

# KINNELON POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



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**SUBJECT: BODY WORN CAMERAS / MOBILE VIDEO RECORDERS**

**BY THE ORDER OF:**

**Chief of Police Joseph Napoletano**

**ACCREDITATION STANDARDS: 3.5.5**

**Effective Date:**

**October 27, 2021**

**SUPERSEDES ORDER #: V3C34 (11/24/2013)**

**PURPOSE** The purpose of this standard operating procedure is to maintain guidelines for the use, management, storage, and release of audio-visual media recorded by body worn video/audio cameras (BWC) and mobile video recorders (MVR). 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 Kinnelon Police Department to utilize BWCs and MVRs to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident.

BWCs and MVRs shall be deployed and utilized by all personnel in a manner consistent with manufacturer's guidelines, the provisions in this SOP, and those directives or guidelines issued by the New Jersey Attorney General, *specifically New Jersey Attorney General Directive 2021-5*, and the Morris County Prosecutor's Office. Failure to use this technology in accordance with this SOP and those directives or guidelines set forth in *New Jersey Attorney General Directive 2021-5* and the Morris County Prosecutor's Office shall be subject to discipline.

The Kinnelon Police Department webpage shall publicize the official deployment of BWCs to the public. It shall contain a clear statement that this department utilizes body worn video/audio recorders and maintain a clearly identifiable link to this SOP. The website posting shall include an image showing what the device looks like and how it is to be worn by uniformed officers or plainclothes detectives so that the public will be able to determine whether an officer is equipped with the device. The Chief of Police shall provide certification to the Morris County Prosecutor's Office of this general notification to the public.

Any willful or repetitive violations of this SOP shall be reported the internal affairs 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 SOP and to prevent future violations.

## PROCEDURES

### I. DEFINITIONS

- A. For purposes of this SOP, the following terms are defined:
1. Activate – means to actuate (put into operation) the recording mode/function of a BWC or MVR.
  2. 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. Constructive authority – involves the use of an officer's authority to exert control over a subject (see this department's SOP on *Use of Force*), except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g., "...*show me your hands*," "...*get out of the vehicle*", etc.), or directed against any person if the officer has unholstered a firearm (e.g., "...*move out of the way*", "...*get down*", etc.).
  6. Daily tour of duty – an officer's single workday.
  7. Deactivate – the process of stopping the recording mode / function of a BWC or MVR.
  8. Digital evidence – includes photographs, audio and video recordings that are stored electronically.
  9. Force – has the same meanings as defined in this department's SOP on *Use of Force*. The term force shall include physical, mechanical, enhanced mechanical, and deadly force.
  10. 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 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.

11. Metadata – A created digital image may include metadata that describes how large the picture is, the color depth, the image resolution, when the image was created, and other data.
12. Mobile Video Recorder – is mobile video recording equipment installed in a police vehicle. All references to MVR shall include the equipment installed in the police vehicles, removeable components and media devices, and where appropriate, other accessories necessary to operate the system.
13. Proactive enforcement team – includes officers who are typically assigned to target vice, drugs, organized street crime, violent crime and/or any other targeted enforcement. Unlike officers who are responsible for responding to traditional calls for service, these officers are typically assigned the singular responsibility of addressing these activities (e.g., street crime unit, crime suppression unit, etc.). The nature of their work may include being dressed in traditional uniform, modified uniform, or plain clothes. These officers may work alongside undercover officers, conduct surreptitious surveillance, engage in high intensity enforcement via motor vehicle/pedestrian stops and/or interact with confidential informants or witnesses who wish to remain.
14. School – means a public or nonpublic elementary or secondary school within this State offering education in grades kindergarten through 12, or any combination of grades, at which a child may legally fulfill compulsory school attendance requirements.
15. Significant event – refers to any non-criminal event recorded on a BWC or MVR that could have administrative or evidentiary value and should be reviewed and/or saved. This would include alleged complaints against the members of the department.
16. Subject of the video footage – means any law enforcement officer, suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body worn camera recording and shall not include a person who only incidentally appears on the recording.
17. 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.
18. 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.
19. 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.

