


<b>PALISADES PARK POLICE DEPARTMENT</b>		
<b>STANDARD OPERATING PROCEDURES</b>		
SUBJECT: BODY WORN CAMERAS		
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ACCREDITATION STANDARDS: 3.5.5	BY THE ORDER OF: Chief of Police/OIC	

**PURPOSE** The purpose of this standard operating procedure is to maintain guidelines for the use, management, storage, and retrieval of audio-visual media recorded by body worn 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 Palisades Park Police Department to utilize BWCs to assist its personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident and to maintain the necessary safeguards that will ensure the non-discriminating use as well as the proper preservation of evidence that may be obtained through use of this technology.

All personnel (sworn and non-sworn) shall use this equipment consistent with manufacturer’s guidelines, this SOP, and those policies or guidelines issued by the New Jersey Attorney General and the Bergen County Prosecutor’s Office. Failure to use this technology in accordance with this SOP and those policies or guidelines issued by the New Jersey Attorney General and Bergen County Prosecutor’s Office can result in discipline.

Any willful or repetitive violations of this SOP and/or *Attorney General Law Enforcement Directive 2021-5* shall be promptly reported to the Bergen County Prosecutor’s Office. The Bergen County Prosecutor may take such actions as are reasonable and necessary to ensure compliance with *New Jersey Attorney General Directive 2021-5* and to prevent future violations

The Palisades Park Police Department website and other social media outlets shall contain a clear statement that this department utilizes BWCs. The postings shall include an image showing what the device looks like and how it is to be worn by uniformed officers or plainclothes detectives so that the public will be able to determine whether an officer is equipped with the device.

## PROCEDURES

### I. DEFINITIONS

- A. For purposes of this SOP, 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 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 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).
  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 directive 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 or directed against any person if the officer has unholstered a firearm or CED.
  6. Deactivate – means to shut off the recording mode of a BWC.
  7. Digital evidence – includes photographs, images, audio, and video recordings that are stored digitally.
  8. 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.
  9. Force – has the same meanings as defined in this department's SOP on *Use of Force*.
  10. 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.

11. 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.
12. Report – Depending on the type of incident being recorded, report could mean an investigation report or an operations report.
13. 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.
14. 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 SOP, serious bodily injury and serious bodily harm have the same meaning.
15. 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.
16. 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.
17. 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.
18. 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
19. Tagging – is an electronic labeling of an electronic file captured by a BWC.

20. 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.
21. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, residential facilities, etc.

## **II. GENERAL ADMINISTRATION**

- A. While visual and audio evidence may 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. When properly used, BWCs can:
  1. Create accurate documentation of law enforcement encounters.
  2. Preserve an audio and/or video record of events, actions and conditions during arrests, critical incidents, and arrestee/prisoner/civilian transports.
  3. Recordings serve as protection for police officers when there are complaints about their conduct or professionalism during encounters with the public.
  4. Recordings can be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
  5. Recordings can resolve disputes concerning what occurred during incidents, thereby protecting both the public and the officers involved.
  6. 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.
  7. Subject to the viewing restrictions in this SOP, supervisors will be able to view the recordings with the permission of the Chief of Police/OIC or his/her designee and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.
  8. Recordings can permit supervisors to undertake more meaningful performance evaluations.
  9. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the public.

10. Recordings enhance management's ability to train personnel in proper police procedures.
- C. The Chief of Police/OIC shall maintain a training program on the lawful and proper use of BWC equipment. 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 potential BWC operators who were not previously trained. New officers can be trained during their field training and evaluation period.
  2. Periodic refresher training will be provided to ensure continued effective use and operation of the equipment, and to incorporate changes, updates, or other directive revisions as necessary or required.
  3. Supplemental training will be provided as a component of the performance improvement or progressive disciplinary process.
- D. Officers will use only those BWCs approved and issued by the Chief of Police/OIC. Such 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). Wearing any personally owned video/audio recorder is not authorized without the expressed written permission of the Chief of Police/OIC, internal affairs supervisor, the Bergen County Prosecutor's Office, or the New Jersey Division of Criminal Justice. Violations will be subject to disciplinary action up to and including termination.
1. All recording media, images, audio, and related metadata are the intellectual property of the Palisades Park Police Department and will not be copied, released, or disseminated in any form or manner outside the parameters of this SOP without the expressed written consent of the Chief of Police/OIC.
  2. Under no circumstances will any employee of the Palisades Park Police Department make a personal copy of any recorded event or permit another to make a personal copy of any recorded event without the expressed permission of the Chief of Police/OIC.
  3. 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.
  4. 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.
  5. Officers engaged in undercover operations or surveillance activities are not required to utilize BWC.

