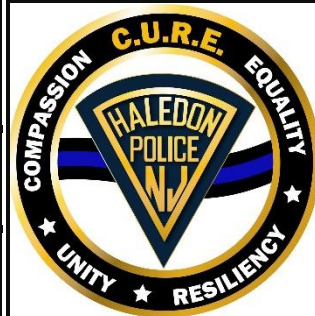


**HALEDON POLICE DEPARTMENT
GENERAL ORDER**



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SUBJECT: Body Worn Cameras Policy

DISTRIBUTED BY: Captain George Guzman, Jr.

Accreditation Standards: 3.5.5

BY ORDER OF:
CHIEF OF POLICE ANGELO J. DANIELE

PURPOSE The purpose of this general order is to maintain uniform guidelines for the lawful use and operation of the agency-authorized body worn cameras (BWCs). The goals and objectives in deploying BWCs are the unbiased 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, retrieval, and preservation of recordings to maintain the lawful chain of custody.

POLICY It is the policy of the Haledon Police Department to utilize body worn video/audio cameras (BWCs) to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident.

All personnel shall use this equipment (including accessing and replicating recordings) consistent with manufacturer's guidelines, applicable laws and statutes, this general order, and those policies or guidelines issued by the new jersey attorney general and the Passaic County Prosecutor's Office. Failure to use this technology in accordance with this general order, applicable laws and statutes, and those policies or guidelines issued by the New Jersey Attorney General and Passaic County Prosecutor's Office can result in disciplinary action. Any willful or repetitive violations of this general order and/or *Attorney General Law Enforcement Directive 2021-5* shall be promptly reported to the Passaic County Prosecutor's Office. The Passaic County Prosecutor may take such actions as are reasonable and necessary to ensure compliance with New Jersey Attorney General Directive 2021-5 and to prevent future violations.

The Haledon Police Department website/webpage shall contain a clear statement that this department utilizes body worn cameras. The website/webpage posting shall include an image showing of what the device looks like and how it is to be worn by uniformed officers so that the public will be able to determine whether an officer is equipped with the device.

PROCEDURES

I. DEFINITIONS

- A. For purposes of this general order, the following terms are defined:
1. Activate – means to actuate (put into operation) the recording mode/function of a BWC.
 2. Attorney General (AG) – means the Attorney General of the State of New Jersey.
 3. Body worn camera (BWC) – is an officer worn device that makes an electronic audio/video recording of activities that take place during any law enforcement action. The term does not include any form of electronic recording device worn by a law enforcement officer while acting in an undercover capacity nor does the term include an electronic recording device when used to comply with the requirements of Court Rule R. 3:17 (electronic recording of station house custodial interrogations).
 4. Constructive authority – involves the use of an officer's authority to exert control over a subject (see this department's policy on *Use of Force*), 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 (e.g., "...move out of the way", "...get down", etc.).
 5. Deactivate – means to shut off the recording mode of a BWC.
 6. Digital evidence – includes photographs, images, audio, and video recordings that are stored digitally.
 7. Force – has the same meanings as defined in this department's general order on *Use of Force*.
 8. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, petty disorderly offense, or driving while intoxicated offense, including but, not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.

9. Law enforcement incident (as defined in *New Jersey Attorney General Directive 2019-4*):
 - a. Any use of force by a law enforcement officer resulting in death.
 - b. Any use of force by a law enforcement officer resulting in serious bodily injury.
 - c. Any use of deadly force (including the discharge of a firearm) by a law enforcement officer, regardless of whether such force resulted in injury.
 - d. The death of any civilian during an encounter with a law enforcement officer; and
 - e. The death of any civilian while in the custody of law enforcement.
10. 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 such activities, and they are sometimes referred to as crime suppression units. The nature of their work is varied and may include being dressed in traditional uniform, modified uniform, or plain clothes. These officers may work alongside undercover officers, conduct surreptitious surveillance, engage in high intensity enforcement via motor vehicle/pedestrian stops and/or interact with confidential informants or witnesses who wish to remain anonymous.
11. School – means a public or nonpublic elementary or secondary school within this State offering education in grades kindergarten through 12, or any combination of grades, at which a child may legally fulfill compulsory school attendance requirements.
12. Subject of the video footage – means any law enforcement officer, suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body worn camera recording and shall not include a person who only incidentally appears on the recording.
13. 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.
14. Tagging – is an electronic labeling of an electronic file captured by a BWC.

15. Undercover officer – is a law enforcement officer operating with an assumed identity and/or disguise for the purposes of gaining the trust of an individual or organization to learn or confirm confidential information or to gain the trust of targeted individuals to gather information or evidence. Plain-clothed officers and detectives are not considered undercover officers unless working with an assumed identity and/or disguise.
16. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, residential facilities, treatment facilities, etc.

