

WEARE DEPARTMENT OF POLICE SERVICE

144 North Stark Highway, Weare, New Hampshire 03281

SOP-014-034



Patrol

Implement Date

08/17/2014

Equipment

Review Date

08/17/15

Body Worn Cameraⁱ

Revised Date

Supersedes

This written directive is for the internal governance of the Weare Police Department, and as provided by NHRSA 516:36, is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law. This written directive is promulgated under the authority of NHRSA 105:2-a.

Sean F. Kelly

Chief of Police

The body worn camera policy of the Weare Police Department is intended to provide officers with instructions on when and how to use body-worn cameras (BWCs) so that officers may reliably record their contacts with the public in accordance with other sections of this manual and NH RSA 570-A:2, Interception and Disclosure of Telecommunication or Oral Communications Prohibited.ⁱⁱ

Policy

It is the policy of the Weare Police Department that officers shall activate the BWC when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy, other sections of this manual and law. This policy specifically excludes the use of surreptitious recording devices used in undercover operations.

Procedures

Administration

The Weare Police Department has adopted the use of the BWC to accomplish the following list of the primary objectives:

- BWCs allow for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
- Audio and video recordings also enhance this agency's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
- The BWC may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.

When and How to Use the BWC

- Officers shall activate the BWC to record all contacts with citizens during the delivery of law enforcement and police services. Officers may use their discretion when deciding to activate the BWC during incidental public contact during the ordinary course of a duty day. However, when used for incidental contact, the documentation of such recordings shall be consistent with other sections of this procedure.
 1. Start recording early; it is evidentially valuable to record as much of the incident as possible; therefore, recording should begin at the earliest opportunity from the start of an incidentⁱⁱⁱ.
- Consistent with NH RSA 570-A:2, Interception and Disclosure of Telecommunication or Oral Communications Prohibited^{iv}, whenever possible, officers shall inform individuals that they are being recorded. When notification is not made, the recording officer shall note the reason for non-notification within the associated police report.
 1. When in locations where individuals have a reasonable expectation of privacy, such as a residence, they may decline to be recorded unless the recording is being made as part of a call for police service, is pursuant to an arrest or a search of the residence or individuals is being conducted. If a person lawfully declines to be recorded, when prudent, the officer shall video record the person's request to deactivate the BWC, then deactivate the camera. The officer shall document the reason why the camera was deactivated in the associated police report.
 2. Once activated, the BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy.
- If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated as part of their Weare Police Department incident, investigation or arrest report, as applicable.
- Civilians shall not be allowed to review the recordings at the scene; and, any requests for viewing shall be consistent with the delivery of discovery as part of pre-trial preparation^v; or, as part of a public information request under NH RSA Chapter 91-A, Access to Governmental Records and Meetings.
- Officers may review BWC recordings prior to preparing reports to ensure that all relevant information needed to accurately describe police activities is included in the written report.

Procedures for BWC Use

- BWC equipment is issued primarily to patrol officers. Officers who are assigned BWC equipment must use the equipment unless expressly authorized by a Sergeant or higher ranking officer; and, then only for a limited time.

- Weare Police Department personnel shall use only BWCs issued by this department. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the Weare Police Department.
- Weare Police Department officers who are assigned BWCs must complete an agency approved and/or provided training program to ensure proper use and operations. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment. All training shall become part of the receiving officers permanent training record.
- BWC equipment is the responsibility of individual officers and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be procured.
- Officers shall inspect and test the BWC prior to each shift in order to verify proper functioning and shall notify their supervisor of any problems.
- Officers shall not edit, alter, erase, duplicate, copy, share, display or otherwise distribute in any manner BWC recordings without prior written authorization and approval of the Chief of Police or designee. This section also specifically prohibits the officer from duplicating, copying, displaying or sharing the BWC recordings for personal use or record. There are no circumstances in which the deletion of BWC recordings by a Weare Police Officer of any images can be justified; any such action may result if legal or disciplinary proceedings^{vi}.
- No permanent file of recorded images shall be made accept as evidence in a criminal case.
- Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes. Images saved for training purposes shall be altered so that faces or other readily identifiable characteristics of citizens cannot be identified.
- If an officer is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the department reserves the right to limit or restrict an officer from viewing the video file.
- Requests for deletion of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the Chief of Police or designee in accordance with state record retention laws. All requests and final decisions shall be kept in a BWC related documents file retained by the Chief of Police or designee.
- Officers shall note in incident, arrest, and related reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.

