

WRITTEN DIRECTIVE



SUBJECT:	Body Worn Camera
ORDER TYPE:	Standard Operating Procedure
ISSUED DATE:	May 28, 2021
EFFECTIVE DATE:	June 1, 2021
DISTRIBUTION:	All Bureaus-Sworn Personnel and SLEO II, BWC Administrator
CALEA STANDARDS:	41.3.8

PURPOSE

The purpose of this written directive is to establish department policy and standard operating procedures for the use, management, storage, and release of audio-visual media recorded by body worn video/audio cameras (BWC). BWCs are intended to enhance officer safety, promote accountability, produce effective materials for training, and to produce an additional method of collecting evidence to prosecute those who violate the law.

This policy was designed in accordance with best practices from around the law enforcement community, and in congruence with the Bureau of Justice Assistance toolkit for the implementation of body-worn cameras. The policy is compliant with the New Jersey Attorney General Directive 2021-5 and was developed through a process of collection and consideration of community input on BWC policy.

POLICY

It is the policy of the Camden County Police Department to utilize body worn video/audio cameras (BWC) to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident. BWC recordings will serve the following purposes:

- Recordings serve as protection for both citizens and police officers when there are complaints about officer conduct during police-citizen engagement.
- The recordings can be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
- The recordings can resolve disputes concerning what occurred during particular incidents, thereby protecting both the public and the officers involved.
- The recordings can enhance the ability to hold both officers and members of the public accountable for their behavior during contacts.
- 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.

- Supervisors may view recordings and select portions to train officers in safety, de-escalation, empathy, proper police procedures, and legal doctrines.
- Recordings can permit more meaningful performance evaluations.
- Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the general public.

While visual and audio evidence may be captured on the recordings, the use of BWC 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.

- Officers shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
- BWC may only be utilized for legitimate law enforcement purposes.

All personnel (sworn and/or civilian) wearing/utilizing a BWC shall use this equipment (including accessing recordings) consistent with the manufacturer's guidelines, department policy, and directives issued by the New Jersey Attorney General and Camden County Prosecutor's Office. An officer who knowingly fails to comply with these directives will be subject to discipline.

The Camden County Police Department Webpage maintains a clearly identifiable link to the departments body-worn camera policy. The website posting includes an image showing what the device looks like and how it is to be worn by uniformed officers so that citizens will be able to determine whether an officer is equipped with the BWC device.

DEFINITIONS

Activate. To actuate the recording mode/function of a body worn camera.¹

Body worn camera ("BWC"). A device worn by a law enforcement officer that makes an electronic audio and video recording of activities that take place during any law enforcement action. The term does not include a mobile video recording device when mounted inside a police vehicle (i.e., a dash cam). The term also does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity. Nor does the term include an electronic recording device when used to comply with the requirements of Rule 3:17 (electronic recording of station house custodial interrogations).

Civilian Employee. Includes civilian county employees, contractors and/or agents of the department.

¹ Some BWC models may be turned on and remain in a standby or buffering mode, during which the device does not make a permanent record of images/sounds unless the officer activates the recording mode/function. With respect to these models, when the officer activates the recording mode/function, the device automatically preserves an electronic recording of the events that transpired a fixed period of time (e.g., 30 seconds) before the recording mode/function was activated. This time-delay or "buffering" feature allows the device to capture data concerning the event/circumstances that prompted the officer to activate the BWC. When an officer does not activate the recording mode/function, data captured while the device is in standby/buffering mode is overwritten automatically.

Constructive authority. Shall have the same meaning as defined in the Attorney General's Use of Force Policy, except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g., "show me your hands," "get out of the vehicle," etc.), or directed against a person if the officer has un-holstered a firearm or a conducted energy device (e.g., "move out of the way," "get down," etc.).

Created. An initial report is considered created once the reporting officer completes, signs and submits the report for supervisor approval. An initial statement or interview is considered created at the time the initial statement or interview is completed.

Force. Shall have the same meaning as defined in the Attorney General's Use of Force Policy. The term "force" shall include physical, mechanical, enhanced mechanical, and deadly force.

Independent Investigator. means the law enforcement entity tasked with primary responsibility for investigating a specified LE Incident and, where appropriate, determining whether to present a proposed indictment regarding the Principal(s) for their role(s) in an LE Incident.

Investigation of a criminal offense. 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.

Law enforcement agency, agency, or department. A law enforcement agency operating under the authority of the laws of the State of New Jersey. Law enforcement officer. A person whose public duties include the power to act as an officer for the detection, apprehension, arrest, and conviction of offenders against the laws of this State.

Law Enforcement Incident. Includes any of the following incident types:

- Any use of force by a law enforcement officer resulting in death;
- Any use of force by a law enforcement officer resulting in serious bodily injury;
- Any use of deadly force (including the discharge of a firearm) by a law enforcement officer, regardless of whether such force resulted in injury;
- The death of any civilian during an encounter with a law enforcement officer; and
- The death of any civilian while in the custody of law enforcement.

Mobile video recording system. A device or system installed or used in a police vehicle or worn or otherwise used by an officer that electronically records visual images depicting activities that take place during a motor vehicle stop or other law enforcement action.

