
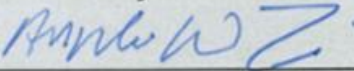
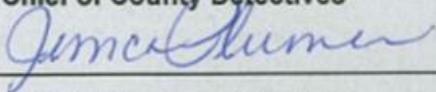


<b>MERCER COUNTY PROSECUTOR'S OFFICE</b>				
VOLUME: 01	CHAPTER: TBD	# OF PAGES: 23		
SUBJECT: Body Worn Cameras				
EFFECTIVE DATE: June 15, 2022	ACCREDITATION STANDARDS:	REVISION DATE:	PAGE #	
UNDER THE AUTHORITY OF: Angelo J. Onofri Mercer County Prosecutor 				
BY ORDER OF: Jessica Plumeri Chief of County Detectives 				
SUPERSEDES ORDER #:				

**PURPOSE:** The purpose of this policy is to maintain uniform guidelines for the lawful use, management, storage, and retrieval of the agency-authorized body worn camera (BWC) recording system. Proper BWC use promotes professionalism, accountability and transparency by documenting the interactions of Mercer County Prosecutor's Office investigative staff with the public in the performance of their duties. BWCs are an effective tool to preserve factual representations of law enforcement and civilian interactions. BWCs also serve as a powerful deterrent to misconduct by both law enforcement and members of the public interacting with law enforcement. BWCs are also effective in capturing video and audio evidence for use in criminal investigations, internal investigations and investigative staff training.

**POLICY:** Investigative staff equipped with body worn cameras shall activate them in the proper performance of their official duties and where the act of capturing recordings is consistent with both this policy and NJ Attorney General Directive 2022-01. Staff members are often faced with situations that rapidly unfold in which they may not be able to activate or deactivate the BWC for safety concerns; however, it is imperative to make all reasonable efforts to record interactions between themselves and members of the public. This policy does not apply to the use of covert recording devices used in undercover operations nor the electronic recording device when used to comply with the requirements of Rule 3:17 (electronic recording of station house custodial interrogations).

The decision to activate or deactivate a BWC is a police action subject to the rule established in Attorney General Law Enforcement Directive ("AG Directive") 2005-1, which strictly prohibits any form of racially-influenced policing. Failure to utilize a BWC in compliance with this policy and NJ Attorney General Directive 2022-01 may result in disciplinary action.

**I. DEFINITIONS**

A. **Activate** – To start the recording mode/function of a BWC. This may be referred to as Event Mode (recording).

- B. **Advisement** – A statement made by a law enforcement officer who is equipped with an activated BWC notifying a subject that they are being recorded. Notification shall be made as close to the inception of the encounter as reasonably possible.
- C. **Body Worn Camera (BWC) Coordinator/Unit** – Person or unit designated by the Chief of Mercer County Detectives, or their designee, to oversee the BWC function, which shall include, but is not limited to, the distribution, maintenance and training of BWC system.
- D. **Body Worn Camera (BWC)** - A device worn by a law enforcement officer capable of making an electronic audio and video recording of activities that take place during any law enforcement action. The term does not include a mobile video recording device when mounted inside a police vehicle (i.e., a dash cam). The term also does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity. Nor does the term include an electronic recording device when used to comply with the requirements of Rule 3:17 (electronic recording of station house custodial interrogations).
- E. **Consent** – Consent is implied if the subject is advised they are being recorded and raises no objection. The advisement of the recording must be recorded.
- F. **Constructive Authority** – 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 investigation 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 (e.g., “move out of the way,” “get down,” etc.).
- G. **Deactivate** – To shut off the recording mode of a BWC.
- H. **Digital Evidence** – Includes photographs, images, audio and video recordings that are stored digitally.
- I. **Digital Evidence Management Software** - A secure integrated video and evidence management software used to organize, tag, view, archive and download BWC recordings.
- J. **Equipped with a BWC** – A law enforcement officer is actually wearing a BWC at the time in question, as opposed to being issued BWC equipment from their agency.
- K. **Force** - 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.
- L. **Investigation of a Criminal Offense** - Any police activity pertaining to the investigation of an indictable crime, disorderly person offense or petty disorderly offense, or driving while intoxicated, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading a 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.
- M. **Investigative Staff** – Law enforcement officers, including superior officers, detectives, and task force officers who work for, or are assigned to, the Mercer County Prosecutor’s Office.

- N. **Law Enforcement Agency, Agency or Department** - A law enforcement agency operating under the authority of the laws of the State of New Jersey.
- O. **Law Enforcement Officer or Officer** - A person employed by a law enforcement agency whose public duties include the power to act as an officer for the detection, apprehension, arrest and conviction of offenders against the laws of this state.
- P. **Metadata** – The additional information attached to a created digital image that describes how large the image is, the color depth, the image resolution, when the image was created, and other data.
- Q. **Mobile Video Recording System** - A device or system installed or used in a police vehicle, or worn or otherwise used by an officer that electronically records visual images depicting activities that take place during a motor vehicle stop or other law enforcement action.
- R. **Mute** - A feature/mode of the BWC that deactivates the audio portion of the recording. Video is still being recorded while mute mode is activated. This is an optional feature that must be configured by the BWC coordinator to be available on a BWC.
- S. **Proactive Enforcement Team** – Includes officers who are typically assigned to target vice, drugs, organized street crime, violent crime and/or any other targeted enforcement. Unlike officers who are responsible for responding to traditional calls for service, these officers are typically assigned the singular responsibility of addressing these activities (e.g., street crime unit, crime suppression unit, etc.). The nature of their work may include being dressed in traditional uniform, modified uniform or plain clothes. These officers may work alongside undercover officers, conduct surreptitious surveillance, engage in high intensity enforcement via motor vehicle/pedestrian stops and/or interact with confidential informants or witnesses who wish to remain anonymous.
- T. **School** – A public or non-public 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.
- U. **Serious Bodily Injury** – Bodily injury that creates a substantial risk of death or that causes, serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. Serious bodily injury and serious bodily harm have the same definition for purposes of this policy. See N.J.S.A. 2C:11-1(b); N.J.S.A. 2C:3-11(d).
- V. **Significant Bodily Injury** - Bodily injury that creates a temporary loss of the function of any bodily member or organ, or temporary loss of any one of the five senses. See N.J.S.A. 2C:11-1(d).
- W. **Subject of the Video Footage** – Any law enforcement officer, suspect, victim, detainee, conversant, injured party or other similarly situated person who appears on the BWC recording and shall not include a person who only incidentally appears on the recording.
- X. **Substantive Report** - A report that includes a detailed accounting of the incident. It does not include a report, for example, that simply refers to other reports or to the existence of BWC or other camera recordings.