- E. Repairs to any of the BWC equipment shall only be performed under the direction of the internal affairs supervisor or his/her designee.
- F. BWCs shall be used only in conjunction with official law enforcement duties. BWCs shall not be used to record:
  - 1. Encounters with undercover officers or confidential informants.
  - 2. Strip and body cavity searches.
  - 3. When on break or otherwise engaged in personal activities.
  - 4. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
  - 5. When engaged in police union business.
  - 6. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction (except for internal affairs interviews).
  - 7. 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 SOP.
  - 8. While discussing criminal investigation strategies.
- G. Officers are not required to wear and use a BWC:
  - 1. When engaged in hostage negotiations.
  - 2. When processing crime scenes.
  - 3. 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.
  - 4. When conducting searches of cellphones, tablets, computers, or other electronic devices that are suspected to contain images of child sexual exploitation.
- H. BWCs shall not be used surreptitiously.
- I. BWCs shall not be used to gather intelligence information based on 1<sup>st</sup> 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.

- J. This agency will not tolerate the reliance by any officer on race, ethnicity, gender, gender identity, gender expression, transgender status, sexual orientation, religion, economic status, age, culture, or any other immutable characteristic of a group or class of persons, in determining whether to activate or deactivate a BWC.
- K. Any recordings from a BWC recorded in contravention of this SOP 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 Bergen 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.
  - 1. All requests for the destruction of BWC recordings made in contravention of this SOP must be forwarded to the Bergen County Prosecutor's Office through the BWC applet of the BCPO Intranet.
  - 2. Complete all fields including the narrative section which must recount the circumstances of the recording, the status of any case to which the recording is related, and of any investigation or criminal or administrative action related to violation of this directive.
  - 3. BWC footage should not be sent with the request. If review of BWC footage is necessary, it will be requested.
  - 4. Footage may only be destroyed after approval through Intranet notification

### **III. INCIDENTS TO RECORD**

- A. Except when otherwise restricted in this SOP, 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 BWC 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 time of the decision to make the stop until the stop is concluded, including field sobriety testing.
  - 2. Any response or activity with a police vehicle's emergency warning devices.
  - 3. Any call for service related to a violation or suspected violation of possessing or consuming alcohol, marijuana, hashish, or cannabis item.
  - 4. Investigative detentions/field interviews.
  - 5. Welfare checks of residents and motorists (motorist aid).
  - 6. Stationary police details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, etc. when interacting with a motorist.
  - 7. All calls for service when the vehicle's emergency warning devices are in operation.
  - 8. Crash scenes, including interviews on the scene, to the extent possible.

9. Crime scenes except for crime scene processing.
  10. Out-of-court identifications (i.e., show ups, lineups).
  11. Interviews of witnesses when conducting investigations of criminal violations (not to include undercover investigations or related surveillance activities).
  12. Motor vehicle and foot pursuits.
  13. Warrantless searches (all types, including frisks and consent searches, but not strip or body cavity searches), to the extent possible.
  14. Search or arrest warrant service (entire service).
  15. On-scene arrest process.
  16. Arrestee/prisoner transportation, whether to a law enforcement facility, county jail or other place of confinement, or to a hospital or other medical care or mental/behavioral health facility.
  17. Drug recognition expert evaluations.
  18. Overdose and suspected overdose investigations.
  19. Emotionally disturbed person investigations / encounters.
  20. 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 substantive report).
  21. Crowd control, unruly crowds, or any incident requiring activation of the all-hazards or emergency operations plan.
  22. Domestic violence investigations.
  23. Strikes, picket lines, demonstrations.
  24. 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.
  25. Any contact that becomes adversarial when the BWC had not already been activated.
- B. BWC should be activated before an officer arrives at the scene of a dispatched call for service or any of the other police activity previously listed in section III.B above. The officer does not need to begin recording the moment he/she receives a dispatched assignment to respond to a call for service. Rather, activation may be delayed until the officer is near the assigned destination.



