ASSEMBLY BILL NO. 5864
(Second Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Assembly Bill No. 5864 (Second Reprint) with my recommendations for reconsideration.

Assembly Bill No. 5864 (Second Reprint) amends the current law governing the use of Body Worn Cameras ("BWCs") and addresses the ability for law enforcement officers to review BWC footage prior to making a required initial report, statement, or interview. Under current law, there is a blanket prohibition restricting law enforcement officers from reviewing or receiving an accounting of certain BWC recordings prior to creating any required initial reports, statements, and interviews regarding a recorded event. Assembly Bill No. 5864 (Second Reprint) would remove this limitation in the case of a "routine police stop or house call," and would continue the restriction in five enumerated instances: an encounter about which a complaint has been verbally expressed or formally registered; the use of any police force; the discharge of a firearm by a law enforcement officer; the death of a person while in police custody; and an incident that is the subject of an internal affairs complaint relating to the use of force, bias, or dishonesty. The bill also would allow "a person who is the subject of a police report created by a law enforcement officer, for which a relevant body worn camera recording exists. . . to review and receive an accounting of the recording if the law enforcement officer who created the report also was permitted to review and receive an accounting of the recording."

I commend the bill's sponsors for recognizing the value of BWCs in assisting law enforcement officers in the performance of their duties and agree that we should revise the law to permit officers to view BWC footage in certain instances. BWC recordings

are objective accountings of an incident or encounter and can serve as tools to enhance trust between law enforcement and the communities that they serve. Last November, when I signed legislation establishing uniform ground rules for the use of BWCs by law enforcement officers, I noted the importance of BWCs in promoting transparency and accountability in policing in our communities, as well as the tremendous value these recordings have as a potential source of crucial evidence for use in investigations and court proceedings.

To maximize the benefits of BWCs, it is important to have a process that appropriately balances the utility of BWCs in facilitating law enforcement's performance of their duties and their utility in ensuring the law enforcement function is performed properly. Although the bill takes an approach that sensibly recognizes the importance of this balance, I am recommending amendments to refine the circumstances delineated in the bill as exceptions to the general rule of initial access. My recommendations modify the bill's enumerated circumstances under which initial access to BWC recordings is restricted to include: (1) the use of force by an officer; (2) the discharge of a firearm or any other use of deadly force by a law enforcement officer; (3) the death of a person while in law enforcement custody or during an encounter with a law enforcement officer; or (4) incidents that the officer knows will be the subject of a citizen complaint or an internal affairs complaint relating to the officer's use of force, bias, or dishonesty. I believe that these changes strike the proper balance, providing appropriate exceptions to the general rule of affording law enforcement officers immediate access to BWC recordings.

I am also recommending the inclusion of a provision requiring that an officer who exercises the authority afforded in this general rule to acknowledge, either verbally or in writing within

each report, statement, or interview, that the officer had prior access to the BWC recording. This requirement makes any subsequent reader or viewer aware of this information to consider when reading or reviewing that officer's investigation documents.

Finally, I suggest removing provisions that are either ambiguous or untenable. First, I suggest the deletion of the term "routine police stop or house call." Rather than propose a definition of this term, I would simply delete it, as the concept is not necessary to identify those situations where an officer should be afforded or denied initial access to a BWC recording.

I also suggest amending the bill to remove the provision authorizing the subject of a BWC recording to review or receive an accounting of the recording if the law enforcement officer has accessed it prior to providing any required initial report, statement, or interview. I share the concerns of my partners in law enforcement, who have noted that this provision would result in a prolonged and cumbersome change to the investigation process, with little to no justification or logic for such an outcome.

Therefore, I herewith return Assembly Bill No. 5864 (Second Reprint) and recommend that it be amended as follows:

Page 7, Section 1, Lines 30-31:	Delete "Except as provided in paragraph (2) of this subsection, a" and insert "A"
Page 7, Section 1, Line 32:	Delete "and" and insert "or"
Page 7, Section 1, Line 33:	After "recording" insert "prior to that officer creating any required substantive initial report, providing a statement, or submitting to an interview"
Page 7, Section 1, Line 35:	Delete in its entirety
Page 7, Section 1, Line 36:	Delete "any required initial reports, statements, and interviews"
Page 7, Section 1, Line 37:	After "event" insert ", except under the following circumstances:"
Page 7, Section 1, Lines 42-46:	Delete in their entirety
Page 8, Section 1, Lines 1-3:	Delete in their entirety

Page 8, Section 1, Line 4:	Delete "(b)" and insert "(a)"
Page 8, Section 1, Line 4:	Delete "any police"
Page 8, Section 1, Line 4:	After "force" insert "by the officer where the officer knows or should know that the use of force resulted in significant or serious bodily injury or death"
Page 8, Section 1, Line 6:	Delete "(c)" and insert "(b)"
Page 8, Section 1, Line 6:	After "firearm" insert "or any other use of deadly force"
Page 8, Section 1, Line 6:	Before "law" delete "a" and insert "the"
Page 8, Section 1, Line 7:	Delete "(d)" and insert "(c)"
Page 8, Section 1, Line 7:	Delete "police" and insert "law enforcement"
Page 8, Section 1, Line 7:	Delete "or" insert "(d) the death of a person during an encounter with a law enforcement officer;"
Page 8, Section 1, Line 8:	Delete "is" and insert "that officer knows or has been advised is or will be"
Page 8, Section 1, Line 9:	After "the" insert "officer's"
Page 8, Section 1, Line 9:	Delete "." and insert "; or (f) an incident the officer knows or has been advised is or will be the subject of a citizen complaint related to the officer's use of force, bias, or dishonesty."
Page 8, Section 1, Lines 10-21:	Delete in their entirety and insert "(2) In the event a law enforcement officer reviews or receives an accounting of a body worn camera recording prior to the creation of any report, statement, or interview, the law enforcement officer shall be required to acknowledge that prior review or receipt either verbally or in writing within each such report, statement, or interview."
Page 8, Section 1, Line 22:	Before "Nothing" insert "(3)"
Page 8, Section 1, Line 22:	After "shall" insert "be construed to"
Page 8, Section 1, Line 25:	After "event" insert ", nor to prevent a law enforcement officer from reviewing or receiving an accounting of such a body worn camera recording subsequent to the creation of any required initial report, statement, or

interview regarding the recorded event”

Respectfully,

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor