

PLEASANTVILLE POLICE DEPARTMENT		
SUBJECT: Body Worn Camera Policy (Revised 2022)		NUMBER: G.O. 2022-10
EFFECTIVE DATE: 2/8/2022	DISTRIBUTION TO: All Sworn Personnel	ISSUED BY: Captain Stacey Schlachter
CANCELLATION DATE:		APPROVED BY: Deputy Chief James Williams

PURPOSE The purpose of this policy is to establish 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. It is intended to provide officers with instructions on when and how to use BWCs so that officers may reliably record their contacts with the public in accordance with the law.

A further purpose is to establish standards concerning how this department explains its BWC policy to the general public, when officers are required to activate their BWCs, when officers are permitted to de-activate BWCs during an ongoing police-civilian encounter, and when and for what purposes officers are authorized to access, view, copy, or disseminate stored BWC recordings.

POLICY It is the policy of the Pleasantville 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 (including accessing recordings) this equipment consistent with manufacturer's guidelines, applicable laws, statutes, this policy and those policies or guidelines issued by the New Jersey Attorney General and the Atlantic County Prosecutor's Office. Failure to use this technology in accordance with applicable laws, statutes, and those policies or guidelines issued by the New Jersey Attorney General and the Atlantic County Prosecutor's Office can result in disciplinary sanctions. Any willful or repetitive violations shall be promptly reported to the Atlantic County Prosecutor's Office.

PROCEDURES

I. DEFINITIONS

A. For purposes of this policy, the following terms are defined:

1. Activate – means to actuate (put into operation) the recording mode/function of a BWC.
2. Body worn audio/video recorder (BWC) – is an officer worn device that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include a mobile video recording device when mounted inside a patrol vehicle (i.e., 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 Court Rule R. 3:17 (electronic recording of station house custodial interrogations).
3. Constructive authority – involves the use of an officer's authority to exert control over a subject (see PPD 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 (i.e., "show me your hands", "get out of the car", etc.) or directed against any person if the officer has unholstered a firearm or conducted energy device (i.e., "move out of the way," "get down").
4. Deactivate – means to shut off the recording mode of a BWC.
5. Equipped with a BWC – refers to an officer wearing a BWC at the time in question, as opposed to simply receiving the BWC equipment from their agency.
6. Force – has the same meanings as defined in the PPD Use of Force Policy. The term "force" shall include physical, mechanical, enhanced mechanical, and deadly force.
7. Investigation of a criminal offense – means 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.
8. Law enforcement agency, agency, or department – means a law enforcement agency operating under the authority of the laws of the State of New Jersey.
9. Law enforcement officer or officer – means a sworn officer employed by a law enforcement agency.
10. 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.
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 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.

12. 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).
13. 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).
14. 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.
15. 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.
16. 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.
17. 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.
18. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, etc.
19. Tagging – is an electronic labeling of an electronic file captured by a BWC.

B. Equipment:

1. Only Axon body worn camera units are authorized for use by members of this department. Wearing any personally owned video/audio recorder is not authorized without the expressed permission of the Chief of Police, the Atlantic County Prosecutor's Office, or the New Jersey Division of Criminal Justice.
 - a. The Pleasantville Police Departments BWC's are not equipped with enhanced audio/visual capabilities.
2. The BWC equipment and all data, images, video, audio, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the Pleasantville Police Department and will not be copied, released, or disseminated in any form or manner outside

the parameters without the expressed written consent of the Chief of Police or the Atlantic County Prosecutor or designee as defined in section IV(H)6.

3. All references to BWC includes the AXON camera wireless device, which houses a video camera, audio/video recording hardware, and a port for charging the device and downloading events.
4. Recordings are exported using Evidence.com

C. Notice that BWCs are Deployed and Activated:

1. Public Notice: Every department or agency shall take reasonable steps to inform the citizenry of the agency's use of this technology. The department shall publish a statement that it deploys BWCs on its internet website or, if the department does not have its own website, then on the municipality's website when feasible. The website posting shall include a picture showing what the device looks like, and how it is to be worn by uniformed officers or plainclothes detectives so that citizens will be able to determine whether an officer is equipped with the device.
2. Specific Notice to Certain Individuals During an Encounter: A law enforcement officer who is wearing a BWC shall notify the subject of the recording that the subject is 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.
3. Truthful Response to Specific Inquiries: 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 County Prosecutor or designee (Chief of Police), or Director of the Division of Criminal Justice or designee, has expressly authorized the officer to make a covert electronic recording.
4. Notice When Using BWCs Inside a Private Residence: Prior to entering a private residence, a law enforcement officer shall notify the occupant that the occupant is being recorded by the BWC and, if the occupant requests the officer to discontinue use of the officer's 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. A request to discontinue the use of a BWC made to a law enforcement officer pursuant to this Section and the response to the request shall be recorded by the recording system prior to discontinuing use of the recording system.

