

Corbett, Katherine

From: Bergh, Mary Lou
Sent: Saturday, March 13, 2021 10:21 AM
To: Corbett, Katherine
Subject: Fwd: OPRA request - Body Worn Camera

Sent from my iPhone

Begin forwarded message:

From: joel Caplan <opra+request-21054-8d6d234c@requests.opramachine.com>
Date: March 13, 2021 at 9:08:14 AM EST
To: "Bergh, Mary Lou" <berghm@evesham-nj.gov>
Subject: OPRA request - Body Worn Camera

Dear Evesham Township,

This is a request for public records made under OPRA and the common law right of access. I am not required to fill out an official form. Please acknowledge receipt of this message.

Records requested:

1. Departments Body-Worn Camera Policy and Procedures
2. Body-Worn Camera Audit for the year 2020

Yours faithfully,

Joel Caplan

Please use deliver records electronically via email to the below UNIQUE address for all replies to this request:

opra+request-21054-8d6d234c@requests.opramachine.com

Is berghm@evesham-nj.gov the wrong address for OPRA requests to Evesham Township? If so, please contact us using this form:

https://opramachine.com/change_request/new?body=evesham_township

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:

<https://opramachine.com/help/officers>

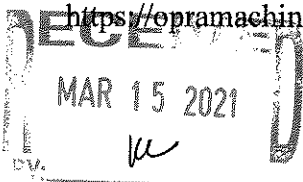
View this OPRA request & responses online:

https://opramachine.com/request/body_worn_camera

Approved as per; provided a file;
no clarification provided for #2.

[Signature]

3/24/21



Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an OPRA custodian, please ask your web manager to link to us from your organisation's website.



March 24, 2021



Joel Caplan

Sent via email: opra+request-21054-8d6d234c@requests.opramachine.com

Dear Mr. Caplan:

The Evesham Township Police Department Records Custodian received your OPRA request on **March 15, 2021**. The seven (7) business day deadline to respond to your request is **March 24, 2021**. A request for clarification of your OPRA request was sent to the email above on **March 15, 2021**. Clarification has not been received from you to date. This response to your request is being sent to you on the **7th** business day after the custodian's receipt of the original request.

The following record is responsive to your OPRA request and is being provided to you via mail per your request:

Request	Record	Notes
"...1. Departments Body-Worn Camera Policy and Procedures..."	Written Directive V4C57 Body Worn Cameras (BWC)	Provided in full
"...2. Body-Worn Camera Audit for the year 2020..."		No records responsive to this request. A request for clarification of your OPRA request was sent to the email above on March 15, 2021 . Clarification has not been received from you to date.

If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the Evesham Township Police Department to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (GRC) by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The GRC can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

Sincerely,

Katherine Corbett
Risk Management Coordinator
Evesham Township Police Department
984 Tuckerton Road
Evesham NJ 08053
856-985-6022

EVESHAM TOWNSHIP POLICE DEPARTMENT MANUAL

VOLUME NUMBER: 4	CHAPTER NUMBER: 57
VOLUME TITLE: OPERATIONS	REFERENCE: V4C57
ISSUED BY: CHIEF CHRISTOPHER CHEW	# OF PAGES: 16
SUBJECT: BODY WORN CAMERAS (BWC)	
EFFECTIVE DATE: JULY 14, 2014	GENERAL ORDER # 14-513
LAST REVISED: FEBRUARY 3, 2021	
APPLICABILITY: ALL EMPLOYEES	ANNUAL REVIEW:
ACCREDITATION STANDARDS:	
The Written Directives developed by the Evesham Township Police Department are for internal use only, and do not enlarge an officer's civil or criminal liability in any way. They should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of Written Directives can only be the basis of a complaint by this Department, and then only in an administrative disciplinary setting.	

PURPOSE: To establish a directive that is in accordance with the guidelines set forth by the New Jersey Attorney General's Office for the proper and lawful operation of the body worn audio/video camera systems worn by authorized Evesham Police Department personnel, and to define the tagging, access regulations, media storage, public disclosure, and retention system for the events recorded by the devices.

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

BWCs are viewed as a valuable asset intended to assist department members in solving crimes and successfully prosecuting offenders by augmenting an officer's testimony with a video/audio record of the incident. BWC recordings preserve accurate visual depictions of physical evidence and also document how physical evidence was found, thereby helping to establish the facts that must be presented in Fourth Amendment suppression hearings. BWCs also record the physical appearance of suspects and crime victims, preserving evidence of any apparent injuries. The audio portion of BWC recordings will document witness and suspect statements, preserving not only the substantive content of those statements, but also showing whether officers had complied with Miranda and other legal requirements. Additionally, this equipment will enable department administrators to conduct periodic reviews of officer-citizen contacts for quality control purposes and aid in the investigation of citizen complaints.