Officer. Includes all sworn members of the Camden County Police Department.

Proactive enforcement team. Includes officers who are typically assigned to target vice, drugs, organized street crime, violent crime and/or any other targeted enforcement. Unlike officers who are responsible for responding to traditional calls for service, these officers are typically assigned the singular responsibility of addressing the aforementioned activities, and they are sometimes referred to as crime suppression units. The nature of their work is varied and may include being dressed in

traditional uniform, modified uniform, or plain clothes. These officers may work alongside undercover officers, conduct surreptitious surveillance, engage in high intensity enforcement via motor vehicle/pedestrian stops and/or interact with confidential informants or witnesses who wish to remain anonymous.

School. A public or nonpublic elementary or secondary school within this State offering education in grades kindergarten through 12, or any combination of grades, at which a child may legally fulfill compulsory school attendance requirements.

Subject of the video footage. Any law enforcement officer, suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the BWC recording, and shall not include a person who only incidentally appears on the recording.

Tactical team. A group of officers who are specially selected, trained, and equipped to handle high-risk incidents, including, but not limited to, those involving snipers, barricaded persons, warrant services, apprehensions, acts of terrorism, and other situations or activities as deemed necessary by command leadership.

Youth facility. A facility where children assemble under adult supervision for educational or recreational purposes, such as group homes, residential facilities, day-care centers, day treatment centers, etc.

PROCEDURES

1. GENERAL PROVISIONS

- 1.1. Officers may only use a BWC system that has been issued and approved by the department.
- 1.2. An officer equipped with a BWC shall comply at all times with the requirements established in this directive, Attorney General directive, county prosecutor directive, or by law.
- 1.3. A BWC will be used only in performance of official police duties and not for personal purposes.
- 1.4. A training program-curriculum shall be sustained and managed directly by the department's BWC Administrator. The curriculum content and instruction shall ensure that officers equipped with BWC and/or officers and civilian employees who access or handle BWC recordings are familiar and demonstrate a satisfactory degree of understanding and working knowledge of the provisions of this directive, Attorney General directives, county prosecutor directives, and all applicable laws of the State before wearing and operating an assigned BWC.
- 1.5. No BWC recording will be accessed, viewed, copied, disseminated, or otherwise used by a sworn officer or civilian employee of the department except for an official purpose specified in this directive or by law;

- 1.6. BWC recordings are not a replacement for written reports. *Under no circumstances* will officers simply refer to a BWC recording on an investigation report instead of detailing the facts and circumstances of their investigation/observations. Community Information Reports are not required following incidental-benign contacts where the BWC is activated.
- 1.7. When not in use, BWCs shall be stored in the designated docking stations at the station houses. The docking stations allow for the units to be charged and for the download of events to the BWC server.
- 1.8. An officer equipped with a BWC shall be responsible for determining that the device is fully functional and that its battery is adequately charged at the start of the officer's duty shift and before going into the field. If a malfunction is detected, the officer shall report the malfunction to a supervisor before going into the field. If the BWC malfunctions while out in the field, the malfunction upon its discovery shall be reported to the officer's supervisor as soon as it is safe and practicable to do so.
 - 1.8.1. Officers assigned BWC are responsible for ensuring the BWC remains in a position to allow the recording of an encounter or incident and is in good working order.
 - a) Prior to beginning a shift, officers assigned a BWC will ensure its readiness by conducting an operational inspection. Officers shall also inspect BWCs at the conclusion of each shift to ensure system integrity.
 - b) When conducting the pre and post shift inspection, the officer shall activate the BWC 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.
 - c) The results of the inspection, including any malfunctions or deficiencies, shall be noted by the officer on an information report.
 - d) Any problems preventing the use of the unit during the shift will be reported to the shift supervisor with a CAD record generated noting the details of the problem.
 - e) Officers will dock their BWC for download to the BWC docking station upon completion of their shift and prior to making relief.
- 1.9. Repairs to any BWC equipment will only be performed under the direction of the BWC Administrator or his/her designee. Malfunctioning BWC shall be marked and tagged out of service.

1.10. Any officer or civilian employee of the agency who knowingly violates the requirements of this directive, Attorney General directive, county prosecutor directive, or applicable laws, will be subject to discipline.

2. WEARING OF BODYWORN CAMERAS

2.1. Officers assigned BWC shall wear and utilize the BWC at all times while on-duty including primary and secondary employment, except as provided in Section 2.4.

2.2. Officers shall wear the BWC mounted to the front of the uniform on the chest using the mounting equipment provided by the manufacturer.

2.3. The following officers are required to be equipped with BWCs and adhere to the provisions of this directive when performing their duties:

- a) All uniformed officers (including Class II Special Law Enforcement Officers) while acting in the performance of official duties, as required by N.J.S.A. 40A:14-118.3 (P.L. 2020, c. 128). This shall include uniformed officers assigned to traffic law enforcement, and special events.
- b) All officers assigned to tactical teams as defined in this directive. Tactical Teams shall include S.W.A.T. (Special Weapons and Tactics), S.R.T. (Special Response Team), T.E.A.M.S. (Technical Emergency and Mission Specialists), Entry Teams, Rapid Deployment, Fugitive or similar assignments.
- c) All officers assigned to proactive enforcement teams as defined in this directive.
- d) All officers assigned to canine units.
- e) All officers whose assigned duties include regular interaction with members of the public, which reasonably may give rise to an arrest situation or use of force.
- f) All officers assigned to "front desk" duty, whose duties include interaction with members of the public who enter department facilities to report incidents or request assistance or information.
- g) All officers assigned to a pre-planned search warrant execution or a pre-planned arrest.
- h) All uniformed officers assigned to duties at demonstrations or potential civil disturbances.

