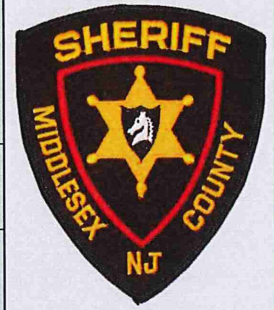


MIDDLESEX COUNTY SHERIFF'S OFFICE POLICY & PROCEDURES



VOLUME: 5

CHAPTER: 13

OF PAGES: 23

SUBJECT: BODY WORN CAMERAS

BY THE ORDER OF:

Sheriff Mildred S. Scott

ACCREDITATION STANDARDS: 1.5.5

Effective Date:

March 18, 2024

SUPERSEDES ORDER #: V5V13 (10/28/2020)

PURPOSE

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

POLICY

It is the policy of the Middlesex County Sheriff's Office 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 (including accessing recordings) consistent with manufacturer's guidelines, this policy, and those policies or guidelines issued by the New Jersey Attorney General and Middlesex County Prosecutor's Office. Failure to use this technology in accordance with this policy and those policies or guidelines issued by the New Jersey Attorney General and Middlesex County Prosecutor's Office can result in discipline.

The Middlesex County website/webpage shall contain a clear statement that this agency utilizes body worn video/audio cameras. The website posting shall include an image depicting what the device looks like and how it will 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.

Any willful or repetitive violations of this policy shall be reported to the internal affairs supervisor who shall report directly to the Sheriff and the Middlesex County Prosecutor's Office. The Sheriff and the Middlesex County Prosecutor are authorized to take such actions as are reasonable and necessary to ensure compliance with this policy and to prevent future violations.

PROCEDURES

I. DEFINITIONS

- A. For purposes of this policy, 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. Arrestee – means a person placed under arrest at the scene of a crime/offense and taken to headquarters for processing/booking purposes. The term does not include prisoners, who are already in custody, being transported elsewhere.
 4. 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 a mobile video recording device when mounted inside a law enforcement vehicle. 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).
 5. 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.
 6. Constructive authority – involves the use of an officer's authority to exert control over a subject (see this department's policy 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.).
 7. Deactivate – means to shut off the recording mode of a BWC.
 8. Digital evidence – includes photographs, images, audio, and video recordings that are stored digitally.
 9. 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.
 10. Force – has the same meanings as defined in this department's policy on *Use of Force as well as the Attorney General's Use of Force Policy*.

11. 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.
12. 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.
13. Mobile video recording system – means a device or system installed or used in a law enforcement vehicle or worn or otherwise used by an officer that electronically records visual images depicting activities that take place during a motor vehicle stop or other law enforcement action.
14. Official law enforcement action – any action taken by an officer in the performance of duty, or under the color of his/her office.
15. Power on/off – means to switch the BWC from off (not buffering and completely powered off) to on.
16. 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.
17. 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.

18. 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 policy, serious bodily injury and serious bodily harm have the same meaning.
19. 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.
20. 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.
21. 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.
22. 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.
23. Tagging – is an electronic labeling of a BWC recording.
24. 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.
25. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, group homes, day treatment centers, residential facilities, etc.

II. GENERAL ADMINISTRATION

- A. BWC recordings are invaluable to law enforcement for evidential purposes. BWC have consistently demonstrated its value in the prosecution of criminal, traffic, and other related offenses and to protect personnel from false claims of misconduct. Additionally, this equipment will provide valuable instructional material that can be utilized for in-service training programs.
- B. While visual and audio evidence may be captured on the recordings, the use of 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. Personnel 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.
- C. These recordings will serve the following purposes:
1. Creation of accurate documentation of law enforcement related activities.
 2. Preservation of an audio and video record of events, actions and conditions during arrests and critical incidents.
 3. Recordings serve as protection for officers when there are complaints about their conduct or professionalism during encounters with the public.
 4. The recordings can be introduced into evidence in criminal prosecutions as well as in civil litigation.
 5. The recordings can resolve disputes concerning what occurred during particular 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 policy, 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.
 8. Subject to the viewing restrictions in this policy, recordings can permit supervisors to undertake more meaningful performance evaluations.
 9. Subject to the viewing restrictions in this policy, recordings augment management's ability to evaluate its basic law enforcement practices and interactions between its personnel and the public including, but not limited to, reviewing reasonable suspicion, probable cause, heightened caution, etc.
 10. Subject to the viewing restrictions in this policy, recordings enhance management's ability to train personnel in proper law enforcement procedures.
- D. The Axon body worn camera system is the sole BWC device authorized for use by members of this agency. Officers can only use BWCs that have been issued and approved by the Sheriff
1. Such BWCs shall not be capable of recording images or conversations that cannot be seen or heard by the officer wearing the device without the expressed approval of the Middlesex County Prosecutor or his/her designee.

