

# WILLINGBORO POLICE DEPARTMENT

## Standard Operating Procedure



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**SUBJECT: Body Worn Cameras (BWC)**

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BY THE ORDER OF:

Ian Bucs, Acting Director of Public  
Safety

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SUPERSEDES ORDER #:

**PURPOSE:** The Purpose of this Policy is to establish the procedures for the use, maintenance, and control of the Willingboro Township Police Department's Body Worn Cameras (BWCs). The department uses the BWCs for the purpose of recording video and audio accounts of specific events. The Willingboro Township Police Department recognizes that audio and video captured may not accurately reflect the perception of the officer wearing the BWC. The technology utilized in the BWC cannot exactly mimic the physiology of an officer at this time. An officer turning his or her head, focusing his or her vision on a particular object, or experiencing auditory exclusion might observe something not captured in audio or video recordings, or an officer might NOT observe something that is captured in audio or video recordings. The use and maintenance of video recordings can be invaluable to law enforcement for both training and evidential purposes. Proper safeguards need to be in effect which will ensure their non-discriminating use as well as the proper preservation of evidence, which may be obtained through use of the technology. The purpose of the BWC program does not include capturing audio and/or video recordings of officers' private conversations, strategy or information sharing sessions, meal breaks, and/or tactical preparations.

**POLICY:** It is the policy of the Willingboro Township Police Department that all sworn members comply with the following procedures for the use and maintenance of the BWCs. This policy will cover any recordings of video and audio as a result of the use of the BWC.

**PROCEDURE:**

**I. Definitions**

- A. Activate:** Actuate the recording button on the BWC
- B. Body Worn Camera (BWC):** A device worn by a law enforcement officer that makes an electronic audio and 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 police vehicle (i.e., a dash cam). The term also 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 Rule 3:17 (electronic recording of station house custodial interrogations).
- C. Constructive Authority:** Shall have the same meaning as defined in the Attorney General's Use of Force Policy, 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 a person if the officer has un-holstered a firearm or a conducted energy device (e.g., "move out of the way," "get down," etc.).
- D. Equipped with a BWC:** Shall mean that a law enforcement officer is actually wearing a BWC at the time in question, as opposed to simply receiving BWC equipment from their agency.
- E. Force:** Shall have the same meaning as defined in the Attorney General's Use of Force Policy. The term "force" shall include physical, mechanical, enhanced mechanical, and deadly force.

- F. Investigation of a Criminal Offense:** Any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.
- G. Mobile Video Recording System:** A device or system installed or used in a police 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.
- H. 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 the aforementioned activities, and they are sometimes referred to as crime suppression units. The nature of their work is varied and 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.
- I. School:** 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.
- J. Serious Bodily Injury:** 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. Serious bodily injury and serious bodily harm have the same definition for purposes of this Policy. See N.J.S.A. 2C:11-1(b); N.J.S.A. 2C:3-11(d).
- K. Significant Bodily Injury:** 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. See N.J.S.A. 2C:11-1(d).
- L. Subject of the Video Footage:** Any law enforcement officer, suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the BWC recording, and shall not include a person who only incidentally appears on the recording.
- M. Substantive Report:** A substantive report shall mean a report that includes a detailed accounting of the incident. It does not include a report, for example, which simply refers to other reports or to the existence of BWC or other camera recordings.
- N. Tactical Team:** 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.

- O. **Youth Facility:** A facility where children assemble under adult supervision for educational or recreational purposes, such as group homes, residential facilities, day-care centers, day treatment centers, etc.