II. GENERAL ADMINISTRATION

- A. 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 an officer's senses and eyewitness account.
 1. There is no intent to utilize the BWC as a management tool to punish officers for minor departmental rule infractions.
 2. Officers shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
 3. The use of BWCs does not eliminate or minimize the requirement to provide thorough written documentation of an incident.
 4. Persons reviewing BWC recordings must also consider that the video captured by a BWC is merely one piece of evidence that provides only one perspective regarding the situation that has been recorded.
- B. Adequate safeguards are necessary to ensure that this technology is used in a non-discriminating way and used to properly preserve evidence.
- C. These recordings will serve the following purposes:
 1. Recordings serve as protection for police officers when there are complaints about their conduct or professionalism during encounters with the public.
 2. The recordings can be introduced into evidence in criminal and motor vehicle prosecutions as well as in civil litigation.
 3. The recordings can resolve disputes concerning what occurred during incidents, thereby protecting both the public and the officers involved.
 4. When complete recall is not possible, such as when multiple events are happening simultaneously or out of an officer's line of sight, an audio/visual recording can provide an accurate record of events.

5. Subject to the viewing restrictions in this general order, supervisors will be able to view the recordings and select portions to use to train officers in safety, field training, interpersonal skills, proper police procedures, and legal doctrines.
 6. Subject to the viewing restrictions in this general order, recordings can permit supervisors to undertake more meaningful performance evaluations.
 7. Subject to the viewing restrictions in this general order, recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the public.
 8. Subject to the viewing restrictions in this general order, recordings enhance management's ability to train personnel in proper police procedures.
- D. Repairs to any BWC equipment shall only be performed under the direction of the Chief of Police or his/her designee.
- E. The Planning and Training Division shall maintain a training program on the lawful and proper use of BWC equipment. Only officers who have received training in the use of BWC are permitted to use this system and must demonstrate a satisfactory degree of familiarity and efficiency in the use of this system. The proper use of a BWC is considered an essential job function.
1. The Planning and Training Division is responsible for conducting or scheduling:
 - a. Initial training of all newly hired officers or to officers who have not been previously trained.
 - b. Periodic refresher training will be afforded to ensure continued effective use and operation of the equipment, and to incorporate changes, updates, or other policy revisions as necessary or required.
 - c. Supplemental training as a component of the performance improvement or progressive disciplinary process.
- F. The Chief of Police or designee shall determine those officers who will be equipped with BWCs and shall determine the type(s) of duty assignments when those officers will wear BWCs.
1. In the case of an officer assigned to a task force, team, or unit composed of officers from more than one agency, the chief law enforcement officer of the agency overseeing the task force, team, or unit (e.g., the county prosecutor in the case of a countywide task force) shall determine whether and in what circumstances officers assigned to the task force, team, or unit will wear BWCs.

2. Officers equipped with a BWC must comply with the requirements and restrictions established in this policy and in *Attorney General Law Enforcement Directive 2021-5* and Passaic County Prosecutor's Office directives (as amended).
 3. Officers shall not wear a BWC unless they have been authorized to do so by the Chief of Police or designee or by the chief law enforcement officer of the agency overseeing a multi-agency task force, team, or unit.
- G. BWC is intended for official police department use only and are not to be used for frivolous or personal activities. Intentional misuse or abuse of the units will result in disciplinary action.
- H. This department will not tolerate the reliance by any officer on race, ethnicity, gender, gender identity, gender expression, sexual orientation, religion, economic status, age, culture, LGBTQ+ status, or any other immutable characteristic of a group or class of persons, in determining whether to activate or deactivate a BWC.
- I. All BWC equipment, recording media, images, audio, and related metadata are the sole property and intellectual property of the Haledon Police Department and will not be copied, released, or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Chief of Police or his/her designee.
- J. Under no circumstances will any employee of the Haledon Police Department make a personal copy of any recorded event without the permission of the Chief of Police or designee or in accordance with section V of this policy. This restriction also applies to any employee who entice/uses another to make a personal copy of any recorded event.
- K. Officers will use only those devices approved and issued by the Chief of Police. Wearing any personally owned video/audio recorder is not authorized without the expressed permission of the Chief of Police, the Passaic County Prosecutor's Office, or the New Jersey Division of Criminal Justice. The use of BWCs with electronically enhanced audio / visual capabilities, such as infrared vision features, is not authorized.
- L. BWCs shall be used only in conjunction with official law enforcement duties.
1. Officers engaged in undercover operations or surveillance activities are not required to utilize BWCs.
 2. BWCs shall not be used to record:
 - a. Encounters with undercover officers or confidential informants.
 - b. Strip and body cavity searches.

