



ALLEN PASCUAL
Commissioner

**TOWNSHIP OF NORTH BERGEN
DEPARTMENT OF PUBLIC SAFETY
POLICE DEPARTMENT**

LAW & PUBLIC SAFETY BUILDING
4233 KENNEDY BOULEVARD
NORTH BERGEN, NJ 07047



PETER FASILIS
Chief of Police

EFFECTIVE DATE: Immediately		DIRECTIVE: General Order 20-04	
SUBJECT: Body Worn Cameras (BWCs)			SECTION:
REFERENCES: Attorney General Law Enforcement Directive No. 2015-1 Policy Body Worn Cameras (BWCs) and Stored BWC Recordings			
ACCREDITATION STANDARDS: 3.5.5			
DISTRIBUTION: Police Desk All Divisions via Power DMS General Order Manual			NUMBER OF PAGES: 21
ISSUING AUTHORITY: Peter Fasilis Chief of Police		ISSUE DATE: June 19, 2020	REVISION DATE:

I. PURPOSE:

- A.** The purpose of this General Order is to maintain uniform guidelines for the lawful use and operation of the agency-authorized body worn camera recording system (BWC). The goals and objectives in deploying BWCs are the accurate documentation of interactions between law enforcement and members of the public, arrests, and other critical incidents. Further, this general order establishes protocols for the maintenance, storage and preservation of recordings in order to maintain the lawful chain of custody.

II. POLICY

- A.** The North Bergen Police Department will utilize body worn video/audio cameras (BWC) to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident.
- B.** The North Bergen Police Department recognizes that recordings may not always illustrate the entire circumstance of a police-citizen contact, nor do video recordings always capture the entire scenario. Although BWCs record events accurately and objectively, they do not replace the need for complete and accurate police reports and testimony.

- C. A BWC recording is only one piece of evidence, providing one perspective of the incident. This technology does not eliminate the requirement of law enforcement personnel to provide written documentation of an incident. The fact that a BWC is not activated to record an encounter or event does not preclude an officer from testifying as to the circumstances of the encounter or event, and does not affect the admissibility of evidence.
- D. A BWC recording can supplement and corroborate the accuracy of written reports and testimony, which is one of the significant benefits of deploying these devices.
- E. Why Deploy BWCs
 - 1. It is widely recognized that BWCs can play an important role in addressing public concerns about police use of force.
 - 2. The practical utility of BWCs, lies not only in their ability to record objectively the circumstances of a police-civilian confrontation, but also in their capacity to discourage both officers and civilians from engaging in inappropriate conduct.
 - 3. BWCs can serve to discourage both law enforcement and civilian witnesses from providing false information about the circumstances of an encounter.
 - 4. A BWC recording not only can vindicate an officer who is falsely accused of misconduct, and do so very quickly, but also will discourage a person from making false allegations against the officer in the first place.

III. DEFINITIONS:

- A. **Activate** - Turn on the recording mode/function of a BWC.
- 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 citizen for the specific purpose of informing the citizen that the communication or conversation is being recorded.
- C. **Body-Worn Camera (BWC)** - Device worn by a law enforcement officer that makes an electronic audio and visual recording. The term does not include a mobile video recording device when mounted inside a police vehicle (i.e., dash cam). The term also does not include any other form of an electronic recording device worn by a law enforcement officer while acting in an undercover capacity, or electronic recording devices used to comply with the requirements of Rule 3:17 (electronic recording of station house custodial interrogations).
- D. **Consent** - Consent to record shall be considered obtained when the recording party (officer) has announced to all other parties engaged in the communication or conversation, in any reasonably effective manner, that the communication or conversation is being recorded.

This announcement itself to the other parties must also be recorded.