2.4. Notwithstanding the provisions of 2.3, the following officers are not required by this directive to be equipped with BWCs:

- a) Officers engaged in undercover assignments.
- b) Officers assigned to administrative positions. This provision shall not exclude officers assigned to "front desk" duty, as defined in Section 2.3, from the requirement to be equipped with BWCs.
- c) Officers meeting with confidential sources or recruiting potential confidential sources.
- d) Officers engaged in union representation of a member of the collective bargaining unit.
- e) Officers assigned to duties within schools or youth facilities as part of the normal daily educational environment, such as School Resource Officers (SROs) and Class III Special Law Enforcement Officers (SLEO IIIs). *Officers assigned to duties at schools or youth facilities working security or crowd-control functions at special events such as athletic competitions, graduations or similar public events shall be equipped with BWCs.*
- f) Non-uniformed officers assigned to investigative, non-enforcement duties, when authorized by the Chief of Police or his designee.
- g) Officers engaged in crime-scene processing duties.

3. ACTIVATION OF BODYWORN CAMERAS

3.1. The decision to electronically record an encounter is *not* discretionary. Officers shall activate their BWC without unnecessary delay upon being dispatched, and in the case of self-initiated events—prior to citizen engagement, and/or immediately upon observing circumstances supporting constitutional justification; when feasible.

3.2. If an officer fails to activate the BWC, fails to record the entire event contact, or interrupts the recording, the officer shall document in an information report and the applicable investigation-incident report why a recording was not made, was interrupted, or was terminated. The officer shall make immediate notification to the watch commander of any such occurrence via the chain of command.

3.3. When a BWC is activated, officers shall state the time and shall provide narration where practical and appropriate in an effort to augment the value of the recording and to provide clarity for the viewer.

- 3.4. The following circumstances shall be recorded, unless there exists an immediate threat to the officer's life or safety that makes such activation impossible or dangerous; in such situations, the officer shall activate the camera at the first reasonable opportunity to do so and it shall remain activated until the encounter has fully concluded and the officer leaves the scene: ²
- a) The officer is conducting a traffic stop, from the time the violation is observed until the stop is concluded, to include: field sobriety testing, motor vehicle pursuit, car/truck inspection, seatbelt use checkpoint;
 - b) The officer is responding to a call for service and is at or near the location to which the officer has been dispatched;
 - c) The officer is on the crime scene of a sudden death, homicide, kidnapping, or shooting incident;
 - d) The officer is interviewing a witness in the course of investigating a criminal offense, domestic violence offense or traffic crash investigation;
 - e) The officer is conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with Rule 3:17 (electronic recordation of station house interrogations);
 - f) The officer is conducting an investigative detention/field interview (e.g. a Terry v. Ohio criminal suspicion stop);
 - g) The officer is conducting any kind of search (consensual or otherwise, including a protective frisk for weapons);
 - h) The officer is making an arrest;
 - i) The officer is transporting an arrestee to a police station, county jail, or other place of confinement, or a hospital or other medical care or mental health facility;
 - j) 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

² Two or more of the above/below-listed activities are likely to occur during a single encounter or event. For example, a frisk ordinarily occurs after an officer already has initiated an investigative detention (i.e., a "stop"), and a custodial interrogation typically occurs after the officer has arrested the person being interrogated. Although these specified activities often will co-occur and overlap, they are presented in this Section to ensure complete coverage of the circumstances when a BWC shall be activated. The specified activity that occurs first during an unfolding encounter will trigger the obligation to activate a BWC. As explained in Section 3.5, once activated based upon the initiation of any of the listed police activities, the BWC generally shall remain in operation until the police-civilian encounter is concluded (i.e., until the officer is no longer interacting with or in the presence of the civilian), and not just while the officer is engaged in the specified activity that required activation.

heightened caution that are documented by narration on the recording and/or in any investigation or incident report;³

- k) The officer is engaged in a police response to any type of civil disorder, strike, picket line, demonstration or protest in circumstances where the officer is engaged with or in the presence of civilians and the officer or any other officer on the scene may be required to employ constructive authority or force;
- l) The officer is conducting an officer-initiated pedestrian stop, and/or any engagement, including a stop that falls short of a Terry stop because the pedestrian technically is free to walk away, such as a 'mere inquiry' (e.g. asking where someone is going);
- m) The officer is conducting motorist aid or community caretaking check;
- n) Notwithstanding any other provision of this directive, when an officer equipped with a BWC is dispatched to or otherwise goes to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance (e.g., an officer in distress, shots fired, etc.);
- o) The officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.

3.5. To ensure that the entire encounter/event/episode is recorded, in accordance with this directive and the law, a BWC should be activated before a uniformed officer arrives at the scene of a dispatched call for service or other police activity listed in Section 3.4. See also note 1.

