

BRICK TOWNSHIP POLICE DEPARTMENT GENERAL ORDER



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SUBJECT: BODY WORN CAMERAS (BWC)

BY THE ORDER OF:
Chief James Riccio

ACCREDITATION STANDARDS: 3.5.5

EFFECTIVE DATE:
July 27, 2018

SUPERSEDES ORDER #: V1 C16 Body Worn Cameras (BWC)
Dated: April 6, 2015, December 29, 2016

PURPOSE The purpose of this general order is to set forth guidelines for the use, management, storage, and release of audio-visual media recorded by body worn video/audio cameras (BWC). BWCs are intended to enhance officer safety, produce effective materials for training and to produce an additional method of collecting evidence to prosecute those who violate the law.

POLICY It is the policy of the Brick Township Police Department to utilize BWCs to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident.

All personnel (sworn and civilian) shall use this equipment (including accessing recordings) consistent with manufacturer's guidelines, this general order, and those policies or guidelines issued by the New Jersey Attorney General and Ocean County Prosecutor's Office. Failure to do so can result in discipline. This general order will be reviewed periodically to ensure compliance with the guidelines issued by the New Jersey Attorney General and Ocean County Prosecutor's Office.

The Brick Township Police Department website/webpage shall contain a clear statement that this department utilizes BWCs. The website notice shall include an image showing what the device looks like and how it is to be worn by uniformed officers so that citizens will be able to determine whether an officer is equipped with the device.

PROCEDURES

I. DEFINITIONS

- A. For purposes of this general order, the following terms are defined:
1. Activate – means to actuate (put into operation) the recording mode/function of a BWC.
 2. Body worn audio/video camera (BWC) – is an officer worn device that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity nor does the term include an electronic recording device when used to comply with the requirements of Court Rule R. 3:17 (electronic recording of station house custodial interrogations).
 3. Force – has the same meanings as defined in this department's general order on *Use of Force* and the Attorney General's use of force policy.
 4. Investigation of a criminal offense – means 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.
 5. School – means an elementary school, secondary school (i.e. middle school or high school), or college and university.
 6. Tagging – is the electronic labeling of a video/audio file captured by a BWC.
 7. Undercover officer – is a law enforcement officer operating with an assumed identity and/or disguise for the purposes of gaining the trust of an individual or organization to learn or confirm confidential information or to gain the trust of targeted individuals in order to gather information or evidence. Plain-clothed officers and detectives are not considered undercover officers unless working with an assumed identity and/or disguise.
 8. Youth facility – means a facility where children (under 18) assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, pre-schools, tutoring locations, vocational schools etc.
- B. All references to BWCs include the body worn devices and, where appropriate, the wireless transmitter, microphone, removable media, server, and other accessories necessary to operate these systems.

II. GENERAL

- A. BWC recordings are invaluable to law enforcement for evidential purposes. BWCs have demonstrated their value in the prosecution of criminal, traffic, and other related offenses and to protect personnel from false claims of misconduct. Additionally, this equipment will provide valuable instructional material that can be utilized for in-service training programs.
- B. While visual and audio evidence may be captured on the recordings, the use of a BWC is not intended to document all evidentiary material relevant to court or administrative proceedings, but it can serve to supplement an officer's senses and eyewitness account. There is no intent to utilize the BWC as a management tool to punish officers for minor isolated/non-repetitive departmental rule infractions.
 - 1. Personnel shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
 - 2. BWCs shall only be utilized for legitimate law enforcement purposes.
- C. These recordings will serve the following purposes:
 - 1. Recordings serve as protection for police officers when there are complaints about their conduct or professionalism during encounters with the public and may resolve disputes concerning what actually occurred, thereby protecting both the public and the officers involved
 - 2. The recordings may be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
 - 3. When complete recall is not possible, such as when multiple events are happening simultaneously or out of an officer's line of sight, BWCs may provide an accurate record of events.
 - 4. Supervisors will be able to view the recordings and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.
 - 5. Recordings can permit supervisors to undertake more meaningful performance evaluations.
 - 6. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the general public.
 - 7. Recordings enhance management's ability to train personnel in proper police procedures.
- D. The Chief of Police shall establish a training program on the lawful and proper use of BWC equipment. Only officers who have received training in the use of BWCs are permitted to use them after demonstrating a satisfactory degree of efficiency and familiarity. The proper use of a BWC is considered an essential job requirement.

