

**ABERDEEN TOWNSHIP
POLICE DEPARTMENT
GENERAL ORDER**



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SUBJECT: BODY WORN CAMERAS POLICY

EFFECTIVE DATE: SEPTEMBER 26TH, 2023	GENERAL ORDER GO2023-008
BY THE ORDER OF: MATTHEW LLOYD CHIEF OF POLICE	REFERENCE(S): 1. MONMOUTH COUNTY BODY WORN CAMERA POLICY 2. MONMOUTH COUNTY PROSECUTOR'S OFFICE OPRA NOTIFICATION FORM 3. RECORDS RETENTION SCHEDULE (NJ DORES) 4. NJ AG DIRECTIVE 2022-1 5. NJ AG DIRECTIVE 2021-5 6. NJ AG DIRECTIVE 2019-4 7. N.J. PL 2020 C129 8. N.J.S.A. 2C:33-15 9. N.J.S.A. 47:1A-1.1 10. N.J.A.C. 13:1E-3.2 (2) 11. OPRA, N.J.S.A. 47:1A-1 et seq. 12. A.T.P.D OO2023-018 13. A.T.P.D MO2-23-007
SUPERSEDES ORDER NUMBER: GO2022-12	

Foreword- This Directive is intended for internal Departmental use only; it has no application to any criminal or civil proceeding. As an internal operations document, the Directive should not in any way be construed as creating substantive legal rights, setting higher legal standards of safety or care, or setting standards of police legal liability for the benefit of litigants who pursue Police Officers in courts. This Directive has not been promulgated to be a litigation measuring stick for police conduct. By itself, an Officer's violation of any provision contained herein serves only as the basis for Departmental administrative sanctions.

A. PURPOSE:

The purpose of this Directive is to: (1) establish guidelines for the proper and lawful operation of the body worn audio/video camera recording systems worn by Aberdeen Township Police Officers; and (2) to define the media storage and retention system for the events recorded by the devices.

B. POLICY

It is the policy of the Aberdeen Township Police Department (hereinafter: "the Department") that its Officers shall deploy body worn cameras (hereinafter: "BWC") in a manner consistent with the provisions outlined in this Written Directive. These cameras are viewed as an asset intended to assist Officers in the prosecution of certain offenders by augmenting an Officer's testimony with a video/audio record of the incident. Additionally, this equipment will aid the Aberdeen Township Police Department administrators and the Monmouth County Prosecutor's Office in the investigation of citizen complaints. It is the policy of the Aberdeen Township Police Department to train its personnel on the use, maintenance, and storage of the BWC and the recordings made, in order to preserve chain of custody for the recordings, as well as ensure that all Officers wearing a BWC understand this Directive and all associated SOPs. Officers equipped with a BWC must always comply with the requirements established in this Directive as well as the NJ Attorney General's Directive 2021-5 and the Monmouth County Prosecutor's BWC Policy.

C. DEFINITIONS

1. **Activate** – To actuate the recording mode/function of the body worn camera.
2. **Body worn camera (BWC)** – A device worn by a Law Enforcement Officer that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include a mobile video recording device when mounted inside a police vehicle (i.e., 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).
3. **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.).
4. **Equipped with a BWC** – Shall mean that a law enforcement officer is actually wearing a BWC at the time in question, as opposed to simply receiving BWC equipment from their agency.
5. **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.
6. **Investigation of a criminal offense** – Any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly persons 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 a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness of a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.

7. **Law enforcement agency, agency, or department** -A law enforcement agency operating under the authority of the laws of the State of New Jersey.
8. **Law Enforcement Officer (“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. For the purpose of this Directive, the term shall also apply to Class I & II Special Law Enforcement Officers.
9. **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.
10. **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.
11. **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.
12. **Serious bodily injury**- Serious bodily injury means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. Serious bodily injury and serious bodily harm have the same definition for purposes of this Policy. See N.J.S.A. 2C:11-1(b); N.J.S.A. 2C:3-11(d).
13. **Significant bodily injury**- Significant bodily injury means bodily injury which creates a temporary loss of the function of any bodily member or organ or temporary loss of any one of the five senses. See N.J.S.A. 2C:11-1(d).
14. **Subject of the video footage**- Any Law Enforcement Officer, suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body worn camera recording and shall not include a person who only incidentally appears on the recording.
15. **Substantive report**- A substantive report shall mean a report that includes a detailed accounting of the incident. It does not include a report, for example, which simply refers to other reports or to the existence of BWC or other camera recordings.
16. **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.

17. 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.

D. GENERAL

1. Administration

- a. The Department has approved the use of BWCs to accomplish several objectives. The primary objectives are as follows:
 - i. BWCs can allow for accurate documentation of police-public contacts, arrests, and critical incidents. They can also serve to enhance the accuracy of Officer reports and testimony in court.
 - ii. Audio and video recordings also enhance our Department's ability to review probable cause for arrest, Officer and suspect interaction, as well as evidence for investigative purposes. These recordings also provide additional information to assist with Officer evaluation and training.
 - iii. BWCs may also be useful in documenting crime and collision scenes or other events that include the confiscation and documentation of evidence or contraband.
- b. The Department recognizes that video images cannot always depict the full story, nor do video images capture an entire scene and that there will be occasions when there will be technical problems with either a BWC or the retention and storage of its video. The use of BWCs does not eliminate the requirement to provide thorough written documentation of an incident. Persons reviewing BWC recordings must also take into account that the video captured by a BWC is but one piece of evidence that provides only one perspective regarding the situation that has been recorded.
- c. The use of BWCs can allow for a clearly documented, first-hand, and objective account of an incident. Therefore, Officers shall activate their BWC prior to arrival at the scene of a dispatched call for service and Officers shall activate their BWC for a self-initiated event prior to the start of that event or as soon as safely possible. This will allow the maximum amount of information regarding the incident to be captured.

2. Equipment

- a. The Department has purchased Watchguard V300 audio/video recording units. This shall be the only BWC authorized for use by Department personnel. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the Department.
 - i. Recordings uploaded from BWCs shall be stored on the secure Evidencelibrarycloud.com site. All recordings are maintained within the BWC system on ELC.com and are authenticated by an internal audit program.