2. Wearing any personally owned video/audio recorder is not authorized without the expressed permission of the Sheriff, the Middlesex County Prosecutor's Office, or the New Jersey Division of Criminal Justice. Violations will be subject to disciplinary action, up to and including termination as per agency policies.
 3. All BWC devices, recording media, images, and audio are the intellectual property of the Middlesex County Sheriff's Office and will not be copied, released or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Sheriff.
 4. Repairs to any BWC equipment shall only be performed under the direction of the Sheriff or his/her designee.
- E. The Sheriff shall maintain a training program on the lawful and proper use of BWC equipment.
1. Proper use of a BWC is considered an essential job responsibility.
 2. 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.
- F. Under no circumstances will any employee of the Middlesex County Sheriff's Office make a personal copy of any recorded event without the expressed permission of the Sheriff or his/her designee.
- G. BWCs shall be used only in conjunction with official law enforcement duties.
1. Intentional misuse or abuse of the units will result in disciplinary action.
 2. Officers engaged in undercover operations or surveillance activities are not required to utilize BWC.
 3. BWCs shall not be used to record:
 - a. Encounters with undercover officers or confidential informants.
 - b. Strip and body cavity searches.
 - c. When on break or otherwise engaged in personal activities.
 - d. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room except when related to a criminal investigation, medical assist, or recordable incident listed in subsection III.B of this policy.
 - e. When engaged in union activities.
 - f. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction.

- g. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording, see section III.B of this policy.
 - h. Within holding cells.
4. 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.
 - e. When actively engaged in the response to or present at a scene involving a suspected bomb or explosive device.
 - f. When engaged in duties as bomb or explosives technicians.
 - g. When assigned to the canine unit while actively present at a scene involving a suspected bomb or explosive device.
 - h. When not in uniform and assigned to investigative, non-enforcement duties, when authorized by the Sheriff.
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. 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.
7. BWCs shall not be used surreptitiously except as specifically authorized by the Middlesex County Prosecutor's Office or the New Jersey Division of Criminal Justice.

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 immediately upon arriving at a call for service or in the performance of a proactive event as soon as is safely possible.
- B. Except when otherwise restricted in this policy, officers shall video and audio record all law enforcement activity. 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 (whether a uniformed or plain clothes officer/investigator is equipped with a BWC):
1. All traffic stops from the time the stop is initiated until the stop is concluded including sobriety testing.
 2. Field sobriety testing.
 3. An officer is responding to a call for service and is at or near the location to which the officer has been dispatched.
 4. Stationary law enforcement details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, etc., only during an active stop.
 5. Crime scenes (to document the initial overview of the scene as first found);
 - a. Once the lead investigator or supervisor determines that the scene is sufficiently documented, BWCs may be deactivated unless further video evidence is deemed worthwhile.
 - b. A BWC may be reactivated at any time investigators deem appropriate.
 6. Motor vehicle and foot pursuits.
 7. Any call for service related to a violation or suspected violation of possessing or consuming alcohol, marijuana, hashish, or cannabis item.
 8. Interviews of witnesses when conducting investigations of criminal violations (not to include undercover investigations, related surveillance activities, or stationhouse recordings of custodial interrogations/interviews).
 9. Custodial interrogations of a subject unless the interrogation is otherwise being recorded in accordance with Rule 3:17 (electronic recordation of station house interrogations).
 10. Investigative detentions/field interviews;
 11. Warrantless searches (all types, including frisks, but not strip or body cavity searches).
 12. Search or arrest warrant service (entire service).