- E. **Constructive Authority** - Shall have the same meaning as defined in the Attorney General's Use of Force Policy, except that the term shall apply only to constructive authority directed against a person who is subject to an investigative detention or arrest (e.g. "show me your hands," "get out of the vehicle," etc.), or directed against any person if the officer has unholstered a firearm or a conducted energy device (ems., "move out of the way," "get down," etc.).
- F. **Deactivate** - Turn off the recording mode/function of a BWC.
- G. **Digital Evidence** – Includes photographs, images audio, and video recordings that are stored digitally.
- H. **Evidence.com** – A secure, cloud-based storage system, which is externally hosted and available to all authorized users. Evidence.com is used to organize, classify, manage, view, and archive digital evidence. Evidence.com tracks and provides an audit log of all activity to protect the chain of custody.
- I. **Evidence Transfer Manager (ETM)** – A docking station for the AXON BWC and battery. When the BWC is docked , video/audio data stored on the BWC is automatically, downloaded to Evidence.com. The ETM also charges the battery and camera.
- J. **Force** - Shall have the same meaning as defined in the Attorney General's Use of Force Policy. The term "force" shall include physical, mechanical, enhanced mechanical, and deadly force.
- K. **Investigation of a Criminal Offense** - Any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area for potential witnesses to a criminal offense.
- L. **Law Enforcement Agency, Agency or Department** – A law enforcement body operating under the authority of the laws of New Jersey.
- M. **Law Enforcement Officer or Officer** – A sworn member employed by a Law Enforcement Agency.
- N. **Power On/Off** – To switch the device from OFF (not buffering and completely powered off) to on (30 second pre-event buffer).

- O. School** - means an elementary or secondary school (i.e., middle school or high school), public or private.
- P. Stand-By Mode** – When BWC is powered on and buffering but, is not in Event Mode (recording).
- Q. Tagging Video** - A notation or indicator placed on specific video that may raise special privacy or safety issues.
- R. Youth Facility** - means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, etc.

IV. NORTH BERGEN POLICE DEPARTMENT POLICY GOVERNING DEPLOYMENT AND USE OF BWCs AND RECORDINGS:

A. Authorization to Wear/Use BWCs

1. An officer shall not wear a BWC unless he or she:
 - a. has been authorized to do so by the Chief of Police, and
 - b. has received training on the proper care and use of the device in accordance with the requirements of this Policy.
2. The North Bergen Police Department will issue officers a BWC up to the rank of sergeant. Lieutenants and above will not be required to wear a BWC.
3. Uniformed patrol and traffic personnel shall wear and use the device as an authorized component of the uniform of the day.
4. Officers may wear BWCs while working an extra duty assignment. The decision to utilize a BWC during an extra duty assignment rests with the officer. While the officer is afforded discretion on whether they will equip a BWC, the officer has no discretion on when it should be activated and will follow this policy regarding deployment of BWCs.
5. Officers who are not issued a BWC may voluntarily request one by submitting an advisory through the chain of command.
6. In the case of a task force, team, or unit composed of officers from more than one law enforcement agency, the chief law enforcement officer of the agency overseeing the task force, team, or unit shall determine whether and in what circumstances officers assigned to the task force, team, or unit will wear BWCs.

B. Officer Responsibilities

- 1.** Ensure the BWC issued during roll call is the camera that was originally issued to the officer and matches the serial number and division identification number.
- 2.** The BWCs shall be positioned anywhere on the mid or upper torso facing forward and unobstructed. The magnet, clip and/or bracket must be used to secure the BWC in an upright, forward facing position without any obstruction of view.
- 3.** When conducting the pre-shift inspection, the officer shall activate the BWC and verbally state the date, time and that a test is being performed on the unit.
- 4.** During vehicle inspection, the officer will activate the BWC and record all sides of the vehicle. The officer will ensure video is categorized properly (vehicle inspection/test). This video footage does not replace reporting requirements when damage to a vehicle is observed.
- 5.** Activate, deactivate and label video in accordance with this policy.
- 6.** Ensure a CAD number is entered for each video.
- 7.** Categorize each video with all proper classifications from the “drop down” selection.
- 8.** At the conclusion of the shift, the BWC must be docked in the charging station, to upload video. This shall not preclude an officer from docking the BWC earlier in the shift. This will ensure:
 - a.** BWC has a fully charged battery for the commencement of the tour of duty.
 - b.** All BWC video is uploaded to the server.
 - c.** BWC receives the latest firmware update.
 - d.** BWC is able to be serviced, if needed, in a timely fashion.
- 9.** Ensure all video is of official police business.
- 10.** If an issue occurs with the BWC, the officer’s immediate supervisor must be notified to attempt to resolve the issue.
- 11.** Officers shall download recordings containing evidentiary value onto a DVD and enter them as evidence.
- 12.** Refer to your immediate supervisor for any questions or concerns.

