

HACKENSACK POLICE DEPARTMENT		
GENERAL ORDER		
SUBJECT: BODY WORN CAMERAS		
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ACCREDITATION STANDARDS: 3.5.5	BY THE ORDER OF: Capt. Darrin DeWitt, OIC	

PURPOSE The purpose of this standard operating procedure is to establish uniform guidelines for the lawful use and operation of the agency-authorized body worn camera recording system (BWC). The goals and objectives in deploying BWCs is the accurate documentation of interactions between law enforcement and members of the public, arrests and other critical incidents. Further, this general order establishes protocols for the maintenance, storage and preservation of recordings in order to maintain the lawful chain of custody.

POLICY It is the policy of the Hackensack Police Department to utilize body worn video/audio cameras (BWC) to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident.

All personnel (sworn and civilian) shall use this equipment (including accessing recordings) consistent with manufacturer’s guidelines, applicable laws and statutes, this general order, and those policies or guidelines issued by the New Jersey Attorney General and the Bergen County Prosecutor’s Office. Failure to use this technology in accordance with this general order, applicable laws and statutes, and those policies or guidelines issued by the New Jersey Attorney General and Bergen County Prosecutor’s Office can result in disciplinary action. Any willful or repetitive violations of this general order shall be promptly reported to the Bergen County Prosecutor’s Office.

The Hackensack Police Department’s webpage shall contain a clear statement that this department utilizes body worn cameras. The webpage posting shall include an image showing of what the device looks like and how it is to be worn by uniformed officers so that the public will be able to determine whether an officer is equipped with the device. The Chief of Police shall provide certification to the Bergen County Prosecutor’s Office of this general notification to the public.

PROCEDURES

I. DEFINITIONS

- A. For purposes of this general order, the following terms are defined:
1. Activate – Turn on the recording mode/function of a BWC.
 2. Advisement – a statement made by an officer at the outset of using a BWC camera to record a communication, conversation, or interaction with a civilian for the specific purpose of informing the civilian that the communication or conversation is being recorded.
 3. Body-Worn Camera (BWC) - Device worn by a law enforcement officer that makes an electronic audio and visual recording. 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 other form of an electronic recording device worn by a law enforcement officer while acting in an undercover capacity, or electronic recording devices used to comply with the requirements of Rule 3:17 (electronic recording of station house custodial interrogations).
 4. Consent – Consent to record shall be considered obtained when the recording party (officer) has announced to all other parties engaged in the communication or conversation, in any reasonably effective manner, that the communication or conversation is being recorded. This announcement itself to the other parties must also be recorded.
 5. 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 any person if the officer has un-holstered a firearm or a conducted energy device (ex., "move out of the way," "get down," etc.).
 6. Deactivate – means to shut off the recording mode of a BWC.
 7. Digital evidence – includes photographs, images, audio, and video recordings that are stored digitally.
 8. 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.
 9. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense including, but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.

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 these activities (e.g., street crime unit, crime suppression unit, etc.). The nature of their work 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 – means 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. Subject of the video footage – means 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.
13. Tactical team – is 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
14. Tagging – is the electronic labeling of a video/audio file captured by a BWC.
15. Undercover officer – is a law enforcement officer operating with an assumed identity and/or disguise for the purposes of gaining the trust of an individual or organization to learn or confirm confidential information or to gain the trust of targeted individuals to gather information or evidence. Plain-clothed officers and detectives are not considered undercover officers unless working with an assumed identity and/or disguise.
16. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, residential facilities, treatment facilities, etc.

II. GENERAL ADMINISTRATION

- A. While visual and audio evidence may be captured on the recordings, the use of BWC is not intended to document all evidentiary material relevant to court or administrative proceedings, but it can serve to supplement an officer's senses and eyewitness account. There is no intent to utilize the BWC as a management tool to punish officers for minor departmental rule infractions.
 1. Officers shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
 2. BWC shall only be utilized for legitimate law enforcement purposes.