20. Undercover officer – is a law enforcement officer operating with an assumed identity and/or disguise for the purposes of gaining the trust of an individual or organization to learn or confirm confidential information or to gain the trust of targeted individuals to gather information or evidence. Plain-clothed officers and detectives are not considered undercover officers unless working with an assumed identity and/or disguise.
21. Youth facility – means a facility where children (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 restrictions in this SOP, supervisors will be able to view the recordings and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.
  6. Recordings can permit supervisors to undertake more meaningful performance evaluations.
  7. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the public.

8. Recordings enhance management's ability to train personnel in proper police procedures.
- D. When properly used, this equipment will have the following capabilities:
1. Creation of accurate documentation of motorist contacts and other patrol related activities, including, but not limited to, arrests, other police-civilian 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-civilian 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 properly preserve 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 those BWCs and MVRs purchased by the department. The use of BWCs and MVRs with electronically enhanced audio/visual capabilities, such as infrared vision features, 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 Kinnelon Police Department make a personal copy of any recorded event or direct someone to make a personal copy, except as authorized in this SOP.
- I. This department will not tolerate the reliance by any officer on race, ethnicity, gender, gender identity, gender expression, sexual orientation, religion, economic status, age, culture, LGBTQ+ status, or any other immutable characteristic of a group or class of persons, in determining whether to activate or deactivate a BWC or MVR.

- J. 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 SOP 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.
- K. 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.
- L. The operations officer 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. Repairs to any BWC/MVR equipment shall only be performed by the manufacturer or under the direction of the operations officer or his/her designee.
  4. Ensure that all recordings are uploaded to a secure data storage system in a timely fashion.
  5. Prevent tampering with or deletion of recorded data both before and after uploading from the BWC/MVR and uploading to the storage system.
  6. Restrict unauthorized access to stored BWC/MVR recordings.
  7. Document all instances where BWC/MVR recordings are accessed, viewed, copied, disseminated, or deleted (this can be generated by the BWC/MVR server software).
  8. Permit auditing of all instances where BWC recordings are accessed, viewed, copied, or deleted.

9. Review BWC/MVR internal audit to ensure compliance on the utilization of these devices in accordance with departmental SOP. The Chief of Police will be notified immediately if the system or audio/video recordings are compromised or accessed without proper authorization.
10. Prior to the destruction, erasing or deletion of any BWC/MVR recording, other than by automated retention, the operations officer 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.

### **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, the device shall be worn and used consistent with the requirements and restrictions in this SOP as an authorized component of the uniform of the day. Detectives and staff officers shall wear and use a BWC when in the field and engaged in law enforcement activity.
  1. Officers are not required to activate their BWCs in police headquarters unless they are investigating a walk-in complaint.
  2. Officers are required to wear BWCs on extra duty assignments except for assignments involving solely traffic direction.
  3. Officers shall also wear and use a BWC consistent with this SOP when:
    - a. On aggressive driving, DWI interdiction assignments, or other proactive enforcement team.
    - b. When assigned to front desk assignments and interacting with the public on a law enforcement matter.
    - c. When assigned to or assisting any tactical team in the field.
  4. 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.
  5. BWCs shall be stored in their charging sleeves when not in use to permit charging of the device and downloading of recordings.
  6. Officers shall use the device specifically assigned to them unless otherwise authorized or directed by a supervisor.
  7. The use of a spare BWC must be authorized by the shift sergeant/OIC. The shift sergeant/OIC must document the issuance of the spare BWC by email and forward such to the operations officer. The operations officer or his/her designee shall assign the BWC to the officer in the BWC/MVR software for the duration of its use.

8. BWCs shall only be used in conjunction with official law enforcement duties.
  - a. Officers engaged in undercover operations or surveillance activities are not required to utilize BWCs.
  - b. Officers assigned to administrative duties are not required to utilize BWCs while in headquarters.
  - c. BWCs shall not be used surreptitiously.
  - d. BWCs shall not be used to gather intelligence information based on 1<sup>st</sup> Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public, except in accordance with any applicable guidelines or directives promulgated by the New Jersey Attorney General.

