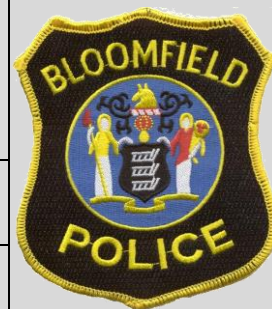


# BLOOMFIELD POLICE DEPARTMENT GENERAL ORDERS



VOLUME: 5

CHAPTER: 14

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**SUBJECT: BODY WORN AUDIO/VIDEO RECORDERS**

BY THE ORDER OF:

Director of Public Safety Samuel A. DeMaio

ACCREDITATION STANDARDS: 3.5.5

Effective Date:

May 17, 2016

SUPERSEDES ORDER #:

**PURPOSE** The purpose of this general order is to establish guidelines for the use, management, storage, and release of audio-visual media recorded by body worn video/audio recorders (BWR). BWR is intended to enhance officer safety, produce effective materials for training and to produce an additional method of collecting evidence to prosecute those who violate the law. A further purpose is to define the media storage and retention system for the events recorded by these devices.

**POLICY** It is the policy of the Bloomfield Police Department to utilize body worn video/audio recorders (BWR) 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 general order, and those policies or guidelines issued by the New Jersey Attorney General and Essex County Prosecutor's Office. Failure to use this technology in compliance with this general order, applicable laws and statutes, and those policies or guidelines issued by the New Jersey Attorney General and Essex County Prosecutor's Office can result in disciplinary sanctions. Any willful or repetitive violations of this general order shall be promptly reported to the Essex County Prosecutor's Office.

The use of body worn recorders with electronically enhanced audio/visual capabilities (e.g. infrared night vision, thermal imaging, or sound amplification that would record conversations occurring at a remote distance) is not authorized without the expressed approval of the Essex County Prosecutor or his/her designee

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

## PROCEDURES

### I. DEFINITIONS

- A. For purposes of this general order, the following terms are defined:
1. Activate – means to actuate (put into operation) the recording mode/function of a BWR.
  2. Body worn audio/video recorder (BWR) – is an officer worn device that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity nor does the term include an electronic recording device when used to comply with the requirements of Court Rule R. 3:17 (electronic recording of station house custodial interrogations).
  3. Constructive authority – involves the use of an officer's authority to exert control over a subject (see *General Order V3C2 Use of Force*), except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g., "...*show me your hands*," "...*get out of the vehicle*", etc.), or directed against any person if the officer has unholstered a firearm or CED (e.g., "...*move out of the way*", "...*get down*", etc.).
  4. Force – has the same meanings as defined in *General Order V3C2 Use of Force*.
  5. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.
  6. Mobile video recorder (MVR) – is a vehicle-mounted device that makes an electronic audio/video recording of activities that take place during a stipulated law enforcement action. Officers wear an electronic transmitter to record the audio portion.
  7. School – means an elementary or secondary school (i.e. middle school or high school).
  8. Tagging - is the electronic labeling of a video/audio file captured by a BWR.
  9. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, etc.
- B. All references to BWR include the body worn devices and, where appropriate, the wireless transmitter, microphone, removable media, server, and other accessories necessary to operate this system.

## II. GENERAL

- A. BWR recordings are invaluable to law enforcement for evidential purposes. BWR have consistently demonstrated its value in the prosecution of criminal, traffic, and other related offenses and to protect personnel from false claims of misconduct. Additionally, this equipment will provide valuable instructional material that can be utilized for in-service training programs.
- B. While visual and audio evidence may be captured on the recordings, the use of BWR is not intended to document all evidentiary material relevant to court or administrative proceedings, but it can serve to supplement an officer's senses and eyewitness account. There is no intent to utilize the BWR as a management tool to punish officers for minor departmental rule infractions.
  - 1. Personnel shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
  - 2. BWR 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 properly preserve evidence;
  - 3. Used to safeguard against potential violations of the New Jersey State wiretap laws, N.J.S.A. 2A: 156A-1, et seq.
- D. When properly used, this equipment will have the following capabilities:
  - 1. Creation of accurate documentation of motorist contacts and other patrol related activities.
  - 2. Preservation of an audio and video record of events, actions and conditions during arrests, critical incidents, and prisoner transports.
- E. These recordings will serve the following purposes:
  - 1. Recordings serve as protection for police officers when there are complaints about their conduct or professionalism during encounters with the public.
  - 2. The recordings can be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
  - 3. The recordings can resolve disputes concerning what occurred during particular incidents, thereby protecting both the public and the officers involved.
  - 4. When complete recall is not possible, such as when multiple events are happening simultaneously or out of an officer's line of sight, an audio/visual recording can provide an accurate record of events.