- ii. Uploaded recordings are stored on the system by incident. Each incident can be searched by date/time and Officer. In addition, events can be searched by supplemental information keyed in by the Officer before upload, such as categories and case number.
- b. References to “BWC” shall include the Watchguard V300 wireless device, which houses a video camera, audio/video recording hardware, and a port for charging the device and downloading events.
- c. The Chief of Police has designated training coordinators, overseen by the Special Services commander, to maintain proficiency in instructing others in the use of this equipment.
- d. Officers who are assigned BWCs must complete the Department’s 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 Directive and equipment.
- e. The BWC will be affixed to the Officer’s person in the manner provided by the training coordinators and demonstrated in the training provided to each Officer. It shall be affixed to the Officer using Department-approved mounting devices. The BWC shall be placed so that it maximizes the ability to capture video footage of the Officer’s activities.
- f. Officers assigned to the patrol division and who have been assigned BWCs shall wear the device as an authorized component of the uniform of the day. Each BWC has a unique serial number and has been assigned an internal tracking identification number (device number). Officers assigned BWCs shall use the equipment unless otherwise authorized by a Supervisor.
- g. Officers on extra-duty assignments shall also deploy an assigned BWCs during a security detail. Officers shall utilize the BWC during the detail in accordance with the requirements of this Directive.
- h. BWC equipment is the responsibility of the assigned Officer and shall be used with reasonable care to ensure proper functioning. Officers shall inspect and test the BWC prior to the start of their shift and any equipment malfunctions shall be immediately brought to the attention of the Officer’s Supervisor so that a replacement unit may be procured. Additionally, a memo will be generated documenting the malfunction discovered and the device number of the BWC, and the BWC coordinator shall be notified via email.
- i. Officers-in-charge (OICs) assigning BWCs shall ensure the assigned Officer’s information is programmed into the device, and that each assigned BWC’s number is documented on the daily roll call sheet at the start of each shift.
- j. The Officer shall then sync up the unit via the ELC.com icon on a departmental computer. This will allow the Officer to categorize recorded events accordingly.
- k. When not in use, BWCs shall be stored in the designated docking station in the squad room. The docking station allows for the units to be charged and for the download of recordings to the secure storage site, ELC.com.

- I. Officers utilizing a BWC shall periodically, and no later than the end of each shift, access the contents of the unit via the ELC.com program and enter pertinent metadata. The recordings shall be labeled with:
 - i. ID number (Department Case # in the following format: YY- #####)
 - ii. Title (brief description of the incident, e.g., MVS, UOF);

3. General Public Notice

The Department has taken reasonable steps to ensure the public is informed of its decision to deploy BWC technology. This has been accomplished via our established social media outlets, the Department website, the Township newsletter, and Bulletin Boards. The website posting includes photographs showing what the device looks like, and how it is worn by uniformed Officers and plainclothes Detectives so that citizens will be able to determine whether an Officer is equipped with the device. The Department has published and maintains a principal point of contact, to include a telephone number and email address, in order to facilitate the continuing acceptance of feedback, comments and concerns.

4. Violations

- a. If an Officer or employee fails to adhere to the recording or retention requirements contained in this Directive, intentionally interferes with a BWC's ability to accurately capture audio or video recordings, or violates any other provision of this Directive, the Officer, or employee shall be subject to appropriate disciplinary action, in addition to any judicial consequences outlined in the law.
- b. Any willful or repetitive violations of this Directive shall be reported directly to the Chief of Police, who will notify the Internal Affairs Officer as well as the County Prosecutor, who shall report such violations to the Director of the Division of Criminal Justice. The County Prosecutor is authorized to take such actions as are reasonable and necessary to ensure compliance with this Directive and to prevent future violations.

E. Deployment and Use of BWCs and Recordings

- 1. Officers Required to Wear BWCs.** The following Officers shall be required to be equipped with BWCs and adhere to the provisions of this Directive when performing their duties:
 - a. All uniformed Patrol 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, as well as Special Law Enforcement Officers (SLEO I & IIs) assigned to patrol or traffic law enforcement duties.

- b. All Officers assigned to tactical teams as defined in this Directive. Tactical Teams shall include Monmouth County Emergency Response Team (MOCERT) 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 Force (RDF), Fugitive, or similar units.
- 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 in law enforcement agencies, whose duties include interaction with members of the public who enter police stations 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.
- i. 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.
- j. The Chief of Police has determined that all patrol Officers, Patrol Supervisors, Traffic Officers, Traffic Supervisors and Detectives will be equipped with BWCs during each shift, as long as the requisite equipment is available for use. If a BWC is not available for use, the Officer will advise their Supervisor and create a memo detailing the reason a BWC is not utilized. In the case of a task force, team, or unit composed of Officers from more than one law enforcement agency, the Chief Law Enforcement Officer of the agency overseeing the task force, team, or unit (e.g., the County Prosecutor in the case of a county wide task force) shall determine whether and in what circumstances Officers assigned to the task force, team, or unit will wear BWCs. Officers with responsibilities that require them to respond from an off-duty status to an incident will be responsible for ensuring they possess a BWC for that purpose.

2. Officers Not Required to Wear BWCs. Notwithstanding the provisions of section E.1, the following Officers are not required by this Directive to be equipped with BWCs:

- a. Officers engaged in undercover assignments.
- b. Officers acting as hostage negotiators or crisis negotiators working in conjunction with tactical teams.
- c. Officers assigned to administrative positions within the Department. This provision shall not exclude Officers assigned to “front desk” duty, as defined in Section E.1.f, from the requirement to be equipped with BWCs.

- d. Officers meeting with confidential sources or recruiting potential confidential sources.
- e. Officers engaged in union representation of a member of the collective bargaining unit.
- f. 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 IIIIs).
- g. Non-uniformed Officers assigned to investigative, non-enforcement duties, when authorized by the Chief of Police.
- h. Officers assigned to “extra duty” or “off duty” assignments that involve strictly traffic direction.
- i. Officers engaged in crime-scene processing duties.
- j. Officers engaged in duties as bomb or explosives technicians.
- k. Officers conducting searches of cellphones, tablets, computers or other electronic devices pursuant to a search warrant, when such items have already been seized and the search is performed at a location other than the premises of the initial search and seizure.
- l. Officers conducting searches of cellphones, tablets, computers or other electronic devices that are suspected to contain images of child sexual exploitation.

3. **Special Circumstances.** Exemptions from the requirements in Section E.1 are permitted only when approved by the Director of Division of Criminal Justice or the County Prosecutor, and only under such special circumstances that warrant an exemption. The reasons for the exemption must be documented and demonstrate a special need. Such requests for exemption shall be made in advance and approved in writing.

4. **Placement of BWC.** The BWC shall be placed so that it maximizes the camera’s ability to capture video footage of the Officer’s activities. This may include placement on helmets, vests, or other such location so long as the device is secured properly and will maximize the device’s recordation function.

