


FRANKLIN TOWNSHIP POLICE GENERAL ORDER		
SUBJECT: BODY WORN CAMERAS		
EFFECTIVE DATE: February 14, 2022	NUMBER OF PAGES: 22	
ACCREDITATION STANDARDS: 3.5.5	BY THE ORDER OF: Director of Public Safety <i>Luonella Macweather</i>	

PURPOSE The purpose of this general order is to maintain uniform guidelines for the lawful use and operation of the agency-authorized body worn camera recording system (BWC). The goals and objectives in deploying BWCs is the accurate documentation of interactions between law enforcement and members of the public, arrests, and other critical incidents. Further, this general order maintains protocols for the maintenance, storage, and preservation of recordings to maintain the lawful chain of custody. This general order does not govern the use of surreptitious recording devices used in undercover operations.

POLICY It is the policy of the Franklin Township Police Department to utilize body worn video/audio cameras (BWC) to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident.

All sworn personnel shall use this equipment consistent with manufacturer’s guidelines, applicable laws and statutes, this general order, and those policies, directives or guidelines issued by the New Jersey Attorney General and the Somerset County Prosecutor’s Office. Failure to use this technology in accordance with this general order, applicable laws and statutes, and those policies, directives or guidelines issued by the New Jersey Attorney General and Somerset County Prosecutor’s Office can result in disciplinary action. Any willful or repetitive violations of this general order shall be promptly reported to the Somerset County Prosecutor’s Office.

The Franklin Township Police Department website/webpage shall contain a clear statement that this department utilizes body worn cameras. The website/webpage posting shall include an image showing what the device looks like and how it is to be worn by uniformed officers so that civilians 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. Advisement – a statement made by an officer at the outset of using a BWC camera to record a communication, conversation, or interaction with a civilian for the specific purpose of informing the civilian that the communication or conversation is being recorded.
 3. Body worn audio/video recorder (BWC) – is 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).
 4. Consent – Consent to record shall be considered obtained when the recording party (officer) has announced to all other parties engaged in the communication or conversation, in any reasonably effective manner, that the communication or conversation is being recorded. This announcement itself to the other parties must also be recorded.
 5. Constructive authority – involves the use of an officer's authority to exert control over a subject (see this department's general order on *Use of Force*), except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g., "...*show me your hands*," "...*get out of the vehicle*", etc.), or directed against any person if the officer has unholstered a firearm or CED (e.g., "...*move out of the way*", "...*get down*", etc.).
 6. Deactivate – means to shut off the recording mode of a BWC.
 7. Equipped with a BWC – means that an officer is wearing a BWC at the time in question, as opposed to simply receiving BWC equipment from the agency.
 8. Force – has the same meanings as defined in this department's general order on *Use of Force*.
 9. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, or operating while intoxicated 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.

10. Proactive enforcement team – includes officers who are typically assigned to target vice, drugs, organized street crime, violent crime and/or any other targeted enforcement. Unlike officers who are responsible for responding to traditional calls for service, these officers are typically assigned the singular responsibility of addressing these activities (e.g., street crime unit, crime suppression unit, etc.). The nature of their work may include being dressed in traditional uniform, modified uniform, or plain clothes. These officers may work alongside undercover officers, conduct surreptitious surveillance, engage in high intensity enforcement via motor vehicle/pedestrian stops and/or interact with confidential informants or witnesses who wish to remain anonymous.
11. School – means a public or nonpublic elementary or secondary school within this State offering education in grades kindergarten through 12, or any combination of grades, at which a child may legally fulfill compulsory school attendance requirements.
12. Serious bodily injury – means bodily injury which creates a substantial risk of death, or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. For purposes of this general order, serious bodily injury and serious bodily harm have the same meaning.
13. Significant bodily injury – means bodily injury which creates a temporary loss of the function of any bodily member or organ or temporary loss of any one of the five senses.
14. Subject of the video footage – means any law enforcement officer, suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body worn camera recording and shall not include a person who only incidentally appears on the recording.
15. Substantive report – means a report that includes a detailed accounting of the incident. It does not include a report which simply refers to other reports or to the existence of BWC or other camera recordings.
16. Tactical team – is a group of officers who are specially selected, trained, and equipped to handle high-risk incidents including, but not limited to, those involving snipers, barricaded persons, warrant services, apprehensions, acts of terrorism, and other situations or activities as deemed necessary by command leadership.
17. Tagging – is an electronic labeling of an electronic file captured by a BWC.
18. Undercover officer – is a law enforcement officer operating with an assumed identity and/or disguise for the purposes of gaining the trust of an individual or organization to learn or confirm confidential information or to gain the trust of targeted individuals to gather information or evidence. Plain-clothed officers and detectives are not considered undercover officers unless working with an assumed identity and/or disguise.
19. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, residential and/or treatment facilities, etc.