- C. Notwithstanding any other provision of this SOP, 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, the officer shall activate his/her BWC before arriving at the scene unless impracticable.
- D. Notwithstanding any other provision of this SOP, 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 assistant prosecutor or deputy attorney general supervising the investigation of incident pursuant to *Attorney General Law Enforcement Directive 2019-4*.
- E. BWC shall remain activated for the entire duration of public contact until the officer has departed the scene and the officer has notified the PSOC that the event is closed.
- F. 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 and until the arrestee is secured in the holding cell or processing room, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee.
- G. 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 body worn camera.
  - 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 body worn camera.
  - 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 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.
- H. 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 Bergen 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 can deactivate a BWC when a civilian conversing with the officer requests that the device be turned off under circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected.
    - 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.
    - b. The officer may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded).
    - c. 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 only if the deactivation request is honored.
  2. Officers should deactivate a BWC when a person, other than an arrestee, is seeking emergency medical services for him/herself or another and requests that the BWC be deactivated.
    - a. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance.
    - b. If the person is unconscious or unable to request deactivation, officers must exercise discretion based on the facts at the time.
    - c. 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.
    - d. Any such recording of emergency medical services must be tagged for privacy concerns in accordance with subsection IV.D of this SOP.
    - e. When an officer deactivates a BWC for a reason addressed in this subsection (III.I.2):
      - 1) The conversation between the officer and the civilian concerning the request for deactivation should be electronically recorded unless unfeasible.

- 2) The officer shall document the circumstances of the deactivation in any report or CAD record concerning the incident.
3. 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 squad OIC 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 Bergen County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, expressly has authorized covert recording.
4. Officers can 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 assistant prosecutor who authorized the deactivation.
5. Officers can deactivate a BWC while participating in a discussion pertaining to criminal investigation strategy and planning, provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence.
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. The BWC shall be reactivated as soon as it is safe and practicable to do so when the circumstances requiring deactivation no longer exist.
7. If a BWC captures the image of a patient in a substance abuse treatment facility, the Chief of Police/OIC or his/her designee shall notify the Bergen 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 Bergen County Prosecutor or his/her designee.
8. 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 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.
- I. Officers shall not activate a BWC and shall immediately deactivate a BWC that is already activated, if the officer knows or reasonably believes that the BWC would capture the image of an undercover officer, confidential informant or otherwise pose a risk to the safety of an undercover officer or confidential informant.

1. The squad OIC or a supervisor can authorize such activation, or the exigency of the situation and danger posed to an officer requires that the encounter/incident should be recorded.
  2. Officers shall notify a supervisor/squad OIC if the image of an undercover officer or confidential informant was recorded.
  3. The BWC shall be activated/reactivated as soon as it is safe and practicable to do so.
- 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 force or authority, or unless the presiding judge expressly authorizes such activation.
- K. BWCs shall be deactivated and removed while in the ALCOTEST area when the ALCOTEST device is being used. Nothing in this SOP 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 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 to augment the value of the recording and to provide clarity for the viewer.
- M. 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 substantive report the reason(s) why a recording was not made, was interrupted, or was terminated.
- 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 this department's SOP 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 SOP.

#### **IV. OFFICER AND SUPERVISORY RESPONSIBILITIES**

- A. When not in use, BWCs shall be stored in the designated docking stations. The docking stations allow for the units to be charged and for the upload of events to the server.
- B. BWCs will be assigned to patrol officers working in a uniformed capacity. When on duty, the device shall be worn as an authorized component of the uniform of the day and utilized daily consistent with the requirements and restrictions in this SOP. Officers shall not utilize the BWC of another without the expressed permission of a supervisor.
1. Officers are not required to activate their BWCs in police headquarters unless they are investigating a walk-in complaint, processing an arrestee, or other similar related functions.

