GENERAL ORDER No. 16-03

SUBJECT: BODY WORN CAMERAS (BWCs)

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CHPD Form #272 (rev. 9/97) CHANGES ARE IN BOLD PRINT
THE PURPOSE OF THIS POLICY IS TO PROVIDE PROCEDURAL GUIDANCE TO ALL DEPARTMENTAL PERSONNEL. IT IS DESIGNED TO BE COMPREHENSIVE AND CONSISTENT WITH RELEVANT LEGAL STANDARDS AND CONTEMPORARY POLICE PRACTICES. IT IS NOT INTENDED TO RESTRICT AUTHORITY AS PROVIDED BY LAW, STATUTE OR REGULATION. NOTHING IN THIS POLICY AND ITS ATTACHMENTS OR ASSOCIATED DOCUMENTS IS INTENDED TO CREATE OR DOES CREATE AN ENFORCEABLE LEGAL RIGHT OR PRIVATE RIGHT OF ACTION.

I. PURPOSE

To establish a directive that is in accordance with the guidelines set forth by the New Jersey Attorney General’s Office Law Enforcement Directive 2021-5 (Appendix A) for the proper and lawful operation of the body worn audio/video camera systems worn by authorized Cherry Hill Police Department personnel, and to define the tagging, access regulations, media storage, public disclosure, and retention system for the events recorded by the devices.

II. POLICY

Body Worn Cameras (hereinafter BWC) will be deployed to sworn Cherry Hill Police Department personnel in a manner consistent with the provisions outlined in this written directive. BWC promote police accountability and transparency. A BWC recording of a police-involved shooting or other use of force event provides objective evidence of what occurred. The practical utility of BWCs discourages officers and civilians from engaging in inappropriate conduct. These devices also discourage both law enforcement and civilian witnesses from providing false information about the circumstances of the encounter; a BWC recording not only can vindicate an officer who is falsely accused of misconduct, but also discourage a person from making false allegations against the officer in the first place.

BWCs are viewed as a valuable asset intended to assist Cherry Hill Police Department members in solving crimes and successfully prosecuting offenders by augmenting an officer’s testimony with a video/audio record of the incident. BWC recordings preserve accurate visual depictions of physical evidence and also document how physical evidence was found, thereby helping to establish the facts that must be presented in Fourth Amendment suppression hearings. BWCs also record the physical appearance of suspects and crime victims, preserving evidence of any apparent injuries. The audio portion of BWC recordings will document witness and suspect statements, preserving not only the substantive content of those statements, but also showing whether officers had complied with Miranda and other legal requirements. Additionally, this equipment will enable department administrators to conduct periodic reviews of officer-citizen contacts for quality control purposes and aid in the investigation of citizen complaints. There is no intent to utilize the BWC as a management tool to punish officers for minor departmental rule infractions.

III. PROCEDURE

A. Definitions

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

2. Constructive Authority – Same meaning as defined in the Attorney General’s Use of Force Policy, except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g. “show me your hands”, “get out of the vehicle,” etc.), or directed against any person if the officer has a firearm or a conducted energy device (e.g., “move out of the way,” “get down,” etc.) removed from its holster.

3. Force – Same meaning as defined in the Attorney General’s Use of Force Policy. The term “force” shall include physical, mechanical, enhanced mechanical and deadly force.

4. Investigation of a criminal offense – Any police activity pertaining to the investigation of a indictable crime, disorderly persons offense, or petty disorderly persons offense, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness of a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.

5. Law Enforcement Agency, Agency, or Department – Means a law enforcement agency operating under the authority of the laws of the State of New Jersey.

6. Law Enforcement Officer or “Officer” – Means a sworn officer employed by a law enforcement agency. For the purpose of this directive, the term shall also apply to Special Law Enforcement Officers.

7. School – Means an elementary or secondary school.

8. Youth Facility – Means a facility where children assemble under adult supervision for educational or recreational purposes, such as day care centers, youth camps, etc.

B. General

1. A law enforcement officer employed by the Cherry Hill Police Department may only use a BWC system that has been issued and approved by the Chief of Police or his designee.

2. An officer equipped with a BWC must comply at all times with the requirements established in this directive.
3. A BWC shall be used only in performance of official police duties and for the purpose of recording incidents, investigations and police-citizen encounters involving those law enforcement activities specified in this directive. A BWC shall not be activated while an officer is on break or otherwise is not actively performing law enforcement functions (e.g., while eating meals, while in a restroom). A BWC shall not be activated or used by an officer for personal purposes, or when engaged in police union business. Nor shall a BWC be used to record conversations involving counseling, guidance sessions, personal evaluations, or any similar supervisory interaction.

4. The decision to activate or deactivate a BWC is a police action subject to the rule established in Attorney General Law Enforcement Directive No. 2015-1, which strictly prohibits any form of racially-influenced policing.

5. No BWC recording shall be accessed, viewed, copied, disseminated, or otherwise used by a sworn officer or civilian employee of the Cherry Hill Police Department except for an official purpose specified in this directive.

6. Any sworn officer or civilian employee of the Cherry Hill Police Department who knowingly violates the requirements of this directive shall be subject to discipline.

7. Any willful or repetitive violation of this directive shall be reported to the Camden County Prosecutor and to the Director of the Division of Criminal Justice. The Camden County Prosecutor and Director are authorized to take such actions as are reasonable and necessary to ensure compliance with this directive and to prevent further violations.

IV. AUTHORIZATION TO WEAR/USE BWCs

A. The Chief of Police will determine which officers will be equipped with BWCs and shall determine the type(s) of duty assignments (e.g., uniformed patrol, plainclothes detectives, special/tactical operations deployments, etc.) when those officers will wear BWCs. The following officers are required to utilize a BWC:

1. All uniformed patrol officers while in the performance of official duties.

2. All officers assigned to TRT.

3. All officers assigned to plain clothes anticrime details.

4. All officers assigned to canine units.

5. All officers whose assigned duties include regular interaction with members of the public.

6. All officers assigned as headquarters officer, or are handling walk in incidents.
7. All officers assigned to pre-planned search warrant execution or pre-planned arrests.

8. All uniformed officers assigned to duties at demonstrations or potential civil disturbances.

B. In the case of a task force, team, or unit composed of officers from more than one law enforcement agency, the chief law enforcement officer of the agency overseeing the task force, team, or unit (e.g. the Camden County Prosecutor in the case of a countywide task force) shall determine whether and in what circumstances officers assigned to the task force, team, or unit will wear BWCs.

C. An officer shall not wear a BWC unless he or she has been authorized to do so by the Chief of Police of the Cherry Hill Police Department, or by the chief law enforcement officer of the agency overseeing a multi-agency task force, team, or unit.

D. An officer shall not wear a BWC unless he or she has received training on the proper care and use of the device in accordance with the requirements of this directive.

V. TRAINING

A. The Training Unit Commander, in his role as the Cherry Hill Police Department Training Officer, shall establish a training program to ensure that all officers equipped with BWCs, including supervisors and command staff members, along with officers and civilian employees who access or handle BWC recordings, are familiar with the equipment/software and provisions of this directive.

1. The training programs shall include instruction on the proper use and operations of the unit and the companion software program.

2. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibrations and performance, and to incorporate changes, updates or other revisions to policy and/or equipment.

VI. EQUIPMENT

A. The Cherry Hill Police Department has purchased Taser Axon Body 3 audio/video recording units. This shall be the only BWC authorized for use by Cherry Hill Police Department personnel. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the Cherry Hill Police Department.

1. References to BWC shall include the Taser Axon Body 3 wireless device, which houses a video camera, audio/video recording hardware, and a port for charging the device and downloading events.
B. For uniformed officers, the BWC units are equipped with several mounting options and shall be worn center of mass on the officer’s body. The BWC shall be affixed to the buttoned placket on the officer’s uniform shirt or on the outermost garment in chest/sternum area. Officers must make every effort to ensure their camera is not blocked by any clothing.

1. Officers authorized to wear exterior vest covers shall mount the BWC center mass of the garment utilizing the mounts provided.

2. Officers wearing a jacket or other outer garment shall not cover or obstruct the view of their BWC. The BWC shall always be worn on the outermost layer of clothing to avoid obstruction.

3. Officers including those assigned to the Investigative Unit, when wearing professional or office attire, shall utilize the metal clip or other approved mounting device to attach the BWC.

4. Officers assigned to plain clothes or special uniform details shall clip or mount the BWC, if possible, to their outer garment. Exception: If wearing the camera would compromise operational security or an officer’s identity/safety.

5. In order to reduce audio and/or video interference with the unit, the officer’s portable radio microphone shall not be affixed to the buttoned placket or breast pockets of the member’s uniform shirt or positioned near the BWC on any exterior garment.

C. Each BWC has a unique serial number and the device shall be worn as an authorized component of the uniform of the day.

D. Each officer who is authorized to wear a BWC will be issued a Signal Sidearm device. The Signal Sidearm will be attached to the officer’s holster by a member of the Technology Unit or their designee. This device sends out a signal to activate nearby body cameras when the firearm is removed from the holster.

1. Officers will be issued a Signal Sidearm device to be mounted on their issued uniform holster.

2. Officers assigned to the Technology Unit, Internal Affairs, and Detective Bureau will be issued a holster with a Signal Sidearm unit attached. When the assignment to one of these units is complete, the officer will return the holster for re-issuance.

3. Officers will not make any changes to the mounting of their Signal Sidearm device.

4. Officers will enable the mute mode on the Signal Sidearm device whenever removing their weapon from their holster for administrative reasons.
5. All employees are prohibited from tampering with any Signal Sidearm unit, including but not limited to; attempting to take the unit apart, disable, alter or repair a component in any way. Members of the Technology Unit may only attempt repairs as specified by Axon support staff.

6. Videos resulting from tests of the Signal Sidearm device shall be categorized Testing Equipment.

VII. INSPECTION AND MAINTENANCE

A. Each officer issued a body worn camera shall be responsible for determining that their device is fully functional and that its battery is adequately charged at the start of his or her duty shift and before going into the field.

1. Equipment malfunctions shall immediately be brought to the attention of a supervisor before going into the field so that a replacement unit may be procured.

2. If BWC malfunctions while out in the field, the malfunction, upon its discovery, shall be reported to the officer’s supervisor and support@chtownship.com as soon as it is safe and practicable to do so.

3. Officers are prohibited from changing any settings through Axon Sync or Axon View XL.

4. All employees are prohibited from tampering with any BWC unit, including but not limited to; attempting to take the unit apart, disable, alter or repair a component in any way. Members of the Technology Unit may only attempt repairs as specified by Axon support staff.

