation (e.g., "...I am now turning off my BWC/MVR as per the instruction of assistant prosecutor (insert name)").
 - c. Electronic breath testing – BWCs (and MVR transmitters) shall be deactivated while in the area where the **ALCOTEST 7110 MKIII-C** is being used and shall be removed from the where such device is being used. Nothing herein shall be construed to preclude the use of a BWC/MVR to record the behavior of a person arrested for driving while intoxicated other than while the person is in the breath testing area while the **ALCOTEST 7110 MKIII-C** is being operated. The officer shall narrate the reasons for deactivation (e.g., "...I am deactivating the BWC because the suspect is about to take a breath test") and the BWC shall be reactivated when safe and practicable to do so following the completion of the breath testing operation.
 - d. Emergency medical assistance – Officers may deactivate a BWC/MVR when a person, other than an arrestee, is seeking emergency medical services for him/herself or another and requests that the BWC/MVR be deactivated. In deciding whether to deactivate the BWC/MVR, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance.
 - e. Walk-in reports at headquarters – In order to prevent the recording of events unrelated to calls for service, officers at police headquarters investigating walk-in complaints are authorized to deactivate their BWC/MVR when not in the presence of the complainant (e.g., *typing of complaints, or other follow-up activities conducted in the dispatch area, booking room, report writing room, etc.*). The officer shall narrate on the BWC/MVR the reason for the deactivation and immediately re-activate the BWC/MVR each time contact with the civilian is reestablished.
2. When an officer deactivates a BWC/MVR:
- a. The conversation between the officer and the civilian concerning the request for deactivation should be electronically recorded.
 - b. The officer, before deactivating the BWC/MVR, shall narrate the circumstances of the deactivation (e.g., "...I am now turning off my BWC/MVR as per the victim's request").

- c. The officer shall report the circumstances concerning the deactivation to their supervisor as soon as is practicable.
 - d. The officer shall document the circumstances of the deactivation in any investigation report concerning the incident under investigation.
3. If an officer declines a request to deactivate a BWC/MVR, the reasons for declining the request (*e.g., the officer believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter*) must be memorialized on the recording and documented and shall be reported to an immediate supervisor as soon as it is safe and practicable to do so.
- a. 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/MVR has been turned off when in fact it is operating unless the Morris County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee expressly has authorized covert recording.
4. In any instance when a BWC/MVR was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so when:
- a. The circumstances justifying deactivation no longer exist (*e.g., the interview of the person requesting deactivation is completed, etc.*); or
 - b. The officer would otherwise be required to activate the BWC/MVR; or
 - c. Circumstances develop so that an officer is authorized to use force.

F. Civilian request to stop recording:

1. Civilian request to stop recording – If a civilian inquires of an officer whether the officer is equipped with a BWC/MVR, or inquires whether the device is activated, the officer shall answer truthfully unless the Morris County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, has expressly authorized the officer to make a covert electronic recording. An officer has no obligation to deactivate the recording in response to a civilian's request if the recording is pursuant to an investigation, arrest, or lawful search, or if the circumstances dictate that the continuous recording is necessary.
- a. Officers may deactivate a BWC/MVR when a civilian conversing with the officer requests that the device be turned off under circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected provided however, that the agreement to participate under that condition is itself recorded.

- 1) Officers shall not suggest to the person that the BWC/MVR should be deactivated; nor shall the officer ask the person whether he or she would prefer that the BWC/MVR be deactivated. Rather, the request for deactivation must be self-initiated by the civilian. The officer may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded).
- 2) In deciding whether to deactivate the BWC/MVR, the officer shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide only if the deactivation request is honored.

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

1. If an officer fails to activate the BWC/MVR, fails to record the entire event contact, or interrupts the recording, the officer shall document in the applicable investigation report the reasons why a recording was not made, was interrupted, or was terminated prematurely.

