

New Jersey State Human Services Police STANDARD OPERATING PROCEDURES		
SUBJECT: BODY WORN CAMERAS		
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PURPOSE The purpose of this standard operating procedure is to maintain guidelines for the use, management, storage, and retrieval of audio-visual media recorded by body worn cameras (BWC). The use of BWCs is intended to enhance officer safety, produce effective materials for training, and to produce an additional method of collecting evidence to prosecute those who violated the law.

POLICY It is the policy of the New Jersey State Human Services Police (NJSHSP) to issue body worn cameras (BWC) to its officers to assist officers in the performance of their duties by providing an accurate and unbiased recorded account of an incident and to maintain the necessary safeguards that will ensure the non-discriminating use as well as the proper preservation of evidence that may be obtained through use of this technology.

All personnel shall use this equipment (including accessing recordings) consistent with manufacturer’s guidelines, this SOP and in accordance with directives and guidelines issued by the local county prosecutor’s office and the New Jersey Division of Criminal Justice. Failure to use this technology in accordance with this SOP and those policies, directives, or guidelines issued by the New Jersey Attorney General and local county prosecutor’s office can result in discipline.

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

The New Jersey State Human Services Police webpage shall contain a clear statement that this agency utilizes body worn cameras. The webpage posting shall include an image showing what the device looks like and how it is to be worn by officers so that the public will be able to determine whether an officer is equipped with the device.

Any willful or repetitive violations of this SOP shall be reported to the Office of Internal Affairs who shall report such directly to the Chief of Police and/or the appropriate prosecuting agency. The Office of Internal Affairs and the Office of Employee Relations is authorized to take such actions as are reasonable and necessary to ensure compliance with this SOP and to prevent future violations.

It is recognized that the NJSHSP are unique in the application of this policy to support the Attorney General’s Body Worn Camera Policy and Directive No. 2022-1. The NJSHSP’s primary area of law enforcement responsibility is unique as we provide law enforcement protection and service to the Department of Human Services (DHS), the Department of Health (DOH), and the Department of Children and Families (DCF). Use of the body worn camera in developmental centers, psychiatric hospitals, youth centers and the facilities of these stakeholders is appropriate in performance of official police duties and for the purpose

of recording incidents, investigations, and police-civilian encounters involving those law enforcement activities specified in this standing operating procedure, directive, or order promulgated pursuant to the Attorney General's Body Worn Camera Policy.

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. Body worn audio/video recorder camera (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).
 3. Consent – Consent to record shall be considered obtained when the recording 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 should also be recorded.
 4. Constructive authority – involves the use of an officer's authority to exert control over a subject (see this agency's 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 un-holstered a firearm (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, audio and video recordings that are stored electronically.
 7. Equipped with a BWC – means that an officer is wearing a BWC at the time in question, as opposed to simply receiving BWC equipment from the agency.
 8. Force – has the same meanings as defined in this agency's SOP on *Use of Force*.
 9. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, 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.