PROCEDURE:

I. Definitions

A. Activate – To actuate the recording mode/function of the body worn camera.

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- B. Body Worn Camera (BWC) – A device worn by a law enforcement officer that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include a mobile vision recording device when mounted inside a police vehicle (i.e. dash cam). The term also does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity. Nor does the term include an electronic recording device when used to comply with the requirements of Rule 3:17 (electronic recording of station house custodial interrogations).
- C. Constructive Authority – Same meaning as defined in the Attorney General's Use of Force Policy, except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g. "show me your hands", "get out of the vehicle," etc.), or directed against any person if the officer has un-holstered a firearm or a conducted energy device (e.g., "move out of the way," "get down," etc.).
- D. Force – Same meaning as defined in the Attorney General's Use of Force Policy. The term "force" shall include physical, mechanical, enhanced mechanical and deadly force.
- E. Investigation of a criminal offense – Any police activity pertaining to the investigation of a indictable crime, disorderly persons offense, or petty disorderly persons offense, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness of a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.
- F. Law Enforcement Agency, Agency, or Department – Means a law enforcement agency operating under the authority of the laws of the State of New Jersey.
- G. Law Enforcement Officer or Officer – Means a sworn officer employed by a law enforcement agency. For the purpose of this directive, the term shall also apply to special law enforcement officers and the civilian Police Technician.
- H. School – Means an elementary or secondary school.
- I. Youth Facility – Means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-car centers, youth camps, etc.

II. General

- A. A law enforcement officer employed by the agency may only use a BWC system that has been issued and approved by the agency.
- B. An officer equipped with a BWC must comply at all times with the requirements established in this directive.
- C. The Chief of Police shall direct the Operations Division Commander to complete a documented annual review of the agency body worn camera program, to also include a review of this directive in accordance with **V1C2-Written Directive System**.

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- D. A BWC shall be used only in performance of official police duties and for the purpose of recording incidents, investigations and police-citizen encounters involving those law enforcement activities specified in this directive. A BWC shall not be activated while an officer is on break or otherwise is not actively performing law enforcement functions (e.g., while eating meals, while in a restroom). A BWC shall not be activated or used by an officer for personal purposes, or when engaged in police union business. Nor shall a BWC be used to record conversations involving counseling, guidance sessions, personal evaluations, or any similar supervisory interaction.
- E. The decision to activate or de-activate a BWC in a police action subject to the rule established in Attorney General Law Enforcement Directive No. 2015-1, which strictly prohibits any form of racially-influenced policing.
- F. No BWC recording shall be assessed, viewed, copied, disseminated, or otherwise used by a sworn officer or civilian employee of the agency except for an official purpose specified in this directive.
- G. Any sworn officer or civilian employee of this agency who knowingly violates the requirements of this directive shall be subject to discipline.
- H. Any willful or repetitive violation of this directive shall be reported to the Burlington County Prosecutor and to the Director of the Division of Criminal Justice. The Burlington County Prosecutor and Director are authorized to take such actions as are reasonable and necessary to ensure compliance with this directive and to prevent further violations.

III. Authorization to Wear/Use BWCs

- A. The Chief of Police shall determine which officers will be equipped with BWCs and shall determine the type(s) of duty assignments (e.g., uniformed patrol, Detectives, School Resource Officers, Civilian Technician, special/tactical operations deployments, etc.) when those officers will wear BWCs.
- B. In the case of a task force, team, or unit composed of officers from more than one law enforcement agency, the chief law enforcement officer of the agency overseeing the task force, team, or unit (e.g. the Burlington County Prosecutor in the case of a countywide task force) shall determine whether and in what circumstances officers assigned to the task force, team, or unit will wear BWCs.
- C. An officer shall not wear a BWC unless he or she has been authorized to do so by the Chief of Police of this agency, or by the chief law enforcement officer of the agency overseeing a multi-agency task force, team, or unit.
- D. An officer shall not wear a BWC unless he or she has received training on the proper care and use of the device in accordance with the requirements of this directive.

IV. Training

- A. The Professional Standards Bureau Commander in his or her role as the agency Training Officer shall establish a training program to ensure that all officers equipped with BWCs, including supervisors and command staff members, along with officers and civilian employees who access or handle BWC recordings are familiar with the equipment/software and provisions of this directive.
 - 1. The training programs shall include instruction on the proper use and operations of the unit and the companion software program Evidence.com.

