

LONG HILL TOWNSHIP POLICE DEPARTMENT POLICY & PROCEDURES



VOLUME: 5

CHAPTER: 13

OF PAGES: 19

SUBJECT: BODY WORN CAMERAS / MOBILE VIDEO RECORDERS

BY THE ORDER OF:
Chief of Police Ahmed Naga

ACCREDITATION STANDARDS: 3.5.5

Effective Date:
March 15, 2021

SUPERSEDES ORDER #: V3C5 (12/13/12), V5C13 (08/11/2015)

PURPOSE The purpose of this policy is to maintain guidelines for the use, management, storage, and release of audio-visual media recorded by body worn and mobile video/audio camera recorders (BWC/MVR). BWC/MVR is 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. A further purpose is to define the media storage and retention system for the events recorded by these devices.

POLICY It is the policy of the Long Hill Township Police Department to utilize body worn and mobile video/audio recorders (BWC/MVR) 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 general order, and those policies or guidelines issued by the New Jersey Attorney General and Morris County Prosecutor's Office. Failure to use this technology in accordance with this general order and those policies or guidelines issued by the New Jersey Attorney General and Morris County Prosecutor's Office can result in discipline.

The use of body worn recorders with electronically enhanced audio/visual capabilities, such as infrared vision features, is not authorized.

The use of personal electronic devices is prohibited, unless those recordings occur under exigent circumstances. Immediate notification to a supervisor is mandated in such exigent circumstances. Such exigent recordings on personal electronic devices are the sole intellectual property of the Long Hill Township Police Department and are subject to the procedures set forth in this policy.

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

PROCEDURE:

I. DEFINITIONS

- A. For purposes of this policy, the following terms are defined:
1. Activate – means to actuate (put into operation) the recording mode/function of a BWC or MVR.
 2. Body worn audio/video recorder (BWC) – is an officer worn device that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity nor does the term include an electronic recording device when used to comply with the requirements of Court Rule R. 3:17 (electronic recording of station house custodial interrogations).
 3. Constructive authority –involves the use of an officer’s authority to exert control over a subject (see this agency’s policy on *Use of Force*), except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g., “...*show me your hands*,” “...*get out of the vehicle*”, etc.), or directed against any person if the officer has unholstered a firearm (e.g., “...*move out of the way*”, “...*get down*”, etc.).
 4. Force – has the same meanings as defined in this agency’s policy on *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 (MVR) – is a vehicle-mounted device that makes an electronic audio/video recording of activities that take place during a stipulated law enforcement action. Officers wear a BWC to record the audio portion when outside of their vehicle.
 7. School – means an elementary or secondary school (i.e., middle school or high school), either public or private.
 8. Tagging (also known as labeling) – an action in the BWC/MVR software that categorizes recordings on the server.
 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. In accordance with *MCPO Directive V2C22*, the Chief of Police or his/her designee shall inform the Morris County Prosecutor's Office at mrhinesmith@co.morris.nj.us of:
1. Any changes to this policy;
 2. The names of the personnel who will be using BWCs;
 3. The identity of this department's liaison to the MCPO on BWC issues.
- B. All references to BWC include the body worn devices and, where appropriate, the wireless transmitter, microphone, removable media, server, and other accessories necessary to operate this system.
- C. All references to MVR include the body worn devices, equipment installed in the police vehicles and where appropriate, the wireless transmitter, microphone, removable media (HDD/SSD), server, and other accessories necessary to operate this system.
- D. 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.
- E. While visual and audio evidence may be captured on the recordings, the use of BWCs and MVRs 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 BWCs and MVRs as a management tool to punish officers for minor departmental rule infractions.
1. Officers shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
 2. BWCs and MVRs 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.
 3. Officers will use only those BWCs and MVRs approved and issued by the Chief of Police. Wearing any personally owned video/audio recorder 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.
 4. All recording media, images, and audio are the sole intellectual property of the Long Hill Township 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, the Morris County Prosecutor's Office, or the New Jersey Division of Criminal Justice.

