

	Bridgewater Township Police Department Policy/Procedure			
	Title: Police Body Worn Cameras (BWC) and Stored BWC Recordings			
	Effective Date: June 1, 2020	Volume I	Chapter: Section 5:31	No. of Pages 22
	Distribution: All Personnel			
Supersedes: N/A				
Accreditation Standard(s): 3.5.5				
References: NJAG Directive No. 2015-1 / SCPO General Order				
Authored/ Revised By: Capt. Sean O'Neill		Date: November 1, 2020		
Reviewed By: Capt. John Mitzak		Date: November 10, 2020		
Issued By: Chief Paul Payne		Date: January 19, 2021		
REVIEW / REVISIONS				
DATE	PAGE / SECTION			

- I. **PURPOSE:** To establish a policy that is in accordance with the guidelines set forth by the New Jersey Attorney Generals' Office for the proper and lawful operation of the body worn audio/video camera system worn by members of the Bridgewater Police Department, and to define the tagging, access regulations, media storage, public disclosure and retention system for the events recorded by the devices

- II. **POLICY:** Body Worn Cameras (hereinafter BWC) will be deployed by assigned department personnel in a manner consistent with the provisions outlined in this policy. BWC promote 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 an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include a mobile video recording device when mounted inside a police vehicle (i.e., a dash cam). The term also does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity. Nor does the term include an electronic recording device when used to comply with the requirements of Rule 3:17 (electronic recording of station house custodial interrogations).
3. Constructive Authority: the same meaning as defined in the Attorney General's Use of Force Policy, except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest ("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 ("move out of the way," "get down," etc.).
4. Force: 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.
5. 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.

6. Law Enforcement Agency, Agency or Department: means a law enforcement agency operating under the authority of the laws of the State of New Jersey.
7. Law Enforcement Officer or Officer: means a sworn officer employed by law enforcement agency.
8. School: Means an elementary or secondary school.
9. Youth Facility: Means a facility where children assemble under adult supervision for education or recreational purposes, such as day-care centers, youth camps, etc.
10. 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, "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

B. General

1. An officer shall only use a BWC system that has been issued and approved by this agency.
2. An officer equipped with a BWC must comply at all times with the requirements established in the NJAG Directive 2015-1, the Somerset County Prosecutor's Office General Order "Body Worn Cameras (BWC) and Stored BWC Recordings," and the provisions of this policy.

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

² *Id.*

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

3. A BWC shall be used only in performance of official police duties and not for personnel purposes for the purpose of recording incidents, investigations and police-citizen encounters involving those law enforcement activities specified in this directive. A BWC shall not be activated while an officer is on break or otherwise is not actively performing law enforcement functions (e.g., while eating meals, while in a restroom). A BWC shall not be activated or used by an officer for personal purposes, or when engaged in police union business. Nor shall a BWC be used to record conversations involving counseling, guidance sessions, personal evaluations, or any similar supervisory interaction.
4. The decision to activate or 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.
5. 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.
6. Any sworn officer or civilian employee of this agency who knowingly violates the requirements of Attorney General Law Enforcement Directive No. 2015-1, Somerset County Prosecutor's Office "Body Worn Cameras (BWC) and Stored BWC Recordings," or this policy shall be subject to discipline.
7. This agency will utilize the Data 911 BMS BX2 BWC with Wi-Fi System.

C. Authorization to Wear/ Use BWC

1. All uniformed officers who are on-duty shall wear BWC. The BWC shall be worn on the center mass of the officer's chest area. When wearing an exterior body armor vest, the BWC shall be attached to the center molly just below the officer's name and badge.
2. When operating in a plainclothes duty assignment, officers shall not wear a BWC and shall not be authorized to use a BWC while in plainclothes.
3. Officers working Extraneous Employment shall not wear a BWC.
4. 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 Somerset 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.

5. 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.
6. Officers equipped with a BWC shall be responsible for determining that the device is fully functional and has a proper battery charge at the start of their shift. If a malfunction is detected the officer will immediately report the malfunction to the duty supervisor, email itsupport@bridgewaterpd.com, and document 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. In the event that a BWC is out of service or missing from a patrol vehicle, a replacement shall be signed out through the duty supervisor.