## II. **Authorized Use**

- A. The Willingboro Township Police Department has adopted the use of BWCs in order to accomplish the legitimate police objectives, including but not limited to:
1. Accurately document events, actions, conditions and statements made during motor vehicle stops, investigative stops, field interviews, arrests and critical incidents;
  2. To enhance officer reports, evidence collection and courtroom testimony;
  3. To enhance this agency's ability to review facts leading to probable cause for arrest, arrest/search/seizure procedures/techniques, officer/public interaction, and evidence for investigative purposes;
  4. Evaluation of officers performance to ensure compliance with Willingboro Township Police Department directives, rules and regulations;
  5. To review extraordinary incidents, with both positive and negative outcomes, for training purposes.
- B. The BWC will be worn on the outer most garment worn by both uniformed and non-uniformed officers. It will be secured to the uniform using the uniform mount/clip supplied by the manufacturer as part of the BWC equipment. The BWC will be positioned high on the center of the chest at badge level.
- C. If a BWC is not functioning properly, it will be taken out of service until the unit is repaired. Any officer with a malfunctioning BWC will turn the unit over to the Deputy Watch Commander along with a Special Report describing the malfunction and how it was discovered. If the unit is damaged, the officer will include an explanation, to the best of his or her knowledge, of how and when the damage occurred. The Deputy Watch Commander will deliver the malfunctioning/damaged unit and the Special Report to the Watch Commander before the end of the tour.
- D. If a BWC is lost, the assigned officer will notify the Deputy Watch Commander. The Deputy Watch Commander will make immediate notification to the Watch Commander.
- E. All uniformed officers, officers assigned to tactical teams, officers assigned to proactive enforcement teams, officers assign to canine units, officers assigned to duties that include regular interaction with members of the public, officers assigned to the front desk, officers assigned to a pre-planned search warrant execution or pre-planned arrest, officers assigned to traffic law enforcement, Class II Special Law Enforcement Officers (SLEO IIs) assigned to patrol or traffic law enforcement duties, and all officers assigned to duties at demonstrations or potential civil disturbances, will be required to utilize BWC's in accordance with this policy.
1. In the event of a planned arrest/search warrant execution where it is expected that an undercover officer or confidential informant would be present (e.g., a raid where the undercover operative will be arrested to

preserve his or her cover), the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, may provide specific instruction to any BWC-equipped officers participating in the operation on whether to activate their devices. The BWC shall be activated/re-activated 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.

2. No officer assigned to the duties listed in this paragraph will be excused from using a BWC unless specifically approved by Director of Division of Criminal Justice or the Burlington County Prosecutor. The officer is responsible for utilizing the techniques taught to them during the BWC training to ensure that the BWC is operating properly at the start of their tour of duty. Failure to do so may result in disciplinary action.
  3. Officers will only use agency issued and approved recording devices.
- F. Detectives and Officers in a plain clothes assignment while not required to wear a BWC at all times will deploy and activate their BWC whenever they have previous knowledge that they will be engaging in any of the activities outlined in Section II, paragraph G of this policy. At all other times the BWC should be deployed and activated when reasonably feasible.
- G. The BWC will be used to record the following events:
1. All calls for service.
  2. Officer-initiated vehicle and/or pedestrian stops.
  3. When an individual is being taken into custody.
  4. Any police response which involves the use of emergency warning lights and/or siren.
    - a. The BWC will be activated before the emergency lights and siren are activated.
    - b. The BWC will not be deactivated until the officer completes their assignment at the location or as outlined in Section IV of this policy.
  5. During field sobriety tests.
  6. Crime(s) in progress.
  7. Documenting serious accidents, crime scenes or fires.
  8. While handling disabled motor vehicles.
  9. While transporting prisoners.
  10. Responding to/investigation of Police Deadly Force incidents
  11. Responding to domestic disputes.
  12. Responding to neighborhood disputes.
  13. Responding to noise complaints.
  14. Responding to disorderly conduct.
  15. Responding to suspicious persons/vehicles.
  16. Responding to riots or civil disturbances.
  17. Responding to protests.
  18. K-9 Incidents, except during explosive searches.
  19. All SWAT Operations.
  20. When administering Miranda Warnings in the field.
  21. During all Searches.
  22. All mutual aid calls.

beneficial in the performance of their duties. Use of the BWC during operations conducted by members of the Willingboro Police Street Crimes Unit will be done so at the discretion of the CID Commander or designee.