B. Officer's responsibilities

1. BWC equipment is the responsibility of the assigned officer and shall be used with reasonable care.
2. 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.
3. The main power switch of the device shall be placed in the STANDBY position while in headquarters unless the officer is dealing with a walk-in complaint (subsection VI.J.1.e of this SOP).
4. 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.
5. 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'.
  - f. View the recording to ensure that the system is functioning properly.
6. 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 SOP)
7. 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.
8. 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.

#### **IV. MOBILE VIDEO RECORDERS**

- A. Equipment installed in a patrol vehicle is the responsibility of the officer assigned to that vehicle. The officer must ensure that the MVR is operating properly prior to the start of his/her shift and must report all malfunctions, damage or other problems to the duty patrol sergeant or shift sergeant/OIC.
  - 1. No one is permitted to move the installed components of the system from its positions without authorization by the operations officer or his/her designee or as permitted by this SOP.
  - 2. Likewise, no one is authorized to repair any MVR equipment or related component except those personnel authorized by the operations officer or his/her designee.

3. Equipment shall be maintained according to manufacturer's recommendations.
- B. Installation, removal, or repairs to any of the MVR equipment shall only be performed under the direction of the operations officer 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 operations officer or his/her designee so that arrangements can be made to secure the removable media.
- C. It is the officer's responsibility to exercise reasonable care when using the equipment. Misuse of the equipment that results in damage or loss may result in disciplinary action and/or replacement of such equipment by the officer.
- D. Prior to each shift, officers shall determine whether their MVR equipment is working satisfactorily and shall bring any problems at this or other times to the attention of the shift sergeant/OIC as soon as possible.
1. To verify operation of the video portion, activate the MVR and place it in record mode (manually or via activation of overhead lights) to test operability.
  2. Inoperable or damaged MVR equipment shall be immediately reported to the shift sergeant/OIC.
  3. The shift sergeant/OIC shall check the MVR equipment to determine the problem. In the event all patrol vehicles are in use and a backup is not available the officer can utilize the patrol unit with permission from the shift sergeant/OIC.
- E. In the event an officer who has reported for duty needs to immediately respond to a priority call and is unable to sign onto the MDC or fully check the MVR system prior to his/her response, he/she shall still operate the MVR within this SOP until such time he/she is able to fully check the system as soon as practicable thereafter.
- F. If for any reason (e.g., officer did not have time to pair his/her 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 SOP, 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. SUPERVISORY RESPONSIBILITIES**

- A. Shift sergeant/OICs are responsible for ensuring that on-duty officers are equipped with functioning BWCs at the beginning of each shift. Shift sergeant/OICs shall:
  1. Ensure that all officers follow proper procedures for the use and operation of BWC and MVR equipment.
  2. Document requests for repairs and replacement of damaged or inoperable BWC and MVR equipment in accordance with this SOP.
- B. Upon discovery of a BWC that is damaged or non-functioning, the shift sergeant/OIC will remove a BWC from service and then notify the operations officer 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 operations officer's mailbox.
- C. Upon discovery of an MVR that is damaged or non-functioning, the shift sergeant/OIC shall notify the operations officer 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 sergeants/OICs 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 sergeant/OIC shall take custody of the BWC after the entire incident has concluded and the BWC's has been deactivated in accordance with the parameters set forth in this SOP.
  2. The shift sergeant/OIC 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 operations officer 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 monthly tour of duty 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 SOP; and
  4. Flag video/audio recordings that may be deemed appropriate for training and/or disciplinary purposes.
- F. Reviewing supervisors shall formally review the recordings of officers under their supervision for every BWC/MVR event involving:
1. Use of force; and
  2. Pursuits; and
  3. Officer involved injuries; and
  4. 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 SOP. Officers under their supervision will be retrained on proper tagging, as needed.
- H. Supervisors shall formally review all instances when a BWC is deactivated prior to the conclusion of an incident that requires recording 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 of time, and monthly reviews cannot be accomplished, another supervisor on the shift shall be assigned to conduct the reviews until the return of the assigned supervisor.
  2. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the reviewing supervisor will label the recording for indefinite retention.

