



**Bridgewater Township Police Department
Policy/Procedure**

Title: Police Body-Worn Cameras (BWC) and Stored BWC Recordings

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Accreditation Standard(s): 3.5.5

References: NJAG Directive No. 2021-5 / SCPO General Order, 40A:14-118.5, 40A:14-118.3, 2C:33-15

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| Authored/ Revised By: Capt. Sean O'Neill | Date: January 21, 2022 |
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| Reviewed By: Capt. John Mitzak | Date: January 21, 2022 |
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REVIEW / REVISIONS

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| 9/2021 | Sec III Pg. 27 M 1 & M 1 d revised |
| 1/2022 | Sec III A added 4,10 -12; Sec III C 2 added k-m; Sec III M 4 modified, 5 added. |
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- I. **PURPOSE:** To establish a policy that is under the state laws N.J.S.A. 40A:14-118.5, 40A:14-118.3, 2C:33-15, and the guidelines set forth by the New Jersey Attorney General's Office and the Somerset County Prosecutor's Office for the proper and lawful operation on the body-worn camera policy. In addition, it will define the categorization, access regulations, retention, and public disclosure for the events recorded by the devices worn by the members of the Bridgewater Township Police Department.

- II. **POLICY:** Body Worn Cameras (BWC) will be deployed to sworn members of the department in a manner consistent with the provisions outlined in state law and the policies of the N.J. Attorney General's Office, the Somerset County

Prosecutor's Office, and this agency. BWC promotes police accountability and transparency. A BWC recording of a police-involved shooting or other use of force events provides objective evidence of what occurred. 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.

III. PROCEDURE:

A. **Definitions**

1. Activate: to actuate the recording mode/function of a body-worn camera.
2. Body Worn Camera ("BWC"): a device worn by a law enforcement officer that makes 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 dashcam). 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 of the Rules Governing the Courts of the State of New Jersey.
3. 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 investigation 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.).
4. Equipped with a BWC: Shall mean that a law enforcement officer is actually wearing a BWC at the time in question, as opposed to simply receiving BWC equipment from their agency.
5. 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.
6. 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.

7. Law Enforcement Agency, Agency or Department: a law enforcement agency operating under the authority of the laws of the State of New Jersey.
8. Law Enforcement Officer or Officer: a person, regardless of rank, 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.
9. School: a public and 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.
10. Serious Bodily Injury: 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. Serious bodily injury and serious bodily harm have the same definition for the purpose of this policy.
11. Significant Bodily Injury: 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 of the five senses.
12. Substantive Report: A substantive report shall mean a report that includes a detailed accounting of the incident. It does not include a report, for example, which simply refers to other reports or to the existence of BWC or other camera footage.
13. 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.
14. Community Caretaking: Describes “a wide range of everyday police activities undertaken to aid those in danger of physical harm, to preserve property, or to create and maintain a feeling of security in the community.”¹ Included in this definition, but not limited to are,

¹ Debra Livingston, Police Community Caretaking, and the Fourth Amendment, 1998 U. Chi. Legal F. 261, 272 (1998).

“the response to complaints about stray and injured animals, and the provision of assistance to the ill or injured.”² The United States Supreme Court has defined community caretaking functions as police actions that are “totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute.”³

15. 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.
16. Subject of the video footage: any law enforcement officer, suspect, victim, detainee, conversant, injured party, or another similarly situated person who appears on the body-worn camera recording, and shall not include a person who only incidentally appears on the recording.
17. 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.
18. 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.

B. General

1. An officer shall only use a BWC system that has been issued and approved by this agency.

² *Id.*

³ Cady v. Dombrowski, 413 U.S. 433, 441, 93 S. Ct. 2523, 2528, 37 L. Ed. 2d 706 (1973).

2. An officer equipped with a BWC must comply at all times with the requirements established in, 40A:14-118.5, 2C:33-15, the NJAG Directive 2021-5, the Somerset County Prosecutor's Office General Order "Body Worn Cameras (BWC) and Stored BWC Recordings," and this policy.
3. 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).
4. A BWC shall not be activated or used by an officer when engaged in police union business.
5. Nor shall a BWC be used to record conversations involving counseling, guidance sessions, personal evaluations, or any similar supervisory interaction. A BWC shall not be used surreptitiously.
6. BWC shall not be used to gather intelligence information based on:
 - a. The First Amendment protected speech, associations, or religion.
 - b. Activity that is unrelated to a call for service or law enforcement or an investigation encounter between a law enforcement officer and a member of the public;
 - c. Provided that nothing in this subsection shall be construed to prohibit activation of a BWC as authorized by state law, Attorney General Directives or Guidelines, and this policy.
7. No BWC recording shall be accessed, viewed, copied, disseminated, or otherwise used by a sworn officer or civilian employee of this department except for an official purpose specified in this policy.
8. Any sworn officer or civilian employee of this agency who knowingly violates the requirements of Attorney General Law Enforcement Directive No. 2021-5, Somerset County Prosecutor's Office "Body Worn Cameras (BWC) and Stored BWC Recordings," and this policy shall be subject to departmental discipline.
9. This agency will utilize the Data 911 BMS BX2 BWC with Wi-Fi System.