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

V. Equipment

- A. The department has purchased Taser AXON audio/video recording units. This shall be the only BWC authorized for use by department personnel. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the agency.
 1. References to BWC shall include the Taser AXON wireless device, which houses a video camera, audio/video recording hardware, and a port for charging the device and downloading events.
- B. For uniformed officers, to include SLEO I, SLEO II and SLEO III Officers, the BWC units are equipped with a designated clip and shall be worn center of mass on the officer's body. The BWC shall be affixed to the buttoned placket on the officer's uniform shirt in chest/sternum area.
 1. Officers authorized to wear exterior vest covers shall affix the BWC in the area of the vest cover that corresponds to the chest/sternum area.
 2. Officers wearing a jacket or other outer garment shall not cover or obstruct the view of their BWC. Officers are never authorized to cover the unit with an outer garment. The member shall move the magnetic mounting clip to the outer most layer of clothing and mount the BWC in the area that corresponds to the chest/sternum area.
 3. Officers assigned to the Investigative Bureau when wearing their Class C Uniform shall wear their BWC in the center of their chest/sternum area when engaging in law enforcement actions, when contacting a citizen or upon leaving police headquarters. In the event the member of the Investigative Bureau is wearing professional attire they shall affix the BWC to the trouser belt utilizing the designated clip.
 4. Officers assigned to plain clothes or special uniform details (e.g., problem oriented policing details, bicycle patrol) shall affix the BWC to their outer garment utilizing the designated clip. If the outer garment being worn does not allow for placement, the BWC shall be clipped to the trouser belt utilizing the designated clip.
 5. The Civilian Technician shall affix the BWC utilizing the designated clip to his or her department issued uniform shirt (polo shirt) at the button line center of mass.
 6. In order to reduce audio and/or video interference with the unit, the officer's portable radio microphone shall not be affixed to the buttoned placket or breast pockets of the member's uniform shirt or positioned near the BWC on any exterior garment.
- C. Each sworn officer and the Civilian Technician have been assigned a BWC. Each BWC has a unique serial number and has been assigned an internal tracking identification number (same as officer's badge number). When on duty, the device shall be worn as an authorized component of the uniform of the day. In the event that a member's BWC is not operation, the members shall utilize one of the Spare BWCs for their shift(s) until their issued BWC is returned.

VI. Inspection and Maintenance

- A. Each officer shall be responsible for determining that their device is fully functional and that its battery is adequately charged at the start of his or her duty shift and before going into the field.
 1. Equipment malfunctions shall be immediately brought to the attention of a supervisor before going into the field so that a replacement unit may be procured.
 2. If BWC malfunctions while out in the field, the malfunction upon its discovery shall be reported to the officer's supervisor as soon as it is safe and practicable to do so.

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3. All employees are prohibited from altering, changing, or manipulating any setting on the BWC.
 4. All employees are prohibited from tampering with any BWC unit, including but not limited to, attempting to take the unit apart, disable, alter or repair a component in any way.
- B. BWCs shall be inspected by officers at the commencement of each shift to guarantee both video and audio recording readiness of the system.
1. When conducting the pre-shift inspection, the officer shall activate the BWC and verbally state the date, time, and that a pre-shift inspection is being conducted on the unit number.
 - In accordance with **V6C26-Department Vehicles**, officers conducting daily pre and post shift inspections of assigned vehicles shall capture the inspections on their BWC. For the purpose of this directive, officers conducting these inspections may also utilize the pre-shift vehicle inspection as their pre-shift BWC inspection.
 2. The officer shall then view the recorded video through the icon on a departmental computer or digitally through the application on a department-issued cellular phone or via the screen on the BWC. This will allow the member to view the event and tag it accordingly as a "Pre-Shift Inspection".
 3. Any unit found to be not operating properly shall be taken out of service and written up for repair. The officer shall then utilize one of the designated spare units located in the docking station in the Patrol Room.
 4. The results of the inspection, including any malfunctions or deficiencies, shall be noted in the designated area on the **Motor Vehicle Inspection Report**.
- C. Officers utilizing the BWC shall periodically, and no later than the end of each shift, upload the contents of the unit by placing the unit in one of the designated docking/charging stations. Each event file uploaded will contain information related to the date, BWC identifier, and assigned officer for the incident.
- D. When not in use, BWCs shall be stored in designated docking/charging stations in the Patrol Room, Investigative Bureau or Administrative Wing of the Police Department. The docking stations allow for the units to be charged and for the upload of events to the secure data storage site.

VII. Notice that BWCs are Deployed/Activated

- A. The agency has recognized that it is appropriate to provide some form of notice to citizens so that they understand that anything said to a BWC-equipped officer may be electronically recorded, and that the images and sounds of the police-civilian interaction will be stored and accessible for future law enforcement use in accordance with the provisions of this directive.
1. Such notice to the public that BWCs are in use will help to achieve the benefits of discouraging persons from engaging in conduct that might provoke the use of law enforcement force, and discouraging persons from filing false complaints against police.
- B. The agency shall take the reasonable steps to inform the citizenry of the agency's decision to deploy BWCs. The agency shall publish a statement on the department website that it deploys BWCs. The website posting shall include a picture showing what the device looks like, and how it is to be worn by uniformed officers and plainclothes detectives so that citizens will be able to determine whether an officer is equipped with the device. The website posting shall also include a link to the department body worn camera policy for public review.

