

## **Body Worn Cameras and Motor Vehicle Recording Equipment**

### **Policy No. 013**

Index as: Body Worn Cameras and Motor Vehicle Recording Equipment

#### **I. Purpose**

The purpose of this policy is to establish guidelines for the proper use, care and maintenance of Body Worn Cameras (BWC) and Mobile Vehicle Recording equipment (MVR) and the electronic data collected from BWC and MVR. The purpose of the body worn camera and in car video system is to provide an accurate unbiased record of enforcement related and non-criminal incidents that will aide in criminal prosecutions and limit civil liabilities. Safety shall be the primary consideration when engaging with citizens, not the ability to record an event or incident.

Recent changes to Pennsylvania Law allow uniformed law enforcement officers or clearly identifiable law enforcement officers on official duty usage of BWC. Future changes in law and procedure, technology, as well as training provided on this procedure, may result in modifications to this policy.

#### **II. Policy**

When permissible under Pennsylvania Law, officers shall activate the BWC/MVR to record contacts with citizens in the performance of their official duties, pursuant to this policy. Officers and citizen safety shall be the primary consideration when interacting with citizens and/or suspects. There may be instances in which officers are unable to activate their BWC/MVR due to circumstances making it unsafe, impossible, or impractical to do so. In these exigent circumstances, officers shall begin recording with their BWC/MVR at the first reasonable opportunity to do so and document the reason for the delayed start in the incident report and/or as part of the recording.

The Waynesburg Borough Police Department (WBPD) recognizes that video images cannot always show the full narrative nor do video images capture an entire scene. The WBPD also recognizes that the BWC/MVR video does not mirror the perspective of the officer at the time of an incident, nor does the video include other factors known to or perceived by the officer that could impact the officer's judgement and decision-making, such as events beyond the scope of the camera, the officer's "reactionary gap", or the difference between human vision and the camera's video recording abilities. Therefore, the use of BWC/MVR does not reduce the requirement to provide thorough, written documentation of an incident. There shall be an administrative review of this BWC/MVR policy, at a minimum, on an annual basis. Statutory changes as well as national best practices will be part of this review. Any and all data and recordings created by the BWC/MVR equipment are the exclusive property of WBPD.

- A. Definitions - The following words and phrases when used in this policy shall have the meanings given to them in this section unless the context clearly indicates otherwise:

Agency Administrator – Member of the WBPD who will be identified at the administrator level, with full access to user rights.

Body Worn Camera (BWC) System – A camera system worn on the person of a uniformed

officer, or clearly identifiable officer on official duty, capable of recording events both audibly and visually that is approved for use by the Pennsylvania State Police and published in the Pennsylvania Bulletin.

Mobile Video Recording Equipment (MVR) – All cameras, accessories, equipment, that provides video and light gathering capabilities located within WBPB patrol vehicles.

BWC/MVR Custodial Officer – Officer of the WBPB who is/are specifically trained in the maintenance and care of BWC/MVR equipment, and is/are trained to maintain and administer the off-site storage of the recordings.

BWC/MVR Technician – Officer(s) of the WBPB who is/are specifically trained in the maintenance and care of the BWC/MVR equipment, and who is/are trained to maintain and administer the storage of the recordings.

Confidential Information – Any of the following:

- a. The identity of a confidential source.
- b. The identity of a suspect or witness to whom confidentiality has been assured.
- c. Information made confidential by law or court order.

Critical Incident - Any incident in which a WBPB officer is involved, while acting in an official capacity, which causes serious bodily injury or death to any person, as well as any intentional shootings, in which a WBPB member discharges a firearm at a subject as a use of force, but the subject is not injured.

Digital Evidence – BWC/MVR files, including photographs, audio recordings and video footage, captured by a BWC/MVR and stored digitally.

End User – Officers of the WBPB who have been issued or assigned a BWC or who implement the use of a patrol vehicle equipped with MVR.

Storage Server - Digital media storage that can be accessed by End Users and Administrators. This virtual evidence warehouse stores digitally encrypted data in a highly secure environment that is only accessible to approved personnel based upon their security clearance.

