


<b>READINGTON TOWNSHIP POLICE DEPARTMENT</b>					
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<b>SUBJECT: Body Worn Cameras</b>					
<b>EFFECTIVE DATE:</b> 10/01/18	<b>ACCREDITATION STANDARDS:</b>	<b>REVISION DATE</b>	<b>PAGE #</b>		
<b>BY THE ORDER OF:</b> Joseph J. Greco Chief of Police					
<b>SUPERSEDES ORDER #:</b>					

**I. DEFINITIONS**

- A. Activate—to start or commence the recording mode/function of a body-worn camera.
- B. Body-Worn Camera (B.W.C.)—a device worn by a law enforcement officer that makes an electronic audio/video recording of activities that take place during a law enforcement action or encounter. The term does not include a mobile video recording device that is mounted inside of 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 N.J.R.C. 3:17 (recording of custodial interrogations).
- C. Enhanced Mechanical Force—an intermediate force option between mechanical force and deadly force, requiring a greater level of justification for its use than that pertaining to physical or mechanical force, but a lower level of justification for its use than that required for deadly force. (See ‘*Report to the Attorney General on Less-Lethal Ammunition*,’ February 13, 2008). Enhanced mechanical force involves the use of a “less-lethal” device or less-lethal ammunition, such as a conducted energy device, bean-bag ammunition, or rubber bullets, when it is reasonably necessary to temporarily incapacitate a physically combative person in order to prevent that person from causing death or serious bodily injury to him/herself, the officer, or another person, or to prevent the escape of a violent offender. Whereas deadly force may only be used when an officer reasonably believes that such force is *immediately* necessary to protect an officer or another person from *imminent* danger of death or serious bodily injury, the use of enhanced mechanical force does not

require that the threat of death or serious bodily injury be immediate or imminent. Further, whereas deadly force may not be used against a person whose conduct is only injurious to themselves, enhanced mechanical force may be used to prevent a person from killing or seriously injuring themselves. (See the New Jersey Attorney General’s ‘*Revised Supplemental Policy on Conducted Energy Devices*’, October 7, 2010).

- D. Investigation of a criminal offense—any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, including but not limited to an officer’s response to a report of a possible criminal offense. An investigative detention based upon 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.
- E. Mobile Video Recorder (M.V.R.)—audio/video recording equipment designed to be mounted in a patrol vehicle.
- F. “Tagging”—as used in this policy, “tagging” is the electronic marking of a recorded law enforcement-related incident so as to indicate that the particular incident is of significant importance that it shall be retrieved, preserved, and evaluated; most likely due to safety or privacy issues. The body-worn camera and its related equipment has the capability to electronically categorize or “tag” such incidents.
- G. Youth Facility—a location where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, etc.

## **II. PROCEDURE**

### **A. General Principles**

1. The Readington Township Police Department will have for use, Body Worn Cameras; a device worn by a law enforcement officer that makes an electronic audio and visual recording of activities that take place during a law enforcement action or encounter. All officers should be familiar with the proper use and operating procedures for the Body Worn Camera. Officers shall direct any questions regarding the use of the Body Worn Camera to their supervisor.
2. Officers may use a Body Worn Camera when their assigned vehicle’s mobile video recording device is out of service and it is not possible or convenient for the officer to switch to a vehicle with a working mobile video recording device.
3. The Readington Township Police Department will supply Canine officers with a Body Worn Camera that they can access when off duty and responding to a call-out. Canine officers shall use the Body Worn Camera when responding to a call-out and operating a vehicle without a mobile video recording device.

### III. TURNING ON AND ACTIVATING BODY-WORN CAMERAS

- A. For the purpose of recording incidents, investigations, and police-civilian encounters, a body-worn camera shall be activated while an officer is in the performance of official police duties.
- B. More specifically, the body-worn camera shall be activated during the following activities/events, which shall be recorded in their entirety:
  - 1. during any police response involving emergency warning lights and/or sirens. Indeed, every effort shall be made to activate the body-worn camera before the emergency lights and siren are activated when in an emergency response;
  - 2. upon arrival at and during all calls for service or other police-related incidents;
  - 3. during all officer-initiated vehicle or pedestrian stops, checkpoints, roadblocks, sobriety testing, suspicious persons, suspicious activity, or suspicious vehicle investigations;
  - 4. when conducting a protective frisk for weapons,
  - 5. when administering Miranda warnings in the field,
  - 6. when conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with N.J.R.C. 3:17 (electronic recordation of station house interrogations);
  - 7. when taking an individual into custody for any reason (*e.g.*, arrest, civil commitment, etc.),
  - 8. when transporting an arrestee to a police station, jail, or other place of confinement,
  - 9. when transporting a subject (an arrestee or otherwise) to a hospital or other medical or mental health facility;
  - 10. when interviewing a witness during the course of investigating a criminal offense;
  - 11. when conducting motorist aid or community welfare checks;
  - 12. at the scene of any incident in circumstances where the officer is engaged with, or in the presence of, civilians and the officer or any other officer at the scene may be required to employ or is employing constructive authority or a degree of force;
  - 13. during any kind of search (consensual or otherwise);
  - 14. when an officer needs to be called in to police headquarters due to a person becoming confrontational, argumentative, accusatory, or violent at headquarters;