- H. Officers shall notify subjects being recorded that they are being recorded by the BWC, unless it is unsafe or infeasible to provide such notification. Such notification shall be made as close to the inception of the encounter as is reasonably possible. If the officer does not provide the required notification because it is unsafe or infeasible to do so, the officer shall document the reasons for that decision in a report or by narrating the reasons on the BWC recording, or both.
- I. When entering a person's residence Officers shall notify the person(s) with whom the officer is conversing that the BWC is activated unless it is unsafe or infeasible to do so. The officer shall document in their written report and by narration on the BWC the reason for any decision not to make notification of BWC activation.
- J. Officers shall notify apparent crime victims and witnesses that a recording is being made and gain their consent prior to initiating an interview. The consent will be documented by recording it with the BWC. The consent will be requested using language substantially similar to, "I am recording this incident. Is it alright with you if I continue recording while you tell me what happened?"
  - 1. The officer shall not suggest to the person that the BWC be de-activated nor shall they ask if the person prefers that the BWC be de-activated. The request for de-activation must be initiated by the victim/witness.
  - 2. It may not be immediately apparent to an officer which subjects are witnesses, victims, suspects, or unrelated by-standers. Officers will keep the BWCs activated while they determine what role each person took in the incident. Officers are not expected to make a positive determination of what each person's role was prior to conducting interviews, so the standard will be reasonable belief based on the available evidence.
  - 3. When de-activating the BWC at the request of an apparent crime victim/witness/civilian, the conversation between the officer and the subject making the request shall be electronically recorded using the BWC. The officer shall narrate the reason for the de-activation using language similar to "I am deactivating my BWC at the request of the victim." The officer shall also document the circumstances for the de-activation in any investigation or incident report. The officer shall notify their supervisor of the circumstances surrounding the de-activation as soon as is practicable.
  - 4. If an officer declines a request to deactivate the BWC, the officer shall immediately notify the subject of the decision not to deactivate the recording. The officer shall document the reason for their decision to decline the request and shall notify their supervisor as soon as is practicable. The officer is prohibited from misleading the subject into believing the recording has been stopped unless the County Prosecutor or designee or the Director of the Division of Criminal Justice or designee expressly has authorized covert recordings.
  - 5. An officer may not decline a request from an apparent crime victim to discontinue recording of the encounter via the BWC.
  - 6. If the subject being interviewed is a both a victim and a suspect (e.g. mutual fight), the BWC will remain activated while they are being interviewed and

their consent is not necessary.

7. BWCs will be reactivated at the conclusion of the victim/witness interview, unless the interview is the last action taken by officers.

K. If asked whether the Officer is equipped with a BWC and/or if the device is activated, the officer shall answer truthfully unless the County Prosecutor or designee has expressly authorized the officer to make a covert recording.

### **III. Officer Responsibilities**

A. Officers will be given training in the use, maintenance, and handling of the BWC. An officer's failure to care for an assigned BWC in accordance with this training may result in disciplinary action.

B. Intentional damage to or loss of a BWC will result in disciplinary action. Damage to or loss of a BWC will be reported and investigated in accordance with the Internal Affairs policy. If the damage or loss is determined to be the result of recklessness the responsible officer may be disciplined, but an officer will not face disciplinary action for accidental or unavoidable damage or loss.

C. Officers will prepare the deployment of the BWC at the start of their shift, as well as secure it at the end of their shift, in accordance with their training and departmental policy.

D. If any of the BWC's functions do not operate properly at any time during the shift, the officer will immediately notify the Deputy Watch Commander and follow the procedure described in section II-C of this policy.

E. Officers should ensure that the equipment is operating in a way which will allow for the recording of enforcement actions. No uniform pieces or equipment, including ties, shirts, and jackets, will be worn in a manner that will interfere with video and/or audio recording of incidents.

F. Officers are encouraged to notify the Deputy Watch Commander after recording an incident or encounter that will provide valuable training if reviewed by other officers.

G. Officers should assign videos to a category, in Evidence.com, that are evidentiary in nature and/or they feel are pertinent to any investigation(s). All the videos from the officer(s) associated with the incident and/or investigation should be assigned a category.

1. At a minimum the officer(s) will categorize their video as "Evidence." The officer(s) may also categorize that same video with any of the other options that apply to that video. For example, use of force, complaint, arrest, traffic stop, etc.

2. The officer will also ID the video(s) with the full incident number given to them from Central Communications. It will contain the year and then the eight numbers that follow. An example of this is 2015-00001234. If there are multiple videos, the officer(s) will still ID each video with the full incident number given to them from Central Communications.

- H. Officers shall categorize videos that capture any of the following circumstances that are deemed “special privacy” issues by the Attorney General:
1. Victim of a Criminal Offense
  2. Image of a Child
  3. Inside a Residential Premise
  4. At a School or Youth Facility
  5. Inside a Health Care or Medical Facility
  6. Inside a Drug Treatment Center
  7. Inside a place of Worship
  8. A subject whose request to deactivate the BWC was declined
  9. Captures the image of an undercover officer or confidential informant
  10. Captures the screen of a police computer monitor that is displaying confidential personal or law enforcement sensitive information.
  11. Captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information (e.g., verbal codes and hand signals used to give direction to officers, techniques for interior movements and clearing rooms during execution of a warrant, techniques for convincing persons to open doors during warrant execution, etc.) may have been recorded;

The videos will at a minimum be categorized in the “Special Privacy” category in Evidence.com, but does not prevent an officer from assigning a video to multiple categories. Videos falling into this category must be tagged by the end of the Officers next shift.