Evidence Transfer Manager (ETM) – A computer server with built- in, networked or wirelessly connected docking stations physically installed within the WBPB or a WBPB patrol vehicle that digitally encrypts and uploads all data captured from BWC/MVR to the server.

Information Pertaining to an Investigation – An audio recording or video recording which contains any of the following:

- a. Complaints or depictions of criminal conduct, including all actions or statements made before or after the criminal conduct that are part of or relate to the same incident or occurrence.

b. Upon disclosure, information that would:

- (1) reveal the institution, progress or result of a criminal investigation;
- (2) deprive an individual of the right to a fair trial or an impartial adjudication;
- (3) impair the ability of the Attorney General, a district attorney or a law enforcement officer to locate a defendant or codefendant;
- (4) hinder the ability of the Attorney General, a district attorney or a law enforcement officer to secure an arrest, prosecution or conviction; or
- (5) endanger the life or physical safety of an individual.

Law Enforcement Agency – The Office of Attorney General, District Attorney's Office or an agency that employs a law enforcement officer.

Law Enforcement Officer – An officer of the United States, the Commonwealth or a political subdivision thereof, another state or political subdivision thereof or who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in the Pennsylvania Consolidated Statutes or an equivalent crime in another jurisdiction, a sheriff or deputy sheriff and any attorney authorized by law to prosecute or participate in the prosecution of the offense.

Oral Communication – Any oral communication uttered by a person possessing an expectation that such communication is not subject to interception under circumstances justifying such expectation. The term does not include the following:

- a. An electronic communication.
- b. A communication made in the presence of a law enforcement officer on official duty who is in uniform or otherwise clearly identifiable as a law enforcement officer and who is using an electronic, mechanical or other device which has been approved under section 5706(b)(4) (relating to exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices) to intercept the communication in the course of law enforcement duties.

Victim - An individual who was subjected to an act that was committed by another individual, including a juvenile, which constitutes any of the following:

a. An offense committed under any of the following:

- (1) The act of April 14, 1972 (P.L.233, No. 64), known as The Controlled Substance, Drug, Device & Cosmetic Act.
- (2) Title 18 Pa.C.S. (relating to crimes and offenses).
- (3) Title 75 Pa.C.S. 3732 (relating to homicide by vehicle).

- (4) Title 75 Pa.C.S. 3735 (relating to homicide by vehicle while driving under influence).
- (5) Title 75 Pa.C.S. 3735.1 (relating to aggravated assault by vehicle while driving under the influence).
- (6) Title 75 Pa.C.S. 3742 (relating to accidents involving death or personal injury).
- (7) Title 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).
- (8) Any other Federal or State law.
- (9) An offense which would constitute grounds for the issuance of relief under Chapter 62A (relating to protection of victims of sexual violence or intimidation) or Title 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

Victim Information - Information that would disclose the identity or jeopardize the safety of a victim.

ID - An identifier of digital evidence uploaded in the Storage Server.

Title - A method to identify the nature of BWC/MVR recordings in the Storage Server.

Retention Category - Identifies the length of time digital evidence will be retained in Storage Server.

### **III. Duties and Responsibilities**

All Sworn Personnel: All sworn personnel of WBPd must be familiar with the Pennsylvania Wiretapping and Electronics Surveillance Control Act (18 Pa. C.S. § 5701 et. seq. regarding the restriction and requirements of recording and must comply with same in the use of WBC/MVR equipment.

Chief of Police: The WBPd Chief of Police shall perform the following duties and responsibilities under this policy:

- (1) Ensure all BWC/MVR training is conducted in accordance with the provisions of this policy.
- (2) Ensure all WBPd officers are trained on current policy and proper use of BWC/MVR equipment. (3) Ensure a WBPd member is designated as the BWC/MVR Custodial Officer and BWC/MVR Technician.
- (3) Identify the Agency Administrator.
- (4) Ensure a sufficient number of BWC/MVR recordings are reviewed each month to confirm that officers are following WBPd policy and procedure.
- (5) Review any recording which evidences: a) an officer injury, b) an injury to an actor or

victim, c) recording of any use of force, and d) recording of any vehicle pursuant or actions taken following pursuit

- (6) In the event of a critical incident such as an officer involved shooting, in custody death or other officer involved incident that results in serious injury or death, take immediate custody of the involved BWC/MVR equipment and assume responsibility for upload of electronic data