C. Authorization to Wear/ Use BWC

1. Officers required to wear a BWC:
 - a. All uniformed patrol officers while acting in the performance of official duties as required by N.J.S.A. 40A:14-118.3. This shall include officers assigned to the Traffic Safety Unit;
 - b. All officers assigned to proactive enforcement teams as defined by this policy;
 - c. 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;
 - d. All officers who are 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.
 - (1) This shall include uniformed officers' interactions with the public with walk-ins to headquarters and interaction at the front window (communications room).
 - e. All officers assigned to pre-planned search warrant execution or a pre-planned arrest.
 - f. All uniformed officers assigned to duties at demonstrations or potential civil disturbances.
 - g. Exemptions from these requirements, III C.1., are permitted only when approved by the Director of Division of Criminal Justice or the Somerset County Prosecutor, and only under such special circumstances that warrant an exception. The reasons for the exemption must be documented and demonstrate a special need. Such requests for exemptions shall be made in advance and approved in writing.
2. Officers not required to wear a BWC:
 - a. While engaging in an undercover assignment;
 - b. Non-uniformed officers assigned to investigative, non-enforcement duties when authorized by the Chief of Police;

- c. While serving in an administrative position within the department, but does not exclude an officer assigned to “front desk” duty from the requirement to be equipped with a BWC;
 - d. While meeting with a confidential source or recruitment of potential confidential sources;
 - e. While engaging in union representation of a member for the collective bargaining unit;
 - f. When directed by the Chief of Police or a Division Commander for a lawful purpose;
 - g. As may be otherwise provided following guidelines or directives promulgated by the Attorney General;
 - h. Officers assigned to duties within schools or youth facilities as part of the normal daily educational environment, such as School Resource Officers and Class III Officers. 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 a BWC;
 - i. Officers acting as hostage negotiators or crisis negotiators working in conjunction with tactical teams;
 - j. Officers engaged in crime-scene processing duties.
 - k. Officers engaged in duties as bomb or explosive technician
 - l. Officers 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.
 - m. Officer conducting searches of cellphones, tablets, computers or other electronic devices that are suspected to contain images of sexual exploitation.
3. The BWC shall be placed on the front of the officer’s chest area so that it maximizes the camera’s ability to capture video footage of the officer’s activities.

4. Officers working Extraneous Employment shall wear a BWC under this policy.
5. In the case of a tactical team 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 Somerset County Prosecutor in the case of a countywide task force) shall determine whether and in what circumstances officers assigned to the tactical team will wear BWCs.
6. Officers equipped with a BWC shall be responsible for determining that the device is fully functional, downloaded, and has a full battery charge at the start of their shift. If the BWC malfunctions, damaged, or lost the officer will immediately report it to the duty supervisor, email itsupport@bridgewaterpd.com, and document it in PlanIt through a vehicle inspection report. If the malfunction occurs while during the officer's shift, the aforementioned notifications shall be made as soon as it is safe and practicable to do so.
7. If a BWC is out of service, a replacement shall be signed out through the duty supervisor.
 - a. The supervisor will sign the spare out to the officer in the sign-out log located next to the spares in the IT Office. (Attachment A)

D. Training

1. The Professional Development Bureau will establish a training program to ensure that officers equipped with BWC and officers and civilian employees who access or handle BWC recordings are familiar with NJAG 2021-5, SCPO General Order, "Body Worn Cameras (BWC) and Stored BWC Recordings," N.J.S.A. 40A:14-114.3, 40A:14-118.5, N.J.S.A. 2C:33-15, and this policy.

E. General Public Notice

1. A statement that the Bridgewater Police Department utilizes BWC will be posted on the Department's website. The statement will include a picture of the BWC and how it will be worn by the uniformed officers and plainclothes detectives so citizens will be able to determine whether the officer is equipped with a BWC.

