


UNION COUNTY PROSECUTOR'S OFFICE GENERAL ORDER		
SUBJECT: BODY WORN CAMERAS		
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PURPOSE The purpose of this general order is to maintain uniform guidelines for the lawful use and operation of the agency-authorized body worn cameras (BWCs). The goals and objectives in deploying BWCs is the accurate documentation of interactions between detectives and members of the public, arrests, and other critical incidents. Further, this general order establishes protocols for the maintenance, storage, and preservation of recordings to maintain the lawful chain of custody.

POLICY It is the policy of the Union County Prosecutor's Office to utilize body worn cameras (BWCs) to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident.

All employees (sworn and civilian) shall use this equipment (including accessing recordings) consistent with manufacturer's guidelines, applicable laws and statutes, this general order, and those policies, directives, or guidelines issued by the New Jersey Attorney General. Failure to use this technology in accordance with this general order, applicable laws and statutes, and those policies, directives, or guidelines issued by the New Jersey Attorney General can result in disciplinary action.

The Union County Prosecutor's Office website/webpage shall contain a clear statement that this agency utilizes body worn cameras. The website/webpage posting shall include an image showing of what the device looks like and how it is to be worn by detectives so that the public will be able to determine whether a detective is equipped with the device.

PROCEDURES

I. DEFINITIONS

- A. For purposes of this general order, the following terms are defined:
1. Activate – means to actuate (put into operation) the recording mode/function of a BWC.
 2. Advisement – a statement made by a detective at the outset of using a BWC to record a communication, conversation, or interaction with a civilian for the specific purpose of informing the civilian that the communication or conversation is being recorded.
 3. Body worn audio/video recorder (BWC) – is a detective worn device that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include any form of electronic recording device worn by a law enforcement detective while acting in an undercover capacity nor does the term include an electronic recording device when used to comply with the requirements of New Jersey Court Rule R. 3:17 (electronic recording of station house custodial interrogations).
 4. BWC Coordinator – the detective, appointed by the Chief of Detectives, to administer the Body Worn Camera program. The BWC Coordinator shall be accountable to the Chief of Detectives, or their designee, through their normal chain of command.
 5. Consent – Consent to record is considered obtained when the recording detective has announced to all other persons engaged in the communication or conversation, in any reasonably effective manner, that the communication or conversation is being recorded. This announcement itself to the other parties should be recorded.
 6. Constructive authority – involves the use of a detective's authority to exert control over a subject (see this agency's general order *on Use of Force*), except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g., "...show me your hands," "...get out of the vehicle", etc.), or directed against any person if the detective has un-holstered a firearm or CED (e.g., "...move out of the way", "...get down", etc.).
 7. Deactivate – means to shut off the recording mode of a BWC. Muting is a synonymous term that can be used interchangeably.
 8. Digital evidence – includes photographs, audio and video recordings that are stored electronically.
 9. Equipped with a BWC – means that a detective is wearing a BWC at the time in question, as opposed to simply receiving BWC equipment from this agency.
 10. Force – has the same meanings as defined in this agency's general order *on Use of Force*. Healthcare facility – is an office or institution providing care or treatment of maladies, whether physical, mental, or emotional, or other

medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation facilities, drug-treatment centers, nursing homes, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions.

11. Investigation of a criminal offense – means any law enforcement 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.
12. Law enforcement officer (officer or detective) - 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.
13. Personally identifiable information includes information that identifies an individual, including an individual's photograph, social security number, driver's license number, address, telephone number, and medical or disability information.
14. Place of worship is any place without limitation to include churches, synagogues, mosques, temples, or any other building where individuals gather for religious services.
15. Proactive enforcement team – includes detectives who are assigned to target vice, drugs, organized street crime, violent crime and/or any other targeted enforcement. Unlike detectives who are responsible for handling typical investigations, these detectives are assigned the singular responsibility of addressing such activities, and they are sometimes referred to as crime suppression units. The nature of their work is varied. These detectives 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.
16. Residential premises – is any part of a structure used as a dwelling, including, without limitation a private home, apartment, condominium, townhouse, college dormitory room, hotel/motel room, mobile home, vacation home, cabin, or cottage.
17. School – means a public or nonpublic elementary or secondary school within this State offering education in grades kindergarten through 12, or any combination of grades, at which a child may legally fulfill compulsory school attendance requirements.
18. Serious bodily injury – means bodily injury which creates a substantial risk of death, or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. For purposes of this general order, serious bodily injury and serious bodily harm have the same meaning.

