

	RUTGERS UNIVERSITY POLICE DEPARTMENT WRITTEN DIRECTIVE SYSTEM		7:60
	BODY WORN CAMERAS (BWCs)		
	Effective Date: 01-21-2022	Supersedes: 7:60 (06-01-2021)	

7:60-1

PURPOSE

The purpose of this directive is to establish the policy and procedure consistent with the directives established by the Attorney General of the State of New Jersey for the proper and lawful use of Body Worn Camera (BWC) recording equipment by employees of this department as well as define the media storage and retention requirements for incidents captured by these devices consistent with the directive.

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POLICY

It is the policy of this department to utilize BWC recording technology to its fullest extent. All employees shall use this equipment consistent with this directive.

It is further the policy of this department that BWCs be utilized to provide an internal recorded account of patrol activities and motorist and investigative contacts made by officers during their tour of duty. The use of the BWC will provide valuable instructional material to be utilized during in-service training in police practices and procedures as well as a source of information for the investigation of alleged complaints against department personnel. Its use will provide the department with a method to review officers' interaction with the public and evaluate officer performance.

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GENERAL PROVISIONS

- a. The department has adopted the use of the BWC to accomplish several objectives. The primary objectives are as follows:
 1. BWCs allow for accurate documentation of police-public contracts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
 2. Audio and video recordings also enhance the department's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.
 3. The BWC may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband.
- b. BWC equipment has great value in providing protection to police officers, the department and the public at large. BWCs records information related to motorist contacts and other patrol related activities. Additionally, this equipment will provide valuable instructional material that can be utilized for in-service training exercises.
- c. Employees are prohibited from wearing personally owned BWCs or those not owned and issued by the department.
- d. The BWCs deployed by this department, when turned on, remain in a standby or buffering mode, during which the device does not make a permanent record of images/sounds unless the employee activates the recording mode/function.

- When an employee activates the recording mode/function, the device automatically preserves an electronic recording of the events that transpired during the period of “standby,” that is before the recording mode/function was activated. This time-delay or “buffering” feature allows the device to capture data concerning the events/circumstances that prompted the employee to activate the BWC. No audio is recorded during this period.
 - When an employee does not activate the recording mode/function, data captured while the device is in standby/buffering mode is overwritten automatically. For the purposes of this directive the BWC is not considered to have been “activated” during the period of “buffering” or standby.
- e. For the purposes of this directive, the following terms are defined:
- **Activate** means to actuate the recording mode/function of a body worn camera.
 - **Affiliated Medical Center** shall have the same meaning as defined at Directive 6:1-4(a) except that the term shall also include any patient care facility.
 - **"Body worn camera" ("BWC")** means a device worn by a law enforcement employee that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include mobile video recorders permanently installed within police radio cars.
 - **Employee** means any member of the Rutgers University Police Department regardless of rank or assignment.
 - **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.
 - **School** means an elementary or secondary school.
 - **Youth facility** means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, etc.
- f. This Department will not tolerate the reliance by any individual on race, ethnicity, gender, sexual orientation, religion, economic status, age, culture, or any other immutable characteristic of a group or class of persons, in determining whether to activate a BWC.
- g. 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 at section 7:60-5(c) of this Directive. A BWC shall not be active:
- While the employee is on break or otherwise is not actively performing official duties (for example: while eating meals, while in a restroom, etc.); or
 - For personal purposes, or when engaged in union business; or
 - To record conversations involving counseling, guidance sessions, personnel evaluations, or any similar supervisory interaction.

- h. While visual and audio evidence may be captured on the recordings, the use of BWC is not intended as a device to document all evidentiary material relevant to court or administrative proceedings; but, it can serve to supplement the officer's senses and eyewitness account. BWC has the following benefits:
 - 1. BWC provides protection to officers against frivolous complaints.
 - 2. BWC augments the department's ability to evaluate its basic police practices and procedures and interactions between its employees and the general public; and enhances the department's ability to train employees in proper police procedures.
 - 3. BWC provides enhanced documentation of events, actions, conditions and statements made during incidents and to corroborate investigations.
 - 4. BWC provides accurate documentation for possible criminal prosecution of persons making purposeful or willful false claims against police officers.
 - 5. The department has the opportunity to positively impact on an officer's individual interpersonal skills by reviewing their behavior as they interact with members of the public.
 - 6. The department has an opportunity to conducting regular inspections of personnel and operations in order to evaluate the quality of our operations and ensure that the department goals are being pursued.