- Y. **Stand-By Mode** - When BWC is powered on and buffering, but is not in Event Mode (recording).
- Z. **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.
- AA. **Tagging** – An electronic labeling of digital evidence captured by a BWC (also known as classifying, close out, etc.).
- BB. **Vehicle Dock** - A docking unit installed in a vehicle that will augment the use of BWC by allowing officers to charge their BWC and will also employ Bluetooth sync technology.
- CC. **Youth Facility** - A facility where children assemble under adult supervision for educational or recreational purposes, such as daycare centers, youth camps, etc.

## II. GENERAL ADMINISTRATION

Investigative staff will be assigned a BWC. Investigative staff assigned a BWC shall wear and use the device as detailed in this policy. Investigative staff shall wear and use only the BWC that has been issued by the Mercer County Prosecutor's Office. Investigative staff on loan to any outside agency, tactical team, proactive enforcement team, or task force shall utilize the outside agency BWC as detailed in this policy. Absence of a BWC shall not be an excuse for failing to take appropriate law enforcement action when necessary.

- A. Investigative staff shall not activate their BWCs within an office or building utilized by the Mercer County Prosecutor's Office unless they are investigating a walk-in complaint, processing an arrestee, or other similar related functions.
- B. When investigative staff are not in contact with members of the public and/or are typing reports, logging evidence, attending training, etc., the BWC shall be stored in their vehicle, desk, docking station or other appropriate location.
- C. Per AG guidelines, investigative staff are required to be equipped with BWCs and adhere to the provisions of this policy when performing their duties:
  1. When assigned to uniformed patrol while acting in the performance of official duties, as required by N.J.S.A. 40A:14-118.3 (P.L. 2020, c. 128). This shall include uniformed officers assigned to traffic law enforcement.
  2. When assigned to tactical teams as defined in this policy. Tactical teams shall include TRT (Tactical Response Team), Entry Teams, Rapid Deployment, Fugitive, or similar units.
  3. When assigned to proactive enforcement teams as defined in this policy.
  4. When assigned to Canine units.
  5. When assignment includes regular interaction with members of the public, which reasonably may give rise to an arrest situation or use of force.

6. When assigned to “front desk” duty in a law enforcement agency, whose duties include interaction with members of the public who enter a police station to report incidents or request assistance or information.
  7. When assigned to a pre-planned search warrant execution or a pre-planned arrest. This shall include pre-planned searches and arrests performed pursuant to statutory authority, such as parolee searches.
  8. When assigned to duties at demonstrations or potential civil disturbances.
  9. When assigned at schools or youth facilities working security or crowd-control functions at special events such as athletic competitions, graduations or similar public events.
  10. Exemptions from the requirements herein are permitted only when approved by the Director of the Division of Criminal Justice or the County Prosecutor or his/her designee, and only under such special circumstances that warrant an exemption. The reason for the exemption must be documented and demonstrate a special need. Such requests for exemption shall be made in advance and approved in writing.
- D. Per AG guidelines, notwithstanding the provisions of Section II (C) of this policy, investigative staff are NOT required by this policy to be equipped with BWCs when performing their duties:
1. When engaged in undercover assignments.
  2. When acting as hostage negotiators or crisis negotiators working in conjunction with tactical teams.
  3. When assigned to administrative duties within the law enforcement agency.
  4. When meeting with confidential sources or recruiting potential confidential sources.
  5. When engaged in union representation of a member of the collective bargaining unit.
  6. When assigned to duties within schools or youth facilities as part of the normal daily education environment, such as School Resource Officers (SROs) and Class III Special Law Enforcement Officers (SLEO IIIs).
  7. When non-uniformed and assigned to investigative non-enforcement duties, when authorized by the agency’s law enforcement executive.
  8. When assigned to “extra duty “or “off duty” assignments that involve strictly traffic direction.
  9. When engaged in crime scene processing duties.
  10. When engaged in duties as bomb or explosive technicians.
  11. When conducting searches of cellphones, tablets, computers or other electronic devices pursuant to a search warrant, when such items have already been seized and the search is performed at a location other than the premises of the initial search and seizure.