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 2015-1, SCPO General Order, "Body Worn Cameras (BWC) and Stored BWC Recordings," 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 that all on-duty uniformed officers will be equipped with the device.

F. Specific Notice to Certain Individuals during and Encounter

1. When an officer equipped with a BWC is required to activate the device during an encounter: With a civilian occurring inside the person's residence or 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. 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 a report and/or by narrating the reasons on the BWC recording. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.

2. Verbal notification will not be required any other circumstances, and there is no requirement that an indicator light be illuminated when the BWC is activated.
3. If a civilian inquires of an officer whether the officer is equipped with a BWC or inquires whether the devices is activated, the officer shall answer truthfully unless the County Prosecutor or designee has expressly authorized the officer to make a covert electronic recording.

G. Activation of BWC

1. Circumstances when Activation by an Officer is required except in circumstances outlined in paragraph I.
 - 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 suspicious stop, or a DWI checkpoint or roadblock);
 - (2) The officer responding to a call for service and prior to the arrival of 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 suspect, unless the interrogation is otherwise being

recorded in accordance with Rule 3:17 (electronic recordation of station house interrogation).

- (6) The officer is making an arrest.
- (7) The officer is conducting protective frisk for weapons.
- (8) The officer is conducting any kind 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 transport to a police station, county jail, or otherwise place of confinement, or a hospital or other medical care or mental health facility.
- (12) The officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.

2. Continuous Recording Pending Completion of Encounter

- a. The use of BWCs allows for a clearly documented, first hand, and completely objective account of an incident from beginning to end. Therefore, officers shall activate their BWC before arriving at the location to which the officer has been dispatched or in the performance of a proactive or in progress 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

enroute to a call for service and violations committed by a motorist during a motor vehicle stop.

- b. When a BWC is required to be activated by a uniformed officer pursuant to this policy, the device must remain activated throughout the entire encounter/event/episode and shall not be de-activated until it is concluded, (i.e. the BWC-equipped officer has left the scene; all civilians involved in the encounter have left the scene; the officer has informed the dispatcher or a supervisor that the event has concluded; the event is "closed" on the department's computer-aided dispatch ("CAD") system, etc.).
- c. 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.
- d. 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, etc., the officer shall activate the BWC before arriving at the scene when feasible. Notwithstanding any other provision of this policy, an officer while at the scene of a 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.

H. De-Activation/ Re-Activation of BWC

- 1. De-Activation at the Request of a Civilian Providing Information/ Cooperation.
 - a. Notwithstanding section F.3, an officer may de-activate a BWC when a civilian, conversing with the officer, requests that the device be turned off under circumstances where it

reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected. The officer shall not suggest to the person that the BWC should be de-activated; nor shall the officer ask the person whether he or she would prefer that the BWC be de-activated. Rather, the request for de-activation must be self-initiated by the civilian. The officer may explain the consequences of de-activation (evidence relevant to a criminal investigation will not be recorded). In deciding whether to de-activate the BWC, the officer shall consider the privacy and safety interests of the person requesting de-activation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide only if the de-activation request is honored.

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

- a. Notwithstanding section F.3, an officer may de-activate a BWC when a person, other than an arrestee, is seeking emergency medical services for him or herself or another and requests that the BWC be de-activated. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting de-activation and the person in need of medical assistance.

3. Procedures for De-Activation upon Civilian's Request

- a. When an officer de-activates a BWC at the request of a civilian, the following procedures shall be followed:
 - (1) the conversation between the officer and the civilian concerning the request for de-activation shall be electronically recorded;
 - (2) The officer before de-activating the BWC shall narrate the circumstances of the de-activation ("I am now turning off my BWC as per the victim's request.");
 - (3) the officer shall report the circumstances concerning the de-activation to his or her superior as soon as is practicable; and

- (4) The officer shall document the circumstances of the de-activation in any investigation or CAD incident report concerning the incident under investigation.

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

- (1) If an officer declines a request to de-activate a BWC 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 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.

c. De-Activation During Criminal Investigation Strategy/ Planning Discussion

- (1) Notwithstanding section F.3, a BWC-equipped officer may de-activate a BWC while participating in a discussion pertaining to criminal investigation strategy and planning. 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."). The deactivation should not take place if in immediate presence of a civilian or the officer is actively engaged in an official police function, i.e. a search or evidence collection.
- (2) The de-activation should not occur while the BWC equipped officer is actively collecting evidence (i.e. conducting a search).