D. Training:

1. The Chief of Police shall determine those officers who will be equipped with BWCs and shall determine when those officers wear BWCs. An officer shall not wear a BWC unless he/she:
 - a. Has been authorized to do so by the Chief of Police.
 - b. Has received training on the proper care and use of the device.

- c. The proper use of a BWC is considered an essential job function.
2. The Chief of Police shall designate one or more officers and shall establish a training program to ensure that officers equipped with BWCs as well as officers and civilian employees who access or handle BWC recordings are familiar with these provisions.
3. All officers who are assigned BWCs must complete the agency provided training program to ensure proper use and operations. Officers will complete training at the Police Department. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.

E. Operation:

1. BWC equipment is the responsibility of individual officers and shall be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be immediately brought to the attention of the officer's supervisor as soon as possible so that a replacement unit may be procured.
 - a. A BWC shall be worn so that it maximizes the ability of the camera to capture video footage of the officers' activities. Officers shall wear the BWC consistent with their training to maximize the device's recording functions.
2. Officers wearing a jacket or other outer garment shall not cover or obstruct the view of their BWC. Officers are only authorized to cover the unit with an outer garment if inclement weather conditions involving precipitation make it likely that exposure to the elements will damage the unit. If this action is necessary, the BWC shall remain activated to capture audio of the incident.
3. **The following personnel shall be required to utilize a body worn camera unless otherwise directed by the appropriate authority.**
 - a. Officers assigned to patrol duties shall wear a BWC when engaged in official police actions with the public or answering calls for service; Exceptions to this would apply when the use of an audio/video recording is being used (e.g., in the interview room) for interrogation and interview purposes. This shall include uniformed officers assigned to traffic law enforcement, as well as Class II Special Law Enforcement Officers (SLEO IIs) assigned to patrol or traffic law enforcement duties.
 - b. All officers assigned to tactical teams as defined in this policy. Tactical Teams shall include S.W.A.T. (Special Weapons and Tactics), S.R.T. (Special Response Team), T.E.A.M.S. (Technical Emergency and Mission Specialists), Entry Teams, Rapid Deployment, Fugitive, or similar units.
 - c. All officers assigned to proactive enforcement teams as defined in this policy.
 - d. All officers assigned to canine units.
 - e. All officers whose assigned duties include regular interaction with members of the public, which reasonably may give rise to an arrest situation or use of force.

- f. All officers assigned to “front desk” duty in law enforcement agencies, whose duties include interaction with members of the public who enter police stations to report incidents or request assistance or information.
- g. All officers assigned to a pre-planned search warrant execution or a pre-planned arrest. This shall include pre-planned searches and arrests performed pursuant to statutory authority, such as parolee searches
- h. All uniformed officers assigned to duties at demonstrations or potential civil disturbances.
- i. Officers assigned to duties at schools or youth facilities working security or crowd-control functions at special events such as athletic competitions, graduations or similar public events shall be equipped with BWCs
- j. Officers assigned to co-operative efforts, multi-jurisdictional task force or other specialized units with other agencies shall adhere to the requirements of this policy unless directed otherwise by the Chief of Police.

F. Officers Involved with/or Performing the Following Duties Are Not Required to Wear a BWC and Incidents Where a BWC Is Not Required -

- 1. Notwithstanding the provisions of section I.(E)3, the following officers are not required by this policy to be equipped with BWCs:
 - a. Officers engaged in undercover assignments or surveillance activities are not required to utilize BWC.
 - b. Officers acting as hostage negotiators or crisis negotiators working in conjunction with tactical teams.
 - c. Officers assigned to administrative positions within the law enforcement agency.
 - d. Officers meeting with confidential sources or recruiting potential confidential sources.
 - e. Officers engaged in union business, union representation of a member of the collective bargaining unit.
 - f. Officers assigned to duties within schools or youth facilities as part of the normal daily educational environment, such as School Resource Officers (SROs) and Class III Special Law Enforcement Officers (SLEO IIIs).
 - *Officers assigned to duties at schools or youth facilities working security or crowd-control functions at special events such as athletic competitions, graduations or similar public events shall be equipped with BWCs*.*
 - g. Non-uniformed officers assigned to investigative, non-enforcement duties, when authorized by the agency’s law enforcement executive.
 - h. Officers assigned to “extra duty” or “off duty” assignments that involve strictly traffic direction.