- I. Officers assigned to the SWAT Team who deploy their cameras during Tactical Operations shall assign those videos to the “Special Operations” category in Evidence.com. Officers participating in a Tactical Operation whose BWC captures the movements and techniques of the SWAT Team may be directed to categorize those videos in the “Special Operations” category at the discretion of the SWAT Team Commander or their designee.
- J. A BWC recording tagged “special privacy” or “special operations” shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the CID Commander.
- K. Anyone accessing any video for any purpose (i.e. report preparation, Administrative Review, etc.) shall document, in the “Notes” box under the video, the date, purpose for viewing the video, their initials and badge number. The officer will then “Post” the note so as to record the entry into the audit trail in Evidence.com for that particular video.

#### **IV. Activation and Deactivation**

- A. BWC's will only be used in the performance of Official Duties and for the purposes of recording incidents, investigations and police-civilian encounters involving those law enforcement activities specified in this policy. A BWC shall not be activated while the officer is on break or otherwise is not actively performing law enforcement functions (e.g., while eating meals, while in a restroom, etc.). A BWC shall not be activated or used by an officer for personal purposes, or when engaged in police union business. Nor shall a BWC be used to record conversations involving counseling, guidance sessions, personnel evaluations, or any similar supervisory interaction. Any recordings from a BWC recorded in contravention of this Policy or any other applicable



law shall be immediately brought to the attention of agency command staff and immediately destroyed by command staff following consultation and approval by the County Prosecutor or Director of the Office of Public Integrity and Accountability. Such footage 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

B. The BWC equipment used by the department has a pre-record function. Once the recording begins, the system maintains a thirty second video-only buffer that is recorded to memory when the unit is activated.

C. Officers will activate their BWCs when:

1. Upon commencing response to a call for service; or
2. Observing a violation or incident for which the officer intends to take action, the officer will immediately activate the BWC.
3. An officer is injured on duty.
4. An officer is involved in a motor vehicle accident.
5. An officer initiates an investigative detention.
6. An officer is conducting a motorist aid or community caretaking check
7. An officer is interviewing a witness in the course of investigating a criminal offense
8. An officer is conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with Rule 3:17 (electronic recordation of station house interrogations)
9. An officer is making an arrest
10. An officer is conducting a protective frisk for weapons
11. An officer is conducting any kind of search (consensual or otherwise), including the execution of a search warrant
12. An officer is engaged in a police response to any type of civil disorder in circumstances where the officer is engaged with or in the presence of civilians and the officer or any other officer on the scene may be required to employ constructive authority or force
13. 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 that are documented by narration on the recording and/or in any investigation or incident report
14. An officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.

15. Any contact with any person where Police assistance is required or requested, including working the front desk.
16. Consistent with the provisions of N.J.S.A. 2C:33-15a(4), the video and audio recording functions of an officer's BWC shall be activated whenever the officer is responding to a call for service related to an underage person who is suspected of violating the law with respect to possessing or consuming an alcoholic beverage, marijuana, hashish, or a cannabis item, or at the initiation of any other law enforcement or investigative encounter between an officer and a person related to a violation or suspected violation of that provision. The BWC shall remain activated until the encounter has fully concluded and the officer leaves the scene and shall not be deactivated based on a request by a person who is the subject of the call for service related to a violation of N.J.S.A. 2C:33-15, or for any other reason.
17. Officers shall activate their body-worn cameras while actively engaged in the above listed activities while at the police information desk or in the lobby in front of the police information desk. Officers should not keep the video active throughout the entire incident, only when actively interacting with the complainant to gain relevant information or while actively collecting evidence. Example: A victim reports to the desk to report a DV. The camera shall be activated while the victim is giving their statement (unless another restriction applies), but it should not be active while the victim waits in the lobby as you are filling out a TRO and typing a warrant. If the victim remembers additional information or you have follow up questions, it would be re-activated at that time.

The BWC will be activated by all officers responding to the scene of an incident, whether acting as the primary investigator or in a back-up officer capacity.