12. When conducting searches of cellphones, tablets, computers or other electronic devices that are suspected to contain images of child sexual exploitation.
- E. A BWC shall be placed so that it maximizes the camera's ability to capture video footage of the investigative staff's activities. This may include placement on helmets, vests or other such locations so long as the device is secured properly and will maximize the device's recordation function.
- F. Investigative staff shall only utilize the BWC that was assigned to them. Investigative staff are not permitted to utilize a BWC that is assigned to another member. If investigative staff are not assigned a specific BWC, they are permitted to utilize a BWC available for shared use. If investigative staff are assigned a BWC that has malfunctioned or is otherwise out of service, they will be assigned a temporary replacement by their immediate supervisor or the BWC coordinator.
- G. If a BWC with enhanced audio/video capabilities that allow it to record an image or conversation that could not be seen or heard by the officer wearing the device (e.g., infrared night vision or thermal imaging, sound amplification that would record conversations occurring at a remote distance), that feature/capability shall not be used without the express approval of the Mercer County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, in accordance with any applicable legal requirements.
- H. Investigative staff equipped with a BWC shall be responsible for determining that the device is fully functional and that the battery is adequately charged. At the start of the investigative staff member's shift and before going into the field, investigative staff shall ensure their BWC is operating correctly. If a malfunction is detected, the investigative staff member shall report the malfunction to their immediate supervisor in writing and verbally before going into the field. Under no circumstance shall an investigative staff member knowingly deploy a malfunctioning BWC. The immediate supervisor will immediately notify the BWC coordinator in writing of the malfunctioning BWC. If the BWC malfunctions while out in the field, the malfunction, upon its discovery, shall be reported to the investigative staff member's supervisor as soon as it is safe and practicable to do so.
- I. The Chief of Mercer County Detectives, or their designee, shall designate one or more training officers and a BWC coordinator to establish a training program to ensure that investigative staff equipped with BWCs, and investigative and civilian staff who access or handle BWC recordings are familiar with the provisions of this policy and the applicable laws of the state.
- J. The BWC is configured with a 30-second pre-event video buffer recording. When the BWC is activated, the preceding 30 seconds of video (no audio) will be captured and become part of the event recording. Audio recording will only begin at the time the BWC is activated.
- K. Stand-by mode is not required during periods of unassigned time, breaks or lunch periods, or when not in use.
- L. Wearing any personally-owned video/audio recorder is not authorized without the expressed permission of the Chief of Mercer County Detectives or the Mercer County Prosecutor.

- M. Non-law enforcement personnel shall not be allowed to review the recordings at the scene of contact. Complaints regarding investigative staff shall be referred to the Internal Affairs Unit. All other requests to view and/or obtain footage by the public shall be handled in accordance with this policy.
- N. Investigative staff on loan to any outside agency, tactical team, proactive enforcement team or task force shall use a BWC issued by the outside agency consistent with this policy, including restrictions and any guidelines issued by the outside agency or task force. Investigative staff shall report any potential conflicts between this Policy and the outside agency/task force's directives to the Chief of Mercer County Detectives, or their designee, as soon as practicable. Conversely, the Mercer County Prosecutor's Office will issue our BWC to all task force officers assigned to the Mercer County Prosecutor's Office from an outside agency. Federal law enforcement officers, whose agency does not deploy BWCs shall not be issued or equipped with a BWC by the Mercer County Prosecutor's Office.
- O. 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 court or administrative proceedings, but it can serve to supplement investigative staff's senses and eyewitness account.
  - 1. There is no intent to utilize the BWC as a management tool to punish investigative staff for minor departmental rule infractions.
  - 2. Investigative staff shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
- P. Adequate safeguards are necessary to ensure that this technology is used in a non-discriminating way and used to adequately document evidence.
- Q. These recordings will serve the following purposes:
  - 1. Recordings serve as protection for investigative staff 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 law enforcement officers involved.
  - 4. When complete recall is not possible, such as when multiple events are happening simultaneously or out of a law enforcement officer's line of sight, an audio/visual recording can provide an accurate record of events.
  - 5. Supervisors will be able to view the recordings and select portions to use to train investigative staff in safety, field training, interpersonal skills, proper police procedures and legal doctrines.
  - 6. Recordings can permit supervisors to undertake more meaningful performance evaluations.
  - 7. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the general public.

8. Recordings enhance management's ability to train personnel in proper police procedures.
- R. BWC recordings are not a replacement for formal reports. The existence of BWC recordings will be stated in formal reporting documenting the incident.

### III. NOTICE THE BWCs ARE DEPLOYED AND ACTIVATED

- A. **Public Notice** - The Mercer County Prosecutor's Office shall publish a statement on the office website regarding its deployment of BWC's. This statement shall include a picture of the camera and how it is worn by our investigative staff.
- B. **Specific Notifications** - MCPO investigative staff equipped with 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 reasonably possible. If the notification is not provided because it is not safe or feasible, the investigative staff shall document same in the appropriate police report and/or by narrating on camera.
- C. **Truthful Response to Specific Inquires** - If a civilian inquires of investigative staff as to whether the investigative staff is equipped with BWC or inquires as to if the device is activated, they shall answer truthfully.
- D. **Notice When Using BWCs Inside a Private Residence or Place of Abode** - Prior to entering a private residence or place of abode (e.g., hotel/motel rooms, boarding houses, etc.), investigative staff shall notify the occupants that they are being recorded by the BWC. If an occupant requests that the use of the BWC be discontinued, the investigative staff shall narrate the request and immediately deactivate the camera, unless:
  1. The investigative staff is actively engaged in investigating the commission of a criminal offense; or
  2. The investigative staff is responding to an emergency; or
  3. The investigative staff reasonably believes that they will have to use constructive authority or force.
- E. **Notice When Using BWCs with Apparent Crime Victims** - When interacting with an apparent crime victim, investigative staff shall, as soon as practicable, notify the apparent crime victim that he or she is being recorded by the BWC and, if the apparent crime victim requests the investigative staff discontinue use of the BWC, the investigative staff shall immediately discontinue use of the BWC. If the victim requests the discontinued use, the investigative staff shall narrate the request and immediately deactivate the camera.
- F. **Notice When Using BWCs with a Person Seeking to Remain Anonymous** - When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, investigative staff shall notify the person that they are wearing a BWC and, if the person requests that the investigative staff discontinue use of the BWC, the investigative staff shall evaluate the circumstances and, if appropriate, discontinue use of the BWC. If a person requests the discontinued use, the investigative staff shall narrate the request and, if appropriate, immediately deactivate the camera.