Restrictions on Using the BWC

BWCs shall be used only in conjunction with official law enforcement duties. The BWC shall not be generally used to record:

1. Recordings must be incident specific; officers should not indiscriminately record entire duties or patrols^{vii};
2. Officers utilizing BWC should avoid collateral intrusion by making an effort to record only the subject(s) of the recording and minimize the recording of persons uninvolved in the incident causing the rise to record^{viii};
3. Communications with other police personnel without the permission of the Chief of Police as part of the Internal Affairs function(s) of the Weare Police Department;
4. Encounters with undercover officers or confidential informants unless expressly directed to be included as part of the investigation;
5. Intimate searches when otherwise permitted by the Strip and Body Cavity Search policy of the Weare Police Department;
6. While interviewing sexual assault victims unless their express consent has been obtained before the recording is made and such a recording would be consistent with the New Hampshire Attorney General's model protocol for Response to Adult Sexual Assault Cases^{ix} and the New Hampshire Attorney General's Child Abuse and Neglect Protocol, as applicable;
7. While interviewing juveniles, whether victim, witness or suspect, without the express consent of a parent or legal guardian, and when consistent with the New Hampshire Attorney General's Child Abuse and Neglect Protocol, as applicable. This section may be waived upon approval of the Chief of Police when the parent or legal guardian is the subject of the investigation to which the juvenile is a victim or witness;
8. When on break or otherwise engaged in personal activities;
9. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room; or,
10. In any instance when it is believed that an explosive device may be present; electrostatic interference from the BWC may trigger an explosive device^x.

Storage

- All files¹ shall be automatically and securely downloaded to www.evidence.com by connecting the BWC to its' charger no later than the end of each shift. Access to the retrievable image files shall be password protected. Each file shall contain information related to the date, BWC identifier, and assigned officer.
- All images and sounds recorded by the BWC are the exclusive property of the Weare Police Department. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited. Specifically included in this section, images shall not be used for display on department operated websites or social media without the express consent of the recorded person(s).
- All access to BWC data (images, sounds, and metadata) must be specifically authorized by the Chief of Police or designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.
- Files should be securely stored in accordance with NH RSA 33-A:3-a, Disposition and Retention Schedule^{xi}, and no longer than useful for purposes of training or for use in an investigation or prosecution.

¹ For the purpose of this document, the term "file" refers to all sounds, images, and associated metadata.

1. Unless being retained as evidence or otherwise described in NH RSA 33-A:3-a; or, as part of an internal affairs investigation, recordings made by BWC shall be destroyed or over-written every 31 days; and,
2. In capital punishment prosecutions, recordings shall be kept until an order for destruction has been issued by the Court having final jurisdiction of the case; if finality is in question, the recording shall be maintained indefinitely.

Supervisory Responsibilities

- Supervisory personnel shall ensure that officers equipped with BWC devices utilize them in accordance with policy and procedures defined herein.
- At least on a monthly basis, supervisors will randomly review BWC recordings to ensure that the equipment is operating properly and that officers are using the devices appropriately and in accordance with policy and to identify any areas in which additional training or guidance is required.
- A report that documents the random review of recordings shall be prepared and forwarded to the Chief of Police or designee. The report shall contain the following elements, at a minimum:
 1. Review of random recordings made by every officer assigned to use a BWC during the preceding month;
 2. A selection of recordings taken from each BWC owned/operated by the Weare Police Department during the preceding month;
 3. A summary of the supervisors findings; and,
 4. Recommendations for future use; opinions as to the quality of recordings, etc.; potential training needs; and, an opinion as to whether the selected recordings were in compliance with Weare Police Department policy and NH RSA 570-A:2^{xii}.

ⁱ NOTE: The Weare Police Department written directive governing the use of body worn cameras is founded in a model policy published by the USDOJ Office of Justice Programs Diagnostic Center in an article entitled, "Police Officer Body Worn Cameras" by Michael White. The full content of that article and the source material for this written directive can be found at:

<https://ojpdiagnosticcenter.org/sites/default/files/spotlight/download/Police%20Officer%20Body-Worn%20Cameras.pdf>

ⁱⁱ **570-A:2 Interception and Disclosure of Telecommunication or Oral Communications Prohibited.** –

I. A person is guilty of a class B felony if, except as otherwise specifically provided in this chapter or without the consent of all parties to the communication, the person:

