

<b>HUNTERDON COUNTY SHERIFF'S OFFICE</b> <b>Standard Operating Procedure</b> <b>Core Policy</b>				
<b><u>VOLUME:</u> 2</b>	<b><u>CHAPTER:</u></b>	<b><u># OF PAGES:</u> 15</b>		
<b><u>SUBJECT:</u> BODY WORN CAMERA (BWC) and MOBILE VIDEO VIDEO RECORDING (MVR) POLICY</b>			<b><u>REVISION DATE:</u></b> April 16, 2019	<b><u>PAGE #:</u></b>
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<b><u>BY THE ORDER OF:</u></b> Michael J. Williams, Acting Prosecutor Frank Crisologo, Chief of Detectives Frederick W. Brown Sheriff of Hunterdon County		<b><u>REVIEWED BY:</u></b> AP Jeffrey L. Weinstein		
<b><u>CROSS REFERENCE:</u></b> ATTORNEY GENERAL DIRECTIVE 2015-1			5-5-2021	2019-5

**POLICY:**

The use and maintenance of video recordings can be invaluable to law enforcement for evidentiary purposes. Proper safeguards need to be in effect to ensure non-discriminatory use and proper preservation of evidence, which may be obtained through use of technology. This policy is intended to provide officers with instructions on when and how to use video recordings so that they may reliably record their contacts with the public in accordance with the law. This policy does not govern the use of surreptitious recording devices used in undercover operations. The Hunterdon County Sheriff's Office recognizes that audio and video captured by a Body Worn Camera may not accurately reflect the perception of the officer utilizing the equipment. The Body Worn Camera is intended to capture a unique perspective of the interactions of law enforcement and citizens, and is not intended to be used in place of the In-Car Mobile Video Camera; rather, it is to enhance the situational perspective of incidents.

**PROCEDURE:**

**I. DEFINITION OF TERMS**

- A. **Body Worn Camera (BWC):** Means a device worn by a law enforcement officer that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include a mobile video recording device when mounted inside a police vehicle (i.e., a dash cam). The term also 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 New Jersey Court Rule 3:17 (electronic recording of station house custodial interrogations).
- B. **Mobile Video Recording (MVR):** Audio/video recording equipment designed to be mounted in a patrol vehicle.

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- C. **Activate:** Means to actuate the recording mode/function of a BWC and an MVR.
- D. **Constructive authority:** Shall have the same meaning as defined in the Attorney General's Use of Force Policy, 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 un-holstered a firearm or a conducted energy device (e.g., "move out of the way," "get down," etc.).
- E. **Force:** Shall have the same meaning as defined in the Attorney General's Use of Force Policy. The term "force" shall include physical, mechanical, enhanced mechanical, and deadly force.
- F. **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.
- G. **School:** Means an elementary or secondary school.
- H. **Youth facility:** Means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, etc.
- I. **Supervisor:** A member of the department assigned to a position requiring the exercise of immediate supervision over the activities of employees.
- J. **System Coordinator:** A member of the department assigned by the Chief Law Enforcement Officer of the agency to manage the recording equipment and recordings.
- K. **Uniform:** Defined by the Executive or Chief of the Police Department. May be but not limited to the typical patrol uniform with defined identifiers specific to each department and utilized by the department's general duty patrol officers.

### **II. BODY WORN CAMERA (BWC)**

#### **A. Authorized Use**

1. The Hunterdon County Sheriff's Office has adopted the use of BWCs to accomplish legitimate police objectives, including but not limited to:
  - a. Accurately documenting events, actions, conditions, and statements made during motor vehicle stops, motorist aids, pedestrian contacts, investigative stops, field interviews, arrests, and critical incidents.
  - b. Enhancing officer reports, evidence collection, and courtroom testimony.
  - c. Enhancing the agency's ability to review facts leading to probable cause for arrest, arrest/search/seizure procedures/techniques, officer/public interaction, and evidence for investigative purposes.

