


CARLSTADT POLICE DEPARTMENT				
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SUBJECT: BODY WORN CAMERAS / MOBILE VIDEO RECORDERS				
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BY THE ORDER OF: Chief of Police		03/27/2019	14	
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PURPOSE The purpose of this directive is to maintain uniform guidelines for the lawful use and operation of the agency-authorized body worn cameras (BWCs) and mobile video recorders (MVRs). The goals and objectives in deploying BWCs and MVRs is the accurate documentation of interactions between law enforcement and the public, arrests, and other critical incidents. Further, this directive establishes protocols for the maintenance, storage, and preservation of recordings to maintain the lawful chain of custody.

POLICY It is the policy of the Carlstadt Police Department to utilize body worn video/audio cameras (BWCs) and mobile video recorders (MVRs) to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident.

All personnel (sworn and civilian) shall use this equipment (including accessing recordings) consistent with manufacturer's guidelines, applicable laws and statutes, this directive, and those policies or guidelines issued by the New Jersey Attorney General and the Bergen County Prosecutor's Office. Failure to use this technology in accordance with this directive, applicable laws and statutes, and those policies or guidelines issued by the New Jersey Attorney General and Bergen County Prosecutor's Office can result in disciplinary action.

The Carlstadt Police Department website/webpage shall contain a clear statement that this department utilizes BWCs. The website/webpage posting shall include an image showing of what the device looks like and how it is to be worn by uniformed officers 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 Bergen County Prosecutor's Office of this general notification to the public.

Any willful or repetitive violations of this directive and/or *Attorney General Law Enforcement Directive 2021-5* shall be promptly reported to Internal Affairs. Internal Affairs may take such actions as are reasonable and necessary to ensure compliance with *New Jersey Attorney General Directive 2021-5* and to prevent future violations.

PROCEDURES

I. DEFINITIONS

A. For purposes of this directive, the following terms are defined:

1. Activate – means to actuate (put into operation) the recording mode/function of a BWC.
2. Advisement – a statement made by an officer at the outset of using a BWC camera to record a communication, conversation, or interaction with a citizen for the specific purpose of informing the citizen 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. Consent – Consent to record shall be considered obtained when the recording party (officer) has announced to all other parties engaged in the communication or conversation, in any reasonably effective manner, that the communication or conversation is being recorded. This announcement itself to the other parties must also be recorded.
5. Constructive authority – involves the use of an officer's authority to exert control over a subject (see this department's directive on *Use of Force*), except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g., "...*show me your hands*," "...*get out of the vehicle*", etc.), or directed against any person if the officer has unholstered a firearm or CED (e.g., "...*move out of the way*", "...*get down*", etc.).
6. Deactivate – means to shut off the recording mode of a BWC.
7. Digital evidence – includes photographs, images, audio, and video recordings that are stored digitally.
8. Equipped with a BWC – means that an officer is wearing a BWC at the time in question, as opposed to simply receiving BWC equipment from the agency.
9. Force – has the same meanings as defined in this department's directive on *Use of 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 driving while intoxicated, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for

a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.

11. Mobile video recorder (MVR) – is mobile video / audio 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.
12. Proactive enforcement team – includes officers who are typically assigned to target vice, drugs, organized street crime, violent crime and/or any other targeted enforcement. Unlike officers who are responsible for responding to traditional calls for service, these officers are typically assigned the singular responsibility of addressing these activities (e.g., street crime unit, crime suppression unit, etc.). The nature of their work may include being dressed in traditional uniform, modified uniform, or plain clothes. These officers may work alongside undercover officers, conduct surreptitious surveillance, engage in high intensity enforcement via motor vehicle/pedestrian stops and/or interact with confidential informants or witnesses who wish to remain anonymous.
13. School – means a public or nonpublic elementary or secondary school within this State offering education in grades kindergarten through 12, or any combination of grades, at which a child may legally fulfill compulsory school attendance requirements.
14. Serious bodily injury – means bodily injury which creates a substantial risk of death, or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. for purposes of this directive, serious bodily injury and serious bodily harm have the same meaning.
15. Significant bodily injury – means bodily injury which creates a temporary loss of the function of any bodily member or organ or temporary loss of any one of the five senses.
16. Subject of the video footage – means any law enforcement officer, suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body worn camera recording and shall not include a person who only incidentally appears on the recording.
17. Substantive report – means a report that includes a detailed accounting of the incident. It does not include a report which simply refers to other reports or to the existence of BWC or other camera recordings.
18. Tactical team – is a group of officers who are specially selected, trained, and equipped to handle high-risk incidents including, but not limited to, those involving snipers, barricaded persons, warrant services, apprehensions, acts of terrorism, and other situations or activities as deemed necessary by command leadership

19. Tagging – is an electronic labeling, flagging, or categorization of an electronic file captured by a BWC or MVR.
20. Undercover officer – is a law enforcement officer operating with an assumed identity and/or disguise for the purposes of gaining the trust of an individual or organization to learn or confirm confidential information or to gain the trust of targeted individuals to gather information or evidence. Plain-clothed officers and detectives are not considered undercover officers unless working with an assumed identity and/or disguise.
21. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as group homes, residential facilities, day-care centers, day treatment centers, youth camps, etc.