5. Under no circumstances will any member of the Long Hill Township Police Department make a personal copy of any recorded event or direct another to make a personal copy of any recorded event.
- F. Adequate safeguards are necessary to ensure that this technology is:
1. Used in a non-discriminating way;
 2. Used to properly preserve evidence;
 3. Used to safeguard against potential violations of N.J.S.A. 2A: 156A-1, et seq., *New Jersey Wiretapping and Electronic Surveillance Control Act*.
- G. BWC and MVR recordings will serve the following purposes:
1. Creation of accurate documentation of police contact with the public and serve as protection for police officers when there are complaints about their conduct or professionalism during encounters with the public.
 2. Preservation of an audio and video record of events, actions and conditions during arrests, critical incidents, prisoner transports and calls for service, which 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. 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 general public.
 8. Recordings enhance management's ability to train personnel in proper police procedures.
- H. The Chief of Police shall maintain a training program on the lawful and proper use of BWC and MVR equipment.
1. Only officers who have received training in the use of BWCs MVRs are permitted to use this system and must demonstrate a satisfactory degree of familiarity and efficiency in the use of this system.
 2. The proper use of BWCs and MVRs is considered an essential job requirement.

- I. The Chief of Police shall appoint a BWC/MVR training coordinator. The designated BWC/MVR training coordinator is responsible for:
 1. Providing initial training to all newly hired officers or to officers who were not previously trained;
 2. Providing periodic refresher training, as required, to ensure the continued effective use and operation of the equipment;
 3. Providing initial and refresher training to non-sworn personnel whose responsibilities include accessing, copying, or distributing BWC/MVR records;
 4. Ensuring proper calibration and performance of the BWC/MVR equipment;
 5. Incorporating changes, updates, or other revisions in policy and equipment;
 6. Providing supplemental training as part of this department's progressive disciplinary processes.

- J. The Chief of Police shall appoint a system administrator to manage the BWC and MVR equipment whose duties shall include maintaining the system and procedures to ensure the integrity and proper handling and storage of all BWC and MVR recordings.

- K. Installation, removal or repairs to any BWC or MVR equipment shall only be performed by the manufacturer or under the direction of the BWC/MVR system administrator or his/her designee. The system administrator's responsibilities include:
 1. Ensure that all recordings are uploaded to a secure data storage system in a timely fashion;
 2. Prevent tampering with or deletion of recorded data both before and after downloading from the BWC and/or MVR and uploading to the storage system;
 3. Prevent unauthorized access to stored BWC/MVR recordings;
 4. Document all instances when BWC/MVR recordings are accessed, viewed, copied, disseminated, or deleted; Permit auditing of all instances when BWC/MVR recordings are accessed, viewed, copied, or deleted; and
 5. Authorize access to downloaded BWC/MVR files.

- L. BWCs and MVRs shall be used only in conjunction with official law enforcement duties.
 1. Officers engaged in undercover operations or surveillance activities are not required to utilize BWCs or MVRs.
 2. BWCs and MVRs shall be used only in conjunction with official law enforcement duties. BWCs and MVRs shall not be used to record:

- a. Encounters with undercover officers or confidential informants;
- b. Communications with other law enforcement personnel without the advanced permission of the Chief of Police, the Morris County Prosecutor's Office or the New Jersey Division of Criminal Justice;
- c. When the officer is on break or otherwise engaged in personal activities;
- d. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room;
- e. When the officer is engaged in police union business;
- f. When the officer is 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, see section III.A of this policy; or
- h. While discussing criminal investigation strategies.

III. INCIDENTS TO RECORD

- A. The MVR is preprogrammed to automatically begin recording when the vehicle's emergency lights are activated, when the siren is activated, when the wireless microphone is activated, or in the event of a crash. Manually activate the MVR by pressing the record button on the LCD display.
 - 1. Whenever the MVR is activated, officers shall ensure that the audio portion is also activated.
 - 2. If a police vehicle is towed due to a collision and uploading to the department Wi-Fi or BWC is impracticable, contact the system administrator or his/her designee to secure the removable media and preserve it.
- B. BWCs AND MVRs shall be utilized on all:
 - 1. All traffic stops from the time the violation is observed until the stop is concluded, including sobriety testing;
 - 2. Field sobriety testing;
 - 3. All calls for service;
 - 4. Any call for service related to a violation or suspected violation of possessing or consuming marijuana, hashish or cannabis item;
 - 5. All public contacts except for community policing contacts or events.