II. GENERAL ADMINISTRATION

- A. While visual and audio evidence can be captured on the recordings, the use of BWC is not intended to document all evidentiary material relevant to court or administrative proceedings, but it can serve to supplement an officer's senses and eyewitness account. There is no intent to utilize the BWC as a management tool to punish officers for minor departmental rule infractions.
1. Officers shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
 2. BWC shall only be utilized for legitimate law enforcement purposes.
- B. 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.
 2. The recordings can be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
 3. The recordings can resolve disputes concerning what occurred during incidents, thereby protecting both the public and the officers involved.
 4. When complete recall is not possible, such as when multiple events are happening simultaneously or out of an officer's line of sight, an audio/visual recording can provide an accurate record of events.
 5. Subject to the viewing restrictions in this general order, 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.
 6. Recordings can permit supervisors to undertake more meaningful performance evaluations.
 7. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the public.
 8. Recordings enhance management's ability to train personnel in proper police procedures.
- C. Repairs to any BWC equipment shall only be performed under the direction of the Professional Standards Commander or his/her designee.
- D. The Office of Professional Standards Commander shall maintain a training program on the lawful and proper use of BWC equipment (see below). Only officers who have received training in the use of BWC are permitted to use this system and must demonstrate a satisfactory degree of familiarity and efficiency in the use of this system. The proper use of a BWC is considered an essential job function.

1. Initial training shall be provided to all newly hired officers in the field training and evaluation program or to officers who have not been previously trained.
 2. The BWC user manual shall be posted on DMS. All users must acknowledge receipt of this user manual.
 3. Yearly or when software is updated refresher training will be provided to ensure continued effective use and operation of the equipment, and to incorporate changes, updates, or other general order revisions as necessary or required.
 4. Supervisors shall provide remedial training to any officer who has demonstrated a lack of knowledge of the proper use of BWC or as part of a disciplinary matter.
- E. BWC 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.
- F. All recording media, images, audio, and related metadata are the intellectual property of the Franklin 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 Director of Public Safety.
- G. Under no circumstances will any employee of the Franklin Township Police Department make a personal copy of any recorded event without the permission of the Director of Public Safety or in accordance with section V of this general order.
- H. Officers will use only those devices approved and issued by the Director of Public Safety. Franklin Township Police Department BWCs are not able to record images or conversations that cannot be seen or heard by the officer wearing the device (e.g., infrared night vision or thermal imaging, sound amplification that would record conversations occurring at a remote distance) without the expressed approval of the Somerset County Prosecutor or his/her designee. Wearing any personally owned video/audio recorder is not authorized without the expressed permission of the Director of Public Safety, the Somerset County Prosecutor's Office, or the New Jersey Division of Criminal Justice.
- I. This department will not tolerate the reliance by any officer on race, ethnicity, gender, gender identity, gender expression, sexual orientation, religion, economic status, age, culture, LGBTQ+ status, or any other immutable characteristic of a group or class of persons, in determining whether to activate or deactivate a BWC.
- J. 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 BWCs.
 2. BWCs shall be used only in conjunction with official law enforcement duties. BWCs shall not be used to record:
 - a. Encounters with undercover officers or confidential informants; or
 - b. Strip and body cavity searches; or