#### IV. STANDARDS GOVERNING THE ACTIVATION OF BWCs

- A. A BWC shall only be activated in performance of official duties and for the purpose of recording incidents, investigations and police-civilian encounters involving those law enforcement activities specified in this policy. Intentional misuse or abuse of the units will result in disciplinary action.
- B. A BWC shall not be activated or used under the following circumstances:
  - 1. While the investigative staff is on break or otherwise is not actively performing law enforcement functions (such as eating meals, while in a restroom, etc.);
  - 2. Used by the investigative staff for personal purposes or when engaged in police union business; or
  - 3. To record conversations involving counseling, guidance sessions, personnel evaluations or any other similar supervisory interaction.
- C. Any recordings from a BWC recorded in contravention of this policy or any other applicable law shall be immediately brought to the attention of agency command staff and immediately destroyed by command staff following consultation and approval of the Mercer County Prosecutor or the New Jersey Office of Public Integrity and Accountability. Such footage shall not be admissible as evidence in any criminal, civil or administrative proceeding, except as evidence in any proceeding related to the unauthorized use of a BWC.
- D. Except as otherwise expressly provided in this policy or by law, while on duty, Mercer County Prosecutor's Office investigative staff equipped with a BWC will have the BWC in stand-by mode ready to be activated at any time. When they activate the recording mode / function, the device will record from the moment the record start / stop button is pressed. Investigative staff shall be required to activate the BWC whenever they are responding to a call for service or at the initiation of any other law enforcement or investigative encounter between investigative staff and a member of the public, to include, but not limited to any of the following circumstances, unless there exists an immediate threat to the investigative staff's life or safety that makes such activation impossible or dangerous. In such situations, the investigative staff must activate the camera at the first reasonable opportunity to do so and it shall remain activated until the encounter has fully concluded and the investigative staff leaves the scene:
  - 1. Initiates an investigative detention (e.g., a Delaware v. Prouse traffic stop, a Terry v. Ohio criminal suspicion stop, checkpoint or roadblock);
  - 2. Responding to a call for service and is at or near the location to which the officer has been dispatched;
  - 3. All traffic stops from the initiation of the stop until the stop is concluded, including sobriety testing;
  - 4. Motor vehicle and foot pursuits;
  - 5. Conducting a motorist aid or community caretaking check;
  - 6. Interviewing a witness in the course of investigating a criminal offense;

7. 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);
  8. Conducting out-of-court identifications in the field (e.g., show ups or line ups);
  9. Making an arrest;
  10. Conducting a protective frisk for weapons;
  11. Conducting any kind of search (consensual or otherwise). This includes, but is not limited to, automobile searches, frisks, canine tracks, searches incident to arrest, and searches in a treatment or hospital setting where the purpose of the recording is to memorialize the consent;
  12. Engaged in a police response to any type of civil disorder in circumstances where the investigative staff is engaged with or in the presence of civilians and the investigative staff or any other officer on the scene may be required to employ constructive authority or force;
  13. Uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed based upon specific and articulable facts warranting heightened caution that are documented by narration on the recording and/or in any investigation or incident report;
  14. Transporting an arrestee to a police station, county jail or other place of confinement, or a hospital or other medical care or mental health facility;
  15. Arrest processing;
  16. The investigative staff reasonably believes that any officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.
- E. To ensure that the entire encounter/event/episode is recorded, when feasible, a BWC should be activated before the investigative staff arrives at the scene of a dispatched call for service or other police activity noted above. However, the investigative staff need not begin recording at the moment they receive the initial dispatch. Rather they may delay activation until they are near the destination.
- F. Except as otherwise expressly provided in any other provision of this policy, when a BWC is required to be activated pursuant to this policy, the device must remain activated throughout the entire encounter/event/episode and shall not be deactivated until it is concluded (e.g., the BWC-equipped investigative staff has left the scene; all civilians involved in the encounter have left the scene; the investigative staff has informed the dispatcher or a supervisor that the event has concluded; the event is "closed" on the department's computer-aided dispatch ("CAD") system, etc.).
- G. When a BWC is activated pursuant to Section IV(D)14 (transport of arrestee), whether by an investigative staff in uniform or in plain clothes, it shall remain activated at all times while the BWC equipped investigative staff is in the presence of the arrestee and until the arrestee is secured in the holding cell or processing room, or until custody of the arrestee has been transferred to county jail personnel,

or until the arrestee is with hospital/medical/mental health personnel and the investigative staff is no longer in the presence of the arrestee.