7:60-4 EQUIPMENT

- a. The department has purchased and deployed the Axon® Body Worn Camera recording units. This shall be the only BWC authorized for use by employees of the department. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the department. References to BWC shall include the Axon® Body Worn Camera, which houses a video camera, audio/video recording hardware, and a port for charging the device and downloading events.
- b. Employees who are assigned BWCs must complete the department provided training program to ensure proper use and operations. 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.
- c. The BWC units are equipped with an Axon mount which shall be worn center of mass on the on the employee's body. Employee may deviate slightly from this requirement in order to ensure unfettered recording by the BWC. The BWC shall be affixed to the buttoned placket on the employee's uniform shirt in chest/sternum area or via other Axon® approved BWC mount. It is recognized that this may require that the BWC device be clipped overtop of the uniform tie.
 - 1. Employees authorized to wear exterior vest covers shall clip the BWC to the breast pocket pen slot of the garment utilizing the provided mount or through a molle compatible mount, where so equipped.
 - 2. Employees wearing a jacket or other outer garment shall not cover or obstruct the view of their BWC. Employees 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 still remain activated to capture audio of the incident.

3. While in attendance at ceremonial functions, employees may be relieved of this requirement at the discretion of the detail supervisor.
4. Officers shall not wear their BWC while in the Class A uniform, unless directed by a supervisor
- d. Each sworn employee has been assigned a BWC. Employees assigned to a Patrol Bureau shall wear the device as an authorized component of the uniform of the day. Employees assigned to administrative and investigative duties at a police facility (Command Staff, Professional Standards Division, Investigations Bureau) shall not wear a BWC unless so directed.
- e. Each BWC has a unique serial number and has been assigned an internal tracking identification number. Employees assigned BWCs shall use the equipment unless otherwise authorized by supervisory personnel.
- f. BWC equipment is the responsibility of individual employee to which it is assigned and shall be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be immediately brought to the attention of the employee's supervisor as soon as possible so that a replacement unit may be procured.
- g. Employees shall keep their BWC charged and in good working condition at all times.

7:60-5 PROCEDURES

- a. The use of BWCs allow for a clearly documented, firsthand, and completely objective account of an incident from beginning to end. Therefore, employees shall activate their BWC immediately upon acknowledging dispatch to a call for service or in the performance of a proactive event as soon as safely possible. This will allow the maximum amount of information regarding the incident to be captured, such as events that transpire while in route to a call for service and violations committed by a motorist during a motor vehicle stop.
- b. 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, as discussed below at 7:60-5(c); 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.
- c. BWCs shall be utilized to record all patrol contacts with citizens in the performance of official duties, including, but not limited to when an officer:
 1. 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. is responding to a call for service and is at or near the location to which the officer has been dispatched;
 3. is conducting a motorist aid or community caretaking check;
 4. is interviewing a witness in the course of investigating a criminal offense;
 5. 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);

6. is making an arrest;
7. is conducting a protective frisk for weapons;
8. is conducting any kind of search (consensual or otherwise);
9. 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;
10. 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;
11. 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;
12. reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities; and
13. for any other action/incident where it is necessary or prudent to create a recording.

It is important to note that this section is not all inclusive and therefore, employees should also record incidents that an officer feels, through their training and experience, should be documented.

- d. An employee shall activate their BWC in the event that it is reasonably believed that any other employee on the scene has undertaken or is engaged in any of police actions/activities discussed above at 7:60-5(c).
- e. BWCs shall also be activated when an employee is conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with Directive 7:7.
- f. When a BWC is activated pursuant to / relative to the transport of arrestee (7:60-5(c)(11)), whether by an officer in uniform or in plain clothes, the BWC shall remain activated at all times while the BWC-equipped officer is in the presence of the arrestee and until the arrestee is secured in the holding cell or processing room, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee.
- g. BWCs shall remain activated for the entire duration of an event, including any subsequent transport of a subject (regardless of custody status) and during any suspect processing in booking at police headquarters.
 - BWCs shall be removed from the booking area **ONLY** while processing a subject for driving while intoxicated as to not inhibit the operation of the Alcotest machine.
 - In this scenario, the unit shall be reactivated for the remainder of the event once the entire Alcotest process is complete.