- c. When the officer is on break or otherwise engaged in personal activities; or
 - d. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room; or
 - e. When the officer is involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction; or
 - f. When the officer is engaged in police union business; or
 - g. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording, see section III.B of this general order; or
 - h. While discussing criminal investigation strategies.
3. Officers are not required to wear and use a BWC:
- a. When engaged in hostage negotiations.
 - b. When processing crime scenes.
 - c. When conducting searches of cellphones, tablets, computers, or other electronic devices pursuant to a search warrant, when such items have already been seized and the search is performed at a location other than the premises of the initial search and seizure.
 - d. When conducting searches of cellphones, tablets, computers, or other electronic devices that are suspected to contain images of child sexual exploitation.
4. BWCs shall not be used surreptitiously.
5. BWCs shall not be used to gather intelligence information based on 1st Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public, except in accordance with any applicable guidelines or directives promulgated by the New Jersey Attorney General.
6. Any recordings from a BWC recorded in conflict of this general order or any other applicable law shall be immediately brought to the attention of the command staff and immediately destroyed by the command staff following consultation and approval by the Somerset County Prosecutor or Director of the Office of Public Integrity and Accountability. Such recordings shall not be admissible as evidence in any criminal, civil, or administrative proceeding, except as evidence in any proceeding related to the unauthorized use of a BWC.

III. INCIDENTS TO RECORD

- A. BWCs allow for a clearly documented, first-hand, and completely objective account of an incident and will produce the maximum amount of information regarding the incident to be captured. Therefore, all personnel assigned to or assisting in that event shall activate their BWC prior to exiting their vehicle or when the officer activates their vehicle emergency lights and sirens.
- B. Except when otherwise restricted in this general order, officers shall video and audio record all law enforcement activity including any interaction with a civilian. However, if an immediate threat to the officer's life or safety makes activating the BWC impossible or dangerous, the officer shall activate the body worn camera at the first reasonable opportunity to do so. Examples of such required recordings include, but are not limited to:
1. All traffic stops from the initiation of the stop until the stop is concluded, including sobriety testing.
 2. Investigative detentions / field interviews.
 3. Any call for service related to a violation or suspected violation of possessing or consuming alcohol, marijuana, hashish, or cannabis item.
 4. An officer is responding to a call for service and prior to exiting their vehicle to which the officer has been dispatched.
 5. The officer is conducting a motorist aid or community caretaking check including EDP encounters.
 6. Stationary police details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, etc.
 7. Crime scenes except for crime scene processing.
 8. Motor vehicle and foot pursuits.
 9. Interviews of witnesses when conducting investigations of criminal violations (not to include undercover investigations or related surveillance activities).
 10. Out-of-court identifications (i.e., show ups and lineups).
 11. When conducting a custodial interrogation of a suspect unless the interrogation is otherwise being recorded in accordance with *R. 3:17 (electronic recordation of stationhouse interrogations)*.
 12. Warrantless searches (all types, including frisks, canine sniffs, and consent searches, but not strip or body cavity searches).
 13. Search or arrest warrant execution (entire execution).
 14. Arrests.

15. Arrestee/prisoner or EDP transportation, whether to a law enforcement facility, county jail or other place of confinement, or to a hospital or other medical care, screening, or mental health facility.
 16. Drug recognition expert (DRE) evaluations.
 17. Overdose and suspected overdose investigations.
 18. Emotionally disturbed person investigations / encounters.
 19. When an 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 subsection based on specific and articulable facts warranting heightened caution (must be documented by narration on the recording and/or in any incident report; i.e. drop the knife, stop resisting, etc.).
 20. When an officer is involved in a vehicle collision or investigating a motor vehicle crash, including subsequent actions at the scene.
 21. Domestic violence investigations, neighborhood disputes, noise complaints, disorderly conduct investigations, suspicious person/vehicle investigations.
 22. Crowd control, unruly crowds, or any incident requiring activation of the all-hazards or emergency operations plan.
 23. Strikes, picket lines, demonstrations.
 24. When an officer is engaged in a police response to any type of civil disorder in circumstances when 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.
 25. When an officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.
 26. Any contact that becomes adversarial when the body camera has not already been activated.
 27. Any contact with a person who is known to complain about officers' actions.
- C. BWCs should be activated prior to exiting the vehicle to any incident listed in subsection III.B (above) or when engaged in any self-initiated activity involving similar incident listed above.
- D. 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 unless impracticable.

