



# Public Feedback on the CCPD's Body Worn Camera Policy:

## Report on the Comments Received and the CCPD's Response

Prepared by the  
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Department and the  
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## EXECUTIVE SUMMARY

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The Camden County Police Department (CCPD) currently is in the process of implementing its body-worn camera (BWC) program. To ensure that the CCPD's body-worn camera policy reflects the interests and concerns of the communities it serves, the CCPD asked the Policing Project at New York University School of Law to assist it in seeking public feedback on the policy.

On February 1, 2016, the CCPD issued a draft policy—Special Order Number 2016-002P—to govern the use of body-worn cameras during an initial pilot phase. Between February 1 and March 15, the Policing Project—working closely with the CCPD and the Mayor's office—engaged in a comprehensive feedback process. The Policing Project then prepared a report for the CCPD summarizing all of the feedback that it had received.

The CCPD is grateful to all of the Camden residents and organizations that participated in the feedback process and shared their views and recommendations on the proposed policy. After reviewing all of the comments, the CCPD has decided to make a number of changes to its draft policy to incorporate the various concerns that individuals expressed.

The CCPD has made the following changes to its policy:

- Added accountability as one of the goals of the body-worn camera program;
- Revised the policy to require officers to record all calls for service, not only those involving a report of a crime;
- Clarified that officers must activate their cameras whenever approaching a member of the public for a law-enforcement-related purpose;
- Revised the policy to narrow the circumstances under which officers are required to record strikes, demonstrations, and other protected First Amendment activities;
- Revised the policy to encourage officers always to notify individuals when a camera is recording;
- Added a provision requiring the CCPD to retain a body-worn camera recording upon a written request from the subject of the recording; and
- Clarified that potential complainants will be permitted to view body-worn camera footage of the incident in question, except in circumstances where making the footage available would interfere with an ongoing criminal investigation or is otherwise prohibited under the New Jersey Attorney General's Guidelines.

This Final Report—prepared jointly by the Policing Project and the CCPD—includes a summary of the feedback received as well as the CCPD's response, explaining either how each set of comments is reflected in the final policy or why the CCPD thought it advisable to proceed otherwise. The new body-worn camera policy is attached as Appendix A.

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## THE PUBLIC COMMENT PROCESS

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In order to ensure that the CCPD received input from a cross-section of Camden residents, the CCPD asked the Policing Project to design a comprehensive process with multiple opportunities for participation. Here we describe the process and the volume of input we received.

- *Notice and Comment:* Together, the CCPD and the Policing Project made the BWC policy available on the CCPD website and created an opportunity for interested individuals and organizations to submit written comments. We received three sets of detailed comments—from the American Civil Liberties Union of New Jersey (“ACLU”), the NAACP-sponsored Social Justice Law Project of New Jersey (“Social Justice Law Project”), and from Mr. Carl L. Davis, Sr., a football coach for the Staley Park Panthers.
- *Online Survey:* The Policing Project created an online survey to give residents an opportunity to weigh in without reading the policy in full. The survey asked residents a series of questions designed to get their views on key questions of public concern, including when cameras are turned on or off, when officers must notify residents that a camera is recording, and when footage ought to be made available to the public. After each question, the survey included space for residents to explain their answers or provide additional comments. We received a total of 181 responses to the online survey. An additional 39 people filled out a hard-copy version of the survey at one of the two community meetings, for a total of 220 responses. (It is important to note that this was an online survey and not a random sample of Camden residents. The goal of the survey was not to get a statistically accurate understanding of where residents stand on the various issues, but rather to give interested residents an opportunity to share their views.)
- *Public Forums:* The Policing Project—working in conjunction with Mayor Redd’s office and the CCPD—also facilitated two community forums to provide an opportunity for direct engagement between the CCPD and its community. Those forums were held on March 10 at the Kroc Center, and on March 11 at Malandra Hall. The Mayor and the Chief of Police attended both sessions. Approximately 70 residents and community leaders attended the two forums, including several members of the clergy, two city council members, and representatives from a local youth organization.
- *Officer Focus Groups:* Policing Project staff also held two separate meetings with groups of three CCPD officers who had been using the BWCs during an initial pilot phase, in order to get their input on the policy and to learn from their experience with the cameras thus far.

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## COMMENTS RECEIVED AND THE CCPD'S RESPONSE

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The CCPD received comments on all aspects of its body-worn camera policy, including activation, notification, retention, and public access. The CCPD has thoroughly considered all of the feedback that it has received both from the public and from officers who had been using the cameras, and has made a number of changes to its policy to address the various concerns.

This section of the Report proceeds topic-by-topic, summarizing the draft policy, the feedback received, and the CCPD's response.

### General Support for Body-Worn Cameras

#### Feedback and Recommendations:

Both at the forums and in the online surveys, an overwhelming majority of community members expressed strong support for the CCPD's body-worn camera program. They offered various reasons for their support. In their view, body-worn cameras: hold civilians and officers accountable to act responsibly and lawfully, increase officer and civilian safety, foster a sense of trust and transparency between citizens and the CCPD, reduce the number of false allegations of police assaults, and encourage prompt resolution of citizen complaints and internal investigations.

The officers who spoke with Policing Project staff members likewise expressed their support for the camera program, noting that since they had started using the cameras, they found that their interactions with residents had generally become less adversarial. They also liked that the cameras hold accountable both officers and the public alike.

#### CCPD Response:

The CCPD appreciates the public's support for the department's body-worn camera program and shares the hope that body-worn cameras will serve to support the public's confidence in the CCPD and further strengthen police-community relations.

### Purpose Statement

#### Draft Policy:

The draft purpose and policy statements list several policy goals and potential uses of body-worn cameras, including enhanced officer safety, training, evidence-gathering, and dispute resolution.

#### Feedback and Recommendations:

*Add Accountability as a Policy Goal:* The ACLU recommended that the CCPD revise its policy to make clear that one of the stated goals of the BWC policy is to promote accountability—and in particular to enhance residents' ability to hold officers accountable

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for misconduct. The ACLU acknowledged that “this section of the Policy has little practical effect,” but argued that it was important to “underscore[] the ongoing concern” across the country about policing, “which is responsible for causing the rapid deployment of BWCs across the country and in New Jersey.”

### **CCPD Response:**

The CCPD recognizes that body-worn cameras can be an important tool for promoting accountability and building community trust. We have revised the policy to include accountability as one of its goals, both in the introductory statement and in Section II.B, which discusses the possible uses of body-worn camera footage. The policy now states that “recordings can enhance the ability to hold both officers and members of the public accountable for their behavior during contacts.” However, we want to emphasize that the goal of the body-worn camera system is to create objective recordings of incidents to help ascertain the truth of what occurred. It is not intended to be a “gotcha” system either for the police or the public.

## **Activation Policy**

### **1. Generally**

#### **Draft Policy:**

The draft policy requires officers to activate cameras for virtually all law-enforcement-related encounters, including crime-related calls for service, traffic stops, arrests, and officer-initiated pedestrian stops. The policy does not require officers to record casual conversations with residents, and does not require that officers keep cameras rolling when simply walking down the street on patrol.