- i. While discussing criminal investigation strategies or engaged in crime-scene processing duties.
 - j. Officers engaged in duties as bomb or explosives technicians.
 - k. 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.
 - l. Officers conducting searches of cellphones, tablets, computers or other electronic devices that are suspected to contain images of child sexual exploitation.
 - m. Communications with other police personnel without the advanced permission of the Chief of Police, the Atlantic County Prosecutor's Office or the New Jersey Division of Criminal Justice.
 - n. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
 - o. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction.
 - p. Officers assigned to duties within schools or youth facilities as part of the normal daily educational environment, such as School Resource Officers (SROs) and Class III Special Law Enforcement Officers (SLEO IIIs).
Officers assigned to duties at schools or youth facilities working security or crowd-control functions at special events such as athletic competitions, graduations or similar public events shall be equipped with BWCs.
 - q. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording.
 - r. After the final completion of the call upon departure from the scene.
 - s. During a temporary closure for a break or other authorized departure when all the following criteria are met.
 - i Upon receiving authorization from a supervisor for a temporary departure.
 - ii The officer has exited the crime scene
 - iii No suspects, witnesses or evidence are within the recorded view of the BWC while it is activated
2. If an officer, who has not officially reported for duty and has not signed out the assigned BWC for his/her shift comes upon an incident, the officer may respond even if he/she does not have his/her BWC in place. In that instance, the officer should respond to the incident in accordance with applicable SOPs and policy. Report the absence of the BWC to the shift supervisor and note the encounter in the formal incident report.

3. When not in use, BWCs shall be stored in the designated transfer station in the police department. The transfer station allows for the units to be charged and for the download of events to the secure storage site.

G. Inspects and Malfunctions:

1. Officers equipped with a BWC are responsible for determining that the device is fully functional and that its battery is adequately charged at the start of his/her duty shift and before going into the field.
2. If a malfunction is detected, the officer shall report the malfunction to a supervisor before going into the field.
3. If the BWC malfunctions while out in the field, officers shall report such malfunction upon its discovery to his/her supervisor as soon as it is safe and practicable to do so.
4. When a malfunction or breakage occurs to a BWC unit or any of its mounting brackets, officers should advise their supervisor as soon as it is safe and possible to do so and request dispatch to create a *BWC Malfunction* CAD entry and assign it to the officer to document the incident.
 - a. This will include all malfunctions, including dead battery issues. If the officer is currently on a call when a malfunction occurs, he/she shall also request dispatch to time stamp the current call documenting the malfunction.
 - b. The officer shall complete the narrative section of the BWC Malfunction CAD entry, documenting the issue with his/her camera. After completion, it shall be turned in through the chain of command for review.
 - c. A special report is not needed unless specifically instructed by his/her supervisor.

H. Violations:

1. Any willful or repetitive violations shall be reported promptly through the chain of command to the Chief of Police.
2. The Atlantic County Prosecutor and Director of the Division of Criminal Justice are authorized to take such actions as are reasonable and necessary to ensure compliance and to prevent future violations.

II. Circumstances when BWC activation is required.

The decision to activate a BWC is a law enforcement action subject to this department's Policies and Procedures and *Attorney General Directive 2021-5*.

A. BWCs Used Only in Performance of Official Duties. 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 department 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, except as evidence in any proceeding related to the unauthorized use of a BWC.

B. Circumstances When BWC Activation is Generally Required. Except as otherwise expressly provided in Section 7 of the OAG UOF Policy or any other provision in this policy, or by law, an officer equipped with a BWC shall be required to activate the device whenever the officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between an officer and a member of the public, to include any of the following circumstances, unless there exists an immediate threat to the officer's life or safety that makes such activation impossible or dangerous; in such situations, the officer must activate the camera at the first reasonable opportunity to do so and it shall remain activated until the encounter has fully concluded and the officer leaves the scene:

1. the officer initiates an investigative detention (e.g., a Delaware v. Prouse traffic stop, a Terry v. Ohio criminal suspicion stop, or a checkpoint or roadblock stop);
2. the officer is responding to a call for service and is at or near the location to which the officer has been dispatched;

