

ASBURY PARK POLICE DEPARTMENT STANDARD OPERATING PROCEDURE



BODY WORN CAMERAS

**BY THE ORDER OF:
CHIEF OF POLICE DAVID KELSO**

**# OF PAGES:
20**

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ACCREDITATION STANDARDS: 3.5.5

PURPOSE The purpose of this standard operating procedure is to maintain guidelines for the use, management, storage, and release of audio-visual media recorded by body worn video/audio cameras (BWC). BWC is intended to enhance officer safety, produce effective materials for training and to produce an additional method of collecting evidence to prosecute those who violate the law.

POLICY It is the policy of the Asbury Park 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 shall use this equipment (including accessing recordings) consistent with manufacturer's guidelines, this SOP, and those policies or guidelines issued by the New Jersey Attorney General and Monmouth County Prosecutor's Office. Failure to use this technology in accordance with this SOP and those policies or guidelines issued by the New Jersey Attorney General and Monmouth County Prosecutor's Office can result in discipline.

The use of BWCs with electronically enhanced audio/visual capabilities such as infrared/night vision features are not authorized.

The Asbury Park Police Department website/webpage shall contain a clear statement that this department utilizes body worn video/audio cameras. The website posting shall include an image showing what the device looks like and how it is to be worn by uniformed officers or plainclothes detectives so that citizens will be able to determine whether an officer is equipped with the device. The Chief of Police shall provide certification to the Monmouth County Prosecutor's Office of this general notification to the public.

Any willful or repetitive violations of this SOP shall be reported the Office of Professional Standards who shall report directly to the Chief of Police and Monmouth County Prosecutor's Office. The Monmouth County Prosecutor is authorized to take such actions as are reasonable and necessary to ensure compliance with this SOP and to prevent future violations.

This SOP is developed by the Asbury Park Police Department for internal use only and does not enlarge an officer's civil or criminal liability in any way. This SOP should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this SOP can only be the basis of a complaint by this department, and then only in an administrative disciplinary setting.

PROCEDURES

I. DEFINITIONS

A. For purposes of this SOP, the following terms are defined:

1. Activate – means to actuate (put into operation) 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 audio/video recorder (BWC) – is an officer worn device that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term 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 Court Rule R. 3:17 (electronic recording of station house custodial interrogations).
4. Constructive authority – involves the use of an officer's authority to exert control over a subject (see *SOP on Use of Force*), 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 unholstered a firearm or CED (e.g., "...move out of the way", "...get down", etc.).
5. Deactivate – means to shut off the recording mode of a BWC.
6. Digital evidence – includes photographs, images, audio, and video recordings that are stored digitally.
7. Force – has the same meanings as defined in this department's *SOP on Use of Force*.
8. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, or operating while intoxicated 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.
9. 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.

10. 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.
11. 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.
12. 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.
13. Tagging – is an electronic labeling of an electronic file captured by a BWC.
14. 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.
15. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, residential and/or treatment facilities, etc.

II. GENERAL ADMINISTRATION

- A. BWC recordings are invaluable to law enforcement for evidential purposes. BWC have demonstrated its value in the prosecution of criminal, traffic, and other related offenses and to protect officers from false claims of misconduct. Additionally, this equipment will provide valuable instructional material that can be utilized for in-service training programs.
- B. 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.

- C. Adequate safeguards are necessary to ensure that this technology is:
 - 1. Used in a non-discriminating way.
 - 2. Used to properly preserve evidence.
- D. 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.
- E. 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 particular 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 reviewing restrictions in this SOP**, 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 general public.
 - 8. Recordings enhance management's ability to train personnel in proper police procedures.
- F. Repairs to any BWC equipment shall only be performed under the direction of the Chief of Police or his/her designee.
- G. The Chief of Police shall maintain a training program on the lawful and proper use of BWC equipment. The Chief of Police may designate one or more persons to coordinate and/or conduct such training.
 - 1. Only officers who have received training in the use of BWC are permitted to use this system and must demonstrate a satisfactory degree of familiarity and efficiency in the use of this system.