- E. The Chief of Police shall appoint a BWC training coordinator. The designated BWC training coordinator is responsible for:
 - 1. Providing initial training to all newly hired officers or officers who were not previously trained;
 - 2. Providing periodic refresher training, as required, to ensure the continued effective use and operation of the equipment;
 - 3. Providing initial and refresher training to non-sworn personnel whose responsibilities include accessing, copying, or distributing BWC records;
 - 4. Ensuring proper calibration and performance of the BWC equipment;
 - 5. Incorporating changes, updates, or other revisions in policy and equipment;
 - 6. Providing supplemental training as part of this department's progressive disciplinary processes.
- F. The Administrative Services Division Commander or his/her designee shall manage the BWC equipment, including maintaining the system and establishing procedures to ensure the integrity and proper handling and storage of all BWC recordings.
- G. Repairs to any BWC equipment shall only be performed by the manufacturer or under the direction of the Administrative Services Division Commander or his/her designee. The Administrative Services Division Commander or his/her designee's responsibilities include:
 - 1. Ensure that all recordings are uploaded to a secure data storage system in a timely fashion;
 - 2. Prevent tampering with or deletion of recorded data both before and after downloading from the BWC and uploading to the storage system;
 - 3. Prevent unauthorized access to stored BWC recordings;
 - 4. Document all instances where BWC recordings are accessed, viewed, copied, disseminated, or deleted; permit auditing of all instances where BWC recordings are accessed, viewed, copied, or deleted on a *BWC Checkout/Activity Log*; and
 - 5. Authorize access to downloaded BWC files
- H. BWCs are intended for official police department use only and are not to be used for frivolous or personal activities. Intentional misuse or abuse of the units will result in disciplinary action.
- I. All recording media, images, and audio are intellectual property of the Brick Township Police Department and will not be copied, released or disseminated in any form or manner outside the parameters of this general order without the expressed written consent of the Chief of Police.

- J. Under no circumstances will any employee of the Brick Township Police Department make a personal copy of any recorded event without the permission of the Chief of Police. Release of recorded events will not be permitted without authorization of the Ocean County Prosecutor's Office or the Division of Criminal Justice.
- K. Officers will use only those BWCs approved and issued by the Chief of Police. Such BWCs are not able to record images or conversations that cannot be seen or heard by the officer assigned the device without the expressed approval of the Ocean County Prosecutor's Office or the Division of Criminal Justice. Violations will be subject to disciplinary action, up to and including termination.
- L. BWCs shall be used only in conjunction with official law enforcement duties.
 - 1. Officers engaged in undercover operations or surveillance activities are not required to utilize BWC.
 - 2. The BWC shall not be used to record:
 - a. Encounters with undercover officers or known confidential informants;
 - b. Communications with other police personnel, unless on an official incident (see also MD 2015-05 Township Recording Device Policy), without the advanced permission of the Chief of Police, the Ocean County Prosecutor's Office or the New Jersey Division of Criminal Justice;
 - c. When on break or otherwise engaged in personal activities;
 - d. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room unless directly related to an incident that warrants recording;
 - e. When engaged in police union business;
 - f. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other similar supervisor-subordinate interaction;
 - g. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording, see section III.A of this general order; or
 - h. While discussing criminal investigation strategies.

III. INCIDENTS TO RECORD

- A. BWCs shall be utilized to record ALL contacts with the public in the performance of official duties subject to deactivation procedures described in this general order.