- E. Notwithstanding any other provision of this general order, an officer while at the scene of a police deadly-force event, pursuit resulting in a death or serious bodily injury, in-custody death, or the on-scene investigation of such events shall not deactivate his/her BWC unless instructed to do so by the independent investigator supervising the investigation of the incident pursuant to *Attorney General Law Enforcement Directive 2019-4*. The independent investigator or his/her designee supervising the investigation can provide such instruction telephonically.
- F. BWCs shall remain activated for the entire duration of a civilian contact required in section III.B above until the officer has departed the scene and the officer has notified dispatch that the event is closed in CAD.
- G. When a BWC is activated to transport an arrestee/prisoner, it shall remain activated at all times while the BWC-equipped officer is in the presence of the arrestee/prisoner and until the arrestee/prisoner is secured in the cellblock area, 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.
- H. When wearing a BWC, officers shall notify the subject of the recording that they are being recorded unless it is unsafe or unfeasible to provide such notification. Such notification shall be made as close to the inception of the encounter as is reasonably possible.
 - 1. Prior to entering a private residence, officers shall notify the occupant that the occupant is being recorded and, if the occupant requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that the officer will be required to use constructive authority or force.
 - 2. When interacting with an apparent crime victim, officers shall, as soon as practicable, notify the apparent crime victim that he or she is being recorded and, if the apparent crime victim requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC.
 - 3. When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, if the person requests that the officer discontinue use of the body worn camera, officers shall evaluate the circumstances and, if appropriate, discontinue use of the BWC.
 - 4. 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 in the investigation report of the incident and/or by narrating the reasons on the BWC recording.
 - 5. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.

- I. 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 Somerset County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, has expressly authorized the officer to make a covert electronic recording.
 1. Officers may deactivate a BWC when a civilian conversing with the officer requests that the device be turned off under circumstances when it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected.
 - a. Officers shall not suggest to the person that the BWC should be deactivated; nor shall the officer ask the person whether he or she 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, is seeking emergency medical services for him or herself or another and requests that the BWC be deactivated. 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.). However, in situations when an officer reasonably believes that the officer or another person is likely to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.
 3. When an officer deactivates a BWC:
 - a. The conversation between the officer and the civilian concerning the request for deactivation should be electronically recorded; and
 - b. The officer before deactivating the BWC shall narrate the circumstances of the deactivation; and
 - c. The officer shall report the circumstances concerning the deactivation to the shift commander as soon as is practicable and the officer shall document the circumstances of the deactivation in any incident report or CAD notes (if applicable) concerning the incident under investigation, including the time of activation and/or deactivation.
 4. If an officer declines a request to deactivate a BWC, the reasons for declining the request must be memorialized on the recording and documented and shall be reported to the shift commander as soon as it is safe and practicable to do so.