F. Activation of BWC

- 1.** The use of BWCs allows for a documented, first-hand, and completely objective account of an incident from beginning to end.
- 2.** Officers shall activate their BWC whenever an officer is responding to a call for service or at the initiation of any law enforcement or investigative encounter between an officer and a member of the public. A “steering wheel to steering wheel” concept is encouraged, where the first and last images of a BWC footage is the officer’s patrol vehicle’s steering wheel.
- 3.** If an immediate threat to the officer’s life or safety makes activating the BWC impossible or dangerous, the officer shall activate the BWC at the first reasonable opportunity to do so and remain active until the encounter has fully concluded and the officer leaves the scene.
- 4.** Circumstances when activation by an officer is required except in circumstances outlined in section G.
 - a.** BWCs shall be utilized to record contacts with citizens in the following circumstances as soon as practicable to do so:
 - (1)** The officer initiates an investigative detention, (e.g. Delaware v. Prouse traffic stop, a Terry v. Ohio criminal suspicion stop, or a DWI checkpoint or roadblock);
 - (2)** The officer responding to a call for service to which the officer has been dispatched and is near the location to which the officer has been dispatched; however, for crimes in progress officers shall activate the MVR/BWC upon dispatch;
 - (3)** The officer is conducting a motorist aid or community caretaking check;
 - (4)** The officer is interviewing a witness in the course of investigating a criminal offense;
 - (5)** 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 interrogations);

- (6) The officer is making an arrest;
 - (7) The officer is conducting a protective frisk for weapons;
 - (8) The officer is conducting any kind of search (consensual or otherwise);
 - (9) 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;
 - (10) 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;
 - (11) The officer is transporting an arrestee/non-custodial person to a police station, county jail, or otherwise place of confinement, or a hospital or other medical care or mental health facility; or
 - (12) When responding to or handling a call for service involving or suspected violation or suspected violation of N.J.S.A. 2C:33-15, which addresses the underage possession or consumption of alcohol, marijuana, hashish, or cannabis. The BWC may **not be deactivated** for any reason throughout the entire encounter. Underage refers to people under the age of 21.
 - (13) 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. Special activation rules governing certain use-of-force incidents, in-custody deaths, and other exigent circumstances where officers are in danger:
- a. 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 active the BWC before arriving at the scene when feasible.

- b. Notwithstanding any other provision in 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 or assistant or deputy attorney general supervising the investigation.

6. Specific Notice to Certain Individuals during an Encounter.

- a. An officer equipped with a BWC is required to activate the device during an encounter and provide the following notification, unless unsafe or infeasible to provide such notification:

(1) Private Residence:

- (a) **Before** entering a private residence, an officer shall notify the occupant of the residence that he/she is being recorded by the BWC.
- (b) If the occupant requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC unless the officer is actively engaged in:
 - 1) Investigating the commission of a criminal offense, or
 - 2) Responding to an emergency, or
 - 3) Reasonably believes that the officer will be required to use constructive authority or force.
- (c) A request to discontinue the use of a BWC made to law enforcement pursuant to this section and the response to the request shall be recorded by the recording system

prior to discontinuing the use of the recording system.

(2) Crime Victim:

- (a)** When interacting with an apparent crime victim, an officer shall, as soon as practical, notify the apparent victim that he or she is being recorded by a BWC.
- (b)** If the apparent crime victim requests the officer to discontinue the use of the BWC, the officer shall immediately discontinue use.
- (c)** A request to discontinue the use of a BWC made to law enforcement pursuant to this section and the response to the request shall be recorded by the recording system prior to discontinuing the use of the recording system.

(3) Anonymous complaint:

- (a)** When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, an officer shall notify the complainant that he/she is being recorded by the BWC.
- (b)** If the complaint requests the officer to discontinue use of the BWC, the officer shall evaluate the circumstances and, if appropriate discontinue use of the BWC.
- (c)** A request to discontinue the use of a BWC made to law enforcement pursuant to this section and the response to the request shall be recorded by the recording system prior to discontinuing the use of the recording system.

(4) The subject of the video footage:

- (a)** An officer wearing a BWC shall notify the subject of the video footage that the subject

is being recorded by the BWC. Such notification shall be made as close to the inception of the encounter as reasonably possible.

- (b) 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 reason on the BWC recording or both.
- b. 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.
- c. 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 in an investigation report or CAD entry and by narrating the reasons on the BWC recording.
- d. The officer shall report the circumstances concerning the de-activation to his or her superior as soon as possible.
- e. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
- f. Verbal notification will not be required in any other circumstances.
- g. It shall be the responsibility of the officer who has the first contact with these certain individuals to make this notification. However, additional officers may still make the notification regardless that certain individuals were already notified.
- 7. There is no requirement that the indicator light is to be illuminated when the BWC is activated.
- 8. 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 has

expressly authorized the officer to make a covert electronic recording. Nothing in this section shall be construed to establish a basis for suppressing a statement or other evidence.