10. Proactive enforcement team – includes officers who are assigned to target vice, drugs, organized street crime, violent crime and/or any other targeted enforcement. These officers are assigned the singular responsibility of addressing such activities, and they are sometimes referred to as crime suppression units. The nature of their work is varied and may include being dressed in traditional uniform, modified uniform, or plain clothes.
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. Serious bodily injury – means bodily injury which creates a substantial risk of death, or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. for purposes of this SOP, serious bodily injury and serious bodily harm have the same meaning.
13. Significant bodily injury – means bodily injury which creates a temporary loss of the function of any bodily member or organ or temporary loss of any one of the five senses.
14. 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.
15. Substantive report – means a report that includes a detailed accounting of the incident. It does not include a report which simply refers to other reports or to the existence of BWC or other camera recordings.
16. Tactical team - a group of law enforcement officers who are specially selected, trained, and equipped to handle high risk incidents, including, but not limited to, those involving snipers, barricaded persons, warrant services, apprehensions, acts of terrorism, and other situations or activities as deemed necessary by command leadership.
17. Tagging – is an electronic labeling of an electronic file captured by a BWC.
18. 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.
19. 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. BWC recordings are invaluable to law enforcement for evidential purposes. BWCs have demonstrated their 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 BWCs 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 agency 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; and
 - 2. Used to document visual evidence.
- 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 a record of events.
 - 5. Subject to the viewing restrictions in this SOP, supervisors will be able to view the recordings with the permission of the Director of Police 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 quartermaster or his/her designee.
- F. The Director of Police shall maintain a training program on the lawful and proper use of BWC equipment. The Director 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.
 - 3. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, and to incorporate changes, updates or other revisions in SOP and equipment.
- G. BWCs are intended for official agency use only and are not to be used for personal activities. Intentional misuse or abuse of the units will result in disciplinary action.
- H. This agency will not tolerate the reliance by any officer on race, ethnicity, disability, gender, gender identity, gender expression, sexual orientation, religion, 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. All recording media, images, metadata, and audio are the sole intellectual property of the New Jersey State Human Services Police 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 Director of Police, the applicable local county prosecutor's office, or the New Jersey Division of Criminal Justice.
- J. Under no circumstances will any employee of this agency make a personal copy of any recorded event.
- K. Officers will use only those BWCs approved and issued by the Director of Police or his/her designee. 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 appropriate local county prosecutor's office or the New Jersey Division of Criminal Justice. Wearing any personally owned video/audio recorder is not authorized without the expressed permission of the Director of Police, the appropriate local county prosecutor's office, or the New Jersey Division of Criminal Justice. Violations will be subject to disciplinary action, up to and including termination.
- L. Except as permitted by the Director of Police, no employee shall remove, dismantle, or tamper with any hardware/software component or part of a BWC. Except as permitted by the Director of Police, no employee shall request or entice another to remove, dismantle or tamper with any hardware/software component or part of a BWC.
- 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 wear 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.
 - b. Strip and body cavity searches.
 - c. When on break or otherwise engaged in personal activities.
 - d. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room, unless that is the site of the response or investigation.
 - e. When engaged in police union business.
 - f. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction.
 - g. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording as in the case of a NJSHSP stakeholder location such as a Department of Health psychiatric hospital, Department of Human Services developmental center, or Department of Children and Families youth facility, office, or house visit; see section III.B of this SOP.
 - h. While discussing criminal investigation strategies.
3. Officers are not required to wear and use a BWC:
 - a. When engaged in hostage negotiations.
 - b. When processing crime scenes.
 - c. When conducting searches of cellphones, tablets, computers, or other electronic devices pursuant to a search warrant, when such items have already been seized and the search is performed at a location other than the premises of the initial search and seizure.
 - d. When conducting searches of cellphones, tablets, computers, or other electronic devices that are suspected to contain images of child sexual exploitation.
4. BWCs shall not be used surreptitiously.
5. 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. When being worn, BWCs will remain in standby mode ready to be activated at any time. Activation should occur before arriving at the scene, when feasible.
- B. Except when otherwise restricted in this SOP, officers shall video and audio record all law enforcement activity including any law enforcement interaction with a civilian, including the staff and clients in a State facility. However, if an immediate threat to the officer's life or safety makes activating the BWC impossible or dangerous, the officer shall activate the BWC 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. During all calls for service (involving those to which the officer is dispatched or volunteers).
 - 3. Any call for service related to a violation or suspected violation of possessing or consuming contraband in a DOH or DHS facility.
 - 4. Investigation of any kind of motor vehicle violation.
 - 5. Investigative detentions/field interviews.
 - 6. An officer is responding to a call for service and is at or near the location to which the officer has been dispatched.
 - 7. The officer is conducting a motorist aid or community caretaking check.
 - 8. Stationary police details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, etc.
 - 9. Criminal investigations except for crime scene processing.
 - 10. Arrests.
 - 11. Drug recognition expert evaluations:
 - a. If the arresting officer is the DRE or if he/she is on duty and responds to another agency, the BWC would have to be activated for the evaluation.
 - b. If the DRE is off duty and not in uniform, a member of the arresting agency should be present and record the evaluation on a BWC
 - 12. Overdose and suspected overdose investigations.
 - 13. Emotionally disturbed person investigations / encounters.