2. Proper use of a BWC is considered an essential job requirement.
- H. BWCs are 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.
 - I. 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.
 - J. All recording media, images, metadata and audio are sole intellectual property of the Asbury Park Police Department and will not be copied, released or disseminated in any form or manner outside the parameters of this SOP without the expressed written consent of the Chief of Police or the Monmouth County Prosecutor.
 - K. Under no circumstances will any employee of the Asbury Park Police Department make a personal copy of any recorded event without the permission of the Chief of Police or the Monmouth County Prosecutor.
 - L. Officers will use only those BWCs approved and issued by the Chief of Police. Such BWCs shall not be capable of recording images or conversations that cannot be seen or heard by the officer wearing the device without the expressed approval of the Monmouth 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 Monmouth County Prosecutor's Office, or the New Jersey Division of Criminal Justice. Violations will be subject to disciplinary action, up to and including termination.
 - M. BWCs shall be used only in conjunction with official law enforcement duties.
 1. Officers engaged in undercover operations or surveillance activities are not required to utilize BWC.
 2. BWC shall be used only in conjunction with official law enforcement duties. The BWC shall not be used to record:
 - a. Encounters with undercover officers or confidential informants; or
 - b. When acting as hostage negotiators or crisis negotiators working in conjunction with tactical teams; or
 - c. Crime scene processing by crime scene technicians, detectives, or officers trained in crime scene processing; or
 - d. Strip and body cavity searches; or
 - e. When the officer is on break or otherwise engaged in personal activities; or
 - f. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room; or

- g. When the officer is involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction; or
- h. When the officer is engaged in police union business; or
- i. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording, see section III.B of this SOP; or
- j. While discussing criminal investigation strategies.

3. BWCs shall not be used surreptitiously.

4. BWCs shall not be used to gather intelligence information based on 1st Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public, except in accordance with any applicable guidelines or directives promulgated by the New Jersey Attorney General.

III. INCIDENTS TO RECORD

A. BWCs allow for a clearly documented, first-hand, and completely objective account of an incident and will produce the maximum amount of information regarding the incident to be captured. Therefore, all personnel assigned to or assisting in that event shall activate their BWC immediately upon acknowledging dispatch to a call for service or in the performance of a proactive event as soon as is safely possible.

B. Except when otherwise restricted in this SOP, 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. All calls for service.
- 3. Stationary police details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, extra duty assignments at ABC establishments where alcohol is consumed (ABC establishments, festivals, etc.).
- 4. Crash scenes, including interviews on the scene.
- 5. Crime scenes **except for crime scene processing**.
- 6. Motor vehicle **and foot** pursuits.
- 7. Investigations of criminal violations (not to include undercover investigations or related surveillance activities).

8. Any call for service related to a violation or suspected violation of possessing or consuming alcohol, marijuana, hashish, or cannabis item.
 9. Investigative detentions / field interviews.
 10. Out-of-court identifications (i.e., show ups, lineups).
 11. Warrantless searches (all types, including frisks, but not strip or body cavity searches).
 12. Arrests.
 13. Arrestee/prisoner transportation.
 14. Drug recognition expert (DRE) evaluations.
 15. Overdose and suspected overdose investigations.
 16. When an officer uses force or constructive authority, 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).
 17. Special events or projects, including but not limited to crowd control, unruly crowds, or incidents requiring activation of the all-hazards or emergency operations plan.
 18. Domestic violence investigations.
 19. Strikes, picket lines, demonstrations.
 20. Officer initiated pedestrian stops.
 21. Welfare checks of residents and motorists (motorist aid).
 22. 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.
 23. Any contact that becomes adversarial when the BWC has not already been activated.
- C. Notwithstanding any other provision of this SOP, 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 when feasible.
- D. Notwithstanding any other provision of this SOP, an officer while at the scene of a police deadly-force event, pursuit resulting in a 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 of the incident pursuant to *Attorney General Law*

Enforcement Directive 2019-4. The independent investigator or his/her designee supervising the investigation may provide such instruction telephonically.

- E. BWC shall remain activated for the entire duration of a public contact required in section III.B above until the officer has departed the scene and the officer has notified communications that the event is closed.
- F. When a BWC is activated to transport an arrestee/prisoner, 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 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.
- G. 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 BWC.
 - 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 BWC.
 - 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 investigation 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.
- H. 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 Monmouth 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 (e.g., prior to providing such information, the person indicates that he/she will only provide such information if it were not recorded; provided however, that the agreement to participate under that condition is itself recorded).