II. GENERAL ADMINISTRATION

- A. This directive imposes limitations on the exercise of law enforcement discretion that may be more restrictive than the limitations imposed under the United States and New Jersey Constitutions, and federal and state statutes and regulations. Nothing in this directive shall be construed in any way to create any promises or any rights beyond those established under the Constitutions, statutes, and regulations of the United States and the State of New Jersey. The provisions of this directive are intended to be implemented and enforced by sworn members of the Carlstadt Police Department, and these provisions do not create any promises or rights that may be enforced by any other persons or entities.
- B. While visual and audio evidence may be captured on the recordings, the use of BWCs/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/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. BWC shall only be utilized for legitimate law enforcement purposes.
- C. Adequate safeguards are necessary to ensure that this technology is:
 1. Used in a non-discriminating way.
 2. Used to document evidence.
- D. 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 directive, 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.
- E. The Chief of Police shall maintain a training program on the lawful and proper use of BWCs and MVRs. 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. The proper use of a BWC is considered an essential job function.
1. Initial training shall be provided to all potential BWC/MVR operators who were not previously trained.
 2. New officers can be trained during their field training and evaluation period.
 3. Periodic refresher training will be provided to ensure continued effective use and operation of the equipment, and to incorporate changes, updates, or other directive revisions as necessary or required.
 4. Remedial training shall be provided to officers as component of a performance improvement program or disciplinary matter.
- F. BWCs/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.
- G. All recording media, images, audio, and related metadata are intellectual property of the Carlstadt Police Department and will not be copied, released, or disseminated in any form or manner outside the parameters of this directive without the expressed written consent of the Chief of Police.
- H. Under no circumstances will any employee of the Carlstadt Police Department make a personal copy of any recorded event without the permission of the Chief of Police or in accordance with section VIII of this directive.
- I. Officers will use only those devices approved and issued by the Chief of Police. Such BWCs/MVRs are not able to record images or conversations that cannot be seen or heard by the officer wearing the device (e.g., infrared night vision or thermal imaging, sound amplification that would record conversations occurring at a remote distance) without the expressed approval of the Bergen County Prosecutor or his/her designee. Wearing or using any personally owned recorder is not authorized

without the expressed permission of the Chief of Police, the Bergen County Prosecutor's Office, or the New Jersey Division of Criminal Justice.

III. 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 his/her supervisor.
- B. Installation, removal, or repairs to any of the MVR equipment shall only be performed under the direction of the Chief of Police or his/her designee. Officers shall not effectuate repairs to any system or component without the expressed permission of the Chief of Police or his/her designee.
 - 1. None of the installed components of the system may be removed from its positions without the expressed authorization from the Chief of Police or his/her designee.
 - 2. If a police vehicle is towed due to a collision, the shift supervisor will remove the USB device and submit it to the internal affairs supervisor.
 - 3. The internal affairs supervisor shall be promptly notified concerning any MVR equipped vehicle directly involved in:
 - a. A crime; OR
 - b. A collision with serious bodily injuries to any party; OR
 - c. A motor vehicle pursuit with any collision.
 - 4. The internal affairs supervisor shall either respond and collect the removable USB device or designate someone to collect it and secure it as evidence.
 - 5. In any case, the USB device shall be removed from the patrol vehicle and be handled in accordance with evidence submission standards. The USB device shall be packaged, labeled, and secured in a temporary evidence storage locker.
- C. 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 supervisor as soon as possible and note the problem on their *Vehicle Maintenance Log*.
 - 1. Pre-operational steps:
 - a. Check monitor for picture and camera position.
 - b. Manually depress REC button (red REC light should appear), video recorder should begin recording. After verifying that the MVR is recording, manually stop the recorder.
 - c. Activate the overhead lights. MVR should automatically begin recording. Manually stop the recorder.