9. The decision to activate or de-activate a BWC is a police action subject to the rule established in N.J. Attorney General Directive 2005-1, which strictly prohibits any form of racially influenced policing.
10. Continuous Recording Pending Completion of Encounter
 - a. 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 de-activated until the encounter has fully concluded and all civilians have left the scene, or the BWC-equipped officer has left the scene. Unless a deactivation or non-activation is authorized by this policy.
 - b. When a BWC is activated due to an arrest and/or transport under community caretaking, it shall remain activated at all times while the BWC-equipped officer is in the presence of the arrestee/ subject and until the arrestee/subject is released, secured in the processing room, secured in a holding cell or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee/subject is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee/subject.
 - (1) This section does not preclude an officer to have their BWC activated in the processing room or interview rooms while in the presence of a person who is in custody. Notification to the duty supervisor is required.
 - c. When an officer equipped with a BWC is dispatched to or otherwise goes to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance an officer in distress, shots fired, or a call involving a violation or suspected violation of 2C:33-15 (individuals under the age of 21 possessing or consuming alcohol, marijuana, hashish, or cannabis), etc., the officer shall activate the BWC **upon being dispatched or responding** to the scene. Notwithstanding any other

provision of this policy, an officer while at the scene of a police deadly-force event or the on-scene investigation of that event shall not de-activate the BWC unless instructed to do so by an Assistant Prosecutor (A.P.)/ Deputy Attorney General (D.A.G.) or his or her designee. Such instruction may be given telephonically. In addition, any investigation concerning 2C:33-15 shall not be deactivated under any circumstances.

G. De-Activation of BWC

1. De-Activation Upon a Civilian Request:

a. De-Activation at the Request of a Civilian Providing Information/ Cooperation.

- (1)** Notwithstanding section F.10.a and b., an officer may de-activate a BWC when a civilian (victim, witness, homeowner, anonymous complaint, etc.), 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.
- (2)** The officer may explain the consequences of de-activation (evidence relevant to a criminal investigation will not be recorded).
- (3)** In deciding whether to de-activate the BWC, the officer shall consider the privacy and safety interests of the person requesting de-activation whether it is occurring in a private residence, and the need for the information or assistance that the person will provide only if the de-activation request is honored.
- (4)** The officer shall not suggest to 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.

b. De-Activation at the Request of a Person Seeking Emergency Medical Assistance.

- (1)** Notwithstanding section F.10. a and b, 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.

- (2) 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.

c. Procedures for De-activation Upon a Civilian's Request.

- (1) When an officer de-activates pursuant to G.1.a. and b., and F.6.a.(1),(2), and (3), the following procedures should be followed:

- (a) The conversation between the officer and the civilian concerning the request for de-activation shall be electronically recorded.
- (b) 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.").
- (c) The officer shall report the circumstances concerning the deactivation to their supervisor as soon as is practical.
- (d) The officer shall document the circumstances of the deactivation in the investigation report or CAD report if no investigation report was completed.

d. Decision to Decline a Civilian's De-Activation Request.

- (1) If an officer declines a request to de-activate a BWC under F.6.a.(1) and (3), and G.1.a. and b. the reasons for declining the request, (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 in the investigation report or CAD report if no investigation report is completed and shall be reported to the officer's superior as soon as it is safe and practicable to do so.

(2) 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 into believing that the BWC has been turned off when in fact it is operating unless the County Prosecutor or designee expressly has authorized covert recording.

(3) An officer cannot decline a request from an apparent crime victim under F.6.a.(2) to discontinue the recording of an encounter via the BWC.

e. De-Activation During a Criminal Investigation Strategy/Planning Discussion.

(1) Notwithstanding section F (with exception of F.4.a(12)), a BWC equipped officer may de-activate a BWC while participating in a discussion pertaining to criminal investigation strategy and planning.

(2) When an officer de-activates a BWC pursuant to this section, the officer shall narrate the circumstances of the de-activation ("I am now turning off my BWC to discuss investigative strategy.").

(3) The deactivation for strategic discussion shall not take place in the immediate presence of a civilian or if an officer who is actively engaged in an official police function (i.e. a search or evidence collection).

(4) Examples of types of strategy/planning discussions but not limited to:

(a) Type of questions to pose to a suspect or victim.

(b) Whether to apply for a search warrant or to conduct a warrantless search.

