

UNION COUNTY POLICE DEPARTMENT GENERAL ORDER



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SUBJECT: Panasonic Body Worn Camera (BWC) Policy

BY THE ORDER OF:

CHIEF Chris Debbie

ACCREDITATION STANDARDS:

Effective Date:

01/22/2018

SUPERSEDES ORDER #:

None

PURPOSE: The purpose of this policy is to provide guidance to the employees of The Union County Police Department concerning their use and responsibility when using the Body Worn Cameras.

POLICY: It is the policy of this department that the Body Worn Cameras be used in by all officers while on patrol. Officers will record all traffic stops, pursuits, street confrontations, arrests, investigations concerning driving while intoxicated, domestic or violent encounters, street activity complaints and street interviews and/or interrogations. These Body Worn Cameras will be used by all officers while answering calls for service and conducting proactive police work.

Union County Police Department

BACKGROUND:

Body worn cameras (hereinafter referred to as BWCs) are considered to be a valuable asset intended to assist law enforcement by producing an audio-visual record of interactions with the public. It is essential that all officers wearing BWCs understand and adhere to the parameters of this policy; that they be trained on the use, maintenance, and storage of the BWC; and that they comply with the requirements/procedures associated with the preservation of recordings in order to maintain the chain of custody.

PURPOSE: The purpose of this policy is to set forth guidelines for the use, management, storage, and release of audio-visual media recorded by mobile video recorders (MVR) and Body Worn Cameras (BWC).

POLICY: It is the policy of the Union County Police Department to utilize mobile video recorders (MVR) and Body Worn Camera (BWC) to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident.

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

The Union County Police Department website shall contain a clear statement that this department utilizes mobile video recorders and wearable video/audio recorders. The website posting shall include an image showing what the BWC device looks like and how it is to be worn by uniformed officers or plainclothes detectives so that citizens will be able to determine whether an officer is equipped with the device.

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 an MVR or BWC.

2. Body Worn Camera (BWC) – is a device worn by an officer 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. Constructive authority –involves the use of an officer’s authority to exert control over a subject (see *Policy 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 or CED (e.g., "...move out of the way", "...get down", etc.).
4. Force – has the same meanings as defined in *Policy Use of Force*.
5. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.
6. Mobile video recorder – is an audio/video recording device mounted in a police vehicle that makes an electronic recording of activities within its field of vision. The officer-worn wireless transmitter can also electronically record audio outside of the view of the camera’s field of vision. Such recordings are uploaded to the server upon arrival at police headquarters.
7. School – means an elementary or secondary school

(i.e., middle school or high school.)

8. Tagging – Is the electronic labeling of a video/ audio file captured by the BWC.
9. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, etc.

II. GENERAL

- A. All references to MVR and BWC include the equipment installed in the police vehicles, body worn devices and, where appropriate, the wireless transmitter, microphone, removable media (HDD/SSD), server, and other accessories necessary to operate these systems.
- B. MVR and BWC recordings are invaluable to law enforcement for evidential purposes. MVR and 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.
- C. While visual and audio evidence may be captured on the recordings, the use of a 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. **Personnel 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.**
- D. Adequate safeguards are necessary to ensure that this technology is:
 1. Used in a non-discriminating way;
 2. Used to properly preserve evidence;

3. Used to safeguard against potential violations of the New Jersey State Wiretap Laws, NJSA 2A: 156A-1, et seq.
- E. When properly used, this equipment will have the following capabilities:
1. Creation of accurate documentation of motorist contacts and other patrol related activities.
 2. Preservation of an audio and video record of events, actions and conditions during arrests, critical incidents, and prisoner transports.
- F. 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 particular incidents, thereby protecting both the public and the officers involved.
 4. When complete recall is not possible, such as when multiple events are happening simultaneously or out of an officer's line of sight, an audio/visual recording can provide an accurate record of events.
 5. MVR/BWC can provide a record of police/citizen interaction within the police vehicle itself when an officer's attention is on driving. For example, an MVR/BWC will record events during transportation of arrested persons, escape risks, mentally disturbed individuals, intoxicated persons, people who are physically injured and members of the opposite sex. The recording can provide accurate documentation of highly detailed and/or fast-moving incidents, such as roadside sobriety testing, violent encounters, and pursuits.
 6. 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. **Requests for videos under this section shall be forwarded to the division commander/system administrator.**