C. Duty to Inspect and Report Malfunctions

1. BWC equipment is the responsibility of the assigned officer and shall be used with reasonable care. An inspection of the BWC must be done at the commencement of each shift to ensure both video and audio recording capabilities are working. The inspection shall include, but not be limited to:
 - a. Ensuring the BWC is turned on;
 - b. Ensuring the battery is fully charged; and
 - c. Ensuring the lens is not obstructed in any manner.
2. If a malfunction is detected, the officer shall report the malfunction to the roll call supervisor before going into the field.
3. If the BWC malfunctions while out in the field, the malfunction, upon its discovery, shall be reported to the supervisor on duty.
4. The advisory generated as a result of a malfunction must indicate the issues, the BWC number and the replacement BWC number that was issued. Advisories shall be forwarded through the chain of command and sent to the IT Unit.
5. If a BWC is in need of repair and a replacement camera is not immediately available, the officer must submit an administrative report indicating they are without a BWC until the camera is serviced/repaired.

D. Replacement Cameras

1. The Information Technology (IT) Unit is responsible for coordinating with the BWC vendor for replacement or repair.
2. Replacement cameras will be distributed to personnel by the IT Unit.
3. In the event an officer is assigned a BWC other than the one normally assigned to them, the supervisor issuing the BWC shall document the serial number onto the BWC loaner log.

E. Supervisor Responsibilities

1. The roll-call supervisor shall issue BWCs that are operational and in good working order to all trained on-duty personnel during roll call.

- 2.** Roll-call supervisors shall inspect personnel to ensure BWCs are positioned anywhere on the mid or upper torso facing forward and unobstructed.
- 3.** Roll call supervisors shall test their unit while conducting vehicle inspections. Upon completing vehicle inspections, the supervisor shall assure the video/audio was recorded properly.
- 4.** Supervisors using a BWC shall activate, deactivate and label video in accordance with this policy.
- 5.** Desk supervisors shall log-on to the AXON Portal during their tour of duty to ensure officers/supervisors are properly utilizing their BWC and that video has:
 - a.** Event numbers.
 - b.** A proper classification from the “drop down” selection.
- 6.** The desk supervisor shall ensure an email is sent to IT to have the camera repaired when notified of a malfunctioning BWC. The email must:
 - a.** Indicate the member name, identification number, command and BWC serial number.
 - b.** Describe the problem/ malfunction.
 - c.** Identify the replacement BWC issued to the officer, if applicable.
- 7.** During normal business hours, the IT supervisor must follow-up with the status of a repaired BWC.
- 8.** All investigatory stops and detentions, searches, and arrests are subject to review for completeness and adherence to law and North Bergen Police Department policy. Supervisors will:
 - a.** Review all written documentation;
 - b.** Review all relevant video recordings for all incidents in which the supervisor suspects, for any reason, that an officer’s conduct may not have complied with law or North Bergen Police Department policy; and
 - c.** On an ongoing basis, review a random selection of video recordings of stops and detentions, searches and seizures for compliance of policy.

9. For every search or arrest involving the recovery of contraband evidence, the desk supervisor should review the circumstances of the encounter, including BWC video, to assess the adequacy of the seizure.
10. Desk and field supervisors shall ensure BWCs are docked and left in the charging station at the end of the tour of duty.

F. Racially-Influenced Policing

1. The decision to activate or de-activate a BWC is a police action subject to the rule established in Attorney General Law Enforcement Directive No. 2005-1, which strictly prohibits any form of racially-influenced policing.

G. Training

1. Officers shall receive training on this Policy and complete the BWC training course before using the BWC.
2. The Training Unit is responsible for scheduling BWC training for all newly hired officers during their in-service training.
3. Periodic refresher training (once every 3 years) will be provided to ensure continued effective use and operation of the equipment, and to incorporate changes, updates or other general order revisions as necessary or required.
4. Remedial refresher training will be administered to officers as part of a disciplinary process or when otherwise required.

H. Data Upload and Firmware Updates

1. All BWCs will be docked at the end of the officer's shift. Video upload and firmware are automatic and require no action from the officer.

V. NOTICE THAT BWCs ARE DEPLOYED/ACTIVATED:

A. General Public Notice

1. A written announcement regarding the implementation of the BWC program and which officers will be mandated to use the BWCs will be posted on www.northbergenpolice.com In addition to the written announcement, the following information will be available on the website:
 - a. North Bergen Police Department BWC policy;

- b. A picture of the BWC; and
- c. A picture showing where the BWC will be positioned on the officer's uniform.