- c. When on break or otherwise engaged in personal activities.
 - d. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.
 - e. When engaged in police union business.
 - f. When involved in counseling sessions, guidance sessions, personnel evaluation interviews, or other supervisor-subordinate interaction.
 - g. Inside of schools, youth facilities, hospitals, medical facilities, or places of worship, unless directly related to an incident that warrants recording; see section III.B of this policy.
3. BWCs shall not be used surreptitiously.
 4. BWCs shall not be used to gather intelligence information based on 1st 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, except in accordance with any applicable guidelines or directives promulgated by the New Jersey Attorney General.

III. INCIDENTS TO RECORD

- A. BWCs allow for a clearly documented, first-hand, and completely objective account of an incident and will produce the maximum amount of information regarding the incident to be captured. Therefore, all personnel assigned to or assisting in that event shall activate their BWC immediately upon acknowledging dispatch to a call for service or in the performance of a proactive event as soon as is safely possible. This will allow the maximum amount of information regarding the incident to be captured, such as events that transpire while on the way to a call for service and violations committed by a motorist during a motor vehicle stop.
- B. Except when otherwise restricted in this general order, officers shall video and audio record all law enforcement activity including any interaction with a civilian. However, if an immediate threat to the officer's life or safety makes activating the BWC impossible or dangerous, the officer shall activate the body worn camera at the first reasonable opportunity to do so. Examples of such required recordings include, but are not limited to:
 1. All traffic stops until the stop is concluded, including sobriety testing.
 2. Investigation of any kind of motor vehicle offense.
 3. Investigative detentions/field interviews.

4. Any call for service related to a violation or suspected violation of possessing or consuming alcohol, marijuana, hashish, or cannabis item.
 - a. Consistent with the provisions of N.J.S.A. 2C:33-15a(4), an officer's BWC shall be activated whenever the officer is responding to a call for service related to an underage person who is suspected of violating the law with respect to possessing or consuming an alcoholic beverage, marijuana, hashish, or a cannabis item, or at the initiation of any other law enforcement or investigative encounter between an officer 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 officer 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.
5. An officer is responding to a call for service and is at or near the location to which the officer has been dispatched.
6. The officer is conducting a motorist aid or community caretaking function.
7. Stationary police details, such as DWI checkpoints.
8. Criminal investigations.
9. Arrests.
10. Drug recognition expert (DRE) evaluations.
11. Overdose and suspected overdose investigations.
12. Emotionally disturbed person investigations / encounters.
13. Motor vehicle and foot pursuits.
14. Interviews of witnesses when conducting investigations of criminal or motor vehicle violations/offenses (not to include undercover investigations or related surveillance activities).
15. When conducting a custodial interrogation of a suspect unless the interrogation is otherwise being recorded in accordance with Rule 3:17 (electronic recordation of stationhouse interrogations).
16. Warrantless searches (all types, including frisks, vehicle searches, and consent searches, etc., but not strip or body cavity searches).
17. Search warrant service (detectives).

18. Arrestee/prisoner transportation, whether to a law enforcement facility, county jail or other place of confinement.
 19. When an officer uses constructive authority or force, or reasonably believes that constructive authority or force may be used in any encounter or situation not otherwise listed in this subsection based on specific and articulable facts warranting heightened caution.
 20. Domestic violence investigations.
 21. Crowd control, unruly crowds, or any incident requiring activation of the all-hazards or emergency operations plan.
 22. Strikes, picket lines, demonstrations.
 23. When an officer is engaged in a police response to any type of civil disorder in circumstances where the officer is engaged with or in the presence of civilians and the officer or any other officer on the scene may be required to employ constructive authority or force.
 24. When an officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.
 25. Any contact that becomes adversarial when the BWC has not already been activated.
- C. BWC should be activated when an officer receives a dispatched assignment to any incident listed in subsection III.B (above) or when engaged in any self-initiated activity involving any incident listed in subsection III.B (above).
- D. Notwithstanding any other provision of this general order, when an officer equipped with a BWC is dispatched to or otherwise goes to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed, or to a scene where an officer has requested emergency assistance (e.g., an officer in distress, shots fired, etc.), the officer shall activate his/her BWC before arriving at the scene unless impracticable.
- E. Notwithstanding any other provision of this general order, an officer while at the scene of a law enforcement incident (see subsection IV.F.1), or the on-scene investigation of such events shall not deactivate his/her BWC unless instructed to do so by the independent investigator supervising the investigation of the incident pursuant to *Attorney General Law Enforcement Directive 2019-4*. The independent investigator or his/her designee supervising the investigation may provide such instruction telephonically.
1. Officers can deactivate their BWCs once they leave the scene of the incident.