#### **Feedback and Recommendations:**

*Support for Draft Policy:* A majority of survey takers (63%) agreed with the CCPD’s proposed policy of giving officers the discretion not to record casual interactions with members of the public. A number of commentators stressed that “casual conversations with officers are important to build community relations and unity”—and that recording these interactions might undermine trust. Others feared that an “always on” policy would dissuade community members from speaking to police or reporting crimes. Residents also mentioned the cost of storage as an impediment to a broader activation policy.

Nonetheless, 85% of survey respondents said that they would feel comfortable talking to a CCPD officer who is wearing a body-worn camera. They offered various reasons, including that they have “nothing to hide” and that they would in fact feel safer with a camera rolling. A small number of respondents did note, however, that they would not feel comfortable reporting a crime on camera for fear that the footage would one day be made public.

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The officers who spoke with the Policing Project similarly preferred the draft policy as opposed to an “always on” or “default on” policy, in part because they were concerned about having cameras capture their casual conversations with other officers, or phone conversations with family members.

*Adopt an “Always On” or “Default On” Policy:* A significant minority of commentators felt that cameras should be on for the duration of an officer’s shift. Others—including the ACLU—argued in favor of a “default on” policy, which would require officers to keep cameras on at all times, except when required to deactivate for one of the reasons listed in the policy (e.g. entering a locker room, or speaking with a confidential informant).

Those who argued in favor of an “always on” or “default on” policy offered a number of reasons in support. First, a number of residents expressed concern that officers are permitted to manually activate and deactivate their cameras, noting that this leaves room for an officer to deactivate the camera if the officer plans to do something improper. Others noted that even seemingly innocent interactions between officers and civilians quickly can develop into situations that ought to be recorded—but that officers may not have time to turn the camera on in the heat of the moment. The ACLU added that an officer may perceive a street encounter to be innocent or informal, but the civilian may feel otherwise.

### **CCPD Response:**

Although we recognize the importance of ensuring that all law enforcement encounters between officers and members of the public are in fact recorded, we do not believe that adopting a “default on” policy is advisable at this time. First, a “default on” policy would substantially increase the costs of maintaining a body-worn camera program, both in terms of the storage costs associated with retaining the hundreds of hours of additional footage that officers would record daily, and the additional time officers would be required to spend tagging all of the footage to ensure proper handling. Keeping cameras on at all times also would deplete more quickly the camera battery, thereby increasing the risk that the battery could run out in the middle of an event. In addition, we share the concerns expressed by some of the respondents that a “default on” policy could chill casual encounters between police officers and members of the public, and potentially dissuade residents from providing tips and information to CCPD officers. Finally, we believe that such a policy raises privacy concerns by increasing the likelihood that officers would be required to record while inside residents’ homes or in other sensitive locations.

## ***2. Officer-Initiated Encounters***

### **Draft Policy:**

The draft policy lists several categories of officer-citizen encounters that must be recorded, including “field interviews” and “officer-initiated pedestrian stops.”

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## Feedback and Recommendations:

*Clarify Policy on Officer-Initiated Encounters:* In its written comments, the ACLU noted that the draft policy is insufficiently clear on whether “field interviews” and “officer-initiated pedestrian stops” include encounters that fall short of a *Terry* stop but go beyond mere pleasantries—for example, when an officer asks someone their name, or asks where they are going or what they have in their pockets. According to the ACLU, these interactions potentially can contribute to distrust of the police in poor and minority communities and have the potential to escalate quickly to more serious encounters, and therefore should be recorded.

The ACLU’s recommendation is consistent with how officers have been using cameras during the pilot phase. The officers interviewed by the Policing Project said that they typically turned their cameras on for virtually all police-citizen encounters—including encounters that fall far short of a *Terry* stop. One officer said he recently turned a camera on when someone stopped him to ask for directions—he explained that because a situation can evolve quickly, it is always better to turn the camera on to be safe.

## CCPD Response:

The CCPD agrees that certain pedestrian encounters (such as requests for identification) may fall short of a *Terry* stop or “investigative detention” but nevertheless may become the basis for a civilian complaint, prove to have evidentiary value in a criminal proceeding, or quickly escalate into a situation that necessitates the use of force. To ensure that these sorts of encounters are recorded, we have revised the policy to make clear that officers must activate their cameras whenever approaching a member of the public for any law-enforcement-related purpose. The new policy clarifies that an “officer-initiated pedestrian stop” includes “a stop that falls short of a *Terry* stop because the pedestrian technically is free to walk away, such as a ‘mere inquiry’ (e.g. asking where someone is going).”

## 3. Calls for Service

### Draft Policy:

The draft policy requires officers to record when responding to a call for service involving a crime.

## Feedback and Recommendations:

*Record All Calls for Service:* In their written comments, both the Social Justice Law Project and Mr. Carl Davis recommended that officers record *all* calls for service, not just calls responding to a reported crime.

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**CCPD Response:**

We agree that it is in the interest of both officers and members of the public to require officers to record all calls for service—not just those involving a crime—and have revised the policy accordingly. The new policy requires that an officer activate his or her camera when “the officer is responding to a call for service and is at or near the location to which the officer has been dispatched.”

**4. Strikes and Demonstrations:****Draft Policy:**

Under the CCPD’s proposed policy, an officer is required to activate the BWC during “special events or projects, including but not limited to crowd control, unruly crowds, or any incident requiring activation of the all hazards or emergency operations plan,” as well as “strikes, picket lines, or demonstrations.”

**Feedback and Recommendations:**

*Limit Recording of Strikes and Demonstrations:* The ACLU expressed concern that the policy requires routine activation of body-worn cameras during public protests and demonstrations. The ACLU noted that BWCs at protests could “stifle participation and encroach upon the rights to assemble and petition the government.” The ACLU recommended the policy “require activation of BWCs at ... First Amendment-protected activities only when enforcement activity involves use of actual or constructive force, criminal activity, pedestrian stops, searches, arrests, questioning, or related enforcement activity.”

**CCPD Response:**

We recognize the importance of ensuring that residents feel comfortable participating in strikes, demonstrations, and other protected First Amendment activities, and appreciate the concern that routine recording during peaceful demonstrations could discourage individuals from taking part. At the same time, we believe that it is essential for the safety of officers and the public alike for officers to activate their BWCs whenever there is a possibility that officers may be required to use force or constructive authority. The ACLU’s proposed policy of requiring officers to record only when actually engaging in enforcement activity is too narrow, and creates a risk that an important incident would not be recorded, or only recorded in part. In view of these competing considerations, we have revised the policy to require an officer to activate his or her camera when “engaged in a police response to any type of civil disorder, strike, picket line, demonstration or protest in circumstances where ... the officer or any other officer on the scene may be required to employ constructive authority or force.”



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## De-Activation Policy

### 1. Deactivation Upon Request

#### Draft Policy:

The draft policy provides that if a person requests that an officer deactivate the camera, the officer has the discretion to decide whether do so, after considering “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.”