B. Specific Notice to Certain Individuals During an Encounter

1. An officer shall verbally notify persons with whom the officer is conversing that the BWC has been activated unless it is unsafe or infeasible to provide such notification.
 - a. When an encounter occurs within a person's residence.
 - b. with a person reasonably believed to be a victim of a criminal offense
2. If the officer decides not to provide notification of BWC activation because it is unsafe or infeasible to do so, the officer shall document the reasons for that decision in a report and/or by narrating the reasons on the BWC recording.

C. Truthful Response to Specific Inquiries

1. If a civilian inquires whether the officer is equipped with a BWC, or inquires whether the device is activated, the officer shall answer truthfully unless the County Prosecutor has expressly authorized the officer to make a covert electronic recording.
 - a. This does not apply to officers while operating in an undercover capacity, or while conducting/participating in a station house custodial interrogation electronically recorded in accordance with Rule 3 :17

VI. STANDARDS GOVERNING THE ACTIVATION OF BWCs:

A. BWCs Used Only in Performance of Official Duties

1. A BWC shall be activated only while in performance of official police duties and for the purpose of recording incidents, investigations, and police-civilian encounters involving those law enforcement activities specified in this policy.
2. A BWC shall not be activated while the officer is on break or otherwise is not actively performing law enforcement functions.
3. A BWC shall not be activated or used by an officer for personal purposes.
4. A BWC shall not be activated or used by an officer when engaged in police union business.

5. A BWC shall not be used to record conversations involving counseling, guidance sessions, personnel evaluations, or any similar supervisory interaction.
6. A BWC shall not be activated while in any location where a person has a reasonable expectation of privacy such as a restroom or locker room.

B. Circumstances When Activation by a Uniformed Officer is Generally Required

1. A uniformed officer equipped with a BWC shall be required to immediately activate the device in any of the following circumstances:
 - a. The officer initiates an investigative detention, traffic stop, mere inquiry, or a checkpoint or roadblock stop.
 - b. The officer is responding to a call for service and is at or near the location to which the officer has been dispatched.
 - c. The officer is conducting a motorist aid or community caretaking check.
 - d. The officer is interviewing a witness in the course of investigating a criminal offense.
 - e. The officer is conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with Rule 3:17 (electronic recordation of station house interrogations).
 - f. The officer is making an arrest.
 - g. The officer is conducting a protective frisk for weapons.
 - h. The officer is conducting any kind of search (consensual or otherwise).
 - i. The officer is dispatched 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.
 - j. The officer uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this subsection based on specific and articulable facts warranting heightened caution that are documented by narration on the recording and/or in any investigation or incident report.
 - k. The officer is transporting an arrestee to a police station, county jail, or other place of confinement.

- l. The officer is transporting an arrestee to a hospital or other medical care or mental health facility.
- m. The officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the above listed actions/activities.

C. Continuous Recording Pending Completion of Encounter

1. To ensure that the entire encounter/event/episode is recorded, a BWC should be activated as soon as an officer receives a dispatched call for service or other police activity.
2. When a BWC is required to be activated by a uniformed officer pursuant to this policy, the device must remain activated throughout the entire encounter/event/episode and shall not be de-activated until it is concluded that:
 - a. The BWC-equipped officer has left the scene.
 - b. All civilians involved in the encounter have left the scene.
 - c. The officer has informed the dispatcher or a supervisor that the event has concluded.
 - d. The event is "closed" on the department's computer-aided dispatch ("CAD") system.
3. When a BWC is activated pursuant to transporting an arrestee, whether by an officer in uniform or in plain clothes, it shall remain activated at all times while the BWC-equipped officer is in the presence of the arrestee and until
 - a. The arrestee is secured in the holding cell or processing room.
 - b. Until custody of the arrestee has been transferred to county jail personnel.
 - c. Until the arrestee is with hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee.

D. Provisions Governing Use of BWCs by Plainclothes Officers

1. Recognizing that detectives and other plainclothes officers perform different functions than uniformed officers, this Policy affords flexibility in determining when and in what circumstances plain clothes officers will wear and use BWCs, provided discretion in deciding when to activate/de-activate a BWC will be limited.