19. Significant bodily injury – means bodily injury which creates a temporary loss of the function of any bodily member or organ or temporary loss of any one of the five senses.
20. Subject of the video footage – means any law enforcement officer, suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the BWC recording and shall not include a person who only incidentally appears on the recording.
21. Substantive report – means a report that includes a detailed accounting of the incident. It does not include a report which simply refers to other reports or to the existence of BWC or other camera recordings.
22. Tactical team - a group of law enforcement officers who are specially selected, trained, and equipped to handle high risk incidents, including, but not limited to, those involving snipers, barricaded persons, warrant services, apprehensions, acts of terrorism, and other situations or activities as deemed necessary by command leadership.
23. Tagging – is an electronic labeling of an electronic file captured by a BWC.
24. Undercover officer – is a law enforcement officer operating with an assumed identity and/or disguise for the purposes of gaining the trust of an individual or organization to learn or confirm confidential information or to gain the trust of targeted individuals to gather information or evidence.
25. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, residential facilities, treatment facilities, etc.

II. GENERAL ADMINISTRATION

- A. While visual and audio evidence can be captured on the recordings, the use of BWC is not intended to document all evidentiary material relevant to court or administrative proceedings, but it can serve to supplement a detective's recollection. There is no intent to utilize the BWC as a management tool to punish detectives for minor rule infractions.
 1. Detectives shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
 2. BWC shall only be utilized for legitimate law enforcement purposes.
- B. Adequate safeguards are necessary to ensure that this technology is:
 1. Used properly.
 2. Used to document an encounter.

- C. These recordings will serve the following purposes:
1. The recordings can be used when there are complaints about conduct or professionalism during encounters with the public.
 2. The recordings can be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
 3. When complete recall is not possible, such as when multiple events are happening simultaneously or out of a detective's line of sight, an audio/visual recording can provide an accurate record of events.
 4. Subject to the viewing restrictions in this general order, supervisors will be able to view the recordings and select portions to use to train detectives in safety, field training, interpersonal skills, proper law enforcement procedures, and legal doctrines.
 5. Subject to the viewing restrictions in this general order, recordings can permit supervisors to undertake more meaningful performance evaluations.
 6. Recordings augment management's ability to evaluate its basic practices and interactions between its personnel and the public.
 7. Recordings enhance management's ability to train personnel in proper procedures.
- D. Repairs to any BWC equipment shall only be performed under the direction of the BWC Coordinator or his/her designee.
- E. The Chief of Detectives or his/her designee shall maintain a training program on the lawful and proper use of BWC equipment. The Chief of Detectives can designate one or more persons to coordinate and/or conduct such training.
1. Only detectives who have received training in the use of BWCs are permitted to use these devices and must demonstrate a satisfactory degree of familiarity and efficiency in the use of this system.
 2. Proper use of a BWC is considered an essential job requirement.
 3. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, and to incorporate changes, updates or other revisions in this general order and equipment.
- F. BWCs are intended for official agency use only and are not to be used for frivolous or personal activities. Intentional misuse or abuse of the units will result in disciplinary action.
- G. This agency will not tolerate the reliance by any detective on race, ethnicity, gender, gender identity, gender expression, sexual orientation, religion, economic status, age, culture, LGBTQ+ status, or any other immutable characteristic of a group or class of persons, in determining whether to activate or deactivate a BWC.

- H. All recording media, images, audio, and related metadata are the intellectual property of the Union County Prosecutor's Office and will not be copied, released, or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Chief of Detectives or the Prosecutor.
- I. Under no circumstances will any employee of the Union County Prosecutor's Office make a personal copy of any recorded event or direct another to make a personal copy of a recorded event without the permission of the Chief of Detectives or the Prosecutor.
- J. Detectives shall use only those devices approved and issued by the Chief of Detectives or the Prosecutor. Such BWCs are not able to record images or conversations that cannot be seen or heard by the detective wearing the device (e.g., infrared night vision, thermal imaging, or sound amplification that would record conversations occurring at a remote distance) without the expressed approval of the Prosecutor or his/her designee. Wearing any personally owned video/audio recorder is not authorized without the expressed permission of the Chief of Detectives, the Prosecutor, or the New Jersey Division of Criminal Justice.

III. DEPLOYMENT AND USE

- A. BWCs shall be used only in conjunction with official law enforcement duties.
 - 1. Detective 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 detectives 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.
 - b. All detectives assigned to proactive enforcement teams as defined in this Policy.
 - c. All detectives assigned to canine units.
 - d. All detectives whose assigned duties include regular interaction with members of the public, which reasonably may give rise to an arrest situation or use of force.
 - e. All detectives assigned to a pre-planned search warrant execution or a pre-planned arrest. This shall include pre-planned searches and arrests performed pursuant to statutory authority, such as parolee searches.
 - f. All uniformed detectives assigned to duties at demonstrations or potential civil disturbances.
 - 2. Detectives not required to wear BWCs - notwithstanding the provisions of section 1, above, the following officers are not required by this Policy to be equipped with BWCs:

- a. Detectives engaged in undercover assignments.
 - b. Detective acting as hostage negotiators or crisis negotiators working in conjunction with tactical teams.
 - c. Detectives assigned to administrative positions within the law enforcement agency.
 - d. Detectives meeting with confidential sources or recruiting potential confidential sources.
 - e. Detectives engaged in union representation of a member of the collective bargaining unit.
 - f. Detectives 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 IIIs). 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. Detectives assigned to investigative, non-enforcement duties.
 - h. Detectives assigned to “extra duty” or “off duty” assignments that involve strictly traffic direction.
 - i. Detectives engaged in crime-scene processing duties.
 - j. Detectives engaged in duties as bomb or explosives technicians.
 - k. Detectives conducting searches of cellphones, tablets, computers or other electronic devices pursuant to a search warrant, when such items have already been seized and the search is performed at a location other than the premises of the initial search and seizure.
 - l. Detectives conducting searches of cellphones, tablets, computers or other electronic devices that are suspected to contain images of child sexual exploitation.
3. Exemptions from the requirements in Section III, sub-section A, are permitted only when approved by the Director of Division of Criminal Justice or the County Prosecutor, and only under such special circumstances that warrant an exemption. The reasons for the exemption must be documented and demonstrate a special need. Such requests for exemption shall be made in advance and approved in writing.
 4. BWCs shall be used only in conjunction with official law enforcement duties. The BWC shall not be used to record:
 - a. Encounters with undercover detectives or confidential informants.
 - b. Strip and body cavity searches.

- c. When on break or otherwise engaged in personal activities.
 - d. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
 - e. When engaged in law enforcement union business.
 - f. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction.
 - g. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording; see section III.B of this general order.
 - h. While discussing criminal investigation strategies.
5. BWCs shall not be used surreptitiously.
 6. BWCs shall not be used to gather intelligence information based on 1st Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public, except in accordance with any applicable policies, guidelines, or directives promulgated by the New Jersey Attorney General.
 7. Sensitive Equipment - Investigators should take care to avoid capturing sensitive equipment, vehicles, or buildings on BWC. As the BWC equipment is GPS-enabled, care must be taken to not activate the equipment while in or near any sensitive locations.
 - a. BWCs shall not be activated in the Narcotics Unit, Major Crimes Division, or any other confidential or sensitive government premises.
 8. Officer to Officer Training - When a supervisor wishes to speak to an investigator he/she supervises regarding a training issue he/she may deactivate or mute their BWC for the time that it takes to address the issue.

IV. INCIDENTS TO RECORD

- A. When a detective of this agency is required to wear a BWC, pursuant to the provisions of this general order, and except where otherwise restricted, also pursuant to the provisions of this general order, shall activate the BWC. When an immediate threat to life or safety exists, or where activation would be impossible or dangerous, the BWC should be activated at the first reasonable opportunity. The BWC must be activated in each of the following instances, and remain on during the entirety of the event:
 1. The detective 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);
 2. The detective is responding to a call for service and is at or near the location to which the detective has been dispatched;

3. The detective is conducting a motorist aid or community caretaking check;
 4. The detective is interviewing a witness in the course of investigating a criminal offense;
 5. The detective is conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with Rule 3:17 (electronic recordation of station house interrogations);
 6. The detective is making an arrest;
 7. The detective is conducting a protective frisk for weapons;
 8. The detective is conducting any kind of search (consensual or otherwise), including the execution of a search warrant;
 9. The detective 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 detective or any other officer on the scene may be required to employ constructive authority or force;
 10. The detective 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;
 11. The detective 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
 12. The detective reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.
- B. Notwithstanding any other provision of this general order, when a detective equipped with a BWC goes to the scene of an incident knowing or reasonably believing that law enforcement deadly force has been or is being employed, or to a scene where a law enforcement officer has requested emergency assistance (e.g., a law enforcement officer in distress, shots fired, etc.), the detective shall activate his/her BWC before arriving at the scene when feasible.
- C. Notwithstanding any other provision of this general order, while at the scene of a law enforcement deadly-force event, pursuit resulting in a fatality or serious bodily injury, in-custody death, or the on-scene investigation of such events, detectives shall not deactivate his/her BWC unless instructed to do so by the independent investigator supervising the investigation of the deadly force incident pursuant to *Attorney General Law Enforcement Directive 2019-4*. The independent investigator or his/her designee supervising the investigation may provide such instruction telephonically.
1. Detectives can deactivate their BWCs once they leave the scene of the incident.

2. BWCs do not need to remain activated while detectives or other law enforcement officers are receiving medical evaluation, medical treatment, or have returned to headquarters.

