

GUTTENBERG POLICE DEPARTMENT

GENERAL ORDER



SUBJECT: BODY WORN CAMERAS

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BY THE ORDER OF:
Commander of Operations

ACCREDITATION: 3.5.5

PURPOSE The purpose of this general order is to maintain guidelines for the use, management, storage, and release of audio-visual media recorded by body worn video/audio cameras (BWC). BWC is 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 Guttenberg Police Department to utilize body worn video/audio cameras (BWC) to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident.

All personnel (sworn and civilian) shall use this equipment (including accessing recordings) consistent with manufacturer’s guidelines, this general order, and those policies or guidelines issued by the New Jersey Attorney General and Hudson County Prosecutor’s Office. Failure to use this technology in accordance with this general order and those policies or guidelines issued by the New Jersey Attorney General and Hudson County Prosecutor’s Office can result in discipline.

The Guttenberg Police Department website/webpage shall contain a clear statement that this department utilizes body worn video/audio cameras. The website posting shall include an image showing what the device looks like and how it is to be worn by uniformed officers or plain-clothes detectives so that citizens will be able to determine whether an officer/detective is equipped with the device.

Any willful or repetitive violations of this general order shall be reported the internal affairs commander who shall report such directly to the Commander of operations and/or Hudson County Prosecutor’s Office. The commander or operations and/or Hudson County Prosecutor’s Office is authorized to take such actions as are reasonable and necessary to ensure compliance with this general order and to prevent future violations.

PROCEDURES

I. DEFINITIONS

- A. For purposes of this general order, the following terms are defined:
1. Activate – means to actuate (put into operation) the recording mode/function of a BWC.
 2. Body worn audio/video recorder (BWC) – is an officer worn device that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity nor does the term include an electronic recording device when used to comply with the requirements of Court Rule R. 3:17 (electronic recording of station house custodial interrogations).
 3. 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.
 4. Constructive authority – involves the use of an officer's authority to exert control over a subject (see this department's *General order on Use of Force*), except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g., "...show me your hands," "...get out of the vehicle", etc.), or directed against any person if the officer has unholstered a firearm or CED (e.g., "...move out of the way", "...get down", etc.).
 5. Deactivate – means to shut off the recording mode of a BWC.
 6. Digital evidence – includes photographs, audio and video recordings that are stored electronically.
 7. Equipped with a BWC – means that an officer is wearing a BWC at the time in question, as opposed to simply receiving BWC equipment from the agency.
 8. Force – has the same meanings as defined in this department's *General order on Use of Force* and the Attorney General's use of force general order. The term force shall include physical, mechanical, enhanced mechanical, and deadly force.
 9. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, or operating while intoxicated offense including, but not limited to responding to a report of a possible criminal offense, an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed, an arrest for a criminal offense, an interview of a potential witness to a criminal offense, or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.

10. Law enforcement incident, as defined in *New Jersey Attorney General Directive 2019-4*, includes:
 - 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.
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. 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.
13. 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.
14. 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.
15. 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.
16. 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.

17. 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.
18. Tagging – is the electronic labeling of a video/audio file captured by a BWC.
19. 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.
20. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, residential and/or treatment facilities, etc.

II. GENERAL ADMINISTRATION

- A. While visual and audio evidence 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.
- B. Adequate safeguards are necessary to ensure that this technology is:
 1. Used in a non-discriminating way; and
 2. Used to document visual evidence.
- C. When properly used, this equipment will have the following capabilities:
 1. Creation of accurate documentation of citizen contacts and other patrol related activities.
 2. Preservation of an audio and video record of events, actions and conditions during arrests, critical incidents, and prisoner transports.
- D. These recordings will serve the following purposes:
 1. Recordings serve as protection for police officers when there are complaints about their conduct or professionalism during encounters with the public.
 2. The recordings may be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.