3.5.1. Except as otherwise expressly provided in Section 5 or any other provision of this directive, when a BWC is required to be activated by an officer pursuant to this directive, the device shall remain activated throughout the entire encounter/event/episode and shall not be deactivated until it is concluded (e.g., *the BWC-equipped officer has left the scene; all civilians involved in the encounter have left the scene; the officer has informed the dispatcher or a supervisor that the event has concluded; the event is "closed" on the department's computer-aided dispatch ("CAD") system, etc.*).

³ When circumstances necessitating the use of constructive authority or force arise suddenly during the course of swiftly-developing events, it may not be safe and practicable for an officer to activate a BWC before employing constructive authority or force. Nothing in this directive should be construed or applied in a manner that jeopardizes officer safety by distracting the officer's attention from the immediate need to use such constructive authority or force. It should be noted that in many circumstances where the need to use constructive authority or force arises, the officer already would have initiated a police activity, such as a motor vehicle stop, Terry stop, or response to a call for service, that would have triggered the requirement to activate the BWC; see note 2 (recognizing that two or more police activities enumerated in this section often will co-occur during the course of a single police-citizen encounter).

- 3.5.2. When a BWC is activated pursuant to transport of arrestee, whether by an officer in uniform or in plain clothes, it shall remain activated at all times while the BWC equipped officer is in the presence of the arrestee and until the arrestee is secured in the holding cell or processing room, 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.
- 3.6. Consistent with the provisions of N.J.S.A. 2C:33-15a(4), the video and audio recording functions of an officer's BWC shall be activated whenever the officer is responding to a call for service related to an underage person who is suspected of violating the law with respect to possessing or consuming an alcoholic beverage, marijuana, hashish, or a cannabis item, or at the initiation of any other law enforcement or investigative encounter between an officer and a person related to a violation or suspected violation of that provision. The BWC shall remain activated until the encounter has fully concluded and the officer leaves the scene and shall not be deactivated based on a request by a person who is the subject of the call for service related to a violation of N.J.S.A. 2C:33-15, or for any other reason.
- 3.7. Notwithstanding any other provision of this Policy, when an officer equipped with a BWC is dispatched to or otherwise goes to the scene of a "Law Enforcement Incident" as defined herein, the officer shall activate the BWC before arriving at the scene when feasible. Notwithstanding any other provision of this Policy, an officer while at the scene of a "Law Enforcement Incident" shall not de-activate the BWC unless instructed to do so by the Chief of Police or Internal Affairs commander, acting in accordance with the instructions of the assistant prosecutor or assistant or deputy attorney general supervising the investigation of the deadly-force incident, or his or her designee. Such instruction may be given telephonically by the assistant prosecutor, assistant or deputy attorney general, or designee supervising the investigation.
- 3.8. A BWC shall be activated only while in performance of official police duties and for the purpose of recording incidents, investigations, and police-civilian encounters involving those law enforcement activities specified in this directive. A BWC shall not be activated while the officer is on break or otherwise is not actively performing law enforcement functions (e.g., while eating meals, while in a restroom, etc.). A BWC shall not be activated or used by an officer for personal purposes, or when engaged in police union business. Nor shall a BWC be used to record conversations involving counseling, guidance sessions, personnel evaluations, or any similar supervisory interaction. Any recordings from a BWC recorded in contravention of this directive or any other applicable law shall be immediately brought to the attention of the Chief of Police and immediately destroyed by the Chief's designee following consultation and approval by the County Prosecutor or Director of the Office of Public Integrity and Accountability. Such footage shall not be admissible as evidence in any criminal, civil, or administrative proceeding.

- 3.9. If an officer fails to activate the BWC, fails to record the entire event contact, or interrupts the recording, the officer shall document in the applicable investigation-incident report why a recording was not made, was interrupted, or was terminated.
- 3.10. The BWC is a self-contained unit and does not emit an outside signal or receive or transmit upon any frequency, therefore, Officers shall activate the BWC when responding to a call for service or incident involving a bomb-threat or suspicious device. Use of police radio or cellular device shall be restricted in adherence with department directive—*Responding to Critical Incidents*.

4. NOTICE THAT BWC IS ACTIVATED

- 4.1. An officer who is wearing a BWC shall notify the subject of the recording that the subject is being recorded by the BWC, unless it is unsafe or infeasible to provide such notification. Such notification shall be made as close to the inception of the encounter as is reasonably possible. If the officer does not provide the required notification because it is unsafe or infeasible to do so, the officer shall document the reasons for that decision in a report or by narrating the reasons on the BWC recording, or both. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence. See Attorney General Directive 2021-5, Section II.A (non-enforceability by third parties).
- 4.2. If a civilian inquires of an officer whether the officer is equipped with a BWC, or inquires whether the device is activated, the officer shall answer truthfully unless the Chief of Police, acting in accordance with Attorney General directives, has expressly authorized the officer to make a covert electronic recording.
- 4.3. Prior to entering a private residence, officers shall notify the occupant that the occupant is being recorded by the BWC and, if the occupant requests the officer to discontinue use of the officer's BWC, the officer shall immediately discontinue use of the BWC unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that the officer will be required to use constructive authority or force. A request to discontinue the use of a BWC made to an officer pursuant to this Section and the response to the request shall be recorded by the recording system prior to discontinuing use of the recording system.
- 4.4. When interacting with an apparent crime victim, officers shall, as soon as practicable, notify the apparent crime victim that he or she is being recorded by the BWC and, if the apparent crime victim requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC. A request to discontinue the use of a BWC made to an officer pursuant to this Section and the response to the request shall be recorded by the recording system prior to discontinuing use of the recording system.