- d. Turn on your BWC. MVR should automatically begin recording. Test the audio verbally. **First**, turn off the microphone; **then** manually stop the recorder. This process should be performed at a distance equal to that of a motor vehicle stop.
2. The power switch on the overhead monitor and the remote transmitter shall be left in the ON position throughout the shift.
3. At the end of the shift the officer shall log off the system and turn the power switch for the camera system to the OFF position.
- D. MVR equipment is preprogrammed to automatically begin recording when the vehicle's emergency lights are activated and when the officer's BWC is activated.
 1. Activation of audible warning signals will not activate recording.
 2. Video recording may not completely document events as they occur. Therefore, officers are encouraged to provide narration as the events are occurring.
 3. The engine of the patrol car does not need to be running for the MVR to activate. However, the MVR will power down after sixty minutes without the ignition on.
 4. The system will be programmed with a thirty-second pre-record.
- E. Whenever the 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.
- F. Officers shall not cease recording an event at the request of any person or entity other than a police supervisor, which will be documented in the applicable investigation report. If a civilian makes an inquiry whether they are being recorded, officers shall inform him/her that there is an MVR in use, but civilians have no right to have MVR turned off.
- G. When an officer has a passenger or prisoner in the patrol vehicle, the rear seat camera and cabin microphone shall remain activated regardless of whether the officer is wearing his/her BWC. In all circumstances when a person will be video or audio recorded in the vehicle, the officer shall advise the suspect/occupant that he/she is being recorded with both audio and digital equipment. This notification shall take place when the MVR is recording.
- H. To prevent allegations of arbitrary and capricious utilization of the system, the following procedural guidelines shall be followed:
 1. Recordable incidents shall be video, and audio, recorded from beginning to end.
 - a. This procedure applies to primary as well as secondary/back-up units on these incidents.
 - b. This procedure applies to both adult and juvenile incidents.

- c. MVR shall remain activated (audio and video recording) during motor vehicle stops and other law enforcement actions until the entire enforcement action has been completed and either the officer or stopped motorist has departed the scene.
 - d. When executing a motor vehicle stop, the officer should activate the auto-zoom feature to record the registration of the subject motor vehicle. Officers should record the plate number audibly into the microphone/transmitter to verify the plate is recorded.
 - e. Officers shall ensure that the camera is properly positioned to capture the officer-subject interaction at the outset of the incident. Ask the subject to speak up if necessary. Be cognizant of where you stand.
 - f. If necessary, an officer may elect to reposition the camera to capture other images relevant to the enforcement action. The officers may want to verbally describe the action(s) taken and the video obtained. Officers are under no obligation to compromise their safety to reposition the camera.
- 2. Officers shall maintain activation of their BWC when they are out of the vehicle on a car stop/incident that is being recorded.
 - 3. The system will continue to record video after the emergency lights are shut off. The operator of the system must stop the recording **manually** at the conclusion of the stop/event.
 - 4. No recording of video or audio is required in non-enforcement situations where prolonged recording from a stationary position is unlikely to capture information that may be useful in any prosecution or civil proceeding. Prior to stopping the MVR, officers shall announce on the audio their intention to stop recording along with the reason for such action (e.g., traffic post etc.).
 - 5. If an MVR recording is ceased prior to the conclusion of an incident, the officer shall provide justification by recording the reason verbally on the system or in the investigation report of the incident.
- I. The equipment installed in the patrol vehicle is the responsibility of the officer assigned to that vehicle and will be operated according to the manufacturer's recommendations.
 - J. 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.

IV. BODY WORN CAMERAS

- A. BWCs allow for a clearly documented, first-hand, and completely objective account of an incident and will produce the maximum amount of information regarding the incident to be captured. Therefore, all officers assigned to or assisting in an event requiring recording shall activate their BWC upon their approach to, and prior to arriving at, the scene, or as soon as practical and safe. Nothing in this section shall preclude an officer from activating a BWC at any time following the dispatch for a call and prior to their arrival at the scene. This will allow the maximum amount of

information regarding the incident to be captured, such as events that transpire while on the way to a call for service and violations committed by a motorist during a motor vehicle stop.

- B. This department will not tolerate the reliance by any officer on race, ethnicity, gender, gender identify, gender expression, transgender status, sexual orientation, religion, economic status, age, culture, or any other immutable characteristic of a group or class of persons, in determining whether to activate or deactivate a BWC.
- C. BWCs shall not be used surreptitiously.
- D. Officers will use only those BWCs approved and issued by the Chief of Police. Such BWCs shall not be capable of recording images or conversations that cannot be seen or heard by the officer wearing the device without the expressed approval of the Bergen County Prosecutor or his/her designee. Wearing any personally owned video/audio recorder is not authorized without the expressed permission of the Chief of Police, the Bergen County Prosecutor's Office, or the New Jersey Division of Criminal Justice. Violations will be subject to disciplinary action, up to and including termination.
- E. BWCs shall not be used to record:
 - 1. Encounters with undercover officers or confidential informants.
 - 2. Strip and body cavity searches.
 - 3. When on break or otherwise engaged in personal activities.
 - 4. In any location, or under any circumstances where individuals have a reasonable expectation of privacy, such as a restroom or locker room, unless otherwise authorized by this directive.
 - 5. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction; except, internal affairs investigators can use a BWC to record complainant, witness, and subject interviews provided the recording is overt.
 - 6. When engaged in police union business.
 - 7. To gather intelligence information based on 1st Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public, except in accordance with any applicable guidelines or directives promulgated by the New Jersey Attorney General.
- F. Officers are not required to wear and use a BWC:
 - 1. When engaged in hostage negotiations.
 - 2. When processing crime scenes.