Ranking Officers and Officer: All WBPD ranking officers and officers, other than the Chief of Police, shall perform the following duties and responsibilities under this policy:

- (1) Utilize BWC/MVR equipment in accordance with this policy.
- (2) Wear BWC equipment on the front of their uniform shirt or jacket.
- (3) Mark BWC/MVR recordings for appropriate Identification

BWC/MVR Custodial Officer: The WBPD Custodial Officer shall perform the following duties and responsibilities under this policy:

- (1) Provide assistance to WBPD officers regarding the proper use of BWC/MVR equipment.
- (2) Duplicate, store, and purge recordings made from BWC/MVR equipment in accordance with this policy.
- (3) When advised of damaged or malfunctioning BWC/MVR equipment, ensure that authorized repairs are made in a timely manner.
- (4) Randomly review, on a monthly basis, BWC/MVR files to ensure the equipment is operating properly and that officers are using the BWC/MVR equipment appropriately and in accordance with this policy, and to identify any areas in which additional training or guidance is required.
- (5) Maintain a record of assigned BWC and related equipment.
- (6) Maintain a record of assigned MVR equipment.
- (7) Conduct an annual inspection of all BWC/MVR equipment.
- (8) Arrange for the warranty and non-warranty repair of the BWC/MVR units.
- (9) Maintain BWC/MVR equipment.
- 10) Update software and system settings as necessary.
- 11) Disseminate BWC/MVR recordings to prosecutors and defense attorneys.

#### **IV. BWC/MVR Pre-Operational Procedures**

Officers of the WBPB shall not use the BWC/MVR equipment until the officer has received the proper training, which will include initial certification training, annual recertification training, and if needed remedial training. Operational problems with or damage to the BWC/MVR equipment shall be immediately reported to the officer's supervisor. If no supervisor is working, the officer shall notify the Chief of Police and BWC/MVR Technician within a reasonable time frame.. If BWC/MVR equipment is lost or stolen, the officer shall immediately notify the supervisors or, if no supervisor is on shift, then the Chief of Police.

At the beginning of their shift, officers utilizing a BWC and vehicle MVR equipment shall ensure their BWC is paired with the vehicle MVR equipment. A test recording of BWC and one MVR shall be conducted ensuring functionality. The ID and Title will be left blank. The retention category will be labeled as Test. Officers should ensure that they begin their shift with a fully charged BWC.

#### **V. BWC Operational Procedures**

Utilization: Officers shall utilize both the video and audio recording functions of the BWC equipment whenever it is employed, except where/when exempted by this policy or state law.

Uniformed officers, including primary, secondary and assisting officers, shall start, when safely able to do so, their BWC recordings when an emergency response call is initiated via radio or communication from 911 on their mobile data computer (MDC) or at the beginning of any self-initiated police action. For non-emergency response, Officers shall activate their BWC upon arrival at the scene, if not sooner.

Officers using a BWC shall ensure all dispatched and self-initiated calls for service are recorded, when safe to do so, including but not limited to the following:

- a) all enforcement/investigation related citizen contacts (e.g. domestics, assaults, disturbances);
- b) all stops (e.g., traffic and pedestrian), frisks and searches;
- c) vehicle and foot pursuits;
- d) all traffic crash scenes;
- e) DUI investigations, to include Field Sobriety Testing;
- f) high-risk encounters (e.g., barricade situations, active shooter);
- g) mental health encounters;
- h) suspicious activities;
- i) use of force situations;
- j) investigative detentions or arrests;
- k) encounters that require the advising of Miranda rights;
- l) all transports of prisoners and citizens (unless in a MVR equipped car);
- m) any contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording;
- n) any of the following searches of a person or property:
  - (1) consent searches (record consent);
  - (2) warrantless searches;

- (3) vehicle searches;
- (4) searches conducted incident to arrest;
- (5) inventory searches;
- (6) cursory searches;
- (7) probable cause searches;
- (8) execution of search or arrest warrants;
- (9) frisks;
- (10) field searches;
- (11) full-custody searches;
- (12) during initial inventorying of seized money/high value property;
- (13) deployment of drug detection dogs;
- (14) any incident when the officer deems it appropriate to activate the BWC in accordance with this policy or upon direction from a supervisor

Officers may also implement BWC's to record initial interviews with victims, complainants and witnesses.