Except as otherwise expressly provided in any other provision of this Policy, when a BWC is required to be activated by an officer pursuant to this Policy, the device must remain activated throughout the entire encounter/event/episode and shall not be de-activated until it is concluded (e.g., the BWC-equipped officer has left the scene; all civilians involved in the encounter have left the scene; the officer has informed the dispatcher or a supervisor that the event has concluded; the event is "closed" on the department's computer-aided dispatch ("CAD") system, etc.).

- D. When responding to a violation or suspected violation of N.J.S.A. 2C:33-15(a)(1), officers SHALL activate their body worn cameras, which SHALL remain activated throughout the encounter. No deactivation for a conference will be allowed until the completion of the encounter.
- E. The BWC shall not be deactivated until the enforcement action or encounter is completed unless one of the following conditions apply:
  1. The officer has no contact with any victim, witness, suspect, or other principal and the camera is not in any position to record any relevant part of the incident.
  2. A victim or witness does not consent to being recorded during an interview. The BWC will be used to record the incident preceding and following the victim/witness interview(s).

3. Prior to deactivating the BWC, officers shall record their intention to deactivate along with the reason for the deactivation.
  4. In the event that citizen contact is re-established or an interview with a victim/witness is concluded the BWC will be reactivated.
  5. An officer may de-activate 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 de-activated. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting de-activation and the person in need of medical assistance.
  6. Upon the approval of a Watch Commander or Division Commander, officers may cease recording when they are not in direct contact with a victim, witness, suspect, or bystander AND they are conferring on a tactical or investigative strategy. While the BWC is deactivated, the BWC on another officer not involved in the strategy meeting must continue recording to ensure the entire incident is documented. Officers deactivating their BWC for this purpose shall narrate the circumstances for the deactivation using language substantially similar to "I am turning off my BWC to discuss strategy, and I have approval from Lt. Jones to deactivate." All officers involved in the strategy meeting will reactivate their BWCs at the conclusion of the meeting.
- F. All Officers responding to and/or arriving at the scene of Police Deadly Force incident shall activate their BWC prior to arriving at the scene. While at the scene of or during the on-scene investigation of a Police Deadly Force incident the officer shall not deactivate their BWC unless instructed to do so by the assistant prosecutor, deputy attorney general or their designee supervising the investigation of the incident.
- G. Deactivation may occur when specifically authorized to do so by an assistant prosecutor or deputy attorney general. When deactivating the BWC the officer shall narrate the purpose for the deactivation using language substantially similar to "I am now turning off my BWC at the direction of assistant prosecutor (insert name)."
- H. Officers will activate the BWC before transporting prisoners, suspects, victims, or witnesses and will not deactivate the BWC until the transport is complete. In cases where officers are transporting prisoners the deactivation shall not take place until the prisoner is secured inside the facility they are being transported to.
- I. When an unforeseen physical confrontation or other dangerous situation occurs at a time when an officer would not normally be required to have his or her BWC activated, the officer will activate the BWC as soon as they can SAFELY do so. Officers are not authorized to jeopardize their own safety in order to activate their BWC.
- J. Failing to activate the BWC or any deactivation of the BWC during an incident, regardless of whether or not the decision is justified, must be documented in the officer's report along with an explanation for the failure to activate or deactivation.
- K. Violations of policy will be reviewed by the Supervisor to determine if discipline is necessary.

- L. In any instance where a BWC was de-activated pursuant to this policy, the device shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances justifying de-activation no longer exist.
- M. In any instance where a BWC was de-activated pursuant to this Policy, in situations where 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.

**V. Restrictions**

- A. Notwithstanding Section II; paragraph G and Section IV; paragraph E of this policy, unless actively engaged in the investigation of a criminal offense, responding to an emergency or the officer reasonably believes they will be required to use constructive authority or force, the officer will not activate or shall deactivate their BWC while:
  - 1. In a school/youth facility or on school/youth facility property under circumstances where minor children would be in view of the BWC;
  - 2. In a patient care area of a health facility, medical office or substance abuse facility where patients would be in view of the BWC;
  - 3. In places of worship under circumstances where worshipers would be in view if the BWC.

If an officer is required to deactivate their BWC under these circumstances, they shall narrate the reason or the deactivation. The BWC shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances requiring de-activation no longer exist.