3. When conducting searches of cellphones, tablets, computers, or other electronic devices pursuant to a search warrant, when such items have already been seized and the search is performed at a location other than the premises of the initial search and seizure.
 4. When conducting searches of cellphones, tablets, computers, or other electronic devices that are suspected to contain images of child sexual exploitation.
- G. BWCs will be assigned to all officers. Officers shall use their assigned BWCs daily consistent with the requirements and restrictions in this directive. Officers shall not utilize the BWC of another without the expressed permission of a supervisor.
1. Officers are not required to activate their BWCs in police headquarters unless they are investigating a walk-in complaint, or other similar related functions.
 2. Detectives and staff officers shall wear BWCs when conducting arrests and while engaged in field duties (e.g., patrol coverage, search warrant executions, raids, etc.) consistent with the requirements and restrictions in this policy.
 3. BWCs shall be worn and used consistent with the requirements and restrictions in this directive on all extra duty assignments.
 4. Officers shall also wear and use a BWC consistent with this directive when:
 - a. On aggressive driving, DWI interdiction assignments, or other proactive enforcement team.
 - b. When assigned to front desk assignments and interacting with the public on a law enforcement matter.
 - c. When assigned to or assisting any tactical team in the field.
 - d. When assigned to duties at demonstrations or potential civil disturbances.
 5. Officers/detectives on loan to any outside agency, tactical team, proactive enforcement team, or task force shall use the agency issued BWC consistent with this directive, including restrictions, and any guidelines issued by the outside agency or task force. Such officers/detectives shall report any potential conflicts between this policy and the outside agency/task force's directives to the Chief of Police or his/her designee as soon as practicable.
- H. When not in use, BWCs shall be stored in the designated docking stations. The docking stations allow for the units to be charged and for the download of events to the BWC server.
1. Prior to beginning a shift, officers assigned a BWC will ensure its readiness by conducting an operational inspection and ensure that there is a fully charged battery.

2. When conducting the pre-shift inspection, the officer shall activate the BWC and verbally state the date, time and that a test is being performed on the unit.
 3. Malfunctions shall be promptly reported to the shift supervisor. The officer or shift supervisor shall immediately notify the patrol division captain in writing noting the serial number of the defective device and the general nature of the problem or malfunction. Devices found not to be in proper working order shall not be deployed under any circumstances.
 4. Officers will dock their BWC for download to the BWC docking station upon completion of their shift.
 5. All officers assigned a BWC are responsible for its use and maintenance during their tour of duty.
- I. BWCs shall be worn on the outer-most garment. It will be secured to the garment using the mount/clip supplied by the manufacturer that is part of the BWC equipment. The BWC will be positioned high on the center of the chest at badge level, facing the officer's point of view.
1. Officers (and detectives temporarily assigned to patrol) are responsible to ensure the BWC remains in a position to allow the recording of an encounter or incident to the extent possible.
 2. To minimize audio and/or video interference with the unit, do not affix the portable radio microphone near the BWC on any exterior garment.

V. INCIDENTS TO RECORD

- A. When assigned to an officer for duty, the BWCs and MVRs will remain in standby mode ready to be activated at any time. When an officer activates the recording mode / function, the device will have recorded 30 seconds prior. Activation should occur before arriving at the scene, when feasible.
- B. Except when otherwise restricted in this directive, officers shall video and audio record all law enforcement activity including any interaction with a civilian. However, if an immediate threat to the officer's life or safety makes activating the BWC impossible or dangerous, the officer shall activate the body worn camera at the first reasonable opportunity to do so. Examples of such required recordings include, but are not limited to:
1. All traffic stops from the initiation of the stop until the stop is concluded, including sobriety testing.
 2. An officer is responding to a call for service and is at or near the location to which the officer has been dispatched.
 3. Any call for service related to a violation or suspected violation of possessing or consuming alcohol, marijuana, hashish, or cannabis item.
 4. Stationary police details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, etc.

5. Motorist aid or community caretaking checks.
6. Crime scenes to the extent possible except for evidence collection.
7. Motor vehicle and foot pursuits.
8. Officer interviews in the field of witnesses when conducting investigations of criminal violations (not to include undercover investigations, related surveillance activities, or stationhouse recordings of custodial interrogations/interviews).
9. Custodial interrogation of a subject unless the interrogation is otherwise being recorded in accordance with Court Rule R. 3:17.
10. Investigative detentions/field interviews.
11. Out-of-court identifications (i.e., show ups, lineups).
12. Warrantless searches (all types, including protective frisks, except for strip and body cavity searches).
13. Search or arrest warrant service (entire service).
14. Arrests.
15. Arrestee, prisoner, detainee, emotionally disturbed person, and civilian transportation.
16. Drug recognition expert evaluations.
17. Overdose and suspected overdose investigations.
18. Emotionally disturbed person investigations and encounters.
19. When an officer uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this subsection based on specific and articulable facts warranting heightened caution (must be documented by narration on the recording and/or in any applicable report).
20. Crowd control, unruly crowds, or any incident requiring activation of the all-hazards or emergency operations plan.
21. Domestic violence investigations.
22. Strikes, picket lines, demonstrations, civil disorders.
23. Any public contact that becomes adversarial.