5. Supervisors will be able to view the recordings and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.
  6. Recordings can permit supervisors to undertake more meaningful performance evaluations.
  7. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the general public.
  8. Recordings enhance management's ability to train personnel in proper police procedures.
- F. The Director of Public Safety shall establish a training program on the lawful and proper use of BWR equipment. Only officers who have received training in the use of BWR 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 BWR is considered an essential job requirement.
- G. The Director of Public Safety shall appoint a BWR training coordinator. The designated BWR training coordinator is responsible for:
1. Providing initial training to all newly hired officers or officers who were not previously trained;
  2. Providing periodic refresher training, as required, to ensure the continued effective use and operation of the equipment;
  3. Providing initial and refresher training to non-sworn personnel whose responsibilities include accessing, copying, or distributing BWR records;
  4. Ensuring proper calibration and performance of the BWR equipment;
  5. Incorporating changes, updates, or other revisions in policy and equipment;
  6. Providing supplemental training as part of this department's progressive disciplinary processes.
- H. The Director of Public Safety shall appoint a system administrator to manage the BWR equipment whose duties shall include maintaining the system and procedures to ensure the integrity and proper handling and storage of all BWR recordings.
- I. Repairs to any BWR equipment shall only be performed by the manufacturer or under the direction of the designated BWR system administrator or his/her designee. The system administrator's responsibilities include:
1. Ensure that all recordings are uploaded to a secure data storage system in a timely fashion;
  2. Prevent tampering with or deletion of recorded data both before and after downloading from the BWR and uploading to the storage system;
  3. Prevent unauthorized access to stored BWR recordings;

4. Document all instances where BWR recordings are accessed, viewed, copied, disseminated, or deleted; permit auditing of all instances where BWR recordings are accessed, viewed, copied, or deleted; and
  5. Authorize access to downloaded BWR files
- J. BWR is intended for official law enforcement 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.
- K. All recording media, images, and audio are intellectual property of the Bloomfield Police Department and will not be copied, released or disseminated in any form or manner outside the parameters of this general order without the expressed written consent of the Director of Public Safety or the Essex County Prosecutor.
- L. Under no circumstances will any employee of the Bloomfield Police Department make a personal copy (or allow a personal copy to be made) of any recorded event without the permission of the Director of Public Safety or the Essex County Prosecutor.
- M. Officers will use only those BWRs approved and issued by the Director of Public Safety. Wearing any personally owned video/audio recorder is not authorized without the expressed permission of the Director of Public Safety, the Essex County Prosecutor's Office, or the New Jersey Division of Criminal Justice. Violations will be subject to disciplinary action, up to and including termination.
- N. BWRs shall be used only in conjunction with official law enforcement duties.
1. Officers engaged in undercover operations or surveillance activities are not required to utilize BWR.
  2. BWR shall be used only in conjunction with official law enforcement duties. The BWR shall not be used to record:
    - a. Encounters with undercover officers or confidential informants;
    - b. Communications with other police personnel without the advanced permission of the Director of Public Safety, the Essex County Prosecutor's Office or the New Jersey Division of Criminal Justice;
    - c. When on break or otherwise engaged in personal activities;
    - d. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room;
    - e. When engaged in police union business;
    - f. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction;
    - g. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that

- warrants recording, see section III.A of this general order; or
- h. While discussing criminal investigation strategies.