V. NOTIFICATION, DEACTIVATION, AND MUTING OF BWCs

- A. When wearing a BWC, detectives shall notify the subject of the recording that they are being recorded unless it is unsafe or unfeasible to provide such notification. Such notification shall be made as close to the inception of the encounter as is reasonably possible.
 1. Prior to entering a private residence, detectives shall notify the occupant that the occupant is being recorded and, if the occupant requests the detective to discontinue use of the BWC, the detective shall immediately discontinue use of the BWC unless the detective is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that the detective will be required to use constructive authority or force.
 2. When interacting with an apparent crime victim, detectives shall, as soon as practicable, notify the apparent crime victims that they are being recorded and, if the apparent crime victim requests the detective to discontinue use of the BWC, the detective shall immediately discontinue use of the BWC.
 3. When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, if the person requests that the detective discontinue use of the BWC, detectives shall evaluate the circumstances and, if appropriate, discontinue use of the BWC.
 4. If the detective decides not to provide notification of BWC activation because it is unsafe or unfeasible to do so, the detective shall notate the reasons for that decision.
 5. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
- B. If a civilian inquires of a detective whether the detective is equipped with a BWC, or inquires whether the device is activated, the detective shall answer truthfully unless the Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, has expressly authorized the detective to make a covert electronic recording.
- C. Detectives may deactivate a BWC when a civilian conversing with the detective requests that the device be turned off under circumstances when it reasonably appears that the person will not provide information or otherwise cooperate with the detective unless that request is respected (e.g., prior to providing such information, the person indicates that he/she will only provide such information if it were not recorded; provided however, that the agreement to participate under that condition is itself recorded).

- a. Detectives shall not suggest to the person that the BWC should be deactivated, nor shall the detective ask the person whether he/she would prefer that the BWC be deactivated. Rather, the request for deactivation must be self-initiated by the civilian. The detective may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded).
 - b. In deciding whether to deactivate the BWC, the detective shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide is important to the investigation yet is not critical to require recording.
 - c. Detectives may utilize the mute button only when having a confidential conversation with another law enforcement officer or when civilians report criminal activity. Anytime a civilian wants to report confidential information concerning criminal activity and wishes to remain anonymous, the detective may, only upon request of the civilian, mute the audio. Anytime the detective mutes the audio he/she will state the reason on BWC as to the reason he/she is muting the audio. As soon as the confidential conversation has concluded the detective will reactivate the audio.
1. Detectives may deactivate a BWC when a person, other than an arrestee, is seeking emergency medical services for him/herself or another and requests that the BWC be deactivated. In deciding whether to de-activate the BWC, the detective shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance (e.g., a victim of an assault during a fight does not want to be recorded, etc.). However, in situations when a detective reasonably believes that he/she or another person is likely to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.
 2. When a detective deactivates a BWC:
 - a. The conversation between the detective and the civilian concerning the request for deactivation shall be electronically recorded.
 - b. Before deactivating the BWC, the detective shall narrate the circumstances of the deactivation (e.g., "*...I am now turning off my BWC as per the victim's request.*"),
 3. If a detective declines a request to deactivate a BWC, the reasons for declining the request (e.g., the detective believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter) must be memorialized on the recording and documented and shall be reported to a supervisor as soon as it is safe and practicable to do so.
 - a. If the detective declines a deactivation request, the detective shall immediately inform the person making the request of that decision.

- b. Detectives are prohibited from misleading the person making the deactivation request into believing that the BWC has been turned off when in fact it is operating unless the Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee expressly has authorized covert recording.
 4. Detectives should deactivate/mute a BWC while participating in a discussion pertaining to criminal investigation strategy and planning, provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the BWC-equipped detective is not actively engaged in the collection of physical evidence (i.e., conducting a search). When a detective deactivates a BWC pursuant to this section, the detective shall narrate the circumstances of the deactivation (e.g., "*...I am now turning off my BWC to discuss investigative strategy with my supervisor.*").
 5. Detectives can deactivate a BWC when specifically authorized to do so by an assistant prosecutor for good and sufficient cause as determined by the assistant prosecutor. When a detective deactivates a BWC pursuant to this section, the detective shall narrate the circumstances of the deactivation indicating the assistant prosecutor who authorized the deactivation.
 6. If a detective is required to deactivate the BWC when entering a school, house of worship, health care facility, substance abuse treatment center, etc., the detective shall narrate the reason for deactivation (e.g., "*...I am entering a school building where children are present.*"). The BWC shall be reactivated as soon as it is safe and practicable to do so when the circumstances requiring deactivation no longer exist (e.g., the detective 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. If a BWC captures the image of a patient in a substance abuse treatment facility, the Chief of Detectives or his/her designee shall ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information (42 USC § 290dd-2, 42 CFR §23.1 to 23.41). The recording shall not be accessed without the permission of the Prosecutor or his/her designee. (Note that destruction of the recording would be inappropriate until it has been determined that it had not captured exculpatory information that must be provided to a defendant in discovery.)
 8. In any instance when a BWC was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so when the circumstances justifying deactivation no longer exist (e.g., the interview of the person requesting deactivation is completed, etc.) and the detective would otherwise be required to activate the BWC.
- D. Detectives shall not activate a BWC, and shall deactivate a BWC that has been activated, if the detective knows or reasonably believes that the BWC would capture the image of an undercover officer, 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 a law enforcement officer (e.g., active shooter, actual use of force, officer in distress, etc.) require that the encounter/incident be recorded,

in which event the detective shall inform their supervisor that the image of an undercover officer or confidential informant was recorded. The BWC shall be activated/reactivated as soon as it is safe and practicable to do so when the risk of capturing the image of an undercover officer or confidential informant no longer exists.

