


<b>Sea Girt Police Department</b>			
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Subject: <b>Body Worn Cameras</b>			
Effective Date: <b>1/28/2016</b>	Latest Revision Date: <b>1/23/2022</b>	Accreditation Standards: <b>NJ 3.5.5</b>	
By the Order of: <b>Chief Justin E. Macko</b>			

**PURPOSE:**

The purpose of this policy is to establish a procedure for the use of Body Worn Cameras (BWCs). It is essential that all officers wearing BWC understand legislation regarding their use. This directive will assist the officer in determining when to active and de-active the BWC during police-civilian encounters. This policy will also define the storage, preservations, retention, and dissemination of data collected on the BWC system. The BWC is not intended to replace police testimony or accurate written reports but to augment good police practices and to provide and added method of collecting and documenting evidence to prosecute those who violate the law.

**POLICY:**

It is the policy of the Sea Girt Police Department to make BWCs available for use by all agency personnel in the performance of their duties. These cameras are an asset which will assist officers in prosecuting offenders by augmenting an officer’s testimony with video and audio of an incident and provides an accurate and unbiased recorded account of an incident. This system will further assist the agency in the investigation of citizen complaints and in the development of future training.

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

Any willful or repetitive violations of this directive shall be reported the internal affairs supervisor who shall report such directly to the Chief of Police and Monmouth County Prosecutor’s Office. The

Monmouth County Prosecutor's Office is authorized to take such actions as are reasonable and necessary to ensure compliance with this directive and to prevent future violations.

This policy has been drafted in accordance with Attorney General Directive 2021-5.

## **PROCEDURE:**

### **I. DEFINITIONS**

- A. **Activate** – To actuate, or turn on, the recording mode/function of the body worn camera.
- B. **Advisement** – A statement made by an officer at the outset of using a BWC camera to record a communication, conversation, or interaction with a civilian for the specific purpose of informing the civilian that the communication or conversation is being recorded.
- C. **Body Worn Camera (BWC)** – A device worn by a law enforcement officer that makes an electronic audio/video recording of activities that take place during any law enforcement action. This does not include a mobile video recording device (MVR) when mounted inside a police vehicle (ie dashcam), any form of electronic recording device used in undercover operations, surveillance equipment, or electronic recording devices used to record custodial interrogation/witness statements within the police agency.
- D. **Constructive Authority** - Does not involve actual physical contact with a subject but involves the use of the officer's authority to exert control over a subject.
  - 1. Examples include: Verbal commands, gestures, warning and un-holstering a weapon.
- E. **Deactivate** – To shut off the recording mode of a BWC.
- F. **Digital evidence** – Includes photographs, images, audio, and video recordings that are stored digitally.
- G. **Force** - Physical, mechanical, enhanced mechanical (if authorized) and deadly force as contained in the NJ Attorney General's Use of Force Policy.
- H. **Investigation of a Criminal Offense** - Any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, driving while intoxicated, 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.

- I. **Law Enforcement Agency, Agency, or Department** - A law enforcement agency operating under the authority of the laws of the State of New Jersey.
- J. **Law Enforcement Officer or Officer** – A person whose public duties include the power to act as an officer for the detection, apprehension, arrest, and convictions of offenders.
- K. **Proactive Enforcement Team** – Includes officers who are typically assigned to targeted enforcement operations. Unlike officers who are responsible to traditional calls for service, these officers typically assigned the singular responsibility of addressing specific, targeted offenses/offenders.
- L. **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.
- M. **Subject of the video footage** – Any law enforcement officer, suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body worn camera recording and shall not include a person who only incidentally appears on the recording.
- N. **System Administrator** – Any person who has been assigned to administer the BWC system.
- O. **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.
- P. **Tagging** – The electronic labeling of a video file captured by a BWC.
- Q. **Transfer Station** – A docking station which allows for the charging of a BWC and uploading of the video/audio data stored on the BWC to the authorized storage facility.
- R. **Youth Facility** - A facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, treatment facilities, residential facilities, etc.

## II. GENERAL

- A. The Chief of Police has authorized the use of Body Worn Cameras (hereinafter BWC/s) in a manner consistent with the provisions outlined in this written directive.

- B. BWC recordings are vital to law enforcement for evidential purposes. BWCs have consistently demonstrated their value in the prosecution of criminal, and other related offenses, and to protect personnel from false claims of misconduct. Additionally, this equipment will provide valuable instructional material that can be utilized for in-service training programs.
- C. While visual and audio evidence may be captured on the recordings, the use of BWC is not intended to document all evidentiary material relevant to the court of administrative proceedings, but it can serve to supplement an officer's/detective's senses and eyewitness account.
- D. The Sea Girt Police Department recognizes that video images cannot always depict the full story, nor do video images capture an entire scene and that there are occasions when there will be technical problems with either a BWC or the retention and storage of its data. It is also recognized that officers will often have to make split second decisions based on information which is not, or cannot, be captured on a BWC. The use of BWCs do not eliminate the requirement to provide through written documentation of an incident. Persons reviewing BWC recordings much also take into account that the video and audio captured by a BWC is but one piece of evidence that provides only one perspective regarding the situation that has been recorded.
- E. There is no intent to utilize the BWC as a management tool to punish officers for minor departmental rule infractions.
- F. Officers shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
- G. Adequate safeguards are necessary to ensure that this technology is used in a non-discriminating way and used to properly document evidence.
- H. The BWC equipment purchased by this agency shall be the only BWCs authorized for use by the members of this agency. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of this agency.
  - 1. Equipment and BWCs which are authorized for use by members of this agency are listed in [APPENDIX A](#) of this policy.
- I. BWC's shall be used only in performance of official police duties. The use of BWCs for personal, non-law enforcement purposes, is prohibited.
- J. Officers equipped with a BWC must comply at all times with this policy, and the policies and directives of the Monmouth County Prosecutor's Office and the New Jersey State Attorney General's Office.