3. The recordings may resolve disputes concerning what occurred during particular incidents, thereby protecting both the public and the officers involved.
 4. When complete recall is not possible, such as when multiple events are happening simultaneously or out of an officer's line of sight, an audio/visual recording may provide an accurate record of events.
 5. **Subject to the viewing restrictions in this general order**, supervisors will be able to view the recordings with the permission of the Chief of Police or his/her designee and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.
 6. **Subject to the viewing restrictions in this general order**, recordings can permit supervisors to undertake more meaningful performance evaluations.
 7. **Subject to the viewing restrictions in this general order**, recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the general public.
 8. Recordings enhance management's ability to train personnel in proper police procedures.
- E. The commander of operations 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 requirement.
- F. The commander of operations or his/her designee is responsible for:
1. Providing initial training to all newly hired officers or officers who were not previously trained.
 2. Providing periodic refresher training, as required, to ensure the continued effective use and operation of the equipment.
 3. Providing initial and refresher training to non-sworn personnel whose responsibilities include accessing, copying, or distributing BWR records.
 4. Providing supplemental training as part of this department's progressive disciplinary processes.
 5. Officers shall review and reference the BWC **manual online in DMS**. Officers shall remain familiar with these manuals.
- G. The commander of operations shall manage the BWC equipment whose duties shall include maintaining the system and procedures to ensure the integrity and proper handling and storage of all BWC recordings.
- H. Repairs to any BWC equipment shall only be performed by the manufacturer or under the direction of the commander of operations or his/her designee. The commander of operations or his/her designee's responsibilities include:

1. Shall issue officers a login to the *Motorola cloud*. Officers shall not share their login or password with any other person.
 2. Ensure that all recordings are uploaded to a secure data storage system in a timely fashion.
 3. Prevent tampering with or deletion of recorded data both before and after downloading from the BWC and uploading to the storage system.
 4. Ensure proper calibration and performance of the BWR equipment.
 5. Incorporate changes, updates, or other revisions in general order and equipment.
 6. Prevent unauthorized access to stored BWC recordings.
 7. Document all instances where BWC recordings are accessed, viewed, copied, disseminated, or deleted; permit auditing of all instances where BWC recordings are accessed, viewed, copied, or deleted.
 8. Authorize access to downloaded BWC files.
 9. Maintain a record of all BWC serial numbers and assignments.
 10. Set permission, authority levels, and tag/retention categories in the BWC system server.
 11. Repair BWC equipment. Such repair shall only be performed by the manufacturer or under the direction of the commander of operations or his/her designee.
 12. Review BWC internal audits to ensure compliance on the utilization of these devices in accordance with this general order. The commander of operations will be notified immediately if the system or audio/video recordings are compromised or accessed without proper authorization.
 13. Prior to the destruction, erasing or deletion of any BWC recording, other than by automated retention, the commander of operations or his/her designee shall review the specific recording, as well as any relevant department investigation, supplemental reports, or any other reports in the case file to confirm proper retention schedule compliance.
- I. BWC is 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.
- J. All recording media, images, and audio are sole intellectual property of the Guttenberg Police Department and will not be copied, released or disseminated in any form or manner outside the parameters of this general order without the expressed written consent of the commander of operations.

- K. Under no circumstances will any member of the Guttenberg Police Department make a personal copy of any recorded event without the permission of the commander of operations. Release of recorded events will not be permitted without authorization of the Hudson County Prosecutor's Office or the Division of Criminal Justice.
- L. Officers will use only those BWCs approved and issued by the commander of operations. Such BWCs are not able to record images or conversations that cannot be seen or heard by the officer wearing the device without the expressed approval of the Hudson County Prosecutor's Office or the Division of Criminal Justice. Violations will be subject to disciplinary action, up to and including termination.
- M. BWCs shall be used only in conjunction with official law enforcement duties.
 - 1. Officers engaged in undercover operations or surveillance activities are not required to utilize BWC.
 - 2. The BWC shall not be used to record:
 - a. Encounters with undercover officers or confidential informants; or
 - b. Strip and body cavity searches; or
 - c. When the officer is on break or otherwise engaged in personal activities; or
 - d. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room; or
 - e. When the officer is involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction; or
 - f. When the officer is engaged in police union business; or
 - g. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording, see section III.B of this SOP; or
 - h. While discussing criminal investigation strategies.
 - 3. Officers are not required to wear and use a BWC:
 - a. When engaged in hostage negotiations.
 - b. When processing crime scenes.
 - c. When conducting searches of cellphones, tablets, computers, or other electronic devices pursuant to a search warrant, when such items have already been seized and the search is performed at a location other than the premises of the initial search and seizure.

d. When conducting searches of cellphones, tablets, computers, or other electronic devices that are suspected to contain images of child sexual exploitation.