Note: Employees are expected to narrate that the BWC is being deactivated for Alcotest processing and then narrate the reactivation accordingly.
- h. Notwithstanding the provisions of this section, at no time is an officer expected to jeopardize their own safety or the safety of another person in order to “immediately”

activate their BWC. Any BWC not “immediately” activated due to the safety of an officer or another person being presently jeopardized, shall be activated as soon as possible.

- i. Employees shall not deactivate the BWC until the incident has been completed. Officers shall verbally state their justification for halting a recording so that the reason can be documented on the recording prior to turning it off.
- j. An employee, while at the scene of a deadly-force event or the on-scene investigation of that event **shall not** de-activate the BWC unless instructed to do so by the IAB commander or designee. The IAB Commander or designee shall not give the order to de-active the BWC unless approved by the Assistant Prosecutor or Deputy Attorney General supervising the investigation of the deadly-force incident pursuant to Attorney General Law Enforcement Directive No. 2006-5 and in accordance with Department Directive 2:11 – Police Action Death Investigations. Such instruction may be given telephonically through consultation with the on-call administrator where applicable. In scenarios arising under this section, the IAB Commander or designee shall cause concurrent notification to the respective division commander.
- k. In instances when the BWC has documented an event that is criminal in nature involving loss of life, serious injury, or catastrophic property damage, the officer(s) recording the incident should not deactivate the recording and shall continue to record the incident until the incident is over. The on-scene supervisor shall make the determination when to deactivate the BWC.
- l. In order to prevent the recording of events unrelated to the call for service, employees at police headquarters addressing walk-in complaints are authorized to deactivate their BWC when not in the presence of the citizen. Examples include the typing of complaints or other follow-up activities conducted in the Patrol Room(s). The employee shall narrate on the BWC the reason for the deactivation and immediately re-activate the unit each time contact with the citizen is reestablished.
- m. Any employee (excluding those referenced in 7:60-5(b)) providing assistance or back up to an officer on a call for service or citizen contact is required to have their BWC activated until the assignment is cleared or their assistance is no longer needed.
- n. Uniformed employees on extra-duty assignments shall deploy their BWC during their assigned traffic and/or security details. Employees shall activate the BWC in accordance with the procedures set forth in this directive if they are required to undertake official police actions during the course of their assignment.
- o. When BWC is activated, employees are encouraged to provide narration where practical and appropriate in an effort to augment the value of the recording and to provide clarity for the viewer.
- p. If an employee fails to activate the BWC when required, fails to record the entire event contact, or interrupts the recording, the employee shall document in the applicable incident report and/or CAD event why a recording was not made, was interrupted, or was terminated. In addition, the employee shall notify the duty supervisor of the failure as soon as operationally feasible. The duty supervisor may cause the employee to complete an incident report detailing the reasoning why the event was not captured.

- q. In all circumstances where a person will be video or audio recorded in their own residence, the employee shall advise the person, unless this would be unsafe, infeasible or create a threat to officer safety).
- 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. If a member of the public inquires of an employee whether the employee is equipped with a BWC, or inquires whether the device is activated, the employee shall answer truthfully unless the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, has expressly authorized the employee to make a covert electronic recording.
- r. When interacting with an apparent crime victim, a law enforcement officer shall, as soon as practicable, notify the apparent crime victim that he or she is being recorded by the BWC and, if the apparent crime victim requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC. 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.
- s. When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, a law enforcement officer shall notify the person that they are wearing a BWC and, if the person requests that the officer discontinue use of the BWC, the officer shall evaluate the circumstances and, if appropriate, discontinue use of the BWC. 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.
- t. Employee may only de-activate a BWC when a civilian conversing with the employee requests that the device be turned off under circumstances where the employee reasonably appears that the person will not provide information or otherwise cooperate with the employee unless that request is respected.
- The employee shall not suggest to the person that the BWC should be de-activated; nor shall the employee ask the person whether the civilian would prefer that the BWC be de-activated. Rather, the request for de-activation must be self-initiated by the civilian.
 - Prior to de-activating the BWC, the employee shall explain the consequences of de-activation (for example: evidence relevant to a criminal investigation and/or law enforcement/civilian encounter will not be recorded).
 - The provisions of this section apply regardless of the type of incident which precipitated the law enforcement/civilian encounter.
- u. In deciding whether to de-activate the BWC, the employee shall consider the privacy and safety interests of the person requesting de-activation, whether the encounter is occurring in the person's residence, and the need for the information

or assistance that the person will provide only if the de-activation request is honored.