Note: Two or more of the below-listed activities are likely to occur during a single encounter or event. For example, a frisk ordinarily occurs after an officer already has initiated an investigative detention (i.e., a "stop"), and a custodial interrogation typically occurs after the officer has arrested the person being interrogated. Although these specified activities often will co-occur and overlap, they are presented in this section to ensure complete coverage of the circumstances when a BWC must be activated. The specified activity that occurs first during an unfolding encounter will trigger the obligation to activate a BWC. As explained in Section 5.3 of the OAG UOF Policy, once activated based upon the initiation of any of the listed police activities, the BWC generally must remain in operation until the police-civilian encounter is concluded (i.e., until the officer is no longer interacting with or in the presence of the civilian), and not just while the officer is engaged in the specified activity that required activation.

3. the officer is conducting a motorist aid or community caretaking check; (d) the officer is interviewing a witness in the course of investigating a criminal offense; (e) the 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);
4. the officer is making an arrest;
5. the officer is conducting a protective frisk for weapons;
6. the officer is conducting any kind of search (consensual or otherwise), including the execution of a search warrant;

7. the 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;
8. the 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;
9. the officer is transporting an arrestee to a police station, county jail, or other place of confinement, or a hospital or other medical care or mental health facility; or
10. the officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.

C. The following incidents shall be recorded to the extent possible:

1. All traffic stops until the stop is concluded.
2. Field sobriety testing.
3. An officer is responding to a call for service and is at or near the location to which the officer has been dispatched.
4. Stationary police details, such as DWI checkpoints, car/truck inspections, seatbelt use checkpoints, etc.
5. Major crime scenes.
6. Motor vehicle pursuits.
7. Interviews of witnesses when conducting investigations of criminal violations (not to include undercover investigations, related surveillance activities, or stationhouse recordings of custodial interrogations/interviews).
8. Investigative detentions/field interviews.
9. Searches (all types, including frisks).
10. Arrests.
11. Arrestee/prisoner transportation.
12. Domestic violence investigations.
13. Officer initiated pedestrian stops.
14. When an officer uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this subsection based on specific and articulable facts warranting heightened caution (must be documented by narration on the recording and/or in any investigation or incident report).

15. Special events or projects, including but not limited to crowd control, unruly crowds, or any incident requiring activation of all hazards or emergency operations plan.
16. Strikes, picket lines, demonstrations.
17. The officer is conducting a motorist aid.
18. The officer reasonable believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.
19. Exemptions from the mandatory recording BWC's requirements are permitted with the prosecutor's approval in advance when the special circumstances are documents and demonstrated as a special need and must be preapproved in writing.

NOTE: At no time is an officer expected to jeopardize his/her safety or the safety of another person in order to immediately activate his/her BWC. Any BWC not immediately activated into event mode due to the safety of an officer or another person being presently jeopardized shall be placed into event mode as soon as practicable.

- a. Notwithstanding any other provision, when an officer equipped with a BWC is dispatched to or otherwise goes to the scene of a Law Enforcement Incident, as defined in the AG Directive 2019-04, the officer shall activate the BWC recording before arriving at the scene if feasible.
- b. Notwithstanding any other provision, an officer while at the scene of a of a Law Enforcement Incident, as defined by AG Directive 2019-04, shall not deactivate his/her BWC unless instructed to do so by the assistant prosecutor supervising the investigation of the deadly force incident pursuant to *Attorney General Law Enforcement Directive* 2019-04. The assistant prosecutor or his/her designee supervising the investigation may provide such instruction telephonically.

D. BWC shall remain activated for the entire duration of a citizen contact required in this section until either the officer or citizen have departed the scene and the officer has notified communications that the event is completed, and the incident is closed in CAD.

1. To ensure that the entire encounter/event/episode is recorded and when feasible, a BWC should be activated before a uniformed officer arrives at the scene of a dispatched call for service or other police activity. However, the officer need not begin recording at the moment he/she receives instructions from a dispatcher to respond to a call for service. Rather, the officer may delay activation until he/she is near the destination except as otherwise expressly provided in this policy.
2. When a BWC is activated pursuant to Section II (C)11 above (transport of arrestee), whether by an officer in uniform or in plain clothes, it shall remain activated at all times while the BWC equipped officer is in the presence of the arrestee and until the arrestee is secured in the holding cell or processing room, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with hospital/medical/mental health personnel. BWCs may be deactivated in a hospital/medical/mental health facility setting. However, 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.