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

- (a) What questions to pose to a suspect or victim.**
- (b) Whether or not to apply for a search warrant or to conduct a warrantless search.**
- (c) Summoning of a police K-9.**

d. De-Activation on Instruction from Prosecutor

- (1) An officer may de-activate a BWC when specifically authorized to do so by an Assistant Prosecutor (AP) or Deputy Attorney General (DAG) for good and sufficient cause as determined by the AP or DAG. When an officer de-activates BWC pursuant to this section, the officer shall narrate the circumstances of the de-activation indicating the AP or DAG who authorized the de-activation ("I am now turning off my BWC as per the instruction of AP/DAG (insert name)).**

e. Re-Activation when Reason for De-Activation No Longer Exists.

- (1) In any instance where a BWC was de-activated pursuant to section H, the device shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances justifying de-activation no longer exist and the officer would otherwise be required to activate the BWC.**

f. Re-Activation when Actual Law Enforcement Force is Authorized

- (1) Notwithstanding any other provision of this policy, in any instance where a BWC was de-activated pursuant to section H or any other provision of this policy, if the circumstances develop so that an officer is authorized to use force, the BWC shall be re-**

activated as soon as it is safe and practicable to do so.

4. Deactivation when BWC alarm indicates low battery.

- a.** When the BWC sounds an alarm indicating low battery, the officer may shut off the BWC if it poses an officer safety issue.
- b.** The officer will verbally indicate when shutting off the BWC because the low battery alarm is sounding.
- c.** 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.
- d.** A notation should be documented in the CAD and the Investigation report, if applicable, that the BWC was shut off because the battery was low.
- e.** When the BWC is shut off because of low battery, the officer shall ensure that the vehicle's MVR is activated and the MVR's mic pack is being utilized.
- f.** Officers whose BWC have a low battery shall respond to HQ as soon as possible to replace their BWC.

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

1. Special Restrictions 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 is responding to an emergency, or reasonably believes that he or she will be required to use constructive authority or force, the officer shall not activate a BWC, or shall de-activate a BWC that has been activated, while the officer:
 - (1)** is in a school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the BWC;
 - (2)** is in a patient care area of a healthcare facility, medical office, or substance abuse treatment

facility under circumstances where patients would be in view of the BWC; or

- (3) Is in a place of worship under circumstances where worshipers would be in view of the BWC.

- 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.)
- d. Notwithstanding the provisions of section G and except as otherwise required by section H, 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, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (e.g. active shooter, actual use of police force, officer in distress , etc.) require that the encounter/incident be recorded, in which event the officer shall inform his or her supervisor that the image of an undercover officer or confidential informant

was recorded. Notwithstanding, the foregoing general rule prohibiting the recording of an undercover officer or confidential informant, in the event of a planned arrest/search warrant execution where it is expected that an undercover officer or confidential informant would be present, the 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 the devices.

J. Exemptions

1. Officers assigned to the Somerset County Emergency Response Teams are not required to wear BWC when participating in drills or operations with SCERT.
2. 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.
3. BWCs shall be deactivated, turned off and removed from the processing 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.

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 Department.
2. All BWC/MVDR recordings shall be permanently retained.
3. Circumstances where recording are to be "tagged" or marked "protected" are, but not limited to:

- a. 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 tagged appropriately. Furthermore, it will be the responsibility of every officer to properly and uniformly tag all videos as "protected" made with his or her BWC in accordance with Section M of this policy.
 - b. When a BWC records an arrest that did not result in an ongoing prosecution, or records the use of police force.
 - c. When a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be tagged "internal affairs."
 - 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. These recordings will be tagged by the requesting member with the case number of the incident under one of the following categories in this hierarchy:
 - 1) Internal Affairs
 - 2) Protected
 - 3) Criminal Investigation
 - 4) Arrest
 - 5) Use of Force
 - 6) Other
4. 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 files from the call for service will memorialize in the officer's investigation report or arrest report. Nothing shall prevent an officer from entering additional searchable data into the file.
5. BWCs should download and sync with the patrol vehicles MVR. If the BWC fails to download or sync with the MVDR, IT Support will be notified of the incident. In such cases, officers will be required to download their assigned BWC files prior to the end of their shift through a docking station located in HQ onto the secure DATA 911 server.