B. BWCs shall be inspected by officers at the commencement of each shift to guarantee both video and audio recording readiness of the system.

1. When conducting the pre-shift inspection, the officer shall activate the BWC and verbally state the date, time, and that a pre-shift inspection is being conducted on the unit number. The BWC will remain activated while the officer conducts an inspection of the officer’s assigned vehicle. The BWC should be utilized to record the condition of the assigned vehicle before and after the shift. Vehicle inspections should be categorized Vehicle Inspection.

2. Any unit found to be not operating properly shall be taken out of service and written up for repair. The officer shall then utilize one of the designated spare units which will be provided to them by their supervisor.

3. Any malfunctions must be reported to support@chtownship.com and their supervisor.

C. Officers utilizing the BWC shall periodically, and no later than the end of each shift, upload the contents of the unit by placing the unit in one of the designated
Docking/charging stations. Each event file uploaded will contain information related to the date, BWC identifier, and assigned officer for the incident. Excep
t as provided in sections D, E, and F, no employees shall take a camera home.

D. Detectives will ensure their cameras upload as soon as practical when they have recorded evidence, no later than the end of their time on duty each day. At no time will any officer take a body camera home with evidence stored on the device. For the purposes of this section, evidence stored on the device is defined as any videos that would be categorized as any category besides Normal, Protected Normal, Other Non-Criminal, Testing Equipment, or Vehicle Inspection. A spare camera is available in the detective dock if needed in an emergency. Any use of a spare camera needs to be reported to support@chtownship.com.

E. Traffic officers will ensure their cameras upload as soon as practical when they have recorded evidence, no later than the end of their time on duty each day. At no time will any officer take a body camera home with evidence stored on the device. For the purposes of this section, evidence stored on the device is defined as any videos that would be categorized as any category besides Normal, Protected Normal, Other Non-Criminal, Testing Equipment, or Vehicle Inspection. A spare camera is available in the alcove docks if needed in an emergency. Any use of a spare camera needs to be reported to support@chtownship.com.

F. Officers assigned to the K9 unit will be issued two body cameras. At the end of his/her shift, K9 officers will dock the body camera used during his/her shift. The second camera will be utilized by the K9 officer while operating police vehicles outside his/her duty hours.

1. At no time will any officer take a body camera home with evidence stored on the device.

2. For the purposes of this section, evidence stored on the device is defined as any videos that would be categorized as any category besides Normal, Protected Normal, Other Non-Criminal, Testing Equipment, or Vehicle Inspection.

G. When not in use, BWCs shall be stored in designated docking/charging stations in the Evidence alcove or Investigative Unit. The docking stations allow for the units to be charged and for the upload of events to Evidence.com. Officers not assigned space in the docking stations will dock and charge the BWC at his/her assigned desk when the device is not in use.

VIII. NOTICE THAT BWCS ARE DEPLOYED/ACTIVATED

A. The Cherry Hill Police Department has recognized that it is appropriate to provide some form of notice to citizens so that they understand that anything said to a BWC-equipped officer may be electronically recorded, and that the images and sounds of the police-civilian interaction will be stored and accessible for future law enforcement use in accordance with the provisions of this directive.
1. Such notice to the public that BWCs are in use will help to achieve the benefits of discouraging persons from engaging in conduct that might provoke the use of law enforcement force, and discouraging persons from filing false complaints against police.

B. The Cherry Hill Police Department shall take the reasonable steps to inform the citizenry of the agency’s decision to deploy BWCs. The Cherry Hill Police Department shall publish a statement on the department’s website that it deploys BWCs. The website posting shall include a picture showing what the device looks like, and how it is to be worn by uniformed officers and plainclothes detectives so that citizens will be able to determine whether an officer is equipped with the device.

C. When an officer equipped with a BWC activates the device during an encounter; 1) with a civilian occurring inside the person’s residence, or 2) with a person reasonably believed to be a victim of a criminal offense, the officer shall verbally notify the person(s) with whom the officer is conversing that the BWC has been activated UNLESS IT IS UNSAFE OR INFEASIBLE TO PROVIDE SUCH NOTIFICATION.

1. If the officer decides not to provide notification of BWC activation because it is unsafe or infeasible to do so, the officer shall document the reasons for that decision by narrating the same on the BWC recording.

2. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statements or evidence.

D. 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 Camden County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, has expressly authorized the officer to make a covert electronic recording.

1. This directive does not apply to officers while operating in an undercover capacity or while conducting/participating in a station house custodial interrogation electronically recorded in accordance with Rule 3:17.

2. Nothing in this section shall be construed to establish a basis for suppressing a statement or other evidence.

IX. ACTIVATION REQUIREMENTS

A. Officers will ensure that their body cameras are powered on and buffering at all times where interactions with the public are possible. This includes meal breaks in view of the public, driving to court in a township vehicle, secondary employment, and the public areas of the township properties. BWCs shall be utilized to record contacts with citizens in the performance of official duties. Examples of such contacts include, but are not limited to:

1. The officer has contact with a citizen as a result of a call for service or
request for police assistance, including walk-in complaints at Cherry Hill Police headquarters.

2. The officer initiates a consensual field inquiry.

3. The officer initiates an investigative detention, such as a traffic stop, criminal suspicion stop (Terry Stop), checkpoint, or roadblock stop.

4. The officer responds to a call for service.

5. The officer is conducting a motorist aid or community caretaking check.

6. The officer is interviewing a witness in the course of investigating a criminal offense.

7. The officer is conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with Rule 3:17 (electronic recordation of station house interrogation).

8. The officer is making an arrest.

9. The officer is conducting a protective frisk for weapons.

10. The officer is conducting any kind of search (consensual or otherwise).

11. The officer is engaged in a police response to any type of civil disorder in circumstances where the officer is engaged with or in the presence of civilians, and the officer or any other officer on the scene may be required to employ constructive authority or force.

12. The officer uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this section based on specific and articulable facts warranting heightened caution that are documented by narration on the recording and/or in any investigation or incident report.

13. The officer is transporting an arrestee to a police station, county jail, or otherwise place of confinement, or a hospital or other medical care or mental health facility.

14. The officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.

15. The officer is responding to a violation or suspected violation of 2C:33-15(a)(1).

16. Nothing in this policy precludes an officer from activating the camera if he/she feels that during the course of their duties circumstances dictate that it is reasonably necessary or prudent to do so.

B. The use of BWCs allow for a clearly documented, first hand, and completely objective account of an incident from beginning to end. Therefore, officers shall activate their
BWC immediately upon arrival to a call for service and in the performance of a proactive event as soon as safely possible.

C. BWCs shall remain activated for the entire duration of an event/encounter/episode and shall not be deactivated until it is concluded (e.g., the BWC equipped officer has left the scene; all the civilians involved in the encounter have left the scene; the officer has informed the dispatcher or a supervisor that the event has concluded; the event is “closed” on the computer-aided dispatch system, etc.). This includes any subsequent transport of a subject (regardless of custody status). See Section X – Circumstances When Activation/Use is Subject to Special Conditions/Restrictions for authorized exceptions.

D. When an officer, whether in uniform or plain clothes, is transporting an arrestee to a police station, a county jail, or otherwise place of confinement, or a hospital or other medical care or mental health facility, the BWC shall remain activated at all times while the officer is in the presence of the arrestee and until the arrestee is secured in the holding cell or processing room, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee. See Camden County Department of Corrections Memo (Appendix B) for transferring prisoners once officers arrive at the Camden County Jail.

1. In the event an officer has to remain with and guard an arrestee for an extended period of time in a hospital or other medical care or mental health facility, once admitted and/or settled into a room pending clearance or release of custody to another authority and there is limited or no interaction with the same, the officer may request permission from a supervisor to deactivate the unit to reduce the amount of non-event footage recorded and to conserve battery power on the unit. **Body worn cameras cannot be deactivated while responding to a violation or suspected violation of 2C:33-15(a)(1) under any circumstances.**

2. For the purpose of this directive, an “extended period of time” shall be defined as more than two hours in time.

3. If the arrestee engages the officer in dialogue, causes a disturbance, or the officer believes constructive authority or force may be necessary, the BWC shall be immediately reactivated.

E. If a civilian requests that an officer deactivate a BWC during a contact, the officer has no obligation to stop recording if the recording is pursuant to an investigation, arrest, lawful search, or the circumstances clearly dictate that continued recording is necessary. **Body worn cameras cannot be deactivated while responding to a violation or suspected violation of 2C:33-15(a)(1) under any circumstances.**

1. When a civilian conversing with an officer requests that the device be turned off under circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected, the officer may deactivate the BWC. Such request for deactivation must be self-initiated by the civilian, and must be approved by a supervisor
2. Officers are prohibited from misleading the person making the deactivation request into believing that the BWC has been turned off when it is, in fact, operating.

3. Additionally, if a civilian requests a BWC be deactivated in the course of making an Internal Affairs complaint against an officer or employee of the agency, the officer accepting the complaint shall comply with the request and narrate that a request was made to deactivate the BWC in relation to an Internal Affairs complaint.

4. In this circumstance, the officer shall notify a supervisor of the request and document the action on the Internal Affairs Complaint Form.

5. The officer shall not suggest to the person that the BWC should be deactivated, nor should the officer ask the person whether he or she would prefer that the BWC be deactivated. Rather, the request for the deactivation must be self-initiated by the civilian making the complaint.

6. An officer may 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 evidence. When an officer mutes a BWC pursuant to this section, the officer MUST narrate the circumstances of the muting.

7. Any time a BWC is going to be deactivated/muted pursuant to any of the approved reasons listed above, the officer shall narrate the date, time, location and reason for deactivation/muting before performing the function.

8. Any time a BWC has been deactivated/muted pursuant to any of the approved reasons listed above, upon reactivation/unmuting, the officer shall narrate that the recording has resumed and state the date, time and location.

F. Any officer providing assistance or back up to an officer on a call for service or citizen contact is required to have their BWC activated in accordance with this directive until the assignment is cleared or their assistance is no longer needed.

G. Officers on extra-duty assignments shall deploy their BWC during their assigned traffic and/or security details. Officers shall activate the BWC in accordance with the procedures set forth in this directive if they are required to undertake official police actions during the course of their assignment.

H. Officers assigned to the Investigative Unit shall activate their BWC during field interviews and follow-up contacts and investigations. BWCs shall also be activated when performing formal interviews and interrogations that are not being recorded on an in-house or outside agency interview room audio/video recording system.

I. Officers assigned to plain clothes details shall activate their BWC in accordance
with procedures set forth in this directive. Exception: If wearing the camera would compromise operational security or an officer’s identity/safety.