- B. This technology is not to be used in a non-discriminating way.
- C. When properly used, this equipment will have the following capabilities:
 - 1. Creation of accurate documentation of motorist contacts and other patrol related activities.
 - 2. Preservation of an audio and video record of events, actions and conditions during arrests, critical incidents, and prisoner transports.
- D. These recordings will serve the following purposes:
 - 1. Recordings serve as protection for police officers when there are complaints about their conduct or professionalism during encounters with the public.
 - 2. The recordings can be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
 - 3. The recordings can resolve disputes concerning what occurred during incidents, thereby protecting both the public and the officers involved.
 - 4. When complete recall is not possible, such as when multiple events are happening simultaneously or out of an officer's line of sight, an audio/visual recording can provide an accurate record of events.
 - 5. Subject to the viewing restrictions in this general order, supervisors will be able to view the recordings and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.
 - 6. Recordings can permit supervisors to undertake more meaningful performance evaluations.
 - 7. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the public.
 - 8. Recordings enhance management's ability to train personnel in proper police procedures.
- E. Repairs to any BWC equipment shall only be performed under the direction of the BCI commander or his/her designee.
- F. BWC is intended for official police department use only and are not to be used for frivolous or personal activities. Intentional misuse or abuse of the units will result in disciplinary action.
- G. All recording media, images, audio, and related metadata are intellectual property of the Hackensack Police Department and will not be copied, released, or disseminated in any form or manner outside the parameters of this general order without the expressed written consent of the Chief of Police.

- H. This department will not tolerate the reliance by any officer on race, ethnicity, gender, gender identity, gender expression, sexual orientation, religion, economic status, age, culture, LGBTQ+ status, or any other immutable characteristic of a group or class of persons, in determining whether to activate or deactivate a BWC.
- I. Under no circumstances will any employee of the Hackensack Police Department make a personal copy of any recorded event without the permission of the Chief of Police or in accordance with section V of this general order.
- J. Officers will use only those devices approved and issued by the Chief of Police. Such BWCs are not able to record images or conversations that cannot 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) without the expressed approval of the Bergen County Prosecutor or his/her designee. Wearing any personally owned video/audio recorder is not authorized without the expressed permission of the Chief of Police, the Bergen County Prosecutor's Office, or the New Jersey Division of Criminal Justice.
- K. BWCs shall be used only in conjunction with official law enforcement duties.

III. TRAINING

- A. The training bureau shall maintain a training program to ensure that all officers equipped with BWCs, including supervisors and command staff members, along with officers and civilian employees who access and handle BWC recordings, are familiar with the equipment/software and provisions of this general order.
 - 1. The training program shall include instruction on the proper use and operation of the units and the companion software program.
 - 2. The proper use of a BWC is considered an essential job function.
 - 3. Initial training shall be provided to all potential BWC operators who were not previously trained.
 - 4. New officers will receive training in the proper use of BWCs during their field training program.
 - 5. 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 the revisions to this general order and/or equipment.

IV. EQUIPMENT

- A. The Mobile Vision BWX100 audio/video recording units are the sole BWCs authorized for use by this department's 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 Hackensack Police Department.
 - 1. The Mobile Vision BWX100 BWC houses a video camera, audio/video recording hardware, and a port for charging the device.

2. For uniformed officers, the BWCs shall be positioned on the upper torso facing forward and unobstructed. The magnet, clip must be used to secure the BWC in an upright, forward-facing position without any obstruction of view.
 - a. Officers authorized to wear exterior vest covers shall mount the BWC with the provided magnetic mount. The mount will be placed in either the left or right upper pocket of the vest cover.
 - b. Officers wearing a jacket or other outer garment (e.g., raincoat, sweater, etc.) shall not cover or obstruct the view of their BWC. The BWC will be worn in the same area as on the vest cover if wearing an outer garment.
3. Uniformed patrol and traffic personnel shall wear and use the device as an authorized component of the uniform of the day and utilized daily consistent with the requirements and restrictions in this general order. Officers shall not utilize the BWC of another without the expressed permission of a supervisor.
 - a. Officers not assigned to headquarters are not required to activate their BWCs in police headquarters unless they are investigating a walk-in complaint, processing an arrestee, or other similar related functions.
 - b. Subject to availability, detectives and administrative officers shall wear BWCs when conducting arrests and while engaged in law enforcement duties (e.g., patrol coverage, search warrant executions, raids, etc.) consistent with the requirements and restrictions in this SOP.
 - c. BWCs shall be worn and used on all extra duty assignments. Activation must occur in accordance with this general order or during any other significant public interaction (see section VIII of this general order). Public clerical requests and public non-clerical requests do no need to be recorded.
 - d. Officers shall also wear and use a BWC consistent with this SOP when:
 - 1) On aggressive driving, DWI interdiction assignments, or other proactive enforcement team.
 - 2) When assigned to headquarters and interacting with the public on a law enforcement matter, Tour Commanders and Front Desk Officers will activate their camera based on this SOP under "Incidents to Record" (See subsection VIII.C)
 - 3) When assigned to or assisting any tactical team in the field.
4. Officers assigned to an investigative unit, when wearing professional attire, shall utilize the metal clip or magnetic mounting device to attach the BWC.