- B. Notwithstanding any other provision of this general order, 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 (e.g., an officer in distress, shots fired, etc.), the officer shall activate his/her BWC before arriving at the scene when feasible.
- C. Notwithstanding any other provision of this general order, officers while at the scene of a police deadly-force event or the on-scene investigation of that event shall not deactivate their BWCs unless instructed to do so by the assistant prosecutor supervising the investigation of the deadly force incident pursuant to *Attorney General Law Enforcement Directive 2006-5*. The assistant prosecutor or other designee supervising the investigation may provide such instruction telephonically.
- D. BWCs shall remain activated for the entire duration of the contact unless a deactivation exception occurs or the officer has notified communications that the event is closed.
- E. When a BWC is activated to transport an arrestee/prisoner, it shall remain activated at all times while the officer is in the presence of the arrestee and until the arrestee is secured in the processing room or a cell, 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.
- F. When wearing a BWC, officers shall notify crime victims and civilians inside of their homes or place of abode (e.g., hotel/motel rooms, boarding houses, dorm rooms, etc.) that they are being recorded unless it is unsafe or unfeasible to provide such notification.
 - 1. If the officer decides not to provide notification of BWC activation because it is unsafe or unfeasible to do so, the officer shall document the reasons for that decision on the *BWC Checkout/Activity Log* and in the narrative of the report if required to complete one.
 - 2. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
 - 3. If an officer fails to activate the BWC, fails to record the entire event contact, or interrupts the recording, the officer shall document the reasons on the *BWC Checkout/Activity Log* and in the narrative of the report if required to complete one.
- G. 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 Ocean County Prosecutor's Office or the Division of Criminal Justice, has expressly authorized the officer to make a covert electronic recording.
 - 1. Officers may deactivate a BWC when a civilian other than a suspect or arrestee conversing with the officers 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 officers unless that request is respected (e.g., prior to providing such information, the person

indicates that they will only provide such information if it were not recorded; provided however, that the agreement to participate under that condition is itself recorded).

- a. Officers shall not suggest to the person that the BWC should be deactivated, nor shall the officer ask the person whether they would prefer that the BWC be deactivated. Rather, the request for deactivation must be self-initiated by the civilian. The officer may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded).
 - b. In deciding whether to deactivate the BWC, the officer shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide is important to the investigation yet is not critical to require recording.
2. Officers may deactivate a BWC when a person, other than an arrestee or suspect, is seeking emergency medical services for themselves or another and requests that the BWC be deactivated. In deciding whether to deactivate the BWC, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance (e.g., a victim of an assault during a fight does not want to be recorded, etc.)
3. When officers deactivate their BWC:
 - a. The conversation between the officer and the civilian concerning the request for deactivation shall be electronically recorded;
 - b. The officer shall narrate the circumstances of the deactivation (e.g. *"...I am now turning off my BWC as per the victim's request..."*) prior to deactivating;
 - c. The officer shall report the circumstances concerning the deactivation to the shift supervisor as soon as is practicable.
4. If officers decline a request to deactivate their BWC, the reasons for declining the request (e.g., the officer believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter) must be memorialized on the recording, documented, tagged with 'Denied Deact' and shall be reported to the shift supervisor as soon as it is safe and practicable to do so.
 - a. In the event that the officer declines a deactivation request, the officer shall immediately inform the person making the request of that decision.
 - b. Officers are prohibited from misleading the person making the deactivation request into believing that the BWC has been turned off when in fact it is operating unless the Ocean County Prosecutor's Office or the Division of Criminal Justice expressly has authorized covert recording.

5. Officers must deactivate a BWC when specifically authorized to do so by an assistant prosecutor for good and sufficient cause as determined by the assistant prosecutor. When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the name of the assistant prosecutor who authorized the deactivation (e.g., "...I am now turning off my BWC as per the instruction of assistant prosecutor (insert name)...").
6. Officers may deactivate a BWC while participating in a discussion pertaining to criminal investigation strategy and planning (e.g., to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.), provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation (e.g., "...I am now turning off my BWC to discuss investigative strategy with my supervisor...").
7. If an officer is required to deactivate the BWC when entering a school, house of worship, health care facility, substance abuse treatment center, etc., the officer shall narrate the reason for deactivation (e.g., "...I am entering a school building where children are present..."). The BWC shall be reactivated as soon as it is safe and practicable to do so if and when the circumstances requiring deactivation 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).
8. In the event that a BWC captures the image of a patient in a substance abuse treatment facility, the Chief of Police or his/her designee shall notify the Ocean County Prosecutor or his/her designee to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information (42 USC § 290dd-2, 42 CFR §23.1 to 23.41). The recording shall not be accessed without the permission of the Ocean County Prosecutor or his/her designee. (Note that destruction of the recording would be inappropriate until it has been determined that it had not captured exculpatory information that must be provided to a defendant in discovery.) The recording shall always be tagged 'S.A.T.F.' at these locations.
9. In any instance where a BWC was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so if and when the circumstances justifying deactivation no longer exist (e.g., the interview of the person requesting deactivation is completed, etc.) and the officer would otherwise be required to activate the BWC.
10. In any instance when a BWC was deactivated or the officer denied deactivation pursuant to this section, the circumstances shall be documented on the *BWC Checkout/Activity Log* and in the narrative of the report if the officer is required to complete one for the incident