J. When BWC is activated, members 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. Officers may also mark significant events while recording and provide details of the marked segments.

K. Officers may, if possible, narrate the circumstances at the start of the encounter audibly so that the recordings on the BWC will be easier to locate if review of the video is necessary at a later time (e.g. an officer arriving at the scene of a serious motor vehicle accident may narrate the recording by stating as the BWC is activated, “Officer Smith arriving at the scene of a serious motor vehicle accident at the corner of State Street and Dudley Avenue”).

L. Officers shall include in the narrative report that BWC footage is available for the incident by typing/writing the letters BWC in all capital letters at the end of the report or by documenting it in sentence form.

M. If a member fails to activate the BWC when required, fails to record the entire event contact, or interrupts the recording, the member shall document in the applicable incident or case report why a recording was not made, was interrupted, or was terminated.

N. Members shall note in incident and case reports when BWC recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.

O. BWC recordings shall not be utilized as a replacement for written reports. Officers shall not simply refer to the recording in lieu of submission of a narrative portion of the offense report.

P. **Officers are prohibited by law from reviewing or receiving an account of body worn camera footage prior to completing their initial report, statements, or interviews. Unless prohibited by other provisions in this order, officers may review or receive an account of body worn camera footage upon the completion of their initial reports, statements, or interviews. If the officer notices details missed in their initial report, a SUPPLEMENTAL report can be written. At no time can an officer amend their initial report.**

Q. At a minimum, officers shall document in the written reports when BWC recordings were made during an incident in question and give a summary of the events in adequate detail that allows the reader of the report to have an understanding of the events that occurred.

X. **CIRCUMSTANCES WHEN BWC ACTIVATION/USE IS SUBJECT TO SPECIAL CONDITIONS/RESTRICTIONS**

A. Unless an officer is actively investigating the commission of a criminal offense, responding to a violation or suspected violation of 2C:33-15(a)(1), is responding to an emergency, or reasonably believes that he or she will be required to
use constructive authority or force, the officer shall not activate a BWC, or shall deactivate a BWC that has been activated, while the officer:

1. Is in a school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the BWC;

2. Is in a patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances where patients would be in view of the BWC; or

3. Is in a place of worship under circumstances where worshippers would be in view of the BWC.

B. If the officer is required to deactivate the BWC in accordance with the provision of this section, the officer shall narrate the reason for the 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 exists (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).

C. In the event that a BWC captures the image of a patient in a substance abuse treatment facility, the Camden County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, shall be notified to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information.

1. The recording shall not be accessed without the permission of the Camden County Prosecutor or designee, or Director of the Division of Criminal Justice or designee.

2. 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.

D. In order to prevent the recording of events unrelated to the call for service, officers at police headquarters addressing walk-in complaints are authorized to deactivate their BWC when not in the presence of the citizen. Examples include the typing of complaints or other follow-up activities conducted in the Headquarters area. The officer shall narrate on the BWC the reason for the deactivation and immediately reactivate the unit each time contact with the citizen is re-established.

E. In the event of a planned arrest/search warrant execution where it is expected that an undercover officer or confidential informant would be present (e.g., a raid where the undercover operative will be arrested to preserve his or her cover), the Camden County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, may provide specific instructions to any BWC-equipped officers participating in the operation on whether to activate their devices. In the absence of these instructions 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 exits. If an undercover detective or
confidential informant is recorded, this should be documented on Evidence.com by using the marking feature and included in the notes section.

F. A BWC shall be worn during the execution of tactical operations on the outermost garment (e.g., Special Operations or SWAT operations, execution of arrest and/or search warrants, etc.) and if it records confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms, techniques to convince persons to open doors, etc.), the recording shall be tagged in accordance with the procedures set forth in Section XI.

G. An officer shall not activate a BWC while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority, or unless such activation is expressly authorized by the judge.

H. BWCs shall be deactivated, turned off and removed from the booking area by all officers present while processing a subject for driving while intoxicated as to not inhibit the Alcotest machine. Nothing herein shall be construed to preclude the use of a body worn camera to record the behavior of a person arrested for driving while intoxicated other than while the person is in the breath-testing area while the electronic breath testing device is being operated. If this provision requires deactivation of a body worn camera, the officer shall narrate the reasons for deactivation, and the device shall be re-activated when safe and practicable to do so following the completion of the breath-testing operation.

I. An officer may deactivate a BWC when specifically authorized to do so by an assistant prosecutor or deputy attorney general for good and sufficient cause as determined by the assistant prosecutor or deputy attorney general. When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor or deputy attorney general who authorized the deactivation (e.g., “I am turning off my BWC as per the instruction of assistant prosecutor (insert name).”).

J. An officer, while at the scene of a police deadly-force event or the on-scene investigation of an event, shall not deactivate the BWC unless instructed to do so by the assistant prosecutor or deputy attorney general supervising the investigation of the deadly-force incident pursuant to Attorney General Law Enforcement Directive No. 2006-5, or his or her designee. Such instruction may be given telephonically by the assistant prosecutor, or deputy general, or designee supervising the investigation.

K. When interacting with an apparent crime victim, a law enforcement officer shall, as soon as practicable, notify the apparent crime victim that he or she is being recorded by the BWC and, if the apparent crime victim requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC. A request to discontinue the use of a BWC made to a law enforcement officer pursuant to this Section and the response to the request shall be recorded by the recording system prior to discontinuing use of the recording system.
L. If a BWC is deactivated in accordance with the provisions outlined in this directive and circumstances develop so that an officer is authorized to use force, the BWC shall be reactivated as soon as it is safe and practical to do so.

XI. SECURE STORAGE, RETENTION, EVIDENTIARY PROCESS, AND ACCESSIBILITY OF BWC RECORDINGS.

A. Contents downloaded from BWCs shall be stored on Evidence.com. All recordings are maintained within the BWC system and are authenticated by an internal audit program with the BWC system. All images and sounds recorded by the BWC are the exclusive property of the Cherry Hill Police Department.

1. Officers shall periodically access Evidence.com to ensure that the BWC footage has been properly associated with the correct case in Spillman and has been assigned the correct retention schedule. Officers should choose the category that best matches the incident. Nothing prevents the officers from choosing more than one category, if needed.

2. Uploaded events are stored on the system by incident. Each incident can be searched by date/time and officer. In addition, events can be searched by supplemental information keyed in by the officer at the time of upload, such as tags and case number.

B. The Chief of Police shall designate a command level officer to oversee the department BWC program. The designated officer shall set permissions, authorization levels and tagging/retention categories in the program and coordinate the maintenance and repairs to the BWC units. Only that officer shall have access to edit and/or delete video/audio segments. The officer shall immediately notify the Chief of Police if the system or footage is compromised or accessed without proper authorization.

C. The retention period and purging guidelines for BWC recordings shall be in accordance with the guidelines set forth by NJ Title 40A:14-118.5. The retention period shall not be less than 180 days and shall be subject to the following additional retention periods:

1. When a BWC recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution, the recording shall be treated as evidence and shall be kept in accordance with the retention period of evidence in a criminal prosecution. The officer should choose the category that best fits the most serious crime being investigated. If the officer has any doubts which category to select, select all applicable categories to ensure the video evidence is retained.

2. When a BWC records an arrest that did not result in an ongoing prosecution, or records a use of force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or the Cherry Hill Police Department.

3. When a BWC records an incident that is the subject of an internal affairs
complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action.

D. BWC recordings retained for evidentiary purposes, which shall include any recording that captures a use of force, shall be safeguarded in the same manner as other forms of evidence as detailed in General Order 07-03 Property and Evidence. As such, these recordings will be maintained on Evidence.com. The officer should choose the category that best matches the incident they are responding to. Selection of multiple categories is allowed.

E. BWC recordings of arrests that did not result in criminal prosecution shall be retained in the secure program and tagged by the requesting member with the case number of the incident along with the appropriate retention schedule selection. The officer should choose the category or categories that best matches the incident they are responding to.

F. Once tagged, I.A., only the Professional Standards and Development Division Commander, Chief of Police and his/her designees have permissions set in the software to view such recordings.

G. The Cherry Hill Police Department shall ensure that relevant BWC recordings are provided in discovery in a timely fashion. The Property Officer and/or clerk processing discovery requests shall check the corresponding investigative activity case report(s) and property log for references to the incident being recorded by a BWC.

1. Copies of BWC recordings made for the purpose of complying with the State’s discovery obligations shall be provided in a readily available media format approved by the Director of Criminal Justice in consultation with the Administrative Office of the Court.

2. The Cherry Hill Police Department reserves the right to redact video as applicable by law.

XII. PROVISIONS TO IDENTIFY RECORDINGS THAT RAISE SPECIAL PRIVACY OR SAFETY ISSUES

A. To identify BWC recordings that may raise special privacy or safety issues, officers shall tag such a recording with the appropriate category or categories that best fit the incident in the secure software when the recording:

1. Captures the image of a victim of a criminal offense;

2. Captures the image of a child;

3. Was made in a residential premises (e.g. a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship;

4. Captures a conversation with a person whose request to deactivate the BWC was declined;

5. Captures a special operations event or execution of an arrest and/or
search warrant where confidential tactical information (e.g., verbal codes and hand signals used to give directions to officers, techniques for interior movements and clearing rooms during execution of a warrant, techniques for convincing persons to open doors during warrant execution, etc.) may have been recorded;

6. Captures the image of an undercover officer or confidential informant; or

7. Captures the screen of a police computer monitor that is displaying confidential personal or law enforcement sensitive information.

B. The secure program allows for a recording to have multiple tags. Therefore, a video may be tagged as a “Protected Video” in addition to one of the classifications listed in Section XI above. The retention period for a “Protected Video” shall be 180 days, unless it also has a companion tag that calls for a longer retention. All videos except for those categorized Normal, Other Non-Criminal, Vehicle Inspection, and Testing Equipment are assumed to have recordings needing to be protected.

C. A BWC recording tagged pursuant to this section shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Camden County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee.

1. Except for when a BWC captures the image of a patient at a substance abuse treatment facility and subject to the requirements of Section XII Public Disclosure of BWC Recordings, the Camden County Prosecutor or Director of the Division of Criminal Justice may authorize the Chief of Police and one or more superior officers or duty positions identified by the Chief of Police, to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC recordings tagged pursuant to this section.