- C. When an officer equipped with a BWC activates the device during an encounter 1) with a civilian occurring inside the person's residence, or 2) with a person reasonably believed to be a victim of a criminal offense, the officer shall verbally notify the person(s) with whom the officer is conversing that the BWC has been activated **UNLESS IT IS UNSAFE OR INFEASIBLE TO PROVIDE SUCH NOTIFICATION**.
 - 1. If the officer decides not to provide notification of BWC activation because it is unsafe or infeasible to do so, the officer shall document the reasons for that decision by narrating the same on the BWC recording.
 - 2. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statements or evidence.
- D. If a civilian inquires of an officer whether the officer is equipped with a BWC, or inquires whether the device is activated, the officer shall answer truthfully unless the Burlington County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, has expressly authorized the officer to make a covert electronic recording.
 - 1. This directive does not apply to officers while operating in an undercover capacity or while conducting/participating in a station house custodial interrogation electronically recorded in accordance with Rule 3:17.
 - 2. Nothing in this section shall be construed to establish a basis for suppressing a statement or other evidence.

VIII. Activation Requirements

- A. BWCs shall be utilized to record **ALL** contacts with citizens in the performance of official duties. Examples of such contacts include, but are not limited to:
 - 1. The officer has contact with a citizen as a result of a call for service or request for police assistance, including walk-in complaints at police headquarters.
 - 2. The officer initiates a consensual field inquiry.
 - 3. The officer initiates an investigative detention, such as a traffic stop, criminal suspicion stop (Terry Stop), checkpoint, or roadblock stop.
 - 4. The officer responds to a call for service.
 - 5. The officer is conducting a motorist aid or community caretaking check.
 - 6. The officer is interviewing a witness in the course of investigating a criminal offense.
 - 7. The officer is conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with Rule 3:17 (electronic recordation of station house interrogation).
 - 8. The officer is making an arrest.
 - 9. The officer is conducting a protective frisk for weapons.
 - 10. The officer is conducting any kind of search (consensual or otherwise).
 - 11. The officer is engaged in a police response to any type of civil disorder in circumstances where the officer is engaged with or in the presence of civilians and the officer or any other officer on the scene may be required to employ constructive authority or force.
 - 12. The officer uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this section based on specific and articulable facts warranting heightened caution that are documented by narration on the recording and/or in any investigation or incident report.
 - 13. The officer is transporting an arrestee to a police station, county jail, or otherwise place of confinement, or a hospital or other medical care or mental health facility.
 - 14. The officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.

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- B. The use of BWCs allow for a clearly documented, first hand, and completely objective account of an incident from beginning to end. Therefore, officers shall activate their BWC immediately upon acknowledging dispatch to a call for service and in the performance of a proactive event as soon as safely possible. This will allow the maximum amount of information regarding the incident to be captured, such as events that transpire while in route to a call for service and violations committed by a motorist during a motor vehicle stop.
- C. BWCs shall remain activated for the entire duration of an event/encounter/episode and shall not be de-activated until it is concluded (e.g., the BWC equipped officer has left the scene; all the civilians involved in the encounter have left the scene; the officer has informed the dispatcher or a supervisor that the event has concluded; the event is "closed" on the county computer-aided dispatch system, etc.). This includes any subsequent transport of a subject (regardless of custody status) and during any suspect processing in booking at police headquarters. See **Section IX – Circumstances When Activation/Use is Subject to Special Conditions/Restrictions** for authorized exceptions.
- D. When an officer, whether in uniform or plain clothes, is transporting an arrestee to a police station, county jail, or otherwise place of confinement, or a hospital or other medical care or mental health facility, the BWC shall remain activated at all times while the officer is in the presence of the arrestee and until the arrestee is secured in the holding cell or processing room, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee.
 - 1. In the event an officer has to remain with and guard an arrestee for an extended period of time in a hospital or other medical care of mental health facility once admitted and/or settled into a room pending clearance or release of custody to another authority and there is limited or no interaction with the same, the officer may request permission from a supervisor to de-activate the unit to reduce the amount of non-event footage recorded and to conserve battery power on the unit.
 - 2. For the purpose of this directive, an "extended period of time" shall be defined as more than two hours in time.
 - 3. If the arrestee engages the officer in dialogue, causes a disturbance, or the officer believes constructive authority or force may be necessary, the BWC shall be immediately re-activated.
 - 4. Due to safety concerns, many correctional facilities prohibit the activation of body worn cameras within the facility. In the event an officer has to perform an official police action at correctional facility that prohibits the activation of body worn cameras inside the facility, the officer shall comply with the policies and procedures of that agency and notify his or her supervisor. The officer shall also note this action in the narrative for the incident as well as a **Special Report**.
- E. If a civilian requests that an officer de-activate a BWC during a contact, the officer shall narrate to the civilian that department policy requires the unit to be activated throughout the entire contact and that the unit will remain activated until the end of the event. Officers are prohibited from misleading the person making the de-activation request into believing that the BWC has been turned off when it is in fact it is operating.
 - 1. The only authorized exception for de-activation shall be if a civilian requests a BWC be de-activated in the course of making an internal affairs complaint against an officer or employee of the agency. The officer accepting the complaint shall comply with the request and narrate that a request was made to de-activate the BWC in relation to an internal affairs complaint.
 - 2. The officer shall not suggest to the person that the BWC should be de-activated; nor should the officer ask the person whether he or she would prefer that the BWC be

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de-activated. Rather, the request for the de-activation must be self-initiated by the civilian making the complaint.