5. Officers assigned to plain clothes or special uniform details shall clip or mount the BWC to their outer garment, unless unfeasible. If mounted under an outer garment, the BWC must not be covered or obstructed.
6. To minimize audio and/or video interference with the unit, the officer's portable radio microphone shall not be affixed near the BWC on any exterior garment.

V. OFFICER RESPONSIBILITIES

- A. BWC equipment is the responsibility of the assigned officer and shall be used with reasonable care. An inspection of the BWC must be done at the commencement of each shift to ensure both video and audio recording capabilities are working. The inspection shall include, but not be limited to:
 1. Ensuring the BWC turns on; and
 2. Ensuring the battery is fully charged; and
 3. Ensuring the lens is not obstructed in any manner.
- B. If a malfunction is detected, the officer shall report the malfunction to the tour commander before going into the field.
- C. If the BWC malfunctions while out in the field, the malfunction, upon its discovery, shall be reported to the tour commander.
- D. A report shall be generated because of a malfunction, and must indicate the issues, the BWC number and the replacement BWC number that was issued. Reports may be in the form of an email to the BCI Commander.
- E. Ensure the BWC issued during roll call is the camera that was originally issued to the officer and matches the serial number.
- F. When conducting the pre-shift inspection, the officer shall activate the BWC and verbally state the date, time and that a test is being performed on the unit.
- G. If a BWC needs repair and a replacement camera is not immediately available, the officer must submit a damage equipment report indicating they are without a BWC until the camera is serviced/repaired.
- H. During vehicle inspection, the officer will activate the BWC and record all sides of the vehicle. The officer will ensure video is categorized properly (vehicle inspection/test). This video footage does not replace reporting requirements when damage to a vehicle is observed.
- I. Activate, deactivate, and label video in accordance with this general order.
- J. Categorize each video with all proper classifications from the 'drop down' selection.
 1. All BWC recordings capturing an officer-involved deadly force event shall be tagged and not be accessed or viewed by anyone, including the Chief of Police, without prior authorization of the Bergen County Prosecutor's Office, Division of Criminal Justice, or their designees (see subsection VI.E.3 of this general order).

2. BWC recordings are not a replacement for written reports. Under no circumstances shall officers simply refer to a BWC recording on an incident report instead of detailing the facts and circumstances of their investigation/observations.
3. To identify BWC recordings that may raise special privacy or safety issues, officers shall appropriately tag recordings as 'Privacy' that:
 - a. Captured a law enforcement incident, as defined in *New Jersey Attorney General Directive 2019-4*:
 - 1) Any use of force by a law enforcement officer resulting in death or serious bodily injury.
 - 2) Any use of deadly force (including the discharge of a firearm) by a law enforcement officer, regardless of whether such force resulted in injury.
 - 3) The death of any civilian during an encounter with a law enforcement officer; and
 - 4) The death of any civilian while in the custody of law enforcement.
 - b. Captured the image of a victim of a criminal offense; or
 - c. Captured the image of a child; or
 - d. Were made in a residence (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; or
 - e. Were made during a domestic violence investigation and subsequent follow-up investigative activities; or
 - f. Captured a conversation with a person whose request to deactivate the BWC was declined; or
 - g. Captured a special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded; or
 - h. Captured the image of an undercover officer or confidential informant; or
 - i. Captured the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
- K. At the conclusion of the shift, the BWC must be docked in the charging station, to upload video. This shall not preclude an officer from docking the BWC earlier in the shift. This will ensure:

1. BWC has a fully charged battery for the commencement of the tour of duty.
 2. All BWC video is uploaded to the server.
 3. BWC receives the latest firmware update.
 4. BWC can be serviced, if needed, in a timely fashion.
- L. Ensure all recordings are for official police business.
- M. If an issue occurs with the BWC, the officer's immediate supervisor must be notified to attempt to resolve the issue.
- N. If an officer anticipates their recordings contain evidentiary value, they shall complete the *Request for Recordings to be Placed into Evidence* form. (Located in Police Forms)