- 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.
- v. Nothing in this directive is intended to require that an employee de-activate a BWC at the request of a civilian; however, in the event that an employee decides to decline the request to de-activate the BWC, the employee shall:
- Immediately notify the civilian of their decision to decline the request and
 - Notify the duty supervisor with appropriate responsibility of the decision to decline the request. This notification shall be made when safe and practical to do so.
- w. Nothing in this directive is intended to prohibit a BWC equipped employee from de-activating a BWC while participating in a discussion pertaining to criminal investigation strategy and planning with a supervisor (i.e. to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to summon a drug/explosives detection canine, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.), provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian (i.e., under circumstances where a civilian might overhear the strategy discussion), and further provided that the BWC-equipped employee is not actively engaged in the collection of physical evidence (i.e., conducting a search).
- When an employee de-activates a BWC pursuant to this section, the employee shall narrate the circumstances of the de-activation (i.e. "I am now turning off my BWC to discuss investigative strategy with my supervisor.").
- x. Nothing in this directive is intended to prohibit a BWC equipped employee from de-activating a BWC when directed to do so by an assistant prosecutor or deputy attorney general for good and sufficient cause.
- When an employee de-activates a BWC pursuant to this section, the officer shall narrate the circumstances of the de-activation indicating the assistant prosecutor or assistant or deputy attorney general who authorized the de-activation (i.e., "I am now turning off my BWC as per the instruction of assistant prosecutor (insert name).")
- y. In any instance where a BWC was de-activated pursuant to sections 7:60-5(q-u), 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 and the employee would otherwise be required to activate the BWC pursuant to sections 7:60-5(b & c) of this directive.
- z. In any instance where a BWC was de-activated pursuant to sections 7:60-5(q-u), the device shall be immediately re-activated (as soon as safe and practical to do so) if the circumstances develop so that an employee is authorized to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.

- aa. Employees are ***prohibited*** from misleading the person making the de-activation request into believing that the BWC has been turned off when in fact it is operating unless the covert recording has been authorized by either the County Prosecutor or Director of the Division of Criminal Justice or designee.
- bb. Officers who capture evidence or critical incidents on tape shall bring it to the attention of their supervisor as soon as possible. Officers operating a BWC system shall cause a tag to be created and ensure that the appropriate incident case number is added to the recorded file in order to memorialize the recording. This recording shall be noted in the investigative document precipitated by the incident. See Section 7:60-8 regarding tagging.
- cc. Employees shall note in incident case report when BWC recordings were made during the incident under investigation; however, BWC recordings are not a replacement for written reports.
- dd. Civilians shall not be allowed to review the recordings at the scene of contact.
- ee. Employees assigned to plainclothes shall not wear BWCs unless directed by the appropriate Bureau or Division Commander.
- ff. BWCs shall not be worn during Internal Affairs Investigatory interviews.

7:60-6 RESTRICTIONS

- a. BWCs shall be used only in conjunction with official law enforcement duties. The BWCs shall not be used to record:
 - Communications with other police personnel without the permission of the Chief of University Police or designee;
 - Encounters with undercover officers or confidential informants;
 - When on break or otherwise engaged in personal activities; or
 - In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
- b. Unless otherwise required by this directive, employees shall not activate a BWC, or shall de-activate a BWC that has been activated, while the employee is in:
 1. A school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the BWC;
 2. A patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances where patients would be in view of the BWC; or
 3. A place of worship under circumstances where worshipers would be in view of the BWC.
- c. An employee shall not activate a BWC or shall de-activate a BWC that has been activated, if the employee 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 (i.e., 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 duty supervisor that the image of an undercover officer or confidential informant was recorded.