- E. Detectives shall not activate a BWC while in a courtroom during court proceedings, unless the detective is investigating a crime, is authorized to use constructive force or authority, or unless the presiding judge expressly authorizes such activation.
- F. When in a local law enforcement agency, BWCs shall be deactivated and removed from the ALCOTEST area when the ALCOTEST device is being used.
- G. Non-law enforcement personnel shall not be allowed to review the recordings at the scene of contact. Complaints shall be handled in accordance with the policies set forth in this agency's general order on *Internal Affairs*. All other requests to view and/or obtain footage by the public shall be handled in accordance with section V of this general order.

VI. DETECTIVE AND SUPERVISORY RESPONSIBILITIES

- A. Detectives assigned to an on-call schedule should always have their BWC easily accessible, for the duration of the on-call status. On-call UCPO detectives will often respond to a secured scene after an incident has occurred for investigative purposes, however, the investigation can turn into an enforcement detail if police action needs to be taken, such as an arrest or search warrant.
- B. Detectives shall utilize BWCs when engaged in law enforcement activities in the field in compliance with the requirements and restrictions in this general order.
 - 1. When not in use, BWCs shall be stored in the designated docking stations. The docking stations allow for the units to be charged and for the download of events to the BWC server. BWCs may be stored in another secure location, with authorization by a supervisor.
 - 2. Prior to use, detectives will ensure their BWC's readiness by conducting an operational inspection and ensure that there is a fully charged battery.
 - 3. Malfunctions shall be promptly reported to a supervisor. The detective or supervisor shall notify the BWC Coordinator. Devices found not to be in proper working order shall not be deployed under any circumstances.
 - 4. Detectives will dock their BWC for download to the BWC docking station upon completion of their assignment.
- C. All detectives assigned a BWC are responsible for its use and maintenance.
- D. Detectives are responsible to ensure the BWC remains in a position to allow the recording of an encounter or incident.
- E. Upon conclusion of a recorded event, and returning to the office, an investigator must upload any BWC recordings to cloud storage.

1. The investigator must ensure that the recordings are properly tagged with the correct case/incident number, that the recordings are attributed to the correct investigator, and that a description is included with the recordings.
 2. This requirement extends to all detectives capturing recordings, including assisting detectives.
 3. All BWC recordings capturing a detective-involved deadly force event shall be tagged and cannot be accessed or viewed by anyone, including the Chief of Detectives, without prior authorization of the Division of Criminal Justice.
 4. BWC recordings are not a replacement for written reports. Under no circumstances shall detectives simply refer to a BWC recording on an investigation report instead of detailing the facts and circumstances of their investigation/observations.
 5. The BWC Coordinator or his/her designee shall ensure that recordings of evidentiary value are electronically classified for permanent retention. In some cases, the recordings shall be copied to portable media and stored as evidence (criminal and quasi-criminal matters) or with the appropriate case file (internal affairs or administrative matters)
- F. To identify BWC recordings that may raise special privacy or safety issues, detectives shall appropriately tag recordings as special privacy that:
1. Captures the image of a victim of a criminal offense.
 2. Captures the image of a juvenile.
 3. Were made in a residence (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship.
 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 may have been recorded.
 6. Captures the image of an undercover detective or confidential informant.
 7. Captures the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
- G. Unit supervisors are responsible for ensuring that detectives are equipped with functioning BWCs when going in the field.
1. Unit supervisors shall ensure that detectives properly and uniformly classify recordings in accordance with this general order.
 2. Unit supervisors may formally review all instances when a BWC is deactivated prior to the conclusion of an incident and forward the

documented review through the chain of command to the Chief of Detectives or his/her designee.

3. If an internal affairs complaint is associated with a recorded event, the supervisor will classify the video/audio for indefinite retention.
4. Unit supervisors may review random segments of BWC recordings of those detectives under their supervision to ensure that detectives are properly using the equipment and to assess performance.
5. Supervisors should utilize a *Supervisory Review of Digital Video/Audio Recordings Form* when reviewing BWC recordings.