- K. BWC recordings shall not be accessed, viewed, copied, released, disseminated or otherwise used by any member of this agency except for official purposes specified in this directive or by law.
- L. Recordings made by this system may serve the following purposes:
1. Recordings serve as protection for police officers when there are complaints about their conduct or professionalism during encounters with the public;
  2. The recordings can be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation;
  3. The recordings can resolve disputes concerning what occurred during particular incidents, thereby protecting both the public and the officers involved;
  4. When complete recall is not possible, such as when multiple events are happening simultaneously or out of an officer's line of sight, an audio/visual recording can provide an accurate record of events;
  5. The recordings can provide a record of police-citizen interactions within the police vehicle when an officer's attention is on the operation of the vehicle;
  6. The recording can document indications that a person is an escape risk, mentally disturbed individual, intoxicated, or who are physically injured;
  7. The recordings will document interactions between officers and members of the opposite sex;
  8. The recording can provide accurate documentation of highly detailed and/or fast-moving incidents, such as roadside sobriety testing and violent encounters;
  9. Recordings can assist Field Training Officers in their ability to evaluate the officers in the field training program;
  10. Subject to the restrictions in this general order, supervisors will be able to view the recordings and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.
  11. Recordings can permit supervisors to undertake more meaningful performance evaluations.
  12. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the public.
  13. Recordings enhance management's ability to train personnel in proper police procedures.

- M. Under no circumstances will any employee of this agency make a personal copy of any recorded event without the permission of the Chief of Police or the Administration Commander or in accordance with this directive. This restriction also applies to any employee who entice/uses another to make a personal copy of any recorded event.
- N. Any member of this agency who knowingly violates the provisions of this policy shall be subject to discipline. Any willful or repetitive violations of this written directive shall be reported directly to the County Prosecutor. The County Prosecutor is authorized to take such actions as reasonable and necessary to ensure compliance with this written directive and to prevent future violations.
- O. In order for the BWC to capture the best possible view of a particular incident, the officer utilizing a BWC shall affix the device in accordance with the options and methods provided by the manufacturer. Suggested mounting options provided by the manufacturer is contained in [APPENDIX B](#) of this policy.

### **III. Notice that BWCs are Deployed and Activated**

- A. The Sea Girt Police Department shall take steps to inform the public that BWCs technology has been deployed by this agency. Photographs of the devices as well as a general description of the BWC program shall be displayed on the department's website at all times while the site is active and the BWC program is active.
- B. An 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.
  - 1. 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, CAD, or by narrating the reasons on the BWC recording.
- C. If a civilian inquires of an officer whether the officer is equipped with a BWC, or inquires whether the device is active, the officer shall answer truthfully unless they have been expressly authorized by the County Prosecutor, or designee, to make a covert recording.
- D. Prior to entering a private residence, an 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:
  - 1. Actively engaged investigating the commission of a criminal offense.

2. Is responding to an emergency.
  3. Reasonably believes they will be required to use constructive authority or force.
- E. When interacting with an apparent crime victim, an officer shall, as soon as practicable, notify the apparent crime victim that he or she is being recorded by the BWC. If the apparent crime victim requests the officer to discontinue the BWC recording, the officer shall immediately discontinue use of the BWC.
- F. When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, an 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.
- G. If an officer declines a request to deactivate a BWC in circumstances outlines in this section, the reasons for declining the request much be documented and shall be reported to a supervisor as soon as it is safe and practical to do so. If an officer declines a deactivation request, the officer immediately shall inform the person making the request of that decision.
- H. Officers shall not deactivate a BWC while at the scene of an incident where they reasonably believe force has been, is being, or will be employed;

#### **IV. Requirements to Wear/Use BWCs**

- A. Personnel assigned to the following functions are required to be equipped with BWCs and adhere to the provisions of this directive while performing their duties:
1. All uniformed patrol officers while acting in the performance of official duties, as required by N.J.S.A. 40A:14-118.3. This shall include officers assigned the following duties:
    - a. Vehicle Patrol
    - b. Traffic Enforcement
    - c. Bicycle Patrol
    - d. Foot Patrol
    - e. Beach Patrol
    - f. Road Jobs and Extra Duty Assignments
  2. Any officer whose assigned duties include regular interaction with members of the public, which reasonably may give rise to an arrest situation or use of force.