2. BWCs do not need to remain activated while officers are receiving medical evaluation, medical treatment, or have returned to headquarters.
 3. Once officers deactivate their BWCs in these instances, they shall surrender their BWCs to a supervisor, who shall submit them as evidence in accordance with this agency's general order on *Evidence and Property*.
- F. BWC shall remain activated for the entire duration of a public contact required in section III.B above until the officer has departed the scene and the officer has notified dispatch that the event is closed.
- G. When a BWC is activated to transport an arrestee/prisoner, it shall remain activated while the officer is in the presence of the arrestee and until the arrestee is secured in the processing room or a cell, or until custody of the arrestee has been transferred to county jail personnel, or until the arrestee is with medical/mental health personnel and the officer is no longer in the presence of the arrestee.
- H. When wearing a BWC, officers shall notify the subject of the recording that they are being recorded unless it is unsafe or unfeasible to provide such notification. Such notification shall be made as close to the inception of the encounter as is reasonably possible.
1. Prior to entering a private residence, as soon as practicable, officers shall notify the occupant that the occupant is being recorded and, if the occupant requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that the officer will be required to use constructive authority or force.
 2. When interacting with an apparent crime victim, officers shall, as soon as practicable, notify the apparent crime victim that he or she is being recorded and, if the apparent crime victim requests the officer to discontinue use of the BWC, the officer shall immediately discontinue use of the BWC.
 3. When interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, if the person requests that the officer discontinue use of the body worn camera, officers shall evaluate the circumstances and, if appropriate, discontinue use of the BWC.
 4. If the officer decides not to provide notification of BWC activation because it is unsafe or unfeasible to do so, the officer shall document the reasons for that decision in the investigation report of the incident and/or by narrating the reasons on the BWC recording.

5. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
- I. If a civilian inquires of an officer whether the officer is equipped with a BWC or inquires whether the device is activated, the officer shall answer truthfully unless the Passaic County Prosecutor's Office or the Division of Criminal Justice has expressly authorized the officer to make a covert electronic recording.
1. Officers may deactivate 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.
 - a. Officers shall not suggest to the person that the BWC should be deactivated; nor shall the officer ask the person whether he or she would prefer that the BWC be deactivated. Rather, the request for deactivation must be self-initiated by the civilian. The officer may explain the consequences of deactivation (e.g., evidence relevant to a criminal investigation will not be recorded).
 - b. In deciding whether to deactivate the BWC, the officer 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 is important to the investigation yet, is not critical to require recording.
 2. Officers 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.
 3. When an officer deactivates a BWC:
 - a. The conversation between the officer and the civilian concerning the request for deactivation should be electronically recorded.
 - b. The officer, 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.*").
 - c. The officer shall report the circumstances concerning the deactivation to his/her supervisor as soon as is practicable; and

- d. The officer shall document the circumstances of the deactivation in any investigation report concerning the incident under investigation, including the time of activation and/or deactivation.
4. If an officer declines a request to deactivate a BWC, the reasons for declining the request must be memorialized on the recording and documented and shall be reported to his/her supervisor as soon as it is safe and practicable to do so.
 - a. If the officer declines a deactivation request, the officer immediately shall inform the person making the request of that decision.
 - b. Officers are 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 Passaic County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee expressly has authorized covert recording.
5. Officers can deactivate 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 deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation indicating the assistant prosecutor who authorized the deactivation (e.g., "*...I am now turning off my BWC as per the instruction of assistant prosecutor (insert name).*").
6. Officers may deactivate/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 and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search).
7. If an officer is required to deactivate the BWC when entering a school, house of worship, health care facility, substance abuse treatment center, etc., the officer shall narrate the reason for deactivation. The BWC shall be reactivated as soon as it is safe and practicable to do so when the circumstances requiring deactivation no longer exist. Officers assigned to a school (e.g., school resource officer) should not activate their BWC unless involved in any incident listed in section III.B of this general order.

8. If a BWC captures the image of a patient in a substance abuse treatment facility, the Chief of Police or his/her designee shall notify the Passaic County Prosecutor or his/her designee to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information (42 USC § 290dd-2, 42 CFR §23.1 to 23.41). The recording shall not be accessed without the permission of the Passaic County Prosecutor or his/her designee. (Note that destruction of the recording would be inappropriate until it has been determined that it had not captured exculpatory information that must be provided to a defendant in discovery.)
9. In any instance where a BWC was deactivated pursuant to this section, the device shall be reactivated as soon as it is safe and practicable to do so when the circumstances justifying deactivation no longer exist (e.g., the interview of the person requesting deactivation is completed, etc.) and the officer would otherwise be required to activate the BWC.
- J. Officers shall not activate a BWC, and shall deactivate a BWC that has been activated, if the officer knows or reasonably believes that the BWC would capture the image of an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer require that the encounter/incident be recorded, in which event the officer shall inform their supervisor that the image of an undercover officer or confidential informant was recorded. The BWC shall be activated/reactivated as soon as it is safe and practicable to do so when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
- K. Officers shall not activate a BWC while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority, or unless the presiding judge expressly authorizes such activation.
- L. BWC shall be deactivated and removed while in the ALCOTEST area when the ALCOTEST device is being used. Nothing herein shall be construed to preclude the use of a BWC to record the behavior of a person arrested for driving while intoxicated other than while the person is in the ALCOTEST area while the ALCOTEST device is being operated. If this provision requires deactivation of a BWC, the officer shall narrate the reasons for deactivation (e.g., "*...I am deactivating the BWC because the suspect is about to take a breath test*"), and the BWC shall be reactivated when safe and practicable to do so following the completion of the breath testing operation.
- M. When a BWC is activated, officers are encouraged to provide narration where practical and appropriate to augment the value of the recording and to provide clarity for the viewer.