E. Special Activation Rules Governing Deadly-Force Incidents and Other Exigent Circumstances When Officers Are in Danger

1. When an officer equipped with a BWC is dispatched to or otherwise goes to the 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.
2. An officer 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 an assistant prosecutor or assistant or deputy attorney general supervising the investigation of the deadly-force incident pursuant to Attorney General Law Enforcement Directive No. 2006-5. Such instruction may be given telephonically.

VII. STANDARDS GOVERNING THE DE-ACTIVATION OF BWCs UPON THE REQUEST OF A CIVILIAN, WHEN DISCUSSING INVESTIGATION STRATEGY/PLANNING, OR ON INSTRUCTION OF A PROSECUTOR

A. De-Activation at the Request of a Civilian Providing Information/Cooperation

1. An officer may de-activate a BWC when a civilian conversing with the officer requests that the device be turned off under circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected.
2. The officer shall not suggest to the person that the BWC should be de-activated; nor shall the officer ask the person whether he or she would prefer that the BWC be de-activated. Rather, the request for de-activation must be self-initiated by the civilian. The officer may explain the consequences of de-activation.
3. In deciding whether to de-activate the BWC, the officer 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.

B. De-Activation at the Request of a Person Seeking Emergency Medical Assistance

1. An officer may de-activate a BWC when a person, other than an arrestee, is seeking emergency medical services for themselves 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.

C. Procedure for De-Activation Upon a Civilian's Request

1. When an officer de-activates a BWC, the following procedures shall be followed:
 - a. The conversation between the officer and the civilian concerning the request for de-activation shall be electronically recorded.
 - b. The officer before de-activating the BWC shall narrate the circumstances of the de-activation.
 - c. The officer shall report the circumstances concerning the de-activation to his or her superior as soon as is practicable.
 - d. The officer shall document the circumstances of the de-activation in any investigation or incident report concerning the incident under investigation.

D. Decision to Decline a Civilian's De-Activation Request

1. If an officer declines a request to de-activate a BWC, the reasons for declining the request must be documented and shall be reported to the officer's supervisor as soon as it is safe and practicable to do so.
2. In the event that the officer declines a de-activation request, the officer immediately shall inform the person making the request of that decision. An officer shall be 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 County Prosecutor expressly has authorized covert recording.

E. De-Activation During Criminal Investigation Strategy/Planning Decisions

1. A BWC-equipped officer may de-activate a BWC while participating in a discussion pertaining to criminal investigation strategy and planning provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence.
2. When an officer de-activates a BWC pursuant to this section, the officer shall narrate the circumstances of the de-activation.

F. De-Activation on Instruction from Prosecutor

1. An officer may de-activate a BWC when specifically authorized to do so by an assistant prosecutor for good and sufficient cause as determined by the assistant prosecutor. When an officer de-activates a BWC pursuant to this section, the officer shall narrate the circumstances of the de-activation indicating the assistant prosecutor authorized

such deactivation. (e.g., "I am now turning off my BWC as per the instruction of assistant prosecutor (insert name).").

G. Re-Activation When Reason for De-Activation No Longer Exists

1. In any instance where a BWC was de-activated, 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 officer would otherwise be required to activate the BWC.

H. Re-Activation When Actual Law Enforcement Force is Authorized

1. In any instance where a BWC was de-activated, if the circumstances develop so that an officer is authorized to use force, the BWC shall be re-activated as soon as it is safe and practicable to do so.

VIII. CIRCUMSTANCES WHEN BWC ACTIVATION/USE IS SUBJECT TO SPECIAL CONDITIONS/RESTRICTIONS

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

1. Unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that he or she will be required to use constructive authority or force, the officer shall not activate a BWC, or shall de-activate a BWC that has been activated, while the officer:
 - a. Is on a school or youth facility property under circumstances where minor children would be in view of the BWC.
 - b. Is in 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.
 - c. Is 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 a BWC in accordance with the provisions of this section, the officer shall narrate the reason for de-activation. The BWC shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances requiring de-activation no longer exist and the officer would otherwise be required to activate the BWC.

3. In the event that a BWC captures the image of a patient in a substance abuse treatment facility, the County Prosecutor shall be notified to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information. The recording shall not be accessed without the permission of the County Prosecutor.
 - a. Destruction of the recording would be inappropriate until it has been determined that it had not captured exculpatory information that must be provided to a defendant in discovery.