- (a) Wilfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any telecommunication or oral communication;
- (b) Wilfully uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:
 - (1) Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in telecommunication, or
 - (2) Such device transmits communications by radio, or interferes with the transmission of such communication, or
 - (3) Such use or endeavor to use (A) takes place on premises of any business or other commercial establishment, or (B) obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment; or
- (c) Wilfully discloses, or endeavors to disclose, to any other person the contents of any telecommunication or oral communication, knowing or having reason to know that the information was obtained through the interception of a telecommunication or oral communication in violation of this paragraph; or
- (d) Wilfully uses, or endeavors to use, the contents of any telecommunication or oral communication, knowing or having reason to know that the information was obtained through the interception of a telecommunication or oral communication in violation of this paragraph.

I-a. A person is guilty of a misdemeanor if, except as otherwise specifically provided in this chapter or without consent of all parties to the communication, the person knowingly intercepts a telecommunication or oral communication when the person is a party to the communication or with the prior consent of one of the parties to the communication, but without the approval required by RSA 570-A:2, II(d).

II. It shall not be unlawful under this chapter for:

- (a) Any operator of a switchboard, or an officer, employee, or agent of any communication common carrier whose facilities are used in the transmission of a telecommunication, to intercept, disclose, or use that communication in the normal course of employment while engaged in any activity which is a

necessary incident to the rendition of service or to the protection of the rights or property of the carrier of such communication; provided, however, that said communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

(b) An officer, employee, or agent of any communication common carrier to provide information, facilities, or technical assistance to an investigative or law enforcement officer who, pursuant to this chapter, is authorized to intercept a telecommunication or oral communication.

(c) Any law enforcement officer, when conducting investigations of or making arrests for offenses enumerated in this chapter, to carry on the person an electronic, mechanical or other device which intercepts oral communications and transmits such communications by radio.

(d) An investigative or law enforcement officer in the ordinary course of the officer's duties pertaining to the conducting of investigations of organized crime, offenses enumerated in this chapter, solid waste violations under RSA 149-M:9, I and II, or harassing or obscene telephone calls to intercept a telecommunication or oral communication, when such person is a party to the communication or one of the parties to the communication has given prior consent to such interception; provided, however, that no such interception shall be made unless the attorney general, the deputy attorney general, or an assistant attorney general designated by the attorney general determines that there exists a reasonable suspicion that evidence of criminal conduct will be derived from such interception. Oral authorization for the interception may be given and a written memorandum of said determination and its basis shall be made within 72 hours thereafter. The memorandum shall be kept on file in the office of the attorney general.

(e) Where the offense under investigation is defined in RSA 318-B, the attorney general to delegate authority under RSA 570-A:2, II(d) to a county attorney. The county attorney may exercise this authority only in the county where the county attorney serves. The attorney general shall, prior to the effective date of this subparagraph, adopt specific guidelines under which the county attorney may give authorization for such interceptions. Any county attorney may further delegate authority under this section to any assistant county attorney in the county attorney's office.

(f) An officer, employee, or agent of the Federal Communications Commission, in the normal course of employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of chapter 5 of title 47 of the United States Code, to intercept a telecommunication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.

(g) Any law enforcement officer, when conducting investigations of or making arrests for offenses enumerated in this chapter, to carry on the person an electronic, mechanical or other device which intercepts oral communications and transmits such communications by radio.

(h) Any municipal, county, or state fire or police department, the division of emergency services and communications as created by RSA 21-P:48-a, including the bureau of emergency communications as defined by RSA 106-H, or any independently owned emergency service, and their employees in the course of their employment, when receiving or responding to emergency calls, to intercept, record, disclose or use a telecommunication, while engaged in any activity which is a necessary incident to the rendition of service or the protection of life or property.

(i) Any public utility regulated by the public utilities commission, and its employees in the course of employment, when receiving central dispatch calls or calls for emergency service, or when responding to central dispatch calls or calls for emergency service, to intercept, record, disclose or use a telecommunication, while engaged in any activity which is a necessary incident to the rendition of service, or the protection of life and property. Any public utility recording calls pursuant to this subparagraph shall provide an automatic tone warning device which automatically produces a distinct signal that is repeated at regular intervals during the conversation. The public utilities commission may adopt rules relative to the recording of emergency calls under RSA 541-A.

(j) A uniformed law enforcement officer to make an audio recording in conjunction with a video recording of a routine stop performed in the ordinary course of patrol duties on any way as defined by RSA 259:125, provided that the officer shall first give notification of such recording to the party to the communication.