VII. RECORDS RETENTION AND REVIEW

- A. BWC recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- B. No employee of this agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose. Access to and use of a stored BWC recording is permitted only:
 1. When relevant to and in furtherance of a criminal investigation or prosecution.
 2. When relevant to and in furtherance of an internal affairs investigation.
 3. When relevant to and in furtherance of a management review process to identify circumstances indicating possible law enforcement misconduct or to determine the existence of a pattern or practice of possible misconduct.
 4. A detective shall be permitted to view BWC to assist the detective in preparing his/her substantive report, providing a statement, or submitting to an interview.
 - a. Except:
 - 1) The incident involves the use of force by the detective, when the detective knows or should know that the use of force resulted in significant or serious bodily injury or death; or
 - 2) The incident involved the discharge of a firearm or any use of deadly force by the detective (see this agency's general order on *Use of Force*); or
 - 3) The incident involved the death of a person while in law enforcement custody; or
 - 4) The incident involved the death of a person during an encounter with a law enforcement officer; or
 - 5) An incident the detective knows or has been advised is or will be the subject of an internal affairs or civilian complaint relating to the detective's use of force, bias, or dishonesty.

- b. Whenever a detective reviews or receives an accounting of a BWC recording prior to the creation of any report, statement, or interview, the detective shall acknowledge that prior review or receipt of an accounting of the BWC recording either verbally or in writing within each such report, statement, or interview.
 - 1) The detective shall document each BWC recording that was reviewed and the date of the review.
 - 2) If the detective received an accounting of a BWC recording, the detective shall document the name of each person who provided an accounting of the BWC recording, the date of the accounting, and the specific BWC recording for which an accounting was provided.
- c. Detectives are only permitted to review or receive an accounting of such BWC recordings once the investigating entity concludes that (a) the detective has in fact completed the specified incident memorialization and (b) the detective's review or receipt of an accounting of the BWC recording will not otherwise interfere with the ongoing investigation.
 - 1) In cases subject to *Attorney General Directive 2019-4*, the independent investigator is the investigating entity.
 - 2) In all other cases, the Chief of Detectives, the Prosecutor, or his/her designee, is the investigating entity.
 - 3) The appropriate investigating entity shall document the authorization to review or receive an accounting of a BWC of a specified incident.
- 5. When relevant to a supervisor's review of a detective's actions as part of the supervisory process authorized by the agency.
- 6. To show to a civilian who intends to file a complaint against a detective to demonstrate what occurred during the encounter so that the person can make an informed decision whether to file the complaint.
- 7. To comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court:
 - a. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.
 - b. Only those portions of the recording pertinent to the request shall be forwarded.
 - c. This agency reserves the right to redact video/audio as applicable by law.

- 1) NOTE: when providing discovery in a confidential matter, ensure that the recording is reviewed prior to release to verify that there is no confidential information that should be redacted.
 - 2) This confidential information includes, but is not limited to, the location where a victim is being sheltered or contact phone numbers for those assisting the victim, etc.
- d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing county code.
8. To comply with any other legal obligation to turn over the recording to a person or entity.
 9. Solely and exclusively for internal training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video, unless the depicted individuals have consented to the recording being used for training purposes:
 - a. Note: consent is not required from agency personnel appearing in the recording.
 - b. Recordings retained beyond 180 days solely and exclusively for training purposes shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.
 10. To show or disseminate the recording to a civilian or a non-law enforcement entity or to disseminate it to the public, when the Union County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, determines that disclosure to that person entity or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.
 11. To enhance detective 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 Union County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee.
 12. To conduct an audit to ensure compliance with this general order.
 13. Any other specified official purpose when the Union County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording
- C. Agency personnel shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. Agency personnel shall not instruct another to alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. If any detective, employee, or agent fails to adhere to the recording or retention requirements contained in this general order,

N.J.S.A. 40A:14-118.5 et seq., or intentionally interferes with a BWC's ability to accurately capture audio or video recordings:

1. The detective, employee, or agent shall be subject to appropriate disciplinary action and potential criminal sanctions; and
 2. There shall be a rebuttable presumption that exculpatory evidence was destroyed or not captured in favor of a criminal defendant who reasonably asserts that exculpatory evidence was destroyed or not captured; and
 3. There shall be a rebuttable presumption that evidence supporting a plaintiff's claim was destroyed or not captured in favor of a civil plaintiff suing the government, a law enforcement agency, or a law enforcement official for damages based on law enforcement misconduct if the plaintiff reasonably asserts that evidence supporting the plaintiff's claim was destroyed or not captured.
 4. Any recordings from a BWC recorded in contravention of this general order or any other applicable law shall be immediately brought to the attention of the command staff and immediately destroyed by the command staff following consultation and approval by the Prosecutor or Director of the Office of Public Integrity and Accountability. Such recordings shall not be admissible as evidence in any criminal, civil, or administrative proceeding, except as evidence in any proceeding related to the unauthorized use of a BWC.
- D. Recordings are considered investigatory records of this agency and shall be maintained on the secure BWC server and disposed of in accordance with law and New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
1. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes, recordings shall be retained for a period of at least 180 days.
 2. Recordings being stored for criminal, civil, or administrative purposes must be retained until the conclusion of the case plus any retention period.
 3. Recordings of an arrest that did not result in an ongoing prosecution, or records the use of law enforcement force, shall be kept until the expiration of the statute of limitations for filing a civil complaint against the detective or this agency.
 4. Recordings shall automatically be retained for not less than three years if it captures images involving an encounter about which a complaint has been registered by a subject of the BWC recording.
 5. Recordings shall be retained for not less than three years if requested by:
 - a. The detective whose BWC made the recording, if that detective reasonably asserts the recording has evidentiary or exculpatory value; or