14. Motor vehicle and foot pursuits.
 15. Interviews of witnesses when conducting investigations of criminal or motor vehicle violations/offenses (not to include undercover investigations or related surveillance activities).
 16. 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).
 17. Warrantless searches (all types, including frisks, vehicle searches, and consent searches, etc., but not strip or body cavity searches).
 18. Out-of-court identifications (i.e., show ups, lineups, etc.).
 19. Search or arrest warrant service (entire service).
 20. Arrestee and Detainee transportation, whether to a law enforcement facility, county jail or other place of confinement, or to a hospital or other medical care or psychiatric health facility. Scheduled transportation of DHS and DOH clients does not need to be recorded.
 21. 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).
 22. Domestic violence investigations.
 23. Crowd control, unruly crowds, or any incident requiring activation of the all-hazards or emergency operations plan.
 24. Strikes, picket lines.
 25. 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.
 26. 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.
 27. Any contact that becomes adversarial when the BWC has not already been activated.
- C. 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 completed.
- D. 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.

- E. Notwithstanding any other provision of this SOP, an officer while at the scene of a police deadly-force event, pursuit resulting in a fatality or serious bodily injury, in-custody death, 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 deadly force 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.
 - 1. Officers can deactivate their BWCs once they leave the scene of the incident.
 - 2. BWCs do not need to remain activated while officers are receiving medical evaluation, medical treatment, or have returned to a district station.
 - 3. Once officers deactivate their BWCs in these instances, they shall surrender their BWCs to a supervisor, who shall submit them as evidence in accordance with this agency's SOP on *Evidence and Property*.
- F. When a BWC is activated to transport a detainee, it shall remain activated while the BWC-equipped officer is in the presence of the detainee and until custody of the detainee 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. Officers shall notify the person that he/she is being recorded and, if the person 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 he/she 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 BWC, 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 law incident 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 applicable local 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 when 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/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, 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.
 - c. Officers may utilize the mute button only when having a confidential conversation with another officer or when civilians report criminal activity. Anytime a civilian wants to report confidential information concerning criminal activity and wishes to remain anonymous, the officer may, only upon request of the civilian, mute the audio. Anytime the officer mutes the audio he/she will state the reason on BWC as to the reason he/she is muting the audio. As soon as the confidential conversation has concluded the officer will reactivate the audio.
 2. Officers may deactivate a BWC when a person, other than a detainee, 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.). However, in situations when an officer reasonably believes that the officer or another person is likely to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.
 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 a supervisor as soon as is practicable.
 - d. The officer shall document the circumstances of the deactivation in the law incident 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 a supervisor as soon as it is safe and practicable to do so.
- a. If the officer declines a deactivation request, the officer shall immediately 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 appropriate local 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, 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.
7. If a BWC captures the image of a patient in a substance abuse treatment facility, the Director of Police or his/her designee shall notify the applicable local 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

applicable local 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.)

8. In any instance where 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.
- 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 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.
- J. BWC shall be deactivated and removed from 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.
- K. When a BWC is activated, officers are encouraged to provide narration when practicable and appropriate to augment the value of the recording and to provide clarity for the viewer.
- L. 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 agency'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.
- M. 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 report the reasons why a recording was not made, was interrupted, or was terminated.

IV. OFFICER AND SUPERVISORY RESPONSIBILITIES

- A. Except for the Director of Police, all officers and supervisors shall wear and use BWCs consistent with the requirements and restrictions in this SOP.

1. Officers, detectives, and administrative personnel shall deactivate their BWCs in headquarters or a regional station, but officers are permitted to activate their BWCs to record a detainee's behavior, if necessary.
 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.
 - d. When assigned to duties at demonstrations or potential civil disturbances.
- B. Officers are encouraged to make recommendations to the Director of Police through the chain of command regarding effectiveness, operational improvements, and revisions to SOPs.
- C. Prior to beginning a shift, officers will ensure BWC readiness by conducting an operational inspection. Officers shall also inspect BWCs at the conclusion of each shift to ensure system integrity.
1. Officers shall ensure that the battery is fully charged and operating properly.
 2. Officers shall ensure that the BWC has sufficient memory and battery power 90 % or higher at start of shift to complete the tour of duty.
 3. 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.
 4. Any problems preventing the use of the unit during the shift will be reported to a supervisor. Officers shall promptly notify their supervisor and the quartermaster by email and forwarding the BWC to the quartermaster.
 5. Officers shall obtain a replacement unit until repairs can be made. The officer shall note the replacement in the BWC system software.
- D. Officers assigned a BWC are responsible for its use and maintenance.
- E. Officers will wear the BWC mounted to the front of the uniform on the chest using the mounting equipment provided by the manufacturer.
1. The BWC shall be worn on the provided BWC holder on the center of the chest affixed to the outside of the garment.
 2. Officers authorized to wear exterior vest covers shall mount the BWC in ONLY an authorized holder.