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- d. Evaluating officers' performance to ensure compliance with Hunterdon County Sheriff's Office directives, rules, and regulations.
  - e. Reviewing extraordinary incidents, with both positive and negative outcomes, for training purposes.
2. Uniformed officers will be required to wear a BWC. Plainclothes officers will have access to BWCs and may be required to wear one if so ordered by the Executive or Chief of the Police Department.
  3. The BWC will be attached to the outer most garments worn by both uniformed and non-uniformed officers. It will be secured to the uniform using the uniform mount/clip supplied by the manufacturer that was part of the BWC-issued equipment. The BWC will be positioned in accordance with the manufacturer's recommendation.
  4. If a BWC is not functioning properly, it will be taken out of service until the unit is repaired. Any officer with a malfunctioning BWC will turn the unit over to a supervisor along with a memorandum describing the malfunction and how it was discovered. If the unit is damaged, the officer will include an explanation, to the best of his or her knowledge, of how and when the damage occurred.
  5. If a BWC is lost, the assigned officer will immediately notify a supervisor.
  6. All uniformed officers will be required to utilize BWCs in accordance with this policy. No uniformed officer will be excused from using a BWC unless specifically approved by the Chief Law Enforcement Officer of the agency or designee. The officer is responsible for utilizing the techniques taught to them during the BWC training to ensure that the BWC is operating properly at the start of their tour of duty. Failure to do so may result in disciplinary action.

### **B. Activation**

1. The BWC shall be activated in the following events and recorded in their entirety:
  - a. All calls for service, no matter how received.
  - b. Officer-initiated vehicle and/or pedestrian stops.
  - c. When an individual is being taken into custody.
  - d. When conducting a protective frisk for weapons.
  - e. Any police response that involves the use of emergency warning lights and/or siren.
  - f. During field sobriety tests.
  - g. Crime(s) in progress.
  - h. When interviewing a witness in the course of investigating a criminal offense.
  - i. When administering Miranda warnings in the field.

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- j. Responding to serious accidents, crime scenes, or fires.
  - k. When conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with New Jersey Court Rule 3:17 (electronic recordation of station house interrogations).
  - l. While conducting motorist aid or community welfare checks.
  - m. When transporting an arrestee to a police station, county jail, or other place of confinement, or a hospital or other medical care or mental health facility.
  - n. Responding to domestic disputes.
  - o. Responding to neighborhood disputes.
  - p. Responding to noise complaints.
  - q. Responding to disorderly conduct.
  - r. Responding to suspicious persons/vehicles.
  - s. Responding to any complaint.
  - t. When engaged in a police response to any type of civil disorder in circumstances where the officer is engaged with or in the presence of civilians and the officer or any other officer on the scene may be required to employ constructive authority or force.
  - u. When using constructive authority or force, or when reasonably believing 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 that are documented by narration on the recording and/or in any investigation or incident report.
  - v. During any kind of search (consensual or otherwise).
  - w. When a person making a report at the front desk becomes confrontational, argumentative, accusatory, or violent toward the officer.
  - x. All mutual aid calls.
  - y. When the officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.
2. A BWC shall be activated only while in performance of official police duties and for the purpose of recording incidents, investigations, and police-civilian encounters involving those law enforcement activities specified in this policy. A BWC shall not be activated while the officer is on break or otherwise is not actively performing law enforcement functions (*i.e.*, while eating meals, in a restroom, etc.). A BWC shall not be activated or used by an officer for personal purposes, or when engaged in police union business. Nor shall a BWC be used to record conversations involving counseling,

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guidance sessions, personnel evaluations, or any similar supervisory interaction. Further, a BWC is not required to be activated during pre-contact with civilians during any investigatory deliberation on procedure, tactics, or strategy.

3. When responding to an emergency, every effort shall be made to activate the BWC before the emergency lights and siren are activated.
4. The departmental BWC does not produce radio-frequency interference while activated or in standby mode; therefore deactivation during Alcohol Breath Testing is not required.
5. The BWC **will not** be deactivated until the officer completes his or her assignment at the location or as outlined in this policy (e.g., the BWC-equipped officer has left the scene; all civilians involved in the encounter have left the scene; the officer has informed the dispatcher or a supervisor that the event has concluded; the event is "closed" on the department's computer-aided dispatch ("CAD") system, etc.), the arrestee is secured in the holding cell or processing room, or transfer of custody to other law enforcement or correctional personnel is completed.
6. Special Activation Rules Governing Deadly Force Incidents and Other Exigent Circumstances Where Officers Are in Danger: Notwithstanding any other provision of this policy, when an officer equipped with a BWC is dispatched to or otherwise goes to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance (e.g., an officer in distress, shots fired, etc.), the officer shall activate the BWC before arriving at the scene when feasible. Notwithstanding any other provision of this policy, an officer while at the scene of a police deadly-force event or the on-scene investigation of that event shall not de-activate the BWC unless instructed to do so by the assistant prosecutor or assistant or deputy attorney general supervising the investigation of the deadly-force incident pursuant to Attorney General Law Enforcement Directive No. 2006-5, or his or her designee. Such instruction may be given telephonically by the assistant prosecutor, assistant or deputy attorney general, or designee supervising the investigation.
7. Truthful Response to Specific Inquiries: If a civilian inquires of an officer whether the officer is equipped with a BWC, or inquires whether the device is activated, the officer shall answer truthfully unless the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, has expressly authorized the officer to make a covert electronic recording. (Directive does not apply to officers while operating in an undercover capacity or while conducting/participating in a station house custodial interrogation electronically recorded in accordance with New Jersey Court Rule 3:17.)
8. Restrictions on Activation
  - a. Special Restrictions When Recording in Schools, Healthcare/Treatment Facilities, and Places of Worship:
    - i. Except as otherwise required by the section regarding Deadly Force Incidents, unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that he or she will be required to use constructive