3. When wearing a BWC, officers shall notify crime victims, persons seeking to remain anonymous and civilians inside of their homes or place of abode (e.g., hotel/motel rooms, boarding houses, etc.) that they are being recorded unless it is unsafe or not feasible to provide such notification.
 - a. 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 or by narrating the reasons on the BWC recording.
 - b. If an officer fails to activate the BWC, fails to record the entire event contact, or interrupts the recording, the officer shall document in an investigation report the reason a recording was not made, was interrupted, or was terminated.
 - c. The failure to verbally notify a pursuant to this section shall not affect the admissibility of any statement or evidence.
 - d. In the case of a person seeking to remain anonymous and request to terminate the recording, the officer shall evaluate the circumstances surrounding the request, and any response made to the requester shall be recorded by the system.
4. 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.
5. 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 Atlantic County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, has expressly authorized the officer to make a covert electronic recording. At a civilian's request, a without a police officer's suggestion, a police officer is authorized to deactivate a BWC where it is reasonable that the person will not provide or otherwise cooperate with the officer if the request is not honored. Officers may explain the consequences of deactivation to the person making the request.
6. An officer may also deactivate a BWC recording when the person, other than an arrestee, is seeking emergency medical services for themselves or another. In either case, BWC deactivated at the request of civilian or for the application of medical services, the following procedures shall be followed:
 - a. The discussion between the officer and the civilian must be recorded
 - b. Before de-activation of the BWC, the officer shall narrate the circumstances of the de-activation.
 - c. The reporting officer shall report the circumstances of the de-activation to his/her supervisor as soon as practical.
 - d. The reporting officer shall also document the circumstances of the de-activation in an incident or investigation report.

- e. If an officer declines a request to de-activate a BWC, the decline to de-activate the BWC must be documented and reported to the officer's supervisor as soon as it is safe to do so.
 - f. Officers shall immediately make clear to the person requesting the de-activation of the BWC of the denial.
 - g. Under no circumstances shall an officer allow an individual to believe that a BWC recording was de-activated when it was not.
- 7 In any instance where a BWC was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so when the circumstances justifying deactivation no longer exist (e.g., the interview of the person requesting deactivation is completed, etc.) and the officer would otherwise be required to activate the BWC.
- a. School resource officers should not activate their BWC unless involved in any incident listed in subsection II.(B).
 - b. 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).
 - c. In the event that a BWC captures the image of a patient in a substance abuse treatment facility, the Chief of Police or his/her designee shall notify the Atlantic 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 § 290dd2, 42 CFR §23.1 to 23.41). The recording shall not be accessed without the permission of the Atlantic County Prosecutor or his/her designee. (Note that destruction of the recording would be inappropriate until it has been determined that it had not captured exculpatory information that must be provided to a defendant in discovery.)
- 8 Officers shall not activate a BWC, and shall deactivate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would capture the image of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (e.g., active shooter, actual use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the officer shall inform the sergeant/OIC 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.
- 9 In the event that a BWC worn during the execution of tactical operations (e.g., SWAT operations, execution of arrest and/or search warrant, etc.) records confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques

for interior movements and clearing rooms, techniques to convince persons to open doors, etc.), the recording shall be tagged accordingly to prevent its unauthorized release.