### III. INCIDENTS TO RECORD

- A. The following incidents shall be recorded:
1. All traffic stops from the time the violation is observed (or as soon as safe and practicable) until the stop is concluded, including sobriety testing;
  2. Field sobriety testing;
  3. All calls for service;
  4. Stationary police details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, etc.;
  5. Crash scenes, including interviews on the scene;
  6. Crime scenes;
  7. Investigations of criminal violations (not to include undercover investigations or related surveillance activities);
  8. Investigative detentions/field interviews;
  9. Searches (all types, including frisks);
  10. Arrests;
  11. Arrestee/prisoner transportation;
  12. 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 investigation report);
  13. Special events or projects, including but not limited to crowd control, unruly crowds, or any incident requiring activation of the all hazards or emergency operations plan;
  14. Domestic violence investigations;
  15. Strikes, picket lines, demonstrations;
  16. Officer initiated pedestrian stops;
  17. Welfare checks of residents and motorists (motorist aid).
- B. When an officer equipped with a BWR is dispatched to a call for service, upon acknowledging dispatch, the officer shall **immediately** begin to record the response (or as soon as safe and practicable).

- C. When an officer equipped with a BWR volunteers for a call for service or assistance, upon advising dispatch, the officer shall **immediately** (or as soon as safe and practicable) to record the response unless impracticable. In a situation where it is impractical to record the situation, the officer must notify their immediate supervisor, as soon as it is safe to do so. Reasons for not recording the incident shall be documented in an administrative memo and forwarded through the chain of command.
- D. Notwithstanding any other provision of this general order, when an officer equipped with a BWR 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 BWR before arriving at the scene unless impracticable.
- E. Notwithstanding any other provision of this general order, an officer while at the scene of a police deadly-force event or the on-scene investigation of that event shall not deactivate his/her BWR unless instructed to do so by the assistant prosecutor supervising the investigation of the deadly force incident pursuant to *Attorney General Law Enforcement Directive 2006-5*. The assistant prosecutor or his/her designee supervising the investigation may provide such instruction telephonically.
- F. BWRs shall remain activated for the entire duration of citizen contact until either the officer or citizen have departed the scene and the officer has notified communications that the event is closed. Officers shall narrate when intentionally stopping the recording.
- G. When a BWR is activated to transport an arrestee/prisoner, it shall remain activated at all times while the BWR-equipped officer is in the presence of the arrestee and until the arrestee is secured in the processing room or a cell, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee. Officers shall narrate when intentionally stopping the recording.
- H. When wearing a BWR, officers shall notify crime victims and civilians inside of their homes or place of abode (e.g., hotel/motel rooms, boarding houses, etc.) that they are being recorded unless it is unsafe or unfeasible to provide such notification.
  - 1. If the officer decides not to provide notification of BWR activation because it is unsafe or unfeasible to do so, the officer shall document the reasons for that decision in the incident report of the incident and/or by narrating the reasons on the BWR recording.
  - 2. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
  - 3. If an officer fails to activate the BWR, fails to record the entire event contact, or interrupts the recording, the officer shall document in the applicable incident report why a recording was not made, was interrupted, or was terminated.

- I. If a civilian inquires of an officer whether the officer is equipped with a BWR, or inquires whether the device is activated, the officer shall answer truthfully unless the Essex County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, has expressly authorized the officer to make a covert electronic recording.
  1. Officers may deactivate a BWR when a civilian conversing with the officer requests that the device be turned off under circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected provided however, that the agreement to participate under that condition is itself recorded.
    - a. Officers shall not suggest to the person that the BWR should be deactivated; nor shall the officer ask the person whether he or she would prefer that the BWR 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 BWR, the officer shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide only if the deactivation request is honored.
  2. Officers may deactivate a BWR when a person, other than an arrestee, is seeking emergency medical services for him/herself or another and requests that the BWR be deactivated. In deciding whether to de-activate the BWR, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance.
  3. When an officer deactivates a BWR:
    - a. The conversation between the officer and the civilian concerning the request for deactivation shall be electronically recorded;
    - b. The officer before deactivating the BWR shall narrate the circumstances of the deactivation (e.g. "...I am now turning off my BWR as per the victim's request".);
    - c. The officer shall report the circumstances concerning the deactivation to their supervisor as soon as is practicable; and
    - d. The officer shall document the circumstances of the deactivation in any incident report concerning the incident under investigation.
  4. If an officer declines a request to deactivate a BWR, the reasons for declining the request (e.g., the officer believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter) must be memorialized on the recording and documented and shall be reported to his/her immediate supervisor as soon as it is safe and practicable to do so.