- B. In the event that a BWC captures the image of a patient in a substance abuse treatment facility the County Prosecutor or designee shall be notified to ensure compliance with all federal laws and regulations providing for the confidentiality of substance abuse treatment information. The recording shall not be released or accessed without permission of the County Prosecutor or designee.
- C. Activation of a BWC is authorized when a person making a report at the front desk or in the processing room when a citizen or arrestee becomes confrontational, argumentative, accusatory or violent toward the officer or the officer feels it would be beneficial to the performance of their duty.
- D. A BWC shall be activated only while in performance of official police duties and for the purpose of recording incidents, investigations, and police-civilian encounters involving those law enforcement activities specified in this Policy, or specified in a department's policy, standing operating procedure, directive, or order promulgated pursuant to this Policy. A BWC shall not be activated while the officer is on break or otherwise is not actively performing law enforcement functions (e.g., while eating meals, while in a restroom, etc.). A BWC shall not be activated or used by an officer for personal purposes, or when engaged in police union business. Nor shall a BWC be used to record conversations involving counseling, guidance sessions, personnel evaluations, or any similar supervisory interaction. Any recordings from a BWC recorded in contravention of this Policy or any other applicable law shall be immediately brought to the attention of agency command staff and immediately destroyed by command staff following consultation and approval by the County Prosecutor or Director of the Office of Public Integrity and Accountability. Such

footage shall not be admissible as evidence in any criminal, civil, or administrative proceeding.

- E. The BWC must be deactivated during any conversations with registered confidential informants or during the recruitment of such confidential sources.
- F. Any officer working in an undercover capacity will not be required to wear a BWC.
- G. Officers should avoid capturing video recordings of other officers that are working in an undercover capacity. An officer shall not activate a BWC, or shall de-activate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would risk revealing the identity 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 his or her supervisor that the recording risks revealing the identity of an individual as an undercover officer or confidential informant.
- H. Officers 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 will not be required to wear a BWC.
- I. Officers conducting searches of cellphones, tablets, computers or other electronic devices that are suspected to contain images of child sexual exploitation will not be required to wear a BWC.
- J. Officers engaged in crime-scene processing duties.
- K. Lieutenants and Captains, while engaged in administrative duties, are not required to wear a body worn camera.
- L. The BWC shall not be activated 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.
- M. BWC's shall be deactivated and removed from areas where electronic breath testing is actively taking place.
- N. A BWC shall not be used surreptitiously. Additionally, a BWC shall not be used to gather intelligence information based on First 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, provided that nothing in this subsection shall be construed to prohibit activation of video and audio recording functions of a BWC as authorized under the law or this Policy.

## **VI. Data Security and Access Control**

- A. All BWC recordings will be maintained on the secure servers in a timely fashion.
- B. All BWC data uploads will be done using the docking stations.

- C. No BWC recording shall be accessed, viewed, copied, disseminated, or otherwise used by an officer or civilian employee of this agency except for an official purpose specified in this Policy or by law.
- D. Any sworn officer or civilian employee of the agency who knowingly violates the requirements of this Policy, standing operating procedure, directive, or order, or applicable laws, shall be subject to discipline.
- E. BWC recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- F. Access to and use of a stored BWC recording is permitted only:
  - 1. When relevant to and in furtherance of a criminal investigation or prosecution;
  - 2. When relevant to and in furtherance of an internal affairs investigation;
  - 3. When relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of possible misconduct;
  - 4. 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;
  - 6. To comply with the State's discovery obligations in prosecutions pursuant to the Rules of Court;
  - 7. To comply with any other legal obligation to turn over the recording to a person or entity;
    - a. When responding to a subpoena or court order, or a request pursuant to the Open Public Records Act or common law right to know, disclosure of a BWC recording under this paragraph is permitted only after providing notice to the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, pursuant to Section 11 of this Policy.
  - 8. To show or disseminate the recording to a civilian or a non-law enforcement entity, or to disseminate it to the public, where the County Prosecutor or designee, or Director of the Division of Criminal Justice or 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;
  - 9. For training purposes, provided that the recording is edited so that the identity of individuals depicted in the recording cannot be determined by persons viewing the training video unless the depicted individuals have consented to the recording being used for training purposes;