VI. SUPERVISOR RESPONSIBILITIES

- A. Roll-call supervisors shall inspect personnel to ensure BWCs are positioned anywhere on the mid or upper torso facing forward and unobstructed.
- B. Tour commanders shall log-on to the Digital Evidence program during their tour of duty to ensure officers/supervisors are properly utilizing their BWC and that video has been properly classified from the drop-down menu.
- C. Review all relevant recordings for all incidents in which the supervisor suspects, for any reason, that an officer's conduct may not have complied with law or the Hackensack Police Department general orders; and
- D. On an ongoing basis, review a random selection of video recordings of stops and detentions, searches, and seizures for compliance of policy.
- E. The BCI commander or his/her designee shall ensure that recordings of evidentiary value are tagged accordingly for permanent retention. In some cases, the recordings shall be copied to a CD/DVD and stored as evidence (criminal and quasi-criminal matters) or with the appropriate case file (internal affairs or administrative matters).
- F. Tour commanders and the traffic commander or his/her designee are responsible for ensuring that on-duty officers are equipped with functioning BWCs at the beginning of each shift. The following applies to all divisions when BWCs are in use:
1. Ensure that officers properly and uniformly tag recordings in accordance with this general order prior to downloading.
 2. Formally review all instances when a BWC is deactivated prior to the conclusion of an incident and forward the documented review through the chain of command to the Chief of Police or his/her designee.
 3. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the tour commander will tag the video/audio for indefinite retention.

4. First line supervisors shall review random BWC recordings of those officers under their supervision to ensure that officers are properly using the equipment and to assess field performance (see subsections VII.B and VIII.F of this general order below) at the rate of at least one per month, per officer.
5. Recordings involving any law enforcement use of force or pursuit/forcible stopping must be reviewed as part of the meaningful review process (see this agency's policies on *Use of Force* and *Pursuit and Forcible Stopping*).
6. Supervisors should utilize a *Supervisory Review of Digital Video/Audio Recordings Form* when reviewing BWC recordings for any reason.

VII. REPLACEMENT CAMERAS

- A. BCI is responsible for coordinating with the BWC vendor for replacement or repair.
- B. Replacement cameras will be distributed to personnel by the tour commander if replacements are available.
- C. In the event an officer is assigned a BWC other than the one normally assigned to them, the officer shall notify their direct supervisor and document the serial number on their activity sheet.

VIII. INCIDENTS TO RECORD

- A. BWCs must be synced with marked patrol and traffic units equipped with mobile video recorders (dash cameras). The BWC will automatically become activated upon the activation of the vehicle's emergency lights.
- B. When on duty, the BWC will remain in standby mode ready to be activated at any time. When an officer activates the recording mode / function, the device will record from the moment the record start / stop button is pressed. Activation should occur before arriving at the scene, when feasible. BWCs are programmed with a 10-second pre-record feature (video only).
- C. Except when otherwise restricted in this general order, officers shall video and audio record all law enforcement activity including any interaction with a civilian. However, if an immediate threat to the officer's life or safety makes activating the BWC impossible or dangerous, the officer shall activate the body worn camera at the first reasonable opportunity to do so. Examples of such required recordings include, but are not limited to:
 1. All traffic stops from the initiation of the stop until the stop is concluded, including sobriety testing.
 2. Investigative detentions/field interviews.
 3. Out-of-court identifications (i.e., show ups and line ups).
 4. An officer is responding to a call for service and is at or near the location to which the officer has been dispatched.
 5. Any call for service related to a violation or suspected violation of possessing

- or consuming marijuana, hashish, or cannabis item.
6. The officer is conducting a motorist aid or community caretaking check.
 7. Stationary police details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, etc.
 8. While in police headquarters during a civilian encounter (e.g., taking a walk-in report, etc.).
 9. Crime scenes except for crime scene processing.
 10. Motor vehicle and foot pursuits.
 11. Interviews of witnesses when conducting investigations of criminal violations (not to include undercover investigations or related surveillance activities).
 12. When conducting a custodial interrogation of a suspect unless the interrogation is otherwise being recorded in accordance with Rule 3:17 (electronic recordation of stationhouse interrogations).
 13. Warrantless searches (all types, including frisks and consent searches, but not strip or body cavity searches).
 14. Arrestee/prisoner transportation, whether to a law enforcement facility, county jail or other place of confinement, or to a hospital or other medical care or mental health facility.
 15. Drug recognition expert (DRE) evaluations.
 16. Overdose and suspected overdose investigations.
 17. Emotionally disturbed person investigations or encounters.
 18. When an officer uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this subsection based on specific and articulable facts warranting heightened caution (must be documented by narration on the recording and/or in any investigation report).
 19. Domestic violence investigation.
 20. Special events or projects, including but not limited to crowd control, unruly crowds, or any incident requiring activation of the all-hazards or emergency operations plan.
 21. Strikes, picket lines.
 22. When an 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.
 23. When an officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.