6. 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.). Such procedures are found in section IV. E/F/G.;
 7. Crash scenes, including interviews on the scene;
 8. Crime scenes (to the extent possible) not to include evidence collection;
 9. Motor vehicle / foot pursuits;
 10. Investigations of criminal violations (not to include undercover investigations or related surveillance activities);
 11. Investigative detentions/field interviews;
 12. Out-of-court identifications (i.e., show ups, lineups);
 13. Warrantless searches (all types, including frisks);
 14. Special events or projects, including but not limited to crowd control, unruly crowds, or incidents requiring activation of the all hazards or emergency operations plan;
 15. Arrests;
 16. Arrestee/prisoner transportation;
 17. 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);
 18. Emotionally disturbed person investigations;
 19. Domestic violence investigations;
 20. Strikes, picket lines, demonstrations;
 21. Officer initiated pedestrian stops;
 22. Welfare checks of residents and motorists (motorist aid).
- C. When an officer equipped with a BWC/MVR is dispatched to a call for service, upon acknowledging dispatch, the officer shall immediately begin to record the response.
- D. When an officer equipped with a BWC/MVR volunteers for a call for service or assistance, upon advising dispatch, the officer shall immediately begin to record the response unless impracticable. In a situation where it is impractical to record the situation, the officer must notify his/her immediate supervisor, as soon as it is safe to do so. Reasons for not recording the incident shall be documented in a special report.

- E. Notwithstanding any other provision of this policy, when an officer equipped with a BWC/MVR is dispatched to or otherwise goes to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed or goes 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 to do so.
- F. Notwithstanding any other provision of this policy, an officer while at the scene of a police deadly-force event, pursuit resulting in a death, in-custody death incident, or the on-scene investigation of such events shall not deactivate their BWC unless instructed to do so by the assistant prosecutor or deputy attorney general supervising the investigation of the incident pursuant to *Attorney General Law Enforcement Directive 2019-4*. The assistant prosecutor or deputy attorney general supervising the investigation or his/her designee may give such instructions telephonically.
- G. BWCs/MVRs shall remain activated for the entire duration of public contacts (calls for service, pedestrian/MV stop, etc.) until either the officer or civilian has departed the scene and the officer has notified communications that the event is closed. Officers shall narrate when intentionally stopping the recording.
- H. When BWCs/MVRs are activated to transport an arrestee/prisoner, it shall remain activated at all times while the officer is in the presence of the arrestee and until the arrestee is secured in the processing room or a cell, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee. Officers shall narrate when intentionally stopping the recording.
- I. 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 incident 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 incident report why a recording was not made, was interrupted, or was terminated.
- J. If a civilian inquires of an officer whether the officer is equipped with a BWC/MVR, or inquires whether the device is activated, the officer shall answer truthfully unless the Morris County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, has expressly authorized the officer to make a covert electronic recording.

1. Officers may deactivate a BWC/MVR when a civilian conversing with the officer requests that the device be turned off under circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected provided however, that the agreement to participate under that condition is itself recorded.
 - a. Officers shall not suggest to the person being recorded that the BWC/MVR 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/MVR, the officer shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide only if the deactivation request is honored.
2. When an officer deactivates a BWC/MVR and before deactivating the BWC/MVR, the officer shall narrate the circumstances of the deactivation (e.g. "*...I am now turning off my BWC/MVR as per the victim's request*");
3. If an officer declines a request to deactivate a BWC/MVR, the reasons for declining the request (e.g., the officer believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter) must be memorialized on the recording and documented and shall be reported to an immediate supervisor as soon as it is safe and practicable to do so.
 - a. 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/MVR has been turned off when in fact it is operating unless the Morris County Prosecutor or his/her designee or the Director of the Division of Criminal Justice or his/her designee expressly has authorized covert recording.
4. Officers may deactivate a BWC/MVR when specifically authorized to do so by an assistant prosecutor for good and sufficient cause as determined by the assistant prosecutor. When an officer deactivates a BWC/MVR pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor who authorized the deactivation (e.g., "*...I am now turning off my BWC/MVR as per the instruction of assistant prosecutor (insert name)*").
5. Officers SHALL NOT deactivate or mute a BWC/MVR while participating in a discussion pertaining to ANY 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.). This shall apply to all calls for service.