4.5. When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, officers shall notify the person that they are wearing a BWC and, if the person requests that the officer discontinue use of the BWC, the officer shall evaluate the circumstances and, if appropriate, discontinue use of the BWC. A request to discontinue the use of a BWC made to an officer pursuant to this Section and the response to the request shall be recorded by the recording system prior to discontinuing use of the recording system.

5. DE-ACTIVATION OF BODYWORN CAMERAS

5.1. Notwithstanding Section 3.5, an officer may de-activate a BWC 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.⁴ The officer shall not suggest to the person that the BWC should be de-activated; nor shall the officer ask the person whether he or she would prefer that the BWC be de-activated. Rather, the request for de-activation shall 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). In deciding whether to de-activate the BWC, the officer shall consider the privacy and safety interests of the person requesting de-activation, 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 de-activation request is honored.

5.2. Notwithstanding Section 3.5, an officer may de-activate a BWC when a person, other than an arrestee, is seeking emergency medical services for him or herself or another and requests that the BWC be de-activated. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting de-activation and the person in need of medical assistance.

5.3. When an officer de-activates a BWC pursuant to Section 5.1 or 5.2, the following procedures shall be followed:

- a. The conversation between the officer and the civilian concerning the request for de-activation shall be electronically recorded;
- b. The officer before de-activating the BWC shall narrate the circumstances of the de-activation (e.g., *"I am now turning off my BWC as per the victim's request."*);

⁴ Cf. R. 3:17(b)(iv) (explaining that station house custodial interrogations shall be electronically recorded unless "a statement is made during a custodial interrogation by a suspect who indicated, prior to making the statement, that he/she would participate in the interrogation only if it were not recorded; provided however, that the agreement to participate under that condition is itself recorded").

- c. The officer shall report the circumstances concerning the de-activation to his or her superior as soon as is practicable; and
 - d. The officer shall document the circumstances of the de-activation in any investigation or incident report concerning the incident under investigation. See also Section 7.2 (notations (i.e., "tagging") to indicate BWC recordings that raise special privacy or other issues).
- 5.4. If an officer declines a request to de-activate a BWC pursuant to Section 5.1 or 5.2, 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) shall be documented by narrating the reason for declining the request on the recording and shall be reported to the watch commander via the chain of command as soon as it is safe and practicable to do so.
- 5.5. In the event that the officer declines a de-activation request, the officer immediately shall inform the person making the request of that decision. An officer shall be prohibited from misleading the person making the de-activation request pursuant to Section 5.1 or 5.2 into believing that the BWC has been turned off when in fact it is operating unless the Chief of Police, acting in accordance with Attorney General directives, has expressly authorized the officer to make a covert electronic recording. An officer may not decline a request from an apparent crime victim to discontinue recording of the encounter via the BWC.
- 5.6. Notwithstanding Section 3.5, and subject to the requirements of Section 3.7, a BWC-equipped officer may de-activate a BWC 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 (i.e., under circumstances where a civilian might overhear the strategy discussion), and further provided that the BWC equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When an officer de-activates a BWC pursuant to this Section, the officer shall narrate the circumstances of the de-activation (e.g., "I am now turning off my BWC to discuss investigative strategy with my supervisor.").
- 5.7. When a BWC is de-activated, officers shall immediately prior to BWC de-activation, state the time, and provide narration where practical and appropriate in an effort to augment the value of the recording and to provide clarity for the viewer.
- 5.8. In any instance where a BWC was de-activated pursuant to this directive, the device shall be reactivated as soon as it is safe and practicable to do so if and when the circumstances justifying de-activation no longer exist (e.g., the interview of the person requesting

deactivation is completed), and the officer would otherwise be required to activate the BWC (e.g., where the officer proceeds to other investigative activities that are required to be recorded pursuant to this directive).

- 5.9. Notwithstanding any other provision of this directive, in any instance where a BWC was de-activated pursuant to the provision of this directive, or de-activated pursuant to any order issued by a department member, if the circumstances develop so that an officer is authorized to use force, the BWC shall be reactivated as soon as it is safe and practicable to do so.

6. SPECIAL RESTRICTIONS—ACTIVATION

- 6.1. Notwithstanding Sections 3.4 and 3.5 of this directive, and except as otherwise required by Section 3.7, unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that he or she will be required to use constructive authority or force, the officer shall not activate a BWC, or shall de-activate a BWC that has been activated, while the officer is:

- a) In a school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the BWC;
- b) In a patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances where patients would be in view of the BWC;
or
- c) In a place of worship under circumstances where worshipers would be in view of the BWC.