1. If possible, narrate the circumstances at the start of the encounter audibly so that the recordings on the BWC will be easier to locate if review of the recording is necessary at a later time (e.g. an officer arriving upon the scene of a serious motor vehicle collision may narrate the recording by stating as the BWC is activated “...*Officer Doe coming upon the scene of a serious motor vehicle crash at the corner of Belmont Avenue and Haledon Avenue*”).
 2. Officers can also audibly narrate or mark significant events while recording and provide details of the marked segments.
- N. Non-law enforcement personnel shall not be allowed to review the recordings at the scene of contact. Officer complaints shall be handled in accordance with the policies set forth in this department’s general order on *Internal Affairs*. All other requests to view and/or obtain footage by the public shall be handled in accordance with section V of this general order.
- O. If an officer fails to activate the BWC, fails to record the entire event contact, or interrupts the recording, the officer shall document in the applicable incident report the reasons why a recording was not made, was interrupted, or was terminated.

IV. OFFICER AND SUPERVISORY RESPONSIBILITIES

- A. BWCs shall be utilized daily consistent with the requirements and restrictions in this general order. Officers shall not utilize the BWC of another without the expressed permission of the shift/unit commander. Shift/unit commanders shall document body worn camera assignments in the Vehicle Inspection Report (if applicable).
1. Officers are not required to activate their BWCs in police headquarters unless they are investigating a walk-in complaint, processing an arrestee, or other similar related functions.
 2. Detectives and officers shall wear BWCs when conducting arrests and while engaged in field duties (e.g., patrol coverage, search warrant service, raids, etc.) consistent with the requirements and restrictions in this general order.
 3. BWCs shall be worn and used on all extra duty assignments except for traffic direction/control extra duty jobs.
 4. Officers shall also wear and use a BWC consistent with this general order when:
 - a. On aggressive driving, DWI enforcement assignments, or other proactive enforcement measures.
 - b. When assigned to police headquarters and interacting with the public on a law enforcement matter.

- c. When assigned to or assisting any tactical operations.
 - d. When assigned to duties at demonstrations or potential civil disturbances.
5. Each BWC has a unique serial number and has been assigned an internal tracking identification number. Officers assigned BWCs SHALL use the equipment unless otherwise authorized / directed by a supervisor.
6. BWC equipment is the responsibility of the assigned officer and shall be used with reasonable care to ensure proper functioning.
7. When not in use, BWCs shall be stored in their respective docking stations.
8. The shift/unit commander shall assign BWCs at the beginning of an officer's tour of duty and officers shall return their assigned BWC to the shift/unit commander at the end of the tour.
 - a. Shift/unit commanders shall ensure that the device number assigned to an officer appears in the Vehicle Inspection Report (if applicable).
 - b. The shift/unit commander is responsible for ensuring that the BWC has been downloaded, that recordings are tagged appropriately as required, and that the BWCs are placed in their chargers prior to an officer checking off duty.
9. Officers shall inspect their BWC at the commencement and conclusion of each shift or tour of duty to ensure both video and audio recording readiness of the system. The inspection shall include but, is not limited to:
 - a. Ensuring that the battery is fully charged.
 - b. Ensuring that the BWC has sufficient memory to complete the tour of duty.
 - c. Ensuring the proper positioning of the BWC on his/her uniform or outermost garment facing forward or other approved area in accordance with training.
 - d. To the extent possible, officers are responsible for ensuring the BWC remains in a position to allow the recording of an encounter or incident.
10. When conducting the pre-shift inspection, the officer shall activate the BWC and verbally state the date, time, and that an inspection is being conducted.