3. Any officer assigned to a proactive enforcement operation, team, or detail.
  4. All officers assigned to a tactical team as defined in this policy. Tactical team assignments shall include M.O.C.E.R.T. operations, Rapid Deployment Force, entry teams, warrant service teams, or other taskforces or similar units.
  5. All officers assigned to the “front desk” duty whose duties include interaction with members of the public who enter the station to report incidents or request assistance or information.
  6. All officers assigned to a pre-planned search warrant execution or pre-planned arrest.
  7. All uniformed officers assigned to duties as demonstrations or potential civil disturbances.
  8. All officers assigned to, or to work along with, any canine unit.
  9. Detectives and Administrative Officers shall wear/utilize BWCs when conducting arrests and while engaged in field duties (e.g. road coverage, search warrant executions, raids, ect.).
- B. Officers Not Required to Wear BWCs – Notwithstanding the provisions outlined above, the following officer are not required by this directive to be equipped with BWCs:
1. Officers engaged in undercover assignments.
  2. Officers acting as hostage negotiators or crisis negotiators working in conjunction with tactical teams.
  3. Officers assigned to administrative duties within the agency. This provision shall not exclude officers assigned to “front desk” duty.
  4. Officers engaged in union representation of a member of the collective bargaining unit.
  5. Non-uniformed officers assigned to investigative, non-enforcement duties, when authorized by the Chief of Police.
  6. Officers engaged in crime-scene processing duties.

## **V. Officer Responsibilities**

- A. Each BWC has a unique serial number and has been assigned an internal tracking identification number. Each BWC will be electronically assigned or logged to a specific officer in a manner prescribed by the manufacturer.



1. At no time will any officer be authorized to use a BWC which is electronically assigned to any other officer.
- B. Officers required to wear a BWC as stated above shall wear the device as an authorized component of the uniform of the day.
- C. BWC equipment is the responsibility of the assigned law enforcement officers and shall be used with reasonable care to ensure proper functioning.
- D. When not in use, the BWC shall be stored in the designated transfer station. This will allow the unit to be charged and for the data to be transferred and stored in the secure storage server.
- E. A BWC used by an officer shall be placed so that is maximized the camera's ability to capture video footage of the officer's activities.
- F. If an officer fails to activate the BWC, fails to record an entire event contact, or interrupts the recording, the officer shall document in the applicable incident report the reason why a recording was not made, was interrupted, or was terminated.
  1. If practical, the officer should request dispatch time stamp a note in the incident's CAD upon learning of a BWC failure during the incident.
- G. Officer shall note in an incident report when BWC recordings were made during the incident.

## **VI. TRAINING**

- A. The Sea Girt Police Department shall designate one or more training officers and establish a training program that ensures officers equipped with BWCs, and those who handle the recorded data, understand the provisions of this policy and the proper operation of the authorized device(s).
- B. All officers who have been assigned a BWC shall complete any prescribed training program prior to using the device.
- C. The Accreditation Manager/Training Officer shall be responsible for collecting and retaining training records.

## **VII. INSPECTION AND MAINTENANCE**

- A. Officers shall inspect their BWCs at the beginning of each shift as well as at the shifts conclusions to guarantee both video and audio readiness of the system. The inspection shall include, but not be limited to:
  1. Ensuring battery is adequately charged;

2. Ensuring the device has sufficient memory to complete their tour of duty;
  3. Ensuring the proper positioning of the BWC on the officer's uniform; and
  4. Ensuring the device is fully functional;
- B. The pre and post shift inspection shall be recorded and the officer will verbalize the date and time, and state a test is being performed on the unit.
  - C. If a malfunction is detected, the officer shall report the malfunction to a supervisor and document the malfunction in a CAD report and include the unit/serial number. If the malfunction cannot be rectified, the device shall be removed from service.
  - D. If the BWC malfunctions while out in the field, the malfunction shall be reported to the shift supervisor as soon as practical. The malfunction shall be documented in a CAD report.
  - E. A copy of a CAD report, fully and articulately documenting any malfunction, shall be forwarded to the system administrator.

## **VIII. OPERATION**

- A. The use of BWCs allow for a clearly documented, firsthand and completely objective account of an incident. Therefore, officers shall activate their BWC prior to arrival at the scene of a dispatched call for service and officers shall activate their BWC for a proactive event prior to initiation of the even or as soon as safely possible. This will allow the maximum amount of information regarding the incident to be captured.
- B. The decision to activate or de-activate a BWC is subject to the rules established in [Attorney General Law Enforcement Directive 2005-1](#), which strictly prohibits any form of racially-influenced policing.
- C. BWC shall only be activated 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 directive.
- D. Except as otherwise restricted in this general order, officers shall video and audio record all law enforcement activity including any interaction with a civilian. However, if an immediate threat to the officer's life or safety makes activating the BWC impossible or dangerous, the officer shall activate the BWC at the first reasonable opportunity to do so. Examples of such required recordings include, but are not limited to:
  1. When the officer initiates an investigative detention to include:

- a. Traffic/Motor Vehicle Stops, criminal suspicion stops, field contacts or field interviews.
2. An officer is responding to a call for service and is at or near the location to which the officer has been dispatched.
3. Conducting a motorist aid or performing a community caretaking function;
4. Interviews of witnesses when conducting investigations of criminal or motor vehicle violations/offenses (not to include undercover investigations or related surveillance activities).
5. Conducting a custodial interrogation of a suspect unless the interrogation is being recorded on our agency interview/interrogation recording system in accordance with [Rule 3:17](#) (electronic recordation of station house interrogations);
6. Making an arrest;
7. Conducting a protective frisk for weapons;
8. Conducting any kind of search, consensual or otherwise;
9. 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. When using constructive authority or force is used, or when the officer reasonably believes that constructive authority or force may be used in an encounter not listed in this policy based on specific and articulable facts warranting heightened caution that are documented by narrating on the BWC and/or in the police incident report;
11. The officer is transporting an arrestee to a police station, county jail, or other place of confinement, or a hospital or mental health facility;
12. Any call for service related to a violation or suspected violation of possessing or consuming marijuana, hashish, or cannabis item.
13. Field sobriety testing;
14. Stationary police details:
  - a. Any checkpoint, roadblock or stop such as DWI checkpoints, inspection/seatbelt checkpoints, pedestrian traffic enforcement details, ect;

15. Investigations of criminal violations;
  16. The officer responds to or is involved in a deadly force encounter or in emergency assistance call (ie, shots fired or officer in distress);
  17. While operating in a major crime scene or at the scene of a serious crash site (not to include crime scene processing);
  18. Drug recognition expert (DRE) evaluations;
  19. Overdose and suspected overdose investigations;
  20. Motor vehicle and foot pursuits;
  21. Search warrant execution;
  22. Special events or projects, including but not limited to crowd control, unruly crowds, or any incident requiring activation of the all-hazards or emergency operations plan;
  23. Any contact that becomes adversarial when the BWC has not already been activated.
  24. Where the officer reasonably believes any other officer on scene has engaged in any of the requirements listed in this policy;
- E. **Underage Alcohol and Marijuana Use** – Consistent with the provisions of N.J.S.A. 2C:33-15a(4), an officer's BWC shall be activated whenever the officer is responding to a call for service related to an underage person who is suspected of violating the law with respect to possessing or consuming an alcoholic beverage, marijuana, hashish, or a cannabis item. An officer shall also activate their BWC at the initiation of any law enforcement activity or investigative encounter between an officer and any person suspected of being in violation of 2C:33-15. The BWC shall remain activated until the encounter has fully concluded, and the officer leaves the scene.
- F. When an officer, whether an officer in uniform or in plain cloths, is transporting an arrestee, the BWC shall remain activated at all times while the BWC equipped officer is in the presence of the arrestee until any of the following occur:
1. Arrestee is secured in a holding cell;
  2. Arrestee is secured in the processing room;
  3. Custody of the arrestee has been transferred to the county jail;
  4. Arrestee is with hospital/medical/mental health personnel;

5. The BWC equipped officer is no longer in the presence of the arrestee and there are no other activation requirements exist.

G. **Deadly-Force Incidents and Other Exigent Circumstances** – When an officer equipped with a BWC is dispatched to or otherwise goes to a scene of an incident knowing or reasonably believing that deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance, the officer shall activate the BWC before arriving at the scene when feasible.

1. Notwithstanding any other provision of this general order, an officer while at the scene of a police deadly-force event, pursuit resulting in a death or serious bodily injury, in-custody death, or the on-scene investigation of such events shall not deactivate his/her BWC unless instructed to do so by the assistant prosecutor or deputy attorney general supervising the investigation of the deadly force incident pursuant to Attorney General Law Enforcement Directive 2019-4. The assistant prosecutor, deputy attorney general, or his/her designee supervising the investigation may provide such instruction telephonically.

H. When a BWC is required to be activated in accordance with this policy, the **device must remain activated for the entire duration of the event** until either the law enforcement officer or citizen has departed the scene or the event is concluded, except when deactivation is otherwise expressly authorized in this policy.

1. Any officer providing assistance of back-up to an officer on an event where activation of a BWC is required, is also required to have their BWC activated until the citizen has departed the scene or their assistance is no longer needed.

## IX. DEACTIVATION / MUTING OF A BWC

A. **Criminal Investigation Strategy/Planning Discussions** – An officer may deactivate a BWC while participating in a discussion pertaining to criminal investigation strategy and planning, briefing other officers, considering what investigative techniques to pursue, conducting in-person or telephonic notifications, or discussing any other related strategies with other officers/supervisors provided that the discussion is not conducted in the immediate presence of a civilian or the officer is not actively engaged in the collection of physical evidence.

1. The officer shall only deactivate the BWC when not in direct contact with the victim, suspect, witness, or an individual who is being detained.

2. Prior to deactivating the BWC, the officer shall verbalize and record their intention to deactivate along with the reason for such action and must document the same in their written report.

3. The BWC shall be reactivated immediately when citizen contact is reestablished.

**B. DWI Incidents and Electronic Breath Testing** – The BWC shall be deactivated while in the area where an electronic alcohol breath-testing device is being used, or as necessary, shall be removed from the area where such 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 breath-testing area while the electronic breath testing device is being operated. If this provision requires deactivation of a BWC, the officer shall narrate the reasons for de-activation ("I am deactivating the BWC because the suspect is about to take a breath test."), and the BWC shall be re-activated when safe and practicable to do so following the completion of the breath testing operation.