6. Officers SHALL ensure that the BWC/MVR is free of any obstructions which would hinder its functionality (e.g., placing hand over BWC lens, covering with traffic vest or coat, and misdirecting the BWC/MVR camera angle).
 7. If an officer is required to deactivate the BWC/MVR 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 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/MVR).
 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 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 § 290dd-2, 42 CFR §23.1 to 23.41).
 - a. Email the notice to the Morris County Prosecutor's Office at prosecutor@co.morris.nj.us.
 - b. 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.)
 9. In any instance where a BWC/MVR was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so 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/MVR.
- K. Officers shall not activate a BWC/MVR, and shall deactivate a BWC/MVR that has been activated, if the officer knows or reasonably believes that the BWC/MVR would capture the image of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (e.g., active shooter, actual use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the officer shall inform their supervisor that the image of an undercover officer or confidential informant was recorded. The BWC shall be activated/reactivated as soon as it is safe and practicable to do so if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.

- L. 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.
- B. BWC shall be deactivated and removed while in the ALCOTEST area when the ALCOTEST device is being used. Nothing herein shall be construed to preclude the use of a BWC to record the behavior of a person arrested for driving while intoxicated other than while the person is in the ALCOTEST area while the ALCOTEST device is being operated. If this provision requires deactivation of a BWC, the officer shall narrate the reasons for deactivation (e.g., "...*I am deactivating the BWC because the suspect is about to take a breath test*"), and the BWC shall be reactivated when safe and practicable to do so following the completion of the breath testing operation. If any incident of interference occurs, the Chief of Police or his/her designee shall notify the MCPO no later than the next business day following the incident. The information shall be provided to the Morris County Prosecutor's Office at prosecutor@co.morris.nj.us.
- M. When a BWC/MVR is activated, officers are encouraged to provide narration where practical and appropriate in an effort to augment the value of the recording and to provide clarity for the viewer.
- N. 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 Long Hill Township Police Department *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.
- O. If an officer fails to activate the BWC, fails to record the entire event contact, or interrupts the recording, the officer shall document in the applicable report why a recording was not made, was interrupted, or was terminated.

IV. PRE-SHIFT TESTING OF SYSTEM / OFFICER RESPONSIBILITIES

- A. All officers assigned a BWC/MVR are responsible for exercising reasonable care when using the equipment. Officers will maintain and secure the BWC/MVR similar to any other equipment issued to him/her. Misuse of the equipment that results in damage or loss may result in disciplinary action and/or replacement of such equipment by the officer.
- B. At the start of their shift, patrol officers will log into the WatchGuard program and log into a BWC using the rapid checkout function. Then synchronize the charged BWC into the vehicle mount and log into the vehicle portion of the system on the heads-up display (HUD).
- C. After the BWC has been synchronized to the patrol vehicle, the officer will ensure its readiness by conducting an operational test of the system by performing the following:
 - 1. Activate the MVR system by turning on the overhead lights, pressing the REC button on the HUD or by pressing the front button on the BWC. This will activate both the vehicle camera and the BWC. Stand in front of the patrol vehicle camera with the video and audio activated, stating your name, date, and shift.