- C. Notwithstanding any other provision of this directive, 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.
- D. Notwithstanding any other provision of this directive, 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 supervising the investigation of the deadly force incident pursuant to *Attorney General Law Enforcement Directive 2019-4*. The assistant prosecutor or his/her designee supervising the investigation may provide such instruction telephonically.
1. Officers can deactivate their BWCs/MVRs once they leave the scene of the incident.
 2. BWCs do not need to remain activated while officers are receiving medical evaluation, medical treatment, or have returned to headquarters.
 3. Once officers deactivate their BWCs in these instances, they shall surrender their BWCs to a supervisor, who shall submit them as evidence in accordance with this agency's directive on *Evidence and Property*.
- E. BWCs and MVRs shall remain activated for the entire duration of a public contact required in section V.B above until the officer has departed the scene and the officer has notified dispatch that the event is closed.
- F. When a BWC/MVR is activated to transport an arrestee/prisoner, it shall remain activated while the BWC-equipped officer is in the presence of the arrestee. BWCs shall remain activated 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.
- J. When wearing a BWC, officers shall notify the subject of the recording that they are being recorded unless it is unsafe or unfeasible to provide such notification. Such notification shall be made as close to the inception of the encounter as is reasonably possible.
1. Prior to entering a private residence or place of abode (e.g., hotel/motel rooms, boarding houses, etc.), officers shall notify the occupant that the occupant is being recorded and, if the occupant requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that the officer will be required to use constructive authority or force
 2. When interacting with an apparent crime victim, officers shall, as soon as practicable, notify the apparent crime victim that he or she is being recorded and, if the apparent crime victim requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC.

3. When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, if the person requests that the officer discontinue use of the body worn camera, officers shall evaluate the circumstances and, if appropriate, discontinue use of the BWC.
 4. If the officer decides not to provide notification of BWC activation because it is unsafe or unfeasible to do so, the officer shall document the reasons for that decision in the report of the incident.
 5. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
- G. If a civilian inquires of an officer whether the officer is equipped with a BWC/MVR, or inquires whether the device is activated, the officer shall answer truthfully unless the Bergen 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/mute 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.
 - a. Officers shall not suggest to the person that the BWC/MVR should be deactivated; nor shall the officer ask the person whether he or she would prefer that the BWC/MVR be deactivated. Rather, the request for deactivation must be self-initiated by the civilian. The officer may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded).
 - 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 is important to the investigation yet is not critical to require recording.
 2. Officers may deactivate a BWC when a person, other than an arrestee, is seeking emergency medical services for him or herself or another and requests that the BWC be deactivated. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance (e.g., a victim of an assault during a fight does not want to be recorded, etc.). However, in situations when an officer reasonably believes that the officer or another person is likely to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.
 3. When an officer deactivates a BWC or MVR:
 - a. The conversation between the officer and the civilian concerning the request for deactivation should be electronically recorded; and

- b. The officer before deactivating the BWC/MVR shall narrate the circumstances of the deactivation (e.g., "*...I am now turning off my BWC (MVR) as per the victim's request.*"); and
 - c. The officer shall report the circumstances concerning the deactivation to his/her supervisor as soon as is practicable; and
 - d. The officer shall document the circumstances of the deactivation in any investigation report concerning the incident under investigation, including the time of activation and/or deactivation.
- 4. If an officer declines a request to deactivate a BWC/MVR, the reasons for declining the request must be memorialized on the recording and documented and shall be reported to his/her 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 Bergen County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee expressly has authorized covert recording.
- 5. Officers may deactivate a BWC/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).*").
- 6. Officers may deactivate/mute a BWC/MVR while participating in a discussion pertaining to criminal investigation strategy and planning (e.g., to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to summon a drug/explosives detection canine, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.), provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When an officer deactivates/mutes a BWC/MVR pursuant to this section, the officer shall narrate the circumstances of the deactivation (e.g., "*...I am now turning off my BWC (MVR) to discuss investigative strategy with my supervisor.*").
- 7. **If** an officer is required to deactivate the BWC when entering a school, house of worship, health care facility, substance abuse treatment center, etc., the officer shall narrate the reason for deactivation (e.g., "*...I am entering a school building where children are present.*"). The BWC shall be reactivated as soon as it is safe and practicable to do so 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). Officers assigned to a school (e.g., school resource officer) should not activate their BWC unless involved in any incident listed in section V.B of this directive.