## **VI. Patrol Vehicle MVR Operational Procedures**

Patrol vehicle's equipped with MVR equipment have preset activation triggers that automatically begin recording audio and video footage under certain circumstances that include:

- (1) Activation of emergency lights
- (2) Activation of emergency lights and siren

Utilization: Uniformed officer's operating MVR equipped patrol vehicles shall utilize both the video and audio recording functions of the MVR equipment whenever it is employed, except where/when exempted by this policy or state law.

Officers using a MVR equipped patrol vehicles shall ensure all dispatched and self-initiated calls for service are recorded, when safe to do so, including but not limited to the following:

- a) all enforcement/investigation related citizen contacts (e.g. domestics, assaults, disturbances)
- b) all stops (e.g., traffic and pedestrian), frisks and searches;
- c) vehicle and foot pursuits;
- d) all traffic crash scenes;
- e) DUI investigations, to include Field Sobriety Testing;
- f) high-risk encounters (e.g., barricade situations, active shooter);
- g) mental health encounters;
- h) suspicious activities;
- i) use of force situations;
- j) investigative detentions or arrests;
- k) encounters that require the advising of Miranda rights;
- l) all transports of prisoners and citizens;
- m) any contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording;
- n) any of the following searches of a person or property:

- (1) consent searches (record consent);
- (2) warrantless searches;
- (3) vehicle searches;
- (4) searches conducted incident to arrest;
- (5) inventory searches;
- (6) cursory searches;
- (7) probable cause searches;
- (8) execution of search or arrest warrants;
- (9) frisks;
- (10) field searches;
- (11) full-custody searches;
- (12) during initial inventorying of seized money/high value property;
- (13) deployment of drug detection dogs;
- (14) any incident when the officer deems it appropriate to activate the BWC in accordance with this policy or upon direction from a supervisor

Officers may also implement MVR's to record initial interviews with victims, complainants and witnesses.

## **VII. BWC/MVR Additional Operational Procedures**

Although not required by law, officers utilizing a BWC/MVR may inform individuals identifiably present that audio and video recording equipment is being utilized and their actions are being recorded.

Officers shall not use BWC/MVR equipment unless acting in the performance of their official duties.

Notwithstanding the exemptions contained within this policy or state law, when the recording function has been activated to record an incident, it shall not be deactivated until the incident has been completed unless a detailed investigation would be compromised. An example would include a member of the public refusing to speak with an officer while utilizing a BWC or MVR. Officers are encouraged to narrate the video recording during a recorded incident to aid in establishing probable cause for enforcement action and assist in report writing.

With the exception of police radios, officers shall ensure that the volume from other electronic devices within the police patrol vehicle does not interfere with BWC/MVR equipment, specifically the audio portion.

When practical, officers shall monitor the position of the BWC/MVR to ensure the BWC/MVR is capturing evidentiary versus non-evidentiary (e.g. ground, sky) footage.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, departmental shooting, departmental accidents), a supervisor shall respond to the scene, take custody of the BWC/MVR and equipment, and ensure the recorded media is downloaded to the Storage Server according to this policy. If no supervisor is working, the Chief of Police shall be notified. The BWC/MVR Technician shall be notified as soon as practicable and a duplication of the recording shall



be made.

At the end of their assigned shift, officers shall:

- (1) Ensure their BWC is turned off.
- (2) Ensure that the BWC equipment is connected to an Evidence Transfer Manager docking station at WBPB for download and automatic upload into the Storage Server.
- (3) Not remove the BWC equipment from the Evidence Transfer Manager docking station while downloading.
- (4) Ensure that the BWC battery is recharging.
- (5) Ensure each recording is properly labeled.
- (6) Ensure the appropriate retention category is selected.

At the end of their assigned shift, officers shall:

- (1) Ensure that the MVR equipment is connected at WBPB for download and automatic upload into the Storage Server
- (2) Officers shall not stop the automatic upload when swapping or storing their patrol vehicle.
- (3) Ensure each recording is properly labeled.
- (4) Ensure the appropriate retention category is selected.