7. Recordings can permit supervisors to undertake more meaningful performance evaluations.
 8. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the general public.
 9. Recordings enhance management's ability to train personnel in proper police procedures.
- G. Repairs to any of the MVR and/or *BWC* equipment shall only be performed by the Information Technology Unit or other person(s) designated by the Chief of Police.
- H. The Chief of Police shall establish a training program on the lawful and proper use of MVR and BWC equipment. Only officers who have received training in the use of MVR/BWC are permitted to use these systems and must demonstrate a satisfactory degree of familiarity and efficiency in the use of these systems.
- I. MVR and BWC 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.
- J. MVR:
1. The MVR is preprogrammed to automatically begin recording when the vehicle's emergency lights are activated, in the event of a crash, or other trigger. Whenever the MVR is activated, officers shall ensure that their BWC is also activated.
 2. Officers engaged in undercover operations or surveillance activities are not required to utilize MVR/BWC.
- K. BWC:
1. Officers will use only those devices approved and issued by the Chief of Police. Wearing any personally

owned video/audio recorder is not authorized without the expressed written permission of the Chief of Police, internal affairs commander, 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.

2. Officers and Supervisors in the Patrol Division, Traffic Division as well as Supervisors Detectives and Detectives doing self-initiated police work, when engaged in routine patrol functions, shall be designated to wear the BWC device. All non-uniformed personnel *shall* wear a BWC when taking part in planned enforcement activities (ex. Search Warrants, buy bust operations, arrest warrants etc.). Any detective/officer assigned to a non-uniformed position shall carry and activate a department BWC at any time they are doing patrol type work (ie. Car stops /pedestrian stops). All BWC will be worn high on the chest area of the shirt. If wearing a uniform shirt the BWC will be worn at the 2nd or 3rd button on the shirt.
3. Officers working extra duty assignments at Social Services, JIB's or athletic events may wear BWCs while on the extra duty assignment at the direction of the Chief or his Command Staff.
4. Officers engaged in investigative work, undercover operations or surveillance activities are not required to utilize BWCs.
5. BWC shall be used only in conjunction with official law enforcement duties. The BWC shall not be used to record:
 - a. Encounters with undercover officers or confidential informants;
 - b. Communications with other police personnel without the advanced permission of the Chief of Police, internal affairs commander, the Union County Prosecutor's Office or the New Jersey Division of Criminal Justice;
 - c. When on break or otherwise engaged in personal activities;

- d. In any location where individuals have a reasonable expectation of privacy, such as restroom or locker room.
 - e. When engaged in police union business;
 - f. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction;
 - g. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording; or
 - h. While discussing criminal investigation strategies. Officers equipped with both an MVR and a BWC, who are within the field of view of the MVR, shall turn off the BWC to discuss criminal investigative strategies.
 - i. Prior to turning off the BWC the officers will state on the video the reason for shutting it off. Once the reason for shutting it off is over the officer will reactivate the BWC.
6. BWCs are considered issued equipment until relinquished at the direction of a supervisor.
- L. All recording media, images, and audio are the intellectual property of the Union County Police Department and will not be copied, released or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Chief of Police.
- M. Under no circumstances will any member of the Union County Police Department make a personal copy of any recorded event without the expressed permission of the Chief of Police.