(c) Summoning a Police K-9.

f. De-Activation on Instruction from Prosecutor

- (1)** An officer may de-activate a BWC when specifically authorized to do so by:
 - (a)** An Assistant Prosecutor (AP) or a Deputy Attorney General (DAG) for good and sufficient cause as determined by the AP or DAG.
 - (b)** Prior to deactivating the BWC, the officer shall narrate the AP or DAG's name who directed the deactivate and the reason.

g. De-activation When BWC Alarm Indicates Low Battery,

- (1)** When the BWC sounds an alarm indicating low battery and that alarm cannot be silenced, the officer may shut off the BWC if it poses an officer safety issue.
- (2)** The officer will verbally indicate when shutting off the BWC that it is being de-activated because the low battery alarm is sounding.
- (3)** The officer will immediately or when safe to do so, notify their supervisor that the BWC had to be shut off because the low battery alarm was sounding.
- (4)** A notification shall be documented in the investigation report or CAD if no investigation report was completed, that the BWC was shut off because the battery was low.
- (5)** Officers whose BWC has a low battery level shall respond to headquarters as soon as possible to replace their BWC.

- 2.** Any recordings from a BWC recorded in contravention of this policy or any other applicable law, or directive shall be immediately brought to the attention of a Division Commander and immediately destroyed by a Division Commander following consultation and approval of the Somerset County Prosecutor. Such footage shall not be admissible as evidence in any criminal, civil, or administrative proceeding.

H. Re-activation of BWC when Reason for De-Activation No Longer Exists.

1. In any instance where a BWC was de-activated pursuant to sections G.1.a,b,e, and f, and F.6.a., the BWC 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 and the officer would otherwise be required to activate the BWC.

I. Re-activation When Actual Law Enforcement Force is Authorized.

1. Notwithstanding any other provision in this policy, in any instance when a BWC was de-activated pursuant to any section of this policy or any other department policy or directive, if the circumstances develop so that an officer is authorized to use force, the BWC shall be reactivated as soon as it is safe and practicable to do so.

J. Circumstances when BWC Activation/ Use is Subject to Special Conditions/ Restrictions

1. Notwithstanding sections F.4 and F.2 (except F.4.a(12)), special Restrictions exist when recording in Schools, Healthcare/ Facilities, and Places of Worship.
 - a. Unless the officer is actively engaged in investigating the commission of a criminal offense, or 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 device.
 - (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.

- b. 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 ("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 (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 County Prosecutor or designee shall be notified to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information.** The recording shall not be accessed without the permission of the County Prosecutor or 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.)

2. De-activation for Undercover Officers or Confidential Informants.

- a. Notwithstanding sections F.4 and F.2 (except F.4.a(12)), an officer shall not activate a BWC or shall de-activate a device that has been activated, if the officer knows or reasonably believes that the recording would risk revealing the identity of an undercover officer or confidential informant unless:
 - (1) Such activation is expressly authorized by a supervisor or;
 - (2) The exigency of the situation and danger posed to an officer requires that the encounter or 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.

- b. 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 the undercover officer or confidential informant no longer exists.

3. An officer shall not activate the BWC while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive authority or force.
4. Alcohol Breath Testing:
 - a. In the event that a BWC is activated during prisoner processing, all BWCs shall be deactivated, turned off, and removed from the breath testing area by all officers present where an electronic alcohol breath testing device is being used. The officer shall narrate the reason for the deactivation, and the BWC shall be re-activated when safe and practicable to do so following the completion of the breath testing operation.
 - b. Nothing herein shall 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.

K. Secure Storage, Retention of BWC Recordings

1. Contents downloaded from BWCs shall be stored on the secure DATA 911 Server site in the police department. All images and sounds recorded by the BWC are the exclusive property of the Bridgewater Township Police Department.
 - a. All BWC recordings are uploaded to the server in a timely fashion.
 - b. Unauthorized access to stored BWC recordings is prohibited.
 - c. Unauthorized tampering with or deletion of recorded data before and after downloading from the BWC and uploading to the server is prohibited.
 - d. All instances where BWC recordings are accessed, viewed, copied, and deleted are retained by the department in an electronic journal.