- 10 BWC shall be deactivated and removed while in the ALCOTEST area when the ALCOTEST device is being used. Nothing herein shall be construed to preclude the use of a BWC to record the behavior of a person arrested for driving while intoxicated other than while the person is in the ALCOTEST area while the ALCOTEST device is being operated. If this provision requires deactivation of a BWC, the officer shall narrate the reasons for deactivation (e.g., "...*I am deactivating the BWC because the suspect is about to take a breath test*"), and the BWC shall be reactivated when safe and practicable to do so following the completion of the breath testing operation.
- 11 Officers shall not activate a BWC while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority, or unless the presiding judge expressly authorizes such activation.
- 12 A BWC shall not be used to record surreptitiously or to gather intelligence information based on First Amendment protected speech, associations of religion. Further, a BWC shall not be used to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a member of this agency performing an official function and a member of the public.
- 13 The video and audio recording functions of officer's BWC's for investigations of underage alcohol and marijuana use, including hashish or a cannabis item, shall be activated whenever the officer is responding to a call of this nature. The BWC shall remain activated until the encounter has fully concluded and the officer leaves the scene. De-activation request by the subject of the investigation or for any other reason shall not be honored.
- 14 Officers shall ensure that police arrest reports, incident reports, investigation reports, operation reports, etc. indicate whether the incident or investigative activity described in the report was electronically recorded by a BWC. At the bottom of the narrative section, these reports shall indicate if BWC video footage is available (e.g., "*BWC footage is available for this case*").
 - a. When feasible, police reports should indicate the corresponding *Event ID Number(s)* as described in the *Evidence.com* software program (e.g., '*See Event Id Number(s) 6745893 and 6745894*').
 - b. Officers shall also ensure that these BWC events are properly logged by adding the case number to the event within the *Evidence.com* software program.
- 15 Officers shall tag their recordings following completion of the incident being recorded, but no later than the end of their shift. Choose the most serious offense/incident when one incident turns into something else unless it is an arrest under that specific category. (Example: a motor vehicle stop turns into a warrant arrest; the ARREST label should be chosen. If an arrest occurs during a domestic violence incident, the incident shall be tagged DOMESTIC.).
 - a. Categories include but are not limited to:
 1. Traffic stop: This category will cover all traffic stops, including stops where a warning was given. Pedestrian stops will also be placed under this label.

2. Traffic accident: This category will cover all motor vehicle crashes. If a crash investigation results in a DWI arrest, then choose DWI.
3. Domestic: This category will cover all domestic violence incidents, including walk-ins. If an arrest is made, the category shall be kept as domestic.
4. Walk-in: This category will cover a majority of walk-in complaints including civil issues, informational reports and requests to sign complaints (unless domestic violence related).
5. Medical: This category will cover any medical calls that are recorded with a BWC including death scenes that are not criminal or suspicious in nature.
6. Arrest: This category will cover any arrest situation including warrants, disorderly conduct, non-DV assault, etc. It should not include arrests for DWI, domestic violence, narcotics or shoplifting.
7. DWI: This category will cover all recordings related to a DWI arrest, including the MV stop, standardized testing, arrest and processing/release of the arrestee.
8. Suspicious persons/activity: This category will cover suspicious activity/persons calls.
9. Alarm: This category will cover burglar alarm, bank alarm and panic alarm incidents, which do not result in the discovery of another crime/incident.
10. Narcotics: This category will cover all narcotic related incidents.
11. Theft/shoplifting: This category will cover all reported shoplifting or thefts including incidents where an arrest is made.
12. None: This category will cover any accidental camera activations or other incidents which do not truly fit under the other categories.
13. Serious crime: This category will cover most serious crimes including homicides, robberies, weapons offenses, burglaries, eluding, etc.
14. Interview: This category will cover any interview you may conduct. Make sure to place the case number in the NOTES section.
15. Other: This category will cover the rest of the incidents that do not fit under the previous categories including check welfare, noise complaints, animal complaints, non-custodial transports, property checks, motorist assists, and other agency assists. Should the incident begin as one of these calls for service and turn into an incident already on this list make sure to label it correctly.
16. The following incidents shall be tagged as 'PRIVACY'. If an officer inadvertently forgets to tag the event as 'PRIVACY' after the completion of the recording, he/she must bring this to the attention of their immediate supervisor so that the supervisor can properly tag the recording as 'PRIVACY' during the uploading procedures.

- a. Captures the image of a victim of a criminal offense;
 - b. Captures the image of a child;
 - c. Was made in a residential premise (e.g., a home, apartment, college dormitory room, hotel/motel room, etc.), a school or youth facility, a healthcare facility or medical office, a substance abuse or mental health treatment facility, or a place of worship;
 - d. Captures a conversation with a person whose request to de-activate the BWC was declined;
 - e. 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;
 - f. Captures the image of an undercover officer or confidential informant; or
 - g. Captures the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
 - h. Accidental and inadvertent activations that occur outside the scope of an officer's performance of official duties shall be immediately reported to a supervisor and tagged.
17. Approval for Access to "Tagged" BWC Recordings. A BWC recording tagged shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee. The County Prosecutor or Director may authorize the law enforcement executive, and one or more superior officers or duty positions (e.g., head of the detective bureau) identified by the law enforcement executive, to grant permission pursuant to this Section to access, view, copy, disseminate, or otherwise use BWC recordings tagged.