13. When serving civil process of any kind, unless the serving of process occurs in a sensitive location or facility where recording is not permitted, and the involved parties specifically request that the officer discontinue use of the BWC. Examples of such locations and facilities may include government or military facilities, jails or prisons, pharmaceutical companies, research facilities, etc.
14. When conducting or assisting with an eviction.
15. When serving a restraining order.
16. Arrests (to the extent possible), whenever possible:
17. Arrestee/prisoner transportation whether to a police station, county jail, or other place of confinement, a hospital, other medical care, or mental health facility. Note:
 - a. Officers shall not record routine prisoner escorts conducted between courtrooms and holding cell areas within the Middlesex County courthouses unless other circumstances listed in this section exist requiring BWC activation.
 - b. When entering the main courthouse with an arrestee or prisoner through the sally port, the BWC shall remain activated through the sally port and tunnel and shall be deactivated while entering the holding cell area. Similarly, when exiting the main courthouse with an arrestee or prisoner through the sally port, the BWC shall remain deactivated while in the holding cell area, but the BWC shall be activated while exiting the holding cell area and entering the tunnel. Officers shall activate their BWC regardless of location if other circumstances listed in this section exist requiring BWC activation.
 - c. When entering the main courthouse with an arrestee or prisoner through the Elm Row or other public entrance, the BWC should be deactivated while entering the courthouse. Similarly, when exiting the main courthouse with an arrestee or prisoner through the Elm Row or other public entrance, the BWC should be turned on while exiting the building. Officers shall activate their BWC regardless of location if other circumstances listed in this section exist requiring BWC activation.
 - d. When entering or exiting the family courthouse through the sally port with an arrestee or prisoner, the BWC should be activated or deactivated in the vestibule hallway between the sally port and the booking room to ensure that the cameras are not utilized in the holding cell area. Officers shall activate their BWC regardless of location if other circumstances listed in this section exist requiring BWC activation.
18. Drug recognition expert (DRE) evaluations.
19. Overdose and suspected overdose investigations.

20. Emotionally disturbed person investigations / encounters.
 21. 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 investigation report);
 - a. Nothing in this policy shall be construed or applied in a manner that jeopardizes officer safety by distracting the officer's attention from the immediate need to use constructive authority or force.
 - b. It should be noted that many circumstances when the need for constructive authority or force arises, the officer already would have initiated law enforcement activity requiring the activation of the BWC.
 22. Crowd control, unruly crowds, or any incident requiring activation of the all-hazards or emergency operations plan.
 23. Domestic violence investigations.
 24. Strikes, picket lines, demonstrations, civil disorder.
 25. The officer is conducting a motorist aid or community caretaking check.
 26. The officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing law enforcement actions/activities. (This includes officers from any other jurisdiction the officer is located).
- C. Notwithstanding any other provision of this policy, when an officer equipped with a BWC is at the scene of an incident knowing or reasonably believing that law enforcement deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance (e.g., an officer in distress, shots fired, etc.), the officer shall activate his/her BWC before arriving at the scene when feasible.
- D. Notwithstanding any other provision of this policy, an officer while at the scene of a law enforcement incident (see definitions) or the on-scene investigation of that event shall not deactivate his/her BWC unless instructed to do so by the independent investigator supervising the investigation pursuant to *Attorney General Law Enforcement Directive 2019-4*. The assistant prosecutor, deputy attorney general, or his/her designees supervising the investigation may provide such instruction telephonically.
1. Officers can deactivate their BWCs once they leave the scene of the incident.
 2. BWCs do not need to remain activated while officers are receiving medical evaluation, medical treatment, or have returned to headquarters.
 3. Once officers deactivate their BWCs in these instances, they shall surrender their BWCs to a supervisor, who shall submit them to Internal Affairs.

4. The supervisor shall issue the officers) a spare BWC, as appropriate.
- E. BWCs shall remain activated for the entire duration of a public contact required in section III.B above until the officer has departed the scene and the officer has notified communications that the event is closed in CAD.
- 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/prisoner and until the arrestee/prisoner is secured in the processing room or a holding cell or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee/prisoner 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 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.
- 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 Middlesex 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 shall not deactivate a BWC unless the officer can articulate a sensitive situation that deems it necessary for the deactivation. If such situation arises, the officer will need to narrate or document that deactivation.