- a. The results of the inspection, including any malfunctions or deficiencies, shall be reported via LawSoft.
 - 1) Include the BWC serial number, internal tracking number and a description of the malfunction.
 - b. Malfunctions shall be brought to the immediate attention of a supervisor.
 - c. If available, procure a replacement BWC.
 - d. Units that are not functioning properly will not be deployed until repaired.
11. Under no circumstances will an officer fail to surrender a BWC to the shift/unit commander at the end of a tour of duty. BWCs SHALL NOT be brought home, left in a vehicle, or turned over to another officer. The shift/unit commander shall ensure that all BWCs are turned in at the end of the tour of duty.
- B. No later than the end of each shift, officers shall download the contents of their assigned BWC. Each file downloaded shall contain information related to the date, BWC identifier, and assigned officer. The officer shall tag the recordings in accordance with training and this policy.
- C. Officers assigned a BWC are responsible for its use and maintenance during their tour of duty.
- D. Officers shall document the existence of BWC recordings (including the BWC assigned identifying number, on the first line of the report and/or CAD entry to signify that video/audio is available for the case.
1. BWC recordings are not a replacement for written reports. Under no circumstances shall officers simply refer to a BWC recording on an investigation or continuation report instead of detailing the facts and circumstances of their investigation/observations.
 2. Officers should represent statements in their reports as a summary of what is contained in the BWC recording.
- E. When video/audio footage is captured involving any event, officers will tag the recording with the case number and incident category.
1. If more than one officer captures a recording of any event, that recording shall also be downloaded and tagged and/or stored as evidence.
 2. Shift/unit commanders shall ensure that all recordings of such event are tagged properly and uniformly.

- F. To identify BWC recordings that may raise special privacy or safety issues, officers shall appropriately tag recordings that:
1. Captures a law enforcement incident, as defined in *New Jersey Attorney General Directive 2019-4* (see definitions).
 2. Captures the image of a victim of a criminal offense.
 3. Captures the image of a juvenile.
 4. Were made in a residential dwelling (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 may have been recorded.
 7. Captures the image of an undercover officer or confidential informant.
 8. Captures the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
- G. Shift/unit commanders are responsible for ensuring that officers are equipped with functioning BWCs at the beginning of each shift and use them in compliance with this policy.
1. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the shift/unit commander will ensure the tagging of the video/audio for indefinite retention.
 2. Subject to the viewing restrictions in section V of this general order and as part of the administrative review process in Guardian Tracking, supervisors shall review all BWC footage involving the below, unless restricted:
 - a. Use of force.
 - b. Motor vehicle pursuits.
 - c. Officer involved collisions on duty.
 - d. Officer involved injuries.

V. RECORDS RETENTION AND REVIEW

- A. Viewing of BWC events is strictly limited to sworn officers of this department. Viewing by any other person is prohibited unless authorized by the Chief of Police, his/her designee, or consistent with the provisions of this general order.
- B. BWC recordings shall not be divulged or used for any commercial or other non-law enforcement purpose.
- C. No law enforcement officer or civilian employee of this department shall access, view, copy, disseminate, or otherwise use a BWC recording except for an official purpose. Access to and use of a stored BWC recording is permitted only:
 - 1. When relevant to and in furtherance of a criminal investigation or prosecution.
 - 2. When relevant to and in furtherance of an internal affairs investigation.
 - 3. When relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of possible misconduct.
 - 4. To assist the officer whose BWC made the recording in preparing his/her **own** substantive police report, providing a statement, or submitting to an interview.
 - a. Except:
 - 1) The incident involves the use of force by the officer, when the officer knows or should know that the use of force resulted in significant or serious bodily injury or death; or
 - 2) The incident involved the discharge of a firearm or any use of deadly force by the officer (see this agency's general order on *Use of Force*); or
 - 3) The incident involved the death of a person while in law enforcement custody; or
 - 4) The incident involved the death of a person during an encounter with a law enforcement officer; or

- 5) An incident the officer knows or has been advised is or will be the subject of an internal affairs or civilian complaint relating to the officer's use of force, bias, or dishonesty.
- b. Whenever an officer reviews or receives an accounting of a BWC recording prior to the creation of any report, statement, or interview, the officer shall acknowledge that prior review or receipt of an accounting of the BWC recording either verbally or in writing within each such report, statement, or interview.
 - 1) The officer shall document each BWC recording that was reviewed and the date of the review.
 - 2) If the officer received an accounting of a BWC recording, the officer shall document the name of each person who provided an accounting of the BWC recording, the date of the accounting, and the specific BWC recording for which an accounting was provided.
- c. Officers shall only be permitted to review or receive an accounting of such BWC recordings once the investigating entity concludes that (a) the officer has in fact completed the specified incident memorialization and (b) the officer's review or receipt of an accounting of the BWC recording will not otherwise interfere with the ongoing investigation.
 - 1) In cases subject to *Attorney General Directive 2019-4*, the independent investigator is the investigating entity.
 - 2) In all other cases, the Chief of Police or his/her designee is the investigating entity.
 - 3) The appropriate investigating entity shall document the authorization to review or receive an accounting of a BWC of a specified incident.
5. When relevant to a supervisor's review of an officer's actions as part of the supervisory process.
6. To show to a civilian who intends to file a complaint against an officer to demonstrate what occurred during the encounter so that the person can make an informed decision whether to file the complaint.
7. To comply with the state's discovery obligations in prosecutions pursuant to the Rules of Court:
 - a. Such request must be specific and on the proper instrument, i.e., subpoena, discovery request, etc.