III. RECORDS RETENTION AND VIEWING BWC RECORDINGS

- A. All BWC recordings shall be securely stored on an external hard drive connected to the police department's main server. The hard drive is password protected and only accessible by the Chief of Police or his/her designee.
 - 1. Officers shall upload all BWC recordings to the server external hard drive at the end of their shift by docking the BWC on the docking station.
 - 2. The docking station automatically uploads the BWC recordings to the secure server external hard drive using the Evidence.com software program.
 - 3. The Evidence.com software is in compliance with all provision of Attorney General *Law Enforcement Directive 2021-05*. This software will:

- a. Ensure that all recordings are uploaded to a secure data storage system in a timely fashion.
 - b. Prevent tampering with or deletion of recorded data both before and after downloading from the BWC and uploading to the storage system.
 - c. Prevent unauthorized access to stored BWC recordings.
 - d. Document all instances where BWC recordings are accessed, viewed, copied, disseminated, or deleted, and
 - e. Permit auditing of all instances where BWC recordings are accessed, viewed, copied, or deleted.
- B. Viewing of BWC recordings is strictly limited to sworn officers of this department. Viewing by any other person is prohibited unless authorized by the Chief of Police, his/her designee, the BWC supervisory officer, or consistent with a provision set forth.
- 1. Recordings are considered investigatory records of this police department and shall be maintained and disposed of in accordance with New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
 - 2. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes, recordings shall be retained for a period of one hundred and eighty (180) days.
 - 3. Recordings that are being held for criminal or civil purposes shall be processed and stored on evidence.com.
 - 4. Recordings that are being held for internal affairs investigations shall be maintained on evidence.com pending the final resolution of the internal affairs investigation and any resulting administrative action.
 - 5. Recordings being stored for criminal, civil, or administrative purposes must be retained until the conclusion of the case plus any retention period. Examples of retention periods include, but are not limited to:
 - a. Any death investigation (at least 7 years)
 - b. Indictable arrest - 1st, 2nd, 3rd, 4th degree crime (at least 3 years)
 - c. Non-criminal arrest (180 days)
 - d. Use of force incidents (at least 3 years)
 - e. DWI arrest (manually deleted)
 - f. Accidental recording (one week)

g. Training recording (two weeks)

6. When a BWC records an arrest that did not result in an ongoing prosecution, or records the use of police force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer or the employing law enforcement agency.

IV. Restriction on Access to BWC Recordings Related to Investigations Conducted Pursuant to AG Directive 2019-4. To ensure the integrity of the investigation of “Law Enforcement Incidents” conducted pursuant to AG Directive 2019-4, and to avoid possible contamination of a witness’ personal recollection of events that could undermine his or her credibility as a witness, notwithstanding any other provision of this Policy, no civilian or law enforcement witness, including the principals of the investigation, shall be given access to, view, or receive an account of a BWC recording of the incident, or a BWC recording of the response or on-scene investigation of the incident, without the express prior approval of the “Independent Investigator,” as that term is defined in AG Directive 2019-4.

A. Restriction on Access to BWC Recordings Prior to Creating Reports, Statements,

Interviews. A law enforcement officer shall be permitted to review or receive an account 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:

1. 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;
2. the incident involves the discharge of a firearm or any other use of deadly force by the law enforcement officer;
3. the incident involves the death of a person while in law enforcement custody;
4. the incident involves the death of a person during an encounter with a law enforcement officer;
5. 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
6. 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.

B. Whenever a law enforcement officer reviews or receives an account of a BWC recording prior to the creation of any report, statement, or interview, the law enforcement officer shall acknowledge that prior review or receipt of an account of the BWC recording either verbally or in writing within each such report, statement, or interview. The law enforcement officer shall document each BWC recording that was reviewed and the date of the review. If the law enforcement officer received an account of a BWC recording, the law enforcement officer shall document the name of each person who provided an account of the BWC recording, the date of the accounting and the specific BWC recording for which an account was provided.