- H. **Special Provisions Governing the Use of BWCs When Investigating Underage Alcohol and Marijuana Use** - Consistent with the provisions of N.J.S.A. 2C:33-15a(4), the video and audio recording functions of a BWC shall be activated whenever the investigative staff is responding to a call for service related to an underage person who is suspected of violating the law with respect to possessing or consuming an alcoholic beverage, marijuana, hashish or a cannabis item, or at the initiation of any other law enforcement or investigative encounter between investigative staff and a person related to a violation or suspected violation of that provision. The BWC shall remain activated until the encounter has fully concluded, and the investigative staff leaves the scene and shall not be deactivated based on a request by a person who is the subject of the call for service related to a violation of N.J.S.A. 2C:33-15, or for any other reason.
- I. **Special Activation Rules Governing Certain Use of Force Incidents, In-Custody Deaths, and Other Exigent Circumstances Where Investigative Staff Are in Danger** - Notwithstanding any other provision of this policy, when investigative staff equipped with a BWC is dispatched to or otherwise goes to the scene of a "Law Enforcement Incident" as defined in AG Directive 2019-4, the investigative staff shall activate the BWC before arriving at the scene when feasible. Notwithstanding any other provision of this policy, investigative staff while at the scene of a "Law Enforcement Incident" shall not deactivate the BWC unless instructed to do so by the assistant prosecutor or assistant or deputy attorney general supervising the investigation of the deadly-force incident pursuant to AG Directive 2019-4, or his or her designee. Such instruction may be given telephonically by the assistant prosecutor, assistant or deputy attorney general, or designee supervising the investigation.
- J. When the BWC is activated, investigative staff are encouraged to provide narration where practical and appropriate in an effort to augment the value of the recording and to provide clarity for the viewer.
- K. When investigative staff equipped with a BWC is required to activate the device during an encounter with a civilian occurring inside the person's residence and with a person reasonably believed to be the victim of a criminal offense, the investigative staff shall verbally notify the person(s) with whom they are conversing that the BWC has been activated unless it is unsafe or infeasible to provide such notification. The investigative staff shall document the reasons why they did not inform the subject that the BWC was activated.
- L. If investigative staff fails to activate the BWC, fails to record the entire event contact, or interrupts the recording, they shall document in the applicable incident/case report why a recording was not made, was interrupted, or was terminated.
- M. Investigative staff shall complete tagging of BWC recording, as appropriate, throughout the shift, but always prior to docking. Tagging shall include appropriate case number and category. Investigative staff are permitted to include additional tagging for the BWC recording. See Appendix 1 for suggested Tagging categories.
- N. Investigative staff utilizing the BWC shall, at a minimum, upload all recorded video at the end of their tour of duty by placing the BWC into its docking station. Investigative staff are encouraged to download video throughout their tour of duty as time and opportunity permits.

**V. STANDARDS GOVERNING THE DEACTIVATION OF A BWC UPON REQUEST OF A CIVILIAN, WHEN DISCUSSING INVESTIGATION STRATEGY OR PLANNING, OR ON INSTRUCTION OF A PROSECUTOR**

- A. **Deactivation at the Request of a Civilian Providing Information/Cooperation** - In addition to the permitted deactivation standard previously stated in the policy, investigative staff may deactivate a BWC when a civilian conversing with them requests that the device be turned off under circumstances where it reasonably appears that the person will not provide information or otherwise cooperate with them unless that request is respected. The investigative staff shall neither suggest to the person that the BWC should be deactivated, nor shall they 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 investigative staff may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded). In deciding whether to deactivate the BWC, the investigative staff shall consider the privacy and safety interests of the person requesting deactivation, 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 deactivation request is honored.
- B. **Deactivation at the Request of a Person Seeking Emergency Medical Assistance** - Investigative staff may deactivate a BWC when a person, other than an arrestee, is seeking emergency medical services for him or herself or another and requests that the BWC be deactivated. In deciding whether to deactivate the BWC, the investigative staff shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance.
- C. **Procedures for Deactivation Upon a Civilian's Request** - When investigative staff deactivates a BWC pursuant to Section V(A) or V(B) above, the following procedures shall be followed:
1. The conversation between the investigative staff and the civilian concerning the request for deactivation shall be electronically recorded;
  2. The investigative staff, before deactivating the BWC, shall narrate the circumstances of the deactivation (e.g., "I am now turning off my BWC as per the victim's request.");
  3. The investigative staff shall report the circumstances concerning the deactivation to his or her direct supervisor as soon as is practicable; and
  4. The investigative staff shall document the circumstances of the deactivation in any investigation or incident report concerning the incident under investigation.
- D. **Decision to Decline a Civilian's Deactivation Request** - If investigative staff declines a request to deactivate a BWC, the reasons for declining the request (e.g., the officer believes that there is a reasonable possibility that it may be necessary to use constructive authority or force during the encounter) must be documented and shall be reported to the investigative staff's direct supervisor as soon as it is safe and practicable to do so.

In the event that investigative staff declines a deactivation request, they shall immediately inform the person making the request of that decision. Investigative staff shall be prohibited from misleading the person making the deactivation request into believing that the BWC has been turned off when in fact it is operating unless

the Mercer County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee expressly has authorized covert recording. Investigative staff may not decline a request from an apparent crime victim to discontinue recording of the encounter via the BWC.