- H. Officers shall not activate a BWC, and shall deactivate 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 known confidential informant or otherwise would pose a risk to the safety of an undercover officer or known 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 the shift supervisor that the image of an undercover officer or confidential informant was recorded. The BWC shall be activated/reactivated as soon as it is safe and practicable to do so if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
- I. In the event that a BWC worn during the execution of tactical operations (e.g., SWAT/ERT/ESU operations, execution of arrest and/or search warrant, etc.) records confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms, etc.), the recording shall be tagged accordingly ('SERT/TACT') to prevent its unauthorized release. Officers responding to assist after the operation shall leave BWC activated and tag the recording 'SERT/TACT'.
- J. Officers 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 authority, or unless the judge presiding expressly authorizes such activation.
- K. BWCs shall be deactivated and removed while in the ALCOTEST area when the ALCOTEST device is being used. Nothing herein shall be construed to preclude the use of a BWC to record the behavior of a person arrested for driving while intoxicated other than while the person is in the ALCOTEST area while the ALCOTEST device is being operated. Officers shall record the 20-minute observational period including the reading of Miranda warnings and the N.J. Attorney General's *Standard Statement for Motor Vehicle Operators*. If this provision requires deactivation of a BWC, the officer shall narrate the reasons for deactivation (e.g., "...I am deactivating the BWC because the suspect is about to take a breath test."), and the BWC shall be reactivated when safe and practicable to do so following the completion of the breath testing operation.
- L. When a BWC is activated, officers 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.
- M. Officer complaints shall be handled in accordance with the policies set forth in this department's general order on *Internal Affairs*. All other requests to view and/or obtain footage by the public shall be handled in accordance with section V of this general order.

IV. OFFICER AND SUPERVISORY RESPONSIBILITIES

- A. BWCs will be assigned to uniformed officers working in patrol. It will also include traffic safety officers or any other officers who are working in a uniformed patrol function, e.g., a detective and/or non-patrol officer working a special detail to

include but not limited to DUI, selective enforcement details, Summerfest, holiday patrol, etc.

- B. When not in use, BWCs shall be stored in the designated docking stations. The docking stations permit recharging of the BWC units and downloading of data to the BWC server.
- C. All officers assigned a BWC are responsible for its use and maintenance, including ensuring sufficient battery life and sufficient data storage, during their daily assignment.
- D. When BWCs are dead-lined, officers should note what BWC they have been temporarily assigned, what supervisor assigned it, and the reason for dead-lining it on the *BWC Checkout/Activity Log*.
- E. Pre-inspection test/procedures:
 - 1. When conducting the pre-inspection test, officers shall attach the provided mount and BWC onto their uniform shirt over their sternum and shall activate the BWC while standing. They shall verbally state their badge #, the date, what shift they're working and pre-inspection test, before deactivation.
 - 2. Once deactivated officers shall tag the recording 'Pre-test', dock the BWC in the docking station, sign into *WatchGuard Library Web 4*, only view their pre-inspection test recording and confirm that the unit is properly functioning (audio, video and camera lens angle) prior to going into the field.
 - 3. The results of the pre-inspection test, including any malfunctions or deficiencies shall be noted on the back of the *BWC Checkout/Activity Log*.
- F. BWCs shall be worn on the outer-most garment. It will be secured to the garment using the mount/clip supplied by the manufacturer that is part of the BWC equipment. The BWC will be positioned high on the center of the chest at badge level, facing the officer's point of view. Officers (and detectives temporarily assigned to patrol) are responsible to ensure the BWC remains in a position to allow the recording of an encounter or incident to the extent possible.
 - 1. In order to minimize audio and/or video interference with the unit, do not affix the portable radio microphone near the BWC on any exterior garment.
 - 2. BWCs shall not be used in covert mode without supervisory approval.
 - 3. Officers can only power off their BWCs when investigating bomb threats or suspicious packages under the same circumstances where utilization of a portable radio is prohibited due to concerns that radio transmissions could potentially cause a detonation but, must immediately power on when safe to do so.
 - 4. Officers will dock their BWC for download to a docking station upon completion of their shift.