- a. In the event that the officer declines a deactivation request, the officer 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 BWR has been turned off when in fact it is operating unless the Essex 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 BWR 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 BWR 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 BWR as per the instruction of assistant prosecutor (insert name)"*).
6. Officers may deactivate a BWR 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 BWR-equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When an officer deactivates a BWR pursuant to this section, the officer shall narrate the circumstances of the deactivation (e.g., *"...I am now turning off my BWR to discuss investigative strategy with my supervisor"*).
7. If an officer is required to deactivate the BWR 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 BWR shall be reactivated as soon as it is safe and practicable to do so if and when the circumstances requiring deactivation no longer exist (e.g., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWR).
8. In the event that a BWR captures the image of a patient in a substance abuse treatment facility, the Director of Public Safety or his/her designee shall notify the Essex 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 Essex 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 BWR was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so if and when the circumstances justifying deactivation no longer exist (e.g., the interview of the person requesting deactivation is completed, etc.) and the officer would otherwise be required to activate the BWR.
- J. Officers shall not activate a BWR, and shall deactivate a BWR that has been activated, if the officer knows or reasonably believes that the BWR would capture the image of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (e.g., active shooter, actual use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the officer shall inform their supervisor that the image of an undercover officer or confidential informant was recorded. The BWR shall be activated/reactivated as soon as it is safe and practicable to do so if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
- K. BWR shall be worn during tactical operations (ESU operations, execution of arrest and/or search warrant, etc.) In the event that a BWR worn during the execution of tactical operations, records confidential tactical information, the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms, techniques to convince persons to open doors, etc.), the recording shall be tagged accordingly to prevent its unauthorized release.
- L. Officers shall not activate a BWR 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.
- M. BWRs shall be deactivated or removed while in the ALCOTEST area when the ALCOTEST device is being used. Nothing herein shall be construed to preclude the use of a BWR 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 BWR, the officer shall narrate the reasons for deactivation (e.g., "...I am deactivating the BWR because the suspect is about to take a breath test."), and the BWR shall be reactivated when safe and practicable to do so following the completion of the breath testing operation.
- N. When a BWR is activated, officers are encouraged to provide narration where practical and appropriate in an effort to augment the value of the recording and to provide clarity for the viewer.
- O. Non-law enforcement personnel shall not be allowed to review the recordings at the scene of contact. Officer complaints shall be handled in accordance with the policies set forth in *General Order V2C15 Internal Affairs*. All other requests to view and/or obtain footage by the public shall be handled in accordance with section V of this general order.

- P. If an officer fails to activate the BWR, fails to record the entire event contact, or interrupts the recording, the officer shall document in the applicable incident report why a recording was not made, was interrupted, or was terminated.