2. If an officer deactivates a BWC and before deactivating the BWC shall narrate the circumstances of the deactivation (e.g., "...I am now turning off my BWC as per the victim's request."
 - a. The officer shall report the circumstances concerning the deactivation to his/her supervisor as soon as is practicable; and
 - b. The officer shall document the circumstances of the deactivation in any report concerning the incident under investigation.
 - c. 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 Middlesex County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, expressly has authorized covert recording.
3. Officers shall 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 (e.g., "...I am now turning off my BWC as per the instruction of assistant prosecutor (insert name).")
4. Officers may deactivate or mute 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. The officer shall narrate the circumstances of the deactivation (e.g., "...I am now turning off my BWC to discuss investigative strategy with my supervisor.")
5. If an officer is required to deactivate the BWC when entering a school, house of worship, health care facility, substance abuse treatment center, etc., the officer shall narrate the reason for deactivation (e.g., "...I am entering a school building where children are present." The BWC shall be reactivated as soon as it is safe and practicable to do so if and when the circumstances requiring deactivation no longer exist (e.g., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWC).
6. Officers may deactivate a BWC when a person, other than an arrestee or prisoner, is seeking emergency medical services for him/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.

7. If a BWC captures the image of a patient in a substance abuse treatment facility, the Sheriff or his/her designee shall notify the Middlesex 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 Middlesex 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.
- I. 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 (e.g., active shooter, actual use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the officer shall inform the shift supervisor that the image of an undercover officer or confidential informant was recorded. The BWC shall be activated/reactivated as soon as it is safe and practicable to do so when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
- J. Officers shall not activate a BWC while in a courtroom during court proceedings unless the officer is investigating a criminal offense, is responding to a call for service, or is required to use constructive authority or force
- K. Officers shall not activate a BWC, and shall deactivate their BWCs, while in a holding cell unless the officer is investigating a criminal offense, is responding to a call for service listed in subsection III.B of this policy or is required to use constructive authority or force.
- L. 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 agency's policy 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 policy.
- 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 report why a recording was not made, was interrupted, or was terminated.

IV. OFFICER AND SUPERVISORY RESPONSIBILITIES

- A. Officers shall use BWCs when engaged in official duties in conformance with this policy including while on overtime assignments. This includes uniformed officers assigned to traffic law enforcement, Class II Special Law Enforcement Officers (SLEO IIs), and Class III Special Law Enforcement Officers (SLEO IIIs).
1. Subject to availability, detectives and administrative officers 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 policy.
 2. BWCs shall be worn and used on all extra duty and/or off duty assignments.
 3. Officers shall also wear and use a BWC consistent with this policy when:
 - a. When assigned to canine units, except when actively present at a scene involving a suspected bomb or explosive device.
 - b. On aggressive driving, DWI interdiction assignments, or other proactive enforcement team.
 - c. When assigned to front desk assignments and interacting with the public on a law enforcement matter.
 - d. When assigned to or assisting any tactical team in the field (e.g., S.W.A.T. (Special Weapons and Tactics), S.R.T. (Special Response Team), T.E.A.M.S. (Technical Emergency and Mission Specialists), Entry Teams, Rapid Deployment, Fugitive, or similar units).
 - e. When assigned to duties at demonstrations or potential civil disturbances.
 - f. When assigned to duties including regular interaction with members of the public, which reasonably may give rise to an arrest situation or use of force.
 - g. When assigned to a pre-planned search warrant execution or a pre-planned arrest. This shall include pre-planned searches and arrests performed pursuant to statutory authority, such as parolee searches.
 4. 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.
 5. BWC equipment is the responsibility of individual officers and shall be used with reasonable care to ensure proper functioning.
 6. Officers are responsible for determining that their BWC is fully functional and displays a 'READY' message on the LCD display, and that its battery is adequately charged at the start of their duty shift and before going into the field. If a malfunction is detected, the officer shall report the malfunction to a supervisor before going into the field. If the BWC malfunctions while out in the field, the malfunction upon its discovery shall be reported to the officer's supervisor as soon as it is safe and practicable to do so.