15. during all mutual aid calls;
  16. when an officer reasonably believes that another officer at a scene at which he or she is present has undertaken or is engaged in any of the foregoing police actions/activities.
- C. The Readington Township Police Department shall not purchase or otherwise utilize body-worn cameras that produce radio frequency interference while activated or while in stand-by mode and, therefore, de-activation during chemical breath testing is not required.
- D. Special Activation Rules Governing Deadly-Force Incidents and Other Exigent Circumstances Where Officers Are in Danger
1. Notwithstanding any other provision of this policy, when an officer responds to the scene of an incident knowing or reasonably believing that police deadly force has been or is being employed, or when an officer responds to a scene where another officer has requested emergency assistance (*e.g.*, an officer in distress, shots fired, etc.), the responding officer shall activate his or her body-worn camera before arriving at the scene.
  2. An officer already at the scene of a police deadly-force event or the on-scene investigation of that event shall not de-activate their body-worn camera unless instructed to do so by the Prosecutor, an Assistant Prosecutor, or Assistant or Deputy Attorney General or designee supervising the investigation pursuant to the New Jersey Attorney General's Law Enforcement Directive No. 2006-5. Such instruction may be given telephonically.
- E. Truthful Response to Specific Inquiries
1. As an initial matter, as required by the New Jersey Attorney General's Directive 2015-01, law enforcement agencies that acquire body-worn cameras shall post a statement on their website or on the municipality's website notifying the public about the acquisition and use of body-worn cameras.
  2. Such posting shall include a picture of a body-worn camera and how it will be worn by officers.
  3. Thereafter, whenever activation of a body-worn camera is required: (1) during an encounter inside a civilian's residence, or (2) with a person reasonably believed to be a crime victim, the officer shall verbally notify the person that the BWC has been activated.
    - a. Verbal notification is not necessary if it is unsafe or not feasible to do so, but the reasons for the failure to notify should be documented on the BWC recording or in a report.
    - b. Lack of verbal notification in these circumstances shall not affect the admissibility of any statement or evidence.

4. Further, if a civilian inquires whether the officer is equipped with a body-worn camera or asks whether the device is activated, the officer shall answer truthfully unless the Prosecutor or his or her designee or the Director of the Division of Criminal Justice or his or her designee has expressly authorized the officer to make a covert electronic recording.
5. This mandate does not apply to officers operating in an undercover capacity or while conducting/participating in a station-house custodial interrogation electronically recorded in accordance with N.J.R.C. 3:17.

#### **IV. RESTRICTIONS ON THE USE OR ACTIVATION OF BODY-WORN CAMERAS**

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

1. Notwithstanding sections III (B) of this policy, and except as otherwise required by section III (D), unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that he or she will be required to use constructive authority or force, officers shall not activate a body-worn camera, or they shall de-activate a body-worn camera that has already been activated, while:
  - a. in a school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the body-worn camera;
  - b. in a patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances in which patients would be in view of the body-worn camera; or
  - c. in a place of worship under circumstances in which worshipers would be in view of the body-worn camera.
2. If an officer is required to de-activate the body-worn camera, the officer shall when practical narrate the reason for de-activation (*e.g.*, “I am entering a school building where children are present”).
3. However, the body-worn camera shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances requiring de-activation no longer exist.
4. In the event a body-worn camera captures the image of a patient in a substance abuse treatment facility, the Prosecutor or his or her designee shall be notified to ensure compliance with all applicable federal laws and regulations providing for the confidentiality of substance abuse treatment information.
5. In addition:

- a. The recording shall not be accessed without the permission of the Prosecutor or his or her designee.
- b. Further, destruction of the recording would be inappropriate until it has been determined that it has not captured exculpatory information that must be provided to a defendant in discovery.