#### Feedback and Recommendations:

*Support for Draft Policy:* Just over half of all survey respondents agreed with the policy (51%). More than a third of respondents (37%) disagreed, and another 12% were unsure.

*Keep Recording at All Times:* It appears that many of those who disagreed with the policy are the same individuals who believe that officers should be required to keep cameras on for the duration of their shift—and thus should not be permitted to deactivate the camera upon request. These commenters argued that “the safety of both parties” required the camera be activated at all times. Others reiterated that manual activation and deactivation “could be subject to [officer] abuse.”

*Clarify Standard for When to Deactivate:* Other commenters accepted that officers should have the discretion to deactivate their cameras but recommended additional guidance on how officers should balance the individual’s request against the officer’s own safety and security concerns. One commenter suggested that the balancing test explicitly take into account whether officers are investigating a crime and the individual requesting deactivation is a witness who wishes to remain unidentified (which appears to be largely consistent with the draft policy but may require some clarification). Others argued that even if an officer was not automatically required to deactivate at a community member’s request, community members and officers should have “equal” input in the deactivation decision.

*Always Deactivate Upon Citizen Request:* Finally, a small number of commenters believed that officers should be required to deactivate as soon as a person requests it. These commenters noted that they were not concerned about potential loss of evidence because a “case should never rely solely on a video.”

#### CCPD Response:

The CCPD believes that the current policy provides sufficient guidance to officers in deciding whether to turn the camera off upon request. In deciding whether to grant a request to deactivate, an officer must make a context-specific determination that balances a number of interests, including the safety of the officer and others in the vicinity, the privacy

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interests of the individual making the request, the reason for the request, and the importance of preserving a record of the encounter. Any additional guidance is best provided through training and after-incident review.

## **2. Privacy Zones**

### **Draft Policy:**

The draft policy requires officers to deactivate their cameras when entering certain locations, like hospitals, locker rooms, and places of worship, *unless* the officers are recording one of the incidents listed under the mandatory activation rule (e.g. an arrest).

### **Feedback and Recommendations:**

*Clarify Rules for Privacy Zones:* The officers that the Policing Project spoke with expressed confusion about the relationship between the mandatory activation and mandatory deactivation provisions. One mentioned that he recently transported an arrestee to the hospital and was unsure whether to turn the camera off when they reached the hospital. The officer kept the camera on and later marked the footage “private”—but was unsure whether under the policy he ought to have turned it off.

### **CCPD Response:**

We appreciate the officer feedback and have revised the policy to make clear that officers must continue to record in sensitive locations like hospitals and youth facilities if they are engaged in one of the activities that the policy requires them to record (such as an arrest). The new policy reduces the possibility of officer confusion by providing an example to illustrate the relationship between the mandatory activation and deactivation rules: “(e.g. if an officer conducts an arrest inside a hospital, the encounter shall be recorded).”

## **Notification Policy**

### **1. Within the Home**

#### **Draft Policy:**

Under the CCPD’s proposed policy, an officer is required to notify a person that the camera is on when the officer enters the person’s home, even if the person does not affirmatively ask about the camera.

#### **Feedback and Recommendations:**

The vast majority of people surveyed (82%) agreed that officers should be required to inform individuals when a camera is recording inside the home.

A small minority of residents (16%) did not think officers should be required to notify occupants that a camera is recording because individuals should *always* assume that

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officers are wearing cameras and recording (these often were the same respondents who recommended that cameras be turned on for the duration of an officer's shift).

### **CCPD Response:**

We agree that it is important for an officer to notify the subject that the camera is recording when speaking with a crime victim or entering a person's home. We have not made any changes to this portion of the policy.

## **2. Out in Public**

### **Draft Policy:**

Under the draft policy, an officer *is not* required to notify a person that the camera is on when he approaches the person in public, unless the person asks whether the camera is on.

### **Feedback and Recommendations:**

*Support for Draft Policy:* A majority of people (64%) surveyed agreed with the CCPD's policy of not requiring officers to notify people on the street that cameras are recording. One respondent noted that it would be impractical to require officers to notify "everyone" on the street that a camera is on. Others suggested that people should just assume cameras are rolling.

*Require Notification:* However, many residents felt that officers *should* generally be required tell people that they are recording, and offered a number of reasons for doing so. As the Social Justice Law Project pointed out, people generally behave better when they know they are on camera, so notification can help ensure a more civil encounter. The ACLU noted that residents may not know that an interaction was recorded and that they may be able to request access to footage, and that at least "in the first phase of implementation, it is not appropriate to place the burden on a community member" to ask whether a camera is rolling. A number of survey respondents made similar points, noting that notification would further transparency, at least until people get used to the idea that officers are wearing cameras and recording most law-enforcement-related encounters.

A number of commenters suggested that the notification need not be verbal, and instead proposed that there always be a non-verbal notification: a flashing light, or perhaps a symbol on the camera to make it more conspicuous. But when the Policing Project discussed the idea with CCPD officers, they pointed out that a flashing light could be distracting, and could make them a target at night. The ACLU—which likewise urged that cameras have some sort of "visible indicator"—suggested a possible alternative: to have the word "CAMERA" conspicuously appear on the camera or the officer's body or both.

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**CCPD Response:**

We agree that officers generally should inform individuals that they are being recorded. Doing so furthers the goals of transparency and procedural justice, and helps to realize one of the key benefits of body-worn cameras—more measured and respectful conduct on the part of officers and community members alike. We have revised the policy to make clear that “officers should inform subjects that they are being recorded at the earliest opportunity that it is safe and feasible to do so.”

However, we do not believe it is necessary at this time to alter our uniform by affixing the word “CAMERA.” We have informed the media and the community over the course of the last year of our plan to outfit officers with cameras, including through this feedback process on the draft policy. And we will operate in good faith under our policy and notify members of the public when applicable. The cameras are not concealed and routinely are noticed and remarked upon by members of the public as they walk past our officers.

**3. Effect on Admissibility of Evidence****Draft Policy:**

The draft policy states that “failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.”

**Feedback and Recommendations:**

*Eliminate the Disclaimer:* The Social Justice Law Project objected to the disclaimer in the policy that failure to notify a person about the camera would not affect the admissibility of any statement of evidence, suggesting that there may be constitutional issues, “parallel to those surrounding *Miranda* warnings.”

**CCPD Response:**

This portion of the policy is mandated by the Attorney General Guidelines, which are binding on the CCPD, and therefore not subject to change. It is important to note, however, that the admissibility of evidence in judicial proceedings is governed by the New Jersey rules of evidence, as well as state and federal constitutional law. This statement is included in the policy simply to inform officers and members of the public that under existing law, an officer’s failure to notify an individual that the camera is recording will have no effect on the admissibility of evidence in court.

**Retention Policy****Draft Policy:**

Under the draft policy, all footage must be retained for a minimum of 90 days. Only footage that pertains to a use of force incident, documents a use of force, or captures an incident that is subject to an Internal Affairs complaint must be kept past the 90-day window.