5. **Duty to Inspect and Report Malfunction.** 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.

- a. When conducting the pre-shift inspection, Officers shall activate the BWC and verbally state the date, time, their name, badge number, assignment, and that a pre-shift inspection is being conducted.

- b. Any malfunctions or deficiencies shall be noted in a memo and shall be reported to the OIC. Also, the BWC Program coordinator shall be notified via email. 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 and a replacement BWC obtained.
- 6. Applicability of and Compliance with Attorney General Directive No. 2005-1.** The decision to activate or de-activate a BWC is a police action subject to the rule established in Attorney General Law Enforcement Directive ("AG Directive") No. 2005-1, which strictly prohibits any form of racially influenced policing.
- 7. Training.** The BWC Program Coordinator, along with the Training Officer shall conduct a training program to ensure that Officers equipped with BWCs and Officers and civilian employees who access or handle BWC recordings are familiar with the provisions of this Directive, and all applicable laws of the State.

F. Notice that BWCs are Deployed and Activated

- 1. Specific Notice to Certain Individuals During an Encounter.** Notwithstanding the above general public notice requirement (section D.3), Officers wearing BWCs must comply with all relevant laws regarding notice to any subject of a BWC recording, pursuant to P.L. 2020, c. 129, section 1d-e. 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 AG Directive 2021-5, Section II.A (non-enforceability by third parties).
- 2. Truthful Response to Specific Inquiries.** If a civilian inquires of an Officer whether the Officer is equipped with a BWC, or inquires whether the device is activated, the Officer shall answer truthfully unless the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, has expressly authorized the Officer to make a covert electronic recording. (Directive does not apply to Officers while operating in an undercover capacity, or while conducting/participating in a station house custodial interrogation electronically recorded in accordance with Rule 3:17). Nothing in this Section shall be construed to establish a basis for suppressing a statement or other evidence. See AG Directive 2021-5, Section II.A (non-enforceability by third parties).
- 3. Notice When Using BWCs Inside a Private Residence.** 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. **Notice When Using BWCs with an Apparent Crime Victim.** When interacting with an apparent crime victim, an Officer 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.
5. **Notice When Using BWCs with a Person Seeking to Remain Anonymous.** When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, an Officer 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.

G. Standards Governing the Activation of BWCs

1. **BWCs Used Only in Performance of Official Duties.** 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 a member of the command staff and immediately destroyed by command staff 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.
2. **Circumstances When BWC Activation is Generally Required.** Except as otherwise expressly provided in Section I or any other provision in this Directive, or by law, an Officer equipped with a BWC shall be required to activate the device whenever the Officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between an Officer and a member of the public, to include any of the following circumstances, 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 must 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:
 - a. the Officer initiates an investigative detention (e.g., a *Delaware v. Prouse* traffic stop, a *Terry v. Ohio* criminal suspicion stop, or a checkpoint or roadblock stop);
 - 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 conducting a motorist aid or community caretaking check;
- d. the Officer is interviewing a witness in the course of investigating a criminal offense;
- 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 making an arrest;
- g. the Officer is conducting a protective frisk for weapons;
- h. the Officer is conducting any kind of search (consensual or otherwise);
- i. the Officer is engaged in a police response to any type of civil disorder in circumstances where the Officer is engaged with or in the presence of civilians and the Officer or any other Officer on the scene may be required to employ constructive authority or force;
- j. the Officer uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this subsection based on specific and articulable facts warranting heightened caution that are documented by narration on the recording and/or in any investigation or incident report;
- k. 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; or
- l. 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. **Continuous Recording Pending Completion of Encounter.** 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 G.2. However, the Officer need not begin recording at the moment he or she receives instructions from a dispatcher to respond to a call for service. Rather, the Officer may delay activation until they are near the destination.

- a. Except as otherwise expressly provided in Section H or any other provision of this Directive, when a BWC is required to be activated by an Officer pursuant to this Directive, the device must 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.).

- b. When a BWC is activated pursuant to Section G.2.k. (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. BWCs may be deactivated in a hospital/medical/mental health facility setting. However, consistent with Section H.8., in situations where an officer reasonably believes that the officer or another person is likely to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.

4. Special Provisions Governing the Use of BWCs when Investigating Underage Alcohol and Marijuana Use. 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.

5. Special Activation Rules Governing Certain Use-of-Force Incidents, In-Custody Deaths, and Other Exigent Circumstances Where Officers Are in Danger. Notwithstanding any other provision of this Directive, when an Officer equipped with a BWC is dispatched to or otherwise goes to the scene of a "Law Enforcement Incident" as defined in AG Directive 2019-4, the Officer shall activate the BWC before arriving at the scene when feasible. Notwithstanding any other provision of this Directive, an Officer while at the scene of a "Law Enforcement Incident" shall not de-activate the BWC unless instructed to do so by the assistant prosecutor or assistant or deputy attorney general supervising the investigation of the deadly-force incident pursuant to AG Directive 2019-4, 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.

H. Standards Governing the De-activation of BWCs upon the Request of a Civilian, When Discussing Investigation Strategy or Planning, or on Instruction of a Prosecutor

1. De-Activation at the Request of a Civilian Providing Information/Cooperation. Notwithstanding Section G.3, 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. 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 must be self-initiated by the civilian. The Officer may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded). 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.

2. **De-Activation at the Request of a Person Seeking Emergency Medical Assistance.** Notwithstanding Section G.3, 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.
3. **Procedures for De-Activation Upon a Civilian's Request.** When an Officer de-activates a BWC pursuant to Section H.1 or H.2, the following procedures shall be followed:
 - a. the discussion 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.");
 - 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 K.3 (notations (i.e., "categorizing") to indicate BWC recordings that raise special privacy or other issues).
4. **Decision to Decline a Civilian's De-Activation Request.** If an Officer declines a request to de-activate a BWC pursuant to Section H.1 or H.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) must be documented and shall be reported to the Officer's superior as soon as it is safe and practicable to do so.
 - a. 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 H.1 or H.2 into believing that the BWC has been turned off when in fact it is operating unless the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee expressly has authorized covert recording. Note that pursuant to Section F.5, an Officer may not decline a request from an apparent crime victim to discontinue recording of the encounter via the BWC.