- Notwithstanding this restriction, 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.
- d. An employee shall not activate a BWC while in a courtroom or hearing during proceedings, unless the employee is responding to a call for service or is authorized to use constructive force or authority, or unless such activation is expressly authorized by the judge or hearing officer.
- e. Recordings, enumerated within this section, (including police-involved shooting and/or police use of force) shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the PSD Commander. The PSD commander shall consult with and seek approval from County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, as appropriate. Division Commanders or their designee are responsible for ensuring that these recordings are classified as **RESTRICTED** within the Evidence.com system. This section includes; but is not limited to:
 1. The image of a victim of a criminal offense;
 2. The image of a child;
 3. Was made in a residential premise(s), (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;
 4. A conversation with a person whose request to de-activate the BWC was declined;
 5. A special operations event or execution of an arrest and/or search warrant where confidential tactical information, 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;
 6. The image of an undercover officer or confidential informant; or
 7. The screen of a police computer monitor that is displaying confidential personal or law enforcement sensitive information; or
 8. Alarm response investigation where alarm panels and/or codes may be recorded.
- f. Notwithstanding the provisions of Directive 7:60-6(e) above; Division Commanders; Detective Bureau Commanders and Internal Affairs Personnel have been afforded access to view recordings tagged a Restricted. Such access has been granted for investigative and/or administrative purposes only. Personnel with access are **PROHIBITED** from allowing involved personnel to view recordings and/or otherwise disseminating said recordings without the express approval of the Chief of University Police or PSD Commander or as otherwise specified within this directive.

7:60-7 INSPECTION AND MAINTENANCE

- a. When not in use, BWCs shall be stored in a designated docking station for upload to Evidence.com.

- b. BWCs shall be inspected by employees at the commencement of each shift to guarantee both video and audio recording readiness of the system. This pre-shift inspection shall include the employee activating the BWC and verbally stating the date, time, and that a pre-shift inspection is being conducted on the device.
- c. The employee shall then synchronize the unit with their assigned patrol vehicle mobile data terminal, where appropriate/applicable. This will allow the employee to view the event and tag it accordingly. In addition, BWCs are programmed to automatically begin recording when the radio car's emergency lights are activated, once synced.
- d. The results of the inspection, including any malfunctions or deficiencies, shall be noted in the designated area on the **Vehicle Inspection Report**.
- e. Employees are permitted to conduct a review of the contents of a BWC to ensure accurate reporting and to assist in articulation of probable cause and events transpiring; except as provided for at section 7:60-6(e).
- f. Viewing of BWC events is strictly limited to sworn officers of this department. Viewing by any other person is prohibited unless authorized by the Chief of Police or designee, or consistent with a provision of this directive.
- g. Employees utilizing the BWC shall periodically, and no later than the end of each shift, download the contents of the unit. Each file downloaded shall contain information related to the date, BWC identifier, and assigned officer.

7:60-8 CLASSIFICATION, CONTROL, MANAGEMENT, ACCESS AND RETENTION

- a. Unless expressly authorized by a command rank officer, all employees equipped with a BWC shall upload the contents of the device prior to reporting off duty.
- b. Contents downloaded from BWCs shall be stored within the Evidence Management System (evidence.com). All images and sounds recorded by the BWC are the exclusive property of the department. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.
- c. Recordings are "auto-tagged" through an integration with CAD to attach the incident number, category, incident location automatically.
- d. Upon the conclusion of a recorded event; all recordings captured by the system shall be classified (bookmarked or tagged) within the Evidence Management System (evidence.com) to enable access and aid in the retention of recordings.
- e. Uploaded events are stored on the system by incident. Each incident can be searched by date/time and officer. In addition, events can be searched by supplemental information keyed in by the officer at the time of upload, such as tags and case number.
- f. BWC recordings are considered business records of this department, except for recordings being stored for criminal, civil or administrative proceedings, video shall be retained for a minimum of one hundred and eighty-one (181) days.
 - 1. Body Worn Camera recordings shall be automatically retained for a minimum of 1,095 days (3 years) if it captures images involving:
 - Any use of force;
 - Events preceding and including an arrest for a crime or an attempted crime; or