- b. The detective who is a subject of the BWC recording, if that detective reasonably asserts the recording has evidentiary or exculpatory value; or
 - c. Any immediate supervisor of a detective whose BWC made the recording or who is a subject of the BWC recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value; or
 - d. Any detective, if the BWC recording is being retained solely and exclusively for internal training purposes; or
 - e. Any member of the public who is a subject of the BWC recording; or
 - f. Any parent or legal guardian of a minor who is a subject of the BWC recording; or
 - g. A deceased subject's next of kin or legally authorized designee.
 - h. NOTE: the member of the public, parent, or legal guardian, or next of kin or their designee (Section VII, sub-section D) shall be permitted to review the BWC recording in accordance with N.J.S.A. 47:1A-1 et seq. to determine whether to request a three-year retention period
6. When a BWC records an incident that is the subject of an administrative internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation, any resulting administrative action and required retention.
- E. Only the following BWC recordings are exempt from public inspection:
- 1. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to Section VII, sub-section E, of this general order if the subject of the BWC recording making the complaint requests the recording not be made available to the public.
 - 2. Recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to Section VII, sub-section E, of this general order.
 - 3. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to Section VII, sub-section E, of this general order.
 - 4. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to Section VII, sub-section E, if a detective, parent, or legal guardian, or next of kin or designee requests the recording not be made available to the public.
- F. A BWC recording of an event or encounter that involves an investigation of a criminal offense shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or detective or authorized civilian employee of the agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by a court order, or unless the Chief of Detectives in consultation with the Prosecutor or his/her designee determines that

the person's/entity's/non-law enforcement agency's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.

1. If disclosure of a BWC recording as part of the state's discovery obligations in a prosecution might present a danger to any detective or civilian (e.g., reveal an undercover detective, confidential informant, surveillance site, etc.), or might reveal confidential tactical information the disclosure of which might jeopardize future operations or detective 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 Prosecutor or his/her designee shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or court rule to protect the information from disclosure, such as by seeking a protective court order.
 2. A BWC recording tagged pursuant to Section VII, sub-section E of this general order shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee. The Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee may authorize the Chief of Detectives and one or more supervisory detectives to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC recordings tagged pursuant to Section VII, sub-section E.
 3. The independent investigator overseeing an investigation pursuant to *Attorney General Law Enforcement Directive 2019-4*, or his/her designee, may in the exercise of sound discretion authorize a civilian or law enforcement witness to be given access to or view a BWC recording of the incident under investigation.
- G. The BWC Coordinator or his/her designee shall maintain a record of all BWC recordings that are accessed, viewed, copied, disseminated, or deleted. The Chief of Detectives shall cause a periodic audit of these records to ensure compliance with this policy. The system can be automated. Minimally, the record keeping system shall document the following information:
1. The date and time of access.
 2. The specific recording(s) that was/were accessed.
 3. The detective or civilian employee who accessed the stored recording.
 4. The person who approved access, where applicable.
 5. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.

- H. If an original recording is required for use in court or by another law enforcement agency, that recording shall not be released without the prior approval of the Chief of Detectives, the Prosecutor, or his/her designee, and only if a duplicate copy is retained by the agency. Duplicate copies shall be maintained in the appropriate case file or as evidence in accordance with this agency's general order on *Property and Evidence*.
- I. Detectives and civilian employees shall not reproduce or store any recordings to any device or storage medium not related to their official duties and/or responsibilities. This shall include but, is not limited to, cell phones, electronic notebooks, etc.
- J. Recorded video of unusual or significant incidents, deemed to be beneficial for agency training, may be utilized for agency in-service training purposes only with the approval of the Chief of Detectives.
- K. Monthly, the BWC Coordinator, or another designee of the Chief of Detectives, shall randomly select approximately 10% of BWC recordings for supervisor review. The BWC recordings will be selected from the previous month's recordings for the entire agency. The selected recordings will be forwarded to the appropriate command for supervisor review. The supervisor will complete a *Supervisory Review of Digital Video/Audio Recordings Form* (Appendix A) and forward the completed form to the Professional Standards Unit for filing purposes only, unless a separate referral has been made to the unit.