D. For the purpose of this directive, the Chief of Police shall seek permission from the Camden County Prosecutor for the following duty positions to access, view, copy, disseminate, or otherwise use BWC recordings tagged pursuant to this section in order to conduct such activities including, but not limited to; logging evidence, O.P.R.A. requests, filling discovery requests, administrative reviews, audits for compliance with directives, and internal affairs investigations:

1. Chief of Police;


3. Operations and Investigative Units Lieutenants.

4. Internal Affairs Unit Detective.

E. If a disclosure of a BWC recording as part of the State’s discovery obligations in a prosecution might present a danger to any officer or civilian (e.g., reveal an undercover officer, confidential informant, surveillance site, etc.), or might reveal confidential tactical information the disclosure of which might jeopardize future
operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms during execution of warrant, techniques for convincing persons to open doors during warrant execution, etc.), the Camden County Prosecutor or designee, or Director of Criminal Justice or designee in cases prosecuted by the Division, shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or Court Rule to protect the information by disclosure, such as by seeking a protective order from the court.

XIII. RESTRICTIONS ON ACCESS TO USE AND DISSEMINATION OF BWC RECORDINGS

A. All access to downloaded BWC files must be specifically authorized by the Chief of Police or his or her designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes. Under no circumstance shall any officer of this department erase, tamper with, reuse, or alter the recording of BWC.

1. The secure program has an internal audit trail function that documents by user identification number the following:
   
   a. The date and time of access;

   b. The specific BWC recording(s) that was/were accessed;

   c. The officer or civilian employee who assessed the stored BWC recordings.

B. No law enforcement officer or civilian employee of a law enforcement agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose as specified in this section. Access to and use of a 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 police misconduct;

4. To assist the officer whose BWC made the recording in preparing reports, subject to the restrictions established in Subsection C. and D below;

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 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;

8. To comply with other legal obligations to turn over the recording to a person or entity;

9. To show or disseminate the recording to a civilian or a non-law enforcement entity, or to disseminate it to the public, where the Camden County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, determines that disclosure to that particular person/entity or the public is warranted because the person’s/entity’s/public’s need for access outweighs the law enforcement interest in maintaining confidentiality;

10. Officers shall inform their supervisors of any recordings that may be of value for training purposes.

11. For training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by the persons viewing the training video unless the depicted individuals have consented to the recording being used for training purposes;

12. To conduct an audit to ensure compliance with this directive;

13. 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 Camden County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee; or

14. Any other specified official purpose where the Camden County Prosecutor or designee, or Director of Division of Criminal Justice or designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.

C. The assistant prosecutor or deputy attorney general, or his or her designee, overseeing a police use of force investigation pursuant to Attorney General Directive 2006-5 (use of force incident involving death or serious bodily injury to person, or where deadly force is employed with no injury to a person, or where any injury to a person results from the use of a firearm by an officer) may, in the exercise of sound discretion, authorize a civilian or law enforcement witness to be given access or view a BWC recording of the incident under investigation.

1. To ensure the integrity of investigation of police-involved shootings and other use of force incidents and to avoid possible contamination of a witness’s personal recollection of events that could undermine his or her credibility as a witness, no civilian or law enforcement witness, including the principal(s) of the investigation, shall be given access to or view a BWC recording of the incident, or a BWC recording of the response or on-scene investigation of the incident, without the express approval of the assistant prosecutor, or deputy attorney general, or designee.
D. In accordance with 40A:14-118.5, law enforcement officers are prohibited from reviewing or receiving an account of body worn camera footage prior to the creation of any required initial reports, statements, or interviews. Except as provided by section C., the officer may review the BWC recording and, if appropriate, create additional reports or make additional statements or documentation that revise or supplement the initial report, statement or interview that incorporate or reflect any information from a review or accounting of the BWC recording.

XIV. PUBLIC DISCLOSURE OF BWC RECORDINGS

A. Upon receiving a subpoena, court order, or request pursuant to the Open Public Records Act, or the common law right to know, for a BWC recording, the Professional Standards and Development Division Commander, or his or her designee, within one business day of receipt of such subpoena, court order, or request, and before complying with it, provide notice to the Camden County Prosecutor. Such notice shall state clearly the deadlines by which a response must be made.

B. Except as otherwise provided in Section XII. B., a BWC recording of an event or encounter that involves an investigation of a criminal offense as defined in Section I, 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 law enforcement agency in consultation with the Camden County Prosecutor or designee, or the Director of the Division of Criminal Justice or 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.

XV. SUPERVISORY RESPONSIBILITIES AND REVIEW

A. Supervisory personnel shall ensure that officers under their command equipped with BWC devices utilize them in accordance with policy and procedures defined therein.

1. Supervisors will ensure that the officers under their command label each video with an ID, typically the incident number.

2. Supervisors will ensure that the officers under their command label each video with the appropriate category.

B. A supervisor shall take protective custody of the BWC of any officer(s) that is involved in a serious incident to safeguard any footage of the event captured on the unit(s). Such incidents include the use of deadly force, the use of force resulting in serious injury or death, serious motor vehicle crashes involving an officer, any event resulting in the incapacitation of the officer, or any other event in which the supervisor feels that the immediate custody of the unit is necessary to protect any footage.

C. The transfer of custody shall not take place until the entire encounter/event/episode has concluded and the BWCs have been deactivated in accordance with the
parameters set forth in this directive.

1. The supervisor that takes custody of the unit shall forward it to the Professional Standards and Development Division Commander or Internal Affairs Detective. The same supervisor will issue the officer a spare unit.

2. The Professional Standards and Development Division Commander or Internal Affairs Detective shall download and tag any footage captured of the event accordingly.

3. The unit shall only be placed back in service with approval from the Professional Standards and Development Division Commander or designee.

4. If a member is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the department reserves the right to limit or restrict an officer from viewing the video file as required by law and/or policies.

D. The Operations Division Commander/designee is responsible for reviewing BWC events to assess officers’ performance, adherence to written directives, established professional standards, and to identify other training needs. The reviewed videos are selected by the Axon Performance software built into Evidence.com.

1. Upon completion of said reviews, the reviewer shall document any positive or negative activities observed. This should include any recommendations for training and/or discipline resulting from the observations.

2. The Operations Division Commander/designee is responsible for conducting a review to determine if any individual or group patterns of non-compliance exist. The results shall be forwarded to the Internal Affairs Unit to address the individual officer or the appropriate group through training and or discipline.

3. Separate from the above mentioned review of randomly selected officers, the Internal Affairs Unit or any other member of the command staff may review specific BWC footage at any time if circumstances arise that requires an investigative effort to commence.

4. The number of mandatory video reviews are:

   a. The Investigative Unit will review eight videos per month.

   b. The Traffic Unit will review eight videos per month.

   c. Each patrol squad will review eight videos per month.

ALL GENERAL ORDERS OR PARTS OF GENERAL ORDERS INCONSISTENT WITH THIS GENERAL ORDER ARE HEREBY REPEALED TO THE EXTENT OF SUCH INCONSISTENCY ONLY.
ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2021-5

TO: All Law Enforcement Chief Executives and County Prosecutors

FROM: Gurbir S. Grewal, Attorney General

DATE: May 25, 2021

SUBJECT: Directive Revising Policy Regarding Use of Body Worn Cameras (BWCs) and Stored BWC Recordings

The increased use of body worn cameras (BWCs) by police officers has profoundly impacted law enforcement nationwide. Indeed, since the first cameras were activated in New Jersey in 2015, there has seen a steady increase in the number of agencies that have equipped their officers with them. While initially voluntary, many departments have established BWC programs as a way to increase accountability and transparency, while providing protection for officers who engage with the public on a daily basis.

At the same time, public support for BWCs has also increased, with many residents coming to expect that officers will be equipped with some kind of recording technology in the performance of their duties. In fact, there is consistent public demand for the release of BWC footage in the wake of critical incidents involving police use of force. This footage provides objective evidence of what occurred and plays a crucial role in the public discourse around police accountability. BWCs also serve as a powerful deterrent to misconduct by both the police and members of the public interacting with police. As such, BWCs have gained wide support among public and law enforcement, alike.

Accordingly, the New Jersey Legislature mandated universal BWC implementation with the passage of P.L. 2020, c. 128 and 129. These two new laws now require the use of BWC by all “uniformed patrol officers” in the course of their duties, and provide the basic framework for the operation of BWCs and the handling of BWC footage. While many departments in New Jersey have already been deploying BWCs on a routine basis, these new laws will usher in a rapid expansion of BWC use across the State, both in who will be required to wear a BWC and under what circumstances.
It is therefore appropriate for the Attorney General, as the State’s chief law enforcement officer, to revisit the prior Attorney General Directive on Body Worn Cameras (AG Directive 2015-1). See N.J.S.A. 40A:14-188.4, authorizing the Attorney General to revise guidelines and directives as appropriate to enforce provisions of P.L. 2020, c. 128, and see N.J.S.A. 52:17B-98, noting that the Attorney General is responsible for general oversight of law enforcement and for ensuring the uniform and efficient enforcement of the criminal laws and the administration of criminal justice. Attached to this Directive is a revised “Body Worn Camera Policy” (the “Policy”) that conforms with the new legislation and reflects the practical experiences gained through law enforcement use BWCs since they were introduced in 2015. While the Policy establishes foundational statewide standards, it permits agencies to account for local community needs and interests and encourages them to develop and share best practices as they gain experience in using these devices.

Pursuant to the authority granted to me under the New Jersey Constitution and the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, which provides for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the state in order to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the State, I hereby direct all law enforcement and prosecuting agencies operating under the authority of the laws of the state of New Jersey to implement or adopt policies consistent with the Body Worn Camera Policy appended to this Directive.

I. Summary of the Body Worn Camera Policy

Attorney General Directive 2015-1, issued almost six years ago, provided an initial set of guidelines for the implementation of BWC programs across New Jersey. Since that time, law enforcement agencies, county prosecutors and the Office of the Attorney General, have learned valuable lessons on the best practices to be implemented in order to utilize BWCs to build community trust, respect citizen privacy, and maximize the effectiveness of these important tools to promote public safety. The Legislature recently deemed it appropriate to codify many of the provisions of Directive 2015-1, while mandating the use of BWCs by all “uniformed patrol officers” and requiring the implementation of a number of BWC-related provisions.