- E. **Deactivation During Criminal Investigation Strategy/Planning Discussions** – Investigative staff equipped with a BWC may deactivate or mute a BWC while participating in a discussion pertaining to criminal investigation strategy and planning (e.g., to consider what investigative techniques to pursue, such as what questions to pose to a suspect or witness, whether to summon a drug/explosives detection canine, whether to apply for a search warrant, whether to request permission to conduct a consent search, or to conduct another type of warrantless search, etc.), provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian (i.e., under circumstances where a civilian might overhear the strategy discussion), and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When investigative staff deactivates a BWC pursuant to this section, they shall narrate the circumstances of the deactivation (e.g., “I am now turning off my BWC to discuss investigative strategy with my supervisor.”).
- F. **Deactivation on Instruction from Prosecutor** - Investigative staff may deactivate a BWC when specifically authorized to do so by an assistant prosecutor or assistant or deputy attorney general for good and sufficient cause as determined by the assistant prosecutor or assistant or deputy attorney general. When investigative staff deactivates a BWC pursuant to this section, they shall narrate the circumstances of the deactivation indicating the assistant prosecutor or assistant or deputy attorney general who authorized the deactivation (e.g., “I am now turning off my BWC as per the instruction of assistant prosecutor (insert name).”).
- G. **Reactivation When Reason for Deactivation No Longer Exists** - In any instance where a BWC was deactivated, the device shall be reactivated as soon as it is safe and practicable to do so if and when the circumstances justifying deactivation no longer exist (e.g., the interview of the person requesting deactivation is completed), and the investigative staff would otherwise be required to activate the BWC (e.g., where the investigative staff proceeds to other investigative activities that are required to be recorded pursuant to this policy).
- H. **Reactivation When Actual Law Enforcement Force is Authorized** - Notwithstanding any other provision of this policy, in any instance where a BWC was deactivated pursuant to any policy, standing operating procedure, directive or order issued by a department, if the circumstances develop so that investigative staff is authorized to use force, the BWC shall be reactivated as soon as it is safe and practicable to do so.
- I. **Special Restrictions When Recording in Schools, Healthcare/Treatment Facilities and Places of Worship** - Unless investigative staff 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, they shall not activate a BWC, or shall deactivate a BWC that has been activated, while the investigative staff:
  - 1. Is in a school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the BWC; or

2. 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; or
3. Is in a place of worship under circumstances where worshipers would be in view of the BWC.

If investigative staff is required to deactivate the BWC in accordance with the provisions of this section, they shall narrate the reason for deactivation (e.g., "I am entering a school building where children are present."). The BWC shall be reactivated as soon as it is safe and practicable to do so if and when the circumstances requiring deactivation no longer exist (e.g., the officer is conversing with an adult as part of a criminal investigation while in a place within the school where children would not be in view of the BWC).

**J. Special Restrictions When Undercover Officers or Confidential Informants May Be Recorded** - Investigative staff shall not activate a BWC, or shall deactivate a BWC that has been activated, if they know or reasonably believe that the BWC would risk revealing the identity of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer (e.g., active shooter, actual use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the investigative staff shall inform their supervisor that the recording risks revealing the identity of an individual as an undercover officer or confidential informant.

1. Notwithstanding the foregoing general rule prohibiting the recording of an undercover officer or confidential informant, in the event of a planned arrest/search warrant execution where it is expected that an undercover officer or confidential informant will be present (e.g., a raid where the undercover operative will be arrested to preserve their cover), the Mercer County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, may provide specific instruction to any BWC-equipped investigative staff participating in the operation on whether to activate their devices.
2. The BWC shall be activated/reactivated as soon as it is safe and practicable to do so if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.

**K. Special Precautions When a BWC Recording May Reveal Tactical Information** In the event that a BWC worn during the execution of tactical operations (e.g., "Special Operations" or "TRT" operations, execution of arrest and/or search warrant, etc.) records confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms, techniques to convince persons to open doors, etc.), the recording shall be tagged accordingly to prevent its unauthorized release.

**L. Special Restrictions on Recording in Courtrooms** – Investigative staff shall not activate a BWC while in a courtroom during court proceedings unless they are responding to a call for service or authorized to use constructive authority or force.

- M. **Deactivation/Removal of BWCs from Alcohol Breath Testing Area** - In order to eliminate any argument that radio frequency interference from a BWC affected an electronic alcohol breath test, BWCs shall be deactivated, turned off and removed from the area of the breath test instrument before an electronic breath test is conducted. 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, investigative staff shall narrate the reasons for deactivation (e.g., "I am deactivating the BWC because the suspect is about to take a breath test."), and the BWC shall be reactivated when safe and practicable to do so following the completion of the breath testing operation.
- N. **Restrictions on Using BWCs Surreptitiously or to Gather Intelligence Information on First Amendment Protected Activity** - A BWC shall not be used surreptitiously. Additionally, a BWC shall not be used to gather intelligence information based on First Amendment protected speech, associations or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public, provided that nothing in this section shall be construed to prohibit activation of video and audio recording functions of a BWC as authorized under the law or this policy.