(k)(1) The owner or operator of a school bus, as defined in RSA 259:96, to make an audio recording in conjunction with a video recording of the interior of the school bus while students are being transported to and from school or school activities, provided that the school board authorizes audio recording, the school district provides notification of such recording to the parents and students as part of the district's pupil safety and violence prevention policy required under RSA 193-F, and there is a sign informing the occupants of such recording prominently displayed on the school bus.

(2) Prior to any audio recording, the school board shall hold a public hearing to determine whether audio recording should be authorized in school buses, and if authorized, the school board shall establish an administrative procedure to address the length of time which the recording is retained, ownership of the recording, limitations on who may listen to the recording, and provisions for erasing or destroying the recording. Such administrative procedure shall permit the parents or legal guardian of any student against whom a recording is being used as part of a disciplinary proceeding to listen to the recording. In no event, however, shall the recording be retained for longer than 10 school days unless the school district determines that the recording is relevant to a disciplinary proceeding, or a court orders that it be retained for a longer period of time. An audio recording shall only be reviewed if there has been a report of an incident or a complaint relative to conduct on the school bus, and only that portion of the audio recording which is relevant to the incident or complaint shall be reviewed.

(l) A law enforcement officer in the ordinary course of the officer's duties using any device capable of making an audio or video recording, or both, and which is attached to and used in conjunction with a TASER or other similar electroshock device. Any person who is the subject of such recording shall be informed of the existence of the audio or video recording, or both, and shall be provided with a copy of such recording at his or her request.

Source. 1969, 403:1. 1975, 385:2. 1977, 588:16. 1979, 282:1. 1985, 263:2. 1988, 25:3. 1990, 96:1; 191:2. 1992, 174:2. 1995, 195:1; 280:10, I, II, III. 1996, 251:24, eff. Aug. 9, 1996; 274:1-5, eff. Jan. 1, 1997. 2002, 257:11, eff. July 1, 2002. 2003, 319:129, eff. Sept. 4, 2003. 2004, 171:21, eff. July 24, 2004. 2006, 69:1, eff. June 24, 2006. 2008, 139:1, eff. Aug. 5, 2008; 361:11, eff. July 11, 2008. 2010, 155:4, eff. July 1, 2010.

ⁱⁱⁱ White, Michael D. 2014. "Police Officer Body Worn Cameras, Assessing the Evidence". Washington, DC: Office of Community Oriented Policing Services.

^{iv} Ibid

^v DISCOVERY Rules 98 thru 99-A

98. The following discovery and scheduling provisions shall apply to all criminal cases in the Superior Court unless otherwise modified by the presiding justice in accordance with paragraph J hereof.

A. Pretrial Disclosure by the State.

(1) Within ten (10) calendar days after the entry of a not guilty plea by the defendant, the state shall provide the defendant with the materials specified below:

(i) A copy of all statements, written or oral, signed or unsigned, made by the defendant to any law enforcement officer or his agent which are intended for use by the state as evidence at trial or at a pretrial evidentiary hearing.

(ii) Copies of all police reports; statements of witnesses; results or reports of physical or mental examinations, scientific tests or experiments, or any other reports or statements of experts, as well as a summary of each expert's qualifications.

(iii) The defendant's prior criminal record.

(iv) Copies of or access to all books, papers, documents, photographs, tangible objects, buildings or places which are intended for use by the state

as evidence at trial or at a pretrial evidentiary hearing.

(v) All exculpatory materials required to be disclosed pursuant to the doctrine of *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, including *State v. Laurie*, 139 N.H. 325 (1995).

(vi) Notification of the state's intention to offer at trial pursuant to N.H. Rule of Evidence [404\(b\)](#) evidence of other crimes, wrongs or acts committed by the defendant, as well as copies of or access to all statements, reports or other materials that the state will rely on to prove the commission of such other crimes, wrongs or acts.

B. Pretrial Disclosure by the Defendant.

(1) If the defendant intends to rely upon an alibi or any other defense specified in the Criminal Code, the defendant shall within thirty (30) calendar days after the entry of a plea of not guilty file a notice to this effect with the court and the prosecution as provided in Superior Court Rules [100](#) and [101](#).

(2) If a defendant in a case to which Superior Court Rule [100-A](#) applies intends to offer evidence of prior sexual activity of the victim with a person other than the defendant, the defendant shall not less than forty-five (45) calendar days prior to jury selection file a motion in conformance with the requirements of said rule.