The Policy issued today incorporates the legislative command that all “uniformed patrol officers” be equipped with BWCs and expands upon it, directing that a broad range of law enforcement officers engaged in additional functions also be equipped with BWCs. For example, officers assigned to tactical teams, proactive enforcement teams, canine units, or duties that include regular interaction with the public will generally be required to be equipped with BWCs. Officers engaged in undercover assignments, administrative duties or working with confidential informants are among those not required to be equipped with BWCs. Public trust and the transparency of law enforcement activities will be strengthened by recording a wider range of police–citizen encounters, particularly those with a greater likelihood to result in a use-of-force or internal affairs complaint.
In addition to expanding the categories of officers required to be equipped with BWCs, the Policy continues a number of provisions from prior Directive 2015-1 that have proven to be best practices, such as the broad requirement that BWCs be activated in almost all police-citizen encounters and supervisory review of BWC recordings to improve officer performance. The Policy includes a number of new rules, including a requirement that officers, whenever safe and feasible, notify citizens when they are being recorded by a BWC; deactivate a BWC upon the request of a crime victim; and refrain from recording to gather intelligence information based on First Amendment protected speech, associations or religion.

Finally, the Policy prohibits law enforcement officers from reviewing BWC recordings prior to preparing initial police reports in most cases; incorporates longer retention periods for BWC recordings; provides additional opportunities for the subjects of BWC recordings to review the evidence; and provides for disciplinary action against those who violate the Policy.

The Body Worn Camera Policy is the latest provision of New Jersey’s Excellence in Policing program, designed to continue the process of building public trust by promoting professionalism, enhancing transparency, and ensuring accountability across the law enforcement profession.

II. Other Provisions

A. **Non-enforceability by third parties.** This Directive is issued pursuant to the Attorney General’s authority to ensure the uniform and efficient enforcement of the laws and administration of criminal justice throughout the State. This Directive imposes limitations on law enforcement agencies and officials that may be more restrictive than the limitations imposed under the United States and New Jersey Constitutions, and federal and state statutes and regulations. Nothing in this Directive shall be construed in any way to create any substantive right that may be enforced by any third party.

B. **Severability.** The provisions of both this Directive and the Body Worn Camera Policy shall be severable. If any phrase, clause, sentence or provision of either this Revised Directive or the Body Worn Camera Policy is declared by a court of competent jurisdiction to be invalid, the validity of the remainder of the document shall not be affected.

C. **Questions.** Any questions concerning the interpretation or implementation of this Directive or the Body Worn Camera Policy shall be addressed to the Director of the Division of Criminal Justice, or their designee.

D. **Supersession of prior directive.** This Directive repeals and supersedes the provisions of Attorney General’s Law Enforcement Directive 2015-1.
E. **Effective date.** This Directive and the appended Body Worn Camera Policy shall take effect on June 1, 2021, with the exception of Sections 3.2(b) through (h) of the Policy, which shall take effect on December 31, 2021. The provisions of this Directive shall remain in force and effect unless and until it is repealed, amended, or superseded by Order of the Attorney General.

ATTEST:

[Signature]

Gurbir S. Grewal
Attorney General

Veronica Allende
Director, Division of Criminal Justice

Dated: May 25, 2021
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1 Governing Principles

1.1 The policies and standards established in this Policy are designed to help police departments achieve an optimal balance between potentially competing interests. For example, it is necessary to balance the need to promote police accountability and transparency on the one hand, against the need to respect the privacy interests of persons whose images and home interiors will be captured in a BWC recording on the other. So too, it is necessary to balance the benefits achieved by electronically recording evidence that might help to solve a crime and successfully prosecute an offender against the costs incurred if a BWC were to chill a victim or witness from providing a BWC-equipped officer with information necessary to solve a crime and convict the offender.

1.2 New Jersey now requires police departments and agencies to employ BWCs in their daily law enforcement functions. And while P.L. 2020, c. 128 & 129 provide the basic framework for BWC use, this Policy seeks to provide additional guidance for the requirements that all departments must now satisfy. Law enforcement agencies are nonetheless expressly authorized to impose additional requirements beyond—but not inconsistent with—those established in this Policy. In this way, police agencies are afforded an opportunity to tailor their BWC policies and procedures to address local concerns and needs.

1.3 Although police executives are afforded some flexibility in developing departmental policies and practices that address local needs and community concerns, this Policy makes clear that all policies must limit the discretion of individual officers in the field. The decision to activate a BWC must be based on objective criteria (e.g., the initiation of a specified type of police action, such as a consensual field inquiry, or the start of an officer’s duty shift). Furthermore, in any circumstance where an officer is afforded discretion in deciding whether to de-activate a BWC, the reasons for exercising that discretion must be documented to permit supervisory review.
2 Definitions

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

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

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

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

Investigation of a criminal offense. Any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.

Law enforcement agency, agency, or department. A law enforcement agency operating under the authority of the laws of the State of New Jersey.

Law enforcement officer. A person whose public duties include the power to act as an officer for the detection, apprehension, arrest, and conviction of offenders against the laws of this State.

¹ Some BWC models may be turned on and remain in a standby or buffering mode, during which the device does not make a permanent record of images/sounds unless the officer activates the recording mode/function. With respect to these models, when the officer activates the recording mode/function, the device automatically preserves an electronic recording of the events that transpired a fixed period of time (e.g., 30 seconds) before the recording mode/function was activated. This time-delay or “buffering” feature allows the device to capture data concerning the event/circumstances that prompted the officer to activate the BWC. When an officer does not activate the recording mode/function, data captured while the device is in standby/buffering mode is overwritten automatically.
Mobile video recording system. A device or system installed or used in a police vehicle or worn or otherwise used by an officer that electronically records visual images depicting activities that take place during a motor vehicle stop or other law enforcement action.

Proactive enforcement team. Includes officers who are typically assigned to target vice, drugs, organized street crime, violent crime and/or any other targeted enforcement. Unlike officers who are responsible for responding to traditional calls for service, these officers are typically assigned the singular responsibility of addressing the aforementioned activities, and they are sometimes referred to as crime suppression units. The nature of their work is varied and may include being dressed in traditional uniform, modified uniform, or plain clothes. These officers may work alongside undercover officers, conduct surreptitious surveillance, engage in high intensity enforcement via motor vehicle/pedestrian stops and/or interact with confidential informants or witnesses who wish to remain anonymous.

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

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

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

Youth facility. A facility where children assemble under adult supervision for educational or recreational purposes, such as group homes, residential facilities, day-care centers, day treatment centers, etc.
3 Police Department Policies Governing Deployment and Use of BWCs and Recordings

3.1 Promulgation of Police Department Policies and Procedures. To ensure an efficient and orderly transition to universal BWC implementation, every law enforcement agency shall promulgate and enforce a policy, standing operating procedure, directive, or order, in a form as may be appropriate given the customs and practices of the agency, which shall comply with the policies, standards, and requirements of this Policy. Any policy, standing operating procedure, directive, or order promulgated by an agency pursuant to this Policy shall provide that:

(a) a law enforcement officer employed by the agency may only use a BWC system that has been issued and approved by the agency;

(b) an officer equipped with a BWC must comply at all times with the requirements established in this Policy and in the agency’s policy, standing operating procedure, directive, or order issued pursuant to this Policy or by law;

(c) a BWC shall be used only in performance of official police duties and not for personal purposes;

(d) no BWC recording shall be accessed, viewed, copied, disseminated, or otherwise used by a sworn officer or civilian employee of the agency except for an official purpose specified in this Policy or by law; and

(e) any sworn officer or civilian employee of the agency who knowingly violates the requirements of this Policy or the agency’s policy, standing operating procedure, directive, or order, or applicable laws, shall be subject to discipline.

3.2 Officers Required to Wear BWCs. The following officers shall be required to be equipped with BWCs and adhere to the provisions of this Policy when performing their duties:

(a) All uniformed patrol officers while acting in the performance of official duties, as required by N.J.S.A. 40A:14-118.3 (P.L. 2020, c. 128). This shall include uniformed officers assigned to traffic law enforcement, as well as Class II Special Law Enforcement Officers (SLEO IIs) assigned to patrol or traffic law enforcement duties.

(b) All officers assigned to tactical teams as defined in this Policy. Tactical Teams shall include S.W.A.T. (Special Weapons and Tactics), S.R.T. (Special Response Team), T.E.A.M.S. (Technical Emergency and Mission Specialists), Entry Teams, Rapid Deployment, Fugitive or similar units.

(c) All officers assigned to proactive enforcement teams as defined in this Policy.
(d) All officers assigned to canine units.

(e) All officers whose assigned duties include regular interaction with members of the public, which reasonably may give rise to an arrest situation or use of force.

(f) All officers assigned to “front desk” duty in law enforcement agencies, whose duties include interaction with members of the public who enter police stations to report incidents or request assistance or information.

(g) All officers assigned to a pre-planned search warrant execution or a pre-planned arrest.

(h) All uniformed officers assigned to duties at demonstrations or potential civil disturbances.

3.3 **Officers Not Required to Wear BWCs.** Notwithstanding the provisions of 3.2, the following officers are not required by this Policy to be equipped with BWCs:

(a) Officers engaged in undercover assignments.

(b) Officers acting as hostage negotiators or crisis negotiators working in conjunction with tactical teams.

(c) Officers assigned to administrative positions within the law enforcement agency. This provision shall not exclude officers assigned to “front desk” duty, as defined in Section 3.2(f), from the requirement to be equipped with BWCs.

(d) Officers meeting with confidential sources or recruiting potential confidential sources.

(e) Officers engaged in union representation of a member of the collective bargaining unit.

(f) Officers assigned to duties within schools or youth facilities as part of the normal daily educational environment, such as School Resource Officers (SROs) and Class III Special Law Enforcement Officers (SLEO IIs). Officers assigned to duties at schools or youth facilities working security or crowd-control functions at special events such as athletic competitions, graduations or similar public events shall be equipped with BWCs.

(g) Non-uniformed officers assigned to investigative, non-enforcement duties, when authorized by the agency’s law enforcement executive.
(h) Officers assigned to “extra duty” or “off duty” assignments that involve strictly traffic direction.

(i) Officers engaged in crime-scene processing duties.

3.4 **Special Circumstances.** Exemptions from the requirements in Section 3.2 are permitted only when approved by the Director of Division of Criminal Justice or the County Prosecutor, and only under such special circumstances that warrant an exemption. The reasons for the exemption must be documented and demonstrate a special need. Such requests for exemption shall be made in advance and approved in writing.

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

3.6 **Duty to Inspect and Report Malfunction.** An officer equipped with a BWC shall be responsible for determining that the device is fully functional and that its battery is adequately charged at the start of the officer’s duty shift and before going into the field. If a malfunction is detected, the officer shall report the malfunction to a supervisor before going into the field. If the BWC malfunctions while out in the field, the malfunction upon its discovery shall be reported to the officer’s supervisor as soon as it is safe and practicable to do so.

3.7 **Applicability of and Compliance with Attorney General Directive No. 2005-1.** The decision to activate or de-activate a BWC is a police action subject to the rule established in Attorney General Law Enforcement Directive (“AG Directive”) No. 2005-1, which strictly prohibits any form of racially-influenced policing.