24. Any contact that becomes adversarial when the body camera had not been activated.
 25. Nothing in this general order precludes an officer from activating the BWC if he/she feels that during their duties, circumstances dictate that it is reasonably necessary or prudent to do so.
- D. BWC shall be activated when a uniformed officer arrives at the scene of a dispatched call for service or any of the other police activity previously listed in section VIII.C above. The officer does not need to begin recording the moment he/she receives a dispatched assignment to respond to a call for service. Rather, activation may be delayed until the officer has arrived at the assigned destination.
 - E. Notwithstanding any other provision of this general order, when an officer equipped with a BWC is dispatched to or otherwise goes to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance (e.g., an officer in distress, shots fired, etc.), the officer shall activate his/her BWC before arriving at the scene unless impracticable.
 - F. Notwithstanding any other provision of this general order, an officer while at the scene of a police deadly-force event, pursuit resulting in death or serious bodily injury, in-custody death incident, or the on-scene investigation of such events shall not deactivate his/her BWC unless instructed to do so by the independent investigator supervising the investigation pursuant to *Attorney General Law Enforcement Directive 2019-4*. The independent investigator or his/her designee supervising the investigation may provide such instruction telephonically.
 - G. BWC shall remain activated for the entire duration of a public contact required in section VIII.C above until the officer has departed the scene and the officer has notified dispatch that the event is cleared.
 - H. When a BWC is activated to transport an arrestee/prisoner, it shall remain activated while the BWC-equipped officer is in the presence of the arrestee and until the arrestee is secured in the processing room or a cell, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee.
 - I. When wearing a BWC, officers shall notify the subject of the recording that they are being recorded unless it is unsafe or unfeasible to provide such notification. Such notification shall be made as close to the inception of the encounter as is reasonably possible.
 1. Prior to entering a private residence, officers shall notify the occupant that the occupant is being recorded and, if the occupant requests the officer to discontinue use of the 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.

2. When interacting with an apparent crime victim, officers shall, as soon as practicable, notify the apparent crime victim that he or she is being recorded and, if the apparent crime victim requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the body worn camera.
 3. When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, if the person requests that the officer discontinue use of the body worn camera, officers shall evaluate the circumstances and, if appropriate, discontinue use of the body worn camera.
 4. If the officer decides not to provide notification of BWC activation because it is unsafe or unfeasible to do so, the officer shall document the reasons for that decision in the report of the incident and/or by narrating the reasons on the BWC recording.
 5. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
- J. 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 Bergen County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, has expressly authorized the officer to make a covert electronic recording.
1. Officers may deactivate a 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.
 - a. Officers shall not suggest to the person that the BWC should be deactivated; nor shall the officer ask the person whether he or she would prefer that the BWC be deactivated. Rather, the request for deactivation must be self-initiated by the civilian. The officer may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded).
 - b. In deciding whether to deactivate the BWC, the officer shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide is important to the investigation yet is not critical to require recording.
 2. Officers may deactivate 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 deactivated. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance (e.g., a victim of an assault during a fight does not want to be recorded, etc.)

3. When an officer deactivates a BWC:
 - a. The conversation between the officer and the civilian concerning the request for deactivation shall be electronically recorded; and
 - b. The officer before deactivating the BWC shall narrate the circumstances of the deactivation (e.g., "...I am now turning off my BWC as per the victim's request."); and
 - c. The officer shall report the circumstances concerning the deactivation to his/her supervisor as soon as is practicable; and
 - d. The officer shall document the circumstances of the deactivation in any investigation report concerning the incident under investigation, including the time of activation and/or deactivation.
4. If an officer declines a request to deactivate a BWC, the reasons for declining the request must be memorialized on the recording and documented and shall be reported to his/her supervisor as soon as it is safe and practicable to do so.
 - a. If the officer declines a deactivation request, the officer immediately shall inform the person making the request of that decision.
 - b. Officers are prohibited from misleading the person making the deactivation request into believing that the BWC has been turned off when in fact it is operating unless the Bergen County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee expressly has authorized covert recording.
5. Officers may deactivate/mute a BWC when specifically authorized to do so by an assistant prosecutor for good and sufficient cause as determined by the assistant prosecutor. When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor who authorized the deactivation (e.g., "...I am now turning off my BWC as per the instruction of assistant prosecutor (insert name).").
6. Officers may deactivate/mute 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 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 deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation (e.g., "...I am now turning off my BWC to discuss investigative strategy with my supervisor.").