(3) Not less than thirty (30) calendar days prior to jury selection or, in the case of a pretrial evidentiary hearing, not less than three (3) calendar days prior to such hearing, the defendant shall provide the state with copies of or access to (i) all books, papers, documents, photographs, tangible objects, buildings or places which are intended for use by the defendant as evidence at the trial or hearing and (ii) all results or reports of physical or mental examinations, scientific tests or experiments or other reports or statements prepared or conducted by experts which the defendant anticipates calling as a witness at the trial or hearing, as well as a summary of each such expert's qualifications.

C. Dispositional Conferences.

The state shall provide a written offer for a negotiated plea, in compliance with the Victim's Rights statute, RSA 21-M:8-k, to the defense no less than fourteen (14) days prior to the dispositional conference. The defense shall respond to the state's offer no later than ten (10) days after receipt.

D. Exchange of Information Concerning Trial Witnesses.

(1) Not less than twenty (20) calendar days prior to final pretrial conference or, in the case of a pretrial evidentiary hearing, not less than three (3) calendar days prior to such hearing, the state shall provide the defendant with a list of the names of the witnesses it anticipates calling at the trial or hearing. Contemporaneously with the furnishing of such witness list and to the extent not already provided pursuant to paragraph A(ii) of this rule the state shall also provide the defendant with all statements of witnesses the state anticipates calling at the trial or hearing. At this same time, the state also shall furnish the defendant with the results of New Hampshire criminal record checks for all of the state's trial or hearing witnesses other than those witnesses who are experts or law enforcement officers.

For each expert witness included on the list of witnesses, the state shall provide a brief summary of the expert's education and experience relevant to his area of expertise, state the subject matter on which the expert is expected to testify, state a summary of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion, and provide a copy of any expert report relating to such expert.

(2) Not later than ten (10) calendar days before the final pretrial conference or, in the case of a pretrial evidentiary hearing, not less than two (2) calendar days prior to such hearing, the defendant shall provide the state with a list of the names of the witnesses the defendant anticipates calling at the trial or hearing. Contemporaneously with the furnishing of such witness list, the defendant shall also provide the state with all statements of witnesses the defendant anticipates calling at the trial or hearing. Notwithstanding the preceding sentence, this rule does not require the defendant to provide the state with copies of or access to statements of the defendant.

For each expert witness included on the list of witnesses, the defendant shall provide a brief summary of the expert's education and experience relevant to his area of expertise, state the subject matter on which the expert is expected to testify, state a summary of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion, and provide a copy of any expert report relating to such expert.

(3) For purposes of this rule, a "statement" of a witness means: (i) a written statement signed or otherwise adopted or approved by the witness; (ii) a stenographic, mechanical, electrical or other recording, or a transcript thereof, which is a substantially verbatim recital of an oral statement made by the witness and recorded contemporaneously with the making of such oral statement; and (iii) the substance of an oral statement made by the witness and memorialized or summarized within any notes, reports or other writings or recordings, except that, in the case of notes personally prepared by the attorney representing the state or the defendant at trial, such notes do not constitute a "statement" unless they have been adopted or approved by the witness or by a third person who was present when the oral statement memorialized or summarized within the notes was made.

E. Protection of Information Not Subject to Disclosure.

To the extent either party contends that a particular statement of a witness otherwise subject to discovery under this rule contains information concerning the mental impressions, theories, legal conclusions or trial or hearing strategy of counsel, or contains information that is not pertinent to the anticipated testimony of the witness on direct or cross examination, that party shall at or before the time disclosure hereunder is required submit to the opposing party a proposed redacted copy of the statement deleting the information which the party contends should not be disclosed, together with (i) notification that the statement or report in question has been redacted and (ii) (without disclosing the contents of the redacted portions) a general statement of the basis for the redactions. If the opposing party is not satisfied with the redacted version of the statement so provided, the party claiming the right to prevent disclosure of the redacted material shall submit to the court for *in camera* review a complete copy of the statement at issue as well as the proposed redacted version, along with a memorandum of law detailing the grounds for nondisclosure.

F. Motions Seeking Additional Discovery.

Subject to the provisions of paragraph J, the discovery mandated by paragraphs A, B and D of this rule shall be provided as a matter of course and without the need for making formal request or filing a motion for the same. No motion seeking discovery of any of the materials required to be disclosed by paragraphs A, B and D of this rule shall be accepted for filing by the clerk of court unless said motion contains a specific recitation of (i) the particular discovery materials sought by the motion, (ii) the efforts which the movant has made to obtain said materials from the opposing party without the need for filing a motion and (iii) the reasons, if any, given by the opposing party for refusing to provide such materials.