5. **De-Activation During Criminal Investigation Strategy/Planning Discussions.** Notwithstanding Section G.3, and subject to the requirements of Section G.5, 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.").
6. **De-Activation on Instruction from Prosecutor.** Notwithstanding Section G.3, an Officer may de-activate a BWC when specifically authorized to do so by an assistant prosecutor or assistant or deputy attorney general for good and sufficient cause as determined by the assistant prosecutor or assistant or deputy attorney general. When an Officer de-activates a BWC pursuant to this Section, the Officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor or assistant or deputy attorney general who authorized the de-activation (e.g., "I am now turning off my BWC as per the instruction of assistant prosecutor (insert name).").
7. **Re-activation When Reason for De-Activation No Longer Exists.** In any instance where a BWC was de-activated pursuant to Sections H.1, H.2, H.5, or H.6, 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).
8. **Re-Activation When Actual Law Enforcement Force is Authorized.** Notwithstanding any other provision of this Directive, in any instance where a BWC was de-activated pursuant to Sections H.1, H.2, H.5, H.6, or any other provision of this Directive, 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.

I. Circumstances When BWC Activation/Use Is Subject to Special Conditions or Restrictions

1. **Special Restrictions When Recording in Schools, Healthcare/Treatment Facilities, and Places of Worship.** Notwithstanding Sections G.2 and G.3 of this Directive, and except as otherwise required by Section G.5, 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:
 - a. is in a school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the BWC;

- b. is in a patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances where patients would be in view of the BWC; or
- c. is in a place of worship under circumstances where worshipers would be in view of the BWC. See also Section K.3 (notation (i.e., “categorizing”) of certain events/encounters raising privacy or other special issues).

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

2. **Special Restrictions When Undercover Officers or Confidential Informants May Be Recorded.** Notwithstanding the provisions of Sections G.2 and G.3 of this Directive, and except as otherwise required by Section G.5, 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. See also Section K.3 (notation or “categorizing” to indicate a BWC recording that raises special issues); Section K.5 (prosecutor’s authority to seek protective order when complying with discovery obligations).
 - a. 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.
 - b. 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.

- 3. Special Precautions When a BWC Recording May Reveal Tactical Operations Information.** 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 “categorized” in accordance with Section K.3. 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”); see also Section K.5 (prosecutor’s authority to seek protective orders when complying with discovery obligations).
- 4. Special Restrictions on Recording in Courtrooms.** 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 authority or force.
- 5. De-Activation/Removal of BWC from Alcohol Breath Testing Area.** 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 de-activation of a BWC, the Officer shall narrate the reasons for de-activation (e.g., “I am de-activating 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. Restrictions on Using BWCs with Enhanced Audio/Visual Capabilities.** Subject to the provisions of Section O of this Directive, if a department acquires a BWC with enhanced audio/video capabilities that allow it to record an image or conversation that could not be seen or heard by the Officer wearing the device (e.g., infrared night vision or thermal imaging, sound amplification that would record conversations occurring at a remote distance), that feature/capability shall not be used without the express approval of the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, in accordance with any applicable legal requirements.
- 7. Restrictions on Using BWCs Surreptitiously or to Gather Intelligence Information on First Amendment Protected Activity.** 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 an 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.

8. **De-Activation of BWC in Communications Area.** Notwithstanding Sections G.2 and G.3 of this Directive, and except as otherwise required by Section G.5, 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 deactivate a BWC that has been activated, while the Officer enters or remains in the dispatch/communications area.

If an Officer de-activates the BWC in accordance with the provisions of this Section, the Officer shall narrate the reason for de-activation (e.g., "I am entering the dispatch center"). 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).

J. Retention of BWC Recordings

1. **Minimum 180-Day Retention Period.** A 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 J.2, J.3 and J.4.
2. **Automatic Three-Year Retention Period.** 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.
3. **Three-Year Retention Period Upon Request.** Subject to any applicable retention periods established in Section J.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. an Officer whose BWC made the video recording, if that Officer reasonably asserts the recording has evidentiary or exculpatory value;
 - b. an 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 an 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 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.

To effectuate subparagraphs (e), (f), and (g) of this Section, the member of the public, parent, or legal guardian, or next of kin or designee shall be permitted to review the BWC recording to determine whether to request a three-year retention period, in accordance with the provisions of the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., to determine whether to request a three-year retention period.

4. Additional Retention Requirements. Notwithstanding the provisions of Sections J.1, J.2, or J.3 of this Directive, 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 Department; 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.

K. Standards to Ensure Secure Storage and Accessibility of BWC Recordings

- 1. Procedures to Protect Integrity of BWC Recordings.** The Department has contracted with Watchguard, to utilize its ELC.com storage site for the secure storage of BWC recordings. ELC.com is a CJIS compliant, cloud-based, digital evidence management system. The features of ELC.com ensure the following:
 - a. 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.
- 2. Capacity to Locate Specific BWC Recordings.** The features of ELC.com, along with the proper entry of retention categories and metadata to each recording, allow for authorized users to locate and retrieve all recordings associated with a specific incident/event, investigation, case, or criminal charge. It also provides a digital BWC recording control ledger.

- a. Relevant BWC recordings are provided for discovery in a timely fashion through the records bureau. Officers are to indicate in any relevant police arrest/incident/continuation reports indicate whether the incident or investigative activity described in the report was electronically recorded by a BWC. When a formal report is not completed, Officers shall indicate in the relevant desk (CAD) entry that a recording was made. As part of the metadata added to each recording, the related CAD call number is saved with the recording, thereby assisting in retrieving recordings. Copies of BWC recordings made for the purpose of complying with the State's discovery obligations shall be provided to the prosecutor in a readily available media format.
- 3. **Provisions to Identify (“Categorize”) Recordings That Raise Special Privacy or Safety Issues.** To identify BWC recordings that may raise special privacy or safety issues, every department that deploys BWCs shall establish and implement a system that permits a notation (i.e., “category”) to be made when the recording:
 - a. captures the image of a victim of a criminal offense;
 - b. captures the image of a child;
 - c. was made in a residential premises (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship;
 - d. captures a conversation with a person whose request to de-activate 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 police computer monitor that is displaying confidential personal or law enforcement sensitive information. See also Section I.1 (requiring notice to the prosecutor when a BWC captures the image of a patient at a substance abuse treatment facility).

Subject to the provisions of Section O of this Directive, the Department may decide, pursuant to Section E.1, additional circumstances when a BWC recording will be “categorized.”

Officers shall notify the Support Services Commander via email of any recordings made that contain images or conversations covered in this section, and shall add such notification to the note section on the video.