- 6.1.1. If an officer is required to de-activate the BWC in accordance with the provisions of this Section, the officer shall immediately before deactivation narrate the reason for de-activation (e.g., "I am entering a school building where children are present."). The BWC shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances requiring de-activation no longer exist (e.g., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWC).

- 6.2. Notwithstanding the provisions of Sections 3.4 and 3.5 of this directive, and except as otherwise required by Section 3.7, an officer shall not activate a BWC, or shall deactivate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would risk revealing the identity of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (e.g., active shooter, actual use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the officer shall inform

his or her supervisor that the recording risks revealing the identity of an individual as an undercover officer or confidential informant.

- 6.2.1. Notwithstanding the foregoing general rule prohibiting the recording of an undercover officer or confidential informant, in the event of a planned arrest/search warrant execution where it is expected that an undercover officer or confidential informant would be present (e.g., a raid where the undercover operative will be arrested to preserve his or her cover), the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, may provide specific instruction to any BWC-equipped officers participating in the operation on whether to activate their devices.
- 6.2.2. The BWC shall be activated/re-activated as soon as it is safe and practicable to do so if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
- 6.3. In the event that a BWC worn during the execution of tactical operations (e.g., "Special Operations" or "SWAT" operations, execution of arrest and/or search warrant, etc.) records confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms, techniques to convince persons to open doors, etc.), the recording shall be "tagged" in accordance with Section 7.2. See N.J.S.A. 47:1A-1.1 (exempting from disclosure under the Open Public Records Act "security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons"); N.J.A.C. 13:1E-3.2 (2) (exempting records that may reveal "surveillance, security, tactical, investigative, or operational techniques").
- 6.4. An officer shall not activate a BWC while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority.
- 6.5. In order to eliminate any argument that radio frequency interference from a BWC affected an electronic alcohol breath test, BWCs shall be deactivated, turned off and removed from the area of the breath test instrument before an electronic breath test is conducted. Nothing herein shall be construed to preclude the use of a BWC to record the behavior of a person arrested for driving while intoxicated other than while the person is in the breath-testing area while the electronic breath testing device is being operated. If this provision requires deactivation of a BWC, the officer shall narrate the reasons for de-activation (e.g., "I am deactivating the BWC because the suspect is about to take a breath test."), and the BWC shall be reactivated when safe and practicable to do so following the completion of the breath testing operation.
- 6.6. A BWC shall not be used surreptitiously. Additionally, a BWC shall not be used to gather intelligence information based on First Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law

enforcement or investigative encounter between a law enforcement officer and a member of the public, provided that nothing in this subsection shall be construed to prohibit activation of video and audio recording functions of a BWC as authorized under the law or this directive.

7. CATEGORIZING AND TAGGING BWC RECORDINGS

7.1. When video/audio footage is captured involving any part of an arrest or significant event, officers shall categorize the recording using the BWC application on their assigned smart phone device prior to clearing the assignment. Additionally, officers shall type/write the letters BWC (including BWC number) in all capital letters at the beginning of the investigative-incident report to signify that video/audio is available for the case. All recordings shall be categorized by selecting one of the following applicable categories:

- a) Arrest (Crime)-Video involves an arrest for a 1st, 2nd, 3rd, or 4th degree offenses;
- b) Arrest (DP/PDP)-Video involves an arrest for a Disorderly Persons or Petty Disorderly Persons Offense;
- c) Arrest (DWI) – Video involves an arrest for DWI;
- d) Arrest (Warrant) – Video involves an arrest for active warrant(s);
- e) Arrest (Other) – Video involves an arrest which does not meet above criteria;
- f) CFS (Homicide) – Video involves a call for service involving a Homicide;
- g) CFS (Arson) – Video involves a call for service involving an Arson;
- h) CFS (Sex Offense) - Video involves a call for service involving a Sex Offense;
- i) CFS (Suspicious Death) - Video involves a call for service involving a suspicious or unattended death;
- j) CFS (Suicide)- Video involves a call for service involving a Suicide;
- k) CFS (Crime) – Video involves a call for service or assignment involving a crime not listed;
- l) CFS (PD/PDP) – Video involves a call for service or assignment involving a disorderly persons or petty disorderly persons offense;
- m) CFS (Missing Person) – Video involves a call for service or assignment involving a missing person;

- n) CFS (EMS Call) – Video involves a call for service or assignment involving assisting EMS that does not meet other category criteria;
- o) CFS (Non Crime) – Video involves a call for service or assignment for a non-crime event that does not meet other category criteria;
- p) MVA (Fatal) – Video involves a motor vehicle accident involving a fatality;
- q) MVA (Serious Bodily Injury) – Video involves a motor vehicle accident involving serious bodily injuries;
- r) MVA (Other) – Video involves a motor vehicle accident without a fatality or serious bodily injuries;
- s) Car Stop – Video involves a motor vehicle stop;
- t) Pedestrian Stop – Video involves an investigative detention of one or more individuals;
- u) Mere Inquiry – Video involves a mere inquiry;
- v) Pursuit (No Arrest) – Video involves a vehicle pursuit where no apprehension is made. (If apprehension – label as arrest);
- w) Parking Enforcement - Video involves issuing parking or other ticket to an unoccupied vehicle;
- x) Police Vehicle Inspection – Video involves pre tour or post tour vehicle inspection;
- y) Test – Video involves performance of body worn camera functionality or other test;
- z) IA- Video involves an Internal Affairs complaint or investigation;
- aa) 10-19 Intelligence Value
- bb) Other- video does not fall within the aforementioned categories (operator shall explain what video involved in the video description field).