2. Detectives and staff officers shall wear BWCs when conducting arrests and while engaged in field duties (e.g., road coverage, search warrant executions, raids, etc.) consistent with the requirements and restrictions in this policy.
3. Subject to availability, BWCs shall be worn and used consistent with this SOP on all extra duty assignments.
4. Officers shall also wear and use a BWC consistent with this SOP 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.
5. BWC units are equipped with a clip that shall be affixed on the center of the officer's uniform/outer body vest carrier in the center chest/sternum area or to the left or the right chest area.
6. To the extent possible, officers are responsible for ensuring that the BWC remains in a position to allow the recording of an encounter or incident.
7. Each BWC is assigned a unique tracking identification number. Officer shall log into the Watch Guard program and assign him/herself to the specific BWC.
8. Officers shall not swap or exchange BWCs at any time during their shift unless expressly authorized by the squad OIC or a supervisor.
9. BWC equipment is the responsibility of individual officers and shall be used with reasonable care to ensure proper functioning.
10. Prior to beginning a shift, officers assigned a BWC will ensure its readiness by conducting an operational inspection. Officers shall also inspect BWCs at the conclusion of each shift to ensure system integrity.
  - a. Equipment malfunctions shall be immediately brought to the attention of the squad OIC as soon as practicable so that a replacement unit may be procured, if available.
  - b. Problems that cannot be remedied will be reported to IT/communications officer.
  - c. The malfunctioning BWC should be left in its charger tagged or labeled out of service.
11. Officers will dock their BWC for download upon completion of their shift

- C. When video/audio footage is captured involving any part of an arrest or significant event, officers will tag the recording for indefinite retention with the incident number and the defendant's name and type/write the letters BWC (including BWC number) in all capital letters at the end of the report to signify that video/audio is available for the case.
1. This requirement extends to all officers capturing recordings, including back up officers.
  2. All BWC recordings capturing an officer-involved deadly force event shall be tagged and not be accessed or viewed by anyone, including the Chief of Police/OIC, without prior authorization of the Bergen County Prosecutor's Office, Division of Criminal Justice, or their designees (see subsection V.F.3 of this SOP).
  3. BWC recordings are not a replacement for written reports. Under no circumstances shall officers simply refer to a BWC recording on the applicable report instead of detailing the facts and circumstances of their investigation/observations.
  4. The IT/communications officer or his/her designee shall download recordings of evidentiary value to a DVD/CD/USB drive and store them as evidence (criminal and quasi-criminal matters) or with the appropriate case file (internal affairs or administrative matters).
- D. To identify BWC recordings that may raise special privacy or safety issues, officers shall notify the squad OIC or IT/communications officer. Such recordings include those 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 person receiving emergency medical care/treatment.
  4. Captured the image of a juvenile.

5. 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.
6. Captured a conversation with a person whose request to deactivate the BWC was declined.
7. Captured a special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded.
8. Captured the image of an undercover officer or confidential informant; or
9. Captured the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.

E. Supervisory responsibility:

1. Supervisors/squad OICs shall ensure that officers utilize BWCs in accordance with this SOP.
2. Supervisors/squad OICs shall verify by logging into the Watch Guard program that each BWC is correctly assigned to the officer according to unit # on the BWC.
3. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the squad OIC will tag the recording for indefinite retention.
4. Supervisors will conduct random formal reviews of selected recordings to assess officer performance as well as to flag video/audio that may be appropriate for training purposes.
5. Supervisors shall formally review all instances when a BWC is deactivated prior to the conclusion of an incident and forward the documented review through the chain of command to the Chief of Police/OIC or his/her designee.
6. Subject to the viewing restrictions in this SOP and as part of the meaningful review process, supervisors shall review all BWC footage involving the below, unless restricted in section V of this policy:
  - a. Use of force; and
  - b. Motor vehicle and foot pursuits; and
  - c. Officer involved collisions; and
  - d. Officer involved injuries.

## 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/OIC, his/her designee, or consistent with the provisions of this SOP.
- 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 agency 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.
- 1. 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 SOP 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 substantive 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 Chief of Police/OIC 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.
4. When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency.
  5. 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.
  6. 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/audio as applicable by law with a program approved by the manufacturer or the BCPO.
      - 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 borough ordinance.