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## **Feedback and Recommendations:**

*Retain Footage Upon Subject's Request:* The ACLU recommends that the department also require that BWC footage be retained upon a “formal or informal request” from the subject of the video, whether or not the person has yet filed a complaint.

*Retain Use of Force Footage for Three Years:* The ACLU commended the department for retaining BWC footage involving a use of force incident until the statute of limitations expires on filing a civil rights complaint. However, the ACLU raised two additional concerns: that footage may be the basis of a civil rights complaint *without* being classified as a use of force incident, and that the statute of limitations only addresses when a complaint must be filed with the court (and not when the CCPD must be given notice of the proceedings). The ACLU recommended that the CCPD set the retention period to three years to address the latter concern.

## **CCPD Response:**

We have revised the draft policy to require the department to retain a body-worn camera recording upon the written request from a member of the public. Footage retained under this provision will be held until the expiration of the statute of limitations for filing a civil complaint.

However, we do not think it is necessary to extend the retention period for use of force incidents to three years. Both the CCPD and the general public have a strong interest in ensuring that all potential use of force incidents are promptly brought to the department's attention, and we encourage immediate complaints of misconduct for investigation. The ACLU posits a scenario in which a potential plaintiff waits a full two years before filing a complaint—and then waits still longer to serve the CCPD. Although such a scenario is certainly conceivable, we do not think it advisable to revise our policy to facilitate or encourage this sort of delay.

## **Access Policy**

### ***1. Generally***

## **Feedback and Recommendations:**

The rules governing access to body-worn camera footage were a key area of interest and concern. Both in survey responses and at the public forums, residents expressed a range of concerns about access to body-worn camera footage. A number of commentators worried that video footage could end up on YouTube—and that this would be particularly troubling if footage captured an arrest or domestic violence incident, or revealed the identity of an informant or someone who reported a crime to the police. Others expressed similar concerns over recordings inside residences or other private spaces. Community members

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also sought assurances that footage could not be tampered with in any way by officers at the scene or back at the CCPD.

### **CCPD Response:**

The CCPD recognizes that using body-worn cameras raises serious privacy concerns and that it is essential to ensure that footage is stored securely to prevent unauthorized access. The current policy includes a number of provisions to address these concerns. First, the policy requires officers to specifically tag any recording that captures a potentially sensitive incident or location (e.g. a statement from a crime victim, the inside of a person’s residence). The policy also carefully regulates access to body-worn camera footage, and requires the department to keep a log of all recordings that are accessed in any way.

The policy generally prohibits members of the department from disclosing body-worn camera footage to members of the public without the approval of the Camden County Prosecutor or a court order (there is an exception for potential complainants, discussed below).

In order to request body-worn camera footage, a member of the public or news media must file a request under the New Jersey Open Public Records Act (OPRA). The statute permits an agency to withhold records for several reasons, including if a record pertains to a criminal investigation. There currently is ongoing litigation before the New Jersey Supreme Court regarding the scope of these exceptions. It is possible that the New Jersey legislature ultimately will need to decide how best to balance the competing interests between individual privacy and the public’s right to access.

## **2. Complainant Access**

### **Draft Policy:**

Under the draft policy, department officials are *permitted* to show a BWC recording “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”—but they are not *required* to make BWC footage available to complainants upon request. Because anyone can file an Internal Affairs complaint, it is possible that a request to see the footage may come from someone other than the subject of the video.

### **Feedback and Recommendations:**

*Strengthen Presumption of Complainant Access:* The vast majority of survey respondents (79%) felt that the CCPD ought to show footage to a prospective complainant *who appears on the recording*—and a majority (61%) felt that officers should be *required* to do so. Others argued in favor of a strong presumption of release, subject to some exceptions. For example, one commentator suggested that footage should be made available upon request, unless doing so would impede an investigation, expose undercover personnel, or invade

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someone else’s privacy. The ACLU likewise urged the department to adopt an “objective standard” to govern the Chief’s discretion to authorize release, namely “a Department policy of presumption in favor of disclosure when a request to view footage” is made prior to filing a complaint.

**CCPD Response:**

The CCPD appreciates that there is strong public support in favor of giving potential complainants an opportunity to view body-worn camera footage of the incident in question, and has revised the policy to make clear that the CCPD generally favors disclosure in these circumstances. However, we do not believe that it is advisable to adopt a blanket policy requiring disclosure to potential complainants in all circumstances. Such a policy could potentially enable criminal defendants to circumvent the court-supervised discovery process by filing a complaint. Where a recording captures multiple individuals or a particularly sensitive incident, there may also be countervailing privacy or safety concerns that would counsel against disclosure.

The new policy attempts to balance these interests by making clear that “it is the policy of this Department to show BWC footage to prospective complainants, unless doing so would interfere with an ongoing investigation, threaten the safety or privacy interests of other individuals who appear in the recording, or is otherwise prohibited under this Directive.”

**3. Public Release Following High-Profile Incidents**

**Draft Policy:**

The draft policy does not permit the CCPD to release body-worn camera footage to the general public without permission from the Camden County Prosecutor, or the Director of the New Jersey Division of Criminal Justice. If the footage pertains to a criminal or use of force investigation, only the County Prosecutor may authorize release. Individuals also can request footage under the Open Public Records Act (OPRA). However, an agency may deny the request if the footage pertains to a criminal or ongoing investigation.

**Feedback and Recommendations:**

*Provide for Broader Public Access:* A majority of survey respondents (55%) felt that members of the public or news media should be allowed to see the footage of incidents that are of interest to the public, and another 17% were unsure. Several commentators expressed concern that residents may not be able to access footage even after an investigation of an officer-involved shooting or other high-profile incident is complete. They acknowledged that there may need to be some delay in releasing footage to permit officers and prosecutors to investigate an incident, but believed that once the investigation is over, the public should get to see what happened. The ACLU agreed, noting that “public access to footage—while protecting privacy—is critical to BWC’s utility as an accountability tool.”

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Residents proposed a range of alternatives. Some felt that the subject of the footage ought to be able to insist on disclosure—or conversely, that any release of footage ought to require the subject’s consent. Others suggested that a police-civilian committee should decide when footage is made public. One resident suggested that release might depend on whether the video was filmed in public, or in a private area. A number of residents cautioned that under any policy, footage should only be made public if released in its entirety to avoid bias.

*Support for Draft Policy:* A minority of residents expressed support for the draft policy. These commentators focused largely on the risk that journalists would “sensationalize” the footage or that footage would be taken “out of context” by the media. Others expressed some concern about the safety or privacy of those caught on film. A number of residents suggested that footage should only be made public at the end of any judicial proceedings, fearing that release could affect an ongoing case.

### **CCPD Response:**

The CCPD recognizes that one of the reasons for the recent push to adopt body-worn cameras in jurisdictions across the country is the public’s desire to have a clear and unbiased record of the circumstances surrounding critical incidents, such as officer-involved shootings—and that in order for body-worn cameras to further the goals of transparency and accountability, there may need to be some mechanism for eventual release of footage. At the same time, the public’s desire to know what happened in a particular incident must be balanced against the danger that the premature release of footage could interfere with an ongoing investigation or bias potential jurors. Any decision to release footage must also consider the privacy interests of those captured on film.