### **VIII. Additional Procedures**

Any officer who intentionally disables or damages any part of the BWC/MVR system or who fails to follow the regulations of this policy without a justifiable reason, will be subject to criminal and/or internal disciplinary action, up to and including dismissal.

Officers shall notify the supervising officer and the BWC/MVR Custodial Officer of any visually sensitive material, to include but not limited to nudity or sexual acts. The BWC/MVR custodial officer will ensure the recording is restricted through the Storage Server. The recording shall be restricted to only agency administrators, unless specific need arises (Example: An ongoing investigation conducted by a detective, court, etc).

Officers shall not erase, delete, redact or otherwise alter any BWC/MVR recordings, except for approved annotation in accordance with the training and capabilities of the BWC/MVR system

Officers will not duplicate, copy, or otherwise possess any such data or recordings for any personal reason. Personal computer equipment and software programs shall not be utilized when making copies of digital evidence. Using a personal recording device such as video camera, cell phone or other device to record or capture digital evidence from a BWC/MVR device and/or digital evidence storage is strictly prohibited.

Officers will not intentionally activate the BWC/MVR to record conversations of fellow employees or other officers without their knowledge during routine, non-enforcement related activities.

Officers shall not allow non-sworn personnel to view the BWC/MVR recordings without permission from the Chief of Police. Non-sworn WBPB employees who are directly involved in the investigation

and/or prosecution of a criminal case related to the digital evidence are exempted from this restriction.

Officers will ensure that all care is taken to prevent unauthorized persons from viewing the digital recordings. Any unauthorized use of the recordings will subject the officer to disciplinary action. This includes, but is not limited to, the uploading or converting of digital evidence for posting to any type of social media without the express permission of the Chief of Police.

#### **IX. Exemptions to Audio and/or Video Recording**

There may be occasions when an officer is unable to activate, or may deem it necessary to temporarily deactivate the audio and/or video recording function on a BWC/MVR. Officers shall be prepared to articulate their rationale when exercising this discretion. In cases where it is necessary or prudent to temporarily suspend an audio and/or video recording, the member shall, when reasonable, declare on the recording the reason for suspension of the recording prior to deactivation. Upon reactivation of the recording, the member shall state that the recording shall resume. In situations where witnesses, crime victims or other parties wish to share information related to criminal activity, but refuse to do so while being recorded, officers shall have discretion to deactivate the BWC during the interview subject to the conditions herein stated.

In certain situations, officers shall ensure that audio and/or video recording shall not occur, under which circumstances the officer shall declare on the recording the reason for suspension of the recording prior to deactivation. Instances where audio and/or video recording shall not occur include but are not limited to the following:

- a) Protecting the anonymity of an informant or other confidential source of information.
- b) Officer safety concerns.
- c) Administrative conversations.
- d) Conversations involving sensitive law enforcement information.
- e) Privacy during an attorney/client conversation.
- f) Encounters with undercover officers.
- g) Any location where individuals have a reasonable expectation of privacy, such as a restroom, locker room, WBPD patrol room, WBPD administrative offices, WBPD clerical area, or WBPD break room.
- h) When a patient is receiving a medical or psychological evaluation by a clinician or similar professional, or during treatment. Although recording within a medical facility is not recommended, if deemed necessary, officers shall be careful to avoid recording individuals not related to the incident being investigated.
- i) While engaged in conversations with individuals with whom the officer is in a privileged relationship (Example: Spouse, attorney, police peer counselor, clergyman, psychiatrists, etc)

#### **X. Accidental Recordings**

In the event of an accidental activation of a BWC/MVR where the resulting recording has no investigative or evidentiary value, an officer may submit a deletion request to the Chief of Police or his/her designee for review and tracking. This shall be done prior to the completion of their current shift

and shall be done in writing in the form of an email or memo. The Chief of Police or Agency Administrator may not delete their own accidental recordings and shall notify the Mayor in the form of an email or memo if requesting deletion.

In the event of an accidental recording of the BWC/MVR where the resulting recording contains evidentiary value and accidental recording, officers may submit a redaction request to the Chief of Police or his/her designee for review and tracking. This shall be done prior to the completion of their current shift and shall be done in writing in the form of an email or memo. The Chief of Police or Agency Administrator may not delete their own accidental recordings and shall notify the Mayor in the form of an email or memo if requesting redaction.