8. 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 Bergen County Prosecutor or his/her designee to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information (42 USC § 290dd-2, 42 CFR §23.1 to 23.41). The recording shall not be accessed without the permission of the Bergen 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 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.
- H. 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 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/MVR shall be activated/reactivated as soon as it is safe and practicable to do so when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
- I. 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.
- J. 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.
- K. 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 directive on *Internal Affairs*. All other requests to view and/or obtain footage by the public shall be handled in accordance with section VIII of this directive.

- L. 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 reason(s) why a recording was not made, was interrupted, or was terminated.

VI. OFFICER RESPONSIBILITIES

- A. Officers shall tag their BWC/MVR recordings following completion of an event by the end of their respective shifts. Although officers can and should make every effort to tag their BWC/MVR recordings in the field, they may not always can do so. If an officer is not able to tag a recording in the field using his/her MDC, they may do so in headquarters from a BWC/MVR workstation.
 - 1. To identify BWC/MVR recordings that may raise special privacy or safety issues, officers shall appropriately tag recordings as special privacy that:
 - 1. Captures 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. Captures the image of a victim of a criminal offense.
 - 3. Captures the image of a juvenile.
 - 4. Were made in a residence (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship.
 - 5. Captures a conversation with a person whose request to deactivate the BWC was declined.
 - 6. Captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded.
 - 7. Captures the image of an undercover officer or confidential informant.
 - 8. Captures the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.

- B. Officers shall note in the narrative portion of any reports (or on the officer's copy of a uniform traffic ticket) related to the incident, arrest, investigative detention, or motor vehicle stop, etc., the fact that audio/video recordings were made and also indicate the unit number of the police vehicle that was used, the date and time of each incident recorded, Under no circumstances shall an officer simply note in a report or on a uniform traffic ticket, "...see BWC or MVR recording for details."
- C. BWC/MVR recordings shall be maintained in accordance with section VIII of this directive.
 - 1. The system administrator or his/her designee will replicate copies of BWC/MVR recordings upon receiving a request for discovery, upon receiving a request from the Bergen County Prosecutor's Office or municipal prosecutor, or if the recording has value in an internal affairs or other administrative investigation.
 - 2. Internal affairs personnel are also authorized to request replicate BWC/MVR recordings for evidential, internal affairs or administrative matters.
 - 3. Copies of any replicated media shall be maintained as evidence or in the appropriate case file.

VII. SUPERVISOR RESPONSIBILITIES

- A. Supervisors shall:
 - 1. Ensure that all officers follow procedures for proper use of BWCs/MVRs as outlined in this directive.
 - 2. Ensure that the BWCs/MVRs are operated in accordance with this directive.
 - 3. Ensure that requests for repairs and replacement of damaged or non-functioning equipment is documented and forwarded to the system administrator.
 - 4. Identify material or incidents that may be appropriate for training.
- B. Supervisors shall encourage and assist officers in using BWCs/MVRs as a training aid, except as restricted in this directive.
- C. Shift supervisors shall ensure that officers properly and uniformly tag recordings in accordance with this directive prior to downloading.
 - 1. Shift supervisors shall formally review all instances when a BWC is deactivated prior to the conclusion of an incident and forward the documented review through the chain of command to the Chief of Police or his/her designee.
 - 2. Subject to the restrictions in this directive, shift supervisors shall review BWC/MVR recordings as a component of the meaningful review process for:
 - a. Uses of force; and
 - b. Pursuit and forcible stopping incidents; and

- c. Officer involved crashes; and
 - d. Officer involved injuries.
- 3. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the shift supervisor will tag the video/audio for indefinite retention.
- 4. Shift supervisors shall review random recordings of those officers under their supervision to ensure that officers are properly using the equipment and to assess field performance at the rate of at least one per month, per officer.
- 5. Shift supervisors should utilize a *Supervisory Review of Digital Video/Audio Recordings Form* when reviewing BWC/MVR recordings for any reason.
- D. The BWC/MVR system administrator shall conduct random reviews of the BWC/MVR recordings to assist in the following:
 - 1. Review of officer safety techniques on car stops/incidents; and
 - 2. Periodic assessment of officers' performance; and
 - 3. Determination if the BWC/MVR equipment is being used in accordance with departmental policies; and
 - 4. Identify training needs.
 - 5. The BWC/MVR system administrator may delegate such random review to shift supervisors and other supervisors.
- E. Supervisors must understand that minor infractions (not criminal in nature) discovered while reviewing the recorded material should be viewed as training opportunities and not as routine disciplinary actions. Should the behavior or action become habitual after being informally addressed the appropriate disciplinary or corrective action shall be taken.