- a. If the officer declines a deactivation request, the officer immediately shall 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 Somerset County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, expressly has authorized covert recording.
5. Officers can deactivate a BWC when specifically authorized to do so by an assistant prosecutor or deputy attorney general for good and sufficient cause as determined by the assistant prosecutor/deputy attorney general. When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor or deputy attorney general who authorized the deactivation (e.g., "...I am now turning off my BWC as per the instruction of assistant prosecutor (insert name).").
 6. 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 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). Officers assigned to a school (e.g., school resource officer) should not activate their BWC unless involved in any incident listed in section III.B of this general order.
 7. If a BWC captures the image of a patient in a substance abuse treatment facility, the Director of Public Safety or his/her designee shall notify the Somerset 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 Somerset 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.)
 8. In any instance when a BWC was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so when the circumstances justifying deactivation no longer exist (e.g., the interview of the person requesting deactivation is completed, etc.) and the officer would otherwise be required to activate the BWC.
- J. 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 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 require that the encounter/incident be recorded, in which event the officer shall inform their supervisor that the image of an undercover officer or confidential informant was recorded.

- K. Officers shall not activate a BWC while in a courtroom during court proceedings, unless the officer is responding to a call for service, is authorized to use constructive force or authority, or unless the presiding judge expressly authorizes such activation.
- L. BWC 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. 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.
- M. When a BWC is activated, officers are encouraged to provide narration when practical and appropriate to augment the value of the recording and to provide clarity for the viewer.
- N. Non-law enforcement personnel shall not be allowed to review the recordings at the scene of contact. 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.
- O. If an officer fails to activate the BWC, fails to record the entire event contact, or interrupts the recording, the officer shall document in the applicable report the reason why a recording was not made, was interrupted, or was terminated. The officer's supervisor shall initiate an early warning record noting the circumstances surrounding these violations and the corrective action the supervisor has taken.

IV. OFFICER AND SUPERVISORY RESPONSIBILITIES

- A. Each patrol and traffic officer will be issued a BWC. Such officers will store, charge, and upload their BWC in its docking station.
- B. Officers shall wear and utilize the BWC consistent with the requirements and restrictions in this general order throughout their shift.
 - 1. Officers are not required to activate their BWCs in police headquarters unless they are investigating a walk-in complaint or other similar related functions.
 - 2. Detectives, SROs, and administrative/command personnel shall wear BWCs when conducting arrests and while engaged in field duties (e.g., patrol coverage, search warrant executions, raids, etc.) consistent with the requirements and restrictions in this general order.
 - 3. BWCs shall be worn and used in accordance with this policy on all extra duty assignments
 - 4. Officers shall also wear and use a BWC consistent with this general order when:
 - a. On aggressive driving, DWI interdiction assignments, or other proactive enforcement team.

- b. When assigned to front desk assignments and interacting with the public on a law enforcement matter.
 - c. When assigned to or assisting any tactical team in the field.
 - d. When assigned to duties at demonstrations or potential civil disturbances.
- C. Officers shall not utilize the BWC of another without the expressed permission of the shift commander and after the shift commander has documented the transfer of the BWC in the AXON software.
- 1. Prior to beginning a shift, officers assigned a BWC will ensure its readiness by conducting an operational inspection and ensure that there is a fully charged battery. Officers shall test all BWC components.
 - 2. When conducting the pre-shift inspection, the officer shall activate the BWC and verbally state the date, time, his/her name, ID number, unit of assignment, and that a test is being performed on the unit.
 - 3. After deactivation, officers will review the video to verify the audio and video test recorded properly.
 - 4. Malfunctions shall be promptly reported to the shift commander.
 - a. The officer or shift commander shall immediately notify the Professional Standards Commander or his/her designee by email noting the serial number of the defective device and the nature of the problem or malfunction.
 - b. Devices found not to be in proper working order shall not be deployed under any circumstances. For devices not working the device shall be placed in the PSD mailbox and email sent to the PSD Commander or his/her designee.
 - c. The shift commander or his/her designee is authorized to issue a spare BWC, when necessary. The shift commander shall assign the spare BWC to the officer in the AXON software.
 - d. Once the spare BWC is returned, the shift commander shall ensure that the AXON software is updated showing its return.
 - 5. Officers will dock their BWC for download to the BWC docking station upon completion of their shift to upload its contents to the BWC server.
 - 6. No officer or other police employee shall conduct him/herself in any way that would intentionally interfere with any data upload from occurring. If an officer or police employee is found to have intentionally interfered with any upload, an internal affairs investigation shall be initiated.