4. **Approval for Access to “Categorized” BWC Recordings.** A BWC recording categorized pursuant to Section K.3 shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee. The County Prosecutor may authorize the Chief of Police, and one or more superior Officers or duty positions identified by the Chief of Police, to grant permission pursuant to this Section to access, view, copy, disseminate, or otherwise use BWC recordings categorized pursuant to Section K.3. See also Section L.1 (specifying the purposes for which access to a BWC recording is permitted). The Chief of Police has designated the Support Services Lieutenant as an authorized person for these purposes.
5. **Compliance with Discovery Obligations Relating to BWC Recordings That Might Expose Officers or Other Persons to Danger.** If disclosure of a BWC recording as part of the State’s discovery obligations in a prosecution might present a danger to any Officer or civilian (e.g., reveal an undercover Officer, confidential informant, surveillance site, etc.), or might reveal confidential tactical information the disclosure of which might jeopardize future operations or Officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms during execution of warrant, techniques for convincing persons to open doors during warrant execution, etc.), the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee in cases prosecuted by the Division, shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or Court Rule to protect the information from disclosure, such as by seeking a protective order from the court. See Section K.3 (“categorizing” of such BWC recordings).

L. Restrictions on Access to and Use and Dissemination of BWC Recordings

1. **Specified Authorized Purposes for Accessing/Using Stored BWC Recordings.** No Officer or civilian employee of the Department 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 Department;
 - 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;
- 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;
 - i. Officers shall inform their Supervisor of any recordings that may be of value for training purposes. Recordings from BWCs may be shown for training purposes upon completion of a criminal case. All such use shall be pursuant to the written authority of the Chief of Police. Officers shall be provided with at least thirty (30) days' notice if recordings intended for use for training purposes were either made by them or captured their image or voice. All BWC recordings used for training purposes must be edited so that the identity of individuals depicted in the recordings cannot be determined by persons viewing the recordings 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;
- k. to enhance Officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee; or
- l. any other specified official purpose where the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.

2. Restriction on Access to BWC Recordings Related to Investigations Conducted Pursuant to AG Directive 2019-4. To ensure the integrity of the investigation of "Law Enforcement Incidents" conducted pursuant to AG 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," as that term is defined in AG Directive 2019-4.

3. **Restriction on Access to BWC Recordings Prior to Creating Reports, Statements, Interviews.** A law enforcement officer shall be permitted to review or receive an accounting of a BWC recording prior to creating any required substantive initial reports, providing a statement, or submitting to an interview regarding the recorded event, except under the following circumstances:
 - a. the incident involves the use of force by the officer, where the officer knows or should know that the use of force resulted in significant or serious bodily injury or death;
 - b. the incident involves the discharge of a firearm or any other use of deadly force by the law enforcement officer;
 - c. the incident involves the death of a person while in law enforcement custody;
 - d. the incident involves the death of a person during an encounter with a law enforcement officer;
 - e. an incident that the officer knows or has been advised is or will be the subject of an internal affairs complaint relating to the officer's use of force, bias, or dishonesty; or
 - f. an incident that the officer knows or has been advised is or will be the subject of a citizen complaint relating to the officer's use of force, bias, or dishonesty.
4. Whenever a law enforcement officer reviews or receives an accounting of a BWC recording prior to the creation of any report, statement, or interview, the law enforcement officer shall acknowledge that prior review or receipt of an accounting of the BWC recording either verbally or in writing within each such report, statement, or interview. The law enforcement officer shall document each BWC recording that was reviewed and the date of the review. If the law enforcement officer received an accounting of a BWC recording, the law enforcement officer shall document the name of each person who provided an accounting of the BWC recording, the date of the accounting and the specific BWC recording for which an accounting was provided.
5. Nothing in Section L.3. shall be construed to require a law enforcement officer to review a BWC recording prior to creating any required initial reports, statements, and interviews regarding the recorded event, nor to prevent a law enforcement officer from reviewing or receiving an accounting of such a BWC recording subsequent to the creation of any required initial report, statement, or interview regarding the recorded event.
6. As noted above, an officer is prohibited from reviewing or receiving an accounting of a BWC recording in certain scenarios specified in subsections L.3.a.-f. (the "specified scenarios") prior to the officer documenting or otherwise memorializing the officer's recollection of the incident, namely, by creating any required substantive initial report, providing a statement, or submitting to an interview regarding the recorded event ("the specified incident memorialization"). Whenever an officer participates in a specified scenario, then the officer shall only be permitted to review or receive an accounting of a BWC recording once the investigating entity concludes that:

- i. the officer has in fact completed the specified incident memorialization; and
 - ii. the officer's review or receipt of an accounting of the BWC recording will not otherwise interfere with the ongoing investigation. In cases subject to Attorney General Directive 2019-4, the investigating entity shall be the Independent Investigator. In all other specified scenarios, the investigating entity shall be the chief law enforcement executive or designee. The investigating entity shall document the authorization to review or receive an accounting of a BWC of a specified incident.
- 7. Documenting Access to Stored BWC Recordings.** The Chief of Police or his designee must specifically authorize all access to downloaded BWC files and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes. The audit trail function of Evidence.com documents 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 L.1, and specifying the relevant case/investigation number, where applicable.

M. Public Disclosure of BWC Recordings

1. Within one business day of receipt of a subpoena, court order, or written request for a BWC recording, and before complying with it, it shall be the responsibility of the Department's designated OPRA records custodian to provide notification to the Monmouth County Prosecutor's Office OPRA records custodian. Notice shall be made by submitting the Monmouth County Prosecutor's Office Body Worn Camera OPRA Notification Form attached to this Directive and shall include the date the request was received, the deadline by which a response must be made, whether the Department intends to release or deny the request, and the justification for that decision. The Department must provide the type of police action or activity depicted in the recording, including but not limited to, whether the Officer was involved in an investigative detention, an arrest, an interrogation of a suspect, a witness interview, a search, a protective frisk for weapons, or was using constructive or actual force.
2. In addition, the Officer/Employee so assigned will indicate whether the recording is part of an ongoing criminal or internal affairs investigation or whether release of the recording potentially infringes upon victim and/or juvenile privacy rights.
3. This notification shall be made by emailing opra@mcponj.org, after which an email acknowledgement will be received. If no further communication is received within 72 hours, the request will be responded to as the Department deems appropriate.