- b. Only those portions of the recording pertinent to the request shall be forwarded.
 - c. This agency reserves the right to redact video/audio as applicable by law.
 - 1) NOTE: when providing discovery in a domestic violence matter, ensure that the recording is reviewed prior to release to verify that there is no confidential information that should be redacted.
 - 2) This confidential information includes, but is not limited to, the location where the victim is being sheltered or contact phone numbers for those assisting the victim, etc.
 - d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing ordinance.
 - e. Advise the attending assistant prosecutor at the Passaic County Prosecutor's Office when releasing any BWC recordings for discovery in a criminal matter under its jurisdiction. Ensure that the PCPO receives a copy.
 - f. Advise the municipal prosecutor when releasing any BWC recordings in matters under the jurisdiction of the municipal court. Ensure that the municipal prosecutor receives a copy.
 - g. Contact the borough attorney before releasing any BWC recordings in civil matters when this borough, police department, or any officer/agent of the borough is the subject of a tort/civil claim. If authorized for release under discovery, ensure that the borough attorney/solicitor receives a copy.
8. To comply with any other legal obligation to turn over the recording to a person or entity.
9. Solely and exclusively for internal 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:
- a. Note: consent is not required from Haledon police officers appearing in the recording.
 - b. Recordings retained beyond 180 days solely and exclusively for training purposes shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.

10. To show or disseminate the recording to a civilian or a non-law enforcement entity or to disseminate it to the public, where the Passaic County Prosecutor or his/her designee, or Director of the Division of Criminal Justice or his/her designee, determines that disclosure to that 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.
 11. To enhance officer and public safety by providing intelligence information in preparation for a raid/warrant execution (e.g., by providing information about the layout of a premises to be searched), when such use is approved by the Passaic County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee.
 12. To conduct an audit to ensure compliance with this general order.
 13. Any other specified official purpose where the Passaic County Prosecutor or his/her designee, or the Director of the Division of Criminal Justice or his/her designee, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.
- D. Officers/employees shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. Officers/employees shall not instruct another to alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. If an officer, employee, or agent fails to adhere to the recording or retention requirements contained in this policy or N.J.S.A. 40A:14-118.5 et seq., or intentionally interferes with a body worn camera's ability to accurately capture audio or video recordings.
1. The officer, employee, or agent shall be subject to appropriate disciplinary action; and
 2. There shall be a rebuttable presumption that exculpatory evidence was destroyed or not captured in favor of a criminal defendant who reasonably asserts that exculpatory evidence was destroyed or not captured; and
 3. There shall be a rebuttable presumption that evidence supporting a plaintiff's claim was destroyed or not captured in favor of a civil plaintiff suing the government, a law enforcement agency, or a law enforcement officer for damages based on police misconduct if the plaintiff reasonably asserts that evidence supporting the plaintiff's claim was destroyed or not captured.

4. Any recordings from a BWC recorded in contravention of this general order or any other applicable law shall be immediately brought to the attention of the command staff and immediately destroyed by the command staff following consultation and approval by the Passaic County Prosecutor or Director of the Office of Public Integrity and Accountability. Such recordings 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.
- E. Recordings are considered investigatory records of this police department and shall be maintained on a secure server and disposed of in accordance with law and New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.
1. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes, recordings shall be retained for a period of at least 180 days.
 2. Recordings being stored for criminal, civil, or administrative purposes must be retained until the conclusion of the case plus any retention period.
 3. Recordings of an arrest that did not result in an ongoing prosecution, or records the use of police force, shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer or the employing law enforcement agency.
 4. BWC recordings shall automatically be retained for not less than three years if it captures images involving an encounter about which a complaint has been registered by a subject of the BWC recording.
 5. BWC recordings shall be retained for not less than three years if requested by:
 - a. The officer whose BWC made the recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
 - b. The officer who is a subject of the BWC recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value; or
 - c. Any immediate supervisor of an officer whose BWC made the recording or who is a subject of the BWC recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value; or
 - d. Any officer, if the BWC recording is being retained solely and exclusively for police training purposes; or