- D. All officers assigned a BWC are responsible for its use and maintenance during their tour of duty. If during an officer's shift, any portion of the BWC malfunctions, the officer will immediately notify the shift commander and email the Professional Standards Commander of the issues.
- E. A BWC used by a law enforcement officer shall be placed so that it maximizes the camera's ability to capture video footage of the officer's activities. This may include placement on helmets, vests, or other such location so long as the device is secured properly and will maximize the device's recordation function.
 - 1. Officers cannot alter the positioning of the BWC without the expressed written consent from the Director of Public Safety or his/her designee. The officer must submit a written request detailing his/her desire and reasons to reposition the BWC to the Director of Public Safety or his/her designee prior to any approval.
 - 2. Though other mounting options are available, wearing the BWC as required would provide an audio/video recording of an incident that most closely resembles the view of the incident comparable to the officer's perspective. Optional mounting options are available through AXON and must be approved prior to use.
 - 3. Officers are only authorized to cover the unit with an outer garment if inclement weather conditions involving precipitation make it likely that exposure to the elements could damage the unit. If this action is necessary, the BWC shall remain activated to capture audio of the incident.
- F. Officers are responsible to ensure the BWC remains in a position to allow the recording of an encounter or incident.
- G. When video/audio footage is captured involving any part of an event resulting in a substantive report, officers will need to label the recording. Officers should only label recorded events resulting in a substantive report, an incident listed in subsection IV.H (below), or an event that may result in a future complaint. In addition, officers must create a case and attach each video/audio recording related to the incident. Officers must label all recordings that require a label prior to the end of their shift if call volume permits. Any recording not labeled by the end of the shift must be taken care of at the commencement of the officer's next shift.
 - 1. When labeling a recording, enter the police case number or incident number when applicable.
 - a. Under the ID section click 'Add' and enter the appropriate case number.
 - b. Under the 'Categories' section, select the appropriate category for the incident.
 - 2. BWC recordings are not a replacement for written reports. Under no circumstances shall officers simply refer to a BWC recording on an incident report instead of detailing the facts and circumstances of their investigation/observations.

3. The Professional Standards Commander or his/her designee is authorized to reclassify any recording, when necessary.
- H. To identify BWC recordings that may raise special privacy or safety issues, officers shall appropriately tag recordings that:
1. Captured a law enforcement incident, as defined in *New Jersey Attorney General Directive 2019-4*:
 - a. Any use of force by a law enforcement officer resulting in death or serious bodily injury.
 - b. Any use of deadly force (including the discharge of a firearm) by a law enforcement officer, regardless of whether such force resulted in injury.
 - c. The death of any civilian during an encounter with a law enforcement officer; and
 - d. The death of any civilian while in the custody of law enforcement.
 2. Captured the image of a victim of a criminal offense.
 3. Captured the image of a child.
 4. Were made in a residence (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship.
 5. Captured a conversation with a person whose request to deactivate the BWC was declined.
 6. Captured a special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded.
 7. Captured the image of an undercover officer or confidential informant; or
 8. Captured the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
- I. Shift commanders are responsible for ensuring that on-duty officers are equipped with functioning BWCs at the beginning of each shift.
- J. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the shift commander will tag the video/audio for indefinite retention.
- K. Supervisors are responsible for reviewing at least one of each of their subordinate's BWC events per calendar month to assess officers' performance and adherence to written directives and established professional standards, and to identify other training needs.
1. Supervisors shall complete a *Supervisory Review of Digital Video/Audio*

- Recordings Form* and initiate an early warning record documenting any negative activities observed. This should include any recommendations for training and/or discipline resulting from the observations.
2. The forms shall be forwarded to the Professional Standards Commander through the chain of command.
 3. The Professional Standards Commander or his/her designee shall retain all completed reports.