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authority or force, the officer shall not activate a BWC, or shall de-activate a BWC that has been activated, while the officer:

1) is in a school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the BWC.

2) is in a patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances where patients would be in view of the BWC.

3) is in a place of worship under circumstances where worshippers would be in view of the BWC.

ii. If an officer is required to de-activate the BWC in accordance with the provisions of this section, the officer shall narrate the reason for de-activation (e.g., "I am entering a school building where children are present"). **The BWC shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances requiring de-activation 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).**

iii. In the event that a BWC captures the image of a patient in a substance abuse treatment facility, the County Prosecutor or designee shall be notified to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information. The recording shall not be accessed without the permission of the County Prosecutor. (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.)

b. Special Restrictions When Undercover Officers or Confidential Informants May Be Recorded:

i. Except as otherwise required by section II B-6 (Deadly Force Incidents and Other Exigent Circumstances Where Officers are in Danger), an officer shall not activate a BWC, or shall de-activate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would capture the image of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (e.g., active shooter, actual use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the officer shall inform his or her supervisor that the image of an undercover officer or confidential informant was recorded.

ii. Notwithstanding the foregoing general rule prohibiting the recording of an undercover officer or confidential informant, in the event of a planned arrest/search warrant execution where it is expected that an undercover

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officer or confidential informant would be present (e.g., a raid where the undercover operative will be arrested to preserve his or her cover), the County Prosecutor or designee may provide specific instruction to any BWC-equipped officers participating in the operation on whether to activate their devices.

- iii. The BWC shall be activated/re-activated 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.
- c. Special Precautions When a BWC Recording May Reveal Tactical Operations Information:
    - i. In the event that a BWC worn during the execution of tactical operations (e.g., "Special Operations" or "SWAT" operations, execution of arrest and/or search warrant, etc.) records confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms, techniques to convince persons to open doors, etc.), the recording shall be tagged. See N.J.S.A. 47:1A-1.1 (exempting from disclosure under the Open Public Records Act "security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons"); N.J.A.C. 13:1E-3.2(2) (exempting records that may reveal "surveillance, security, tactical, investigative, or operational techniques").
  - d. A Special Restriction on Recording in Courtrooms:
    - i. An officer 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 such activation is expressly authorized by the judge.

### **C. Deactivation**

1. As general rule, the BWC **will not** be deactivated until the officer completes their assignment at the location or as outlined in this policy. However, under certain circumstances the BWC can be de-activated.
  - a. In instances determined to be completed investigatory scenes, as in motor vehicle accidents in which all involved parties have departed the scene and the scene no longer yields any further investigatory information, deactivation can be authorized.
    - i. The officer shall request and be granted de-activation from the patrol supervisor; and
    - ii. The officer shall make radio notification to the operational dispatch, and shall document the circumstances of the deactivation in any investigation or incident report concerning the incident under investigation. See also

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section II D involving "tagging" to indicate BWC recordings that raise special privacy or other issues.

### **2. De-Activation on Instruction From Prosecutor**

- a. An officer may de-activate a BWC when specifically authorized to do so by an assistant prosecutor or assistant or deputy attorney general for good and sufficient cause as determined by the assistant prosecutor or assistant or deputy attorney general.
- b. When an officer de-activates a BWC pursuant to this section, he or she shall articulate the circumstances of the de-activation and name the assistant prosecutor or assistant or deputy attorney general who authorized the de-activation (e.g., "I am now turning off my BWC as per the instruction of Assistant Prosecutor (insert name)").