**C. Deactivation at the Request of a Civilian**

1. An officer may deactivate a BWC when a civilian whom the officer is conversing with requests the BWC to be turned off and the officer reasonably believes the civilian will not cooperate or provide information if the device not deactivated. The officer shall not suggest to the person that the BWC should be deactivated; nor shall the officer ask the person whether he or she would prefer that the BWC be deactivated. Rather, the request for deactivation must be self-initiated by the civilian. The officer may explain the consequences of deactivation. (ie. Evidence relevant to a criminal investigation will not be recorded)

2. Officers have no obligation to stop recording in response to a citizen's request if the recording is pursuant to an investigation, arrest, lawful search, or circumstances clearly dictate that continued recording is necessary. However, the officer shall consider privacy and safety issues of the civilian, whether the encounter is within the civilian residence, and the need for the information the civilian may provide. Such requests for deactivation include, but are not limited to;

a. Citizens reporting confidential information regarding criminal activity;

b. Citizens requesting to remain anonymous;

c. When a person other than an arrestee, is seeking emergency medical services for him/herself or another and requests that the BWC be deactivated; or

- d. When authorized to do so by an Assistant Prosecutor for good and sufficient cause as determined by the Assistant Prosecutor. The officer shall narrate such circumstances for deactivation on the BWC recording, indicating the name of the Assistant Prosecutor authorizing deactivation.
3. When an officer deactivates a BWC pursuant to a civilian's request, the officer shall;
    - a. Record the conversation between the citizen and the officer concerning the request to deactivate.
    - b. Narrate the circumstances surrounding the deactivation prior to the deactivation of the BWC;
    - c. Report the circumstances concerning the deactivation to his/her supervisor as soon as practicable;
    - d. Document the circumstances of the deactivation in the officer's report concerning the incident under investigation. It is critical that the circumstances surrounding the deactivation of the BWC be documented as the law enforcement officer will likely be subject to cross-examination regarding same;
    - e. The BWC shall be reactivated as soon as it is safe and practical to do so and then the circumstances requiring deactivation no longer exist and the officer would be otherwise required to activate the BWC.
  4. If an officer declines a request to deactivate a BWC in circumstances outlined in this section, the reasons for declining the request must be documented and shall be reported to a supervisor as soon as it is safe and practical to do so. If an officer declines a deactivation request, the officer immediately shall inform the person making the request of that decision.
- D. An officer may deactivate a BWC when specifically authorized to do so by an assistant prosecutor. When an officer deactivates a BWC under these circumstances, the officer shall verbalize and record the reason for the deactivation to include the name of the person requesting the deactivation.
- E. **Reactivation when actual force is authorized** – If circumstances develop so that an officer is authorized to use force, the BWC shall be reactivated as soon as it is safe and practical to do so.
1. Officers shall not deactivate a BWC while at the scene of an incident where they reasonably believe force has been, is being, or will be employed.
- F. **Reactivation When Reason for Deactivation No Longer Exists** – In any instance where a BWC was deactivated for any of the above reasons, the device shall be reactivated as soon as it is safe and practical to do so if and when the circumstances justifying the deactivation no longer exist.

G. **Underage Alcohol and Marijuana Use Incidents** – Consistent with the provisions in N.J.S.A. 2C:33-15a(4), no officer shall deactivate a BWC for any reason, including requests by the subject of the encounter, when the officer is responding to a call for service, or during an investigative encounter related to an underage person who is suspected of violating the law with respect to the possession or consumption of an alcoholic beverage, marijuana, hashish, or a cannabis item.

**X. RESTRICTIONS ON ACTIVATION**

A. **Special Restrictions When Recording in Schools, Healthcare/Treatment Facilities, and Places of Worship**

1. Unless an officer is actively engaged in investigating the commission of a criminal offense, responding to an emergency or reasonably believes that the use of constructive authority or force may be required, the officer shall not activate the BWC, or deactivate a BWC that has been activated when:
  - a. In a school or youth facility property under circumstances where minor children would be in view of the BWC;
  - b. In a patient care area of a healthcare facility, medical officer, or substance abuse treatment facility under circumstances where patients would be in view of the BWC;
    - a. If the BWC captures the image of a patient in a substance abuse treatment facility, the County Prosecutor or designee, shall be notified to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information. These recording shall not be accessed without the permission of the Prosecutor’s Office.
  - c. In a place of worship under circumstances where worshipers would be in view of the BWC.
2. If an officer is required to de-activate the BWC in accordance with the provisions of this section, the officer shall narrate the reason for de-activation (e.g., “I am entering a school building where children are present.”). The BWC shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances requiring the de-activation no longer exists (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).

**B. Special Restriction - Undercover Officers or Confidential Informants May Be Recorded**

1. An officer shall not activate a BWC or shall deactivate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would risk revealing the identity of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless the exigency of the situation and danger to the officer require that the encounter to be recorded.