- An encounter about which a complaint has been registered by a subject of the body worn camera recording.
- 2. Notwithstanding section 7:60-8(f)(1); a longer retention period shall be established if voluntarily requested by:
 - Any sworn member of this department who reasonably asserts that the recording has evidentiary or exculpatory value;
 - Any sworn member of this department who asserts that the video is being retained solely and exclusively for police training purposes;
 - Any member of the public who is a subject of the body worn camera recording;
 - Any parent or legal guardian of a minor who is a subject of the body worn camera recording; or
 - A deceased subject's next of kin or legally authorized designee.
- 3. When a body worn camera recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution, the recording shall be treated as evidence and shall be kept in accordance with the retention period for evidence in a criminal prosecution.
- 4. When a body worn camera 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.
- 5. When a body worn camera records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action.
- g. To effectuate section 7:60-8(f) of this directive, 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.
- h. Video footage not subject to a minimum three-year retention period shall not be viewed by any superior officer of a law enforcement officer whose body worn camera recorded the footage absent a specific allegation of misconduct, nor shall it be subject to any type of automated analysis or analytics.
- i. Body worn camera recordings shall not be divulged or used by any law enforcement agency for any commercial or other non-law enforcement purpose.
- j. Recordings which require additional preservation for criminal, civil, or administrative purposes shall be denoted as such within the Evidence.com platform. Such recordings shall be maintained until the conclusion of the case.
- k. BWC Recordings that are being stored for criminal, civil, or administrative purposes are subject to discovery, R. 3:13-3 et seq. and R. 7:4-2 et seq. 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;
 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 Directive and a department's policy, standing operating procedure, directive, or order promulgated pursuant to this Directive;
 11. To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution;
 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.
- I. 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's 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 or view 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. (see Directive 2:11 – Police Action Death Investigations)
- m. Consistent with 7:60-8(l) *above*; officers are 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:
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.
- n. As discussed above at 7:60-8(m), an officer is prohibited from reviewing or receiving an accounting of a BWC recording, in certain scenarios as specified above, (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 accounting 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 accounting of the BWC recording will not otherwise interfere with the ongoing investigation.
- In cases subject to Attorney General Directive 2019-4 and Department Directive 2:11, as discussed above; the investigating entity shall be the Independent Investigator. In all other specified scenarios, the investigating entity shall be the Chief of University Police, Deputy Chief of University Police, or designee. The investigating entity shall document the authorization to review or receive an accounting of a BWC of a specified incident.
- o. Whenever an officer reviews or receives an accounting of a BWC recording prior to the creation of any report, statement, or interview (consistent with permission granted at 7:60-8(m)) the officer shall acknowledge that prior review or receipt of an accounting of the BWC recording either verbally or in writing within each such report, statement, or interview.
- The officer shall document each BWC recording that was reviewed and the date of the review. If the officer received an accounting of a BWC recording, the officer shall document the name of each person who provided an accounting of the BWC recording, the date of the accounting and the specific BWC recording for which an accounting was provided.
 - Nothing in this section is intended to require that an 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 accounting of such a BWC recording subsequent to the creation of any required initial report, statement, or interview regarding the recorded event.
- p. Evidence Management System (evidence.com) tracks all access to BWC recordings, including:
1. The date and time of access;

2. The specific BWC recordings) which was/were accessed; and
 3. The employee who accessed the stored BWC recording.
- q. In the event "Restricted" recordings are accessed; the employee accessing the recordings shall prepare an incident report documenting the: (1) reason(s) for access, specifying the purposes or purposes for access and (2) the person who approved access, where applicable in an effort to supplement the automatic tracking.
 - r. Except as provided at section 7:60-6(c) of this directive, 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 law enforcement agency in consultation with the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, determines that the person's/entity's/non-law enforcement agency's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.
 - s. BWC recordings containing information that may be of value for case prosecution or in any criminal or civil adversarial proceeding shall be safeguarded as other forms of evidence and retained in accordance with the retention period for evidence in a criminal prosecution (see Directive 5:9). As such, these recordings will:
 1. Be documented by the requesting employee via the Records Management System detailing the body worn camera number, date and title number;
 2. Be marked as evidence by the Property Officer or designee and placed into evidence. The disc will be subject to the same security restrictions and chain of evidence safeguards and documentation as discussed at Directive 5:7 – Property & Evidence - General;
 3. Not to be released to any person without proper written approval and;
 4. Will not be released to any person or department without having a duplicate copy made and returned to safe storage.
 - t. Officers requiring that a BWC recording be preserved as evidence shall ensure the classification of the recording is set to **EVIDENCE**.
 - u. BWC recordings are considered business records of this department. Except for tapes being stored for criminal, civil or administrative proceedings, video shall be retained for a minimum of 90 days and purged in accordance with directives set forth by the New Jersey Division of Archives and Records Management and New Jersey Attorney General.
 - v. 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 and/or agency.
 - w. When a BWC records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action.
 - x. BWC Recordings that are being stored for criminal, civil, or administrative purposes are subject to discovery, R. 3:13-3 et seq. and R. 7:4-2 et seq.