### **3. Re-activation When Reason for De-Activation No Longer Exists**

- a. In any instance where a BWC was de-activated, the device shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances justifying de-activation no longer exist (e.g., the interview of the person requesting de-activation is completed), and the officer would otherwise be required to activate the BWC (e.g., where the officer proceeds to other investigative activities that are required to be recorded).

### **4. Re-Activation When Actual Law Enforcement Force is Authorized**

- a. If the circumstances develop so that an officer is authorized to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.

## **D. Tagging**

### **1. Tagging of Recordings that Raise Special Privacy or Safety Issues**

- a. To identify BWC recordings that may raise special privacy or safety issues, officers are required to "tag" any recording that:
  - i. captures the image of a victim of a criminal offense;
  - ii. captures the image of a child;
  - iii. was made in a residential premises (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship;
  - iv. captures a conversation with a person whose request to de-activate the BWC was declined;
  - v. captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information (e.g., verbal codes and hand signals used to give direction to officers, techniques for interior movements and clearing rooms during execution of a warrant, techniques

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for convincing persons to open doors during warrant execution, etc.) may have been recorded;

- vi. captures the image of an undercover officer or confidential informant; or
- vii. captures the screen of a police computer monitor such as the patrol vehicle Mobile Data Terminal Computer that is displaying confidential personal or law enforcement-sensitive information. The MDT can be positioned in such a way as to 1) prevent unauthorized individuals from viewing it, and 2) prevent BWC recordings of the MDT screen. Officers should exercise care when recording in view of computer monitors at police headquarters.

### **b. Procedure for Tagging**

- i. Each departmental BWC is equipped with the ability to categorize recordings.
- ii. In addition to other categories, the BWCs have a “TAG” category.
- iii. When an officer records an event as detailed above, he or she will categorize the recording as “TAG.”

### **c. Approval to Access Tagged Recordings**

- i. A BWC recording tagged pursuant to this section shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee. Except for recordings tagged pursuant this policy (e.g., when a BWC captures the image of a patient at a substance abuse treatment facility), and subject to the requirements requiring notice to the County Prosecutor or Director of the Division of Criminal Justice prior to complying with a subpoena, court order, or request for records under the Open Public Records Act or the common law right to know, the County Prosecutor or Director may authorize the Chief Law Enforcement Officer of the Agency, and one or more supervisors or duty positions identified by the Chief Law Enforcement Officer of the Agency, to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC recordings tagged.

## **E. Access to Use and Dissemination of BWC Recordings**

1. Specified Authorized Purposes for Accessing/Using Stored BWC Recordings: No law enforcement officer or civilian employee of a law enforcement agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose as specified in this section. Access to and use of a stored BWC recording is permitted only:
  - a. when relevant to and in furtherance of a criminal investigation or prosecution;
  - b. when relevant to and in furtherance of an internal affairs investigation;

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- c. 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;
  - d. to assist the officer whose BWC made the recording in preparing his or her own police report, subject to the restrictions established in this policy;
  - e. when relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency;
  - f. to show to a civilian who intends to file a complaint against an officer to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint;
  - g. to comply with the State's discovery obligations in prosecutions pursuant to the Rules of Court and case law;
  - h. to comply with any other legal obligation to turn over the recording to a person or entity; to show or disseminate the recording to a civilian or a non-law enforcement entity, or to disseminate it to the public, where the County Prosecutor or designee, or Director of the Division of Criminal Justice or 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;
  - i. for training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video unless the depicted individuals have consented to the recording being used for training purposes;
  - j. to conduct an audit to ensure compliance with AG Directive 2015-1 and this policy;
  - k. 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 County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee; or
  - l. any other specified official purpose where the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.
2. Authorized Access of BWC Recordings Related to Deadly Force Investigations:
    - a. It is prohibited for any member of this agency, including the principle officer of a Deadly Force Investigation, to view any BWC recording related to the Deadly Force Investigation without the approval of the County Prosecutor, assistant prosecutor in charge of the investigation, assistant or deputy attorney general, or their designee.
  3. Documenting Access to Stored BWC Recordings:

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- a. The department will maintain a ledger that documents access to stored BWC recordings. The ledger will document the following information:
  - i. the date and time of access;
  - ii. the specific BWC recording(s) that was/were accessed;
  - iii. the officer or civilian employee who accessed the stored BWC recording;
  - iv. the person who approved access, where applicable; and
  - v. the reason(s) for access, specifying the purpose(s) for access authorized.