4. BWCs shall not be used surreptitiously.

5. BWCs shall not be used to gather intelligence information based on 1st Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public, except in accordance with any applicable guidelines or directives promulgated by the New Jersey Attorney General.

6. 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.

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 acknowledging dispatch to 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 general order, officers shall video and audio record all law enforcement activity including any interaction with a civilian. However, if an immediate threat to the officer's life or safety makes activating the BWC impossible or dangerous, the officer shall activate the body worn camera at the first reasonable opportunity to do so. Examples of such required recordings include, but are not limited to:

1. During all calls for service (involving those to which the officer is dispatched or volunteers).
2. Any call for service related to a violation or suspected violation of possessing or consuming alcohol, marijuana, hashish, or cannabis item.
3. Prior to civilian engagement and/or immediately upon observing circumstances supporting constitutional justification regarding self-initiated events.
4. Conducting motor vehicle stops from the time of the stop until the stop is concluded, to include conducting or monitoring field sobriety tests.
5. Assisting or backing up an officer on a call for service, on a motor vehicle stop, or with a civilian contact.
6. During motor vehicle and foot pursuits.

7. During stationary police details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, extra duty assignments at ABC establishments where alcohol is consumed (e.g., ABC establishments, festivals, etc.) when police-civilian contact initiated.
8. Investigation of crash scenes, including interviews on the scene.
9. Investigation of crime scenes, **but not crime scene processing**.
10. Interviewing a witness in the course of investigating a criminal offense.
11. Investigating criminal violations (not to include undercover investigations or related surveillance activities).
12. Conducting domestic violence investigations.
13. Investigating an arson for witness and/or suspect identification.
14. Custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with *Court Rule 3:17 (Electronic Recordation of Station House Interrogations)*.
15. Out-of-court identifications (i.e., show ups, lineups).
16. Investigative detentions or officer-initiated pedestrian stops.
17. Conducting warrantless searches (all types, including protective frisks, consent, etc., **but not strip or body cavity searches**).
- 18. Search or arrest warrant service (entire service).**
19. Making an arrest.
20. During arrestee/prisoner transports to police station, county jail, or other place of confinement, as well as hospitals or other medical care facilities and mental health facilities.
21. **Drug recognition expert (DRE) evaluations.**
22. **Overdose and suspected overdose investigations.**
- 23. Emotionally disturbed person investigations / encounters.**
24. Crowd control, unruly crowds, strikes, picket lines, demonstrations or incidents requiring activation of the all-hazards or emergency operations plan.
25. When an officer uses force or constructive authority, 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).

26. Conducting welfare checks of residents and motorists (motorist aid) / community caretaking function.
 27. An officer reasonably believes that any other officer on the scene has undertaken, or is engaged, in any of the foregoing police actions/activities.
- C. Notwithstanding any other provision of this general order, when an officer equipped with a BWC is dispatched to or otherwise goes to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance (e.g., an officer in distress, shots fired, etc.), the officer shall activate his/her BWC before arriving at the scene when feasible.
- D. Notwithstanding any other provision of this general order, an officer while at the scene of a police deadly force event, a pursuit resulting in death or serious bodily injury, in-custody death incident, or the on-scene investigation of such events shall not deactivate his/her BWC unless instructed to do so by the independent investigator supervising the investigation of the deadly force incident pursuant to *Attorney General Law Enforcement Directive 2019-4*.
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 as evidence in accordance with this agency's general order on *Evidence and Property*.
- E. BWC 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.
- 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 processing room or a cell, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee.
- 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 Hudson County Prosecutor's Office or the Division of Criminal Justice, has expressly authorized the officer to make a covert electronic recording.
1. Officers may deactivate a BWC when a civilian 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 (e.g., prior to providing such information, the person indicates that he/she will only provide such information if it were not recorded; provided however, that the agreement to participate under that condition is itself recorded).
 - a. Officers shall not suggest to the person that the BWC should be deactivated, nor shall the officer ask the person whether he or she would prefer that the BWC be deactivated. Rather, the request for deactivation must be self-initiated by the civilian. The officer may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded).
 - b. In deciding whether to deactivate the BWC, the officer shall consider the privacy and safety interests of the person requesting deactivation, whether the encounter is occurring in the person's residence, and the need for the information or assistance that the person will provide is important to the investigation, yet is not critical, to require recording.
 2. Officers may deactivate a BWC when a person, other than an arrestee, is seeking emergency medical services for him or herself or another and requests that the BWC be deactivated. 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 (e.g., a victim of an assault during a fight does not want to be recorded, etc.). However, in situations when an officer reasonably believes that the officer or another person is likely to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.