- 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.
 - 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*").
 - c. The officer shall report the circumstances concerning the deactivation to the shift supervisor as soon as is practicable.
 - d. The officer shall document the circumstances of the deactivation in the law 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 (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 memorialized on the recording and documented and shall be reported to the watch commander as soon as it is safe and practicable to do so.
- a. In the event that 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 Monmouth 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 should 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").
6. Officers can deactivate 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)").
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 if and 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). School resource officers should not activate their BWC unless involved in any incident listed in section III.A of this SOP.
8. In the event that 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 Monmouth 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 Monmouth 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.)

- I. 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 (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 the shift 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 if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
- J. 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.
- K. 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.
- L. When a BWC is activated, officers shall state the time and are encouraged to provide narration where practical and appropriate in an effort to augment the value of the recording and to provide clarity for the viewer. Likewise, immediately prior to BWC deactivation, officers shall state the time.
- M. 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 *SOP on Internal Affairs*. All other requests to view and/or obtain footage by the public shall be handled in accordance with section V of this SOP.
- N. 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 law report the reasons why a recording was not made, was interrupted, or was terminated.

IV. OFFICER AND SUPERVISORY RESPONSIBILITIES

- A. BWC will be assigned to uniformed sworn personnel under the rank of captain working in a uniformed capacity in the field including those uniformed sworn personnel working extra duty assignments. SLEO II and SLEO III shall also be issued and use BWC consistent with this SOP. BWCs shall be utilized on a daily basis.

1. Subject to availability, detectives and administrative officers shall wear BWCs when conducting arrests and while engaged in field duties (e.g., patrol coverage, search warrant executions, raids, etc.) consistent with the requirements and restrictions in this SOP.
 2. Officers shall also wear and use a BWC consistent with this SOP when:
 - a. On aggressive driving, DWI interdiction assignments, or other proactive enforcement team.
 - b. When assigned to front desk assignments and interacting with the public on a law enforcement matter.
 - c. When assigned to or assisting any tactical team in the field.
 3. When not in use, BWCs shall be stored in the designated docking stations. The docking stations allow for the units to be charged and for the download of events to the BWC server.
 4. Prior to beginning a shift, officers assigned a BWC will ensure its readiness by conducting an operational inspection. Officers shall also inspect BWCs at the conclusion of each shift to ensure system integrity.
 5. Officers shall note the BWC camera number on the BWC log.
 6. 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.
 7. The results of the inspection, including any malfunctions or deficiencies, shall be noted on the BWC log.
 8. Any problems preventing the use of the unit during the shift will be reported to the watch commander with a CAD record generated noting the details of the problem.
 9. Officers shall also inspect BWCs at the conclusion of each shift to ensure system integrity.
 10. Officers will dock their BWC for download to the BWC docking station upon completion of their shift.
- B. All officers assigned a BWC are responsible for its use and maintenance during their tour of duty.
- C. Officers will wear the BWC mounted to the front of the uniform or outermost garment on the center of the chest.
- D. Depending on the officer's height, officers shall ensure the height of the BWC remains in a position to allow the recording of an encounter or incident.

- E. When video/audio footage is captured involving any part of an arrest or significant event, officers will tag the recording with the incident number and the defendant's name and type/write the letters *BWC* (including BWC number) in all capital letters at the end of the law report to signify that video/audio is available for the case.
1. Officers shall also document the time(s) the BWC was activated and the time(s) that the BWC was deactivated.
 2. BWC recordings are not a replacement for written reports. Under no circumstances shall officers simply refer to a BWC recording on a law report instead of detailing the facts and circumstances of their investigation/observations.
 3. Officers shall also ensure that the pertinent RMS record is annotated with an entry noting a BWC was used.
- F. BWC recordings that have been tagged as having evidentiary value shall be copied as soon as practicable to a CD/DVD and stored as evidence in accordance with this department's *SOP on Property and Evidence*.
- G. To identify BWC recordings that may raise special privacy or safety issues, officers shall appropriately label recordings that:
1. Captured a law enforcement incident, as defined in *New Jersey Attorney General Directive 2019-4*:
 - a. Any use of force by a law enforcement officer resulting in death or serious bodily injury.
 - b. Any use of deadly force (including the discharge of a firearm) by a law enforcement officer, regardless of whether such force resulted in injury.
 - c. The death of any civilian during an encounter with a law enforcement officer; and
 - d. The death of any civilian while in the custody of law enforcement.
 2. Captured the image of a victim of a criminal offense.
 3. Captured the image of a child.
 4. 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.
 5. Captured a conversation with a person whose request to deactivate the BWC was declined.
 6. Captured a special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded.