### **F. Officer Responsibilities**

1. Officers will be trained in the use, maintenance, and handling of the BWC. An officer's failure to care for an assigned BWC in accordance with this training may result in disciplinary action.
2. Intentional damage to or loss of a BWC will result in disciplinary action. Damage to or loss of a BWC will be reported and investigated in accordance with the Internal Affairs Policy. If the damage or loss is determined to be the result of recklessness the responsible officer may be disciplined, but an officer will not face disciplinary action for accidental or unavoidable damage or loss.
3. Officers will prepare the deployment of the BWC at the start of their shift, and secure it at the end of their shift, in accordance with their training and departmental policy.
4. If any of the BWC's functions do not operate properly at any time during the shift, the officer will immediately notify a supervisor and follow the procedure described in this policy.
5. Officers shall ensure that the equipment is operating in a way which will allow for the recording of enforcement actions. No uniform pieces of equipment, including ties, shirts, and jackets, will be worn in a manner that will interfere with video and/or audio recording of incidents.
6. Officers are encouraged to notify a supervisor after recording an incident or encounter that will provide valuable training if reviewed by other officers.
7. When downloading recordings, officers shall assign them a category and lock the recordings that are:
  - a) evidentiary in nature;
  - b) are subject to the TAG requirement; and/or
  - c) are pertinent to any investigation(s).

All videos from officers associated with the incident and/or investigation should be retained in accordance with records retention laws and no longer than useful for purpose of training or for use in an investigation or prosecution.

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8. If any recordings are evidentiary in nature, tagged and/or in the officer's opinion are pertinent to any investigation(s), the officer shall notify the System Coordinator of the recording to ensure its retention.
9. Officers shall document in any report if the BWC recorded the event.
10. Officers shall complete the agency access ledger whenever BWC recordings are accessed.

### **G. Data Security and Access Control**

1. All BWC recordings will be maintained on a secure computer.
2. All BWC data uploads will be done using the docking stations.
3. The Chief, Supervisors, and the System Coordinator will have access to view all BWC recordings.
4. Officers will request DVD copies of videos captured on their BWC that they believe contain evidence that is likely to aid in a criminal prosecution or in a civil action brought against the agency. The requests for DVDs will be made through the System Coordinator and the DVDs will be entered into the secure investigation file system and logged into evidence according to the agency's evidence policy.
5. Authorized system administrators will have access to the BWC recordings for the purpose of system maintenance.
6. Videos not being held as evidence may be used for training with the approval of a Supervisor.
7. Videos being held as evidence can only be used for training purposes with approval from a Supervisor.
8. With permission of their supervisor, officers may request to view videos of other officers directly involved with their investigation;
9. Officers are not permitted to delete and/or edit the video itself. Intentional attempts to do so will be reported and investigated in accordance with the Internal Affairs Policy.
10. No recordings taken from BWCs will be distributed or displayed to a member of the public without the authorization of the Chief Law Enforcement Officer of the agency or their designee.
11. Review of videos with a member of the public for internal affairs purposes requires the authorization of the Chief Law Enforcement Officer of the agency or their designee.

### **H. Release of BWC Video/Audio Recordings**

1. Upon receiving a subpoena, court order, or request pursuant to the Open Public Records Act (OPRA) or the common law right to know for a BWC recording, the agency shall, within one business day of receipt of such subpoena, court order, or

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request, and before complying with it, provide notice to the Hunterdon County Sheriff's Office's Bureau of Professional Standards. Such notice shall state clearly the deadline by which a response must be made.

2. In the case of release for discovery purposes, the requesting officer shall make the request to the System Coordinator. The System Coordinator shall satisfy the request in a timely manner.
  - a. For Tagged recordings, when providing the recordings for discovery purposes, the video DVD will be clearly labeled "TAGGED RECORDING."
3. Disclosure of BWC Recordings Pertaining to Criminal Investigations.
  - a. Except as otherwise provided in section II D-1, a BWC recording of an event or encounter that involves an investigation of a criminal offense shall not be shared with or provided or shown to any person, entity, or government agency other than a law enforcement agency or officer or authorized civilian employee of such agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, case law, or by a court order, or unless the law enforcement agency in consultation with the County Prosecutor or designee, or the Director of the Division of Criminal Justice or 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.