**C. BWCs shall only be used in conjunction with official law enforcement duties. BWC shall NOT be used to record:**

1. While in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive authority or force or unless such activation is expressly authorized by the judge;
2. Covert communications with other police personnel;
3. Encounter with undercover officers or confidential informants;
4. When on break;
5. While in the department locker room (unless otherwise AUTHORIZED for training or an official law enforcement function);
6. While in the restroom for personal business;
7. When engaged in personal business;
8. While engaged in police union or association business;
9. In a location where individuals have a reasonable expectation of privacy, such as a restroom, locker room, or break room (unless otherwise AUTHORIZED for training or an official law enforcement function);
10. During counseling, guidance sessions, personnel evaluations or any similar supervisory interactions.
11. During training evolutions or exercises unless specifically authorized by the person in charge of the training session.

- D. Officers shall not be required to activate the BWC when engaged in conversations with individuals with whom the officer has a privileged relations (ie, spouse, attorney, minister, ect.).

## **XI. Control and Management:**

- A. All officers utilizing the BWC shall periodically, and no later than the end of each shift, download the contents of the unit by placing the unit in the designated transfer station. Each file downloaded shall contain information related to the date, BWC identifier, and assigned officer. The recordings should be labeled through tagging or using the properties available in the software to include, but not be limited to:

1. Incident number;
2. Type of incident;
3. Assigned officer;

- B. Contents downloaded from BWCs are considered investigatory records of this agency and shall be maintained on the Watchguard file server and/or the EvidenceLibrary.com cloud based storage service and disposed of in accordance with New Jersey Bureau of Records Management records retention schedules.

1. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes, recordings shall be retained for a period of at least **180 days**.
2. Recordings being stored for criminal, civil, or administrative purposes must be retained until the **conclusion of the case plus any retention period**.
3. Recordings of an arrest that did not result in an ongoing prosecution, or records the use of police force, shall be kept until the expiration of the **statute of limitations** for filing a civil complaint against the officer or the employing law enforcement agency.
4. BWC recordings shall automatically be retained for not less than **three years** if it captures images involving an encounter about which a complaint has been registered by a subject of the BWC recording.
5. BWC recordings shall be retained for not less than **three years** if requested by:
  - a. The officer whose BWC made the recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
  - b. The officer who is a subject of the BWC recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or

- c. Any immediate supervisor of an officer whose BWC made the recording or who is a subject of the BWC recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value; or
  - d. Any officer, if the BWC recording is being retained solely and exclusively for police training purposes; or
  - e. Any member of the public who is a subject of the BWC recording; or
  - f. Any parent or legal guardian of a minor who is a subject of the BWC recording; or
  - g. A deceased subject's next of kin or legally authorized designee.
  - h. NOTE: the member of the public, parent, or legal guardian, or next of kin or their designee shall be permitted to review the body worn camera recording in accordance with N.J.S.A. 47:1A-1 et seq. to determine whether to request a three-year retention period.
6. When a BWC records an incident that is the subject of an administrative internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation, any resulting administrative action and required retention.
- C. Officers/employees shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. Officers/employees shall not instruct another to alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. If an officer, employee, or agent fails to adhere to the recording or retention requirements contained in this general order or N.J.S.A. 40A:14-118.5 et seq., or intentionally interferes with a body worn camera's ability to accurately capture audio or video recordings.
- 1. The officer, employee, or agent shall be subject to appropriate disciplinary action; and
  - 2. There shall be a rebuttable presumption that exculpatory evidence was destroyed or not captured in favor of a criminal defendant who reasonably asserts that exculpatory evidence was destroyed or not captured; and
  - 3. There shall be a rebuttable presumption that evidence supporting a plaintiff's claim was destroyed or not captured in favor of a civil plaintiff suing the government, a law enforcement agency, or a law enforcement officer for damages based on police misconduct if the plaintiff reasonably asserts that evidence supporting the plaintiff's claim was destroyed or not captured.

4. Any recordings from a BWC recorded in contravention of N.J.S.A. 40A:14-118.5 et seq. or any other applicable law shall be immediately destroyed and shall not be admissible as evidence in any criminal, civil, or administrative proceeding.
- D. **Open public record requests** – Only the following BWC recordings shall be exempt from public inspection:
1. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to the subsection XI.B.4 of this directive if the subject of the BWC recording making the complaint requests the body worn camera recording not be made available to the public.
  2. BWC recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection XI.B6 of this directive.
  3. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection XI.B of this directive.
  4. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection XI.B.5 of this directive if an officer, parent, or legal guardian, or next of kin or designee requests the body worn camera recording not be made available to the public.
- E. All images and sounds recorded by the BWC are the exclusive property of the agency. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited.
- F. The records supervisor or his/her designee shall notify the Monmouth 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.
1. The notification must contain the date the request was received, the deadline by which a response must be made, whether the agency intends to release or deny the request, and the justification for that decision.
  2. Provide the type of police action or activity depicted in the recording, including, but not limited to, whether the officer was involved in an investigative detention, an arrest, an interrogation of a suspect, a witness interview, a search, a protective frisk for weapons, or was using constructive or actual force.
  3. Indicate whether the recording is part of an ongoing criminal or internal affairs investigation or whether release of the recording potentially infringes upon a victim and/or juvenile privacy rights.