N. Authority of County Prosecutor to Impose Additional Requirements

Nothing in this Directive shall be construed to in any way limit the authority of a County Prosecutor to issue Directives or guidelines to the law enforcement agencies subject to his or her Supervisory authority, setting forth additional procedural or substantive requirements or restrictions concerning BWCs and BWC recordings, provided that such Directives or guidelines do not conflict with any explicit provision of this Directive. For example, a County Prosecutor may: specify additional circumstances when a municipal police department BWC must be activated; impose limits on the authority of a municipal police department to specify additional circumstances when a BWC must be activated; categorically prohibit the use of BWCs with enhanced audio/visual capabilities such as infrared night vision (cf. Section I.6), which requires prosecutorial approval to use such features); and specify additional circumstances when a BWC recording will be “categorized,” etc.

I. PURPOSE

This policy, promulgated pursuant to New Jersey Attorney General’s Body Worn Camera (BWC) Policy and its accompanying directives, 2021-5, “Directive Revising Policy Regarding Use of Body Worn Cameras” and 2022-1, “Update to the Body Worn Camera Policy” (collectively, the “AG BWC Policy”), as well as N.J.S.A. 40A:14-118.3 through 118.5, establishes guidelines for the proper and lawful operation, storage and retention of the body worn audio/video camera recording systems worn by local law enforcement officers within Monmouth County.

The Monmouth County Prosecutor’s Office (“MCPO”) hereby adopts the AG BWC Policy, which is attached hereto. This MCPO policy is intended to supplement the AG BWC Policy by either adding additional requirements (see Section N of ATPD BWC Policy) or delineating procedures specific to Monmouth County, for example, setting forth the process for obtaining MCPO approval of various BWC actions outlined in the ATPD BWC Policy. This policy takes effect immediately.

II. POLICY

It is the policy of Monmouth County that local law enforcement officers shall deploy body worn cameras (hereinafter BWC) in a manner consistent with the AG BWC Policy and the provisions outlined herein. These cameras are a valuable asset intended to increase officer accountability and transparency and assist with officer evaluation and training. BWCs allow for accurate documentation of police-public contacts, arrests, and critical incidents, and often enhance written reports of the incident and in-court testimony. BWCs also protect officers from false accusations and assist in the investigation of citizen complaints.

III. ADDITIONAL MCPO BWC REQUIREMENTS

A. Training on Proper Use of BWCs

1. The Chief of Police/Law Enforcement Executive shall designate one or more training coordinators to maintain proficiency in instructing others in the use of BWC equipment.
2. All law enforcement officers and other agency personnel who access or handle BWC recordings must complete the agency provided training program to ensure proper use and operation pursuant to the ATPD BWC Policy, this supplemental policy, and any agency policy or standard operating procedure. 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.
3. The agency shall maintain records of BWC training of its personnel, which shall be made available to MCPO upon request.

B. Equipment

1. The Chief of Police/Law Enforcement Executive of each agency may utilize the BWC that is most conducive to their agency. However, the use of BWCs with electronically enhanced audio/visual capabilities such as infrared/night vision features are not authorized for use in Monmouth County (see ATPD BWC Policy, section I.6).
2. The BWC purchased by the Aberdeen Township Police Department shall be the only BWC authorized for use by members of that agency. The BWC equipment and all data, images, video, and audio recorded, or otherwise produced by the equipment and stored by the agency is the sole property of the local law enforcement agency. Using the equipment for personal purposes and accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.

C. Storage, Handling, Retention, and Inspection Procedures

1. Each agency shall adopt a policy or standard operating procedure pertaining to the storage, handling, retention, and inspection (by each officer prior to each shift) of that agency's BWC recordings (see ATPD BWC Policy Sections J and D).

2. If a BWC that has been properly inspected malfunctions while in the field (i.e., does not activate, fails to record the entire event, interrupts the recording, etc.), the law enforcement officer shall document the circumstances of the malfunction in his/her police report pertaining to the incident and also document that the required inspection was done prior to shift. If a law enforcement officer fails to activate his/her BWC, this shall also be recorded in his/her police report.

D. Discovery and Redactions

1. BWC videos are discoverable in criminal cases prosecuted in both Superior and Municipal Court. The AG BWC Policy makes clear that BWCs may be accessed and disseminated to comply with the State's discovery obligations in prosecutions pursuant to the Rules of Court (section L.1 (f) of the ATPD BWC Policy). The Rules of Court require that confidential personal identifiers be redacted in criminal discovery. Confidential personal identifiers that must be redacted from BWCs include: social security numbers, driver's license numbers, vehicle registration numbers, insurance policy numbers, active financial account or credit card account numbers, and information regarding an individual's military status (R. 1:38-7 and R. 3:9-1(b)).

E. BWC System Administrator and Annual Audit

1. The Chief of Police/Law Enforcement Executive shall appoint a system administrator to manage the BWC equipment and storage, handling, and inspection procedures.
2. The BWC System Administrator shall audit the agency's BWC storage system annually to ensure that the system is functioning properly and in accordance with the ATPD BWC Policy, this supplemental policy, and any agency policies. This annual audit shall also ensure that only authorized users are accessing BWC data for legitimate and authorized purposes. The results of this audit shall be documented and maintained in the agency's records.

F. Supervisory Review of BWC Recordings

1. Supervisory personnel shall ensure that law enforcement officers under their command who are equipped with BWC devices utilize them in accordance with the ATPD BWC Policy, this supplemental policy, and any agency policies or standard operating procedures. In addition to circumstances where an agency must review BWC recordings, such as in furtherance of an internal affairs investigation or to review an allegation of police misconduct, supervisory reviews must include at a minimum, random, periodic reviews of BWC recordings to ensure that equipment is properly functioning and that officers are properly utilizing their BWCs. Each agency shall develop a system for documenting these random, periodic reviews, and the results of such reviews. (see Section O of ATPD BWC Policy)

G. Use of BWC Recordings for Law Enforcement Officer Training

1. Law enforcement officers shall inform their supervisor of any recordings that may be of value for training purposes. Recordings from BWCs may be shown for training purposes if publicly released or, if not publicly released, upon completion of a criminal case or any underlying investigation. The use of a BWC recording not publicly released for training purposes must be expressly approved by the Chief of Police/Law Enforcement Executive. A law enforcement officer who is depicted in the BWC recording shall be given notice of the intention to use the BWC recording for training and an opportunity to indicate his/her consent or lack of consent to his/her image being depicted in the video. If an officer objects to his/her image being shown, the BWC recording must be edited to obscure the identity of that officer prior to being shown for training purposes.

H. Police Reports, Interviews, Statements, and BWC Recordings

1. While BWC recordings are a valuable tool, video images may not always depict the full story or capture an entire scene; thus, the use of BWCs does not eliminate the requirement to provide through written documentation of an incident in a report.