B. Undercover Officers and Confidential Informants

1. Officers shall not activate their body-worn camera, or they shall de-activate their body-worn camera if it has already been activated, if the officer knows or reasonably believes that the body-worn camera would capture the image of an undercover officer or confidential informant or would otherwise pose a risk to the safety of an undercover officer or confidential informant.
  - a. This general rule prohibiting the recording of an undercover officer or confidential informant shall be adhered to 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, use of police force, officer in distress, etc.) require that the encounter/incident be recorded.
  - b. In the event of a planned arrest/search warrant execution where it is expected that an undercover officer or confidential informant would be present (*e.g.*, a raid where the undercover operative will be arrested to preserve his or her cover), the Prosecutor or his or her designee may provide specific instruction to any participating officers wearing body-worn cameras as to whether to activate their cameras.
  - c. Officers shall notify their supervisors any time that the image of an undercover officer or confidential informant was recorded for any reason.
2. The body-worn camera shall be activated/re-activated as soon as it is safe and practicable to do so if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.

C. Special Precautions When a Body-Worn Camera Recording May Reveal Tactical Operations Information

1. In the event a body-worn camera worn during the execution of tactical operations (*e.g.* “special” or “SWAT” operations, execution of arrest and/or search warrant, etc.) records confidential tactical information (*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 disclosure of which may jeopardize future operations or officer safety — the recording shall be “tagged” pursuant to the procedures outlined in this general order.
2. See N.J.S.A. 47:1A-1.1 (exempting from disclosure under the Open Public Records Act “security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons”); see also N.J.A.C. 13:1E-3.2(2)

(exempting records that may reveal “surveillance, security, tactical, investigative, or operational techniques”).

D. Special Restrictions on Recording in Courtrooms

An officer shall not activate a body-worn camera 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 such activation is expressly authorized by the judge.

E. Other Restrictions

1. A body-worn camera shall not be activated while the officer is on break or otherwise is not actively performing law enforcement functions (i.e. while eating meals, while in a restroom, etc.).
2. A body-worn camera shall not be activated or used by an officer for personal purposes or when engaged in police union business.
3. A body-worn camera shall not be used to record counseling conversations, guidance sessions, personnel evaluations, or any supervisory interaction.

**V. DE-ACTIVATION AND RE-ACTIVATION**

A. As general rule, the body-worn camera shall not be deactivated until the officer completes his or her assignment at the location or as outlined in this general order.

B. However, the body-worn camera may be de-activated under certain circumstances.

C. In all circumstances in which de-activation is authorized, the officer shall:

1. request and be granted permission for de-activation from the patrol supervisor,
2. make radio notification to Hunterdon County Communications,
3. document the circumstances of the deactivation in any Investigation or incident report concerning the incident under investigation.
4. See the section involving “tagging” body-worn camera recordings.

D. De-Activation Upon Instruction From Prosecutor

1. An officer may de-activate a body-worn camera 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.

2. When an officer de-activates a body-worn camera pursuant to this section, the officer shall articulate the circumstances of the de-activation indicating the Assistant Prosecutor or Assistant or Deputy Attorney General who authorized the de-activation (*e.g.*, “I am now turning off my body-worn camera as per the instruction of Assistant Prosecutor (name)”).

E. De-Activation Upon Request From Those Seeking Emergency Medical Services

1. An officer may de-activate a body-worn camera when a person is seeking emergency medical services for himself or herself or for another and requests that the body-worn camera be de-activated.
2. Conversation between officer and civilian about the request for de-activation shall be recorded.
3. However, this provision does not apply to arrestees.
4. When such request is honored, the officer shall follow all de-activation procedures outlined herein.
5. If an officer declines such a request, the officer’s reason shall be documented and reported to a supervisor as soon as it is safe to do so.
6. Further, the officer shall immediately inform the civilian of the decision to decline a de-activation request.

F. Re-activation When Reason for De-Activation No Longer Exists

As stated, in any instance where a body-worn camera was de-activated, the device shall be re-activated as soon as it is safe and practicable to do so if and when the circumstances justifying de-activation no longer exist (*e.g.*, the interview of the person requesting de-activation is completed), and the officer would otherwise be required to activate the body-worn camera (*e.g.*, where the officer proceeds to other investigative activities that are required to be recorded).

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

If the circumstances develop so that an officer is authorized to use force, the body-worn camera shall be re-activated as soon as it is safe and practicable to do so.