III. INCIDENTS TO RECORD

- A. The following incidents shall be recorded:
- 1. All calls for service;
 - 2. All traffic stops from the time the violation is observed

until the stop is concluded;

3. All pedestrian stops or encounters;
4. Field sobriety testing, if practicable;
5. Stationary police details, such as DWI sobriety checkpoints, car/truck inspections, seatbelt use checkpoints, etc.;
6. Crash scenes, including interviews on the scene; (this excludes the crash investigation unit.
7. Crime scenes;
8. Motor vehicle pursuits;
9. Investigations of criminal violations (not to include undercover investigations or related surveillance activities);
10. Investigative detentions/field interviews;
11. When an officer uses constructive authority or force, or reasonable 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);
12. Searches (all types, including frisks);
13. Arrests;
14. Arrestee/prisoner transportation;
15. Special events or projects, including but not limited to crowd control, unruly crowds, or any incident requiring activation of the all hazards or emergency operations plan;
16. Domestic violence investigations;
17. Strikes, picket lines, demonstrations; and
18. Welfare checks of residents and motorists (motorist aid).

- B. Notwithstanding any other provision of this policy, when an officer equipped with a MVR and/or BWC 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 MVR and/or BWC before arriving at the scene when feasible.
- C. 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 their MVR/BWC unless instructed to do so by the assistant prosecutor supervising the investigation of the deadly force incident pursuant to Attorney General Law Enforcement Directive 2006-5. Such instruction may be given telephonically by the assistant prosecutor or his/her designee supervising the investigation
- D. MVR and BWC shall remain activated for the entire duration of citizen contact until either the officer or citizen have departed the scene and the officer has notified communications that the event is closed.
- E. BWC's may be activated during transport of an arrestee/prisoner. It shall be deactivated upon arrival at Police headquarters during prisoner processing.
- F. When wearing a BWC, officers shall 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.
 - 1. 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.
 - 2. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
 - 3. If an officer fails to activate the BWC, fails to record the entire event contact, or interrupts the recording,

the officer shall document in the applicable investigation report why a recording was not made, was interrupted, or was terminated.

- 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., a station house custodial interrogations must be electronically recorded unless a statement is made during a custodial interrogation by a suspect who indicated, prior to making the statement, that he/she would participate in the interrogation only 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 only if the deactivation request is honored.
 2. Officers may deactivate a BWC when a person, other than an arrestee, is seeking emergency medical

services for him/herself or another and requests that the BWC be deactivated. In deciding whether to deactivate the BWC, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance.

3. When an officer deactivates a BWC:
 - a. The conversation between the officer and the civilian concerning the request for deactivation shall be electronically recorded;
 - b. The officer before deactivating the BWC shall narrate the circumstances of the deactivation (e.g. "*...I am now turning off my BWC as per the victim's request*").;
 - c. The officer shall report the circumstances concerning the deactivation to the shift supervisor as soon as is practicable; and
 - d. The officer shall document the circumstances of the deactivation in any investigation report (if applicable) concerning the incident under investigation.

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. In the event that the officer declines a deactivation request, the officer shall immediately inform the person making the request of that decision.
 - b. Officers are prohibited from misleading the person making the deactivation request into believing that the BWC 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. Officers may deactivate a BWC when specifically authorized to do so by an assistant prosecutor or deputy attorney general for good and sufficient cause as determined by the assistant prosecutor or deputy attorney general. When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor or assistant deputy attorney general who authorized the deactivation (e.g., "...I am now turning off my BWC as per the instruction of assistant prosecutor (insert name)").
6. Officers may deactivate a BWC while participating in a discussion pertaining to criminal investigation strategy and planning (e.g., to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to summon a drug/explosives detection canine, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.), provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation (e.g., "...I am now turning off my BWC to discuss investigative strategy with my supervisor").
7. 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 if and when the circumstances requiring deactivation no longer exist* (e.g., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWC).
8. In the event that a BWC captures the image of a

patient in a substance abuse treatment facility, the Chief of Police or his/her designee shall notify the Union County Prosecutor or his/her designee to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information (42 USC § 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. (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.)