- G. Under no circumstances shall officers simply refer to a BWC recording on an investigation report instead of detailing the facts and circumstances of their investigation/observations. Officers shall appropriately tag the recording and document that a BWC was used on the *BWC Checkout/Activity Log* and in the narrative of their report if they're required to complete one for the incident.
- H. Officers shall label every BWC recording with one of the following tags:
1. S.A.T.F. – substance abuse treatment facility; Note: if incident occurs at a substance abuse treatment facility the officer shall select the S.A.T.F. tag over any other options.
 2. Children – A child, youth facility, school;
 3. Home/Apt. -Place where individual lives including apartments, motels, etc.;
 4. Victim – Crime victim;
 5. None – There is no special privacy issue;
 6. Pre-test – Test the BWC for functionality;
 7. NARC/CI – Undercover or confidential informant;
 8. SERT/TAC – SERT or tactical operation;
 9. Denied Deact – Denied deactivation;
 10. Monitor – Police computer monitor showing L.E. sensitive information;
 11. Strategy – Discussing L.E. strategy for the investigation;
 12. Church – Any house of worship for any religion.
- I. Supervisors are responsible for ensuring that on-duty officers are equipped with functioning BWCs at the beginning of each shift and shall ensure that all officers follow established procedures for the use and maintenance of the BWC equipment and completion of all BWC required documentation. Supervisors shall also:
1. Conduct monthly quality control reviews of their assigned officers' BWC recordings to assess officer performance, determine whether BWC equipment is being fully and properly used, and to identify material that may be of value for training purposes.
 - a. Such monthly reviews will be documented on a *BWC Supervisory Review Form* and in the officer's performance evaluation and/or addressed in a commendation or performance notice.
 - b. Any issues discovered during the review will be documented and attached to the *BWC Supervisory Review Form* and forwarded to the Operations Division Commander in compliance with departmental general orders.

2. Ensure documentation of damaged or nonfunctional BWC equipment is completed and forwarded to the Administrative Division Commander or his/her designee.
3. Supervisors must understand that minor isolated/non-repetitive infractions (not criminal in nature) discovered while reviewing the recorded material should be viewed as training opportunities and not as routine disciplinary actions. Should the behavior or action become habitual after being informally addressed the appropriate disciplinary or corrective action shall be taken. If the failure to properly utilize the BWC equipment is confirmed during an IA investigation such incident shall be viewed as a new allegation.
4. An authorized supervisor may review the BWC file containing a recording of any specific incident involving a subordinate under his/her command. An authorized supervisor may also review other BWC files to determine the past performance of any officer under his/her command. Such recordings include, but are not limited to:
 - a. The documentation requirements for motor vehicle stops;
 - b. Where applicable, the legal standards for the following:
 - 1) A frisk;
 - 2) A request for consent to search (even if denied);
 - 3) Conducting a consent search;
 - 4) Conducting a non-consensual warrantless search;
 - 5) Requesting a drug detection canine;
 - 6) Requesting an occupant to exit the vehicle;
 - 7) An arrest;
 - 8) A warrantless seizure.
 - c. Patrol procedures (observing safe patrol practices during the performance of duties);
 - d. Radio procedures;
 - e. Use of force procedures;
 - f. Use of BWC equipment;
 - g. Civilian complaint procedures, including the prohibition against discouraging civilian complaints.
5. If the authorized supervisor determines that the conduct recorded complies with the above-noted procedures, then he/she shall:

- a. Note such satisfactory performance on an *BWC Supervisory Review Form*;
 - b. Forward the completed *BWC Supervisory Review Form* to the Operations Division Commander.
 6. Performance deficiencies shall be recorded on the *BWC Supervisory Review Form*. Performance deficiencies shall be immediately addressed by one or more of the following interventions:
 - a. Training;
 - b. A special report to the Chief of Police via the chain-of-command;
 - c. Special BWC review to review a greater number of incidents than called for in the random BWC review schedule.
 - d. Direct counseling intervention between the supervisor and the officer.
 7. All deficiencies shall be documented and attached to the *BWC Supervisory Review Form*. Forward the completed *BWC Supervisory Review Form* to the Operations Division Commander.
- J. If an authorized supervisor or his/her designee determines that the conduct recorded reasonably indicates misconduct similar to the types set forth below, then the authorized supervisor or his/her designee will record the conduct on the *BWC Supervisory Review Form* and immediately contact the internal affairs officer. Forward the *BWC Supervisory Review Form* to the internal affairs officer. The internal affairs officer will cause the BWC file to be tagged, thereby precluding access to the file from those who are not authorized under the internal affairs function. Actions of misconduct consist of any the following:
1. Prohibited discrimination;
 2. An unreasonable use of force or a threat of force;
 3. A Constitutional violation;
 4. A criminal act;
 5. An intentional provision of false information in a misconduct investigation or in any report, log, or transmittal of information to communications;
 6. Failure of any officer to report observed misconduct, as set forth above, on the part of another officer.
- K. Special BWC review:
1. A special BWC review schedule is a temporary schedule for reviewing a greater number of BWC files for an officer than otherwise would occur pursuant to an incident specific or random review.

2. A special BWC review schedule shall be implemented by the Chief of Police, Operations Division Commander, Administrative Division Commander or sergeant, or any of their designees pursuant to any of the following:
 - a. A review of the work performance of an officer;
 - b. As part of the disposition of a substantial misconduct proceeding;
 - c. A determination made as a result of any BWC review.
 3. A special BWC review schedule as well as the reason for the special BWC review will be documented in the form of a special report.
 4. Supervisors shall complete a *BWC Supervisory Review Form* when reviewing BWC files pursuant to a special BWC review schedule.
- L. Command level personnel:
1. The Chief of Police and the Deputy Chief of Police reserve the right to review any BWC recordings.
 2. Division commanders are authorized to review any BWC recordings which are not tagged by Internal Affairs.
 3. The PSU Lieutenant is authorized to review any BWC recordings not tagged by Internal Affairs for the purposes of developing and identifying training objectives and deficiencies.
- M. Sergeants monthly review procedures of BWC recordings:
1. Sergeants shall complete one *BWC Supervisory Review Form* for every one of their assigned patrol officers. The forms for the previous month will be submitted to the Operations Division Commander by the 21st of every month.
 2. The *BWC Supervisory Review Form* will include four randomly selected recordings from the officers' previous months' workload. These recordings will be selected by utilizing a set formula promulgated by the Operations Division Commander.
 3. Sergeants are responsible for viewing four randomly selected recordings, or two hours' worth of recordings, whichever comes first, each month for each officer in their respective squad. This includes any probationary officers assigned to a field training officer in their squad.
 4. Each randomly selected recording will be listed on the *BWC Supervisory Review Form* and will include the case number, job type and the duration/length of recording.
 5. The *BWC Supervisory Review Form* contains seven questions that will be answered Yes, No or N/A as it pertains to each recording.

6. Any positive or negative actions shall be detailed on an attached narrative and forwarded to the Operations Division Commander.
- N. Patrol lieutenants monthly review procedures of BWC recordings:
1. The supervising patrol Lieutenant will complete one *BWC Supervisory Review Form* each month for two randomly selected patrol supervisors.
 2. The patrol supervisor's recordings will be selected by utilizing a set formula promulgated by the Operations Division Commander.
 3. Patrol lieutenants will periodically audit the *BWC Supervisory Review Forms* completed by their respective patrol supervisors.
 4. Any positive or negative actions shall be detailed on an attached narrative and forwarded to the Operations Division Commander.

V. RECORDS RETENTION AND REVIEW

- A. Viewing of BWC events is strictly limited to sworn officers of this department. Viewing by any other person is prohibited unless authorized by the Chief of Police, a designee, or consistent with the provisions of this written general order.
- B. No law enforcement officer or civilian employee of this department shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose. Access to and use of a stored BWC recording is permitted only:
1. When relevant to and in furtherance of a criminal investigation or prosecution;
 2. When relevant to and in furtherance of an internal affairs investigation;
 3. When relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of possible misconduct;
 4. To assist the officer whose BWC made the recording in preparing his or her own police report (NOTE exception in section V.F.3 of this general order, see 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 to a civilian who intends to file a complaint against an officer to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint;
 7. To comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court;
 - a. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.