10. To conduct an audit to ensure compliance with this Policy and a department's policy, standing operating procedure, directive, or order promulgated pursuant to this Policy;
  11. To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee; or
  12. Any other specified official purpose where the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.
- G. Regardless of any other provision of this policy - no civilian or law enforcement officer, including the principals of the investigation, shall be given access to or view a BWC recording of an incident, or a BWC recording of the response or on-scene investigation of an incident, without the express prior approval of the "Independent Investigator," as that term is defined in New Jersey Attorney General Directive 2019-4 in any incident involving the following:
1. Any use of force by a law enforcement officer resulting in death;
  2. Any use of force by a law enforcement officer resulting in serious bodily injury;
  3. Any use of deadly force (including the discharge of a firearm) by a law enforcement officer, regardless of whether such force resulted in injury;
  4. The death of any civilian during an encounter with a law enforcement officer; and
  5. The death of any civilian while in the custody of law enforcement.
- H. The Director of Public Safety, Division Commanders, Watch Commanders, and Deputy Watch Commanders will have access to view all BWC recordings.
- I. When officers capture video on their BWC that they believe contains evidence that is likely to aid in a criminal prosecution or in a civil action brought against the Willingboro Police Department, they will assign the video to the "evidence" category in the Evidence.com database. Officers will also make an entry into the BEAST evidence management system indicating that the video is to be included in evidence with the case.
- J. When a video must be retained for a minimum of three years as required in section "IX. Retention" below, the officer shall assign the video to the "Three Year Retention" category.
- K. If an officer(s) is involved in a shooting or any event that involves serious bodily injury (SBI) the Sergeant on duty will secure the BWC of all officer(s) involved.

The BWC will be secured after the scene has been secured and any medical attention is rendered. The BWC will be held as evidence and it will be handled in the same manner as a duty firearm.

- L. Authorized system administrators will have access to the BWC recordings for the purpose of system maintenance.
- M. Videos not being held as evidence may be used for training with the approval of a Watch Commander or designee. The recording must be edited so that the identity of the individuals depicted cannot be determined by those viewing the recording unless the depicted individuals have consented to the recording being used for training.
- N. Videos being held as evidence can only be used for training purposes with approval from the CID Commander or designee. The recording must be edited so that the identity of the individuals depicted cannot be determined by those viewing the recording unless the depicted individuals have consented to the recording being used for training.
- O. Officers authorized to have access to Evidence.com will be issued a unique username and password
  - 1. A law enforcement officer shall be permitted to review or receive an accounting of a BWC recording prior to creating any required substantive initial reports, providing a statement, or submitting to an interview regarding the recorded event, except under the following circumstances:
    - a) The incident involves the use of force by the officer, where the officer knows or should know that the use of force resulted in significant or serious bodily injury or death;
    - b) The incident involves the discharge of a firearm or any other use of deadly force by the law enforcement officer;
    - c) The incident involves the death of a person while in law enforcement custody;
    - d) The incident involves the death of a person during an encounter with a law enforcement officer;
    - e) an incident that the officer knows or has been advised is or will be the subject of an internal affairs complaint relating to the officer's use of force, bias, or dishonesty; or
    - f) an incident that the officer knows or has been advised is or will be the subject of a citizen complaint relating to the officer's use of force, bias, or dishonesty.
  - 2. With permission of their supervisor Officers may request to view videos of other officers directly involved with their investigation
  - 3. After completing a BWC video review session, the officer will log out from their account so that no one else may access the system under their



username.

4. Officers are not permitted to delete and/or edit the video itself. Intentional attempts to do so will be reported and investigated in accordance with the Internal Affairs Policy.
- P. No recordings taken from BWCs will be distributed or displayed to a member of the public without the authorization of the supervisor in command of the records bureau.
  - Q. Review of videos with a member of the public for internal affairs purposes requires the authorization of the CID Commander or designee.

## **VII. Release of BWC video/audio recordings.**

- A. All BWC recording releases will be in accordance with applicable laws pertaining to evidence and the Open Public Release Act (OPRA)
- B. The supervisor of the records bureau shall, within one business day of the receipt of a subpoena, court order or request
- C. Pursuant to OPRA, provide notice to the County Prosecutor. The notice shall clearly state the deadline by which a response must be made.
- D. The supervisor assigned to the records bureau shall be responsible for the release of such video recordings.
- E. The Supervisor assigned to the records bureau shall notify the Director of Public Safety upon request and prior to release of such video recordings.
- F. 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 County Prosecutor or designee, or Director of the Division of Criminal Justice or designee in cases prosecuted by the Division, 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.