Officers shall ensure the request contains sufficient information (e.g., date, time, BWC/MVR number) to locate the recording. The Chief or his/her designee shall review accidental recordings and determine whether or not the recording had an official purpose, or should otherwise be retained pursuant to this policy. If the recording had no official purpose, and if this policy does not otherwise require the retention of the recording, it may be redacted or deleted. An audit log on the history of every recording will be maintained in the storage system.

#### **XI. Review of BWC/MVR Recordings**

Officers may view their own BWC/MVR recordings to assist in accurate report writing, testifying in court, for training purposes, and debriefing. Officers may review their own BWC/MVR recordings prior to documenting an incident, arrest, search, interview, or other enforcement or investigative activity.

Officers who are the subject of an administrative investigation may view their own BWC/MVR recordings in the presence of their immediate supervisor or the Chief of Police and labor representative, if requested.

In an attempt to determine the unadulterated thought process and feelings perceived by the officer at the time of a use of deadly force or a critical incident, officers may view their BWC/MVR recordings related to the incident after being interviewed.

#### **XII. Accessing BWC/MVR Stored Data**

Evidentiary copies of digital recordings will be accessed and copied from the digital storage source using department approved equipment and for official law enforcement purposes only. Temporary access rights may also be granted to the Greene County District Attorney's Office, or other prosecutorial agencies associated with any future prosecution or civil case arising from an incident in which the BWC/MVR was utilized.

#### **XIII. Dissemination/Requests for Law Enforcement Audio Recordings or Video Recordings Pursuant to 42 Pa. C.S. § 67A01, et. seq.**

Requests for audio and/or video recordings of the WBPD are not subject to the Pennsylvania Right to

Know Law and must comply with the following pursuant to 42 Pa. C.S. § 67A01, et. seq.:

- a) An individual who requests an audio recording or video recording made by a law enforcement agency shall, within 60 days of the date when the audio recording or video recording was made, serve a written request to the individual who is designated as the open-records officer for the law enforcement agency under section 502 of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to- Know Law. Service is effective upon receipt of the written request by the open-records officer from personal delivery or certified mail with proof of service.
- b) The request under paragraph (a) shall specify with particularity the incident or event that is the subject of the audio recording or video recording, including the date, time and location of the incident or event.
- c) The request shall include a statement describing the requester's relationship to the incident or event that is the subject of the audio or video recording.
- d) If the incident or event that is the subject of the audio recording or video recording occurred inside a residence, the request shall identify each individual who was present at the time of the audio recording or video recording unless not known and not reasonably ascertainable.
- e) WBPD may establish reasonable fees relating to the costs incurred to disclose audio or video recordings. The fees shall be paid by the requesting party at the time of disclosure.

#### **XIV. Retention of Body BWC Recordings**

Upon upload of BWC recordings in the Storage Server each officer is responsible for accessing the Storage Server and ensuring the uploaded files have been properly labeled and marked for retention. Multiple retention categories may be used. The Title shall be used to identify the incident type (DUI, Assault, etc). Each recording shall be labeled with the appropriate Retention category. The following Retention categories are used by the WBPD

General (Examples include: Motorist Assists, Ambulance Assists, Traffic Stops without citation, etc.) •  
Summary Non-Traffic citation  
Summary Traffic citation  
Misdemeanor offense (regardless of charging)  
Felony offense (regardless of charging)  
Use of Force (Any use of force option greater than handcuffing)  
Officer Injury  
Training  
Test  
Permanent (Examples include: Murder, Drug Delivery Resulting in Death, etc)

A recording captured on BWC/MVR equipment will be retained for at least 90 days following the date the recording was created or, if a request for a recording pursuant to the procedures established in Chapter 67A of Title 42 is received, until the final disposition of the request or the expiration of the time periods allowed for the seeking of judicial review.