3. In this circumstance, the officer shall notify a supervisor of the request and document the action on the **Internal Affairs Complaint Form**.
- F. Any officer providing assistance or back up to an officer on a call for service or citizen contact is required to have their BWC activated in accordance with this directive until the assignment is cleared or their assistance is no longer needed.
- G. Officers on extra-duty assignments shall deploy their BWC during their assigned traffic and/or security details. Officers shall activate the BWC in accordance with the procedures set forth in this directive if they are required to undertake official police actions during the course of their assignment.
- H. Officers assigned to the Detective Bureau shall activate their BWC during field interviews and follow-up contacts and investigations. BWCs shall also be activated when performing formal interviews and interrogations that are not being recorded on an in-house or outside agency interview room audio/video recording system.
- I. Officers assigned to plainclothes details (e.g., problem oriented policy initiatives, surveillance, details, etc.) shall activate their BWC in accordance with procedures set forth in this directive.
- J. When BWC is activated, members are encouraged to provide narration where practical and appropriate in an effort to augment the value of the recording and to provide clarity for the viewer.
- K. If a member fails to activate the BWC when required, fails to record the entire event contact, or interrupts the recording, the member shall document in the applicable incident or case report why a recording was not made, was interrupted, or was terminated. In addition, a **Special Report** shall be completed detailing the reasoning why the event was not captured, etc. A **Special Report** is not required if the interruption in the recording was in accordance with the procedures set forth in this policy.
- L. Members shall note in all incident and case reports when BWC recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.

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

- A. **Unless an officer is actively investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that he or she will be required to use constructive authority or force, the officer shall not activate a BWC, or shall de-activate a BWC that has been activated, while the officer:**
 1. **Is in a school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the BWC;**
 2. **Is in a patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances where patients would be in view of the BWC; or**
 3. **Is in a place of worship under circumstances where worshippers would be in view of the BWC.**

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- B. If the officer is required to de-activate the BWC in accordance with the provision of this section, the officer shall narrate the reason for the de-activation (e.g., "I am entering a school building where children are present."). The BWC shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances requiring de-activation no longer exist (e.g., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWC).
- C. In the event that a BWC captures the image of a patient in a substance abuse treatment facility, the Burlington County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, shall be notified to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information.
 - 1. The recording shall not be accessed without the permission of the Burlington County Prosecutor or designee, or Director or designee.
 - 2. Note that destruction of the recording would be inappropriate until it has been determined that it has not captured exculpatory information that must be provided to a defendant in discovery.
- D. In order to prevent the recording of events unrelated to the call for service, officers at police headquarters addressing walk-in complaints are authorized to deactivate their BWC when not in the presence of the citizen. Examples include the typing of complaints or other follow-up activities conducted in the Patrol Room. The officer shall narrate on the BWC the reason for the deactivation and immediately re-activate the unit each time contact with the citizen is reestablished.
- E. An officer shall not activate a BWC, or shall de-activate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would capture the image of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (e.g., active shooter, actual use of force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the officer shall inform his or her supervisor that the image of an undercover officer or confidential informant was recorded.
 - 1. In the event of a planned arrest/search warrant execution where it is expected that an undercover officer or confidential informant would be present (e.g., a raid where the undercover operative will be arrested to preserve his or her cover), the Burlington County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, may provide specific instructions to any BWC-equipped officers participating in the operation on whether to activate their devices.
 - 2. The BWC shall be activated/re-activated as soon as it is safe and practicable to do so if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
- F. In the event that a BWC worn during the execution of tactical operations (e.g., Special Operations or SWAT operations, execution of arrest and/or search warrants, etc.) records confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms, techniques to convince persons to open doors, etc.), the recording shall be tagged in accordance with section the procedures set forth in Section XI.
- G. An officer shall not activate a BWC while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority, or unless such activation is expressly authorized by the judge.

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- H. BWCs shall be deactivated, turned off and removed from the booking area by all officers present while processing a subject for driving while intoxicated as to not inhibit the Alcotest machine. The officer shall narrate the reasons for the de-activation (e.g., "I am de-activating the BWC because the suspect is about to take a breath test."). The unit(s) shall be re-activated when safe and practicable to do so following the completion of the breath testing operation.
- I. An officer may de-activate a BWC when specifically authorized to do so by an assistant prosecutor or assistant or deputy attorney general for good and sufficient cause as determined by the assistant prosecutor or assistant or deputy attorney general. When an officer de-activates a BWC pursuant to this section, the officer shall narrate the circumstances of the de-activation indicating the assistant prosecutor or assistant or deputy attorney general who authorized the de-activation (e.g., "I am turning off my BWC as per the instruction of assistant prosecutor (insert name).").
- J. An officer while at the scene of a police deadly-force event or the on-scene investigation of an event shall not 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 Attorney General Law Enforcement Directive No. 2006-5, or his or her designee. Such instruction may be given telephonically by the assistant prosecutor, assistant or deputy general, or designee supervising the investigation.
- K. If a BWC is de-activated in accordance with the provisions outlined in this directive and circumstances develop so that an officer is authorized to use force, the BWC shall be re-activated as soon as it is safe and practical to do so.