7.2. To identify BWC recordings that may raise special, privacy or safety issues, and officers shall tag recordings using the BWC application on their assigned smart phone device prior to clearing the assignment. Recordings containing any of the following shall be tagged for privacy-safety by entering "P" in the field labeled Reference ID:

- a) Captures the image of a victim of a criminal offense;
- b) Captures the image of a child;
- c) Were made in a residential premise (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;
- d) Captures a conversation with a person whose request to deactivate the BWC was declined;
- e) Captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information (e.g., verbal codes and hand signals used to give direction to officers, techniques for interior movements and clearing rooms during execution of a warrant, techniques for convincing persons to open doors during warrant execution, etc.) may have been recorded;
- f) Captures the image of an undercover officer or confidential informant; or
- g) Captures the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.

8. RESTRICTIONS—ACCESS AND DISSEMINATION

8.1. A BWC recording tagged pursuant to Section 7.2 shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Chief of Police, acting in accordance with Attorney General directives.

8.2. No law enforcement officer or civilian employee of a law enforcement agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose as specified in this Section and the law. BWC recordings shall not be divulged or used by any law enforcement agency for any commercial or other non-law enforcement purpose. Access to and use of a stored BWC recording is permitted only:

- a) When relevant to and in furtherance of a criminal investigation or prosecution;
- b) When relevant to and in furtherance of an internal affairs investigation;

- c) When relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of possible misconduct;
- d) When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency;
- e) 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;
- f) To comply with the State's discovery obligations in prosecutions pursuant to the Rules of Court;
- g) To comply with any other legal obligation to turn over the recording to a person or entity;⁵
- h) To show or disseminate the recording to a civilian or a non-law enforcement entity, or to disseminate it to the public, where the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, determines that disclosure to that particular person/entity or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality;
- i) For training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video unless the depicted individuals have consented to the recording being used for training purposes;
- j) To conduct an audit to ensure compliance with this directive and Attorney General Directive 2021-5;
- k) To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee; or
- l) Any other specified official purpose where the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.

⁵ When responding to a subpoena or court order, or a request pursuant to the Open Public Records Act or common law right to know, disclosure of a BWC recording under this paragraph is permitted only after providing notice to the County Prosecutor.

- 8.3. To ensure the integrity of the investigation of "*Law Enforcement Incidents*" conducted pursuant to Attorney General Directive 2019-4, 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 directive, no civilian or law enforcement witness, including the principals of the investigation, shall be given access to or view a BWC recording of the incident, or a BWC recording of the response or on-scene investigation of the incident, without the express prior approval of the "*Independent Investigator*".
- 8.4. Officers shall not review or receive an accounting of a BWC recording that is subject to a minimum three-year retention period pursuant to Sections 10.2 or 10.4 prior to creating any required initial reports, statements, and interviews regarding the recorded event. Subject to the provisions of Section 8.3 of this directive, nothing in this paragraph is intended to prevent the officer from considering, reviewing or receiving an accounting of such a BWC recording subsequent to the creation of any required initial reports, statements, and interviews regarding the recorded event.
- 8.4.1. While information culled from the BWC recording may not be considered in *creating* [See *definition*] an initial required report, statement or interview, after the creation of such initial report, statement or interview, in a case not involving a "*Law Enforcement Incident*", the officer may review the BWC recording and, if appropriate, create additional reports or make additional statements or documentation that revise or supplement the initial report, statement or interview that incorporate or reflect any information adduced from a review or accounting of the BWC recording.
- 8.5. Command Officers and Internal Affairs personnel may review BWC recordings as part of the use of force review protocol or an internal investigation. At no time may a subject officer(s) review or receive an accounting of a BWC recording, pursuant to Section 8.3 and 8.4 prior to creating any required initial reports, statements, and interviews.
- 8.6. 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 Chief of Police, acting in accordance with Attorney General directives.
- 8.7. A record of all access to stored BWC recordings shall be maintained. The department's record keeping system shall document the following information:
- a) The date and time of access;
 - b) The specific BWC recording(s) that was/were accessed;
 - c) The officer or civilian employee who accessed the stored BWC recording;

- d) The person who approved access, where applicable; and
- e) The reason(s) for access, specifying the purpose or purposes for access authorized pursuant to Section 8.2, and specifying the relevant case/investigation number, where applicable.

9. SECURE STORAGE

9.1. The department shall maintain a system and procedures to ensure the integrity and proper handling and storage of all BWC recordings, to include a BWC control ledger or log. This system shall include provisions to:

- a) Ensure that all recordings are uploaded to a secure data storage system in a timely fashion;
- b) Prevent tampering with or deletion of recorded data both before and after downloading from the BWC and uploading to the storage system;
- c) Prevent unauthorized access to stored BWC recordings;
- d) Document all instances where BWC recordings are accessed, viewed, copied, disseminated, or deleted; and
- e) Permit auditing of all instances where BWC recordings are accessed, viewed, copied, or deleted.