### **I. Retention**

1. All videos will be retained for at least ninety (90) days.
2. Videos that are evidentiary in nature and/or pertinent to any investigation(s) shall be retained in accordance with records retention laws and no longer than useful for use in an investigation or prosecution.
3. Videos that are of training value only shall be retained no longer than the useful purpose of training is needed.
4. After the retention period has expired, the System Coordinator will complete a ledger documenting the specific recording and reason for destruction.
5. When a video recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution, the recording shall be treated as evidence and shall be kept in accordance with the retention period for evidence in a criminal prosecution.
6. When a video records an arrest that did not result in an ongoing prosecution, or records the use of police force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency.
7. When a video records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action.

### **J. Evidence Control and Discovery**

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1. Recordings are considered investigatory records of the police department and shall be maintained and disposed of in accordance with the New Jersey Division of Revenue and Enterprise Services – Records Management Services records retention schedules, and the New Jersey Attorney General’s Guidelines for the Retention of Evidence, Directive 2011-1.
2. Contents downloaded from an MVR will be stored on the secure agency server or other designated storage device.
  - a. Recordings that are being stored for criminal, civil, or administrative purposes are to be processed and submitted as evidence, with a copy placed in the appropriate case file.
3. Recordings that are being stored for criminal, civil, or administrative purposes may only be erased or destroyed in accordance with the New Jersey Division of Revenue and Enterprise Services – Records Management Services records retention schedules, and the New Jersey Attorney General’s Guidelines for the Retention of Evidence, Directive 2011-1.
  - a. When an MVR records an officer’s use of force, the recording shall be kept until the expiration of the statute of limitations for filing criminal charges or a civil complaint against the officer and/or agency.
  - b. When an MVR records an event that is the subject of an internal affairs investigation, the recording shall be kept through the final resolution of the internal affairs investigation including any discipline and appeal.
4. MVR recordings shall be provided in discovery to defendants and their attorneys in accordance with the New Jersey Rules of Court.
  - a. For indictable crimes, it is the responsibility of the Hunterdon County Sheriff’s Office to provide the MVR recording in discovery.
  - b. For all criminal cases where defendant has been detained, it is the responsibility of the Hunterdon County Sheriff’s Office to provide the MVR recording in discovery.
  - c. For all criminal cases that have been remanded to municipal court, it is the responsibility of the local police department to provide the MVR recording in discovery.
  - d. For all municipal court cases, it is the responsibility of the local police department to provide the MVR recording in discovery.
  - e. For civil litigation, no MVR recording shall be released without a subpoena and authorization by the attorney representing the municipality or the Chief/Public Safety Director.
5. When responding to an OPRA request for an MVR recording, the OPRA custodian must review all recent case law regarding MVR recordings and review the request with the Sheriff, Chief/Public Safety Director and/or attorney representing the municipality before releasing.

## **BODY WORN CAMERA (BWC) and MOBILE VIDEO RECORDING (MVR) POLICY**

### **III. SYSTEM COORDINATOR RESPONSIBILITIES**

- A. The agency System Coordinator will be supervised by the agency Executive Officer, Chief of Police, Sheriff or their designee.
- B. The System Coordinator will be responsible for the following:
  - 1. Maintaining the recording software/hardware and officer permissions.
  - 2. Training officers on the recording systems.
  - 3. Maintenance and replacement of any recording equipment.
  - 4. Management of the physical DVD system and securing computers containing recordings.
  - 5. Management of the retention of physical DVDs and computers containing recordings.
  - 6. Updating the firmware on video systems.
  - 7. Any other duties assigned by the Chief Law Enforcement Officer of the agency.

### **V. DISCIPLINARY ACTION FOR VIOLATING THIS POLICY**

Any sworn or civilian member of the agency who knowingly violates this policy or Attorney General Directive 2015-1 shall be subject to disciplinary action.

#### **EFFECT**

In accordance with policy, The Internal Affairs Officer, Undersheriff(s), or Chief Warrant Officer shall notify the Sheriff of any changes that may be necessary to this policy.

#### **BY ORDER OF THE SHERIFF**

*Frederick W. Brown, Sheriff*