7. If an officer is required to deactivate the BWC when entering a school, house of worship, health care facility, substance abuse treatment center, etc., the officer shall narrate the reason for deactivation (e.g., "*...I am entering a school building where children are present.*"). The BWC shall be reactivated as soon as it is safe and practicable to do so when the circumstances requiring deactivation no longer exist (e.g., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWC). Officers assigned to a school (e.g., school resource officer) should not activate their BWC unless involved in any incident listed in section III.A of this general order.
 8. If a BWC captures the image of a patient in a substance abuse treatment facility, the Chief of Police or his/her designee shall notify the Bergen County Prosecutor or his/her designee to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information (42 USC § 290dd-2, 42 CFR §23.1 to 23.41). The recording shall not be accessed without the permission of the Bergen County Prosecutor or his/her designee. (Note that destruction of the recording would be inappropriate until it has been determined that it had not captured exculpatory information that must be provided to a defendant in discovery.)
 9. In any instance when a BWC was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so when the circumstances justifying deactivation no longer exist (e.g., the interview of the person requesting deactivation is completed, etc.) and the officer would otherwise be required to activate the BWC.
- K. Officers shall not activate a BWC, and shall deactivate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would capture the image of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer require that the encounter/incident be recorded, in which event the officer shall inform their supervisor that the image of an undercover officer or confidential informant was recorded. The BWC shall be activated/reactivated as soon as it is safe and practicable to do so when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
- L. Officers shall not activate a BWC while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority, or unless the presiding judge expressly authorizes such activation.
- M. BWC shall be deactivated or removed while in the ALCOTEST area when the ALCOTEST device is being used. Nothing herein shall be construed to preclude the use of a BWC to record the behavior of a person arrested for driving while intoxicated other than while the person is in the ALCOTEST area while the ALCOTEST device is being operated. If this provision requires deactivation of a BWC, the officer shall narrate the reasons for deactivation (e.g., "*...I am deactivating the BWC because the suspect is about to take a breath test*"), and the BWC shall be reactivated when safe and practicable to do so following the completion of the breath testing operation.

- N. When a BWC is activated, officers are encouraged to provide narration when practical and appropriate to augment the value of the recording and to provide clarity for the viewer. Likewise, immediately prior to BWC deactivation, officers should state the time.
- O. Non-law enforcement personnel shall not be allowed to review the recordings at the scene of contact. Officer complaints shall be handled in accordance with the policies set forth in this department's general order on Office of Professional Standards. All other requests to view and/or obtain footage by the public shall be handled in accordance with section X. of this general order.
- P. If an officer fails to activate the BWC, fails to record the entire event contact, or interrupts the recording, the officer shall document in the applicable investigation report the reasons why a recording was not made, was interrupted, or was terminated.

IX. RESTRICTIONS ON RECORDINGS

- A. Officers engaged in undercover operations or surveillance activities are not required to utilize BWC.
- B. BWC shall be used only in conjunction with official law enforcement duties. The BWC shall not be used to record:
 - 1. Encounters with undercover officers or confidential informants.
 - 2. Hostage negotiations by hostage negotiators.
 - 3. Crime scene processing by crime scene technicians, detectives, or officers trained in crime scene processing.
 - 4. Strip and body cavity searches.
 - 5. When on break or otherwise engaged in personal activities.
 - 6. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
 - 7. When engaged in police union business.
 - 8. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction.
 - 9. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording; see section III.C of this general order.
 - 10. While discussing criminal investigation strategies

X. RECORDS RETENTION AND REVIEW

- A. Viewing of BWC events is strictly limited to sworn officers of this department. Viewing by any other person is prohibited unless authorized by the Chief of Police, his/her designee, or consistent with the provisions of this general order.

