

	Kingston Municipal Police Department Kingston, Luzerne County, PA	
	Special Order 2.1.9	
Subject: Body Worn Cameras		
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This order consists of the following sections:

2.1.8 Body Worn Cameras

I. Purpose

The purpose of this policy is to provide officers with guidelines for the use of body worn and other camera equipment. This Department has adopted the use of body worn video/audio recording systems in order to accomplish several objectives, including:

- Accurate documentation of events, actions, conditions, and statements made during arrests and criminal incidents, to enhance officer reports, evidence collection, and testimony in court.
- The enhancement of this Department's ability to review probable cause for arrest, arrest procedures, officer and suspect interaction, evidence for investigative procedures, as well as for the training program.

II. Policy

Body Worn Cameras (BWC) are useful for documenting police response to incidents, collecting visual/audio evidence, officer training, preventing and resolving citizen complaints and strengthening police transparency, performance, and accountability.

Officer and citizen safety shall be the primary consideration when interacting with citizens and/or suspects. There may be instances in which officers are unable to activate their BWC due to circumstances making it unsafe, impossible, or impractical to do so. In these exigent circumstances, officers shall begin recording with their BWC at the first reasonable opportunity to do so and document the reason for the delayed start in the incident report and/or as part of the recording.

The Department recognizes that video images cannot always show the full story nor do video images capture an entire scene. The Department also recognizes that the BWC video does not mirror the perspective of the officer at the time of an incident, nor does the video include other factors known to or perceived by the officer that could impact the officer's judgement and decision-making, such as events beyond the scope of the camera, the officer's "reactionary gap", or the difference between human vision and the camera's video recording abilities. Therefore, the use of body-worn cameras does not reduce the requirement to provide thorough written documentation of an incident.

In order to maximize the use of this equipment in these and related areas, officers shall follow the procedures for BWC set forth in this policy.

Violations of this policy will subject the violator to disciplinary procedures as governed under General Order 1.8, Conduct and Disciplinary Procedures.

This policy is written in accordance with the Pennsylvania Wire Tap Law (Title 18 Pa.C.S. Chapter 57); Recordings for Law Enforcement (Title 42 Pa.C.S Chapter 67A); and Act 22 of 2017.

This policy will be reviewed by the Chief of Police, and/or his designee, annually for necessary changes, updates, improve officer training and safety, and identify use of force issues.

2.1.9 Body Worn Cameras (BWC)

A. Definitions

1. **Agency Administrator:** A member of the Kingston Municipal Police Department identified in the BWC system at the administrator level, with full access to user rights.
2. **Axon Evidence.com:** An online, web-based digital media storage facility accessed at <https://kingstonpdpa.evidence.com>. The virtual warehouse stores digitally-encrypted data (photographs, audio and video recordings) in a highly secure environment. The digital recordings are accessible to authorized personnel based upon a security clearance and maintain an audit trail for user activity.
3. **Axon Signal Vehicle:** A Bluetooth device connected to a patrol vehicle that will activate nearby Axon BWC when certain, predetermined, triggers occur.
4. **Axon View Application:** A mobile device application that enables a user to connect to an Axon BWC for the purpose of playback viewing of audio/video recordings as well as tag evidence recordings.
5. **Axon Device Manager Application:** An application that replicates some functions of Evidence.com, but in a mobile package more suited for device and inventory management.
6. **Axon Capture:** An application built for smartphones to securely record and upload photo, audio and video evidence to Evidence.com.
7. **Axon View XL:** The Axon View XL application is used to control and support Axon Fleet cameras. It is designed for use with a mobile data terminal (MDT) or mobile digital computer (MDC) within a police vehicle.
8. **Axon Respond:** A real-time operations platform that allows for the camera's location data to be visible through LTE.
9. **Axon Respond Plus:** A real-time operations platform that allows for the camera's location to be visible and provides an additional ability to live-stream the camera through LTE.
10. **Body-Worn Camera (BWC) System:** A camera system worn on the person of a uniformed law enforcement officer, or clearly identifiable law enforcement officer on official duty for the Kingston Municipal Police Department, capable of recording events both audio and visually that is approved for use by the Pennsylvania State Police and published in the Pennsylvania Bulletin. The only authorized BWC shall be the AXON Body 3.
11. **Police Digital Evidence Technician:** Officer(s), appointed by the Chief of Police, who are specifically trained in the maintenance, inventory, and care of the BWC equipment, and who are trained to maintain and administer the storage of the recordings on Evidence.com.

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12. **Evidence Transfer Manager (ETM):** The ETM is a docking station that simultaneously recharges the BWC and uploads all data captured from the BWC to Evidence.com. The ETM ensures that evidence handling is secure and not altered. The only authorized ETM is the Axon Body 3 Dock.
13. **Evidence Sync:** Axon software that enables a user to connect an Axon Device to a computer terminal for the purpose of transferring, viewing, or tagging evidence recordings.