7. Captured the image of an undercover officer or confidential informant; or
 8. Captured the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
- H. Watch commanders are responsible for ensuring that on-duty officers are equipped with functioning BWCs at the beginning of each shift.
1. Supervisors and commanders will conduct random formal reviews of selected recordings in order to assess officer performance as well as to flag video/audio that may be appropriate for training purposes.
 2. Supervisors shall 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 watch commander will label the video/audio for indefinite retention.
 4. Subject to the viewing restriction in subsection V.D.4 (below), supervisors shall review all available recordings as a component of the meaningful review process in all incidents requiring such a review. Such incidents requiring a meaningful review include:
 - a. Use of force.
 - b. Motor vehicle and foot pursuit.
 - c. Officer-involved motor vehicle crashes.
 - d. Officer-involved injuries.

V. 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 SOP.
- 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 V.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 actually 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. The Asbury Park Police Department reserves the right to redact video as applicable by law.
 - 1) 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.
 - 2) 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 Asbury Park 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, where the Monmouth County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her 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.
 11. To conduct an audit to ensure compliance with this SOP.
 12. 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 Monmouth County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee.
 13. Any other specified official purpose where the Monmouth 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. There shall be a rebuttable presumption that evidence supporting a plaintiff's claim was destroyed or not captured in favor of a civil plaintiff suing the government, a law enforcement agency, or a law enforcement officer for damages based on police misconduct if the plaintiff reasonably asserts that evidence supporting the plaintiff's claim was destroyed or not captured.

4. Any recordings from a BWC recorded in contravention of t 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 criminal investigative records of this police department and shall be maintained on a secure 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 at least 180 days.

2. 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 the employing law enforcement agency.

3. 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.

4. BWC recordings shall be retained for not less than three years if voluntarily 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

5. 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.

F. The records custodian or his/her designee shall notify the Monmouth County Prosecutor's Office OPRA records custodian within one business day upon receiving any subpoena, court order or OPRA request for a BWC recording before complying with it. Only the following body worn camera recordings shall be exempt from public inspection:

- 1. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.3 of this SOP if the subject of the BWC recording making the complaint requests the body worn camera recording not be made available to the public.
- 2. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.4(a)(b)(c)(d) of SOP.
- 3. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.4(e)(f)(g) if an officer, parent, or legal guardian, or next of kin or designee requests the body worn camera recording not be made available to the public.
- 4. The records custodian or his/her designee shall utilize a *Monmouth County Prosecutor's Office Body Worn Camera OPRA Notification Form* and emailing the form to opra@mcponj.org.
- 5. The form must contain the date the request was received, the deadline by which a response must be made, whether the agency intends to release or deny the request, and the justification for that decision.

6. 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.
 7. Indicate whether the recording is part of an ongoing criminal or internal affairs investigation or whether release of the recording potentially infringes upon a victim and/or juvenile privacy rights.
 8. The records custodian or his/her designee will receive an email acknowledgement. If no further communication is received within 72 hours, the record custodian or his/her designee should respond to the request as deemed appropriate.
- G. 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 Monmouth 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, the Monmouth 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 order from the court.
 2. A BWC recording tagged pursuant to section IV.G of this SOP shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Monmouth County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee. The Monmouth County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee may authorize the Chief of Police and one or more supervisory officers to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC recordings tagged pursuant to section IV.G.
 3. The **independent investigator** overseeing an investigation pursuant to *Attorney General Law Enforcement Directive 2019-4*, or his or 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.

- H. The Chief of Police or his/her designee shall maintain a record of all BWC recordings that are accessed, viewed, copied, disseminated, or deleted. The Chief of Police shall cause a periodic audit of these records to ensure compliance with this SOP. Minimally, the record keeping system shall document the following information:
 - 1. The date and time of access.
 - 2. The specific recording(s) that was/were accessed.
 - 3. The officer or civilian employee who accessed the stored recording.
 - 4. The person who approved access, where applicable.
 - 5. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.
- I. 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.
- J. Officers 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.
- K. 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.