- b. Only those portions of the recording pertinent to the request shall be forwarded.
 - c. The Brick Township Police Department reserves the right to redact BWC recordings as applicable by law.
 - d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing ordinance.
 - 8. To comply with any other legal obligation to turn over the recording to a person or entity;
 - 9. For training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video unless the depicted individuals have consented to the recording being used for training purposes;
 - 10. To show or disseminate the recording to a civilian or a non-law enforcement entity or to disseminate it to the public, where the Ocean County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her 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;
 - 11. To conduct an audit to ensure compliance with this general order;
 - 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 Ocean County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee; or
 - 13. Any other specified official purpose where the Ocean County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.
- C. Personnel shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. Any such tampering is a violation of N.J.S.A. 2C: 28-7 and is a 4th degree crime.
- D. Recordings shall be maintained and disposed of in accordance with New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
- 1. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes, recordings shall be retained for a period of at least 90 days.
 - 2. Evidential recordings shall remain tagged for permanent retention on the BWC server until needed. When needed for criminal, civil, or administrative purposes, such recordings shall be transferred to a DVD/CD/Blue Ray and stored as evidence or maintained with the case file.

3. Recordings being stored for criminal, civil, or administrative purposes must be maintained until the conclusion of the case. Recordings maintained for these purposes can only be erased or destroyed in accordance with New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
- E. The Chief of Police or his/her designee shall notify the Ocean County Prosecutor's Office within one business day upon receiving any subpoena, court order or OPRA request for a BWC recording before complying with it. Such notice shall clearly indicate the deadline by which a response must be made.
 - F. A BWC recording of an event or encounter that involves an investigation of a criminal offense shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or 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 the Chief of Police in consultation with the Ocean County Prosecutor or his/her designee determines that the person's/entity's/non-law enforcement agency's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.
 1. If disclosure of a BWC recording as part of the state's discovery obligations in a prosecution might present a danger to any 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 Ocean County Prosecutor or his/her designee shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or court rule to protect the information from disclosure, such as by seeking a protective order from the court.
 2. A BWC recording tagged pursuant to section IV.H of this general order shall not be accessed, viewed, copied, disseminated, or otherwise used except by the officer whose BWC recorded the incident, supervisors, personnel assigned to the criminal investigations bureau and internal affairs bureau.
 3. The assistant prosecutor overseeing a law enforcement use of force investigation pursuant to *Attorney General Law Enforcement Directive 2006-5*, or his or her designee, may in the exercise of sound discretion authorize a civilian or law enforcement witness to be given access to or view a BWC recording of the incident under investigation. To ensure the integrity of investigations 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, notwithstanding any other provision of this general order, no civilian or law enforcement witness, (including the principals) of the investigation, shall be given access to or view a BWC recording of the incident, or a BWC recording of the response or on-scene investigation of the incident, without the expressed prior approval of the assistant

prosecutor, assistant or deputy attorney general, or designee.

- G. The Administrative Services Division Commander or his/her designee shall maintain a record of all BWC recordings that are accessed, viewed, copied, disseminated, or deleted. The Chief of Police shall cause a periodic audit of these records to ensure compliance with this general order. Minimally, the record keeping system shall document the following information:
 - 1. The date and time of access;
 - 2. The specific recording(s) that was/were accessed;
 - 3. The officer or civilian employee who accessed the stored recording;
 - 4. The person who approved access, where applicable; and
 - 5. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.
- H. In the event that a recording is required for use in court or by another law enforcement agency, that recording shall not be released outside the restrictions established in this general order without the prior approval of the Chief of Police or his/her designee and only if the original or a duplicate copy is retained by the department.
 - 1. Duplicate copies shall remain tagged for permanent retention on the BWC server or maintained as evidence in accordance with this department's property and evidence guidelines.
 - 2. The property/evidence custodian shall ensure that any media used for duplicate recordings is properly stored to avoid corruption in the property room.
- I. Officers shall not reproduce or store any recordings to any device or storage medium. This shall include, but not limited to, cell phones, electronic notebooks, etc.
- J. Recorded video of unusual or significant incidents, deemed to be beneficial for departmental training, may be utilized for departmental in-service training purposes only with the approval of the Chief of Police.