V. RECORDS RETENTION AND REVIEW

- A. Viewing of BWC events is limited to sworn officers of this department. Viewing by any other person is prohibited unless authorized by the Director of Public Safety, his/her designee, or consistent with the provisions of this general order.
- B. BWC recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- C. 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, use of, and receiving an account 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/her **own** substantive police report, providing a statement, or submitting to an interview, **except**:
 - a. The incident involves the use of force by the officer, when the officer knows or should know that the use of force resulted in significant or serious bodily injury or death; or
 - b. The incident involved the discharge of a firearm or any use of deadly force by the officer (see this agency's general order on *Use of Force*); or
 - c. The incident involved the death of a person while in law enforcement custody; or
 - d. The incident involved the death of a person during an encounter with a law enforcement officer; or
 - e. An incident the officer knows or has been advised is or will be the subject of an internal affairs or civilian complaint relating to the officer's use of force, bias, or dishonesty.

- f. Whenever an officer reviews or receives an accounting of a BWC recording prior to the creation of any report, statement, or interview, the officer shall acknowledge that prior review or receipt of an accounting of the BWC recording either verbally or in writing within each such report, statement, or interview.
 - 1) The officer shall document each BWC recording that was reviewed and the date of the review.
 - 2) If the officer received an accounting of a BWC recording, the officer shall document the name of each person who provided an accounting of the BWC recording, the date of the accounting, and the specific BWC recording for which an accounting was provided.
- g. Officers shall only be permitted to review or receive an accounting of such BWC recordings once the investigating entity concludes that (a) the officer has in fact completed the specified incident memorialization and (b) the officer's review or receipt of an accounting of the BWC recording will not otherwise interfere with the ongoing investigation.
 - 1) In cases subject to *Attorney General Directive 2019-4*, the independent investigator is the investigating entity.
 - 2) In all other cases, the Professional Standards Commander or his/her designee is the investigating entity.
 - 3) The appropriate investigating entity shall document the authorization to review or receive an accounting of a BWC of a specified incident.
- 5. When relevant to a supervisor's review of 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 occurred during the encounter so that the person can make an informed decision whether to file the complaint.
 - a. Unless extreme circumstances, this shall be done by internal affairs.
- 7. To comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court.
 - a. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.
 - b. Only those portions of the recording pertinent to the request shall be forwarded.
 - c. This agency reserves the right to redact video as applicable by law.
 - 1) NOTE: when providing discovery in a domestic violence matter, ensure that the recording is reviewed prior to release

to verify that there is no confidential information that should be redacted.

- 2) This confidential information includes, but is not limited to, the location where the victim is being sheltered or contact phone numbers for those assisting the victim, etc.
 - d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing city ordinance.
 8. To comply with any other legal obligation to turn over the recording to a person or entity.
 9. Solely and exclusively for internal training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video, unless the depicted individuals have consented to the recording being used for training purposes:
 - a. Note: consent is not required from Franklin Township police officers appearing in the recording.
 - b. Recordings retained beyond 180 days solely and exclusively for training purposes shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.
 10. To 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 his/her designee, or the Director of the Division of Criminal Justice or his/her designee.
 11. 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 his/her designee, or Director of the Division of Criminal Justice or his/her designee, determines that disclosure to that person entity or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.
 12. To conduct an audit to ensure compliance with this general order.
 13. Any other specified official purpose when the Somerset 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.
- D. Officers/employees shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. Officers/employees shall not instruct another to alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. If an officer, employee, or agent fails to adhere to the recording or retention requirements contained in this general order or N.J.S.A. 40A:14-118.5 et seq., or intentionally interferes with a BWC's ability to accurately capture audio or video recordings.
1. The officer, employee, or agent shall be subject to appropriate disciplinary