- a. The supervisor shall send or see that the officer reporting the malfunction sends an email to the BWC administrator or his/her designee documenting the specifics details of the malfunction.
 - b. The BWC will be delivered to the BWC administrator.
- B. BWCs 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 locations so long as the device is secured properly and will maximize the device's recording function.
- C. Officers are not permitted to turn off or power down a BWC while on duty. An officer is considered on duty for all working hours, including off duty or extra duty assignments, overtime shifts, and any other special assignments. On duty officers are only permitted to turn off or power down a BWC while qualifying at the range or while attending training.
- D. 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.
- E. Officers must dock their BWCs at the end of their duty shifts and tag their recordings for review, retention, and auditing purposes utilizing the provided Axon View XL software prior to docking the BWC in an Axon dock. Failure to tag video footage, or failure to tag video footage in a timely manner before docking the BWC could result in disciplinary action against the officer. Officers are required to enter the following specific information for each BWC recording:
 1. Video ID – In the 'ADD ID' box on the Axon View XL software, officers shall enter the CAD/incident number (example: 2024-123456). All non-incident recordings and routine prisoner transport recordings are to be left blank.
 2. Category – In the 'ADD CATEGORIES' drop-down box on Axon View XL software, officers shall select all applicable category 'tags' relevant to the content of the recorded video. Officers must add all category 'tags' specifically required in subsection IV.F of this policy which are relevant to the recorded video, as required by the New Jersey Attorney General's policies.
 3. Notwithstanding the provisions of this section, officers assigned to hospital details, off duty or extra duty assignments, overtime shifts, and other special assignments who are unable to tag their recordings and dock their BWC in an Axon dock at the end of their shift are required to tag their recordings and dock their BWC in an Axon dock without delay at the start of their next duty shift which occurs where an agency Axon dock is present.
 4. Tagging the recordings and docking the BWC will allow any video/audio recordings to be uploaded to Axon servers for storage, retention, review, and auditing.
- F. To identify BWC recordings that may raise special privacy or safety issues, officers shall tag the following recordings with the appropriate tag. Such recordings include:
 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.
 - e. NOTE: BWCs with recordings noted in this subsection (IV.F.1) shall be surrendered to a supervisor (see subsection III.D of this policy).
2. Captured the image of a victim of a criminal offense.
 3. Captured the image of a juvenile.
 4. Were made in a dwelling (e.g., a home, apartment, 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 and/or MVR 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.
 8. Captured the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information to include MDTs w/NCIC, DMV, CAD information.
- G. Supervisors will conduct random formal reviews of randomly selected recording segments at the rate of at least 5 per month per division to assess officer performance as well as to flag video/audio that may be appropriate for training purposes. This shall be accomplished utilizing the 'Axon Performance' function of the Axon evidence website.
1. 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 Sheriff or his/her designee.
 2. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the supervisor will tag the recording for retention.
 3. If a supervisor recognizes an officer has potentially violated a law, general order, or rule or regulation, the supervisor will notify Internal Affairs as soon as possible.

- H. Subject to the viewing restrictions in this general order and as part of the meaningful review process, supervisors shall review all BWC footage involving the below:
 - a. Use of force; and
 - b. Motor vehicle and foot pursuits; and
 - c. Officer involved collisions; and
 - d. Officer involved injuries.
- I. All BWC recordings capturing an officer-involved deadly force event, in-custody death incident, or death of a civilian during a law enforcement encounter shall be tagged and not be accessed or viewed by anyone, without prior authorization of the independent investigator assigned by the Office of Public Integrity and Accountability (DCJ).