3. When an officer deactivates a BWC:
 - a. The conversation between the officer and the civilian concerning the request for deactivation shall be electronically recorded; and
 - b. The officer 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..."); and
 - c. The officer shall report the circumstances concerning the deactivation to their supervisor as soon as is practicable; and
 - d. The officer shall document the circumstances of the deactivation in any report concerning the incident under investigation, including the time of activation and/or deactivation.
4. If an officer declines a request to deactivate a BWC, the reasons for declining the request (e.g., the officer believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter) must be memorialized on the recording and documented and shall be reported to their supervisor as soon as it is safe and practicable to do so.
 - a. In the event that the officer declines a deactivation request, the officer 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 Hudson County Prosecutor's Office, or the Division of Criminal Justice expressly has authorized covert recording.
5. Officers must deactivate a BWC when specifically authorized to do so by an assistant prosecutor for good and sufficient cause as determined by the assistant prosecutor. When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor who authorized the deactivation (e.g., "...I am now turning off my BWC as per the instruction of assistant prosecutor (insert name).").
6. Officers must deactivate/mute a BWC while participating in a discussion pertaining to criminal investigation strategy and planning (e.g., to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to summon a drug/explosives detection canine, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.), provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation (e.g., "...I am now turning off my BWC to discuss investigative strategy with my supervisor.").

7. If an officer is required to deactivate the BWC when entering a school, house of worship, health care facility, substance abuse treatment center, etc., the officer shall narrate the reason for deactivation (e.g., "*...I am entering a school building where children are present...*"). The BWC shall be reactivated as soon as it is safe and practicable to do so if and when the circumstances requiring deactivation no longer exist (e.g., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWC).
 8. In the event that a BWC captures the image of a patient in a substance abuse treatment facility, the commander of operations or his/her designee shall notify the Hudson 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 Hudson 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.)
 9. In any instance where a BWC was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so if and when the circumstances justifying deactivation no longer exist (e.g., the interview of the person requesting deactivation is completed, etc.) and the officer would otherwise be required to activate the BWC.
- 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 their supervisor that the image of an undercover officer or confidential informant was recorded. The BWC shall be activated/reactivated as soon as it is safe and practicable to do so if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
 - 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 judge presiding expressly authorizes such activation.
 - K. BWCs shall be deactivated or removed while in the ALCOTEST area when the ALCOTEST device is being used. Nothing herein shall be construed to preclude the use of a BWC to record the behavior of a person arrested for driving while intoxicated other than while the person is in the ALCOTEST area while the ALCOTEST device is being operated. If this provision requires deactivation of a BWC, the officer shall narrate the reasons for deactivation (e.g., "*...I am deactivating the BWR because the suspect is about to take a breath test.*"), and the BWC shall be reactivated when safe and practicable to do so following the completion of the breath testing operation.

- L. When a BWC is activated, officers are encouraged to provide narration where practical and appropriate in an effort to augment the value of the recording and to provide clarity for the viewer.
- M. Non-law enforcement personnel shall not be allowed to review the recordings at the scene of contact. Officer complaints shall be handled in accordance with the policies set forth in this department's general order on *Internal Affairs*. All other requests to view and/or obtain footage by the public shall be handled in accordance with section V of this general order.

IV. OFFICER AND SUPERVISORY RESPONSIBILITIES

- A. BWC will be assigned to all officers including SLEO personnel.
- B. Uniformed patrol officers shall wear and use the BWC consistent with the requirements and restrictions in this general order when engaging in patrol duties. BWCs shall be utilized daily.
 - 1. Officers are not required to activate their BWCs in police headquarters unless they are investigating a walk-in complaint, making an arrest, or other similar related functions.
 - 2. 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 general order.
 - 3. BWCs shall be worn and used on all extra duty assignments except for assignments involving only traffic control.
 - 4. Officers shall also wear and use a BWC consistent with this general order when:
 - a. On aggressive driving, DWI interdiction assignments, or other proactive enforcement team.
 - b. When assigned to front desk assignments and interacting with the public on a law enforcement matter.
 - c. When assigned to or assisting any tactical team in the field.
 - d. When assigned to duties at demonstrations or potential civil disturbances.
- C. When not in use, BWCs shall be stored in the designated docking stations in the roll call room. The docking stations permit recharging of the BWC units and downloading of data to the Motorola cloud.
- D. All officers assigned a BWC are responsible for its use and maintenance during their tour of duty.