3.8 **Training.** Every agency shall designate one or more training officers and shall establish a training program to ensure that officers equipped with BWCs and officers and civilian employees who access or handle BWC recordings are familiar with the provisions of this Policy, and the policy, standing operating procedure, directive, or order promulgated by the agency pursuant to section 3.1, and all applicable laws of the State.
4 Notice that BWCs are Deployed and Activated

4.1 Public Notice. Every department or agency shall take reasonable steps to inform the citizenry of the agency’s use of this technology. The department shall publish a statement that it deploys BWCs on its internet website or, if the department does not have its own website, then on the municipality’s website when feasible. The County Prosecutor may assist departments in providing general public notice of their deployment of BWCs pursuant to this section. The website posting shall include a picture showing what the device looks like, and how it is to be worn by uniformed officers or plainclothes detectives so that citizens will be able to determine whether an officer is equipped with the device. Notwithstanding the above general public notice requirement, officers wearing BWCs must comply with all relevant laws regarding notice to any subject of a BWC recording, pursuant to P.L. 2020, c. 129, section 1d-e, discussed in section 4.2, infra.

4.2 Specific Notice to Certain Individuals During an Encounter. A law enforcement officer who is wearing a BWC shall notify the subject of the recording that the subject is being recorded by the BWC, unless it is unsafe or infeasible to provide such notification. Such notification shall be made as close to the inception of the encounter as is reasonably possible. If the officer does not provide the required notification because it is unsafe or infeasible to do so, the officer shall document the reasons for that decision in a report or by narrating the reasons on the BWC recording, or both. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence. See AG Directive 2021-5, Section II.A (non-enforceability by third parties).

4.3 Truthful Response to Specific Inquiries. If a civilian inquires of an officer whether the officer is equipped with a BWC, or inquires whether the device is activated, the officer shall answer truthfully unless the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, has expressly authorized the officer to make a covert electronic recording. Cf. Section 3.3 (Policy does not apply to officers while operating in an undercover capacity, or while conducting/participating in a station house custodial interrogation electronically recorded in accordance with Rule 3:17). Nothing in this Section shall be construed to establish a basis for suppressing a statement or other evidence. See AG Directive 2021-5, Section II.A (non-enforceability by third parties).

4.4 Notice When Using BWCs Inside a Private Residence. Prior to entering a private residence, a law enforcement officer shall notify the occupant that the occupant is being recorded by the BWC and, if the occupant requests the officer to discontinue use of the officer’s BWC the officer shall immediately discontinue use of the BWC unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that the officer will be required to use constructive authority or force. A request to discontinue the use of a BWC made to a law enforcement officer pursuant to this Section and the response to the request shall be recorded by the recording system prior to discontinuing use of the recording system.
4.5 **Notice When Using BWCs with an Apparent Crime Victim.** When interacting with an apparent crime victim, a law enforcement officer shall, as soon as practicable, notify the apparent crime victim that he or she is being recorded by the BWC and, if the apparent crime victim requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC. A request to discontinue the use of a BWC made to a law enforcement officer pursuant to this Section and the response to the request shall be recorded by the recording system prior to discontinuing use of the recording system.

4.6 **Notice When Using BWCs with a Person Seeking to Remain Anonymous.** When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, a law enforcement officer shall notify the person that they are wearing a BWC and, if the person requests that the officer discontinue use of the BWC, the officer shall evaluate the circumstances and, if appropriate, discontinue use of the BWC. A request to discontinue the use of a BWC made to a law enforcement officer pursuant to this Section and the response to the request shall be recorded by the recording system prior to discontinuing use of the recording system.
5 Standards Governing the Activation of BWCs

5.1 BWCs Used Only in Performance of Official Duties. A BWC shall be activated only while in performance of official police duties and for the purpose of recording incidents, investigations, and police-civilian encounters involving those law enforcement activities specified in this Policy, or specified in a department’s policy, standing operating procedure, directive, or order promulgated pursuant to this Policy. A BWC shall not be activated while the officer is on break or otherwise is not actively performing law enforcement functions (e.g., while eating meals, while in a restroom, etc.). A BWC shall not be activated or used by an officer for personal purposes, or when engaged in police union business. Nor shall a BWC be used to record conversations involving counseling, guidance sessions, personnel evaluations, or any similar supervisory interaction. Any recordings from a BWC recorded in contravention of this Policy or any other applicable law shall be immediately brought to the attention of agency command staff and immediately destroyed by command staff following consultation and approval by the County Prosecutor or Director of the Office of Public Integrity and Accountability. Such footage shall not be admissible as evidence in any criminal, civil, or administrative proceeding.

5.2 Circumstances When BWC Activation is Generally Required. Except as otherwise expressly provided in Section 7 or any other provision in this Policy, or by law, an officer equipped with a BWC shall be required to activate the device whenever the officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between an officer and a member of the public, to include any of the following circumstances, unless there exists an immediate threat to the officer’s life or safety that makes such activation impossible or dangerous; in such situations, the officer must activate the camera at the first reasonable opportunity to do so and it shall remain activated until the encounter has fully concluded and the officer leaves the scene:

(a) the officer initiates an investigative detention (e.g., a Delaware v. Prouse traffic stop, a Terry v. Ohio criminal suspicion stop, or a checkpoint or roadblock stop);

(b) the officer is responding to a call for service and is at or near the location to which the officer has been dispatched;

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2 Two or more of the below-listed activities are likely to occur during a single encounter or event. For example, a frisk ordinarily occurs after an officer already has initiated an investigative detention (i.e., a “stop”), and a custodial interrogation typically occurs after the officer has arrested the person being interrogated. Although these specified activities often will co-occur and overlap, they are presented in this Section to ensure complete coverage of the circumstances when a BWC must be activated. The specified activity that occurs first during an unfolding encounter will trigger the obligation to activate a BWC. As explained in Section 5.3, once activated based upon the initiation of any of the listed police activities, the BWC generally must remain in operation until the police-civilian encounter is concluded (i.e., until the officer is no longer interacting with or in the presence of the civilian), and not just while the officer is engaged in the specified activity that required activation.
(c) the officer is conducting a motorist aid or community caretaking check;

(d) the officer is interviewing a witness in the course of investigating a criminal offense;

(e) the officer is conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with Rule 3:17 (electronic recording of station house interrogations);

(f) the officer is making an arrest;

(g) the officer is conducting a protective frisk for weapons;

(h) the officer is conducting any kind of search (consensual or otherwise);

(i) the officer is engaged in a police response to any type of civil disorder in circumstances where the officer is engaged with or in the presence of civilians and the officer or any other officer on the scene may be required to employ constructive authority or force;

(j) the officer uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this subsection based on specific and articulable facts warranting heightened caution that are documented by narration on the recording and/or in any investigation or incident report;³

(k) the officer is transporting an arrestee to a police station, county jail, or other place of confinement, or a hospital or other medical care or mental health facility; or

(l) the officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.

5.3 Continuous Recording Pending Completion of Encounter. To ensure that the entire encounter/event/episode is recorded, in accordance with this Policy and the law, a BWC should be activated before a uniformed officer arrives at the scene of a dispatched call for service or other police activity listed in Section 5.2. See also note 1. However, the officer need not begin recording at the moment he or she receives instructions from a dispatcher

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

5.3.1 Except as otherwise expressly provided in Section 6 or any other provision of this Policy, when a BWC is required to be activated by an officer pursuant to this Policy, the device must remain activated throughout the entire encounter/event/episode and shall not be deactivated until it is concluded (e.g., the BWC-equipped officer has left the scene; all civilians involved in the encounter have left the scene; the officer has informed the dispatcher or a supervisor that the event has concluded; the event is “closed” on the department’s computer-aided dispatch (“CAD”) system, etc.).

5.3.2 When a BWC is activated pursuant to Section 5.2(k) (transport of arrestee), whether by an officer in uniform or in plain clothes, it shall remain activated at all times while the BWC-equipped officer is in the presence of the arrestee and until the arrestee is secured in the holding cell or processing room, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee.

5.4 Special Provisions Governing the Use of BWCs when Investigating Underage Alcohol and Marijuana Use. Consistent with the provisions of N.J.S.A. 2C:33-15a(4), the video and audio recording functions of an officer’s BWC shall be activated whenever the officer is responding to a call for service related to an underage person who is suspected of violating the law with respect to possessing or consuming an alcoholic beverage, marijuana, hashish, or a cannabis item, or at the initiation of any other law enforcement or investigative encounter between an officer and a person related to a violation or suspected violation of that provision. The BWC shall remain activated until the encounter has fully concluded and the officer leaves the scene and shall not be deactivated based on a request by a person who is the subject of the call for service related to a violation of N.J.S.A. 2C:33-15, or for any other reason.

5.5 Special Activation Rules Governing Certain Use-of-Force Incidents, In-Custody Deaths, and Other Exigent Circumstances Where Officers Are in Danger. Notwithstanding any other provision of this Policy, when an officer equipped with a BWC is dispatched to or otherwise goes to the scene of a “Law Enforcement Incident” as defined in AG Directive 2019-4, the officer shall activate the BWC before arriving at the scene when feasible. Notwithstanding any other provision of this Policy, an officer while at the scene of a “Law Enforcement Incident” shall not de-activate the BWC unless instructed to do so by the assistant prosecutor or assistant or deputy attorney general supervising the investigation of the deadly-force incident pursuant to AG Directive 2019-4, or his or her designee. Such instruction may be given telephonically by the assistant prosecutor, assistant or deputy attorney general, or designee supervising the investigation.
6 Standards Governing the De-activation of BWCs upon the Request of a Civilian, When Discussing Investigation Strategy or Planning, or on Instruction of a Prosecutor

6.1 De-Activation at the Request of a Civilian Providing Information/Cooperation.
Notwithstanding Section 5.3, an officer may de-activate a BWC when a civilian conversing with the officer requests that the device be turned off under circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected. The officer shall not suggest to the person that the BWC should be de-activated; nor shall the officer ask the person whether he or she would prefer that the BWC be de-activated. Rather, the request for de-activation must be self-initiated by the civilian. The officer may explain the consequences of de-activation (e.g., evidence relevant to a criminal investigation will not be recorded). In deciding whether to de-activate the BWC, the officer shall consider the privacy and safety interests of the person requesting de-activation, whether the encounter is occurring in the person’s residence, and the need for the information or assistance that the person will provide only if the de-activation request is honored.