- e. Any member of the public who is a subject of the BWC recording; or
 - f. Any parent or legal guardian of a minor who is a subject of the BWC recording; or
 - g. A deceased subject's next of kin or legally authorized designee.
 - h. NOTE: the member of the public, parent, or legal guardian, or next of kin or their designee shall be permitted to review the body worn camera recording in accordance with N.J.S.A. 47:1A-1 et seq. to determine whether to request a three-year retention period.
6. When a BWC records an incident that is the subject of an administrative internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation, any resulting administrative action and required retention.
- F. Open public record requests. Only the following BWC recordings shall be exempt from public inspection:
- 1. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.4 of this general order if the subject of the BWC recording making the complaint requests the BWC recording not be made available to the public.
 - 2. BWC recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection V.E.5 of this general order.
 - 3. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.5(a)(b)(c)(d) of this general order.
 - 4. BWC recordings subject to a minimum three-year retention period solely and exclusively pursuant to subsection V.E.5(e)(f)(g) if an officer, parent, or legal guardian, or next of kin or designee requests the BWC recording not be made available to the public.
- G. The Chief of Police or designee shall notify the Passaic County Prosecutor's Office within one business day upon receiving any subpoena, court order or OPRA request for a BWC recording before complying with it. Such notice shall clearly state the deadline by which a response must be made.

- H. A BWC recording of an event or encounter that involves an investigation of a criminal offense or tagged in accordance with subsection IV.F shall not be shared with or provided or shown to any person, entity, or government agency, other than a law enforcement agency or officer or authorized civilian employee of such agency, unless such disclosure is required by the Rules of Court governing discovery in prosecutions, or by a court order, or unless the Chief of Police in consultation with the Passaic County Prosecutor or his/her designee determines that the person's/entity's/non-law enforcement agency's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.
1. All BWC recordings capturing the image of an undercover officer or confidential informant shall not be accessed or viewed without the permission of the Chief of Police or designee and shall not be copied, disseminated, or otherwise used without first obtaining the permission of the Passaic County Prosecutor or his/her designee.
 2. If disclosure of a BWC recording as part of the state's discovery obligations in a prosecution might present a danger to any officer or civilian (e.g., reveal an undercover officer, confidential informant, surveillance site, etc.), or might reveal confidential tactical information the disclosure of which might jeopardize future operations or officer safety (e.g., verbal codes or hand signals used to communicate information or instructions, techniques for interior movements and clearing rooms during execution of warrant, techniques for convincing persons to open doors during warrant execution, etc.), the Passaic County Prosecutor or his/her designee shall, in the exercise of sound prosecutorial discretion, take such steps as are appropriate and authorized by law and/or court rule to protect the information from disclosure, such as by seeking a protective court order.
 3. Only sergeants or a higher rank are authorized to access, view, copy, disseminate, and otherwise use BWC recordings tagged pursuant to section IV.F, except that BWC recordings capturing a law enforcement incident (see subsection IV.F.1) subject to *Attorney General Law Enforcement Directive 2019-4* cannot be reviewed by anyone without the expressed permission of the independent investigator supervising the investigation.
 4. The independent investigator overseeing a law enforcement use of force investigation pursuant to *Attorney General Law Enforcement Directive 2019-4*, or his/her designee, 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.

- I. The Internal Affairs Commander or his/her designee shall maintain a record of all BWC recordings that are accessed, viewed, copied, disseminated, or deleted. This record may be maintained automatically via body worn camera software, i.e., audit log. The Chief of Police shall cause a periodic audit of these records to ensure compliance with this general order. Minimally, the record keeping system shall document the following information:
 1. The date and time of access.
 2. The specific recording(s) that was/were accessed.
 3. The officer or civilian employee who accessed the stored recording.
 4. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.
- J. If an original recording is required for use in court or by another law enforcement agency, that recording shall not be released without the prior approval of the Chief of Police or designee and only if a duplicate copy is retained by the department. Duplicate copies shall be maintained as evidence in accordance with this department's property and evidence guidelines.
- K. Officers and civilian employees shall not reproduce or store any recordings to any device or storage medium. This shall include, but not limited to, cell phones, electronic notebooks, etc.
- L. Recorded video of unusual or significant incidents, deemed to be beneficial for departmental training, may be utilized for departmental in-service training purposes only with the approval of the Chief of Police or his/her designee.

OTHER PROVISIONS:

All personnel are responsible for adhering to the requirements of this written directive until rescinded or amended by written order of the Chief of Police or designee. Employees have an ongoing and continuous responsibility to seek guidance and verify their understanding of this and all directives including orders, policies, procedures, and rules. This directive shall take effect 7/17/2023 and remain in force and effect unless and until it is repealed, amended, or superseded by Order of the Chief of Police or designee. All directives not expressly altered by this order remain in full force and effect.

The provisions of this directive shall be severable. If any phrase, clause, sentence, or provision of this directive is declared by a court of competent jurisdiction to be invalid, the remainder of the directive shall not be affected.

Non-enforceability by third parties. This directive is issued pursuant to the Chief of Police's authority to ensure the uniform and efficient enforcement of the laws and administration of criminal justice by department members. This directive imposes limitations that may be more restrictive than the limitations imposed under the United States and New Jersey Constitutions, and federal and state statutes and regulations. Nothing in this directive shall be construed in any way to create any substantive right that may be enforced by any third party.