Nonetheless, this rule does not preclude any party from filing motions to obtain additional discovery. Except with respect to witnesses or information first disclosed pursuant to paragraph D, all motions seeking additional discovery, including motions for a bill of particulars and for depositions, shall be filed within forty-five (45) calendar days after the defendant enters a plea of not guilty. Motions for additional discovery or depositions with respect to trial witnesses first disclosed pursuant to paragraph D shall be filed no later than seven (7) calendar days after such disclosure occurs.

G. Other Pretrial Motions.

The parties shall file all pretrial motions other than discovery related motions, including but not limited to motions to dismiss, motions to suppress and motions to sever charges or defendants, not more than sixty (60) calendar days after entry of a plea of not guilty or within such other time in advance of trial as the Court may order for good cause shown or may provide for in a pretrial scheduling order.

H. Motions in Limine.

The parties shall file all motions in limine no less than five (5) calendar days prior to the final pretrial conference. For purposes of this paragraph, a motion which seeks to exclude the introduction of evidence on the ground that the manner in which such evidence was obtained was in violation of the

constitution or laws of this state or any other jurisdiction shall be treated as a motion to suppress and not a motion in limine.

I. *Continuing Duty to Disclose.*

The parties are under a continuing obligation to supplement their discovery responses on a timely basis as additional materials covered by this order are generated or as a party learns that discovery previously provided is incomplete, inaccurate or misleading.

J. *Protective and Modifying Orders.*

Upon a sufficient showing of good cause, the court may at any time order that discovery required hereunder be denied, restricted or deferred, or make such other order as is appropriate. Upon motion by a party, the court may permit the party to make such showing of good cause, in whole or in part, in the form of an ex parte written submission to be reviewed by the court *in camera*. If the court enters an order granting relief following such an ex parte showing, the written submission made by the party shall be sealed and preserved in the records of the court to be made available to the supreme court in the event of an appeal.

K. *Sanctions for Failure to Comply.*

If at any time during the proceedings it is brought to the attention of the court that a party has failed to comply with this rule, the court may take such action as it deems just under the circumstances, including but not limited to: (i) ordering the party to provide the discovery not previously provided, (ii) granting a continuance of the trial or hearing, (iii) prohibiting the party from introducing the evidence not disclosed, (iv) assessing costs and attorneys fees against the party or counsel who has violated the terms of this rule.

99. [Suspended by supreme court order dated September 30, 1997.]

99-A. In every case where there may be a possible extended term of imprisonment under RSA 651:6, the prosecuting attorney shall give notice of same to the defendant prior to the commencement of trial and file a copy of such notice with the Clerk.

^{vi} White, 2014.

^{vii} Ibid

^{viii} Ibid

^{ix} <http://doj.nh.gov/criminal/victim-assistance/documents/sexual-assault-protocol.pdf>

^x White, 2014.

^{xi} **33-A:3-a Disposition and Retention Schedule.** – The municipal records identified below shall be retained, at a minimum, as follows:

XCVII. Police, accident files-fatalities: 10 years.

XCVIII. Police, accident files-hit and run: statute of limitations plus 5 years.

XCIX. Police, accident files-injury: 6 years.

C. Police, accident files-involving arrests: 6 years.

CI. Police, accident files-involving municipality: 6 years.

CII. Police, accident files-property damage: 6 years.

CIII. Police, arrest reports: permanently.

CIV. Police, calls for service/general service reports: 5 years.

CV. Police, criminal-closed cases: statute of limitations plus 5 years.

CVI. Police, criminal-open cases: statute of limitations plus 5 years.

CVII. Police, motor vehicle violation paperwork: 3 years.

CVIII. Police, non-criminal-internal affairs investigations: as required by attorney general and union contract and town personnel rules.

CIX. Police, non-criminal-all other files: closure plus 3 years.

Source. 2005, 187:3, eff. Aug. 29, 2005. 2006, 119:2-5, eff. May 12, 2006. 2010, 172:1-3, eff. Aug. 16, 2010; 191:1, eff. Aug. 20, 2010. 2012, 113:1, eff. May 31, 2012; 284:13, eff. Sept. 1, 2015.

^{xii} Ibid