4. The records bureau supervisor or his/her designee will receive an acknowledgement. If no further communication is received within 72 hours, the BWC administrator or his/her designee should respond to the request as deemed appropriate.
  5. Pursuant to the Open Public Records Act (N.J.S.A. 47:1A-5c and N.J.S.A. 47:1A-5d), the department will apply service fees for any extraordinary expenditure of time and effort to accommodate a request. The service fees will be based upon the actual direct cost of providing the service or extraordinary time. If the requester objects to the fee, the request is closed and access to the records is not granted.
  6. BWC footage requests, requiring a substantial amount of manipulation or programming of information technology, will be assessed a special service fee that shall be reasonable and shall be based on the cost for the labor cost of personnel providing the service, that is actually incurred for the programming, clerical, and supervisory assistance required, or both, if a request is for a copy of a record.
  7. The fee will be based at the lowest hourly rate of the personnel authorized to review/redact/approve the request.
  8. The records supervisor or his/her designee will provide the requestor an estimate before any copy is made.
- G. Copies of an event captured on BWCs will not be released to other criminal justice agencies other than the Monmouth County Prosecutor's Office, without the express permission of the Chief of Police or designee.

## **XII. "TAGGING" Events**

- A. When the BWC is activated, officers are encouraged to provide narration where practical, appropriate, and safe to do so, in an effort to augment the value of the recording and to provide clarity for the viewer.
1. Officers may audibly "tag" significant events during the recording to provide details of the segment.
  2. Manufacturer's software allow electronic "tags" or marks can be used to mark significant events for easy reviewing and retrieval at a later date or to provide details of the marked segment.
- B. **Special privacy or safety issues** – BWC recording that may raise special privacy or safety issues shall be "tagged" to include, but not limited to:

1. Captures a law enforcement incident, as defined in New Jersey Attorney General Directive 2019-4:
  - a. Any use of force by a law enforcement officer resulting in death or serious bodily injury.
  - b. Any use of deadly force (including the discharge of a firearm) by a law enforcement officer, regardless of whether such force resulted in injury.
  - c. The death of any civilian during an encounter with a law enforcement officer; and
  - d. The death of any civilian while in the custody of law enforcement.
2. Captures the image of a victim of a criminal offense; or
3. Captures the image of a juvenile; or
4. Were 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; or
5. Captures a conversation with a person whose request to deactivate the BWC was declined; or
6. Captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded; or
7. Captures the image of an undercover officer or confidential informant; or
8. Captures the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.

### **XIII. Access and Use of BWC Recordings**

- A. BWC recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- B. No law enforcement officer or civilian employee of this agency shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose as specified in this section. Access to and use of a stored BWC recording is permitted only:
  1. **Except as specified below in section XIII.C**, officer may access their **own** BWC recording to assist them in preparing their police report.
  2. When relevant to and in furtherance of a criminal investigation or prosecution;

3. When relevant to and in furtherance of an internal affairs investigation;
4. 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;
5. When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency;
6. To show to a civilian who intends to file a complaint against an officer to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint;
7. To comply with the State's discovery obligations in prosecutions pursuant to the Rules of Court;
  - a. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.
  - b. Only those portions of the recording pertinent to the request shall be forwarded.
  - c. This agency reserves the right to redact video/audio as applicable by law.
    - a. NOTE: when providing discovery in a domestic violence matter, ensure that the recording is reviewed prior to release to verify that there is no confidential information that should be redacted.
    - b. This confidential information includes, but is not limited to, the location where the victim is being sheltered or contact phone numbers for those assisting the victim, etc.
  - d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing ordinance.
  - e. Advise the attending assistant prosecutor at the Monmouth County Prosecutor's Office when releasing any BWC recordings for discovery in a criminal matter under its jurisdiction. Ensure that the MCPO receives a copy.
  - f. Advise the municipal prosecutor when releasing any BWC recordings in matters under the jurisdiction of the municipal court. Ensure that the municipal prosecutor receives a copy.





3. The incident involves the death of a person while in law enforcement custody; or
  4. The incident involved the death of a person during an encounter with law enforcement officer; or
  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.
  7. NOTE: nothing in this subsection is intended to prevent officers from considering, reviewing, or receiving an accounting of such BWC recording after the creation of any required initial reports, statements, and interviews regarding the recorded event. The events noted above cannot be accessed or viewed without the expressed permission of the assistant prosecutor or deputy attorney general supervising the investigation. Force incidents that are under investigation in accordance with Attorney General Law Enforcement Directive 2019-4 require permission from the assistant prosecutor or deputy attorney general supervising the investigation.
- D. Officers reviewing a recording after completion of their initial report and wishing to add any additional information to the initial report can submit a supplemental report detailing their renewed recollection after supervisory approval. **UNDER NO CIRCUMSTANCES**, shall officers or supervisors change or modify the initial report.
- E. Whenever an officer reviews or receives an account of a BWC recording prior to the creation of any report, statement, or interview, the officer shall acknowledge reviewing or receiving an account of the BWC recording either verbally or in writing within each such report, statement, or interview. The officer shall document each BWC recording which was reviewed and the date of the review. If the officer receives an accounting of the recording, the officer shall document the name of the person who provided the account along with the date of the accounting and the recording which which an account was made.
- F. To ensure the integrity of an investigation, no civilian or law enforcement witness, including principals in the investigation, shall be given access or view a BWC recording of the incident without the express prior approval of the investigator.
- G. Citizens shall not be allowed to review the recordings at the scene. Officer complaints shall be handled in accordance with the Internal Affairs directive. All other requests to view and or obtain

footage by the public shall be handled in accordance with the records directive or the Open Public Records Act.