X. Secure Storage, Retention, Evidentiary Process, and Accessibility of BWC Recordings

- A. Contents downloaded from BWCs shall be stored on the secure Evidence.com site. All recordings are maintained within the BWC system on Evidence.com and are authenticated by an internal audit program with the BWC system. All images and sounds recorded by the BWC are the exclusive property of the department.
 - 1. Uploaded events are stored on the system by incident. Each incident can be searched by date/time and officer. In addition, events can be searched by supplemental information keyed in by the officer at the time of upload, such as tags and case number.
- B. The Chief of Police shall designate a command level officer to oversee the department BWC program. The designated officer shall set permissions, authorization levels and tagging/retention categories in Evidence.com and coordinate the maintenance and repairs to the BWC units. Only that officer shall have access to edit and/or delete video/audio segments. The officer shall immediately notify the Chief of Police if the system or footage is compromised or accessed without proper authorization.
- C. The retention period and purging of BWC recordings shall be in accordance with the guidelines set forth by the New Jersey Division of Archive Management. The retention period shall not be less than 90 days and shall be subject to the following additional retention periods:
 - 1. When a BWC recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution, the recording shall be treated as evidence and shall be kept in accordance with the retention period of evidence in a criminal prosecution.
 - 2. When a BWC records an arrest that did not result in an ongoing prosecution, or records a use of force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency.

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3. When a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be retained pending the final resolution of the internal affairs investigation and any resulting administrative action. See **V1C13 – Internal Affairs & Discipline**.
 4. All other recordings shall be maintained for a period of 2 years.
- D. BWC recordings retained for evidentiary purposes, which shall include any recording that captures a use of force, shall be safeguarded in the same manner as other forms of evidence as detailed in **V4C35 – Evidence Procedures**. As such, these recordings will:
1. Be retained as evidence on Evidence.com and tagged by the requesting member with the case number of the incident under one of the following categories:
 - Criminal Investigation (to include any warrant arrest)
 - DUI
 - Pursuit
 - Use of Force
 2. Under the ID tab, be designated with the full year, hash mark and case number (e.g., 2017-159).
 3. Be documented by the requesting member on **Property Report** detailing the body worn camera number, date and title number. (Example: BWC#86 10/6/2014 / 05:41:54)
 4. Be documented in the evidence management system by the Property Officer or his/her designee and released only with proper written approval.
- E. BWC recordings of arrests that did not result in criminal prosecution, such as a warrant arrest, shall be retained in Evidence.com and tagged by the requesting member with the case number of the incident under the category of "Criminal Investigation."
- F. BWC recordings related to Internal Affairs complaints/investigations shall be tagged "Internal Investigation." Once tagged, only the Internal Affairs Unit and Chief of Police have permissions set in the software to view and share such recordings.
- G. The agency shall ensure that relevant BWC recordings are provided in discovery in a timely fashion. The Property Officer and/or clerk processing discovery requests shall check the corresponding investigative activity case report(s) and property log for references to the incident being recorded by a BWC.
1. Copies of BWC recordings made for the purpose of complying with the State's discovery obligations shall be provided in a readily available media format approved by the Director of Criminal Justice in consultation with the Administrative Office of the Court.

XI. Provisions to Identify Recordings That Raise Special Privacy or Safety Issues

- A. To identify BWC recordings that may raise special privacy or safety issues, officers shall tag such a recording as a "Protected Video" in Evidence.com when the recording:
1. Captures the image of a victim of a criminal offense;
 2. Captures the image of a child;
 3. Was made in a residential premises (e.g. a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship;
 4. Captures a conversation with a person whose request to de-activate the BWC was declined;
 5. Captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information (e.g., verbal codes and hand signals used to give directions to officers, techniques for interior movements and clearing rooms during execution of a warrant, techniques for convincing persons to open doors during warrant execution, etc.) may have been recorded;