- e. The Data 911 System retains permanent auditing of all instances where BWC recordings are accessed, viewed, copied, or deleted.
- 2. All BWC/MVDR recordings shall be retained for a minimum of 180 days before they are permanently deleted in accordance with N.J.S.A. 40A:14-118.5 except;
 - a. Automatic Three-Year Retention Period.
 - (1) A BWC recording shall be automatically retained for three years from the date of recordation if it captures images involving an encounter about which a complaint has been registered by a subject of the BWC recording.
 - b. Three-Year Retention Period Requests.
 - (1) A BWC recording will be held for a minimum of three years from the date of recordation when:
 - (a) The officer whose BWC made the video recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value.
 - (b) An 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 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.
- (2) In order to meet the requirement of subsections (e), (f), and (g) members of the public, parent or legal guardian, or next of kin or designee, shall be permitted to review the BWC recording in accordance with the provision of 47:1A-1 to determine whether to a request three-year retention.
 - (3) All three-year hold requests will be directed to the I.A. Commander.
- c. All BWC recordings that pertain 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 be retained according to retention period for evidence in a criminal prosecution.
 - d. All BWC recordings of an arrest that did not result in an ongoing prosecution, or records the use of police force, shall be kept until the expiration of the statute of limitations for filing a civil complaint against an officer or the police department.
 - e. When a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending the final resolution of the internal affairs investigation and any resulting administrative action.
- 3. Notwithstanding that a criminal investigatory record does not constitute a government record under 47:1A-1.1d, only the following BWC recordings will be exempt from public inspection;
 - a. BWC recordings not subjected to a three-year retention period.
 - b. Under section K.2.a.1, if the subject of the BWC recording making the complaint request that the BWC recording not be made available.

- c. BWC recordings subject to a three year retention period solely and exclusively pursuant to K.2 b (1)(a),(b),(c), and (d);
 - d. BWC recordings subject to a three year retention period solely and exclusively pursuant to K.2 b (1)(e),(f), and (g), if a member, parent or legal guardian, or next of kin or designee requests the BWC recording not be made available to the public.
4. Any BWC recording retained over 180 days solely and exclusively to K.2.b.(d) shall not be admissible as evidence in any criminal or civil or administrative hearing.

L. Categorized and Protected BWC Videos:

1. **Protected Video:** To identify BWC recordings that may raise special privacy or safety issues, officers shall tag such a recording as a “Protected Video” in Data 911 when the recording:
- a. Captures the image of a victim of a criminal offense;
 - b. Captures an image of a child;
 - c. Was made in 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, substance abuse or mental health treatment facility, or a place of worship;
 - d. Captures a conversation with a person whose request to deactivate 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 directions to officers, techniques for interior movements and clearing rooms during the 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;

- g. Captures the screen of a police computer monitor that is displaying confidential personal or law enforcement sensitive information.
- h. It will be the responsibility of every officer to properly and uniformly tag all videos as “protected” made with his or her BWC following Section L.1 of this policy.

2. **Categorized Video:** In addition to a BWC recording being marked as “protected,” it shall be the responsibility of every officer to properly and uniformly categorize all videos as made with his or her BWC.

a. Categories: The following are the categories that a BWC can be categorized in.

- (1) Internal Affairs
- (2) Internal Affairs-Protected
- (3) Criminal Investigation
- (4) Criminal Investigation-Protected
- (5) Arrest (non-Bridgewater warrant)
- (6) Arrest (non-Bridgewater warrant)-Protected
- (7) Arrest (Bridgewater Warrant)
- (8) Arrest (Bridgewater Warrant)-Protected
- (9) Use of Force
- (10) Use of Force-Protected
- (11) Three Year Hold
- (12) Three Year Hold-Protected
- (13) Other-Protected

b. Category Definitions:

- (1) *Internal Affairs:* when a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be tagged “internal affairs.”
- (2) *Criminal Investigations:* When a BWC recording pertains to a criminal investigation or otherwise contains information that may be subject to discovery in a prosecution, the recording shall be treated as evidence and categorized appropriately.
- (3) *Arrest (non-Bridgewater warrant):* arrest warrants that stem from a warrant issued by a jurisdiction other than Bridgewater Township Municipal Court.

- (a) This category includes Bridgewater Municipal Court warrants that were generated by another law enforcement agency (i.e. N.J. State Police, S.C.P.O., and S.C. Sheriff's Office).
 - (4) *Arrest (Bridgewater Warrant)*: arrest warrants that stem from a Bridgewater Township Police Department investigation.
 - (5) *Use of Force*: When a BWC records an arrest that did not result in an ongoing prosecution and records the use of police force.
 - (6) *Three-Year Holds*: as defined in section K.2.a of this policy.
- c. Category hierarchy: When a BWC video falls under two different category definitions, the following hierarchy will be used to determine what category should be assigned.
 - (1) Internal Affairs
 - (2) Criminal Investigation
 - (3) Arrest (Bridgewater Warrant)
 - (4) Use of Force
 - (5) Three Year Hold
 - (6) Arrest (non-Bridgewater Warrant)
- 3. Officers will enter, at a minimum, the case/cad incident number into the BWC file in the case number field in the BWC/MVRD operating system. Also, the e-file ID number from all BWC/MVRD recordings will be memorialized in the officer's investigation report or arrest report. Nothing shall prevent an officer from entering additional searchable data into the file.
- 4. Nothing shall prevent an officer from accessing a BWC video prior to the approval of required initial reports to enter case/CAD number or other informational fields provided the officer does not review the BWC video.
- 5. BWCs should download and sync with the patrol vehicle's MVR. If the BWC fails to download or sync with the MVDR, IT Support shall be notified of the incident. In such cases, officers will be required to download their assigned BWC files onto the secure DATA 911

server prior to the end of their shift through a docking station located in HQ.