2. Per ATPD BWC Policy section L.1, 2, 3 and 4, a law enforcement officer may review a BWC recording prior to creating his/her police report or otherwise providing a statement or interview regarding the recorded event, unless (a) the incident falls under Attorney General Directive 2019-4, "Directive to Ensure the Independent Investigation of Criminal Cases Involving Police Use-of-Force or In-Custody Deaths"; or (b) the incident involves the officer being the subject of an internal affairs complaint or citizen complaint regarding use of force, bias or dishonesty. When an officer reviews a BWC recording or receives an accounting of a BWC recording prior to creating his/her report or giving an interview or statement, the officer shall acknowledge that he/she reviewed the BWC recording in his/her report, interview or statement concerning the incident.

I. Monmouth County Emergency Response Team (MOCERT)

1. MOCERT is considered a "tactical team" under the definition set forth in the ATPD BWC Policy. Members of MOCERT shall be equipped with BWCs and shall activate their BWCs pursuant to section E.1 (b) of the ATPD BWC Policy when deployed to an incident on behalf of MOCERT.

J. MCPO/Assistant Prosecutor Approval

1. Section E.3 of the ATPD BWC Policy states that exemptions from the requirements for officers to be equipped with BWCs set forth in section E.1 are permitted when approved by the County Prosecutor, and only under such special circumstances that warrant an exemption. Any such requests for an exemption shall be submitted in advance in writing to the Professional Responsibility Unit at mcpopru@mcponj.org.
2. Section F.2 of the ATPD BWC Policy provides that a County Prosecutor or his/her designee may authorize an officer to make a covert electronic recording contrary to the general requirement that civilians are made aware that an officer is equipped with and using a BWC. Requests to make a covert recording shall be made directly to the appropriate section Captain of Detectives of the Monmouth County Prosecutor's Office (Major Crimes, Narcotics or Special Prosecutions).

3. Section H.6 of the ATPD BWC Policy provides that an officer may de-activate a BWC when specifically authorized to do so by an assistant prosecutor for good and sufficient cause as determined by the assistant prosecutor. This section contemplates a deactivation for reasons other than those already specified in sections 6 and 7, and thus, should be invoked sparingly and only in unanticipated, unique scenarios. An officer making such a request should mute his/her BWC in order to seek this legal advice. If permission to deactivate is given, such should be narrated as required by section H.6. Further, in an instance of de-activation under this section, the officer's BWC must be re-activated as soon as it is safe and practicable to do so when the reason for deactivation no longer exists, the officer reasonably believes that he/she, or another is likely to use force (sections H.8).
4. Section L.1(h) of the ATPD BWC Policy provides that a law enforcement officer may access and use a stored BWC recording to show or disseminate the recording to a civilian or non-law enforcement entity, or to disseminate it to the public, where the County Prosecutor or his/her designee determines that disclosure to that person/entity or the public is warranted because their need for access outweighs the law enforcement interest in maintaining confidentiality. Requests regarding the release of BWC recordings specifically made pursuant to the Open Public Records Act ("OPRA") shall be directed to this office's OPRA Custodian at opra@mcponj.org (see section III.M(3) below). All other requests for approval to show/disseminate a BWC recording under section M shall be made to the Professional Responsibility Unit at mcpopru@mcponj.org.
5. Section L.1(k) of the ATPD BWC Policy provides that the County Prosecutor or his/her designee may approve the access and use of a BWC recording to enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., BWC recording shows layout of premises to be searched). Requests for approval under this subsection should be directed to the assistant prosecutor assigned to the case or the assistant prosecutor who reviewed the warrant at issue.
6. Section L.1(l) of the ATPD BWC Policy provides that the County Prosecutor or his/her designee may find that good sufficient cause exists to authorize access to a particular BWC recording that otherwise does not fall within one of the provisions of section L.1. Requests for approval under this section should be directed to the Professional Responsibility Unit at mcpopru@mcponj.org, and if approved, such must be done in writing.

7. With respect to investigations conducted pursuant to Attorney General Directive 20194, "Directive to Ensure the Independent Investigation of Criminal Cases Involving Police Use-of-Force or In-Custody Deaths", section L.2 of the ATPD BWC Policy provides that no civilian or law enforcement witness, including the principals of the investigation, shall be given access to or view a BWC recording of a law enforcement incident or a BWC recording of the response or on-scene investigation of the incident, without the express prior approval of the "independent investigator" as that term is defined in AG Directive 2019-4. In cases where the "independent investigator" is determined to be the Monmouth County Prosecutor's Office, the assistant prosecutor assigned to handle the investigation shall determine whether such approval is appropriate under the circumstances of a particular case.

K. Approval for Access to "Tagged" BWC Recordings (ATPD BWC Policy, section K.3)

1. "Tagged" recordings are those that raise special privacy or safety issues. Section K.3 of the ATPD BWC Policy provides the circumstances implicating special privacy or safety issues in which BWC recordings must be "tagged".
2. Section K.4 of the ATPD BWC Policy allows for the County Prosecutor to authorize the Chief of Police/Law Enforcement Executive, and one or more superior officers or duty positions identified by the Chief of Police/Law Enforcement Executive (e.g., head of the detective bureau) to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC recordings "tagged" pursuant to section K.3.
3. The Monmouth County Prosecutor's Office hereby authorizes each Chief of Police/Law Enforcement Executive, and one or more superior officers or duty positions identified by the Chief of Police/Law Enforcement Executive, to grant permission to access, view, copy, disseminate, or otherwise use "tagged" BWC recordings. Thus, the handling of "tagged" recordings may be done solely within the agency so long as the officer granting permission is so authorized and any dissemination is done in accordance with section K.4 of the ATPD BWC Policy. Section K.4 proscribes the specified authorized purposes for accessing or using stored BWC recordings. The access and use of a "tagged" recording must still comply with section K.4 (e.g., to comply with discovery in a criminal case, when relevant to an internal affairs investigation, to comply with a legal obligation to disclose the recording, etc.).
4. To the extent that an authorized individual seeks additional legal advice in this regard with respect to a particular "tagged" BWC recording, or wishes to seek a protective order pursuant to section K.5 of the ATPD BWC Policy, that officer shall contact the assistant prosecutor assigned to the case. If no assistant prosecutor is assigned to the case, that officer shall contact that agency's regional advisor.