**VI. “TAGGING”**

A. Tagging of Recordings that Raise Special Privacy or Safety Issues

1. To identify body-worn camera recordings that may raise special privacy or safety issues, officers shall “tag” recordings that:
  - a. capture the image of a victim of a criminal offense;



- b. capture the image of a child;
- c. were 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;
- d. capture a conversation with a person whose request to de-activate the body-worn camera was declined;
- e. capture a special operations event or execution of an arrest and/or search warrant where confidential tactical information (*e.g.*, verbal codes and hand signals used to give direction to officers, techniques for interior movements and clearing rooms during execution of a warrant, techniques for convincing persons to open doors during warrant execution, etc.) may have been recorded;
- f. capture the image of an undercover officer or confidential informant; or
- g. capture the screen of a police computer monitor such as the patrol vehicle mobile data terminal computer that is displaying confidential personal or law enforcement sensitive information.
  - (i) Recall, however, that the mobile data terminal can be positioned in such a way as to: 1) prevent unauthorized individuals the ability to view it; and 2) to prevent body-worn camera recordings of the screen.
  - (ii) Further, officers shall exercise care when recording in view of larger computer monitors at police headquarters.

2. Procedures for “Tagging”

- a. Each body-worn camera owned by the Readington Township Police Department shall be equipped with the ability to categorize recordings.
- b. In addition to other categories, the body-worn cameras shall have a “BWC Flag” category.
- c. When an officer records an event requiring “tagging” as detailed above, he or she shall categorize the recording as “BWC Flag.”

3. Approval to Access “Tagged” Recordings

- a. A body-worn camera recording “tagged” pursuant to this section shall not be accessed, viewed, copied, disseminated, or otherwise used without first obtaining the permission of the Hunterdon County Prosecutor or his or her designee, or the Director of the Division of Criminal Justice or his or her designee.

- b. Except for recordings “tagged” pursuant this policy, and subject to the requirements requiring notice to Hunterdon County Prosecutor or Director of the Division of Criminal Justice prior to complying with a subpoena, court order, or request for records under the Open Public Records Act or the common law right to know, the Hunterdon County Prosecutor or Director may authorize the Chief Executive Officer of the Readington Township Police Department, and one or more supervisors or duty positions identified by the Chief Executive Officer to grant permission pursuant to this section, to access, view, copy, disseminate, or otherwise use “tagged” body-worn camera recordings.

B. Access to, Use, and Dissemination of Body-Worn Camera Recordings

1. No law enforcement officer or civilian employee shall access, view, copy, disseminate, or otherwise use a body-worn camera recording except for an official purpose as specified in this section.
2. Access to and use of a stored body-worn camera recording is permitted only when:
  - a. relevant to and in furtherance of a criminal investigation or prosecution;
  - b. relevant to and in furtherance of an internal affairs investigation;
  - c. relevant to and in furtherance of a management review process to identify circumstances indicating possible police misconduct or to determine the existence of a pattern or practice of possible misconduct;
  - d. to assist the officer whose body-worn camera made the recording in preparing his or her own police report, subject to the restrictions established in this general order;
  - e. relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency;
  - f. to show to a civilian who intends to file a complaint against an officer to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint;
  - g. to comply with New Jersey’s discovery obligations in prosecutions pursuant to the New Jersey Rules of Court;
  - h. to comply with any other legal obligation to turn over the recording to a person or entity; to show or disseminate the recording to a civilian or a non-law enforcement entity, or to disseminate it to the public when the County Prosecutor or designee or Director of the Division of Criminal Justice or designee determines that disclosure to that particular person/entity or the public is warranted because the person's/entity's/public's need for access outweighs the law enforcement interest in maintaining confidentiality;
  - i. 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;

- j. to conduct an audit to ensure compliance with AG Directive 2015-1 and this general order;
- k. 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 premises to be searched), when such use is approved by the Prosecutor or designee, or the Director of the Division of Criminal Justice or designee; or
- l. any other specified official purpose where the County Prosecutor or designee, or Director of the Division of Criminal Justice or designee, finds in writing that good and sufficient cause exists to authorize access to a particular body-worn camera recording.

3. Authorized Access of Body-Worn Camera Recordings Related to Deadly Force Investigations:

No employee of the Readington Township Police Department, including the principle officer of a Deadly Force Investigation, shall view any body-worn camera recording related to the Deadly Force Investigation without the approval of the prosecutor, assistant prosecutor in charge of the investigation, or assistant or deputy attorney general or their designee.