## VI. INCIDENTS TO RECORD

- A. MVR equipment is preprogrammed to begin recording when the vehicle's emergency lights/siren are activated, the vehicle operator's BWC is activated, or the record button is pressed manually on the MVR unit.
1. MVRs are programmed to pre-record 30 seconds of video only.
  2. Whenever the MVR is activated, officers shall ensure that the audio portion is also activated. Video recording might not completely document events as they occur. Therefore, officers are encouraged to provide narration as the events are occurring to the extent possible.
  3. Officers equipped with body worn cameras (BWC) are still required to utilize the vehicle's MVR, if so equipped.
  4. Nearby BWCs could activate when the emergency lights are activated on a vehicle. This includes the possibility of BWCs worn by officers in headquarters being activated when a vehicle's emergency lights are activated just outside the building.
  5. Officers are encouraged to manually activate the MVR prior to activating overhead emergency lights when appropriate to record actions, which may assist in demonstrating probable cause or capturing video evidence of a violation. (e.g., moving violations committed prior to stopping the vehicle)
- B. When in the field, BWCs will remain in standby mode ready to be activated at any time. When an officer activates the recording mode / function, the device will record from the moment the record start / stop button is pressed. Activation should occur before arriving at the scene, when feasible. Likewise, the vehicle's MVR shall be activated when the officer is assigned to an MVR-equipped vehicle.
- C. Except when otherwise restricted in this SOP, officers shall video and audio record all law enforcement activity including any interaction with a civilian. However, if an immediate threat to the officer's life or safety makes activating the BWC/MVR impossible or dangerous, the officer shall activate the BWC/MVR at the first reasonable opportunity to do so. Examples of such required recordings include, but are not limited to:
1. 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 except for crime scene processing.
9. Any call for service related to a violation or suspected violation of possessing or consuming 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. Investigative detentions or officer-initiated pedestrian stops.
17. Conducting warrantless searches (all types, including protective frisks, consent, etc., but not strip or body cavity searches).
18. Motor vehicle assistance calls.
19. Conducting arrests.
20. Drug recognition expert evaluations.
21. Overdose and suspected overdose investigations.
22. Emotionally disturbed person investigations or encounters.
23. Domestic violence investigations:
24. 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.
25. During special events or projects, including, but not limited to crowd control, unruly crowds, strikes, picket lines, demonstrations or incidents requiring activation of the all-hazards or emergency operations plan.

26. 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).
  27. 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.
  28. Conducting welfare checks of residents and motorists (motorist aid) / community caretaking function.
  29. An officer reasonably believes that any other officer on the scene has undertaken, or is engaged, in any of the foregoing police actions/activities.
- D. Whenever the BWC/MVR is activated, officers shall ensure that the audio portion is also activated and the volume on the patrol vehicle's AM/FM radio is turned OFF.
- E. BWCs/MVRs shall remain activated for the entire duration of an incident and shall not be deactivated until the incident is concluded. The term concluded can be interpreted as:
1. BWC/MVR equipped officer has left the scene; 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, and the incident is closed in CAD.
- F. During transportation of all arrestees from the scene of the arrest to headquarters, BWCs/MVRs shall remain activated until:
1. The vehicle is parked and turned off (MVR).
  2. The arrestee is secured in the holding cell or processing room (BWC).
  3. 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).
  4. 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