L. Notifications to the Monmouth County Prosecutor's Office

1. The Professional Responsibility Unit of the Monmouth County Prosecutor's Office shall be notified of any BWC recording not made in the performance of an officer's official police duties (i.e., made for personal purposes, union business, etc.). The notifying agency shall request approval by the County Prosecutor to destroy the recording pursuant to section E.2(3) of the ATPD BWC Policy. The recording shall not be destroyed unless and until approval is granted by the County Prosecutor.
2. The Professional Responsibility Unit of the Monmouth County Prosecutor's Office shall be notified of any willful or repetitive violations of this policy. The Monmouth County Prosecutor's Office is authorized to take such actions as are reasonable and necessary to ensure compliance with this policy and to prevent future violations.
3. Section M of the ATPD BWC Policy provides that agencies must provide notice to the Monmouth County Prosecutor's Office within one business day of receipt of a subpoena, court order, or Open Public Records act ("OPRA") request for a BWC recording prior to complying. This notice shall be sent to the Monmouth County Prosecutor's Office's OPRA custodian at opra@mcponj.org and shall be done via the attached Monmouth County Prosecutor's Office Body Worn Camera OPRA/Legal Process Notification Form.

This notice shall state clearly the deadline by which a response must be made and shall give the Monmouth County Prosecutor's Office an opportunity to review and weigh in prior to compliance. This notice shall include all pertinent details about the BWC recording including the type of police action or activity depicted in the recording (arrest, search, witness interview, target interview, stop and frisk, use of force, etc.) as well as indicate whether the recording is part of an ongoing criminal or internal affairs investigation and whether the release of the recording may implicate any privacy or safety concerns. Importantly, your notice should state your intentions with respect to the release (or non-release) of the BWC recording pursuant to OPRA or the legal process served.

Nothing in this policy relieves your agency of your obligation to comply with the provisions of OPRA, the common law right to know, or appropriate legal process. Accordingly, if you receive no response from this office within 72 hours after sending the appropriate notice, you may respond to the request, as your agency deems appropriate.

M. Website Publication

1. Every department shall publish a statement that it deploys BWCs on its internet website or, if the department does not have its own website, then on the municipality's website. The website posting shall include a picture showing what the device looks like, and how it is to be worn by uniformed officers or plainclothes detectives so citizens will be able to determine whether an officer is equipped with the device.

N. Violations of the BWC Policy

1. An officer's failure to adhere to the requirements set forth in the ATPD BWC Policy, this supplemental policy, and any agency policy, shall be subject to appropriate disciplinary action and in certain instances, criminal prosecution.
2. Under no circumstances shall any law enforcement officer erase, reuse or alter any BWC recording. It is a fourth degree crime to purposely destroy, conceal, or otherwise impair the availability of any record, document or thing belonging to the government, which would include a BWC recording. A BWC recording may only be destroyed in accordance with the retention periods set forth in section J of the ATPD BWC Policy or, if the recording was not made in the performance of an officer's official police duties and approval for destruction is granted by the Monmouth County Prosecutor's Office (see section III.L(1) below).

O. Job Safety Observation Report

In to maintain compliance with this order and a measure of quality control, accountability, training and to monitor officer's performance supervisors shall periodically and routinely review captured recordings. Supervisors shall review a minimum of one (1) recordings per officer per week and maintain documentation of that review for each officer using an MVR unit under their command. This documentation should be maintained in the individual supervisor's evaluation records for at least one year. Those records will be subject to periodic command staff review.

In addition to the above supervisors shall:

1. Ensure that all officers follow procedure for proper use of the BWC as outlined in this policy;
2. Ensure that BWC equipment is being fully and properly used;
3. Identify material or incidents that may be appropriate for training;
4. Randomly review recordings to assist in appraising performance and objectives;
5. Document requests for repairs, maintenance or replacement for non-functioning BWC equipment through the chain of command;
6. Ensure that officers document the fact that the BWC was in operation during an event;
7. Document Internal Affairs of any BWC policy violations,

P. CLOSING

1. This Written Directive shall become effective immediately.
2. All Directives, Orders, Regulations, Policies and Procedures previously issued that conflict with this Directive are hereby rescinded.
3. Violations of this Directive shall subject members to disciplinary action.
4. Supervisory personnel shall be held accountable for review, discussion, application, and enforcement of this Directive.
5. Members shall acknowledge receipt and understanding of this Directive by digitally signing for it in the Department's computerized document management and distribution system.
6. This Directive shall be reviewed annually and will be updated, revised or rescinded as necessary.

APPENDIX A

In August of 2022, in accordance with the guidelines set forth by the New Jersey Office of the Attorney General, the Aberdeen Township Police Department initiated our Body Worn Camera policy. The policy has been intuited for the proper and lawful operation of the body worn audio/video camera systems. The Watch Guard V300 body worn camera will be worn by all Aberdeen Township Police Officers during their performance of their duties. The Body Worn Cameras will aid agency personnel in performing their duties by providing an accurate and unbiased recorded account of each incident.

These pictures will assist citizens in determining whether an officer is equipped with the BWC device.



WATCHGUARD V300 Body Worn Camera

ABERDEEN TOWNSHIP POLICE DEPARTMENT BODY CAMERA DEPLOYMENT LOCATIONS



Please be aware, officers are required to wear BWCs, however they may be wearing them in a different location other than pictured, based on the officer's preference.

BWC Contact:

Lt. Brian Alberti

732-566-2054 Ext.221

Brian.alberti@aberdeennj.org



MONMOUTH COUNTY PROSECUTOR'S OFFICE

Municipal Police Department BWC OPRA/Legal Process Notification Form

Police Department: _____ Officer Recording: _____

Date of Recording: _____ Time Begun: _____ Length of Recording: _____

Recording Depicts (please explain):

Criminal Investigation?

Ongoing criminal investigation Completed criminal investigation

Complaints signed? Yes No For Crime(s) DP PDP Ordinance

Name(s) of anyone charged: _____

Police action depicted (check all that apply): Witness Interview Search Investigative Detention

Arrest Interrogation of Suspect Use of Force Motor Vehicle Stop Show Up

Protective Frisk for Weapon Other: _____

Person(s) being recorded (check all that apply): Arrestee Driver Passenger Victim

Juvenile Witness Informant Other: _____

Place being recorded (check all that apply): Residence Outside Motor Vehicle Hospital

School Business Police Department Other: _____

Are there any privacy or safety interest concerns that need to be addressed before releasing BWC? (please explain):

Name of OPRA Requestor: _____ Organization: _____

Date Received: _____ Deadline to Respond: _____

Submitted by: _____ Date: _____ Contact #: _____

Intended Response: Approved for Release Denied Reason: _____

For Use by the Monmouth County Prosecutor's Office Only

Request reviewed by: _____ Date: _____

Notes: _____

Submit by email to opra@mcponi.org