9. *In any instance where a BWC was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so if and 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 shall not activate a BWC or 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 the shift supervisor that the image of an undercover officer or confidential informant was recorded. The BWC/MVR shall be activated/reactivated as soon as it is safe and practicable to do so if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
- I. 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.
- J. In the event that a BWC worn during the execution of tactical

operations (e.g., SWAT/ERT/ESU/UCERT operations, execution of arrest and/or search warrant, etc.) 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.), the recording shall be tagged accordingly to prevent its unauthorized release.

- K. The BWC device 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.
- L. **When entering the Communications/ Dispatch officers shall deactivate their BWC's prior to entering due to the presence of visible monitors with privileged or LE sensitive information. (Ex. CJIS and AOCTELE information.)**
- M. When an MVR or BWC is activated, officers will provide narration where practical and appropriate in an effort to augment the value of the recording and to provide clarity for the viewer.
- N. Officers shall note in their investigation reports when MVR/BWC recordings were made during the incident in question. Officers shall also note the MVR's vehicle number and/or the BWC's number. However, MVR/BWC recordings are not a replacement for written reports. **Under no circumstances shall officers simply refer to an MVR/BWC recording on an investigation report instead of detailing the facts and circumstances of their investigation/observations.**
- O. 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 *the Union County Police Internal Affairs Policy* All other requests to view and/or obtain footage by the public shall be handled in accordance with section **V** of this policy.

IV. OFFICER AND SUPERVISORY RESPONSIBILITIES

A. MVR:

1. **PRE-SHIFT TESTING** – Officers shall inspect the MVR at the beginning of each shift to ensure the video recording readiness of the system.
 - a. Officers shall immediately notify a supervisor of any MVR units found to be malfunctioning.
 - b. Vehicles with an inoperative MVR can still be used.
 - c. At the conclusion of an Officer's shift the Officer shall upload any videos recorded during that shift.

B. BWC:

1. When not in use, BWCs shall be stored in the designated docking stations. The docking stations allow for the units to be charged and for the download of video to the server.
2. Prior to beginning a shift, officers assigned a BWC will ensure its readiness by conducting an operational inspection. Officers shall also inspect BWC's at the conclusion of each shift to ensure system integrity.
3. Officers shall note the BWC camera number on their vehicle sign out sheet in TRITECH RMS. This number will be marked on each BWC (ie. BC-5).
4. Once an officer has conducted their operational inspection of the BWC, the officer will then need to pair the BWC with the MVR. The officer will sign into the Arbitrator on the MDC in the vehicle and connect the USB cable that is provided to the BWC. Once this is done, the camera will pair the name, assignment, shift times, etc... from the Arbitrator to their BWC. If this method does not pair the BWC in the patrol vehicle, the BWC is still functional and can still be used. The officer must document that the BWC is not pairing correctly or there is a malfunction.
5. In the case of two officers assigned to a vehicle, both officer's names will be entered into the Arbitrator (one

officer under Officer 1, the other officer under Officer 2). After logging both officers in, the officers will then click on the "Officers" tab (next to "Info"), and Officer 1 will connect their BWC via the cable and pair the camera to the vehicle. Once paired, Officer 1 will click "Set Body Worn" next to their name and once completed, will disconnect the USB cable from the BWC. Officer 2 will then connect his and follow the same process, clicking on "Set Body worn" next to his name.

6. When conducting the pre and post shift inspection, the officer shall activate the BWC/MVR and verbally state the date, time, name, rank, post and vehicle used whether a pre or post-shift inspection is being conducted, and that a test is being performed on the unit. Tests for both BWC/MVR should be done simultaneously.
7. The results of the inspection, including any malfunctions or deficiencies, shall be noted in the Vehicle inspection report. Malfunctions shall be documented in the CAD system as an Equipment Failure.
8. Any problems preventing the use of the unit during the shift will be reported to the shift supervisor.
9. Charging cables have been installed in the vehicle and BWC should be recharged as needed during the officer tour of duty. Charging cables are to be used for BWC's only. Any lost, missing or damaged charging cable will be documented.
10. Officers will dock their BWC for download to the docking station upon completion of their shift and all BWC mounting equipment shall be returned.
11. Officers can also upload their video in the vehicles, once connected to the Arbitrator via the USB cable. Officers can click on "Body Worn" and "upload" which will upload the video on their BWC's.
12. Officers shall tag their videos during the recording on their BWC's. Videos can also be tagged through the Arbitrator Back-End Client program.