The current policy—which is mandated by the Attorney General Guidelines—prohibits the CCPD from releasing any recording to the public without the express permission of the Camden County Prosecutor. Although the CCPD respects the public’s desire for clear standards to govern these decisions, it is unable to provide any additional guidance at this time. However, the CCPD is confident that the Prosecutor’s office will carefully weigh the various competing interests—including the views expressed by Camden residents throughout this process—in deciding whether and when to make footage publicly available.

## **4. Officer Access**

### **Draft Policy:**

Under the draft policy, officers are permitted with supervisor approval to view BWC footage prior to writing a report, unless the footage captures an incident involving the use of deadly force—at which point the Attorney General Guidelines prohibit officers from accessing the footage without permission from the County Prosecutor.



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## **Feedback and Recommendations:**

*Restrict Officer Access Prior to Writing a Report:* The ACLU urged the department to restrict officer access to BWC footage until “*after* writing initial reports and statements.” The ACLU expressed concern that reviewing the footage may “alter[] the officer’s memory and include facts” that would not be considered in the officer’s decision-making process.

## **CCPD Response:**

Although we agree that it is important for an officer report to accurately describe the incident in question, we believe that in most circumstances, viewing body-worn camera footage can actually facilitate more accurate reporting by assisting the officer in recalling important details about what often are fast-moving situations. We believe that the type of situation that the ACLU envisions—where a camera captures something that an officer did not see at the time and thus did not incorporate into his or her decision-making process—is rare, and therefore does not warrant revising the policy at this time. Additionally, when a recording captures an ambiguous situation, the review may prove more exculpatory than incriminatory for the subject of the recording, and result in a quicker, more beneficial resolution for that individual.

## **Additional Comments, Suggestions, and Revisions**

### ***1. Enhanced Audio/Visual Capabilities***

#### **Draft Policy:**

The Attorney General Guidelines permit the CCPD to use cameras with enhanced audio/visual capabilities with permission from the County Prosecutor.

#### **Feedback and Recommendations:**

*Prohibit Acquisition of Cameras with Enhanced Audio/Visual Capabilities:* The ACLU recommended that the CCPD prohibit the acquisition of cameras with “enhanced audio/visual capabilities beyond what a reasonable officer can see or hear.” The ACLU argued that any use of BWCs to amplify officer surveillance capability would “work counterproductively against the goals of building trust and cooperation with communities.”

#### **CCPD Response**

The CCPD has no plans to acquire cameras with enhanced audio/visual capabilities at this time, and will seek input from community stakeholders before making such a decision in the future.

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## ***2. Policy Transparency***

### **Draft Policy:**

The draft policy requires the CCPD to announce the body-worn camera on its website.

### **Feedback and Recommendations**

*Post Policy on the CCPD Website:* A number of commentators suggested that the department also make its final policy available to the public. One commentator suggested circulating a one-page summary of the policy in several languages so that residents know how cameras will be used.

### **CCPD Response**

The CCPD agrees that members of the public should be able to access the department's body-worn camera policy, and will make sure that the final policy is available on the department website.

## ***3. Officer Discipline:***

### **Draft Policy:**

The introductory statement to the draft policy provides that violations of the policy *may* result in discipline.

### **Feedback and Recommendations:**

*Mandate Officer Discipline:* The Social Justice Law Project recommended that the introductory statement be revised to make clear that violations of the policy *will* rather than *may* result in discipline.

### **CCPD Response:**

The CCPD agrees that it is important to ensure that officers comply with department policies. Although the CCPD believes that potential violations of activation or deactivation rules often are best addressed—at least in the first instance—through training and supervision, we have revised the policy to make clear that an officer who knowingly violates the requirements of the policy shall be subject to discipline.

## ***4. Continuous Recording Mode***

### **Draft Policy:**

During the trial phase, a number of officers used cameras capable of recording on a 50-second loop, and saving the prior 50 seconds whenever an officer activates the camera.

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## Feedback and Recommendations

*Address Officer Concerns with Continuous Recording Mode:* Officers had mixed feelings about this function. Although a number of officers mentioned that it was valuable to know that footage would be preserved even if they turned the camera on a few seconds late, they cited two primary concerns: (1) Cameras with continuous recording capability had much shorter battery life. Policing Project staff members interviewed officers midway through their shifts, and one of the officers was already on his second battery; (2) Cameras could inadvertently capture an officer using the restroom or engaged in other private business if the officer activates the camera shortly thereafter.

### CCPD Response

The CCPD agrees that by capturing the 50 seconds prior to activation, the continuous recording function can provide important details about the recorded encounter. At the same time, the CCPD shares the officers' concerns about battery life and officer privacy. The CCPD will continue to work with officers and its camera vendor to address these concerns, and will keep officers informed of any changes that result from these discussions.


### ***5. Policy Clarity and Chain of Command Accountability***

In addition to the changes made in response to public comment, the CCPD also has revised the policy in two other important ways.

First, the CCPD has streamlined the policy to ensure that key provisions are stated clearly and concisely so that officers understand what is expected of them. These changes did not affect the substance of the policy.

Second, the CCPD has revised the policy to include more robust chain-of-command accountability. Consistent with the Attorney General directives, the draft policy required officers to obtain permission from the Camden County Prosecutor or his or her designee before taking certain actions (e.g. deactivating a body-worn camera while at the scene of an officer involved shooting; using a body-worn camera to make a covert recording). The revised policy requires all such requests to first be made to the Chief of Police (or, in some circumstances, the Professional Standards Commander), who then will be responsible for obtaining the necessary approval from the Camden County Prosecutor. This revision ensures that when it comes to sensitive matters regarding the use of body-worn cameras, there is a single decision-maker within the department who is responsible for ensuring that the CCPD acts in a manner that is consistent with public safety and the interests of the Camden community.

## Appendix A: Special Order 2016-014 (BWC)

<b>CAMDEN COUNTY POLICE DEPARTMENT</b>		
<b>SPECIAL ORDER</b>	<b># OF PAGES: 15</b>	
<b>SUBJECT: BODY WORN CAMERA PROGRAM</b>		
<b>EFFECTIVE DATE:</b> May 20, 2016	<b>DISTRIBUTION TO:</b>  NRT Central	<b>ISSUED BY:</b> Assistant Chief Orlando Cuevas
<b>NUMBER: 2016-014</b>		<b>APPROVED BY:</b> Chief John S. Thomson

**PURPOSE** The purpose of this Special Order is to establish Attorney General directive compliant procedures for the use, management, storage, and release of audio-visual media recorded by body worn video/audio cameras (BWC). BWCs are intended to enhance officer safety, promote accountability, produce effective materials for training, and to produce an additional method of collecting evidence to prosecute those who violate the law.

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

All personnel (sworn and/or civilian) wearing/utilizing a BWC shall use this equipment (including accessing recordings) consistent with the manufacturer’s guidelines, department policy, and directives issued by the New Jersey Attorney General and Camden County Prosecutor’s Office. An officer who knowingly fails to comply with these directives shall be subject to discipline.