3. Officers wearing a jacket or other outer garment shall not cover or obstruct the view of their BWC. Officers are ONLY authorized to cover the unit with an outer garment if inclement weather conditions involving precipitation make it likely that exposure to the elements will damage the unit.
 4. While in attendance at ceremonial functions, officers may be relieved of this requirement at the discretion of the detail supervisor.
- F. Officers are responsible to ensure the BWC remains in a position to allow the recording of an encounter or incident.
 - G. Officers utilizing the BWC shall periodically, and no later than the end of each shift, download the contents of the unit by placing the unit in the designated docking station. Each file downloaded shall contain information related to the date, BWC identifier, and assigned officer.
 - H. Whenever a recording is inadvertent, unintentional, or accidental activation of BWC which captures video of a private nature not involving police duties (e.g., restroom, home, etc.) the recordings shall be categorized as 'inadvertent'.
 - I. BWC recordings are not a replacement for written reports. Under no circumstances shall officers simply refer to a BWC recording on a law incident report instead of detailing the facts and circumstances of their investigation/observations.
 1. If more than one officer is present at the scene with a BWC, the reporting officer shall note the names of the officers who were present in the report of the incident.
 - J. To identify BWC recordings that may raise special privacy or safety issues, officers shall appropriately tag recordings, as 'special privacy' that:
 1. Captured a law enforcement incident, as defined by *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 juvenile.
 4. Were made in a residential premises, a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship. Specifically, NJSHSP BWC footage from a

DOH psychiatric hospital, DHS developmental center, or youth facility of DCF will be tagged.

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.
8. Captured the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.

K. Except when restricted by this SOP in section V, supervisors may view uploaded files pertaining to officers that directly report to them. The support division commander may grant privileges to an immediate supervisor to view files for officers that fall under their direct supervision.

1. The support division commander may grant specific privileges to supervisors conducting internal investigations or personnel complaints to allow access to a specific file.
2. Supervisors will conduct random formal reviews of selected recordings to assess officer performance as well as to flag video/audio that may be appropriate for training purposes.
 - a. Random review – Using *Supervisory Review of Digital Video/Audio Recording Forms*, sergeants shall review 2 recorded segments per month per officer assigned a BWC unless there are not 2 BWC recordings available for review. The regional lieutenant will review sergeants' recordings at the rate of 2 per month.
 - b. Supervisors reviewing such segments shall, if necessary, make any recommendations for training, discipline, or positive performance recognition resulting from the observations. The regional lieutenant shall review such findings to determine if any individual or group needs further training.
 - c. Completed *Supervisory Review of Digital Video/Audio Recording Forms* shall be forwarded to the support division commander for review and filing.
 - d. Whenever a supervisor reviews a BWC recording relating to this section, the supervisor shall list '*Supervisor Review*' in the notes field of the audit trail.
3. 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 Director of Police or his/her designee.
4. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the

sergeant or regional lieutenant will tag the video/audio for indefinite retention.

5. As part of the meaningful review process, supervisors shall review all BWC footage involving the below, unless restricted in section V of this SOP:
 - a. Use of force; and
 - b. Motor vehicle and foot pursuits; and
 - c. Officer involved collisions; and
 - d. Officer involved injuries.

V. RECORDS RETENTION AND REVIEW

- A. Viewing of BWC events is strictly limited to sworn officers of this agency. Viewing by any other person is prohibited unless authorized by the Chief of Police or the Director 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 agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose. Access to, use of, and receiving an account 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 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** substantive police report, providing a statement, or submitting to an interview.
 - a. Except when:
 - 1) The incident involves the use of force by the officer, when the officer knows or should know that the use of force resulted in significant or serious bodily injury or death; or
 - 2) The incident involved the discharge of a firearm or any use of deadly force by the officer (see this agency's SOP on *Use of Force*); or
 - 3) The incident involved the death of a person while in law enforcement custody; or