13. Any damage to a BWC or related equipment during an officer's shift shall be reported to the officer's immediate supervisor. An Equipment Damage/Failure CAD entry shall be generated and completed.
- C. When video/audio footage is captured involving any part of an arrest or significant event, officers will tag the recording for storage.
 - D. When video is to be held for evidentiary purposes or any other reason, The Detective Bureau Evidence officer or his designee shall record a copy of the video onto a CD/DVD. The CD/DVD will be stored in accordance with proper evidence handling procedures.
 - E. To identify BWC recordings that may raise special privacy or safety issues, officers shall appropriately tag recordings that:
 1. Captures the image of a victim of a criminal offense;
 2. Captures the image of a child;
 3. Were made in a residential premises (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship;
 4. Captures a conversation with a person whose request to deactivate the BWC was declined;
 5. Captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded;
 6. Captures the image of an undercover officer or confidential informant; or
 7. Captures the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
 - F. Supervisory Responsibilities:
 1. Supervisors shall ensure that officers utilize MVRs and BWCs in accordance with this policy.

2. Supervisors shall ensure that MVR/BWC recordings are uploaded to the server in a timely fashion.
3. Supervisors shall formally review all instances when an MVR/BWC is deactivated prior to the conclusion of an incident and forward the documented review through the chain of command to the Chief of Police or his/her designee.
4. Supervisors will conduct reviews of selected recordings, 4 videos per tour in order to assess officer performance, as well as to assure compliance with this policy.
5. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the supervisor will flag the video/audio for indefinite retention.
6. In the event of a use of deadly force the first supervisor on scene shall secure the BWC's of all officers involved in the incident.

V. RECORDS RETENTION AND REVIEW

- A. Viewing of MVR and BWC events is strictly limited to sworn officers 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 written policy.
- B. No law enforcement officer or civilian employee of this agency shall access, view, copy, disseminate, or otherwise use an MVR/BWC recording except for an official purpose. Access to and use of a stored MVR/WVR 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 MVR/BWC made the recording in preparing his or her own police 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; Only with the consent of the Chief of Police or his designee.
7. To comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court;
8. To comply with any other legal obligation to turn over the recording to a person or entity;
9. To show or disseminate the recording to a civilian or a non-law enforcement entity or to disseminate it to the public, where the Union County Prosecutor or his/her designee or Director of the Division of Criminal Justice or his/her designee determines that disclosure to that particular person entity or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality;
10. For training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video unless the depicted individuals have consented to the recording being used for training purposes;
11. To conduct an audit to ensure compliance with this policy;
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; or