action; and

2. There shall be a rebuttable presumption that exculpatory evidence was destroyed or not captured in favor of a criminal defendant who reasonably asserts that exculpatory evidence was destroyed or not captured; and
 3. There shall be a rebuttable presumption that evidence supporting a plaintiff's claim was destroyed or not captured in favor of a civil plaintiff suing the government, a law enforcement agency, or a law enforcement officer for damages based on police misconduct if the plaintiff reasonably asserts that evidence supporting the plaintiff's claim was destroyed or not captured.
 4. Any recordings from a BWC recorded in conflict of N.J.S.A. 40A:14-118.5 et seq. or any other applicable law shall be immediately destroyed and shall not be admissible as evidence in any criminal, civil, or administrative proceeding.
- E. Recordings are considered investigatory records of this police department and shall be maintained on a secure cloud based BWC server 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 180 days.
 2. Recordings that are being stored for criminal, civil, or administrative purposes are to be tagged with a permanent retention period and may be transferred to a DVD/CD and preserved as evidence.
 3. Recordings of an arrest that did not result in an ongoing prosecution, or records the use of police force, shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer or the employing law enforcement agency.
 4. BWC recordings shall automatically be retained for not less than three years if it captures images involving an encounter about which a complaint has been registered by a subject of the BWC recording.
 5. BWC recordings shall be retained for not less than three years if requested by:
 - a. The officer whose BWC made the recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
 - b. The officer who is a subject of the BWC recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
 - c. Any immediate supervisor of an officer whose BWC made the recording or who is a subject of the BWC recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value; or

- d. Any officer, if the BWC recording is being retained solely and exclusively for police training purposes; or
 - e. Any member of the public who is a subject of the BWC recording; or
 - f. Any parent or legal guardian of a minor who is a subject of the BWC recording; or
 - g. A deceased subject's next of kin or legally authorized designee.
 - h. NOTE: the member of the public, parent, or legal guardian, or next of kin or their designee (subsections V.E.5 (e)(f)(g)) shall be permitted to review the body worn camera recording in accordance with N.J.S.A. 47:1A-1 et seq. to determine whether to request a three-year retention period.
6. When a BWC records an incident that is the subject of an administrative internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation, any resulting administrative action and required retention.
- F. Open public record requests. Only the following BWC recordings shall be exempt from public inspection:
- 1. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.4 of this general order if the subject of the BWC recording making the complaint requests the recording not be made available to the public.
 - 2. Recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection V.E.5 of this general order.
 - 3. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.5(a)(b)(c)(d) of this general order.
 - 4. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.5(e)(f)(g) if an officer, parent, or legal guardian, or next of kin or designee requests the recording not be made available to the public.
- G. The Director of Public Safety or his/her designee shall notify the Somerset County Prosecutor's Office Civil Remedies Unit within one business day upon receiving any subpoena, court order or OPRA request for a BWC recording before complying with it.
- 1. Such notice shall clearly state the deadline by which a response must be made.
 - 2. If no further communication is received within three (3) business days, the Professional Standards Commander or records custodian can respond to the OPRA request in accordance with the applicable law, as appropriate.

- H. 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 Director of Public Safety in consultation with the Somerset 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 Somerset 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 court order.
 2. A BWC recording tagged pursuant to section IV.H of this general order shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Somerset County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee. The Somerset County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee may authorize the Director of Public Safety and one or more supervisory officers to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC recordings tagged pursuant to section IV.H.
 3. The independent investigator or his/her designee overseeing an investigation pursuant to *Attorney General Law Enforcement Directive 2019-4* 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.
- I. The AXON System shall maintain a record of all BWC recordings that are accessed, viewed, copied, disseminated, or deleted. The Director of Public Safety shall cause a periodic audit of these records to ensure compliance with this general order.
- J. If a recording is required for use in court or by another law enforcement agency, that recording shall not be released without the prior approval of the Director of Public Safety or designee and only if a duplicate copy is retained by the department.
- K. Officers and civilian employees shall not reproduce or store any recordings to any device or storage medium outside the parameters of this general order. This shall include, but is not limited to, cell phones, wireless devices, digital cameras, electronic notebooks, etc.

- L. 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 Director of Public Safety.