- G. 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 Kinnelon Road and Ricker Road...*").
- H. Notifications to subjects / crime victims / civilians within a place of abode:
1. When wearing a BWC, officers shall notify the subject of the recording that they are being recorded unless it is unsafe or unfeasible to provide such notification. Such notification shall be made as close to the inception of the encounter as is reasonably possible.
  2. Prior to entering a private residence, officers shall notify the occupant that the occupant is being recorded and, if the occupant requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that the officer will be required to use constructive authority or force.
  3. When interacting with an apparent crime victim, officers shall, as soon as practicable, notify the apparent crime victim that he or she is being recorded and, if the apparent crime victim requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC.
  4. When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, if the person requests that the officer discontinue use of the body worn camera, officers shall evaluate the circumstances and, if appropriate, discontinue use of the BWC.
  5. If the officer decides not to provide notification of BWC activation because it is unsafe or unfeasible to do so, the officer shall document the reasons for that decision in the investigation report of the incident.
  6. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
- I. 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.
- J. Special activation rules governing deadly force incidents and other exigent circumstances when officers are in danger:
1. Notwithstanding any other provision of this SOP, when an officer equipped with a BWC/MVR is dispatched to or otherwise goes to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance (*e.g., an officer in distress, shots fired, etc.*), the officer shall activate his/her BWC/MVR before arriving at the scene unless impracticable.
  2. Notwithstanding any other provision of this SOP, an officer while at the scene of a police deadly force event, pursuit resulting in death or serious bodily injury, in-custody death incident, or the on-scene investigation of such events shall not deactivate his/her BWC/MVR unless instructed to do so by the assistant prosecutor or deputy attorney general supervising the investigation of the deadly force incident pursuant to *Attorney General Law Enforcement Directive 2019-4*. The assistant prosecutor/deputy attorney general or his/her designee supervising the investigation can provide such instruction telephonically.
- K. Deactivation or muting of a BWC:
1. A BWC-equipped officer may deactivate/mute a device when:
    - a. Discussions pertaining to criminal investigation strategy / planning – Officers may mute a BWC while participating in a discussion pertaining to criminal investigation strategy and planning (*e.g., to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to summon a drug/explosives detection canine, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.*), provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When an officer mutes a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation (*e.g., "...I am now muting my BWC to discuss investigative strategy with my supervisor, detective or other on scene personnel as required"*).
    - b. Assistant prosecutor/deputy attorney general authorization – Officers may deactivate/mute a BWC when specifically authorized to do so by an assistant prosecutor/deputy attorney general for good and sufficient cause as determined by the assistant prosecutor. When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor who authorized the deactivation (*e.g., "...I am now deactivating (or muting) my BWC 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 to record the behavior of a person arrested for driving while intoxicated other than while the person is in the breath testing area while the **ALCOTEST 7110 MKIII-C** is being operated. The officer shall narrate the reasons for deactivation (e.g., "...I am deactivating the BWC because the suspect is about to take a breath test") and the BWC shall be reactivated when safe and practicable to do so following the completion of the breath testing operation.
  - d. Emergency medical assistance – Officers may deactivate a BWC when a person, other than an arrestee, is seeking emergency medical services for him/herself or another and requests that the BWC be deactivated. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance.
  - e. Walk-in reports at headquarters – In order to prevent the recording of events unrelated to calls for service, officers at police headquarters investigating walk-in complaints are authorized to place their BWC in STANDBY mode when not in the presence of the complainant (e.g., *typing of complaints, or other follow-up activities conducted in the dispatch area, booking room, report writing room, etc.*). The officer shall narrate on the BWC the reason for the deactivation and immediately re-activate the BWC each time contact with the civilian is reestablished.
2. When an officer deactivates (or mutes) a BWC:
- 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, shall narrate the circumstances of the deactivation (e.g., "...I am now turning off my BWC as per the victim's request").
  - c. The officer shall report the circumstances concerning the deactivation to their supervisor as soon as is practicable.
  - d. The officer shall document the circumstances of the deactivation in any investigation report concerning the incident under investigation.
3. If an officer declines a request to deactivate a BWC, the reasons for declining the request (e.g., *the officer believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter*) must be memorialized on the recording and documented and shall be reported to an immediate supervisor as soon as it is safe and practicable to do so.
- a. If the officer declines a deactivation request, the officer immediately shall inform the person making the request of that decision.

- b. Officers are prohibited from misleading the person making the deactivation request into believing that the BWC has been turned off when in fact it is operating unless the 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 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; 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, 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 when a civilian conversing with the officer requests that the device be turned off under circumstances when it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected provided however, that the agreement to participate under that condition is itself recorded.
      - 1) Officers shall not suggest to the person that the BWC should be deactivated; nor shall the officer ask the person whether he or she would prefer that the BWC be deactivated. The request for deactivation must be self-initiated by the civilian.
      - 2) The officer may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded).
      - 3) In deciding whether to deactivate the BWC, the officer shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide only if the deactivation request is honored.