V. RECORDS RETENTION AND REVIEW

- A. The BWC coordinator shall maintain the BWC and related recordings and procedures to ensure the integrity and proper handling and storage of all BWC recordings. This system may be automated shall include provisions to:
 - 1. Ensure that all recordings are uploaded to a secure data storage system in a timely fashion.
 - 2. Prevent tampering with or deletion of recorded data both before and after downloading from the BWC and uploading to the storage system.
 - 3. Prevent unauthorized access to stored BWC recordings.
 - 4. Document all instances where BWC recordings are accessed, viewed, copied, disseminated, or deleted.
 - 5. Permit auditing of all instances where BWC recordings are accessed, viewed, copied or deleted.
- B. BWC recordings will be stored on a secure server. All images and sounds recorded by the BWC are exclusive intellectual property of the Middlesex County Sheriff's Office. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited. Only the BWC coordinator or his/her designee has access to delete video/audio segments.
- C. BWC recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- D. Viewing of BWC events is strictly limited to sworn officers of this agency. Viewing by any other person is prohibited unless authorized by the Sheriff, his/her designee, or consistent with the provisions of this policy.
- E. If an officer is suspected of misconduct or involved in a deadly force incident or other serious use of force, or involvement in a serious incident, the shift supervisor will take custody and control of the BWC and secure it as evidence according to established evidence procedures.

- F. No law enforcement officer of this agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose. Access to and use of a stored BWC recording is permitted only:
1. When relevant to and in furtherance of a criminal investigation or prosecution.
 2. When relevant to and in furtherance of an internal affairs investigation.
 3. When relevant to and in furtherance of a management review process to identify circumstances indicating possible 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.
 - a. Except:
 - 1) 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
 - 2) The incident involved the discharge of a firearm or any use of deadly force by the officer (see this agency's policy on *Use of Force*); or
 - 3) The incident involved the death of a person while in law enforcement custody; or
 - 4) The incident involved the death of a person during an encounter with a law enforcement officer; or
 - 5) 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.
 - b. 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.

- c. 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 Sheriff 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 actually occurred during the encounter so that the person can make an informed decision whether to file the complaint.
7. To comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court:
 - a. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.
 - b. Only those portions of the recording pertinent to the request shall be forwarded.
 - c. 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 ordinance.
 - e. Contact the county counsel before releasing any BWC recordings in civil matters when this county, agency, or any officer/agent of the county is the subject of a tort/civil claim. If authorized for release under discovery, ensure that the county counsel receives a copy.
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 Middlesex County Sheriff's 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 show or disseminate the recording to a civilian or a non-law enforcement entity or to disseminate it to the public, where the Middlesex County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, determines that disclosure to that particular person entity or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.
 11. To conduct an audit to ensure compliance with this policy.
 12. To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the Middlesex County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee.
 13. Any other specified official purpose when the Middlesex 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
- G. Officers shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. Officers 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/or criminal sanctions; 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 this policy 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 Middlesex 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.
- H. BWC recordings are considered criminal investigatory records of this agency and shall be maintained on a secure server and disposed of in accordance with applicable law, New Jersey Attorney General policies, directives, guidelines, and New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules, as applicable.
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 law enforcement 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.H.5(e)(f)(g)) shall be permitted to review the BWC 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/MVR 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.
- I. The Sheriff or his/her designee shall notify the Middlesex County Prosecutor's Office within one business day upon receiving any subpoena, court order or OPRA request for a BWC recording before complying with it. Such notice shall state clearly the deadline by which a response must be made. 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.H.4 of this policy 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.H.5 of this policy.
 - 3. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.H.5(a)(b)(c)(d) of this policy.
 - 4. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.H.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.
- J. A BWC recording 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 Sheriff in consultation with the Middlesex 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, techniques for convincing persons to open doors during warrant execution, etc.), the Middlesex County Prosecutor or his/her designee shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or court rule to protect the information from disclosure, such as by seeking a

protective order from the court.

2. A BWC recording tagged pursuant to subsections IV.F.2 through IV.F.8 of this policy shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Middlesex County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee. The Middlesex County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee may authorize the Sheriff 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 subsections IV.E.2 through IV.E.8.
 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.
- K. The BWC coordinator, or his/her designee, shall maintain a record of all BWC recordings that are accessed, viewed, copied, disseminated, or deleted. The Sheriff shall initiate 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 employee who accessed the stored recording;
 4. The person who approved access, where applicable; and
 5. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.
- L. Officers and employees shall not reproduce or store any recordings to any device or storage medium or direct another to reproduce or store such recordings. This shall include but, not limited to, cell phones, electronic notebooks, etc.
- M. 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 Sheriff or his/her designee.