6.2 De-Activation at the Request of a Person Seeking Emergency Medical Assistance.
Notwithstanding Section 5.3, an officer may de-activate a BWC when a person, other than an arrestee, is seeking emergency medical services for him or herself or another and requests that the BWC be de-activated. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting de-activation and the person in need of medical assistance.

6.3 Procedures for De-Activation Upon a Civilian’s Request. When an officer de-activates a BWC pursuant to Section 6.1 or 6.2, the following procedures shall be followed: 1) the colloquy between the officer and the civilian concerning the request for de-activation shall be electronically recorded; 2) the officer before de-activating the BWC shall narrate the circumstances of the de-activation (e.g., “I am now turning off my BWC as per the victim’s request.”); 3) the officer shall report the circumstances concerning the de-activation to his or her superior as soon as is practicable; and 4) the officer shall document the circumstances of the de-activation in any investigation or incident report concerning the incident under investigation. See also Section 9.3 (notations (i.e., “tagging”) to indicate BWC recordings that raise special privacy or other issues).

\footnote{Cf. R. 3:17(b)(iv) (explaining that station house custodial interrogations must be electronically recorded unless “a statement is made during a custodial interrogation by a suspect who indicated, prior to making the statement, that he/she would participate in the interrogation only if it were not recorded; provided however, that the agreement to participate under that condition is itself recorded”).}
6.4 **Decision to Decline a Civilian’s De-Activation Request.** If an officer declines a request to de-activate a BWC pursuant to Section 6.1 or 6.2, the reasons for declining the request (e.g., the officer believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter) must be documented and shall be reported to the officer’s superior as soon as it is safe and practicable to do so, unless the agency’s policy prohibits de-activation authorized by Section 6.1 or 6.2.

6.4.1 In the event that the officer declines a de-activation request, the officer immediately shall inform the person making the request of that decision. An officer shall be prohibited from misleading the person making the de-activation request pursuant to Section 6.1 or 6.2 into believing that the BWC has been turned off when in fact it is operating unless the County Prosecutor or designee or the Director of the Division of Criminal Justice or designee expressly has authorized covert recording. Note that pursuant to Section 4.5, an officer may not decline a request from an apparent crime victim to discontinue recording of the encounter via the BWC.

6.5 **De-Activation During Criminal Investigation Strategy/Planning Discussions.** Notwithstanding Section 5.3, and subject to the requirements of Section 5.5, unless the agency adopts a policy that prohibits or restricts de-activation as may be authorized by this Section, a BWC-equipped officer may de-activate a BWC while participating in a discussion pertaining to criminal investigation strategy and planning (e.g., to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to summon a drug/explosives detection canine, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.), provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian (i.e., under circumstances where a civilian might overhear the strategy discussion), and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When an officer de-activates a BWC pursuant to this Section, the officer shall narrate the circumstances of the de-activation (e.g., “I am now turning off my BWC to discuss investigative strategy with my supervisor.”).

6.6 **De-Activation on Instruction from Prosecutor.** Notwithstanding Section 5.3, an officer may de-activate a BWC when specifically authorized to do so by an assistant prosecutor or assistant or deputy attorney general for good and sufficient cause as determined by the assistant prosecutor or assistant or deputy attorney general. When an officer de-activates a BWC pursuant to this Section, the officer shall narrate the circumstances of the de-activation indicating the assistant prosecutor or assistant or deputy attorney general who authorized the de-activation (e.g., “I am now turning off my BWC as per the instruction of assistant prosecutor (insert name).”).

6.7 **Re-activation When Reason for De-Activation No Longer Exists.** In any instance where a BWC was de-activated pursuant to Sections 6.1, 6.2, 6.5, or 6.6, the device shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances
justifying de-activation no longer exist (e.g., the interview of the person requesting de-activation is completed), and the officer would otherwise be required to activate the BWC (e.g., where the officer proceeds to other investigative activities that are required to be recorded pursuant to this Policy).

6.8 **Re-Activation When Actual Law Enforcement Force is Authorized.** Notwithstanding any other provision of this Policy, in any instance where a BWC was de-activated pursuant to Sections 6.1, 6.2, 6.5, 6.6, or any other provision of this Policy, or de-activated pursuant to any policy, standing operating procedure, directive, or order issued by a department, if the circumstances develop so that an officer is authorized to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.
7 Circumstances When BWC Activation/Use Is Subject to Special Conditions or Restrictions

7.1 Special Restrictions When Recording in Schools, Healthcare/Treatment Facilities, and Places of Worship. Notwithstanding Sections 5.2 and 5.3 of this Policy, and except as otherwise required by Section 5.5, unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that he or she will be required to use constructive authority or force, the officer shall not activate a BWC, or shall de-activate a BWC that has been activated, while the officer: 1) is in a school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the BWC; 2) is in a patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances where patients would be in view of the BWC; or 3) is in a place of worship under circumstances where worshipers would be in view of the BWC. See also Section 9.3 (notation (i.e., “tagging”) of certain events/encounters raising privacy or other special issues).

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

7.2 Special Restrictions When Undercover Officers or Confidential Informants May Be Recorded. Notwithstanding the provisions of Sections 5.2 and 5.3 of this Policy, and except as otherwise required by Section 5.5, an officer shall not activate a BWC, or shall de-activate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would risk revealing the identity of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (e.g., active shooter, actual use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the officer shall inform his or her supervisor that the recording risks revealing the identity of an individual as an undercover officer or confidential informant. See also Section 9.3 (notation or “tagging” to indicate a BWC recording that raises special issues); Section 9.5 (prosecutor’s authority to seek protective order when complying with discovery obligations).

7.2.1 Notwithstanding the foregoing general rule prohibiting the recording of an undercover officer or confidential informant, in the event of a planned arrest/search warrant execution where it is expected that an undercover officer or confidential informant would be present (e.g., a raid where the undercover operative will be arrested to preserve his or her cover),
the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, may provide specific instruction to any BWC-equipped officers participating in the operation on whether to activate their devices.

7.2.2 The BWC shall be activated/re-activated as soon as it is safe and practicable to do so if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.

7.3 **Special Precautions When a BWC Recording May Reveal Tactical Operations Information.** In the event that a BWC worn during the execution of tactical operations (e.g., “Special Operations” or “SWAT” operations, execution of arrest and/or search warrant, etc.) records confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms, techniques to convince persons to open doors, etc.), the recording shall be “tagged” in accordance with Section 9.3. See N.J.S.A. 47:1A-1.1 (exempting from disclosure under the Open Public Records Act “security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons”); N.J.A.C. 13:1E-3.2 (2) (exempting records that may reveal “surveillance, security, tactical, investigative, or operational techniques”); see also Section 9.5 (prosecutor’s authority to seek protective orders when complying with discovery obligations).

7.4 **Special Restrictions on Recording in Courtrooms.** An officer shall not activate a BWC while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority.

7.5 **De-Activation/Removal of BWC From Alcohol Breath Testing Area.** In order to eliminate any argument that radio frequency interference from a BWC affected an electronic alcohol breath test, BWCs shall be deactivated, turned off and removed from the area of the breath test instrument before an electronic breath test is conducted. Nothing herein shall be construed to preclude the use of a BWC to record the behavior of a person arrested for driving while intoxicated other than while the person is in the breath-testing area while the electronic breath testing device is being operated. If this provision requires de-activation of a BWC, the officer shall narrate the reasons for de-activation (e.g., “I am de-activating the BWC because the suspect is about to take a breath test.”), and the BWC shall be re-activated when safe and practicable to do so following the completion of the breath testing operation.

7.6 **Restrictions on Using BWCs With Enhanced Audio/Visual Capabilities.** Subject to the provisions of Section 12 of this Policy, if a department acquires a BWC with enhanced audio/video capabilities that allow it to record an image or conversation that could not be seen or heard by the officer wearing the device (e.g., infrared night vision or thermal imaging, sound amplification that would record conversations occurring at a remote distance), that feature/capability shall not be used without the express approval of the
County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, in accordance with any applicable legal requirements.

7.7 Restrictions on Using BWCs Surreptitiously or to Gather Intelligence Information on First Amendment Protected Activity. A BWC shall not be used surreptitiously. Additionally, a BWC shall not be used to gather intelligence information based on First Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public, provided that nothing in this subsection shall be construed to prohibit activation of video and audio recording functions of a BWC as authorized under the law or this Policy.
8 Retention of BWC Recordings

8.1 Minimum 180-Day Retention Period. A BWC recording shall be retained by the law enforcement agency that employs the officer for a retention period consistent with the provisions of this Section, after which time the recording shall be permanently deleted. A BWC recording shall be retained for not less than 180 days from the date it was recorded, but shall be subject to additional retention periods as required in Sections 8.2, 8.3 and 8.4.

8.2 Automatic Three-Year Retention Period. A BWC recording shall automatically be retained for not less than three years if it captures images involving an encounter about which a complaint has been registered by a subject of the BWC recording.

8.3 Three-Year Retention Period Upon Request. Subject to any applicable retention periods established in Section 8.4 to the extent such retention period is longer, a BWC recording shall be retained for not less than three years if voluntarily requested by:

(a) law enforcement officer whose BWC made the video recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value;

(b) a law enforcement officer who is a subject of the BWC recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value;

(c) any immediate supervisor of a law enforcement officer whose BWC made the recording or who is a subject of the BWC recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value;

(d) any law enforcement officer, if the BWC recording is being retained solely and exclusively for police training purposes;

(e) any member of the public who is a subject of the BWC recording;

(f) any parent or legal guardian of a minor who is a subject of the BWC recording; or

(g) a deceased subject's next of kin or legally authorized designee.

To effectuate subparagraphs (e), (f), and (g) of this Section, the member of the public, parent or legal guardian, or next of kin or designee shall be permitted to review the BWC recording to determine whether to request a three-year retention period, in accordance with the provisions of the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., to determine whether to request a three-year retention period.
8.4 **Additional Retention Requirements.** Notwithstanding the provisions of Sections 8.1, 8.2, or 8.3 of this Policy, a BWC recording shall be subject to the following additional retention requirements:

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

(b) when a BWC records an arrest that did not result in an ongoing prosecution, or records the use of police force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer or the employing law enforcement agency;

(c) when a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action.
9 Standards to Ensure Secure Storage and Accessibility of BWC Recordings

9.1 Procedures to Protect Integrity of BWC Recordings. Every department shall establish and maintain a system and procedures to ensure the integrity and proper handling and storage of all BWC recordings. This system shall include provisions to:

(a) ensure that all recordings are uploaded to a secure data storage system in a timely fashion;

(b) prevent tampering with or deletion of recorded data both before and after downloading from the BWC and uploading to the storage system;

(c) prevent unauthorized access to stored BWC recordings;

(d) document all instances where BWC recordings are accessed, viewed, copied, disseminated, or deleted; and

(e) permit auditing of all instances where BWC recordings are accessed, viewed, copied, or deleted.