6. The officer will tag each recorded incident with the appropriate category at the end of the call for service via MDT. If unable to complete at the end of the call for service then by the end of their current shift.
7. Once categorized as Internal Affairs, only the Internal Affairs Commander, Division Commander, and Chief of Police have the authority to view such recordings.
8. The agency shall ensure that relevant BWC recordings are provided in discovery in a timely fashion. The ID Officer and/or clerk processing discovery requests shall check the corresponding investigative report(s) and property logs for references to the incident being recorded by a BWC.
 - a. 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 the Criminal Justice in consultation with the Administrative Office of the Courts.
 - b. 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 the execution of a warrant, techniques for convincing persons to open doors during warrant execution, etc.), the Somerset 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.

M. Restriction on Access to, Use, and Dissemination of BWC Recordings

1. *Protected BWC Video:* A BWC recording tagged under this section (M) shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission from either the Somerset County Prosecutor, the Chief of Police, or the IA Commander.
 - a. All requests to view a BWC video that is marked as protected must be emailed to the Internal Affairs Commander and the Chief of Police through the chain of command.
 - b. This request must specify the reason why the access is needed.
 - c. Once access is granted, the Chief or I.A. Commander will provide written permission to view the BWC video.
 - d. The Chief of Police and the IA Commander **cannot** authorize the viewing of BWC video that captured a police use of force incident that is under investigation pursuant to NJAG Directive 2019-4. Such permission must come from the “Independent Investigator” that is overseeing that police use of force investigation.

2. *Non-Protected Video:* 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:
 - 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 police 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 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 other legal obligations to turn over the recording to a person or entity;
- 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 Somerset 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;
- i. 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;
- j. To conduct an audit to ensure compliance with departmental policies, the Somerset County Prosecutor's Office General Orders, and the New Jersey Attorney General's Directives.
- 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 Somerset County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee; or
- l. Any other specified official purpose where the Somerset 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.

3. To ensure the integrity of investigation of “Law Enforcement Incidents” conducted under 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 in this policy or A.G. Directive 2021-5, 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 “Independent Investigator,” as that term is defined in AG Directive 2019-4.
4. Restriction on Access to BWC Recording Prior to Creating Report, Statements, Interviews.
 - a. Law Enforcement Officer shall be permitted to review or receive an accounting of a BWC (protected or non-protected) recording prior to creating any required substantive initial reports, providing a statement, or submitting to an interview regarding the recorded event, **except** under the following circumstances:
 - (1) The incident involves the use of force by the officer, where the officer knows or should know that the use of force resulted in significant or serious bodily injury or death;
 - (2) The incident involves the discharge of a firearm or any other use of deadly force by the law enforcement officer;
 - (a) Deadly Use of Force to include not only the discharge of a firearm, but the following potentially lethal actions: applying a chokehold, carotid artery restraint, or similar techniques that involves pressure on the neck; sitting, kneeling, or standing on a person’s chest, back, or neck for a prolonged period of time; intentionally driving a vehicle at or in the direction of a person with the intent to strike the individual; and using a baton or other weapon to intentionally strike an individual in the head or neck area.
 - (3) The incident involves the death of a person while in law enforcement custody;

- (4) The incident involves the death of a person during an encounter with a law enforcement officer;
- (5) An incident that the officer knows or has been advised is or will be the subject of an internal affairs complaint relating to the officers use of force, bias, or dishonesty; or
- (6) An incident that the officer knows or has been advised is or will be the subject of a citizen complaint relating to the officer's use of force, bias, or dishonesty.