- E. BWRs shall be worn on the outer-most garment. It will be secured to the garment using the mount/clip supplied by the manufacturer that is part of the BWC equipment. The BWC will be positioned high on the center of the chest at badge level, head, or collar, facing the officer's point of view. Officers are responsible to ensure the BWC remains in a position to allow the recording of an encounter or incident to the extent possible.
- F. 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.
 - 1. When conducting the pre-shift inspection, the officer shall activate the BWC and verbally state the date, that a pre-shift inspection is being conducted, and that a test is being performed on the unit.
 - 2. The results of the inspection, including any malfunctions or deficiencies, shall be noted in CAD.
 - 3. Any problems preventing the use of the unit during the shift will be reported to a supervisor and a CAD record generated noting the details of the problem. A copy of the CAD record shall be forwarded to the commander of operations.
 - 4. Problems that cannot be remedied will be reported to the commander of operations.
 - 5. Officers will dock their BWC for download to a docking station upon completion of their shift.
- G. When any officer captures video/audio footage involving any part of an arrest or significant event, officers will tag the recording 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. BWC recordings are not a replacement for written reports. Under no circumstances shall officers simply refer to a BWC recording on a report instead of detailing the facts and circumstances of their investigation/observations.
- H. Any officer equipped with a BWC, who responds or is involved in a criminal investigation, shall complete the appropriate report, in a timely manner, as to his/her activities, which shall include, at a minimum, the time the recording was activated, and the time the recording was de-activated. Officers shall also ensure that the pertinent RMS record is annotated with an entry noting a BWC was used.
- I. Officers shall uniformly tag their recordings during their assigned shift or at the conclusion of their shift in the Motorola cloud. Officers are required to enter specific information for each uploaded BWC recording.
 - 1. Alarm burglar, fire, commercial, residential.
 - 2. Area check.
 - 3. Arrest.

4. Assist other agency.
5. Civilian contact.
6. Crash investigation.
7. Domestic violence.
8. DWI.
9. Homicide / attempted homicide.
10. Investigation – other.
11. Medical call / EDP.
12. Missing person.
13. MV stop – summons.
14. MV stop – warning.
15. Officer injury.
16. Parking complaint.
17. Request for police.
18. Sex Crime.
19. Sensitive.
20. Test.
21. Use of force.
22. Vehicle inspection.

J. To identify BWC recordings that may raise special privacy or safety issues, officers shall appropriately tag recordings that:

1. Captured a law enforcement incident, as defined in *New Jersey Attorney General Directive 2019-4*:
 - a. Any use of force by a law enforcement officer resulting in death or serious bodily injury.
 - b. Any use of deadly force (including the discharge of a firearm) by a law enforcement officer, regardless of whether such force resulted in injury.

- c. The death of any civilian during an encounter with a law enforcement officer; and
 - d. The death of any civilian while in the custody of law enforcement.
 - 2. Captured the image of a victim of a criminal offense; or
 - 3. Captured the image of a juvenile; or
 - 4. Were made in a residence (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; or
 - 5. Captured a conversation with a person whose request to deactivate the BWC was declined; or
 - 6. Captured a special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded; or
 - 7. Captured the image of an undercover officer or confidential informant; or
 - 8. Captured the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
- K. Supervisors are responsible for ensuring that on-duty officers are equipped with functioning BWCs at the beginning of each shift.
- 1. 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 using a *Supervisory Review of Digital Video/Audio Recording Form*.
 - 2. 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 commander or operations or his/her designee using a *Supervisory Review of Digital Video/Audio Recording Form*.
 - 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 supervisor will label the video/audio for indefinite retention.
 - 4. As part of the meaningful review process, supervisors shall review all BWC footage involving the below, unless restricted in section V of this general order using a *Supervisory Review of Digital Video/Audio Recording Form*:
 - 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 authorized employees of this department. Viewing by any other person is prohibited unless authorized by the commander of operations, his/her designee, or consistent with the provisions of this general order.
- B. BWC recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- C. No law enforcement officer or civilian employee of this agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose as specified in this section. Access to and use of a 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.
- 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 SOP 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 Chief of Police 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 actually occurred during the encounter so that the person can make an informed decision whether to file the complaint; (*NOTE: It is the policy of this department to show footage of the prospective complaints unless doing so would interfere with an ongoing investigation, threatened the safety or privacy interests of other individuals who appear on the recording, or is otherwise prohibited under this general order*);
6. Non-law enforcement personnel shall not be allowed to review the recordings at the scene of contact. Officer complaints shall be handled in accordance with the policies set forth in this department's general order on *Internal Affairs*.
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 (DVD or hyperlink).
 - c. The Guttenberg Police Department reserves the right to redact recordings as applicable by law.