VI. RESTRICTIONS ON BWC/MVR ACTIVATIONS

- A. BWC/MVR are intended for official police department use only and shall not be used for frivolous or personal activities. Intentional misuse or abuse of the units will result in disciplinary action.
- 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 policy. The BWC/MVR shall not be used to record:
 1. When on break or otherwise not actively performing a law enforcement function; or
 2. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room; or
 3. When engaged in police union business; or
 4. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction; or
 5. While discussing criminal investigation strategies; or
 6. While in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority, or unless the presiding judge expressly authorizes such activation.

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

1. Unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that he or she will be required to use constructive authority or force, the officer shall not activate a BWC/MVR, or shall deactivate a BWC/MVR that has been activated while the officer:
 - a. Is in a school or youth facility; or on school or youth facility property under circumstances where children would be in view of the BWC/MVR.
 - b. Is in a place of worship under circumstances where worshipers would be in view of the BWC/MVR.
 - c. Is in a patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances where patients would be in view of the BWC/MVR.
 - 1) If a BWC captures the image of a patient in a substance abuse treatment facility, the Chief of Police or his/her designee shall notify the Morris County Prosecutor or his/her designee to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information (42 USC § 290dd2, 42 CFR §23.1 to 23.41).
 - 2) The recording shall not be accessed without the permission of the Morris County Prosecutor or his/her designee. *(Note: that destruction of the recording would be inappropriate until it has been determined that it had not captured exculpatory information that must be provided to a defendant in discovery.)*
2. If an officer is required to deactivate the BWC (or MVR transmitter) when entering a school, house of worship, health care facility, substance abuse treatment center, etc., the officer shall narrate the reason for deactivation (e.g., "...I am entering a school building where children are present."). The BWC/MVR transmitter shall be reactivated as soon as it is safe and practicable to do so when the circumstances requiring deactivation no longer exist (e.g., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWC/MVR).

D. Image of undercover officers / confidential informants:

1. Officers shall not activate a BWC/MVR, and shall deactivate a BWC/MVR that has been activated, if the officer knows or reasonably believes that the BWC/MVR would capture the image of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (e.g., active shooter, actual use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in

which event the officer shall inform their supervisor that the image of an undercover officer or confidential informant was recorded.

2. The BWC/MVR shall be activated/reactivated as soon as it is safe and practicable to do so when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
 3. In the event of a planned arrest/search warrant execution where it is expected that an undercover officer or confidential informant would be present (*e.g., a raid where an undercover operative will be arrested to preserve his or her cover*), the Morris County Prosecutor or his/her designee, may provide specific instructions to any BWC/MVR-equipped officers participating in the operation on whether to activate their BWCs/MVRs.
- E. Tactical operations – BWCs, at the discretion of the Chief of Police, may be worn during tactical operations (*e.g., execution of arrest and/or search warrant, etc.*) If a BWC worn during the execution of tactical operations, records confidential tactical information, the disclosure of which might jeopardize future operations or officer safety (*e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms, techniques to convince persons to open doors, etc.*).

VII. WRITTEN DOCUMENTATION REQUIRED

- A. BWC/MVR recordings shall not be utilized as a replacement for written reports. Officers shall not simply refer to the recording in lieu of submission of a narrative portion of the written report.
- B. At a minimum, officers shall document in the written reports when BWC/MVR recordings were made during the incident in question and give a summary of the events in adequate detail that allows the reader of the report to understand the events that occurred.
- C. Officers shall indicate with the typed letters BWC and/or 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 (*e.g., tow reports, property reports, evidence reports, etc.*), NJTR-1, and arrest reports, when video/audio recording are available for the case.
 1. Under no circumstances shall officers simply refer to a BWC or MVR recording on an investigation report instead of detailing the facts and circumstances of their investigation/observations in the report. Also note the existence of such recordings on the back of the 'officer copy' of any uniform traffic ticket.
 2. When video/audio is captured with any incident of significance to law enforcement and upon stopping a recording for a particular event, officers will be prompted to properly classify the recording from the drop box. Each classification has different retention time periods before the recording is purged from the departmental server (all servers are backed-up at HQ and at an off-site location).