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

## PROCEDURES

### I. DEFINITIONS

- A. For purposes of this directive, the following terms are defined:
1. Activate – means to actuate (put into operation) the recording mode/function of a BWC.
  2. Body worn audio/video recorder (BWC) – is an officer worn device that makes an electronic audio/video recording of activities that take place during any law enforcement action. All references to BWC include the body worn devices and, where appropriate, the wireless transmitter, microphone, removable media, server, and other accessories necessary to operate these systems. 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).
  3. Constructive authority – involves the use of an officer’s authority to exert control over a subject (see *Directive V3C2 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 or CED (e.g., “...move out of the way”, “...get down”, etc.).
  4. Force – has the same meanings as defined in *Directive V3C2 Use of Force*.
  5. Investigation of a criminal offense – means any police activity pertaining to the investigation of an indictable crime, disorderly persons offense, or petty disorderly offense, including but not limited to responding to a report of a possible criminal offense; an investigative detention based on or leading to reasonable and articulable suspicion to believe that a criminal offense has been or is being committed; an arrest for a criminal offense; an interview of a potential witness to a criminal offense; or canvassing an area, neighborhood, or premises for potential witnesses to a criminal offense.
  6. School – means an elementary or secondary school (i.e., middle school or high school), public or private.
  7. Youth facility – means a facility where children assemble under adult supervision for educational or recreational purposes, such as day-care centers, youth camps, etc.

## II. GENERAL

- 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. There is no intent to utilize the BWC as a management tool to punish officers for minor departmental rule infractions.
1. Personnel shall not be subject to criticism for the proper exercise of lawful discretion in enforcement matters.
  2. BWC shall only be utilized for legitimate law enforcement purposes.
- B. BWC 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 particular incidents, thereby protecting both the public and the officers involved.
  4. The recordings can enhance the ability to hold both officers and members of the public accountable for their behavior during contacts.
  5. 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.
  6. 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.
  7. Recordings can permit supervisors to undertake more meaningful performance evaluations.
  8. Recordings augment management's ability to evaluate its basic police practices and interactions between its personnel and the general public.
  9. Recordings enhance management's ability to train personnel in proper police procedures.
- C. Employees shall only use a BWC system that has been issued and approved by the department.
- D. No employee shall wear or operate a BWC unless he or she:
1. Has been authorized to do so by the Chief of Police;
  2. Has received training on the proper care and use of the device in accordance with department policy.

- E. BWC shall be used only in performance of official police duties and not for personal purposes.
1. Officers engaged in undercover operations or surveillance activities are not required to utilize BWC.
  2. The BWC shall not be used to record:
    - a. Encounters with undercover officers or confidential informants;
    - b. Communications with other police personnel without the advanced permission of the Chief of Police;
    - 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.D of this directive (e.g. if an officer conducts an arrest inside a hospital, the encounter shall be recorded); or
    - h. While discussing criminal investigation strategies.
- F. No BWC recording shall be accessed, viewed, copied, disseminated, or otherwise used by an officer or civilian employee, except for an official purpose specified in this directive.
- G. When not in use, BWCs shall be stored in the designated docking stations at the station houses. The docking stations allow for the units to be charged and for the download of events to the BWC server.
- H. Repairs to any BWC equipment shall only be performed under the direction of the system administrator or his/her designee. Malfunctioning BWC shall be marked and tagged out of service.
- I. Officers assigned BWC shall wear and utilize the BWC at all times while on-duty including primary and secondary employment. Officers will wear the BWC mounted to the front of the uniform on the chest using the mounting equipment provided by the manufacturer.
- J. BWC recordings are not a replacement for written reports. Under no circumstances shall officers simply refer to a BWC recording on an investigation report instead of detailing the facts and circumstances of their investigation/observations.
- K. A training program-curriculum shall be sustained and managed directly by the department's BWC Administrator. The curriculum content and instruction shall ensure that all employees equipped with BWC and/or access/handle BWC recordings are familiar and demonstrate a



satisfactory degree of understanding and working knowledge of the provisions of this directive.

### III. INCIDENTS TO RECORD

- A. The decision to electronically record an encounter is not discretionary. Officers shall activate their BWC without unnecessary delay upon being dispatched, and in the case of self-initiated events—prior to citizen engagement, and/or immediately upon observing circumstances supporting constitutional justification; when feasible.
- B. If an officer fails to activate the BWC, fails to record the entire event contact, or interrupts the recording, the officer shall document in an information report why a recording was not made, was interrupted, or was terminated. The officer shall make immediate notification to the watch commander of any such occurrence via the chain of command.
- C. When a BWC is activated, officers shall state the time and 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.
- D. The following circumstances shall be recorded:
  - 1. The officer is conducting a traffic stop, from the time the violation is observed until the stop is concluded, to include:
    - a. Field sobriety testing
    - b. Motor vehicle pursuit
    - c. Car/truck inspection
    - d. Seatbelt use checkpoint
  - 2. The officer is responding to a call for service and is at or near the location to which the officer has been dispatched;
  - 3. The officer is on the crime scene of a sudden death, homicide, kidnapping, or shooting incident;
  - 4. The officer is interviewing a witness in the course of investigating a criminal offense, domestic violence offense or traffic crash investigation;
  - 5. The officer is conducting a custodial interrogation of a suspect, unless the interrogation is otherwise being recorded in accordance with Rule 3:17 (electronic recordation of station house interrogations);
  - 6. The officer is conducting an investigative detention/field interview (e.g. a Terry v. Ohio criminal suspicion stop);
  - 7. The officer is conducting any kind of search (consensual or otherwise, including a protective frisk for weapons);
  - 8. The officer is making an arrest;
  - 9. The officer is 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;
  - 10. 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 that are documented by narration on the recording and/or in any investigation or incident report;

11. The officer is engaged in a police response to any type of civil disorder, strike, picket line, demonstration or protest 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;
12. The officer is conducting an officer-initiated pedestrian stop, which includes a stop that falls short of a *Terry* stop because the pedestrian technically is free to walk away, such as a 'mere inquiry' (e.g. asking where someone is going);
13. The officer is conducting motorist aid or community caretaking check;
14. Notwithstanding any other provision of this directive, 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.)
15. The officer reasonably believes that any other officer on the scene has undertaken or is engaged in any of the foregoing police actions/activities.

#### **IV. FAILURE TO ACTIVATE/DE-ACTIVATION OF BWC**

- A. Notwithstanding any other provision of this directive, an officer while at the scene of a police deadly-force event or the on-scene investigation of that event shall not deactivate his/her BWC unless instructed to do so by the Chief of Police or Professional Standards Commander, acting in accordance with Attorney General directives.
- B. BWC shall remain activated for the entire duration of a citizen contact required in Section III.D above until the encounter/event/episode is concluded.
- C. When a BWC is activated to transport an arrestee/prisoner, it shall remain activated at all times while the BWC-equipped 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 hospital/medical/mental health personnel and the officer is no longer in the presence of the arrestee.
- D. When wearing a BWC, officers shall notify crime victims and civilians inside of their homes or places of abode (e.g., hotel/motel rooms, boarding houses, etc.) that they are being recorded unless it is unsafe or unfeasible to provide such notification.
  1. 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.
  2. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.
- E. For all other interactions with members of the public, officers should inform subjects that they are being recorded at the earliest opportunity that it is safe and feasible to do so. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.