9.2. BWC recordings shall only be stored on the camera device (DVR) until the recordings are uploaded onto the appropriate designated charging dock, after which the recordings will be transferred electronically to a designated secure server located within the Information Technology Server Room or to an authorized cloud-based storage site. Employees shall not reproduce or store any recordings to any other device or storage medium. This shall include, but not limited to, cell phones, electronic notebooks, etc.

9.3. 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 expressed approval of the Chief of Police and only if a duplicate copy is retained by the department. 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.

10. RETENTION OF BWC RECORDINGS

10.1. All BWC recording shall be retained for a retention period consistent with the provisions of this Section, after which time the recording shall be permanently deleted. A BWC recording shall be retained for not less than *180 days* from the date it was recorded, but shall be subject to additional retention periods as required in Sections 10.2, 10.3 and 10.4.

10.2. A BWC recording shall automatically be retained for not less than three years if it captures images involving an encounter about which a complaint has been registered by a *subject of the BWC recording*.

10.3. Subject to any applicable retention periods established in Section 10.4 to the extent such retention period is longer, a BWC recording shall be retained for not less than three years if voluntarily requested by:

- a) Law enforcement officer whose BWC made the video recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value;
- b) A law enforcement officer who is a subject of the BWC recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value;
- c) Any immediate supervisor of a law enforcement officer whose BWC made the recording or who is a subject of the BWC recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value;
- d) Any law enforcement officer, if the BWC recording is being retained solely and exclusively for police training purposes;
- e) Any member of the public who is a subject of the BWC recording;
- f) Any parent or legal guardian of a minor who is a subject of the BWC recording; or
- g) A deceased subject's next of kin or legally authorized designee.

10.4. Notwithstanding the provisions of Sections 10.1, 10.2, or 10.3 of this Policy, a BWC recording shall be subject to the following additional retention requirements:

- a) When a BWC recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution, the recording shall be treated as evidence and shall be kept in accordance with the retention period for evidence in a criminal prosecution;

- b) When a BWC records an arrest that did not result in an ongoing prosecution, or records the use of police force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer or the employing law enforcement agency;
- c) When a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action.

10.5. Prior to the destruction-erasing-deletion of any BWC recording, the BWC Administrator shall review the specific recording as well as any relevant department reports/case files to confirm proper retention schedule compliance.

11. SUPERVISOR-WATCH COMMANDER RESPONSIBILITIES

11.1. The on-duty watch commander and shift supervisors are responsible for ensuring that all officers under their command and control, assigned BWC, are equipped with functioning BWCs and assigned smart phone devices at all times while working primary or secondary employment duty.

11.2. Supervisors shall conduct random formal reviews weekly of their subordinates' recordings in order to assess officer performance as well as to flag video/audio that may be appropriate for training purposes.

11.3. The on-duty watch commander shall ensure all instances where a BWC is deactivated prior to the conclusion of an incident are reviewed either personally by the watch commander or by an on-duty commander/supervisor, to determine if the deactivation was authorized and warranted, the reviewing personnel shall document their findings and forward the documented review through the on-duty watch commander to the Professional Standards Commander prior to making relief for the day.

11.4. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the on-duty watch commander shall ensure the recording is categorized as "Internal Affairs" following procedures set forth in Section 7.1 of this directive.

12. BWC ADMINISTRATOR RESPONSIBILITIES

12.1. The BWC Administrator is responsible for the overall management and coordination of the BWC initiative. Examples of responsibilities include:

- a) Ensuring all equipment and systems are in good working order;

- b) Ensuring an annual review of the policy and related directives are reflective of best practices and contemporary business processes;
- c) Serving as the BWC training officer, establishes, maintains, instructs an up to date training curriculum that ensures all employees equipped with BWC or who have access or handle BWC recordings are familiar with the provisions of this directive;
- d) Maintaining an inventory of all BWC equipment and assignments;
- e) Performing periodic performance audits. The results of those audits shall be forwarded to the Professional Standards Commander for retention;
- f) Evaluating the BWC initiative and when appropriate providing a written synopsis of findings and recommendations to the Chief of Police.

13. RANDOM AUDITS

13.1. Professional Standards Bureau shall cause random performance audits of BWC recordings to ensure compliance with this directive.

14. PUBLIC DISCLOSURE OF BWC RECORDINGS

14.1. Upon receiving a subpoena, court order, or request pursuant to the Open Public Records Act, or the common law right to know, for a BWC recording, the department shall, within one business day of receipt of such subpoena, court order, or request, and before complying with it, provide notice to the County Prosecutor. Such notice shall state clearly the deadline by which a response shall be made.

RESPONSIBILITY

All personnel are responsible for adhering to the requirements of this written directive until rescinded or amended by written order of the Chief of Police. Employees have an ongoing and continuous responsibility to seek guidance and verify their understanding of this and all directives including orders, policies, procedures, and rules. All directives not expressly altered by this order remain in full force and effect. If any provision of this directive is deemed unlawful or unenforceable, the remainder of the directive shall be valid and deemed enforceable.

By Order of



Gabriel Rodriguez
Chief of Police