3. When an officer or supervisor recognizes that a recording is needed for evidence, the officer shall have a copy of the recording placed on a CD/DVD and placed into evidence in accordance with standard evidence procedures. The administrative commander is responsible for ensuring that copies of CD/DVDs are accurately replicated.
4. Shift supervisors shall ensure that these evidentiary recordings are classified accordingly, copied to a CD/DVD, and submitted as evidence.

VIII. SUPERVISORY RESPONSIBILITIES

- A. Shift supervisors are responsible for ensuring that on-duty officers are equipped with functioning BWCs at the beginning of each shift. Shift 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 policy.
- B. Upon discovery of a BWC that is damaged or non-functioning, the shift supervisor will remove a BWC from service and then notify the administrative captain with the details of the malfunction, problem or deficiency via email and request a spare BWC until repairs are made to it. Once the supervisor's request is submitted, he/she will be immediately authorized to assign the spare BWC to the affected officer. The malfunctioning BWC shall be placed in a small, plastic evidence bag clearly marked with the officer's name / badge number and placed in the administrative captain's mailbox.
- C. Upon discovery of an MVR that is damaged or non-functioning, the shift supervisor shall notify the administrative captain with the details of the malfunction, problem, or deficiency via email. The vehicle can still be used for patrol purposes if the assigned officer is equipped with a working BWC.
- D. Shift supervisors shall take protective custody of the BWC from any officers that are involved in a serious incident to safeguard the recording. Such incidents include, but are not limited to use of deadly force, use of force resulting in serious bodily injury or death, serious motor vehicle crashes involving an on-duty officer or resulting from a pursuit, any incident resulting in the incapacitation of the on-duty officer, any in-custody death incident, or any other incident in which the supervisor feels is necessary to protect the recordings. The process shall take place as follows:
 1. The shift 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 policy.
 2. The shift supervisor who takes custody of the BWC shall place the unit into evidence.
 3. When authorized by the Chief of Police, assistant prosecutor, or deputy attorney general (depending on the lead investigating agency), the administrative captain or his/her designee shall upload and categorize any footage captured of the incident accordingly.

4. Such BWCs shall only be placed back in service at the direction of the Chief of Police, assistant prosecutor, or deputy attorney general (depending on the lead investigating agency),
- E. Supervisors shall formally review one (1) segment of selected non-evidential BWC and MVR recordings for each officer under their supervision, during each weekly tour of duty using a *Supervisory Review of Digital Video/Audio Recordings Form*, to:
1. Assess officer performance (positive or negative activities); and
 2. Ensure the equipment is operating properly; and
 3. Assess officer performance and adherence to this policy; and
 4. Flag video/audio recordings that may be deemed appropriate for training and/or disciplinary purposes.
- F. Except when such viewing is restricted in section XI of this policy, reviewing supervisors shall formally review the recordings of officers under their supervision using a *Supervisory Review of Digital Video/Audio Recordings Form* for every BWC/MVR event involving:
1. Use of force; and
 2. Warrantless searches (any type); and
 3. Pursuits; and
 4. Officer involved injuries; and
 5. Officer-involved motor vehicle crash.
- G. Reviewing supervisors are responsible for ensuring all BWC/MVR recordings are tagged, or categorized, properly as listed under section IX of this policy. Officers under their supervision will be retrained on proper tagging, as needed.
- H. Each reviewing supervisor who accesses a BWC/MVR recording on the BWC/MVR server shall post in the 'Notes' box under the video, the date, purpose for viewing the recording, his/her initials, and badge number. They will also complete a *Supervisory Review of Digital Video/Audio Recordings Form* for each officer's video/audio recording viewed. These reports shall be submitted to the Chief of Police, respectively, no later than the last day of each month.
- I. Supervisors shall formally review all instances when a BWC/MVR is deactivated prior to the conclusion of an incident of which the officer is required to record or if they are made aware of recordings that are subject to a meaningful command review. They will prepare a written report or email of that specific incident and forward the documented review through proper chain of command upon every occurrence to the Chief of Police.
1. If a supervisor is out for an extended period, and monthly reviews cannot be accomplished, another supervisor on the shift shall be assigned to conduct the reviews until the return of the assigned supervisor.

2. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the reviewing supervisor will label the recording for indefinite retention.

IX. TAGGING (CATEGORIZING) BWC/MVR RECORDINGS

- A. Officers shall uniformly tag their recordings during their assigned shift or at the conclusion of their shift in the BWC/MVR server. Officers are required to enter specific information for each uploaded BWC/MVR recording.
- 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; or
 2. Images of a child; or
 3. Images 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; or
 4. Videos of conversation with a person who requested to deactivate the BWC/MVR was declined; or
 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; or
 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 RECORDINGS

- A. Officers shall not erase or in any other unlawful manner alter, tamper with, destroy, conceal any 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 policy, N.J.S.A. 2C:28-7, or N.J.S.A. 40A:14-118.5 et seq., or intentionally interferes with a BWC/MVR's ability to accurately capture audio or video recordings:
 1. The officer, employee, or agent shall be subject to appropriate disciplinary action and/or criminal sanctions; and

2. There shall be a rebuttable presumption that exculpatory evidence was destroyed or not captured in favor of a criminal defendant who reasonably asserts that exculpatory evidence was destroyed or not captured; and
 3. There shall be a rebuttable presumption that evidence supporting a plaintiff's claim was destroyed or not captured in favor of a civil plaintiff suing the government, a law enforcement agency, or a law enforcement officer for damages based on police misconduct if the plaintiff reasonably asserts that evidence supporting the plaintiff's claim was destroyed or not captured.
 4. Any recordings from a BWC recorded in contravention of N.J.S.A. 40A:14-118.5 et seq. or any other applicable law shall be immediately destroyed and shall not be admissible as evidence in any criminal, civil, or administrative proceeding.
- B. Recordings are considered criminal investigatory records of the Rockaway Township Police Department and shall be maintained on the secure BWC/MVR server and disposed of in accordance with the guidelines set forth by the New Jersey Bureau of Records Management, as well as the guidelines outlined in *Attorney General Directive 2015-1*.
- C. Except for recordings being stored for criminal, civil and administrative proceedings, or evidentiary purposes, All BWC/MVR recordings shall be retained for a period of not less than 180 days and shall be subject to the following additional retention periods:
1. When a BWC/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 tag all recordings properly and uniformly.
 2. Recordings being stored for criminal, civil, or administrative purposes must be retained until the conclusion of the case plus any retention period.
 3. Recordings of an arrest that did not result in an ongoing prosecution, or records the use of police force, shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer or the employing law enforcement agency.
 4. BWC recordings shall automatically be retained for not less than three years if it captures images involving an encounter about which a complaint has been registered by a subject of the BWC recording.
 5. BWC recordings shall be retained for not less than three years if requested by:
 - a. The officer whose BWC made the recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
 - b. The officer who is a subject of the BWC recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or

- c. Any immediate supervisor of an officer whose BWC made the recording or who is a subject of the BWC recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value; or
 - d. Any officer, if the BWC recording is being retained solely and exclusively for police training purposes; or
 - e. Any member of the public who is a subject of the BWC recording; or
 - f. Any parent or legal guardian of a minor who is a subject of the BWC recording; or
 - g. A deceased subject's next of kin or legally authorized designee.
 - h. NOTE: the member of the public, parent or legal guardian, or next of kin or their designee shall be permitted to review the body worn camera recording in accordance with N.J.S.A. 47:1A-1 et seq. to determine whether to request a three-year retention period
6. When a BWC records an incident that is the subject of an administrative internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation, any resulting administrative action and required retention.
- D. Prior to the destruction, erasing or deletion of any BWC/MVR recording, other than by automated retention, the administrative captain or his/her designee shall review the specific recording, as well as any relevant department investigation, supplemental reports, or any other reports in the case file to confirm proper retention schedule compliance.
- E. When seeking authorization to purge/erase BWC/MVR recordings being held for evidence in criminal matters, the Chief of Police or his/her designee must submit a destruction request to the Morris County Prosecutor's Office before purging/erasing any recordings. In DWI cases, consult with the municipal prosecutor before purging/destroying any DWI-related BWC/MVR recordings.