VIII. RECORDS RETENTION AND REVIEW

- 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 directive.
- B. BWC/MVR recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- C. NOTE: this subsection (VIII.C) applies to BWCs ONLY. No law enforcement officer or civilian employee of this department shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose. Access to, use of, and receiving an account 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 police misconduct or to determine the existence of a pattern or practice of possible misconduct.
4. To assist the officer whose BWC made the recording in preparing his/her own substantive police report, providing a statement, or submitting to an interview.
 - a. Except:
 - 1) The incident involves the use of force by the officer, when the officer knows or should know that the use of force resulted in significant or serious bodily injury or death; or
 - 2) The incident involved the discharge of a firearm or any use of deadly force by the officer (see this agency's directive on *Use of Force*); or
 - 3) The incident involved the death of a person while in law enforcement custody; or
 - 4) The incident involved the death of a person during an encounter with a law enforcement officer; or
 - 5) An incident the officer knows or has been advised is or will be the subject of an internal affairs or civilian complaint relating to the officer's use of force, bias, or dishonesty.
 - b. Whenever an officer reviews or receives an accounting of a BWC recording prior to the creation of any report, statement, or interview, the officer shall acknowledge that prior review or receipt of an accounting of the BWC recording either verbally or in writing within each such report, statement, or interview.
 - 1) The officer shall document each BWC recording that was reviewed and the date of the review.
 - 2) If the officer received an accounting of a BWC recording, the officer shall document the name of each person who provided an accounting of the BWC recording, the date of the accounting, and the specific BWC recording for which an accounting was provided.
 - c. Officers shall only be permitted to review or receive an accounting of such BWC recordings once the investigating entity concludes that (a) the officer has in fact completed the specified incident memorialization and (b) the officer's review or receipt of an accounting of the BWC recording will not otherwise interfere with the ongoing investigation.
 - 1) In cases subject to *Attorney General Directive 2019-4*, the independent investigator is the investigating entity.

- 2) In all other cases, the Chief of Police or his/her designee is the investigating entity.
 - 3) The appropriate investigating entity shall document the authorization to review or receive an accounting of a BWC of a specified incident.
5. When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency.
6. To show to a civilian who intends to file a complaint against an officer to demonstrate what occurred during the encounter so that the person can make an informed decision whether to file the complaint. Only the Chief of Police or his/her designee can show such a recording to a civilian.
7. To comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court:
 - a. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.
 - b. Only those portions of the recording pertinent to the request shall be forwarded.
 - c. This agency reserves the right to redact video and audio as applicable by law with software approved by the BWC vendor or the Bergen County Prosecutor's Office.
 - 1) NOTE: when providing discovery in a domestic violence matter, ensure that the recording is reviewed prior to release to verify that there is no confidential information that should be redacted.
 - 2) This confidential information includes, but is not limited to, the location where the victim is being sheltered or contact phone numbers for those assisting the victim, etc.
 - d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing ordinance.
8. To comply with any other legal obligation to turn over the recording to a person or entity.
9. Solely and exclusively for internal training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video unless the depicted individuals have consented to the recording being used for training purposes.
 - a. Note: consent is not required from Carlstadt police officers appearing in the recording.

- b. Recordings retained beyond 180 days solely and exclusively for training purposes shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.
 - 10. To 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 Chief of Police, Bergen County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee.
 - 11. To show or disseminate the recording to a civilian or a non-law enforcement entity or to disseminate it to the public, when the Chief of Police, Bergen 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.
 - 12. To conduct an audit to ensure compliance with this directive.
 - 13. Any other specified official purpose where the Bergen 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 recording
- D. Officers shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC/MVR recordings or remove or disable any camera. Officers shall not instruct another to alter, tamper with, destroy, or conceal BWC/MVR recordings or remove or disable any camera. If an officer, employee, or agent fails to adhere to the recording or retention requirements contained in this directive, N.J.S.A. 2C:28-7, or N.J.S.A. 40A:14-118.5 et seq., or intentionally interferes with a BWC'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 this directive or any other applicable law shall be immediately brought to the attention of the command staff and immediately destroyed by the command staff following consultation and approval by the Bergen County Prosecutor or Director of the Office of Public Integrity and Accountability. Such recordings shall not be admissible as evidence in any criminal, civil, or administrative proceeding, except as evidence in any proceeding related to the unauthorized use of a BWC.