- y. BWC recordings being stored for criminal, civil, or administrative purposes must be maintained until the conclusion of the case. BWC recordings maintained for these purposes can only be erased in accordance with New Jersey Bureau of Archives, Record Retention Schedule.
- z. The Evidence Management system (Evidence.com) automatically erases recordings from the server when the retention period for a recording segment has elapsed. The retention period is set by the system according to how the recording has been classified by the officer or other authorized user of the System.
- aa. Supervisors may be provided review only access to digital systems for training, inspection and quality assurance purposes. Supervisors are cautioned against accessing BWC recordings for which they otherwise have no legitimate business necessity as discussed within this directive and Directive 5:15.
- bb. Access to the system in order to create copies of recordings needed for court, training or other official purposes will be provided only to designated Evidence Management Personnel.
- cc. Under no circumstance shall any employee of this department erase, reuse or alter the recording of any digital video system. It is a fourth degree crime to purposely and knowingly alter, destroy, conceal, remove or disable any camera or monitoring device including any videotape, film or other medium used to record sound or image that is installed in a police vehicle (N.J.S.A. 2C:28-7c).
- dd. Employees shall inform their supervisor of any recordings that may be of value for training purposes.
- ee. If an employee is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force, the department reserves the right to limit or restrict an officer from viewing the video file.

7:60-9 REVIEW / AUDIT

- a. Police commanders may conduct random reviews of Evidence Management system (Evidence.com) to assess the training needs of the department, to ensure compliance with current safety precautions and ensure compliance with this directive except as provided for at section 7:60-6(e).
 - Following this review, a written report will be routed to the appropriate commander to indicate that such a review was conducted.
 - This report should include any concerns which became evident upon review.
- b. Supervisors of all ranks are encouraged to conduct random reviews of Evidence Management system (Evidence.com) recordings to augment the formal performance evaluation and inspection processes or to identify training needs or to use for training other officers, where available.
- c. Officers are entitled to review Evidence Management system (Evidence.com) recordings depicting only their own activity to evaluate their own performance. *(This does not apply to recordings being preserved for investigative purposes.)*
- d. Reviews and audits are discussed in greater depth at section 1:15-5 of Directive 1:15 – Inspections.
- e. Requests for discovery and requests for copies for criminal or civil court purposes shall be forwarded to the Investigations Division Commander, or designee for

action. All requests for copies or review of Recordings are subject to the fees established for discovery/OPRA as applicable.

- f. Requests for copies of MVR Recordings/video footage shall require a Duces Tecum subpoena or requested under the Rules for Discovery. All requests must contain the requisite specificity for the incident or event. Only that portion of the recording pertinent to the request shall be provided.
- g. Requests for copies of the entire contents of a recording shall be provided upon issuance of an order by a superior court judge.
- h. A command rank officer, with the approval of the Chief of University Police, may release portions of a video recording to other law enforcement agencies, or to the public for compelling reasons.

7:60-10 SUPPLEMENTAL

- a. In the event that a BWC captures the image of a patient in a substance abuse treatment Facility the recording shall be noted within an incident report and a copy shall be forwarded to the PSD Commander prior to the employee reporting off duty.
 - The PSD Commander shall cause contemporaneous notification to the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, in order to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information.
- b. Upon receipt of a subpoena, court order, or request pursuant to the Open Public Records Act (NJSA 47:1-1 et. seq.), or the common law right to know, for a BWC recording the request shall immediately be forwarded to the PSD Commander or designee for review. The PSD Commander shall, within one business day of receipt of such request and before complying with it, provide notice to the County Prosecutor and/or to the Division of Criminal Justice.
- c. Each geographic division shall designate at least one employee to serve as the “training officer” for the BWC program. This officer, designated as the BWC Training Officer, shall ensure that employees equipped with BWC and those other employees who have access or handle BWC recordings are familiar with the provisions of this directive. BWC Training Officers shall receive their initial training from the PSD commander who shall serve as the system administrator.
- d. The designated BWC training officer shall be responsible for coordinating the initial and on-going training required by this directive at section 7:60-4(b).

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