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

## **VII. RESTRICTIONS ON BWC/MVR ACTIVATIONS**

- A. BWC/MVR are intended for official police department use only and shall not be used for frivolous or personal activities. Intentional misuse or abuse of the units will result in disciplinary action.
- B. BWCs/MVRs shall be used only in conjunction with the purpose of recording incidents, investigations and police-civilian encounters involving official law enforcement activities specified in this SOP. The BWC/MVR shall not be used to record:
  - 1. Hostage negotiations by hostage negotiators; or
  - 2. Crime scene processing by crime scene technicians, detectives, or officers trained in crime scene processing; or
  - 3. Strip and body cavity searches; or
  - 4. When on break or otherwise not actively performing a law enforcement function; or
  - 5. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room; or
  - 6. When engaged in police union business; or
  - 7. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction; or
  - 8. While discussing criminal investigation strategies; or
  - 9. 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, or shall deactivate a BWC that has been activated while the officer:
    - a. Is in a school or youth facility; or on school or youth facility property under circumstances where children would be in view of the BWC.

- b. Is in a place of worship under circumstances where worshipers would be in view of the BWC.
- c. Is in a patient care area of a healthcare facility, medical office or substance abuse treatment facility under circumstances where patients would be in view of the BWC (not to include arrestees/prisoners).
  - 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, and shall deactivate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would capture the image of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (e.g., active shooter, actual use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the officer shall inform their supervisor that the image of an undercover officer or confidential informant was recorded.
- 2. The BWC shall be activated/reactivated as soon as it is safe and practicable to do so 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-equipped officers participating in the operation on whether to activate their BWCs/.

## **VIII. WRITTEN DOCUMENTATION REQUIRED**

- A. BWC/MVR recordings shall not be utilized as a replacement for written reports. Officers shall not simply refer to the recording in lieu of submission of a narrative portion of the written report.
- B. Whenever practical, the officer should review the recording prior to completing the written report. (NOTE: not applicable to law enforcement incidents described in subsection IX.B.1 (below) except when authorized by the independent investigator supervising the investigation.)
- C. 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.
- D. Officers shall indicate on their reports when video/audio recordings are available for the case.

## **IX. TAGGING (CATEGORIZING) BWC/MVR RECORDINGS**

- A. Officers shall uniformly tag/categorize their recordings during their assigned shift or at the conclusion of their shift in one of the following categories:
  1. Arrest.
  2. DWI.
  3. General service.
  4. No summons.
  5. Privacy (see subsection IX.B below).
  6. Summons.
  7. Test.
  8. Other
- B. The following BWC recordings must be marked/noted as 'privacy':
  1. Images of a law enforcement incident, as defined by *New Jersey Attorney General Directive 2019-4*:
    - a. Any use of force by a law enforcement officer resulting in death or serious bodily injury.

- b. Any use of deadly force (including the discharge of a firearm) by a law enforcement officer, regardless of whether such force resulted in injury.
    - c. The death of any civilian during an encounter with a law enforcement officer; and
    - d. The death of any civilian while in the custody of law enforcement.
  - 2. Images of a victim of a criminal offense; or
  - 3. Images of a child; or
  - 4. Images made in a residential premise (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship; or
  - 5. Videos of conversation with a person who requested to deactivate the BWC was declined; or
  - 6. 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
  - 7. 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 a recording of an event that will be stored as evidence, it is the responsibility of the supervisor to ensure that all recordings of such event are tagged properly and uniformly.

**X. RETENTION OF BWC/MVR 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 SOP, 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 Kinnelon Police Department and shall be maintained on the secure server and disposed in accordance with New Jersey Bureau of Records Management retention schedules, as well as the guidelines outlined in *Attorney General Directive 2021-5*.
1. MVR recordings shall be maintained for a minimum of 31 days unless being retained as evidence.
  2. BWC recordings shall be retained for a period of not less than 180 days and shall be subject to the following additional retention periods:
    - a. When a BWC recording pertains to a criminal investigation or otherwise recorded information that might 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.
    - b. 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.
    - c. 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.
    - d. BWC recordings shall be retained for not less than three years if requested by:
      - 1) The officer whose BWC made the recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
      - 2) The officer who is a subject of the BWC recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
      - 3) 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



- 4) Any officer, if the BWC recording is being retained solely and exclusively for police training purposes; or
- 5) Any member of the public who is a subject of the BWC recording; or
- 6) Any parent or legal guardian of a minor who is a subject of the BWC recording; or
- 7) A deceased subject's next of kin or legally authorized designee.
- 8) 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

e. When a BWC records an incident that is the subject of an administrative internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation, any resulting administrative action and required retention.