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6. Captures the image of an undercover officer or confidential informant; or
 7. Captures the screen of a police computer monitor that is displaying confidential personal or law enforcement sensitive information.
- B. Evidence.com allows for a recording to have multiple tags. Therefore, a video shall tagged as a "Protected Video" in addition to one of the classifications listed in Section X. above where applicable. The retention period for a "Protected Video" shall be 2 years, unless it also has a companion tag that calls for a longer retention.
- C. A BWC recording tagged pursuant to this section shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Burlington County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee.
1. Except for when a BWC captures the image of a patient at a substance abuse treatment facility and subject to the requirements of Section XII Public Disclosure of BWC Recordings, the Burlington County Prosecutor or Director of the Division of Criminal Justice may authorize the Chief of Police and one or more superior officers or duty positions identified by the Chief of Police to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC recordings tagged pursuant to this section.
- D. For the purpose of this directive, the Chief of Police shall seek and secure permission from the Burlington County Prosecutor for the following duty positions to access, view, copy, disseminate, or otherwise use BWC recordings tagged pursuant to this section in order to conduct such activities including, but not limited to, logging evidence, filling OPRA and discovery requests, administrative reviews, audits for compliance with directives, and internal affairs investigations:
1. Chief of Police
 2. Administrative and Operations Division Captains
 3. Internal Affairs, Professional Standards, Support Services, Patrol and Investigative Bureau Lieutenants
 4. Patrol Bureau, Investigative and Internal Affairs Unit Sergeants
 5. Internal Affairs Unit Detective
 6. Detective and their back up assigned to the Property Officer function
 7. Office Manager
 8. Risk Management Coordinator
 9. Police Records Discovery Clerk
- E. If a disclosure of a BWC recording as part of the State's discovery obligations in a prosecution might present a danger to any officer or civilian (e.g., reveal an undercover officer, confidential informant, surveillance site, etc.), or might reveal confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms during execution of warrant, techniques for convincing persons to open doors during warrant execution, etc.), the Burlington 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.
- F. The Investigative Bureau Commander will serve as the point of contact for all requests for BWC footage, that are outside of the Discovery process, fulfilled by the Records Bureau, the OPRA process, fulfilled by the Risk Management Coordinator and internal affairs video, fulfilled by the Internal Affairs Bureau Commander.

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1. All external requests for BWC footage shall be submitted in writing to the Investigative Bureau Commander. Verbal requests or telephone requests shall not be processed.
 - The Investigative Bureau is permitted to provide BWC video to prosecuting agencies, such as the Burlington County Prosecutor's Office, when they are making written requests for BWC video, in direct connection to a criminal investigation, or a prosecution resulting from a criminal investigation. These requests must be made in writing, no verbal or telephone requests will be processed.
 - The Internal Affairs Bureau Commander shall be the point of contact for any external requests for BWC video related to an internal affairs investigation. These requests too shall only be processed when the request is made in writing. The approval of the Chief of Police shall be obtained prior to the release of all BWC video related to an internal affairs investigation.
 - Any written requests for BWC video that are not from a prosecuting agency, directly connected to a criminal investigation, internal affairs investigation (both defined above) or a prosecution resulting from a criminal investigation or internal affairs investigation must be approved by the Chief of Police prior to the release of the video.
 - This provision does not apply to video released as part of the Discovery or OPRA processes.
2. The Investigative Bureau Commander will maintain a tracking system to record all BWC video that is released through the Investigative Bureau.
 - The tracking system shall be maintained in digital form on the P drive using Excel, Access or a similar software system.
 - The tracking system shall record the following:
 - Date of the request
 - Requestor's name
 - Requestor's organization
 - Specific video file(s) requested
 - Reason for the request
 - Basis for release (AG Directive 10.1 and provisions of this policy)
 - Specific video file(s) released
 - Date of release
 - Method of release (emailed web link or media storage devise). The preferred method of release is web link.
 - The Internal Affairs Bureau shall conduct an audit on this tracking system annually to ensure policy compliance.
3. BWC video that is released through the Discovery process will be tracked by the Records Bureau and video released through the OPRA process will be tracked by the Risk Management Coordinator.

XII. Restrictions on Access to, Use, and Dissemination of BWC Recordings

- A. All access to downloaded BWC files must be specifically authorized by the Chief of Police or his or her designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes. Under no circumstance shall any officer of this department erase, tamper with, reuse, or alter the recording of BWC.
 1. Evidence.com has an internal audit trail function that documents by user identification number the following:
 - The date and time of access;
 - The specific BWC recording(s) that was/were accessed;
 - The officer or civilian employee who assessed the stored BWC recordings.

- B. No law enforcement officer or civilian employee of a law enforcement agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose as specified in this section. Access to and use of a BWC recording is permitted only:
1. When relevant to and in furtherance of a criminal investigation or prosecution;
 2. When relevant to and in furtherance of an internal affairs investigation;
 3. When relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of police misconduct;
 4. To assist the officer whose BWC made the recording in preparing his or her own police report, subject to the restrictions established in Subsection C. below;
 5. When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency;
 6. To show a civilian who intends to file a complaint against an officer to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint;
 7. To comply with the State's discovery obligations in prosecutions pursuant to the Rules of Court;
 8. To comply with other legal obligations to turn over the recording to a person or entity;
 9. To show or disseminate the recording to a civilian or a non-law enforcement entity; or to disseminate it to the public, where the Burlington County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, determines that disclosure to that particular person/entity or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality;
 10. 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;
 11. To conduct an audit to ensure compliance with this directive;
 12. To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the Burlington County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee; or
 13. Any other specified official purpose where the Burlington County Prosecutor or designee, or Director of Division of Criminal Justice or designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.
- C. The assistant prosecutor or assistant or deputy attorney general, or his or her designee, overseeing a police use-of-force investigation pursuant to Attorney General Directive 2006-5 (use of force incident involving death or serious bodily injury to person, or where deadly force is employed with no injury to a person, or where any injury to a person results from the use of a firearm by an officer) may in the exercise of sound discretion authorize a civilian or law enforcement witness to be given access or view a BWC recording of the incident under investigation.
1. To ensure the integrity of investigation of police-involved shootings and other use-of-force incidents and to avoid possible contamination of a witness's personal recollection of events that could undermine his or her credibility as a witness, no civilian or law enforcement witness, including the principal(s) of the investigation, shall be given access to or view a BWC recording of the incident, or a BWC recording of the response or on-scene investigation of the incident, without the express approval of the assistant prosecutor, assistant or deputy attorney general, or designee.