Appendix A

SUPERVISORY REVIEW OF DIGITAL VIDEO/AUDIO RECORDINGS

DETECTIVE / ID	DETECTIVE / ID (dual patrols only)	DATE OF INCIDENT	INCIDENT/CASE NUMBER (if applicable)		
SUPERVISOR CONDUCTING REVIEW	UNIT/DEVICE NUMBER	<input type="checkbox"/> BODY WORN CAMERA <input type="checkbox"/> IN-VEHICLE CAMERA	START TIME	END TIME	
PURPOSE OF THE REVIEW					
<input type="checkbox"/> PERFORMANCE EVALUATION <input type="checkbox"/> INCIDENT SPECIFIC <input type="checkbox"/> RANDOM/ROUTINE <input type="checkbox"/> INTERNAL AFFAIRS <input type="checkbox"/> OTHER (be specific)					
TYPE OF INCIDENT REVIEWED					
<input type="checkbox"/> MV STOP <input type="checkbox"/> ARREST <input type="checkbox"/> INVESTIGATIVE DETENTION <input type="checkbox"/> INVESTIGATION <input type="checkbox"/> USE OF FORCE <input type="checkbox"/> ARREST TRANSPORT <input type="checkbox"/> PURSUIT <input type="checkbox"/> OTHER _____					
DEMOGRAPHIC DATA:					
RACE: <input type="checkbox"/> AMERICAN INDIAN <input type="checkbox"/> ASIAN <input type="checkbox"/> AFRICAN AMERICAN <input type="checkbox"/> PACIFIC ISLANDER <input type="checkbox"/> WHITE <input type="checkbox"/> OTHER _____ ETHNICITY: <input type="checkbox"/> HISPANIC <input type="checkbox"/> NON-HISPANIC GENDER: <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> UNKNOWN					
			YES	NO	N/A
1. WAS THE RECORDER (AUDIO AND VIDEO) ACTIVATED PRIOR TO THE CALLING IN OF THE CONTACT?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. WAS THE CONTACT PROPERLY CALLED INTO COMMUNICATIONS?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. (MV STOP) DETECTIVE IDENTIFIED SELF, DRIVER'S CREDENTIALS REQUESTED AND REASON FOR STOP GIVEN?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. AFTER THE INITIAL CONTACT, DID THE DETECTIVE CONTINUE TO EXERCISE CAUTION AT ALL TIMES?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. WAS THE DETECTIVE COURTEOUS AND RESPECTFUL TO THE CONTACTS THROUGHOUT THE ENCOUNTER?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. WAS THE CONTACT ADEQUATELY DOCUMENTED IN RMS?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. IF THE CONTACT INVOLVED ANY SUBSEQUENT LAW ENFORCEMENT PROCEDURES, WERE THE OTHER REQUIRED REPORTS COMPLETED PROPERLY?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. DID THE RECORDER'S AUDIO AND VIDEO REMAIN ACTIVATED THROUGHOUT THE ENTIRE CONTACT?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. IF AN INDIVIDUAL REQUESTED THE NAME AND/OR BADGE NUMBER OF ANY DETECTIVE INVOLVED IN THIS CONTACT, DID THE DETECTIVE PROVIDE THE REQUESTED INFORMATION?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. WAS THE QUESTIONING OF THE PERSON REASONABLY RELATED TO THE REASON FOR THE INITIAL STOP AND/OR SUSPICIONS OF UNRELATED ILLEGAL ACTIVITY DEVELOPED DURING THE INITIAL QUESTIONING?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. WAS THE CONTACT PROPERLY CLEARED WITH THE COMMUNICATIONS CENTER			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. WAS THE DETECTIVE'S OBSERVED CONDUCT FREE FROM ANY INDICATION OF RACIAL OR ETHNIC BIAS/DISCRIMINATION?			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ACTIONS TAKEN OR RECOMMENDED					
<input type="checkbox"/> No ACTION <input type="checkbox"/> PERFORMANCE NOTICE COMMENDATION <input type="checkbox"/> TRAINING GIVEN OR RECOMMENDED <input type="checkbox"/> VERBAL COUNSELING GIVEN <input type="checkbox"/> PERFORMANCE NOTICE COUNSELING <input type="checkbox"/> REFERRED TO INTERNAL AFFAIRS <input type="checkbox"/> OTHER: (be specific) _____					
NARRATIVE (CONTINUE ON SEPARATE SHEET IF NECESSARY)					
REVIEWER'S SIGNATURE, ID AND DATE			DETECTIVE'S SIGNATURE, ID AND DATE		
			<small>(NOTE: THIS SIGNATURE DOES NOT IMPLY AGREEMENT, BUT MERELY ACKNOWLEDGES AWARENESS OF THIS REVIEW.)</small>		

ATTACH ALL RELATED RMS RECORDS AND REPORTS (if necessary):