13. Any other specified official purpose where 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 MVR/BWC recording
- C. Personnel shall not erase or in any other manner alter, tamper with, destroy, or conceal any MVR and/or BWC recordings or remove or disable any camera. Any such tampering is a violation of NJSA 2C: 28-7, and is a 4th degree crime.
- D. Recordings are considered routine business records of this police department and shall be maintained and disposed of in accordance with New Jersey Division of Archives and Records Management (NJDARM) Records Retention Schedules.
1. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes, recordings shall be retained for a minimum of 180 days.
 2. Recordings that are being stored for criminal, civil, or administrative purposes are to be transferred to a DVD/CD and submitted as evidence.
 3. Recordings being stored for criminal, civil, or administrative purposes must be maintained until the conclusion of the case. Recordings maintained for these purposes can only be erased or destroyed in accordance with the New Jersey Bureau of Archives, Record Retention Schedule.
- E. The Chief of Police 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 state clearly the deadline by which a response must be made.
- F. An MVR or BWC 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 of Police 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. If disclosure of a BWC recording as part of the state's discovery obligations in a prosecution might present a danger to any officer or civilian (e.g., reveal an undercover officer, confidential informant, surveillance site, etc.), or might reveal confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms during execution of warrant, techniques for convincing persons to open doors during warrant execution, etc.), the Union County Prosecutor or his/her designee shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or court rule to protect the information from disclosure, such as by seeking a protective order from the court.
2. *The assistant prosecutor overseeing a police use of force investigation pursuant to Attorney General Law Enforcement Directive 2006-5, or his/her designee, 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. To ensure the integrity of investigations of police-involved shootings and other use of force incidents and to avoid possible contamination of a witness's personal recollection of events that could undermine his or her credibility as a witness, notwithstanding any other provision of this policy, no civilian or law enforcement witness, (including the principals) of the investigation, shall be given access to or view a BWC recording of the incident, or a BWC recording of the response or on-scene investigation of the incident, without the expressed prior approval of the assistant prosecutor or his/her designee.*

- G. The MVR/BWC system administrator or his/her designee shall maintain a record of all MVR/BWC recordings that are accessed, viewed, copied, disseminated, or deleted. The Chief of Police shall cause a periodic audit of these records to ensure compliance with this policy.

- H. Types of video review:
 - 1. Compliance Review- Each working tour for patrol, or each week in the case of personnel on other work schedules, the Shift Commander will review 4 videos from the BWC. This number may change at the discretion of the Division Commander. Shift Commanders or Supervisors will select officers for review with the following restrictions:
 - a. Officers will not be selected a second time until all officers on that tour or in that work group have been selected for review.
 - b. Officers will not be selected more than (3) three times in any 30 day period. If it is not possible to complete the specified number of reviews because it would require a fourth review, the circumstances will be detailed in a report to the appropriate Division Commander. The only exception will be if an officer has been previously identified as in need of additional training or supervision. Such exception will only be granted by the appropriate Division Commander, who will stipulate the frequency and duration of the extended review period. Each circumstance where an officer is subjected to more frequent review for training purposes will be documented by the Division Commander and forwarded to the Chief of Police.
 - c. Compliance reviews will be completed and anything found to be out of compliance will be reviewed with the officer. This review is intended to insure compliance and as a training opportunity.
 - d. Only the System Administrators, The supervisors and the officer who actually recorded the video have the ability to recall video for review. Supervisors conducting reviews will complete a video review sheet. This sheet will record the

names, date and incident number for each video reviewed.

- e. No other personnel will be shown the videos during the review process without permission of the Division Commander.
2. Other Reviews- As stipulated in this policy there are a many authorized purposes for reviewing video. **Nothing in this policy will restrict an officer's ability to review their own video for purposes of completing reports with the exception of those circumstances as defined by the Attorney General and contained in section V. F. 3. of this policy (use of Deadly Force incidents). Officers will not share there video for any purpose other than the circumstances described in this policy.**
 - a. The Supervisor requesting to review a video for a reason other than policy compliance will generate a Video Review card in the Cad and specify in detail the circumstances that necessitate the review.
 - b. The Supervisor will document in the report the findings of the review and any action that is necessary.
 - c. When a video review is necessary for a purpose enumerated in this policy and is not of an emergent circumstance, a request will be made to a designated Division Commander/ System Administrator. The Division Commander/ System Administrator will review the circumstance to insure the request conforms to this policy, and supply the video if it is for an authorized purpose. The requesting officer will detail in their report for the case necessitating the request, who provided the video and in what format.
 - I. Minimally, the record keeping system (Video Review Card) shall document the following information:
 1. The date and time of access;
 2. The specific recording(s) that was/were accessed;
 3. The officer who accessed the stored recording;

4. The person who approved access, where applicable; and
 5. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.
- J. In the event that a 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 of Police or 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.
- K. Officers 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.
- L. 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 of Police.