## **VIII. Quality assurance**

- A. To ensure quality, BWC recordings will be subject to review and monitoring. Watch Commanders and Deputy Watch Commanders will be responsible for reviewing and monitoring BWC recordings to ensure compliance with policies and identify deficiencies that can be addressed with training and take any appropriate corrective

action/discipline. Due to time constraints, it is impossible for Watch Commanders and Deputy Watch Commanders to watch every video generated by BWCs, but Deputy Watch Commanders will ensure that at least one video from every officer under their command is reviewed each month. Watch Commanders will make periodic reviews based on necessity and availability.

- B. Supervisors or authorized system administrators will assign any videos with no name assigned to it. Officers must notify their immediate supervisor when they capture video that does not have their name assigned to it.
- C. Watch Commanders must assign all videos involving incidents subject to an Administrative Review to a category during that review and prior to forwarding the Administrative Review to Internal Affairs.

## **IX. Retention**

- A. Wherever the below retention periods conflict with each other, body worn camera videos will be retained for the longer of the two periods.
- B. All videos will be retained for at least one hundred eighty (180) days.
- C. A BWC recording 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.
- D. A BWC recording shall be retained for not less than three years if voluntarily requested by:
  - 1. An officer whose BWC made the video recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value;
  - 2. An officer who is a subject of the BWC recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value;
  - 3. any immediate supervisor of a law enforcement 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;
  - 4. any law enforcement officer, if the BWC recording is being retained solely and exclusively for police training purposes;
  - 5. any member of the public who is a subject of the BWC recording;
  - 6. any parent or legal guardian of a minor who is a subject of the BWC recording; or
  - 7. a deceased subject's next of kin or legally authorized designee.

Note: To effectuate subparagraphs 5, 6, and 7 of this Section, the member of

the public, parent or legal guardian, or next of kin or designee shall be permitted to review the BWC recording to determine whether to request a three-year retention period, in accordance with the provisions of the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., to determine whether to request a three-year retention period.

- E. BWC recordings pertaining to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution shall be treated as evidence and kept in accordance with the retention period for evidence in a criminal prosecution.
- F. BWC recordings that capture an arrest that did not result in an ongoing prosecution or records the use of police force shall be kept at least until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency
- G. BWC recordings of an incident that is the subject of an internal affairs complaint shall be kept pending the final resolution of the IA investigation and any resulting administrative action.
- H. This agency authorizes Axon to act as its agent in maintaining recordings from a BWC. Axon is prohibited from independently accessing, viewing, or altering any recordings, except to delete recordings as required by law or agency retention policies.

**X. Documenting Access to Stored BWC Recordings**

- A. This Agency shall maintain a record of all access to stored BWC recordings pursuant to this Policy through an audit trail within evidence.com. This audit trail shall document the following information:
  - 1. The date and time of access;
  - 2. The specific BWC recording(s) that was/were accessed;
  - 3. The officer or civilian employee who accessed the stored BWC 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.

**XI. Authority of County Prosecutor to Impose Additional Requirements**

- A. Nothing in this Policy shall be construed to in any way limit the authority of a County Prosecutor to issue directives or guidelines to the law enforcement agencies subject to his or her supervisory authority, setting forth additional procedural or substantive requirements or restrictions concerning BWCs and BWC recordings, provided that such directives or guidelines do not conflict with any explicit provision of this Policy. For example, a County Prosecutor may: specify additional circumstances when a municipal police department BWC must be activated; impose limits on the authority of a municipal police department to specify additional circumstances when a BWC must be activated; categorically prohibit the use of BWCs with enhanced audio/visual capabilities such as infrared night vision and specify additional circumstances when a BWC recording will be “tagged,” etc.

**XII. Violations**

- A. If a law enforcement officer, employee, or agent fails to adhere to the recording or retention requirements contained in this Policy, intentionally interferes with a BWC's ability to accurately capture audio or video recordings, or violates any other provision of this policy, the officer, employee, or agent shall be subject to appropriate disciplinary action, in addition to any judicial consequences outlined in the law.

**XIII. Training**

- A. All firearms instructors will act as body worn camera instructors
- B. Training will be conducted upon hire of new officers or change in make or model of BWC's
- C. Training will be based on manufacturer instruction to include at minimum
  - 1. Powering on
  - 2. Activating a recording
  - 3. Stopping a recording
  - 4. Tagging videos
  - 5. Downloading videos
  - 6. Accessing videos
- D. Training will also include a review of this policy.