#### IV. OFFICER AND SUPERVISORY RESPONSIBILITIES

- A. The BWR system administrator shall maintain a record of all BWR serial numbers and assignments.
- B. When not in use, BWRs shall be stored in the designated docking stations in the patrol vehicles. The docking stations permit recharging of the BWR units.
- C. Patrol officers shall wear and use the BWR when engaging in field activities. If available, officers shall also wear a BWR at DWI checkpoints.
- D. BWRs 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 BWR equipment. The BWR will be positioned high on the center of the chest at badge level, head, or collar, facing the officer's point of view. Officers are responsible to ensure the BWR remains in a position to allow the recording of an encounter or incident to the extent possible.
- E. All officers assigned a BWR are responsible for its use and maintenance during their tour of duty.
- F. Prior to beginning a shift, officers assigned a BWR will ensure its readiness by conducting an operational inspection. Officers shall also inspect BWRs at the conclusion of each shift to ensure system integrity.
  - 1. When conducting the pre and post shift inspection, the officer ensure that a BWR unit is present in the vehicle, activate the BWR and verbally state the date, time, whether a pre or post-shift inspection is being conducted, and that a test is being performed on the unit.
  - 2. Any problems preventing the use of the unit during the shift will be reported to the officer's immediate supervisor upon discovery. The supervisor shall assign a spare BWR (if available) and note the number of the fresh unit on an administrative memo directed through the chain of command to the BWR system administrator.
  - 3. Officers shall ensure that the BWR is placed back into its docking station in the patrol vehicle at the end of their shift.
- G. When video/audio footage is captured, it shall be noted in the coinciding report (e.g., incident, NJTR1, etc.), by typing/writing the capital letters *BWR* at the end of the report to signify that video/audio is available for the case. BWR recordings are not a replacement for written reports. *Under no circumstances shall officers simply refer to a BWR recording on an investigation report instead of detailing the facts and circumstances of their investigation/observations.*
- H. When reviewing such reports, shift supervisors shall ensure that the pertinent CAD/RMS record is annotated with an entry noting a BWR was used.

- I. BWR will upload directly to the server through its charging dock. Officers shall tag any recordings that correspond to their name. Tagging shall include the case number and/or any other identifying markers to link it to a specific case. Officers shall assign videos to a category in the software that are evidentiary in nature and/or they feel are pertinent to any investigation(s). All the videos from the officer(s) associated with an incident and/or investigation shall be assigned a category. Tagging such recordings shall not be used as a means to generate overtime. Video recordings that have not been downloaded prior to the end of a shift shall be tagged upon the officer's return to work.
  
- J. Officers shall categorize videos that capture any of the following circumstances that the New Jersey Attorney General has deemed 'special privacy' issues (see below). Officers must tag those recordings falling into these categories by the end of their next shift. Recordings marked 'special privacy' will have viewing immediately restricted to commanding officers and departmental designated evidence technician(s) assigned by the training division commander. All initial police reports must be written prior to a video being categorized 'special privacy'. To identify BWR recordings that may raise special privacy or safety issues, officers shall appropriately label recordings that:
  1. Captures the image of a victim of a criminal offense;
  2. Captures the image of a child;
  3. Were made in a residential premises (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship;
  4. Captures a conversation with a person whose request to deactivate the BWR was declined;
  5. Captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded;
  6. Captures the image of an undercover officer or confidential informant; or
  7. Captures the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
  
- K. Supervisors are responsible for ensuring that on-duty patrol officers are equipped with functioning BWRs at the beginning of each shift.
  1. Supervisors will conduct a formal review of at least one recording per officer assigned to their shift on a monthly basis, in order to assess officer performance as well as to flag video/audio that may be appropriate for training purposes. The reviewing supervisor shall post an electronic note on each recording.
  2. Supervisors shall formally review all instances when a BWR is deactivated prior to the conclusion of an incident and forward the documented review through the chain of command to the Director of Public Safety or his/her designee.

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 reviewing supervisor will label the video/audio for indefinite retention.