B. Legal Requirements

1. Per Title 18 – PA C.S.A Chapter 57, when utilizing an Audio-Visual Recording System, all of the following criteria MUST be met:
 - a. A law enforcement officer, whether or not certified under section 5724 (relating to training), acting in the performance of his/her official duties shall intercept and record an oral communication between individuals in accordance with the following:
 - 1) At the time of the interception, the law enforcement officer:
 - a) is in uniform or otherwise clearly identifiable as a law enforcement officer;
 - b) is in close proximity to the individuals' oral communication;
 - b. Is using an electronic, mechanical or other device which has been approved under section 5706(b)(4) (relating to exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices) to intercept the oral communication.

C. Axon Body 3 Modes and Functionality

1. Powering the BWC “On” and Ready (Buffering Mode)

- a. The BWC must be turned “On” by pressing the Power button until you feel a short vibration. The camera starts, emits two short rising-pitch tones with a long vibration and then enters Ready (Buffering) mode.
- b. The Operation LED light will blink green and the camera will display “Ready.”

2. Event Mode – Initiating Recording

- a. When recording, the Operation LED will blink red and will display a recording icon. The camera and microphone will be activated
- b. At the start of an event and every 2 minutes during an event, the camera emits 2 short tones and 2 short vibrations to remind the user that the camera is still recording
- c. There are several manners to initiate recording:
 - 1.) Event Button: The primary manner to activate recording will occur when an officer “double taps” Event button on the BWC.
 - 2.) Axon Signal Vehicle
 - a) BWC devices may be linked to patrol vehicles through Axon Signal Vehicle, when equipped.
 - b) All BWC devices in the area (approximately 30 feet) will begin recording when an Axon Signal device is activated. This signal will remain active for 30 seconds from the time of activation.
 - c) Event triggers for Axon Signal Vehicle BWC include:
 - i. When the vehicle’s ignition is on and emergency lights are activated.
 - ii. When the vehicle’s ignition is on and weapon rack is activated via the electronic switch.
 - d) Although the Department’s intent is to equip most, if not all, patrol vehicles with Axon Signal Vehicle, this may not be possible due to the design of the vehicle or related equipment. Further, response to non-priority calls may not require the use of emergency lights. Therefore, Axon Signal Vehicle shall be considered and utilized as a secondary manner of activation.

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d. Pre-Record Buffering:

- 1.) The BWC device is set for a 30 second pre-record buffering function. When the camera is activated, the video will begin 30 seconds prior to the activation.
- 2.) There is no audio pre-record available; therefore, the first 30 seconds recorded in the pre-record time frame will be without audio.

3. Event Mode – Stop Recording

- a) The officer must hold down the Event Button on the BWC for three seconds to stop all audio and video recordings.
- b) The camera will emit one long tone and vibrate once. The camera will display “Saving” and then “Ready”. The Operation LED blinks green.

4. Sleep Mode

- a. Sleep Mode puts the camera in an idle state that disables recording and buffering. While in this state, automatic activation, if enabled at your agency, will not initiate camera recording.
- b. Sleep Mode is useful for situations where camera users may need momentary privacy. The user can enter Sleep Mode from the buffering state in less than 4 seconds, as opposed to turning the camera completely off. Similarly, the camera will exit Sleep Mode and enter a buffering or recording state in less than 4 seconds.
- c. The device audit trail reflects when Sleep Mode is entered and exited.
- d. Battery Life: While Sleep Mode can be used as an alternative to completely powering down the camera during private situations, it should not be considered a replacement for powering the camera off to conserve battery life. Certain background processes are running while the camera is in Sleep Mode and the battery will still deplete while in this mode, just at a slower rate.

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e. Entering and Exiting Sleep Mode

1.) To enter Sleep Mode, the user:

- a) Presses the Power button. The camera display shows PRESS SELECT TO ENTER SLEEP.
- b) Within 3 seconds, the user must press the Select Button to confirm. The camera display shows a crescent moon icon to show it is in Sleep Mode.

2.) To exit Sleep Mode, the user:

- a) Presses the Power button to return the camera to buffering state.
- b) Double-presses the Event button to begin recording

5. Stealth Mode

- a. For some situations, you may wish to turn off the LED lights, sounds (audio prompts), and vibrations (haptic feedback) on your Axon camera. Turning off all the indicators and notifications is also known as stealth mode.

b. Entering and Exiting Stealth Mode

a) To enter Stealth mode:

- i. Press and hold “volume down” for 3 seconds. The word STEALTH is briefly shown in camera display activity area.
- ii. An S icon is shown in the camera display status bar.

b) To exit Stealth mode:

- i. Press and hold the “volume up” or “volume down” for 3 seconds.
- ii. The S icon is no longer shown on Camera Display status bar.