- a. All requests for the destruction of BWC recordings made in contravention of this directive must be forwarded to the Bergen County Prosecutor's Office through the BWC applet of the BCPO Intranet.
 - b. Complete all fields including the narrative section which must recount the circumstances of the recording, the status of any case to which the recording is related, and of any investigation or criminal or administrative action related to violation of this directive.
 - c. BWC footage should not be sent with the request. If review of BWC footage is necessary, it will be requested.
 - d. Footage may only be destroyed after approval through Intranet notification
- E. Recordings are considered investigatory records of this police department and shall be maintained on a secure server and disposed of in accordance with New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
 - 1. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes:
 - a. BWC recordings shall be retained for a period of at least 180 days.
 - b. MVR recordings shall be retained for a period of at least 31 days.
 - 2. Recordings being stored for criminal, civil, or administrative purposes must be retained until the conclusion of the case plus any retention period.
 - 3. Recordings of an arrest that did not result in an ongoing prosecution, or records the use of police force, shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer or the employing law enforcement agency.
 - 4. BWC recordings shall automatically be retained for not less than three years if it captures images involving an encounter about which a complaint has been registered by a subject of the BWC/MVR recording.
 - 5. BWC recordings shall be retained for not less than three years if requested by:
 - a. The officer whose BWC made the recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
 - b. The officer who is a subject of the BWC recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
 - c. Any immediate supervisor of an officer whose BWC made the recording or who is a subject of the BWC recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value; or

- d. Any officer, if the BWC recording is being retained solely and exclusively for police training purposes; or
 - e. Any member of the public who is a subject of the BWC recording; or
 - f. Any parent or legal guardian of a minor who is a subject of the BWC recording; or
 - g. A deceased subject's next of kin or legally authorized designee.
 - h. NOTE: the member of the public, parent, or legal guardian, or next of kin or their designee (subsections VIII.E.5 (e)(f)(g)) shall be permitted to review the BWC recording in accordance with N.J.S.A. 47:1A-1 et seq. to determine whether to request a three-year retention period
- 6. When a BWC or MVR records an incident that is the subject of an administrative internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation, any resulting administrative action and required retention.
- F. Open public record requests. Only the following BWC recordings shall be exempt from public inspection:
 - 1. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection VIII.E.4 of this directive if the subject of the BWC recording making the complaint requests the recording not be made available to the public.
 - 2. Recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection VIII.E.5 of this directive.
 - 3. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection VIII.E.5(a)(b)(c)(d) of this directive.
 - 4. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection VIII.E.5(e)(f)(g) if an officer, parent, or legal guardian, or next of kin or designee requests the recording not be made available to the public.
- G. The records supervisor or his/her designee shall notify the Bergen County Prosecutor's Office within one business day upon receiving any subpoena, court order, OPRA, or common law right to access request for a BWC/MVR recording before complying with it. Such notice shall clearly state the deadline by which a response must be made.
 - 1. Such notification must contain the date the request was received, the deadline by which a response must be made, whether the agency intends to release or deny the request, and the justification for that decision.

2. 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.
 3. 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.
 4. The records supervisor or his/her designee will receive an email acknowledgement. If no further communication is received within 72 hours, the records supervisor or his/her designee should respond to the request as deemed appropriate.
 5. Pursuant to the *Open Public Records Act* (N.J.S.A. 47:1A-5c and N.J.S.A. 47:1A-5d), the department can 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.
 6. BWC/MVR 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.
 7. The fee will be based at the lowest hourly rate of the personnel authorized to review/redact/approve the request.
 8. The records supervisor or his/her designee will provide the requestor an estimate before any action is taken.
- H. 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 Bergen 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 warrant, techniques for convincing persons to open doors during warrant execution, etc.), the Bergen 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 recording tagged pursuant to subsections VI.A.2 through VI.A.8 of this policy shall not be accessed, viewed, copied, disseminated, or otherwise used by anyone without first obtaining the permission of the Bergen County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, except supervisors (i.e., sergeants and above) may access and view such recordings. Under no circumstances shall such supervisors disseminate the contents of any recording subject to an investigation pursuant to *Attorney General Law Enforcement Directive 2019-4* prior to any initial reports being created.
 3. The independent investigator overseeing an investigation pursuant to *Attorney General Law Enforcement Directive 2019-4*, or their 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 (subsection VI.A.1).
- I. The BWC/MVR administrator or his/her designee shall maintain a record of all BWC/MVR recordings that are accessed, viewed, copied, disseminated, or deleted. This record may be maintained electronically by the BWC/MVR software. The Chief of Police shall cause a periodic audit of these records to ensure compliance with this directive. Minimally, the record keeping system shall document the following information:
1. The date and time of access; and
 2. The specific recording(s) that was/were accessed; and
 3. The officer or civilian employee who accessed the stored recording; and
 4. The person who approved access, where applicable; and
 5. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.
- J. If an original recording is required for use in court or by another law enforcement agency, that recording shall not be released without the prior approval of the Chief of Police or designee and only if a duplicate copy is retained by the department.
1. Duplicate copies shall be maintained as evidence in accordance with this department's property and evidence guidelines.
 2. The property/evidence custodian shall ensure that any media used for duplicate recordings is properly stored away from magnetic fields (speakers, etc.) or other areas that may facilitate corruption in the property room.
- K. Officers shall not reproduce or store any recordings to any device or storage medium. This shall include, but not limited to, cell phones, electronic notebooks, portable media, etc.