4. Documenting Access to Stored Body-Worn Camera Recordings:

- a. The Readington Township Police Department shall maintain a ledger that documents access to stored body-worn camera recordings. The ledger shall document the following information:
  - (i) the date and time of access;
  - (ii) the specific body-worn camera recording(s) that was/were accessed;
  - (iii) the officer or civilian employee who accessed the stored body-worn camera recording;
  - (iv) the person who approved access, where applicable; and
  - (v) the reason(s) for access, specifying the purpose or purposes for access authorized

C. Officer Responsibilities

1. Officers shall be provided training in the use, maintenance, and handling of the body-worn camera. An officer's failure to care for or operate a body-worn camera in accordance with this training may result in disciplinary action.
2. Intentional damage to or loss of a body-worn shall result in disciplinary action.
3. Further, if damage to or loss of a body-worn camera is determined to be the result of recklessness, the responsible officer may be disciplined. However, an officer will not face disciplinary action for accidental or unavoidable damage or loss.
4. Officers shall ensure that the equipment is operating in a way which will allow for the recording of enforcement actions. No uniform pieces or equipment, including ties, shirts, and jackets, shall be worn in a manner that will interfere with video and/or audio recording of incidents.
5. All videos from officers associated with an incident and/or investigation shall be retained in accordance with records retention laws and no longer than useful for purpose of training or for use in an investigation or prosecution.
6. If any recordings are evidentiary in nature, tagged, and/or in the officer's opinion feels pertinent to any investigation(s), the officer shall notify the System Coordinator of the recording to ensure its retention.
7. Officers shall document in any report if the body-worn camera recorded the event.
8. Officers shall complete the agency access ledger whenever body-worn camera recordings are accessed.

D. Data Security and Access Control

1. All body-worn camera recordings shall be maintained on a secure computer.
2. All body-worn camera data uploads shall be performed using docking stations.
3. The Chief of Police, Division Commanders, supervisors, and the System Coordinator shall have access to view all body-worn camera recordings.
4. Officers shall request DVD copies of videos captured on their body-worn cameras that they believe contain evidence that is likely to aid in a criminal prosecution or in a civil action brought against the agency.
  - a. Requests for DVDs shall be made through the System Coordinator.
  - b. The DVDs shall be entered into the secure investigation file system and logged into evidence.
5. Authorized system administrators shall have access to the body-worn camera recordings for the purpose of system maintenance.

6. Videos may be used for training with the approval of the Chief of Police.
7. No video being held as evidence in a pending criminal matter (as opposed to one that has already been adjudicated) may be used as training.
8. With permission of their supervisor, officers may request to view videos of other officers directly involved with their investigation.
9. Officers shall not delete and/or edit any body-worn camera recordings. Intentional attempts to do so shall be investigated in accordance with the Internal Affairs general order.
10. No recordings taken from body-worn cameras shall be distributed or displayed to a member of the public without the authorization of the Chief Executive Officer or their designee.
11. Review of videos with a member of the public for internal affairs purposes requires the authorization of the Chief Executive Officer or their designee.

E. Release of body-worn camera video/audio recordings

1. Upon receiving a subpoena, court order, or request pursuant to the Open Public Records Act (OPRA), or the common law right to know, for a body-worn camera recording, the Readington Township Police Department shall, within one (1) business day of receipt of such subpoena, court order, or request, and before complying with it, provide notice to the Hunterdon County Prosecutor's Office Bureau of Professional Standards.
2. Such notice shall state clearly the deadline by which a response must be made.
3. In the case of release for discovery purposes, the requesting officer shall make the request to the System Coordinator. The System Coordinator shall fill the request in a timely manner.
4. For "tagged" recordings, when providing the recordings for discovery purposes, the video DVD shall be clearly labeled "TAGGED RECORDING."

F. Disclosure of Body-Worn Camera Recordings Pertaining to Criminal Investigations

1. Except as otherwise provided herein, a body-worn camera recording of an event or encounter that involves an investigation of a criminal offense shall not be shared with or provided to or shown to any person, entity, or government agency, other than a law enforcement agency or officer or authorized civilian employee of such agency.
2. Exceptions to this rule include when:

- a. such disclosure is required by the Rules of Court governing discovery in prosecutions, or
- b. by a court order, or
- c. unless the law enforcement agency in consultation with the County Prosecutor or designee, or the Director of the Division of Criminal Justice or designee, determines that the person's/entity's/non-law enforcement agency's/public's need for access outweighs the law enforcement interest in maintaining confidentiality.

G. Retention

- 1. All videos shall be retained for at least ninety (90) days.
- 2. Videos that are evidentiary in nature and/or pertinent to any investigation(s) shall be retained in accordance with all rules and laws related to the retention of evidence.
- 3. Videos that are of training value only shall be retained no longer than the useful purpose of training is needed.
- 4. After the retention period has expired, the System Coordinator shall complete a ledger documenting the specific recording and reason for destruction.