B. Special Restrictions When Undercover Officers or Confidential Informants May Be Recorded

1. An officer shall not activate a BWC, or shall de-activate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would 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 require that the encounter/incident be recorded, the officer shall inform his or her supervisor that the image of an undercover officer or confidential informant was recorded.
2. In the event of a planned arrest/search warrant execution where it is expected that an undercover officer or confidential informant would be present the County Prosecutor may provide specific instruction to any BWC-equipped officers participating in the operation on whether to activate their devices.
 - a. The BWC shall be activated/re-activated as soon as it is safe and practicable to do so if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.

C. Special Precautions When a BWC Recording May Reveal Tactical Operations Information

1. In the event that a BWC worn during the execution of tactical operations records confidential tactical information, the disclosure of which might jeopardize future operations or officer safety the recording shall be "tagged."

D. Special Restrictions on Recording in Courtrooms

1. An officer shall not activate a BWC while in a courtroom during court proceedings, unless:
 - a. The officer is responding to a call for service.

- b. The officer is authorized to use constructive force or authority.
- c. Such activation is expressly authorized by the judge.

IX. RETENTION OF BWC RECORDINGS

- A.** The retention period shall not be less than 90 days, and shall be subject to the following additional retention periods:
- 1. When a BWC 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.
 - 2. 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.
 - 3. 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.
 - 4. When a civilian who is the subject of the video makes a written request that footage be retained, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency.

X. STANDARDS TO ENSURE SECURE STORAGE AND ACCESSIBILITY OF BWC RECORDINGS

A. Procedures to Protect Integrity of BWC Recordings

- 1. The North Bergen Police Department shall ensure the integrity and proper handling and storage of all BWC recordings.
 - a. All recordings will be uploaded to a secure data storage system in a timely fashion.
 - b. There will be no tampering with or deletion of recorded data before and after downloading from the BWC and uploading to the storage system.
 - c. Unauthorized access to stored BWC recordings is strictly prohibited.
 - d. All instances where BWC recordings are accessed, viewed, copied, disseminated, or deleted shall be documented.

- e. Auditing of all instances where BWC recordings are accessed, viewed, copied, or deleted will be in place and conducted periodically.

B. Capacity to Locate Specific BWC Recordings

1. The North Bergen Police Department will locate and retrieve all recordings associated with a specific incident/event, investigation, case, or criminal charge through Evidence.com. North Bergen Police Department will maintain the BWC control ledger or log through AXON.
2. Relevant BWC recordings for discovery purposes will be provided in a timely fashion.
3. The incident or investigative activity described in the report will indicate if it was electronically recorded by a BWC in the police arrest/incident/supplemental reports.
4. Police reports will indicate the corresponding BWC control ledger/log number, and the BWC control ledger/log will cross-reference the incident case number.
5. Copies of BWC recordings made for the purpose of complying with the State's discovery obligations shall be provided to the prosecutor in a readily available media format approved by the Director of the Division of Criminal Justice in consultation with the Administrative Office of the Courts.
6. All images, video, metadata, and audio recordings captured or otherwise produced are the exclusive property of the NBPd and subject to disclosure under the law.
7. Under no circumstances will any employee of the North Bergen Police Department make a personal copy of any recorded event without the permission of the Chief of Police

C. Provisions to Identify ("Tag") Recordings That Raise Special Privacy or Safety Issues

1. To identify BWC recordings that may raise special privacy or safety issues, the officer shall apply the sensitive category when labeling and the recording:
 - a. Captures the image of a victim of a criminal offense.
 - b. Captures the image of a child.
 - c. Was made in a residential premise, a school or youth facility, a healthcare facility or a medical facility.
 - d. Captures a conversation with a person whose request to de-activate the BWC was declined.

- e. Captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information (e.g., verbal codes and hand signals used to give direction to officers, techniques for interior movements and clearing rooms during execution of a warrant, techniques for convincing persons to open doors during warrant execution, etc.) may have been recorded.
- f. Captures the image of an undercover officer or confidential informant.
- g. Records the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
- h. A BWC captures the image of a patient in a substance abuse treatment facility.