XI. RESTRICTIONS ON ACCESS TO, USE, AND DISSEMINATION OF 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 policy.
- B. BWC/MVR recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- C. NOTE: this subsection applies to BWCs ONLY. No law enforcement officer or civilian employee of this agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose as specified in this section. Access to and use of a stored BWC recording is permitted only:
 - 1. When relevant to and in furtherance of a criminal investigation or prosecution.

2. When relevant to and in furtherance of an internal affairs investigation.
3. When relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct, or to determine the existence of a pattern or practice of possible misconduct.
4. To assist the officer whose BWC made the recording in preparing his/her **own** police report, **except**:
 - a. In officer involved use of force incidents; or
 - b. In motor vehicle pursuits resulting in death or serious bodily injury; or
 - c. In any in-custody death investigations; or
 - d. When it captures images involving an encounter about which a complaint has been registered by the subject of the recording; or
 - e. When it pertains to a criminal investigation or otherwise records information that may have evidentiary or exculpatory value subject to discovery in a prosecution; or
 - f. When it records an arrest that did not result in an ongoing prosecution; or
 - g. When it records an incident that is the subject of an internal affairs complaint.
 - h. NOTE: nothing in this subsection is intended to prevent officers from considering, reviewing, or receiving an accounting of such BWC/MVR recording after the creation of any required initial reports, statements, and interviews regarding the recorded event. The events noted above in subsections XI.C.4 (a)(b)(c) cannot be accessed or viewed without the expressed permission of the assistant prosecutor or deputy attorney general supervising the investigation.
 - i. Officers reviewing a recording after completion of their initial report and wishing to add any additional information to the initial report can submit a supplemental report detailing their renewed recollection after supervisory approval. **UNDER NO CIRCUMSTANCES**, shall officers or supervisors change or modify the initial report.
5. When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency.
6. To show to a civilian who intends to file a complaint against an officer to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint; *(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 policy 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 Rockaway Township Police Department reserves the right to redact video as applicable by law.
 - 1) NOTE: when providing discovery in a domestic violence matter, ensure that the recording is reviewed prior to release to verify that there is no confidential information that should be redacted.
 - 2) This confidential information includes, but is not limited to, the location where the victim is being sheltered or contact phone numbers for those assisting the victim, etc.
 - d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing ordinance.
9. To comply with any other legal obligation to turn over the recording to a person or entity.
10. To show or disseminate the recording to a civilian or a non-law enforcement entity, or to disseminate it to the public, where the Morris County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, determines that disclosure to that person, entity, or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.
11. Solely and exclusively for internal training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video, unless the depicted individuals have consented to the recording being used for training purposes:
 - a. Note: permission is not required from Rockaway Township police officers appearing in the recording.
 - b. BWC recordings retained beyond 180 days solely and exclusively for training purposes shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.
12. To conduct an audit to ensure compliance with this policy.

13. To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the Morris County Prosecutor or his/her designee.
 14. Any other specified official purpose where the Morris County Prosecutor or his/her designee finds in writing that good and sufficient cause exists to authorize access to a particular BWC/MVR recording.
- D. 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.
 - E. Recordings marked 'special privacy', pursuant to subsection IX.B of this policy, shall not be accessed, viewed copied, disseminated, or otherwise used without first obtaining the permission of the Morris County Prosecutor or his/her designee. Except for when a BWC/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 Morris County Prosecutor's Office prior to complying with a subpoena, court order, or request for records under the Open Public Records Act or the common law right to know), the Morris County Prosecutor may authorize the Chief of Police, and one or more superior officers or duty positions (e.g., Detective Bureau Commander) identified by the Chief of Police, to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC/MVR recordings tagged pursuant to subsection IX.B.
 - F. If disclosure of a BWC/MVR recording as part of the State's discovery obligations in a prosecution might present a danger to any officer or civilian (e.g., *reveal an undercover officer, confidential informant, surveillance site, etc.*), or might reveal confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., *verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms during execution of warrant, techniques for convincing persons to open doors during warrant execution, etc.*), the Morris County Prosecutor or his/her designee shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or Court Rule to protect the information from disclosure, such as by seeking a protective order from the court (See section VII of this policy).
 - G. Except as otherwise provided in subsection IX.B of this policy, a BWC/MVR recording of an event or encounter that involves an investigation of a criminal offense, as defined in subsection I.A.11 of this policy, shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or officer or authorized civilian employee of such agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by a court order, or unless the Chief of Police or his/her designee in consultation with the Morris County Prosecutor or his/her designee determines that the person's/entity's/non-law enforcement agency's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.