- a. 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.
 - b. 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.
8. To comply with any other legal obligation to turn over the recording to a person or entity.
 9. To show or disseminate the recording to a civilian or a non-law enforcement entity, or to disseminate it to the public, where the Hudson 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. 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 Guttenberg 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.
 11. To conduct an audit to ensure compliance with this general order.
 12. To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the Hudson County Prosecutor or his/her designee.
 13. Any other specified official purpose where the Hudson County Prosecutor 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 SOP 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 this general order or any other applicable law shall be immediately brought to the attention of the command staff and immediately destroyed by the command staff following consultation and approval by the Hudson 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.

E. Except for recordings being stored for criminal, civil and administrative proceedings, or evidentiary purposes, All BWC recordings shall be retained on the Motorola cloud for not less than 180 days and shall be subject to the following additional retention periods:

1. When a BWC recording pertains to a criminal investigation or otherwise recorded information they may be subjected to discovery in a prosecution. The recording shall be treated as evidence and shall be tagged appropriately and kept in accordance with the retention period for evidence in a criminal prosecution. Furthermore, it is the responsibility of every officer to properly and uniformly tag all recordings.

2. Recordings being stored for criminal, civil, or administrative purposes must be retained until the conclusion of the case plus any retention period.

3. 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.

4. BWC recordings shall be retained for not less than three years if voluntarily 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.4 (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
5. When a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be tagged appropriately and kept pending final resolution of the internal affairs investigation and any resulting administrative action.
- F. Prior to the destruction, erasing or deletion of any BWC recording, other than by automated retention, the captain or his/her designee shall review the specific recording, as well as any relevant department investigation, supplemental reports or any other reports in the case file to confirm proper retention schedule compliance.
- G. When seeking authorization to purge/erase BWC recordings being held for evidence in criminal matters, the Commander of operations or his/her designee must submit a destruction request to the Hudson 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.
- H. Open public record requests. Only the following BWC recordings shall be exempt from public inspection:
- 1. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.3 of this general order if the subject of the BWC recording making the complaint requests the recording not be made available to the public.
 - 2. Recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection V.E.4 of this general order.

3. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.4(a)(b)(c)(d) of this general order.
 4. Recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.4e)(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.
- I. The commander of operations or his/her designee shall notify the Hudson County Prosecutor's Office within one business day upon receiving any subpoena, court order or OPRA request for a BWC recording before complying with it. Such notice shall clearly state the deadline by which a response must be made.
- J. 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 Commander of operations in consultation with the Hudson 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 Hudson 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.J.2 through IV.J.8 of this general order shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Hudson County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee. The Hudson County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee may authorize the Commander of operations 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.J.2 through IV.J.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 commander of operations or his/her designee shall maintain a record of all BWC recordings that are accessed, viewed, copied, disseminated, or deleted. The Commander of operations shall cause a periodic audit of these records to ensure compliance with this SOP. Minimally, the record keeping system shall document the following information and can be automatically maintained by the server:
1. The date and time of access; and
 2. The specific recording(s) that was/were accessed.; and
 3. The officer or civilian employee who accessed the stored recording; and
 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. If an original recording is required for use in court or by another law enforcement agency, that recording shall not be released outside the restrictions established in this general order without the prior approval of the Commander of operations 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 evidence/property 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.
- M. Officers shall not reproduce or store any recordings to any device or storage medium. This shall include, but not limited to, cell phones, electronic notebooks, etc.
- N. 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 commander of operations.