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XIII. Public Disclosure of BWC Recordings

- A. The processing, redacting and release of body worn camera footage requests received pursuant to the Open Public Records Act (OPRA) shall be handled in accordance with **V6C42 – OPRA Procedures**.
- B. The Risk Management Coordinator, or his or her designee, shall make immediate notification to the Burlington County Prosecutor's Office any time the agency receives a subpoena, court order, or written request pursuant to the Open Public Meetings Act (OPRA) or the Common Law Right to Know for a BWC recording.
 1. Notification shall be made within one (1) business day of receipt of the subpoena, court order, or request to either OPRA or the Common Law Right to Know.
 2. Notification must be made prior to the agency responding to the subpoena, court order or request.
 3. Notification shall be made by submitting the **Burlington County Prosecutor's Office Body Worn Camera Record Release Form**.
 - The form shall be completed in its entirety and include the date the request was made, whether the agency intends to release or deny the request and the justification for that decision.
 - The agency shall also provide the type of police activity depicted in the recording, including but not limited to whether the officer was involved in an investigative detention, an arrest, an interrogation of a suspect, a witness interview, a search, a protective frisk for weapons, or was using constructive or actual force.
 - In addition, the agency shall indicate whether the recording is part of an ongoing criminal or internal affairs investigation or whether release of the recording potentially infringes upon victim and/or juvenile privacy rights.
 4. The completed form shall be forwarded to the Civil Remedies Unit of the Burlington County Prosecutor's Office via email at OPRABCPO@co.burlington.nj.us. An email acknowledgement will be sent. If no further communication is received within three (3) business days, the agency may respond to the request in accordance with applicable law as deemed appropriate.
- C. Except as otherwise provided in Section XII. B., a BWC recording of an event or encounter that involves an investigation of a criminal offense as defined in Section I. shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or officer or authorized civilian employee of such agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by a court order, or unless law enforcement agency in consultation with the Burlington County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, determines that the person's/entity's/non-law enforcement agency's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.

XIV. Supervisory Responsibilities and Review

- A. Supervisory personnel shall ensure that officers under their command equipped with BWC devices utilize them in accordance with policy and procedures defined therein.
- B. A supervisor shall take protective custody of the BWC of any officer(s) that is involved in a serious incident to safeguard any footage of the event captured on the unit(s). Such incidents include the use of deadly force, the use of force resulting in serious injury or death, serious motor vehicle crashes involving an officer, any event resulting in the incapacitation of the officer,

or any other event in which the supervisor feels that the immediate custody of the unit is necessary to protect any footage.

1. The transfer of custody shall not take place until the entire encounter/event/episode has concluded and the BWC(s) has been deactivated in accordance with the parameters set forth in this directive.
 2. The supervisor that takes custody of the unit shall forward it to the Administrative Division Commander, or in his or her absence the Internal Affairs Unit Sergeant or Detective, and issue the officer a spare unit.
 3. The Administrative Division Commander, or in his or her absence the Internal Affairs Unit Sergeant or Detective, shall download and tag any footage captured of the event accordingly.
 4. The unit shall only be placed back in service with approval from the Administrative Division Commander.
- C. The Internal Affairs Unit, or any authorized member of the command staff appointed by the Chief of Police, is responsible for reviewing, on average, four (4) hours of non-evidential BWC events per week in an effort to ensure the equipment is operation properly, to assess officers' performance and adherence to written directives and established professional standards, and to identify other training needs.
1. In order to maintain fairness in the selection of videos reviewed, the reviewer will access the New World System's "Random Name Generator" to create a list of five randomly selected individual officers to observe for each particular week.
 2. Upon completion of the weekly review, the reviewer shall prepare a **Video Review Form** documenting any positive or negative activities observed. This should include any recommendations for training and/or discipline resulting from the observations.
 3. All Completed **Video Review Forms** shall be retained by the Professional Standards Bureau and a copy will be forwarded to the Chief of Police for review.
 4. The Internal Affairs Bureau Commander is responsible for conducting a quarterly review of all **Video Review Forms** to determine if any individual or group patterns of non-compliance exist. The results shall be forwarded on **Special Report** to the Chief of Police. If a pattern of non-compliant behavior is identified, the Chief of Police will forward the report to the Professional Standards Bureau Commander to address the individual officer or the appropriate group through training.
 5. Separate from the above mentioned weekly review of randomly selected officers, the Internal Affairs Unit or any other authorized member of the command staff may review specific BWC footage at any time if circumstances arise that requires an investigative effort to commence.