7. To comply with any other legal obligation to turn over the recording to a person or entity.
  8. 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 Palisades Park 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.
  9. To show or disseminate the recording to a civilian or a non-law enforcement entity or to disseminate it to the public, when the Bergen 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.
  10. To conduct an audit to ensure compliance with this SOP.
  11. 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 Bergen County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee.
  12. Any other specified official purpose when the Bergen 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 contravention 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 criminal investigatory records of this police department and shall be maintained on a secure 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 being stored for criminal, civil, or administrative purposes must be retained until the conclusion of the case plus any retention period.
  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.
  7. In accordance with *BCPO Directive 2017-8*, when seeking authorization to purge/erase BWC recordings being held for evidence in criminal matters the administrative lieutenant or his/her designee must submit a destruction request to the Bergen County Prosecutor's Office before purging/erasing any recordings. In DWI cases, consult with the municipal prosecutor before purging/destroying any DWI-related BWC recordings.
- F. Open public record requests. Only the following BWC recordings shall be exempt from public inspection:
1. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.4 of this SOP if the subject of the BWC recording making the complaint requests the body worn camera recording not be made available to the public.
  2. BWC recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection V.E.5 of this SOP.
  3. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.5(a)(b)(c)(d) of this SOP.
  4. BWC 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 BWC recording not be made available to the public.
- G. The Chief of Police/OIC or his/her designee shall notify the Bergen 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*.
1. The notification must contain the date the request was received, the deadline by which a response must be made, whether the agency intends to release or deny the request, and the justification for that decision.
  2. Provide the type of police action or activity depicted in the recording, including, but not limited to, whether the officer was involved in an investigative detention, an arrest, an interrogation of a suspect, a witness interview, a search, a protective frisk for weapons, or was using constructive or actual force.

3. Indicate whether the recording is part of an ongoing criminal or internal affairs investigation or whether release of the recording potentially infringes upon a victim and/or juvenile privacy rights.
  4. The Chief of Police/OIC or his/her designee will receive an acknowledgement. If no further communication is received within 72 hours, the IT/communications officer or his/her designee should respond to the request as deemed appropriate.
  5. Pursuant to the *Open Public Records Act* (N.J.S.A. 47:1A-5c and N.J.S.A. 47:1A-5d), the department will apply service fees for any extraordinary expenditure of time and effort to accommodate a request. The service fees will be based upon the actual direct cost of providing the service or extraordinary time. If the requester objects to the fee, the request is closed and access to the records is not granted.
  6. BWC footage requests, requiring a substantial amount of manipulation or programming of information technology, will be assessed a special service fee that shall be reasonable and shall be based on the cost for the labor cost of personnel providing the service, that is actually incurred for the programming, clerical, and supervisory assistance required, or both, if a request is for a copy of a record.
  7. The fee will be based at the lowest hourly rate of the personnel authorized to review/redact/approve the request.
  8. The Chief of Police/OIC or his/her designee will provide the requestor an estimate before any copy is made.
- 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 Chief of Police/OIC in consultation with the Bergen 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 Bergen County Prosecutor or his/her designee shall 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.

2. A BWC recording tagged pursuant to section IV.D.2 through IV.D.9 of this SOP shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Bergen County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, except that BWC recordings that capture images of patients in substance abuse facilities cannot be accessed except with the specific permission of the Bergen County Prosecutor's Office
  - a. The Chief of Police/OIC and no more than two additional officers designated by the Chief of Police/OIC can access recording noted above
  - b. As noted above, BWC recordings that capture images of patients in substance abuse facilities cannot be accessed except with the specific permission of the Bergen County Prosecutor's Office
3. The independent investigator or his/her designee overseeing an investigation pursuant to *Attorney General Law Enforcement Directive 2019-4* (section IV.D.1), 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 IT/communications officer or his/her designee shall maintain a record of all BWC recordings that are accessed, viewed, copied, disseminated, or deleted. The WatchGuard software can electronically manage this process. The Chief of Police/OIC shall cause a periodic audit of these records to ensure compliance with this policy. 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.
  5. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.
- J. If an original 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 Chief of Police/OIC or his/her designee and only if a duplicate copy is retained by the department.
  1. Duplicate copies shall be 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 away from magnetic fields (speakers, etc.) or other areas that may facilitate corruption in the property room.

- K. Employees 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.
- 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 Chief of Police/OIC.

## **VI. CRITICAL INCIDENT MANAGEMENT**

- A. Live video streaming – incident commanders and supervisory staff can remotely start any or all BWCs and view the video in real-time from any location that Internet connectivity is available.
  - 1. This can be particularly useful in monitoring high-risk warrant service, SWAT operations, and other rapidly evolving incidents requiring oversight such as vehicle pursuits, or incident in which officer is not responsible to efforts to check his/her status.
    - a. Supervisors and PSOC staff should make a reasonable attempt to notify the officer of the intent to utilize the live video feature prior to activation.
    - b. Supervisors should be able to provide an articulable rationale for the activation based on the circumstances and situation becoming a need-to-know incident such as officer safety concerns or for tactical/operational purposes
    - c. Abuse or misuse of live streaming or device activation may be subject to discipline.