## VI. CATEGORIZING, RETENTION AND STORAGE OF VIDEOS

- A. All videos recorded during a shift shall be downloaded no later than at the conclusion of the investigative staff's shift. This will be accomplished by inserting the camera into a docking station at the Mercer County Prosecutor's Office. The cameras will automatically upload any stored videos to the AXON server to store the data.
- B. Recordings are considered investigatory records of the Mercer County Prosecutor's Office and shall be maintained on AXON Evidence.com and disposed of in accordance with New Jersey Attorney General guidelines for the retention of evidence and this policy.
- C. Investigative staff are responsible for ensuring that any videos they generate are tagged by adding proper category and case numbers to the BWC file, when applicable. This shall be done as soon as practicable after each event.
- D. Investigative staff also may add notes or additional data to the files if relevant to the prosecution of any criminal or motor vehicle cases.
- E. AXON Evidence.com ensures that BWC recordings for specific and associated events can be located and retrieved. This allows discovery to be provided in a timely fashion.
- F. Investigative staff shall flag any videos taken in special facilities listed in New Jersey Attorney General Directive 2022-01 or any other video that has unusual privacy considerations and tag them as Privacy Concerns. To identify BWC recordings that may raise special privacy or safety issues, tagging is imperative when the BWC:
  - 1. Captures a law enforcement incident, as defined by 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.
    - d. The death of any civilian while in the custody of law enforcement.
  - 2. Captures the image of a victim of a criminal offense;
  - 3. Captures the image of a child;
  - 4. Was made in a residential premises (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;
  - 5. Captures a conversation with a person whose request to deactivate the BWC was declined;
  - 6. 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;
  - 7. Captures the image of an undercover officer or confidential informant; or
  - 8. Captures the screen of a police computer monitor that is displaying confidential personal or law enforcement sensitive information. See also Section V (I) (requiring notice to the prosecutor when a BWC captures the image of a patient at a substance abuse treatment facility).
- G. **Minimum 180-Day Retention Period** - A BWC recording shall be retained by the MCPO for a retention period consistent with the provisions of this section, after which time the recording shall be permanently deleted. A BWC recording shall be retained for not less than 180 days from the date it was recorded, but shall be subject to additional retention periods as required in Section VI.
- H. **Automatic Three-Year Retention Period** - A BWC recording shall automatically be retained for not less than three years if it captures images involving an encounter about which a complaint has been registered by a subject of the BWC recording.
- I. **Three-Year Retention Period Upon Request** - Subject to any applicable retention periods established in Section VI (I) 7 (d) to the extent such retention period is longer, a BWC recording shall be retained for not less than three years if voluntarily requested by:
- 1. A law enforcement officer whose BWC made the video recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value;



2. A law enforcement officer who is a subject of the BWC recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value;
3. Any immediate supervisor of a law enforcement officer whose BWC made the recording or who is a subject of the BWC recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value;
4. Any law enforcement officer, if the BWC recording is being retained solely and exclusively for police training purposes;
5. Any member of the public who is a subject of the BWC recording;
6. Any parent or legal guardian of a minor who is a subject of the BWC recording; or
7. A deceased subject's next of kin or legally authorized designee.

To effectuate subparagraphs (5), (6), and (7) of this section, the member of the public, parent or legal guardian, or next of kin or designee shall be permitted to review the BWC recording to determine whether to request a three-year retention period, in accordance with the provisions of the Open Public Records Act, N.J.S.A. 47:1A-1 et. seq.

- J. Notwithstanding the other provisions of this policy, a BWC recording shall be subject to the following additional retention requirements:
  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 against the law enforcement officer or the employing law enforcement agency; or
  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.
- K. Investigative staff shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera or instruct another to do so. If any employee of the Mercer County Prosecutor's Office fails to adhere to the recording or retention requirements contained in this policy, N.J.S.A. 40A:14-118.5 et seq., or intentionally interferes with a BWC's ability to accurately capture audio or video recordings:
  1. The officer, employee or agent shall be subject to appropriate disciplinary action and/or criminal sanctions; 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.

## VII. RESTRICTIONS ON ACCESS TO AND USE AND DISSEMINATION OF BWC RECORDINGS

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

No investigative, legal or civilian employee of the MCPO or any law enforcement agency shall access, view, copy, disseminate or otherwise use a BWC recording except for an official purpose as specified in this section and the law. BWC recordings shall not be divulged or used by any law enforcement agency for any commercial or other non-law enforcement purpose. Access to and use of a stored BWC recording is permitted only:

1. When relevant to and in furtherance of a criminal investigation or prosecution;
2. When relevant to and in furtherance of an internal affairs investigation;
3. When relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of possible misconduct;
4. To assist the investigative staff whose BWC made the recording in preparing his/her own police report, except:
  - a. In officer involved use of force incidents; or
  - b. In motor vehicle pursuits resulting in death or serious bodily injury; or
  - c. In any in-custody death investigations; or
  - d. When it captures images involving an encounter about which a complaint has been registered by a subject of the recording; or
  - e. When it pertains to a criminal investigation or otherwise records information that may have evidentiary or exculpatory value subject to discovery in a prosecution; or
  - f. When it records an arrest that did not result in an ongoing prosecution; or
  - g. When it records an incident that is the subject of an internal affairs complaint.
5. Nothing in this section is intended to prevent investigative staff 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 in Sections VII (A) 4 (b-c) 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.

6. Investigative staff reviewing a recording after completion of their report and wishing to add any additional information to the original report shall submit a supplemental report detailing their renewed recollection. UNDER NO CIRCUMSTANCES, shall investigative staff change the original report.
7. When relevant to a supervisor's review of investigative staff's actions as part of the supervisory process authorized by the agency;
8. To show to a civilian who intends to file a complaint against investigative staff to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint;
9. To comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court;
10. To comply with any other legal obligation to turn over the recording to a person or entity;
11. To show or disseminate the recording to a civilian or a non-law enforcement entity, or to disseminate it to the public, where the Mercer County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, determines that disclosure to that particular person/entity or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality;
12. 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;
13. To conduct an audit to ensure compliance with this policy;
14. To enhance law enforcement officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the Mercer County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee; or
15. Any other specified official purpose where the Mercer County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.

- B. Restriction on Access to BWC Recordings Related to Investigations Conducted Pursuant to AG Directive 2019-4** - To ensure the integrity of the investigation of "Law Enforcement Incidents" conducted pursuant to Attorney General Directive 2019-4, and to avoid possible contamination of a witness' personal recollection of events that could undermine his or her credibility as a witness, notwithstanding any other provision of this policy, no civilian or law enforcement witness, including the principals of the investigation, shall be given access to or view a BWC recording of the incident, or a BWC recording of the response or on-scene investigation of the incident, without the express prior

approval of the “Independent Investigator,” as that term is defined in Attorney General Directive 2019-4.