2. Return to the patrol vehicle and review the test to determine if video and audio is working properly. The BWC video can be seen on the WatchGuard website after it uploads to HQ
 3. If the vehicle system is not working properly, notify the shift supervisor, deadline the car, and send an email detailing the problem to 'VEHICLES' in the department's e-mail system.
 4. Begin test again with next assigned back-up vehicle.
 5. At the conclusion of each shift the officer will use the HUD to log off the vehicle mounted MVR and the BWC will be docked into the charging port. The MVR will automatically power down after turning off the vehicle ignition. The shift supervisor shall ensure that all assigned BWC units have been deployed and returned accordingly
- C. Officers shall wear and use the BWC prior to engaging in field activities, DWI checkpoints, and third party / overtime details, excluding construction details. Officers assigned to the services division and/or school-based assignments are not required to wear a BWC.
- D. BWCs shall be worn on the outer-most garment. It will be secured to the garment using the mount/clip supplied by WATCHGUARD. The BWC will be positioned high on the center of the chest, facing the officer's point of view. Officers are responsible to ensure that the BWC remains in a position to allow the recording of an encounter or incident to the extent possible.
- E. BWCs utilized on checkpoints (DWI, seatbelt, etc.), third party / over-time details (excluding construction details) shall be utilized in accordance with this policy. Any incidents that would be recorded during a normal tour of duty shall be similarly recorded while working third party / overtime details.
- F. When video/audio footage is captured, it shall be noted in the coinciding report (e.g., incident, NJTR1, etc.), by typing/writing the capital letters *BWC* at the end of the report to signify that video/audio is available for the case. BWC recordings are not a replacement for written reports. *Under no circumstances shall officers simply refer to a BWC recording on an investigation report instead of detailing the facts and circumstances of their investigation/observations.*
- G. At the end of each incident, the officer shall press the stop button on the MVR to stop the recording. The HUD will then prompt the officer to tag the recording. Tagging shall include selecting a category to classify the recording. Entering the case number for all arrests and criminal investigations. A case number can be added if the officer determines it may be needed for court or follow up. Categorize the recording as a special privacy or not.
- H. Officers shall categorize recordings that capture any of the following circumstances that the New Jersey Attorney General has deemed special privacy issues. Officers must tag those recordings falling into these categories by the end of their next shift. Recordings marked 'special privacy' will have viewing immediately restricted to commanding officers and departmental designated evidence technician(s) assigned by the support services lieutenant. All Initial police reports must be written prior to a video being categorized 'special privacy'. To identify BWC recordings that may raise special privacy or safety issues, officers shall appropriately label recordings that:

1. Captures the image of a victim of a criminal offense;
2. Captures the image of a child;
3. Captures a conversation with a person whose request to deactivate the BWC was declined;
4. Were 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;
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.

V. SUPERVISORY RESPONSIBILITIES

- A. Supervisors are responsible for ensuring that on-duty officers sign out a functioning BWC at the beginning of each shift and that it is docked at the end of shift.
 1. Sergeants will conduct a formal review of one recording per officer per month assigned to their shift, in order to assess officer performance as well as to flag video/audio that may be appropriate for training purposes.
 - a. The reviewing sergeant shall post a note on each recording reviewed in *Evidence Library* as well as make a guardian tracking entry documenting such review.
 - b. Sergeants may review more than one recording per officer per month, at their discretion.
 2. Sergeants shall formally review all instances when a BWC/MVR is deactivated prior to the conclusion of an incident and forward the documented review through guardian tracking. The reviewing sergeant shall post a note on each such recording reviewed in *Evidence Library*.
 3. Lieutenants will conduct a formal review of one recording per sergeant per month assigned to their shift, in order to assess officer performance as well as to flag video/audio that may be appropriate for training purposes.
 - a. The reviewing lieutenant shall post a note on each recording reviewed in *Evidence Library* as well as make a guardian tracking entry documenting such review.
 - b. Lieutenants may review more than one recording per sergeant per month, at their discretion.

4. The BWC/MVR coordinator shall ensure that all officers are assigned a specific supervisor to conduct monthly reviews of their BWC recordings. In the event that an assigned lieutenant or sergeant is out of work for an extended period of time, and monthly reviews cannot be accomplished, a substitute supervisor shall be assigned to conduct the reviews until the return of the assigned supervisor.
5. Supervisors and commanders shall initiate a guardian tracking record when conducting these video reviews with the results of the review (BWC Review).
6. 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 video/audio for indefinite retention.
7. Shift supervisors must review all recordings involving incidents subject to a meaningful command review (e.g., use of force, vehicle pursuit, officer involved injury) and provide notes in the video log, prior to completing the meaningful review.