Mandatory Retention of BWC/MVR Recordings: If not the subject of a request under Chapter 67A of Title 42, a recording should be deleted within 120 days of the date of its creation, unless one of the

following applies:

- 1) The content of the recording has resulted, or may result, in the initiation of any criminal charges, summary proceedings, or any other criminal citations.
- 2) The content of the recording is likely to become the subject of civil litigation against WBPB or its personnel, including but not limited to, patrol vehicle crashes, pursuits, critical incidents, incidents involving the use of force, and incidents involving verbal complaints against the WBPB or its personnel.
- 3) The content of the recording involves injuries to officers or injuries incurred or alleged to have occurred as a result of action by the WBPB or its personnel.

#### Non-Mandatory Retention/Duplication of BWC/MVR Recordings

In addition to records request pursuant to the procedure established in 42 Pa.C.S. Chapter 67A (referring to public requests for audio or video recordings by a law enforcement agency), the BWC/MVR Custodial Officer shall ensure the following types of recordings made from BWC/MVR equipment are stored in accordance with this policy:

- 1) A recording requested to be preserved by an officer appearing on the recording, an officer investigating a violation of law, or a police supervisor, where the recording may be necessary for use in any criminal or forfeiture proceeding.
- 2) A recording requested to be preserved by a police supervisor, the Chief of Police or the Waynesburg Borough Solicitor, where the recording may be necessary for use in any civil, administrative, or disciplinary proceeding. The duplicated recording shall be retained until destruction is authorized by the requester.
- 3) A recording requested to be preserved by any individual who is a participant on the recording for use in any criminal proceeding. Such requests must be in writing, and should contain the date, time, and location of the recording, and the names of the parties involved.
- 4) A recording requested to be preserved by any individual who is a participant on the recording for use in any civil proceeding against the WBPB or its personnel. Such requests must be in writing, and should contain the date, time, and location of the recording, and the names of the parties involved. Notice of the request shall be immediately provided to the Chief of Police and Waynesburg Borough Solicitor. The duplicated recording shall be retained for a minimum of two years from the date of the incident.
- 5) A recording requested to be preserved by any individual who is a participant on the recording for use in any civil proceeding that is not against the WBPB or its personnel. Such requests must be in writing, and should contain the date, time, and location of the recording, and the names of the parties involved. The recording shall be duplicated and retained for a period of two years or until a copy of the recording has been provided to the requester when authorized under WBPB regulations, whichever comes first.
- 6) A recording that is the subject of a subpoena, court order, or request for pretrial discovery or inspection. Copies of the recording shall be furnished to the requester in accordance with existing WBPB regulations.
- 7) In criminal cases, notice shall be provided to the prosecuting attorney.
- 8) In civil cases against the WBPB or its personnel, notice shall be immediately provided to the

Waynesburg Borough Solicitor. The duplicated recording shall be retained for a minimum of two years from the date of the incident and shall not be destroyed without the permission of the Waynesburg Borough Solicitor.

- 9) In civil cases not against the WBPD or its personnel, the recording shall be retained for a period of two years or until a copy of the recording has been provided to the requester when authorized under WBPD regulations, whichever comes first.
- 10) A recording requested to be preserved by an officer, police supervisor, and/or Chief of Police for training purposes. The recording shall be duplicated and provided to the requester, who may retain the recording indefinitely.
- 11) A recording requested by the Chief of Police to be preserved for any purpose authorized by law. The recording shall be duplicated and provided to the requester, who may retain the recording for the period authorized by law.

#### **XV. Storage and Erasure of BWC/MVR Recordings**

Storage and erasure of BWC/MVR recordings identified as mandatory retention documents as defined herein shall be in accordance with Pennsylvania law, including but not limited to 46 Pa. Code § 15.59 and 18 Pa. C.S. § 5749, and shall be the responsibility of the BWC/MVR Technician.

#### **XVI. Facial Recognition Software or Programs**

If facial recognition software or programs are developed which interface with the WBPD BWC's, prior to the implementation or use of such software or programs, WBPD will establish policies and procedures relating to the use of facial recognition software and programs which are in accordance with applicable law and regulation, and which will be limited to any specific software or programs which may be approved by the Pennsylvania State Police.

#### **XVII. Adherence to Policy**

Failure to comply with this policy may result in disciplinary action.

#### **XVIII. Effective Date**

This policy is effective this 9<sup>th</sup> day of October, 2023.