6. The officer will tag each recorded incident with the appropriate category at the end of the call for service via MDT, or by the end of their current shift.
7. Once tagged as Internal Affairs, only the Internal Affairs Bureau Commander, Division Commander, and Chief of Police have permission set in the software 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 activity case report(s) and property log 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 Court.

L. Public Disclosure of BWC Recordings

1. The Somerset County Prosecutors Office must authorize the release of any BWC recordings. The following procedures must be followed prior to the release of any recordings.
 - a. Within one (1) business day of receipt of a subpoena, court order, or request pursuant to the Open Public Records Act (OPRA) or the Common Law Right to Know for BWC recordings:
 - (1) It shall be the responsibility of the Agency's designated OPRA records custodian to provide notification to the Somerset County Prosecutor's Office OPRA records custodian, First Assistant Prosecutor and Chief of Detectives of receipt of the subpoena, court order or request in question.
 - (2) Notice shall be made by emailing the Somerset County Prosecutor's Office Body-Worn Camera Recording Request Notification Form, (Attachment A) to the Prosecutor's Office using the following email address: scpobwc@co.somerset.nj.us.

M. Provisions to Identify Recordings the Raise Special Privacy or Safety Issues

1. 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;
 - (1) Captures the image of a child;
 - (2) Was made in a residential premise (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;
 - (3) Captures a conversation with a person whose request to de-activate the BWC was declined;
 - (4) 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;
 - (5) Captures the image of an undercover officer or confidential informant;
 - (6) Captures the screen of a police computer monitor that is displaying confidential personal or law enforcement sensitive information.
 - b. Except for when a BWC captures the image of a patient at a substance abuse treatment facility and subject to the requirements of Public Disclosure of BWC Recordings, a BWC recording tagged pursuant to this section M shall not be accessed, viewed, copied, disseminated, or otherwise

used without first obtaining the permission of the Somerset County Prosecutor or designee, the Director of the Division of Criminal Justice or designee, or the Chief of Police or Internal Affairs Commander.

- (1) 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.
 - (2) Supervisors must make these request through their subordinates.
 - (3) Once access is grant, the Chief or I.A. Commander
- c. 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 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.

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

1. All access to downloaded BWC files must be specifically authorized by the Chief of Police, Internal Affairs Commander, or this policy. All access is to be audited by the Support Services Lieutenant 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.

- a. DATA 911 has an internal audit trail function that documents by user identification number the following:
 - (1) The date and time of access;
 - (2) The specific BWC recording(s) that was/were accessed;
 - (3) The officer or civilian employee who assessed the stored BWC recordings;
 - (4) The person who approved access, where applicable;
 - (5) The reason(s) for the access, specifying the purpose or purposes for access authorized pursuant to section N of this policy and specifying the relevant case/CAD investigation number, where applicable.
- 2. 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. To assist the officer whose BWC made the recording in preparing his or her own police report, subject to the restrictions established in Subsection 3. below;
 - e. When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency;
 - f. 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;

- g. To comply with the State's discovery obligations in prosecutions pursuant to the Rules of Court;
 - h. To comply with other legal obligations to turn over the recording to a person or entity;
 - i. 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;
 - j. 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;
 - k. To conduct an audit to ensure compliance with this policy.
 - l. 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
 - m. 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. The A.P. or assistant or DAG, or his or her designee, overseeing a police use-of-force investigation pursuant to the Attorney General Directive 2006-5 (use of force 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 and officer) may in the exercise of the sound discretion

authorize a civilian or law enforcement witness to be given access or view a BWC recording of the incident under investigation.

- a. 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 A.P., or D.A.G., or designee.

O. 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 therein.
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 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 deactivated in accordance with the parameters set forth in this directive.
 - 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 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 for each officer bi-monthly and record review in the BWC/MVRD file in the department's server.
 - (1)** Supervisors shall note:
 - (a)** The date of review.
 - (b)** The BWC/MVRD file Number.
 - (c)** Any issues and the corrective measures taken.