- F. 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 Chief of Police, acting in accordance with Attorney General directives, 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. In deciding whether to de-activate the BWC, the officer shall consider the privacy interests of the person requesting deactivation and the person in need of medical assistance.
  3. When an officer deactivates a BWC pursuant to Sections IV.F.1 or IV.F.2 of this policy:
    - a. The conversation between the officer and the civilian concerning the request for deactivation shall 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.*" State the time);
    - c. The officer shall report the circumstances concerning the deactivation to the shift supervisor as soon as is possible; 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 pursuant to Sections IV.F.1 or IV.F.2 of this policy, the reasons for declining the request must be documented by narrating the reason for declining the request on the recording and shall notify the on-duty watch commander via the chain of command as soon as it is safe and practicable to do so.
    - a. In the event that 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 covert recording has been expressly approved by the Chief of Police, acting in accordance with Attorney General directives.
  5. Officers may deactivate a BWC while participating in a discussion pertaining to criminal investigation strategy and planning, provided that the strategy/planning discussion is not conducted in the immediate presence of a civilian and further provided that the BWC-equipped officer is not actively engaged in the collection of physical evidence (i.e., conducting a search). When an officer deactivates a BWC pursuant to this section, the officer shall narrate the circumstances of the deactivation (e.g., "...I am now turning off my BWC to discuss investigative strategy with my supervisor." State the time).
  6. 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 (e.g., "...I am entering a school building where children are present." State the time). 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). School resource officers should not activate their BWC unless involved in any incident listed in section III.C of this directive.
  7. In the event that a BWC captures the image of a patient in a substance abuse treatment facility, the BWC Administrator shall notify the Chief of Police 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). A notation documenting the date, time, person notified and details of the notification shall be documented in the BWC record keeping system. The recording shall not be accessed without the expressed approval of the Chief of Police, acting in accordance with Attorney General directives. (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.)
  8. In any instance where a BWC was deactivated pursuant to this directive, 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, etc.) and the officer would otherwise be required to activate the BWC.
- G. 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 (e.g., active shooter, actual use of police force, officer in distress, etc.) require that the encounter/incident be recorded, in which event the officer shall inform the shift 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 if and when the risk of capturing the image of an undercover officer or confidential informant no longer exists.
- H. In the event that a BWC worn during the execution of tactical operations (e.g., SWAT/ERT/ESU 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.

- I. 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.
- J. If the BWC produces radio-frequency interference while activated or while in standby mode, the device shall be deactivated or 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*") (State the time), and the BWC shall be reactivated when safe and practicable to do so following the completion of the breath testing operation.
- K. When a BWC is de-activated, officers shall immediately prior to BWC de-activation, state the time, and provide narration where practical and appropriate in an effort to augment the value of the recording and to provide clarity for the viewer.
- L. 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 *Directive V2C15 Internal Affairs*. All other requests to view and/or obtain footage by the public shall be handled in accordance with Section VII of this directive.
- M. 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 investigation-incident report why a recording was not made, was interrupted, or was terminated.

## **V. OFFICER AND SUPERVISORY RESPONSIBILITIES**

- A. Officers assigned BWC are responsible for ensuring the BWC remains in a position to allow the recording of an encounter or incident and is in good working order.
  - 1. Prior to beginning a shift, officers assigned a BWC will ensure its readiness by conducting an operational inspection. Officers shall also inspect BWCs at the conclusion of each shift to ensure system integrity.
  - 2. When conducting the pre and post shift inspection, the officer shall activate the BWC and verbally state the date, time, whether a pre or post-shift inspection is being conducted, and that a test is being performed on the unit.
  - 3. The results of the inspection, including any malfunctions or deficiencies, shall be noted by the officer on an information report.
  - 4. Any problems preventing the use of the unit during the shift will be reported to the shift supervisor with a CAD record generated noting the details of the problem.
  - 5. Officers will dock their BWC for download to the BWC docking station upon completion of their shift and prior to making relief.

B. When video/audio footage is captured involving any part of an arrest or significant event, officers shall categorize the recording using the BWC application on their assigned smart phone device prior to clearing the assignment. Additionally, officers shall type/write the letters *BWC* (including BWC number) in all capital letters at the beginning of the investigative-incident report to signify that video/audio is available for the case. All recordings shall be categorized by selecting one of the following applicable categories:

1. Arrest (Crime)-Video involves an arrest for a 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, or 4<sup>th</sup> degree offenses;
2. Arrest (DP/PDP)-Video involves an arrest for a Disorderly Persons or Petty Disorderly Persons Offense;
3. Arrest (DWI) – Video involves an arrest for DWI;
4. Arrest (Warrant) – Video involves an arrest for active warrant(s);
5. Arrest (Other) – Video involves an arrest which does not meet above criteria;
6. CFS (Homicide) – Video involves a call for service involving a Homicide;
7. CFS (Arson) – Video involves a call for service involving an Arson;
8. CFS (Sex Offense) - Video involves a call for service involving a Sex Offense;
9. CFS (Suspicious Death) - Video involves a call for service involving a suspicious or unattended death;
10. CFS (Suicide)- Video involves a call for service involving a Suicide;
11. CFS (Crime) – Video involves a call for service or assignment involving a crime not listed;
12. CFS (PD/PDP) – Video involves a call for service or assignment involving a disorderly persons or petty disorderly persons offense;
13. CFS (Missing Person) – Video involves a call for service or assignment involving a missing person;
14. CFS (EMS Call) – Video involves a call for service or assignment involving assisting EMS that does not meet other category criteria;
15. CFS (Non Crime) – Video involves a call for service or assignment for a non-crime event that does not meet other category criteria;
16. MVA (Fatal) – Video involves a motor vehicle accident involving a fatality;
17. MVA (Serious Bodily Injury) – Video involves a motor vehicle accident involving serious bodily injuries;
18. MVA (Other) – Video involves a motor vehicle accident without a fatality or serious bodily injuries;
19. Car Stop – Video involves a motor vehicle stop;
20. Pedestrian Stop – Video involves a Ped-Stop or investigative detention of one or more individuals;
21. Mere Inquiry – Video involves a mere inquiry;
22. Pursuit (No Arrest) – Video involves a vehicle pursuit where no apprehension is made. (If apprehension – label as arrest);
23. Parking Enforcement - Video involves issuing parking or other ticket to an unoccupied vehicle;
24. Police Vehicle Inspection – Video involves pre tour or post tour vehicle inspection;
25. Test – Video involves performance of body worn camera functionality or other test;
26. IA- Video involves an Internal Affairs complaint or investigation;
27. Other- video does not fall within the aforementioned categories (operator must explain what video involved in the video description field)

C. In the event the smart phone malfunctions, officers shall report to the nearest station house to complete the report and categorization. The officer shall make immediate notification to the

watch commander of any such occurrence.