## V. RECORDS RETENTION AND REVIEW

- A. Viewing of BWR events is strictly limited to sworn officers of this department. Viewing by any other person is prohibited unless authorized by the Director of Public Safety, his/her designee, or consistent with the provisions of this general order.
- B. No law enforcement officer or civilian employee of this department shall access, view, copy, disseminate, or otherwise use a BWR recording except for an official purpose. Access to and use of a stored BWR recording is permitted only:
  1. When relevant to and in furtherance of a criminal investigation or prosecution;
  2. When relevant to and in furtherance of an internal affairs investigation;
  3. When relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of possible misconduct;
  4. To assist the officer whose BWR made the recording in preparing his or her own police report (NOTE exception in section V.G.3 of this general order, see below);
  5. When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency;
  6. To show to a civilian who intends to file a complaint against an officer to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint;
  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. The Bloomfield Police Department reserves the right to redact video as applicable by law.
    - d. All requests for copies or review of BWR recordings are subject to the fee requirements of the prevailing city ordinance.
  8. To comply with any other legal obligation to turn over the recording to a person or entity;

9. 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;
  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 Essex 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, where the Essex County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, determines that disclosure to that particular person entity or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality;
  12. To conduct an audit to ensure compliance with this general order; or
  13. Any other specified official purpose where the Essex 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 BWR recording
- B. Personnel shall not erase or in any other manner alter, tamper with, destroy, or conceal BWR recordings or remove or disable any camera. Any such tampering is a violation of N.J.S.A. 2C: 28-7, and is a 4<sup>th</sup> degree crime.
- C. Recordings shall be maintained and disposed of in accordance with New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
1. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes, recordings shall be retained for a period of 90 days.
  2. Recordings that are being stored for criminal, civil, or administrative purposes are to be tagged with a permanent retention period and shall be transferred to a DVD/CD and preserved as evidence or maintained with the case file.
  3. Recordings being stored for criminal, civil, or administrative purposes must be maintained until the conclusion of the case. Recordings maintained for these purposes can only be erased or destroyed in accordance with New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
- D. The Director of Public Safety or his/her designee shall notify the Essex County Prosecutor's Office within one business day upon receiving any subpoena, court order or OPRA request for a BWR recording before complying with it. Such notice shall clearly state the deadline by which a response must be made.

- E. A BWR 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 Director of Public Safety in consultation with the Essex County Prosecutor or his/her designee determines that the person/entity's/non-law enforcement agency/public's need for access outweighs the law enforcement interest in maintaining confidentiality.
1. If disclosure of a BWR 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 Essex 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 BWR recording tagged pursuant to section IV.K of this general order shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Essex County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee. The Essex County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee may authorize the Director of Public Safety and one or more supervisory officers to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWR recordings tagged pursuant to section IV.K.
  3. The assistant prosecutor overseeing a police use of force investigation pursuant to Attorney General Law Enforcement Directive 2006-5, or his/her designee, may in the exercise of sound discretion authorize a civilian or law enforcement witness to be given access to or view a BWR recording of the incident under investigation. To ensure the integrity of investigations of police-involved shootings and other use of force incidents and to avoid possible contamination of a witness's personal recollection of events that could undermine his or her credibility as a witness, notwithstanding any other provision of this general order, no civilian or law enforcement witness, (including the principals) of the investigation, shall be given access to or view a BWR recording of the incident, or a BWR recording of the response or on-scene investigation of the incident, without the expressed prior approval of the assistant prosecutor, assistant or deputy attorney general, or designee.

- F. The BWR system administrator shall maintain a record of all BWR recordings that are accessed, viewed, copied, disseminated, or deleted. The Director of Public Safety shall cause a periodic audit of these records to ensure compliance with this general order. Minimally, the record keeping system shall document the following information:
  - 1. The date and time of access;
  - 2. The specific recording(s) that was/were accessed;
  - 3. The officer or civilian employee who accessed the stored recording;
  - 4. The person who approved access, where applicable; and
  - 5. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.
  
- G. In the event that a recording is required for use in court or by another law enforcement agency, that recording shall not be released without the prior approval of the Director of Public Safety or designee.
  - 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.
  
- H. Officers shall not reproduce or store any recordings to any device or storage medium. This shall include, but not limited to, cell phones, electronic notebooks, etc.
  
- I. Recorded video of unusual or significant incidents, deemed to be beneficial for departmental training, may be utilized for departmental in-service training purposes only with the approval of the Director of Public Safety. Officers are encouraged to notify their supervisors of recordings, which may be beneficial for training purposes.