- H. A BWC recording of a substance abuse and treatment facility shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Monmouth County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee.
- I. Software provided by the manufacturer shall allow access to recording stored on the secure server. This software is designed to allow the ability to locate and retrieve all recordings associated with a specific incident/event, investigation, case, or criminal charge. Officers should ensure all recording are properly tagged to ensure easy retrieval in through the software system.
- J. The software providing access to the recording keeps an electronic log of all accessing of the system and all activity of a user who is accessing the system while they are logged in. The system shall record:
  - 1. The date and time of access;
  - 2. The specific BWC that was/were accessed;
  - 3. The officer or civilian employee who accessed the stored BWC recording;
  - 4. The person who approved access, where applicable, and
  - 5. The reason(s) for accessing.
- K. All recordings are maintained within the BWC system in the BWC's software and are authenticated by an internal audit program with the BWC system.
- L. Authorized users having access to video recordings shall do so using the software with their username and password only. Sharing of usernames, passwords, or allowing another to access the system with another's credentials is strictly prohibited.

#### **XIV. System Administration**

- A. The Chief of Police shall appoint a system administrator(s) BWC equipment whose duties shall include maintaining the system and procedures to ensure the integrity and proper handling and storage of all BWC recordings.
- B. All access to the BWC system shall be audited according to the Records and Field Reporting policy (SGPD 5:5) to ensure that only authorized users are accessing the data for legitimate and authorized purposes.

- C. Law enforcement officers shall inform their supervisor of any recordings that may be of value for training purposes. Recordings from BWCs may be shown for training purposes upon completion of a criminal case. All such use shall be pursuant to the written authority of the Chief of Police. Law enforcement officers shall be provided with at least thirty (30) days' notice if recordings intended for use for training purposes were either made by them or captured their image or voice. All BWC recordings used for training purposes must be edited so that the identity of individuals depicted in the recordings cannot be determined by persons viewing the recordings unless the depicted individuals have consented to the recording being used for training purposes.

## **XV. SUPERVISORY REVIEW**

- A. Supervisory personnel shall ensure that law enforcement officers under their command equipped with BWC devices utilize them in accordance with the policy and procedures defined therein.
- B. The Chief of Police shall designate personnel who are responsible for the periodic and random reviewing of non-evidential BWC events in an effort to ensure the equipment is operating properly, to assess officers' performance and adherence to written directives and established professional standards, and to identify other training needs.
- C. In order to maintain fairness in the selection of videos reviewed, the designated personnel shall create a list of randomly selected individual law enforcement officers to observe.
- D. Upon completion of the periodic review, the designated personnel shall prepare a special report documenting any positive or negative activities observed. This should include any recommendations for training and/or discipline resulting from the observations.
- E. The Internal Affairs Unit shall retain all special reports generated in accordance with this policy and a copy will be forwarded to the Chief of Police for review.
- F. Separate from the above-mentioned periodic review of randomly selected officers, the Chief of Police/CEO or Internal Affairs Commander may review specific BWC footage if circumstances arise that requires an investigative effort to commence.

## APPENDIX A

**The Sea Girt Police Department authorizes the following body worn camera and equipment:**

Watch Guard Digital Vista Model HD Wearable Camera. (6 hour, 32 GB)

Watch Guard Digital Vista Model HC Extended Capacity Wearable Camera. (9 hour, 32 GB)

Vista HD Locking Magnetic Chest Mount

Vista HD Adjustable Chest Strap

Vista HD Rotatable Shirt Clip

Motorola Model V300 Wearable Camera

Motorola Magnetic Chest Mount

Motorola Shirt Clip

## **APPENDIX B**

In order for the BWC to capture the best possible view of a particular incident, the officer utilizing a BWC shall affix the device in a manner which provides the best possible field of view. Several options are available for affixing the device. A secure body camera mount is extremely important. The following methods are suggested for mounting the body camera:

1. Officers in uniform should mount the device at or above the upper shirt pockets.
2. The most secure and stable mounting option for the Vista Body Camera / V300 is the “Locking Chest Mount.” This provides uses magnets and locking pins to secure the device to the uniform in the most secure manner. This device should be secured using the manufacturer instructions which are provided with the mounts.
3. The quickest mounting option is the rotatable shirt clip. This device uses an alligator style clip that is capable of rotating 360 degrees. The clip snaps to the device using a quick release mounting system. While this mounting option is the quickest and easiest option, it is susceptible to being knocked free from the uniform during physical activity.