- D. To identify BWC recordings that may raise special, privacy or safety issues, and officers shall tag recordings using the BWC application on their assigned smart phone device prior to clearing the assignment. Recordings containing any of the following shall be tagged for privacy-safety by entering “P” in the field labeled Reference ID:
1. Captures the image of a victim of a criminal offense;
  2. Captures the image of a child;
  3. 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;
  4. Captures a conversation with a person whose request to deactivate the BWC was declined;
  5. Captures a special operations event or execution of an arrest and/or search warrant where confidential tactical information may have been recorded;
  6. Captures the image of an undercover officer or confidential informant; or
  7. Captures the screen of a law enforcement computer monitor that is displaying confidential personal or law enforcement sensitive information.
  8. In the event the smart phones malfunctions, officers shall report to the nearest station house to complete the report, tag the recording and make immediately notification to the on-duty watch commander via the chain of command.
- E. The on-duty watch commander and shift supervisors are responsible for ensuring that all officers under their command and control, assigned BWC, are equipped with functioning BWCs and assigned smart phone devices at all times while working primary or secondary employment duty.
1. Supervisors shall conduct random formal reviews weekly of their subordinates’ recordings in order to assess officer performance as well as to flag video/audio that may be appropriate for training purposes.
  2. The on-duty watch commander shall ensure all instances where a BWC is deactivated prior to the conclusion of an incident are reviewed either personally by the watch commander or by an on-duty commander/supervisor, to determine if the deactivation was authorized and warranted, the reviewing personnel shall document their findings and forward the documented review through the on-duty watch commander to the Professional Standards Commander prior to making relief for the day.
  3. If an internal affairs complaint is associated with a recorded event, or an officer believes an incident may generate an internal affairs complaint, the on-duty watch commander shall ensure the recording is categorized as “Internal Affairs” following procedures set forth in Section V-B of this directive.

## **VI. BWC ADMINISTRATOR RESPONSIBILITIES**

- A. The BWC Administrator is responsible for the overall management and coordination of the

BWC initiative. Examples of responsibilities include:

1. Ensuring all equipment and systems are in good working order;
2. Ensuring a policies and directives related to the BWC initiative are reflective of best practices and contemporary business processes;
3. Serving as the BWC training officer, establishes, maintains, instructs an up to date training curriculum that ensures all employees equipped with BWC or who have access –handle BWC recordings are familiar with the provisions of this directive.
4. Maintaining an inventory of all BWC equipment and assignments;
5. Performing periodic performance audits. The results of those audits shall be forwarded to the Professional Standards Commander for retention and inclusion in the monthly report.
6. Evaluating the BWC initiative and providing a written synopsis of findings and recommendations to the Chief of Police within five days of the BWC Pilot expiration.

## **VII. SECURE STORAGE AND ACCESSIBILITY OF BWC RECORDINGS**

- A. Viewing of BWC events is strictly limited to authorized employees of this department. Viewing by any other person is prohibited unless authorized by the Chief of Police, or consistent with the provisions of this written directive.
- B. 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 or her own police report (NOTE exception in Section VII-E. of this directive, see below);
  5. When relevant to a supervisor's review of an officer's actions as part of the supervisory process authorized by the agency;
  6. To show to a civilian who intends to file a complaint against an officer to demonstrate what actually occurred during the encounter so that the person can make an informed decision whether to file the complaint (NOTE: it is the policy of this Department to show BWC footage to prospective complainants unless doing so would interfere with an ongoing investigation, threaten the safety or privacy interests of other individuals who appear on the recording, or is otherwise prohibited under this Directive);
  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. The Camden County Police Department reserves the right to redact video as applicable by law.
  - d. All requests for copies or review of BWC recordings are subject to the fee requirements of the prevailing ordinance.
8. To comply with any other legal obligation to turn over the recording to a person or entity;
  9. 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;
  10. To show or disseminate the recording to a civilian or a non-law enforcement entity or to disseminate it to the public, when expressly approved by the Chief of Police, acting in accordance with Attorney General directives;
  11. To conduct an audit to ensure compliance with this directive;
  12. 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 expressly approved by the Chief of Police, acting in accordance with Attorney General directives;
  13. Any other specified official purpose where the Chief of Police, acting in accordance with Attorney General directives, finds in writing that good and sufficient cause exists to authorize access to a particular BWC recording.
- C. Personnel shall not erase or in any other manner alter, tamper with, destroy, or conceal BWC recordings or remove or disable any camera. Any such tampering is a violation of NJSA 2C: 28-7, and is a 4<sup>th</sup> degree crime.
1. Except for recordings being stored for criminal, civil administrative proceedings, or evidentiary purposes, recordings shall be retained on the server for a period of ninety-days (90).
    - a. When a BWC recording pertains to a criminal investigation or otherwise recorded information that may be subjected 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.
    - b. When a BWC records an arrest that did not result in an ongoing prosecution, or records the use of force, the recording shall be kept until the expiration of the statute of limitation for filing a civil complaint against the officer and/or agency.
    - c. 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.

- d. When a civilian who is the subject of the video makes a written request that footage be retained, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer and/or agency.
2. Prior to the destruction-erasing-deletion of any BWC recording, the BWC Administrator shall review the specific recording as well as relevant department reports/case files to confirm proper retention schedule compliance.
- D. All requests for a BWC recording via subpoena, court order or OPRA must be expressly approved by the Chief of Police before complying with the request.
- E. No civilian or law enforcement witness, including the principal(s) of a police involved shooting or other use of force 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 Chief of Police or Professional Standards Commander, acting in accordance with Attorney General directives.
- F. A BWC recording of an event or encounter that involves an investigation of a criminal offense 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 expressly approved by the Chief of Police, acting in accordance with Attorney General directives.
- G. A BWC recording tagged pursuant to section V.D of this directive shall not be accessed, viewed, copied, disseminated, or otherwise used without the express permission of the Chief of Police, acting in accordance with Attorney General directives.
- H. The Chief of Police or his/her designee shall maintain a record of all BWC recordings that are accessed, viewed, copied, disseminated, or deleted.
- I. Professional Standards Bureau shall cause random performance audits of BWC recordings to ensure compliance with this directive.
- J. Minimally, the BWC 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 person who approved access, where applicable; and
  5. The reason(s) for access, specifying the purpose or purposes for access and specifying the relevant case/investigation number, where applicable.
- K. In the event that a recording is required for use in court or by another law enforcement agency, that recording shall not be released without the expressed approval of the Chief of Police and only if a duplicate copy is retained by the department.
  1. Duplicate copies shall be maintained as evidence in accordance with this department's property and evidence guidelines.
  2. The property/evidence custodian shall ensure that any media used for duplicate recordings is properly stored away from magnetic fields (speakers, etc.) or other areas

that may facilitate corruption in the property room.

- L. 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.
- M. 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.

**VI. RESPONSIBILITY**

- A. It shall be the responsibility of all personnel to adhere to the provision of this Special Order.