- C. Nothing in the previous sections shall be construed to require a law enforcement officer to review a BWC recording prior to creating any required initial reports, statements, and interviews regarding the recorded event, nor to prevent a law enforcement officer from reviewing or receiving an account of such a BWC recording subsequent to the creation of any required initial report, statement, or interview regarding the recorded event.
- D. As noted above, an officer is prohibited from reviewing or receiving an account of a BWC recording in certain scenarios specified in subsections F (1-5) (the “specified scenarios”) prior to the officer documenting or otherwise memorializing the officer’s recollection of the incident, namely, by creating any required substantive initial report, providing a statement, or submitting to an interview regarding the recorded event (“the specified incident memorialization”). Whenever an officer participates in a specified scenario, then the officer shall only be permitted to review or receive an account of a BWC recording once the investigating entity concludes that;
1. the officer has in fact completed the specified incident memorialization and
 2. the officer’s review or receipt of an account of the BWC recording will not otherwise interfere with the ongoing investigation. In cases subject to Attorney General Directive 2019-4, the investigating entity shall be the Independent Investigator. In all other specified scenarios, the investigating entity shall be the chief law enforcement executive or designee. The investigating entity shall document the authorization to review or receive an account of a BWC of a specified incident
- E. The Chief of Police has designated the chain of command to authorize certain individuals to locate and retrieve recordings associated with a specific incident/event, investigation, case, or criminal charge.
- F. The Chief of Police or his/her designee shall notify the Atlantic County Prosecutor’s Office within one business day upon receiving any subpoena, court order or OPRA request for a BWC recording before complying with it. Such notice shall state clearly the deadline by which a response must be made.
- G. A BWC recording of an event or encounter that involves an investigation of a criminal offense shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or officer or authorized civilian employee of such agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by a court order, or unless the Chief of Police in consultation with the Atlantic County Prosecutor or his/her designee determines that the persons/entity’s/non-law enforcement agency’s/public’s need for access outweighs the law enforcement interest in maintaining confidentiality.
- H. No law enforcement officer or civilian employee of this agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose. Access to 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 comply with the state's discovery obligations in prosecutions pursuant to the rules of court;
 - a. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.
 - b. Only those portions of the recording pertinent to the request shall be forwarded.
 - c. The Pleasantville Police Department reserves the right to redact video as applicable by law.
 - d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing ordinance.
 - e. Copies of BWC recordings made for the purpose of complying with the State's discovery obligations shall be provided to the prosecutor in a readily available media format approved by the Director of the Division of Criminal Justice in consultation with the Administrative Office of the Courts.
6. 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;
7. To comply with any other legal obligation to turn over the recording to a person or entity;
8. 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;
9. To conduct an audit to ensure compliance;
10. To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the Atlantic County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee; or
11. Any other specified official purpose where the Atlantic County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording
12. Approval for access to tagged PRIVACY BWC recordings:

- a. BWC recordings tagged as PRIVACY shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Atlantic County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee.
 - b. The Atlantic County Prosecutor or Director of the Division of Criminal Justice has authorized the Chief of Police and one or more superior officers or duty positions identified by the Chief of Police to grant permission to view, copy, disseminate, or otherwise use BWC recordings tagged as CONFIDENTIAL. Refer to Prosecutor's Memorandum, MM-01605-21
 - c. The Atlantic County Prosecutor's Office also reserves the right to issue directives and/or guideline setting forth additional procedural requirements of BWC's and BWC recordings.
13. 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 Atlantic 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.
14. To ensure the integrity of a "Law Enforcement Incident" conducted pursuant to AG Directive 2019-04, and to avoid possible contamination of a witnesses personal recollection of the events that could undermine their credibility as a witness, notwithstanding and provisions of this policy, no civilian or law enforcement witnesses, including the principals of the investigation, shall be given access to or view a BWC recording of the incident, without the express prior approval of the independent investigator or designee as defined in AG Directive 2019-04.
15. The Evidence.com software maintains a record of all BWC recordings that are accessed, viewed, copied, disseminated, or deleted. The Internal Affairs Commander shall conduct a periodic audit of these records to ensure compliance. Minimally, the record keeping system shall document the following information:
- a. The date and time of access;
 - b. The specific recording(s) that was/were accessed;
 - c. The officer or civilian employee who accessed the stored recording;
 - d. The person who approved access, where applicable; and
 - e. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable. These reasons for access shall be documented in the 'event notes' section of the *Evidence.com* program.

16. Officers are reminded that all recordings are discoverable evidence. Inappropriate profanity, offensive actions or gestures, gratuitous observations, improper usage and horseplay are prohibited.
17. Requests to view or copy videos by attorneys, other police agencies, a party appearing on the video and possibly the media (under limited circumstances) will require the permission of the Chief of Police or his/her designee. The viewing can then be scheduled with the evidence custodian. All videos released outside the Pleasantville Police Department shall be clearly labeled with this agency's logo. Recordings will be released by duplicating the original evidence copy.