XII. CONTROL AND MANAGEMENT

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

- F. Officers shall inform their supervisor of any recordings that may be of value for training purposes. Recordings from BWCs/MVRs may be shown for training purposes upon completion of a criminal case. All such use shall be pursuant to the written authority of the Chief of Police. Officers shall be provided with at least fifteen (15) days notice if the recordings intended for use for training purposes were either made by them or captured their image or voice.

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

- A. Open public record requests. Only the following BWC/MVR recordings shall be exempt from public inspection:
 - 1. BWC/MVR recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection XI.C.4 of this policy if the subject of the BWC recording making the complaint requests the body worn camera recording not be made available to the public.
 - 2. BWC/MVR recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection XI.C.5 of this policy.
 - 3. BWC/MVR recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection XI.C.5(a)(b)(c)(d) of this policy.
 - 4. BW/MVRC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection XI.C.5(e)(f)(g) if an officer, parent or legal guardian, or next of kin or designee requests the body worn camera recording not be made available to the public.
- B. 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 Morris County Prosecutor. Such notice shall clearly state the deadline by which a response must be made.
 - 1. Provide the type of police action or activity depicted in the recording, including, but not limited to, whether the officer was involved in an investigative detention, an arrest, an interrogation of a suspect, a witness interview, a search, a protective frisk for weapons, or was using constructive or actual force.
 - 2. Indicate whether the recording is part of an ongoing criminal or internal affairs investigation or whether release of the recording potentially infringes upon a victim and/or juvenile privacy rights.
 - 3. The agency member will receive an acknowledgement. If no further communication is received within 72 hours, the record custodian or his/her designee should respond to the request as deemed appropriate.

4. Pursuant to the *Open Public Records Act* (N.J.S.A. 47:1A-5c and N.J.S.A. 47:1A-5d), the department will apply service fees for any extraordinary expenditure of time and effort to accommodate a request. The service fees will be based upon the actual direct cost of providing the service or extraordinary time. If the requester objects to the fee, the request is closed and access to the records is not granted.
5. BWC footage requests, requiring a substantial amount of manipulation or programming of information technology, will be assessed a special service fee that shall be reasonable and shall be based on the cost for the labor cost of personnel providing the service, that is actually incurred for the programming, clerical, and supervisory assistance required, or both, if a request is for a copy of a record.
6. The fee will be based at the lowest hourly rate of the personnel authorized to review/redact/approve the request.
7. The records custodian or his/her designee will provide the requestor an estimate before any copies are made.

XIV. DELETION REQUESTS

- A. Only the administrative captain or his/her designee can delete BWR/MVR recordings with the expressed consent of the Chief of Police or the Morris County Prosecutor's Office.
- B. If an officer has inadvertently recorded data that is private or in appropriate, a request to delete the recording should be made to their immediate supervisor as soon as possible.
 1. The video shall not be viewed but, the officer shall tag the recording as '*special privacy*', and submit a report to their immediate supervisor, who will then forward such to the administrative captain. The actual BWC shall be taken out of service and turned over to the administrative captain for uploading. The officer shall be issued a spare device until it is returned.
 2. Depending on the circumstances, the internal affairs supervisor may investigate the incident.
 3. If an investigation is warranted, the internal affairs section commander or his/her designee shall conduct the investigation, respecting all rights to personal privacy, having the BWR/MVR recording viewed only by an officer of the same sex, if necessary.
 4. Upon completion of the investigation, the internal affairs supervisor shall notify the Chief of Police and request permission to delete the recording if warranted.