D. Approval for Access to “Tagged” BWC Recordings

- 1. A BWC recording which is tagged shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the County Prosecutor. Except for recordings tagged when a BWC captures the image of a patient at a substance abuse treatment facility, and subject to the requirements requiring notice to the County Prosecutor prior to complying with a subpoena, court order, or request for records under the Open Public Records Act, the County Prosecutor may authorize the Chief of Police, and one or more superior officers identified by the Chief of Police, to grant permission pursuant to this section to access, view, copy, disseminate, or otherwise use BWC recordings which were tagged due to special privacy or safety concerns.

E. Compliance with Discovery Obligations Relating to BWC Recordings That Might Expose Officers or Other Persons to Danger

- 1. If disclosure of a BWC recording as part of the State's discovery obligations in a prosecution might present a danger to any officer or civilian or might reveal confidential tactical information the disclosure of which might jeopardize future operations or officer safety, the County Prosecutor in cases prosecuted shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or court rule to protect the information from disclosure, such as by seeking a protective order from the court.

XI. RESTRICTIONS OF ACCESS TO USE AND DISSEMINATE OF BWC RECORDINGS

A. Specified Authorized Purposes for Accessing/Using Stored BWC Recordings

- 1. No law enforcement officer or civilian employee of a law enforcement 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:

- a.** When relevant to and in furtherance of a criminal investigation or prosecution.
- b.** When relevant to and in furtherance of an internal affairs investigation.
- c.** 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.
- d.** To assist the officer whose BWC made the recording in preparing his or her own police report.
- e.** When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency.
- f.** 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.
- g.** To comply with the State's discovery obligations in prosecutions pursuant to the rules of court.
- h.** To comply with any other legal obligation to turn over the recording to a person or entity. When responding to a subpoena or court order, or a request pursuant to the Open Public Records Act, disclosure of a BWC recording under this paragraph is permitted only after providing notice to the County Prosecutor.
- i.** 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 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.
- j.** 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.
- k.** To conduct an audit to ensure compliance with this policy.

- l.** To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution when such use is approved by the County Prosecutor
- m.** Any other specified official purpose where the County Prosecutor, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.

B. Authorization for Access to BWC Recordings Related to Use-of-Force Investigations

- 1.** The assistant prosecutor, assistant or deputy attorney general overseeing a police officer use of force investigation pursuant to Attorney General Law Enforcement Directive No. 2006-5, may in the exercise of sound discretion authorize a civilian or law enforcement witness to be given access to or view a BWC recording of the incident under investigation.
- 2.** To ensure the integrity of investigations of police-involved shootings and other use-of-force incidents and to avoid possible contamination of a witness's personal recollection of events that could undermine his or her credibility as a witness, no civilian or law enforcement witness, including the principal(s) 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 assistant prosecutor, assistant or deputy attorney general.

C. Documenting Access to Stored BWC Recordings

- 1.** The North Bergen Police Department shall maintain a record of all access to stored BWC recordings pursuant to this Policy. This record shall document the following information:
 - a.** The date and time of access.
 - b.** The specific BWC recording(s) that was/were accessed.
 - c.** The officer or civilian employee who accessed the stored BWC recording.
 - d.** The person who approved access, where applicable.
 - e.** The reason(s) for access, specifying the purpose or purposes for access authorized.
 - f.** Specifying the relevant case/investigation number, where applicable.

XII. PUBLIC DISCLOSURE OF BWC RECORDINGS

A. Notice to Prosecutor of Subpoena, Court Order, or OPRA/Common Law Request

1. Upon receiving a subpoena, court order, or request pursuant to the Open Public Records Act, or the common law right to know, for a BWC recording, the North Bergen Police Department shall, within one business day of receipt of such subpoena, court order, or request, and before complying with it, provide notice to the County Prosecutor. Such notice shall state clearly the deadline by which a response must be made.

B. Disclosure of BWC Recordings Pertaining to Criminal Investigations

1. A BWC recording of an event or encounter that involves an investigation of a criminal offense as defined in section 2 shall not be shared with, 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 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.

XIII. VIOLATIONS

- A. Any willful or repetitive violations of this Policy shall be reported promptly to the County Prosecutor.
- B. Any sworn officer or civilian employee of the North Bergen Police Department who knowingly violates the requirements of this Policy shall be subject to progressive discipline.



Peter Fasilis
Chief of Police