5. Documenting Review of BWC

- a. Whenever a law enforcement officer reviews or receives an accounting of a BWC recording prior to the creation or any report, statement, or interview, the law enforcement officer shall acknowledge that prior to review or receipt of an accounting of the BWC recording either verbally or in writing within each report, statement or interview.
- b. The officer shall document each BWC recording that was reviewed and the date of the review.
- c. If the law enforcement officer received an accounting of a BWC recording, the officer shall document the name of each person who provided an accounting of the BWC recording, the date of the accounting and the specific BWC recording for which an accounting was provided.
- d. Nothing in Section M 4a above shall be construed to require a law enforcement officer to review a BWC recording prior to creating any required initial reports, statements, and interviews regarding the recorded event, nor to prevent a law enforcement officer from reviewing or receiving an accounting of such a BWC recording subsequent to the creation of any required initial report, statement, or interview regarding the recorded event.
- e. As noted above, the officer is prohibited from reviewing or receiving an accounting of a BWC recording in certain scenarios listed above in Section M 4 a 1- 6 prior the officer documenting or otherwise memorizing the officer's recollection of the incident, namely, by creating any required

substantive initial report, providing a statement, or submitting to an interview regarding the recorded event. Whenever an officer participates in a specified scenario, then the officer shall only be permitted to review or receive an accounting of a BWC recording once the investigation entity concludes that:

- (1) The officer has in fact completed the specified incident memorialization
- (2) The officers review of receipt of an accounting of the BWC recording will not other interfere with the ongoing investigation.

f. In cases subject to Attorney General Directive 2019-4, the investigation entity shall be the Independent Investigator. In all other specified scenarios, the investigating entity shall be the Chief of Police. The investigating entity shall document the authorization to review or receive an accounting of a BWC of a specified incident.

N. Supervisory Responsibilities and Review

1. Supervisory personnel shall ensure that officers under their command equipped with BWC devices utilize them in accordance with policy and procedures defined herein.
2. 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 bodily 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.
 - a. The transfer of custody shall not take place until the entire encounter/event/episode has concluded and the BWC(s) has been de-activated in accordance with the parameters set forth in this policy.
 - b. The supervisor that takes custody of the unit shall forward it to the Internal Affairs Commander or in his or her absence the Operations Division Commander and issue the officer a spare unit.

- c. The Internal Affairs Commander, or in his or her absence the Operations Division Commander, shall download, label, and tag any footage captured of the event accordingly.
- d. The unit shall only be placed back in service with approval from the Internal Affairs Commander.
- e. Supervisors are required to review BWC/MVRD recordings for each officer bi-monthly and document the review in the BWC/MVRD file in the department's server.
 - (1) Supervisors shall note:
 - (a) The date of the review.
 - (b) The BWC/MVRD file number.
 - (c) Any issues and corrective measures are taken.

O. Documenting Access to Stored BWC Recordings.

- 1. A record shall be maintained through Data 911 of all access to stored BWC recordings pursuant to this policy.
- 2. The 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, if applicable;
 - e. The reason for the access, specifying the purpose or purposes for access authorized according to section M and specifying the case/CAD number.

P. Public Disclosure of BWC Recordings

- 1. 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 shall, within one business day of receipt of such subpoena, court order, or request, and before complying with it, provide notice to the Somerset County Prosecutor's Office (SCPO). The notice shall state clearly the deadline by which the response must be made.

- 2.** Notifications to SCPO shall be made on SCPO Municipal Police Department Body-Worn Camera Recording Request Notification Form (Attachment B). The form shall be emailed to SCPO at scpobwc@co.somerset.nj.us.

Attachment A

SPARE BODY CAMERA SIGN OUT

| DATE TAKEN | OFFICER | BODY CAMERA # | DATE RETURNED |
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Attachment B



SOMERSET COUNTY PROSECUTOR'S OFFICE

**Municipal Police Department Body-Worn Camera
Recording Request Notification Form**

Police Department: _____

Date, Time & Length of Recording: _____
Date _____ Time _____ Length _____

Officers Depicted: _____

Type of Request: OPRA Court Order Subpoena Common Law Right to Know

Name of Requester: _____

Organization: _____

Date Request Received By The Department: _____

Deadline to Respond: _____

Is Recording: Ongoing Criminal Investigation
 Internal Affairs Investigation
 Criminal Investigatory Record
 Impacting on Victim and/or Juvenile Rights
 Other (explain) _____

Police Action Depicted: Arrest Investigative Detention
 Witness Interview Search
 Interrogation of Suspect Constructive Force
 Protective Frisk for Weapon Actual Force
 Other (explain) _____

Persons Being Recorded: Arrestee-Municipal Offense
 Arrestee-Indictable Offense
 Motor Vehicle Offense
 Victim Juvenile Witness
 Informant
 Other (explain) _____

Name of Person Submitting Form: _____

Signature of Person Submitting Form: _____

Date and Time Form Submitted: _____

Email the completed form to: scpobwc@co.somerset.nj.us

TW Rev. 7.11.18