- B. BWC recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- C. No law enforcement officer or civilian employee of this department shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose. Access to and use of a stored BWC recording is permitted only:
1. When relevant to and in furtherance of a criminal investigation or prosecution.
 2. When relevant to and in furtherance of an internal affairs investigation.
 3. When relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of possible misconduct.
 4. To assist the officer whose BWC made the recording in preparing his/her **own** police report, **except**:
 - a. In officer involved use of force incidents; or
 - b. In motor vehicle pursuits resulting in death or serious bodily injury; or
 - c. In any in-custody death investigations; or
 - d. When it captures images involving an encounter about which a complaint has been registered by the subject of the recording; or
 - e. When it pertains to a criminal investigation or otherwise records information that may have evidentiary or exculpatory value subject to discovery in a prosecution; or
 - f. When it records an arrest that did not result in an ongoing prosecution; or
 - g. When it records an incident that is the subject of an internal affairs complaint.
 - h. NOTE: nothing in this subsection is intended to prevent officers from considering, reviewing, or receiving an accounting of such BWC recording after the creation of any required initial reports, statements, and interviews regarding the recorded event. The events noted above in subsections X.C.4(b)(c) cannot be accessed or viewed without the expressed permission of the assistant prosecutor or deputy attorney general supervising the investigation. Force incidents that are under investigation in accordance with *Attorney General Law Enforcement Directive 2019-4* require permission from the assistant prosecutor or deputy attorney general supervising the investigation.

- i. Officers reviewing a recording after completion of their initial report and wishing to add any additional information to the initial report can submit a supplemental report detailing their renewed recollection after supervisory approval. UNDER NO CIRCUMSTANCES, shall officers or supervisors change or modify the initial report
5. When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency.
6. To show to a civilian who intends to file a complaint against an officer to demonstrate what occurred during the encounter so that the person can make an informed decision whether to file the complaint.
7. To comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court.
 - a. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.
 - b. Only those portions of the recording pertinent to the request shall be forwarded.
 - c. This agency reserves the right to redact video/audio as applicable by law with software approved by the BWC vendor or the Bergen County Prosecutor's Office.
 - 1) Redaction includes, blurring images or muting audio segments.
 - 2) Redactions could include, but are not limited to:
 - a) Faces of victims by blurring.
 - b) Faces of civilians that are not part of the investigation by blurring.
 - c) Addresses, social security numbers, dates of birth, etc. unless pertinent to the investigation by muting.
 - 3) Consult with an assistant prosecutor before redacting any recording involving a criminal matter under its jurisdiction.
 - 4) Consult with the municipal prosecutor before redacting any recording involving a matter under municipal court jurisdiction.
 - 5) Consult with the city attorney before redacting any recording involving a civil matter involving litigation against the city, the department, or an employee.

- 6) NOTE: when providing discovery in a domestic violence matter, ensure that the recording is reviewed prior to release to verify that there is no confidential information that should be redacted.
 - 7) This confidential information includes, but is not limited to, the location where the victim is being sheltered or contact phone numbers for those assisting the victim, etc.
- d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing ordinance.
8. To comply with any other legal obligation to turn over the recording to a person or entity.
9. Solely and exclusively for internal 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:
 - a. Note: consent is not required from Hackensack police officers appearing in the recording.
 - b. Recordings retained beyond 180 days solely and exclusively for training purposes shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.
10. To show or disseminate the recording to a civilian or a non-law enforcement entity or to disseminate it to the public, when the Bergen County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, determines that disclosure to that 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.
11. 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 Bergen County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee.
12. To conduct an audit to ensure compliance with this general order.
13. Any other specified official purpose where the Bergen County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording

- D. Officers/employees shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. Officers/employees shall not instruct another to alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. If an officer, employee, or agent fails to adhere to the recording or retention requirements contained in this SOP or N.J.S.A. 40A:14-118.5 et seq., or intentionally interferes with a BWC's ability to accurately capture audio or video recordings.
1. The officer, employee, or agent shall be subject to appropriate disciplinary action; and
 2. There shall be a rebuttable presumption that exculpatory evidence was destroyed or not captured in favor of a criminal defendant who reasonably asserts that exculpatory evidence was destroyed or not captured; and
 3. Any recordings from a BWC recorded in contravention of N.J.S.A. 40A:14-118.5 et seq. or any other applicable law shall be immediately destroyed and shall not be admissible as evidence in any criminal, civil, or administrative proceeding.
- E. Recordings are considered investigatory records of this police department and shall be maintained on the secure BWC server and disposed of in accordance with New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
1. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes, recordings shall be retained for a period of 180 days.
 2. Recordings containing incidents that are the subjects of criminal, civil or administrative proceedings or civilian complaints must be retained pursuant to evidence-retention guidelines. The recording must be appropriately labeled to ensure that evidence is not destroyed.
 3. Recordings of an arrest that did not result in an ongoing prosecution, or records the use of police force, shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer or this agency.
 4. BWC recordings 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.
 5. BWC recordings shall be retained for not less than three years if requested by:
 - a. The officer whose BWC made the recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
 - b. The officer who is a subject of the BWC recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or