9.2 Capacity to Locate Specific BWC Recordings. Every department shall establish and implement a system that permits the agency to locate and retrieve all recordings associated with a specific incident/event, investigation, case, or criminal charge. Accordingly, every department shall be required to develop and maintain a BWC control ledger or log, which may be computerized.

9.2.1 Every department shall establish and implement a system to ensure that relevant BWC recordings are provided in discovery in a timely fashion. The system established by the agency should include a provision to ensure that police arrest/incident/continuation reports indicate whether the incident or investigative activity described in the report was electronically recorded by a BWC. Police reports should, when feasible, indicate the corresponding BWC control ledger/log number, and the BWC control ledger/log should cross-reference the incident case number. Copies of BWC recordings made for the purpose of complying with the State’s discovery obligations shall be provided to the prosecutor in a readily available media format.

9.3 Provisions to Identify (“Tag”) Recordings That Raise Special Privacy or Safety Issues. To identify BWC recordings that may raise special privacy or safety issues, every department that deploys BWCS shall establish and implement a system that permits a notation (i.e., “tagging”) to be made when the recording:

(a) captures the image of a victim of a criminal offense;
(b) captures the image of a child;

(c) was made in a residential premises (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship;

(d) captures a conversation with a person whose request to de-activate the BWC was declined;

(e) captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information (e.g., verbal codes and hand signals used to give direction to officers, techniques for interior movements and clearing rooms during execution of a warrant, techniques for convincing persons to open doors during warrant execution, etc.) may have been recorded;

(f) captures the image of an undercover officer or confidential informant; or

(g) captures the screen of a police computer monitor that is displaying confidential personal or law enforcement sensitive information. See also Section 7.1 (requiring notice to the prosecutor when a BWC captures the image of a patient at a substance abuse treatment facility).

Subject to the provisions of Section 12 of this Policy, an agency’s policy, standing operating procedure, directive, or order issued pursuant to Section 3.1 may specify additional circumstances when a BWC recording will be “tagged.”

9.4 Approval for Access to “Tagged” BWC Recordings. A BWC recording tagged pursuant to Section 9.3 shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee. The County Prosecutor or Director may authorize the law enforcement executive, and one or more superior officers or duty positions (e.g., head of the detective bureau) identified by the law enforcement executive, to grant permission pursuant to this Section to access, view, copy, disseminate, or otherwise use BWC recordings tagged pursuant to Section 9.3. See also Section 10.1 (specifying the purposes for which access to a BWC recording is permitted).

9.5 Compliance with Discovery Obligations Relating to BWC Recordings That Might Expose Officers or Other Persons to Danger. If disclosure of a BWC recording as part of the State’s discovery obligations in a prosecution might present a danger to any officer or civilian (e.g., reveal an undercover officer, confidential informant, surveillance site, etc.), or might reveal confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or
instructions, techniques for interior movements and clearing rooms during execution of warrant, techniques for convincing persons to open doors during warrant execution, etc.), the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee in cases prosecuted by the Division, shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or Court Rule to protect the information from disclosure, such as by seeking a protective order from the court. See Section 7.3 ("tagging" of such BWC recordings).

9.6 Third-Party Storage and Maintenance. If a law enforcement agency authorizes a third-party to act as its agent in maintaining recordings from a BWC, the agent shall be prohibited from independently accessing, viewing, or altering any recordings, except to delete recordings as required by law or agency retention policies.
10 Restrictions on Access to and Use and Dissemination of BWC Recordings

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

(a) when relevant to and in furtherance of a criminal investigation or prosecution;

(b) when relevant to and in furtherance of an internal affairs investigation;

(c) when relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of possible misconduct;

(d) when relevant to a supervisor’s review of an officer’s actions as part of the supervisory process authorized by the agency;

(e) to show to a civilian who intends to file a complaint against an officer to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint;

(f) to comply with the State’s discovery obligations in prosecutions pursuant to the Rules of Court;

(g) to comply with any other legal obligation to turn over the recording to a person or entity;\(^5\)

(h) to show or disseminate the recording to a civilian or a non-law enforcement entity, or to disseminate it to the public, where the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, determines that disclosure to that particular person/entity or the public is warranted because the person’s/entity’s/public’s need for access outweighs the law enforcement interest in maintaining confidentiality;

\(^5\) When responding to a subpoena or court order, or a request pursuant to the Open Public Records Act or common law right to know, disclosure of a BWC recording under this paragraph is permitted only after providing notice to the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, pursuant to Section 11 of this Policy.
(i) for training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video unless the depicted individuals have consented to the recording being used for training purposes;

(j) to conduct an audit to ensure compliance with this Policy and a department’s policy, standing operating procedure, directive, or order promulgated pursuant to this Policy;

(k) to enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee; or

(l) any other specified official purpose where the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.

10.2 Restriction on Access to BWC Recordings Related to Investigations Conducted Pursuant to AG Directive 2019-4. To ensure the integrity of the investigation of “Law Enforcement Incidents” conducted pursuant to AG Directive 2019-4, and to avoid possible contamination of a witness’s personal recollection of events that could undermine his or her credibility as a witness, notwithstanding any other provision of this Policy, no civilian or law enforcement witness, including the principals of the investigation, shall be given access to or view a BWC recording of the incident, or a BWC recording of the response or on-scene investigation of the incident, without the express prior approval of the “Independent Investigator,” as that term is defined in AG Directive 2019-4.

10.3 Restriction on Access to BWC Recordings Prior to Creating Reports, Statements, Interviews. A law enforcement officer shall not review or receive an accounting of a BWC recording that is subject to a minimum three-year retention period pursuant to Sections 8.2 or 8.4 prior to creating any required initial reports, statements, and interviews regarding the recorded event. Subject to the provisions of Section 10.2 of this Policy, nothing in this paragraph is intended to prevent the officer from considering, reviewing or receiving an accounting of such a BWC recording subsequent to the creation of any required initial reports, statements, and interviews regarding the recorded event.

10.3.1 While information culled from the BWC recording may not be considered in creating an initial required report, statement or interview, after the creation of such initial report, statement or interview, in a case not subject to the provisions of Section 10.2 of this Policy, the officer may review the BWC recording and, if appropriate, create additional reports or make additional statements or documentation that revise or supplement the initial report,
statement or interview that incorporate or reflect any information adduced from a review or accounting of the BWC recording.

10.4 **Documenting Access to Stored BWC Recordings.** Each department shall maintain a record of all access to stored BWC recordings pursuant to this Policy. The department’s record keeping system shall document the following information:

(a) the date and time of access;

(b) the specific BWC recording(s) that was/were accessed;

(c) the officer or civilian employee who accessed the stored BWC recording;

(d) the person who approved access, where applicable; and

(e) the reason(s) for access, specifying the purpose or purposes for access authorized pursuant to Section 10.1, and specifying the relevant case/investigation number, where applicable.
11 Public Disclosure of BWC Recordings

Any agency receiving a subpoena, court order, or request pursuant to the Open Public Records Act, or the common law right to know, for a BWC recording shall, within one business day of receipt of such subpoena, court order, or request, and before complying with it, provide notice to the County Prosecutor, or to the Division of Criminal Justice where the recording was made by a state-level law enforcement agency. Such notice shall state clearly the deadline by which a response must be made.

12 Authority of County Prosecutor to Impose Additional Requirements

Nothing in this Policy shall be construed to in any way limit the authority of a County Prosecutor to issue directives or guidelines to the law enforcement agencies subject to his or her supervisory authority, setting forth additional procedural or substantive requirements or restrictions concerning BWCs and BWC recordings, provided that such directives or guidelines do not conflict with any explicit provision of this Policy. For example, a County Prosecutor may: specify additional circumstances when a municipal police department BWC must be activated; impose limits on the authority of a municipal police department to specify additional circumstances when a BWC must be activated; categorically prohibit the use of BWCs with enhanced audio/visual capabilities such as infrared night vision (cf. Section 7.6, which requires prosecutorial approval to use such features); and specify additional circumstances when a BWC recording will be “tagged,” etc.

13 Violations

If a law enforcement officer, employee, or agent fails to adhere to the recording or retention requirements contained in this Policy, intentionally interferes with a BWC’s ability to accurately capture audio or video recordings, or violates any other provision of this policy, the officer, employee, or agent shall be subject to appropriate disciplinary action, in addition to any judicial consequences outlined in the law.
Appendix B
MEMORANDUM

To: All Personnel
From: Captain Rebecca Franceschini # 9
Date: 21-April-16
Re: Law Enforcement Entering the Facility with Body Worn Cameras (BWC)

In recent months, law enforcement agencies have begun to equip their officers with body worn cameras (BWC’s). Per Attorney General Law Enforcement Directive No. 2015-1 (5.4), “When a BWC is activated pursuant to section 5.2(k) (transport of arrestee) whether by an officer in uniform or in plain clothes, it shall remain activated at all times while the BWC-equipped officer is in the presence of the arrestee and until the arrestee is secured in the holding cell or processing room, or until custody of the arrestee has been transferred to county jail personnel…”

It is the policy of the Camden County Correctional Facility to maintain a secure perimeter and facility and to protect the dignity and confidentiality of individuals committed to its care. Recording devices are not permitted to be brought into the facility unless prior written consent is received from the Warden or his designee.

To comply with Attorney General Law Enforcement Directive No. 2015-1 (5.4), the following operational practice shall be adhered to:

- When a BWC-equipped law enforcement officer enters the Admission’s vestibule through door 1S47 (Sally Port) they shall immediately notify the Admission’s Booth Officer that their BWC is activated.
- The Admission’s Booth Officer shall immediately notify an Admission’s Officer that the Law Enforcement Officer is equipped with an activated BWC.
- The Admission’s Officer shall review the commitment paperwork. Once the commitment paperwork is approved, the Admission’s Officer shall enter the vestibule.
- The BWC equipped Officer before de-activating the BWC shall narrate the circumstances of the de-activation… “I am transferring custody of arrestee John Doe to the Camden County Correctional Facility… I am now turning off my BWC.”
- After de-activating the BWC, the BWC equipped Officer shall enter the Admission’s Unit through door 1S30.
- If it is necessary for the arrestee to be transferred back to the BWC equipped Officer, he/she shall re-enter the vestibule through door 1S30. The BWC equipped Officer shall then re-activate his BWC and narrate the circumstances of why the arrestee is being returned to his/her custody.