VI. DATA STORAGE, SECURITY, ACCESS, AND RETENTION

- A. Viewing of BWC/MVR 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 policy.
- B. No law enforcement officer or civilian employee of this department shall access, view, copy, disseminate, or otherwise use a BWC/MVR recording except for an official purpose. Access to and use of a stored BWC/MVR recording is permitted only:
 1. When relevant to and in furtherance of a criminal investigation or prosecution;
 2. When relevant to and in furtherance of an internal affairs investigation;
 3. When relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of possible misconduct;
 4. To assist the officer whose BWC/MVR made the recording in preparing his or her own police report, except in officer involved deadly force incidents, motor vehicle pursuits resulting in death or serious bodily injury, or any in-custody death investigation:
 - a. Officers directly involved in such incidents can view recordings only with the expressed permission of the lead investigating agency (i.e., New Jersey Division of Criminal Justice or the Morris County Prosecutor's Office).
 - b. See subsection VI.F.3 of this policy.
 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 comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court;
 - a. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.
 - b. Only those portions of the recording pertinent to the request shall be forwarded.
 - c. The Long Hill Township Police Department reserves the right to redact video as applicable by law.
 - 1) NOTE: when providing discovery in a domestic violence matter, ensure that the recording is reviewed prior to release to verify that there is no confidential information that should be redacted.
 - 2) This confidential information includes, but is not limited to, the location where the victim is being sheltered or contact phone numbers for those assisting the victim, etc.
 - d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing township ordinance.
7. To comply with any other legal obligation to turn over the recording to a person or entity;
8. 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 (if not employed by Long Hill Township Police Department) unless the depicted individuals have consented to the recording being used for training purposes;
9. To enhance officer safety 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, or the Director of the Division of Criminal Justice or his/her designee;
10. To show or disseminate the recording to a civilian or to 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 particular person entity or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality;
11. To conduct an audit to ensure compliance with this general order; or
12. Any other specified official purpose when the Morris County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording

- C. No personnel shall erase or in any other manner alter, tamper with, destroy, or conceal BWC or MVR recordings or remove or disable any camera. Any such tampering is a violation of N.J.S.A. 2C: 28-7 and is a 4th degree crime.
- D. Recordings are considered criminal investigatory records of this police department and shall be maintained and disposed of in accordance with New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
 - 1. Routine recordings with no criminal, civil, administrative or evidential value must be maintained for at least 90 days.
 - 2. Recordings containing incidents that are the subjects of criminal, civil or administrative proceedings or civilian complaints must be retained pursuant to evidence-retention guidelines. The recording must be appropriately labeled for permanent to ensure that evidence is not destroyed. Examples of retention periods include, but are not limited to:
 - a. Any death investigation (at least 7 years);
 - b. Criminal arrest - 1st, 2nd, 3rd, 4th degree crime (at least 5 years following adjudication);
 - c. Non-criminal arrest, excluding DWI (at least 2 years following adjudication);
 - d. Use of force incidents (at least 2 years);
 - e. DWI arrest (at least 10 years following adjudication of the case).
 - 3. Recordings that are being stored for criminal, civil, or administrative purposes are to be tagged in *Evidence Library* with a permanent retention period and may be transferred to a DVD/CD and preserved as evidence.
 - a. Transfer of BWC/MVR recordings to other media sources for these purposes shall be conducted by the system administrator or internal affairs personnel, upon written request.
 - b. The system administrator or his/her designee is responsible for documenting the transfer with a property/evidence report and is responsible for storing the DVD/CD as evidence or with the case file in accordance with normal evidence protocols.
- E. A BWC/MVR recording of an event or encounter that involves an investigation of a criminal offense shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or officer or authorized civilian employee of such agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by a court order, or unless the Chief of Police 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.

1. 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 a 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.
 2. A BWC/MVR recording tagged pursuant to section IV.H (special privacy) of this policy shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Morris County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee. The Morris County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee may authorize the Chief of Police and one or more supervisory officers to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC recordings tagged pursuant to section IV.H.
 3. The deputy attorney general or assistant prosecutor overseeing a use of force or death investigation pursuant to *Attorney General Law Enforcement Directive 2019-4* as amended, 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/MVR 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 general order, no civilian or law enforcement witness, (including the principals) of the investigation, shall be given access to or view a BWC/MVR 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, assistant or deputy attorney general, or designee.
- F. The Chief of Police or his/her designee (or the WATCHGUARD system) shall maintain a record of all BWC/MVR recordings that are accessed, viewed, copied, disseminated, or purged. The Chief of Police shall cause a periodic audit of these records to ensure compliance with this general order. Minimally, the record keeping system or electronic equivalent shall document the following information:
1. The date and time of access;
 2. The specific recording(s) that was/were accessed;
 3. The officer or civilian employee who accessed the stored recording;
 4. The person who approved access, where applicable; and
 5. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.