- 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; or
 - d. Any officer, if the BWC recording is being retained solely and exclusively for police training purposes; or
 - e. Any member of the public who is a subject of the BWC recording; or
 - 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.
 - h. NOTE: the member of the public, parent, or legal guardian, or next of kin or their designee (subsections V.E.5 (e)(f)(g)) shall be permitted to review the body worn camera recording in accordance with N.J.S.A. 47:1A-1 et seq. to determine whether to request a three-year retention period
- 6. When a BWC records an incident that is the subject of an administrative internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation, any resulting administrative action and required retention.
 - 7. In accordance with *BCPO Directive 2017-8*, when seeking authorization to purge/erase BWC recordings being held for evidence in criminal matters the police records custodian or his/her designee must submit a destruction request to the Bergen County Prosecutor's Office before purging/erasing any recordings. In DWI cases, consult with the municipal prosecutor before purging/destroying any DWI-related BWC recordings.
- F. Open public record requests. Only the following BWC recordings shall be exempt from public inspection, OPRA release, and common law right to access:
 - 1. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection X.E.4 of this SOP if the subject of the BWC recording making the complaint requests the BWC recording not be made available to the public.
 - 2. BWC recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection X.E.5 of this general order.
 - 3. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection X.E.5(a)(b)(c)(d) of this general order.
 - 4. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection X.E.6(e)(f)(g) if an officer, parent, or legal guardian, or next of kin or designee requests the BWC recording not be made available to the public.

- G. The Chief of Police or his/her designee shall notify the Bergen County Prosecutor's Office within one business day upon receiving any subpoena, court order or OPRA request for a BWC recording before complying with it. Such notice shall clearly state the deadline by which a response must be made.
- H. A BWC recording of an event or encounter that involves an investigation of a criminal offense shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or officer or authorized civilian employee of such agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by a court order, or unless the Chief of Police in consultation with the Bergen County Prosecutor or his/her designee determines that the person's/entity's/non-law enforcement agency's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.
1. 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 Bergen County Prosecutor or his/her designee shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or court rule to protect the information from disclosure, such as by seeking a protective court order.
 2. A BWC recording tagged pursuant to section V.J.3 of this general order shall not be accessed, viewed, copied, disseminated, or otherwise used by anyone without first obtaining the permission of the Bergen County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, except supervisors (i.e., sergeants and above) may access and view such recordings. Under no circumstances shall such supervisors disseminate the contents of any recording subject to an investigation pursuant to *Attorney General Law Enforcement Directive 2019-4* prior to any initial reports being created.
 3. The independent investigator overseeing an investigation pursuant to *Attorney General Law Enforcement Directive 2019-4* or his/her designee, may in the exercise of sound discretion authorize a civilian or law enforcement witness to be given access to or view a BWC recording of the incident under investigation.
- I. The BCI commander or his/her designee shall maintain a record of all BWC recordings that are accessed, viewed, copied, disseminated, or deleted. Such record can be maintained electronically in the BWC software. The Chief of Police shall cause a periodic audit of these records to ensure compliance with this general order. Minimally, the record keeping system shall document the following information:
1. The date and time of access; and
 2. The specific recording(s) that was/were accessed; and

3. The officer or civilian employee who accessed the stored recording; and
 4. The person who approved access, where applicable; and
 5. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.
- J. If an original recording is required for use in court or by another law enforcement agency, that recording shall not be released without the prior approval of the Chief of Police or designee and only if a duplicate copy is retained by the department.
1. Duplicate copies shall be maintained as evidence in accordance with this department's property and evidence guidelines.
 2. The property/evidence custodian shall ensure that any media used for duplicate recordings is properly stored away from magnetic fields (speakers, etc.) or other areas that may facilitate corruption in the property room.
- K. Officers and civilian employees shall not reproduce or store any recordings to any device or storage medium. This shall include, but not limited to, cell phones, electronic notebooks, etc.
- L. Recorded video of unusual or significant incidents, deemed to be beneficial for departmental training, may be utilized for departmental in-service training purposes only with the approval of the Chief of Police.