- C. **Restriction on Access to BWC Recordings Prior to Creating Reports, Statements, Interviews** - Investigative staff shall not review or receive an accounting of a BWC recording that is subject to a minimum three-year retention period prior to creating any required initial reports, statements and interviews regarding the recorded event. In all cases not subject to the provisions of Section VII (B) of this policy, after completing the initial investigation report, investigative staff shall review the BWC recording to determine whether any additional information or clarification is necessary and document same in a supplemental report within 48 hours of the initial incident necessitating reporting.
- D. **Approval for Access to Tagged BWC Recordings** - A BWC recording tagged pursuant to Section VI (F) shall not be accessed, viewed, copied, disseminated or otherwise used without first obtaining the permission of the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee. The County Prosecutor or Director may authorize the law enforcement executive, and one or more superior officers or duty positions (e.g., head of the detective bureau) identified by the law enforcement executive, to grant permission pursuant to this section to access, view, copy, disseminate or otherwise use BWC recordings tagged pursuant to Section VI (F). See also Section VII (A) (specifying the purposes for which access to a BWC recording is permitted).
- E. **Compliance with Discovery Obligations Relating to BWC Recordings That Might Expose Investigative Staff or Other Persons to Danger** - If disclosure of a BWC recording as part of the state’s discovery obligations in a prosecution might present a danger to any law enforcement officer or civilian (e.g., reveal an undercover officer, confidential informant, surveillance site, etc.), or might reveal confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms during execution of warrant, techniques for convincing persons to open doors during warrant execution, etc.), the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee in cases prosecuted by the Division, shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or court rule to protect the information from disclosure, such as by seeking a protective order from the court. See Section VI (C) (tagging of such BWC recordings).
- F. **Third-Party Storage and Maintenance** - If a law enforcement agency authorizes a third party to act as its agent in maintaining recordings from a BWC, the agent shall be prohibited from independently accessing, viewing or altering any recordings, except to delete recordings as required by law or agency retention policies.
- G. **Documenting Access to Stored BWC Recordings** – AXON Evidence.com maintains a record of all BWC recordings that are accessed, viewed, copied, disseminated or deleted. The Chief of Mercer County Detectives shall cause a periodic audit of these records to ensure compliance with this policy. Minimally, the record keeping system shall document the following:
  - 1. The date and time of access; the specific BWC recording(s) that was/were accessed;
  - 2. The name of the employee who accessed the stored BWC recording; the person who approved access, where applicable;

3. The reason(s) for access, specifying the purpose or purposes for access authorized pursuant to Section VII (A); and
4. The relevant case/investigation number, where applicable.

#### **VIII. SUPERVISORY REVIEW**

- A. Supervisors shall be responsible to ensure that investigative staff having a BWC assigned to them conform to this policy.
- B. Supervisors should encourage and assist investigative staff in using BWC footage as a training aid after initial reports are completed. Supervisors shall review the BWC footage of all critical incidents made by investigative staff under their supervision and offer constructive critiques whenever possible.
- C. Supervisors shall take custody of the BWC of any officer that is involved in a serious incident to safeguard any footage of the event captured on the BWCs.
  1. Such incidents include the use of deadly force, the use of force resulting in serious injury or death, serious motor vehicle crashes involving an officer, any event resulting in the incapacitation of the officer, or any event in which the supervisor feels that the immediate custody of the unit is necessary to protect any footage.
  2. The transfer of custody shall not take place until the entire encounter/event/episode has concluded and the BWC has been deactivated in accordance with the procedures set forth in this general order.
  3. The supervisor that takes custody of the unit shall forward it to the BWC coordinator. If the BWC coordinator is not available, it will be acceptable to forward it to a command staff member, who will take custody of the BWC and distribute a spare BWC.
  4. The BWC coordinator, command staff member, or their designee shall tag/categorize and upload any captured footage.
  5. The BWC will only be placed back into service by the BWC coordinator or command staff member.
- D. Violations of the policy will be addressed accordingly, and any corrective action will be recorded by the appropriate supervisor.

#### **IX. PUBLIC DISCLOSURE OF BWC RECORDINGS**

When the MCPO receives a subpoena, court order, or request pursuant to the Open Public Records Act, or the Common Law Right to Know, for a BWC recording, notice shall be provided to the Division of Criminal Justice within one business day of receipt of such subpoena, court order or request, and before complying with it. Such notice shall clearly state the deadline by which a response must be made.

## **X. VIOLATIONS**

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

**REFER TO ATTORNEY GENERAL DIRECTIVE 2022-01 BWC POLICY FOR ADDITIONAL GUIDANCE.**

## APPENDIX 1

### TAGGING CATEGORIES

Accidental Capture	Motor Vehicle Stop/Citation
Aggravated Assault Investigation	Motor Vehicle Stop/No Citation
Ambulance Request/EDP	OPRA
Arrest	Other
Burglary Investigation	Pending Review
Call for Service (Not already categorized)	Prisoner Processing /Transport
Criminal Investigation	Privacy Concern
Death Investigation	Pursuits (Motor Vehicle & Pedestrian)
Demonstrations/Crowd Control/Special Events	Robbery Investigation
DWI Investigation	Search Warrant Execution
Evidence Recovery	Sexual Assault Investigation
Hand Summons Issued	Shooting Investigation
Homicide Investigation	Tactical Operation
Investigative Detention/Field Interview	Test
Internal Affairs Interview	Training
Juvenile Investigation	Use of Force
Locked	Walk-In Complaint
Motor Vehicle Crash	Warrantless Searches