- G. In the event that an original recording is required for use in court or by another law enforcement agency, that recording shall not be released without the prior approval of the Chief of Police or his/her designee.
 - 1. Duplicate copies shall be maintained as evidence in accordance with this department's property and evidence guidelines or with the appropriate case file.
 - 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.
- H. Officers and employees shall not reproduce or store any recordings to any device or storage medium. This shall include, but not limited to, cell phones, electronic notebooks, etc.
- I. 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. Officers are encouraged to notify their supervisors of recordings, which may be beneficial for training purposes.

VII. OPRA AND DISCOVERY REQUESTS

- A. Video and/or audio recordings may be subject to release under the *Open Public Records Act* NJSA 47: 1A-1 et seq. and prevailing municipal ordinance regarding fees.
- B. Video and/or audio recordings shall be provided in discovery to defendants and their attorneys, in accordance with *R. 3:13-3*, *R. 7:4.2*, and *R. 7:7-7*.
 - 1. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.
 - 2. Only those portions of the recording pertinent to the request shall be forwarded.
 - 3. All requests for copies or review of BWC/MVR recordings are subject to the fee requirements of the prevailing borough ordinance.
 - 4. Requests for copies of the entire contents of a BWC/MVR recording shall only be provided upon issuance of an order by the Morris County Prosecutor's Office or a by superior court judge.
- C. The Chief of Police or his/her designee shall notify the Morris 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. Email the notice to the Morris County Prosecutor's Office at prosecutor@co.morris.nj.us.
 - 1. Upon approval of an OPRA request, the system administrator or his/her designee will forward an encrypted download hyperlink with an access code that self expires in 30 days.

2. Upon approval of discovery request, the system administrator or his/her designee will forward an encrypted download hyperlink with an access code that self expires in 30 days.
 3. For criminal matters under the jurisdiction of the Morris County Prosecutor's Office, the system administrator can upload recordings to the Morris County Prosecutor's Office InfoShare or provide the encrypted download hyperlink as described above.
 4. For matters under the jurisdiction of the municipal prosecutor, the system administrator can provide the encrypted download hyperlink as described above.
- D. If a discovery request is not received and a defendant is pleading not guilty to the charge(s) and the case is scheduled for trial, the charging officer will be responsible for obtaining a copy of the recording for prosecution purposes. The officer may request a copy of the digital video from the lieutenant.
- E. The system administrator or his/her designee will maintain a list of all recordings that have been produced and distributed.
- F. All requests by the media or general public to view video/hear audio related to a crime must be referred to the Morris County Prosecutor's Office.

VIII. DELETION / PURGE REQUESTS

- A. Only the internal affairs supervisor or his/her designee can delete/purge BWC/MVR recordings with the expressed consent of the Chief of Police or the Morris County Prosecutor's Office. BWC/MVR footage from cases involving an arrest shall not be deleted/purged without the express authorization of the Morris County Prosecutor's Office.
- B. If an officer has inadvertently recorded data that is private or inappropriate, 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 tag the recording as "special privacy" and submit a special report to the internal affairs supervisor and to the system administrator. If a BWC was used, the actual BWC shall be taken out of service and turned over to the internal affairs supervisor or his/her designee for downloading. The officer shall be issued a spare BWC as a replacement.
 2. Depending on the circumstances, the internal affairs supervisor shall assign an investigator to the incident.
 3. Internal affairs shall conduct an investigation, respecting all rights to personal privacy, having the BWC recording viewed only by an officer of the same sex, if necessary.
 4. Upon completion of the investigation, the internal affairs commander shall notify the Chief of Police and request permission to delete the recording, if warranted.