C. Prior to the destruction, erasing or deletion of any BWC/MVR recording, other than by automated retention, the operations officer or his/her designee shall review the specific recording, as well as any relevant department investigation, supplemental reports or any other reports in the case file to confirm proper retention schedule compliance.

D. When seeking authorization to purge/erase BWC/MVR recordings being held for evidence in criminal matters, the Chief of Police or his/her designee must submit a destruction request to the 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 SOP.

B. BWC/MVR recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.

C. NOTE: this subsection (XI.C) applies to BWCs only. No law enforcement officer or civilian employee of this agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose as specified in this section. Access to 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 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(b)(c) cannot be accessed or viewed without the expressed permission of the assistant prosecutor or deputy attorney general supervising the investigation. Force incidents that are under investigation in accordance with *Attorney General Law Enforcement Directive 2019-4* require permission from 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 SOP).*
7. Non-law enforcement personnel shall not be allowed to review the recordings at the scene of contact. Officer complaints shall be handled in accordance with the policies set forth in this department's SOP on *Internal Affairs*.
8. To comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court:
  - a. Such request must be specific and on the proper instrument (*i.e., subpoena, discovery request, etc.*).
  - b. Only those portions of the recording pertinent to the request shall be forwarded.
  - c. This agency reserves the right to redact video as applicable by law.
    - 1) NOTE: when providing discovery in a domestic violence matter, ensure that the recording is reviewed prior to release to verify that there is no confidential information that should be redacted.
    - 2) This confidential information includes, but is not limited to, the location where the victim is being sheltered or contact phone numbers for those assisting the victim, etc.
  - d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing ordinance.
9. To comply with any other legal obligation to turn over the recording to a person or entity.
10. To show or disseminate the recording to a civilian or a non-law enforcement entity, or to disseminate it to the public, where the 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 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:
  1. Note: consent is not required from Kinnelon police officers appearing in the recording.

2. 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 SOP.
  13. To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the 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 independent investigator or his/her designee, overseeing an investigation pursuant to *Attorney General Law Enforcement Directive No. 2019-4*, may in the exercise of sound discretion authorize a civilian or law enforcement witness to be given access to or view a BWC/MVR recording of the incident under investigation. g the principles of the investigation, shall be given access to or view a BWC/MVR recording.
- E. Recordings classified/noted as 'privacy', pursuant to subsection IX.B of this SOP, shall not be accessed, viewed copied, disseminated, or otherwise used without first obtaining the permission of the Morris County Prosecutor or his/her designee. Except for when a BWC 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 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 SOP).
- G. Except as otherwise provided in subsection IX.B of this SOP, a BWC/MVR recording of an event or encounter that involves an investigation of a criminal offense, as defined in subsection I.A.9 of this SOP, shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or officer or authorized civilian employee of such agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by a court order, or unless the Chief of Police or his/her designee in consultation

with the 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 SOP.
- 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.

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

- A. Open public record requests. Only the following BWC recordings shall be exempt from public inspection:
1. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection X.B.2c of this SOP 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 recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection X.B.2 of this SOP.
  3. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection X.B.2c(1)(2)(3)(4) of this SOP.
  4. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection X.B.2c(5)(6)(7) if an officer, parent, or legal guardian, or next of kin or designee requests the BWC 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 operations officer 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 recording shall not be viewed, but the officer shall note the recording as '*special privacy*', and submit a report to their immediate supervisor, who will then forward such to the operations officer. The actual BWC shall be taken out of service and turned over to the operations officer 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.