- 4) The incident involved the death of a person during an encounter with a law enforcement officer; or
 - 5) An incident the officer knows or has been advised is or will be the subject of an internal affairs or civilian complaint relating to the officer's use of force, bias, or dishonesty.
- b. Whenever an officer reviews or receives an accounting of a BWC recording prior to the creation of any report, statement, or interview, the officer shall acknowledge that prior review or receipt of an accounting of the BWC recording either verbally or in writing within each such report, statement, or interview.
- 1) The officer shall document each BWC recording that was reviewed and the date of the review.
 - 2) If the officer received an accounting of a BWC recording, the officer shall document the name of each person who provided an accounting of the BWC recording, the date of the accounting, and the specific BWC recording for which an accounting was provided.
- c. Officers shall only be permitted to review or receive an accounting of such BWC recordings once the investigating entity concludes that (a) the officer has in fact completed the specified incident memorialization and (b) the officer's review or receipt of an accounting of the BWC recording will not otherwise interfere with the ongoing investigation.
- 1) In cases subject to *Attorney General Directive 2019-4*, the independent investigator is the investigating entity.
 - 2) In all other cases, the Director of Police or his/her designee is the investigating entity.
 - 3) The appropriate investigating entity shall document the authorization to review or receive an accounting of a BWC of a specified incident.
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. Only the internal affairs supervisor or his/her designee can show such a recording to a civilian.
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 and audio as applicable by law.
 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 agency 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 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 applicable local county prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee.
 11. To show or disseminate the recording to a civilian or a non-law enforcement entity or to disseminate it to the public, when the applicable local 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.
 12. To conduct an audit to ensure compliance with this SOP.
 13. Any other specified official purpose when the applicable local 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 shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. Officers 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 BWC's ability to accurately capture audio or video recordings:
 1. The officer, employee, or agent shall be subject to appropriate disciplinary

action (and criminal sanctions, as applicable); 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 this SOP or any other applicable law shall be immediately brought to the attention of the Office of Internal Affairs and immediately destroyed following consultation and approval by the applicable local county prosecutor, the Attorney General's Office, or Director of the Office of Public Integrity and Accountability. Such recordings shall not be admissible as evidence in any criminal, civil, or administrative proceeding, except as evidence in any proceeding related to the unauthorized use of a BWC.
- E. BWC recordings are considered criminal investigatory records of this agency and shall be maintained on a secure server and disposed of in accordance with law and 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 indefinitely or as decided in consultation with DHS Office of Legal and Regulatory Affairs.
 2. Recordings being stored for criminal, civil, or administrative purposes must be retained until the conclusion of the case plus any retention period.
 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 the employing law enforcement agency.
 4. 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. 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 BWC 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.
- F. Open public record / common law right to access requests. Only the following BWC recordings are exempt from public inspection:
- 1. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.4 of this SOP if the subject of the BWC recording making the complaint requests the recording not be made available to the public.
 - 2. Recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection V.E.5 of this SOP.
 - 3. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.5(a)(b)(c)(d) of this SOP.
 - 4. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.5(e)(f)(g) if an officer, parent, or legal guardian, or next of kin or designee requests the recording not be made available to the public.
- G. The Director of Police or his/her designee shall notify the Department of Human Services Office of Legal and Regulatory Affairs within one business day upon receiving any subpoena, court order, OPRA request, or common law right to access request for a BWC recording before complying with it.
- 1. Provide the type of police action or activity depicted in the recording, including, but not limited to, whether the officer was involved in an investigative detention, an arrest, an interrogation of a suspect, a witness interview, a search, a protective frisk for weapons, or was using constructive

or actual force.

2. 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.
 3. The Director of Police 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.
- 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 the Attorney General's Office, 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 Director of Police in consultation with the applicable local 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 applicable local 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 subsections IV.H.2 through IV.H.9 of this SOP shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the applicable local county prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee. The applicable local county prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee may authorize the Director 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 subsections IV.H.2 through IV.H.9.
 3. The independent investigator or his/her designee overseeing a law enforcement investigation pursuant to *Attorney General Law Enforcement Directive 2019-4* (subsection IV.H.1), 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 quartermaster or his/her designee shall maintain a record of all BWC recordings that are accessed, viewed, copied, disseminated, or deleted. Such a system can be automated and managed by the system software.
- J. The Director 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; 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.
- K. 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 Director of Police or his/her designee and only if a duplicate copy is retained by the agency.
1. Duplicate copies shall be maintained as evidence in accordance with this agency'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.
- L. 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.
- M. Recorded video of unusual or significant incidents, deemed to be beneficial for agency training, may be utilized for agency in-service training purposes only with the approval of the Director of Police.