D. Procedures and Use

Officers shall adhere to the following procedures when utilizing BWC equipment:

1. Issuance and Assignment of BWCs

- a. Police personnel shall use only BWCs issued by this department. The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the Kingston Municipal Police Department.
- b. BWC equipment shall be issued to all officers as authorized by this agency.
- c. Each officer will be designated or issued a specific BWC.
- d. All patrol supervisors shall be trained in the procedure of assigning a BWC through the Axon Device Manager application.

2. Wearing the BWC

- a. The BWC placement is impacted by the officer's individual uniform of the day. The BWC shall be worn consistent with training and this policy.
- b. The BWC must be worn:
 - 1.) On the front of the outermost uniform garment (with the exception of a rain jacket in inclement weather) in such a manner to give the lens a clear, unobstructed view to capture the majority of the event area/person contacted.
 - 2.) In a manner taking into consideration the security of the camera and the intended purpose of the camera capturing events.
 - 3.) Facing outward, in a vertical upright position, and at or above the waist.

3. Turning the BWC "On"

- a. The BWC must be turned "On" upon leaving the Kingston Municipal Police Headquarters at the beginning of the officer's shift.
 - 1.) The BWC should remain in the "On" position for the entire officer's shift.
 - a) Exception: The BWC may be turned "Off" when an officer has a reasonable expectation of privacy during non-enforcement activities (i.e., Restroom). The BWC must be turned "On" at the conclusion of these activities.
 - 2.) The BWC should not be turned "Off" until the BWC is returned to a shift the dock at the end of shift.

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4. Initiating Recording Mode

- a. Officers, including primary, secondary and assisting officers, shall start their BWC recordings as soon as a call is initiated via radio or communication from 911 on their Mobile Data Terminal (MDT), or as soon as practical, or at the beginning of any self-initiated police action.
- b. Officers shall activate the BWC, while in the performance of their official duties and when clearly identifiable as a police officer or a uniformed police officer. These contacts include, but are not limited to, the following:
 - 1.) All field contacts involving actual or potential criminal conduct within video and audio or audio range.
 - 2.) Any time the officer is engaged in formal contact with a citizen(s) to include field interviews or terry stops.
 - 3.) Vehicle stops, vehicle pursuits, or suspects fleeing on foot.
 - 4.) Officers providing back-up assistance.
 - 5.) Situations involving the use of force or probable use of force.
 - 6.) The execution of arrest warrants, search warrants, vehicle inventory searches, on-scene custodial situations, searches incident to arrest, or the confiscation and documentation of evidence or contraband.
 - 7.) During other non-criminal incidents or investigations which the officer reasonably believes may become hostile or adversarial in nature or any contact that becomes adversarial after the initial contact that would not otherwise require recording.
 - 8.) Any incident deemed appropriate by the officer in the discharge of his/her official duties.
- c. In any event where an officer is injured in the line of duty, he/she shall as soon as practical, activate the BWC.
- d. Officers may use their BWC to record:
 - 1.) Legal, reasonable, and appropriate surveillance of potential criminal suspects or crime scenes.
 - 2.) The circumstances at crime and vehicle crash scenes or other events.
 - 3.) Any incident an officer feels that there was something unusual that occurred or if he/she believes the incident may be scrutinized for any reason.

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- e. Officers are encouraged to narrate the video recording during a recorded incident, which will assist in establishing probable cause for enforcement action and assist in report writing.
- f. Officers shall note in case reports or event reports or on any citation when recordings were made during the incident. A simple notation on the last line of the citation of "BWC" will be sufficient citation documentation.
- g. There may be certain circumstances (officer safety, rapidly developing hazardous condition, out of view of camera) or locations (medical treatment facility, courtroom) that may prevent or delay the recording of an incident. If an officer is unable to document an incident required under this policy, the officer shall note in the case report or event report any extenuating circumstances preventing the recording (officer safety, rapidly developing hazardous condition, out of view of camera, etc.)
- h. Notice to persons being recorded.
 - 1.) Pennsylvania law (Act 22 of 2017) does not require officers to notify individuals that they are being recorded in accordance with this policy. This is extended into a person's residence while officers are lawfully conducting official duties.
 - 2.) If asked, the officer will acknowledge the BWC is recording.
 - 3.) An officer may at any time notify any person(s) that they are being video and/or audio recorded.
 - 4.) Prior to an officer communicating with a person not in their physical presence (i.e.: phone call), the officer shall verbally identify themselves as a Kingston Municipal Police Officer and advise the person that their BWC is actively recording.
- i. Unless otherwise exempt by this policy, the BWC shall remain activated and recording until the contact, event or criminal enforcement action is complete to ensure the integrity of the recording.

5. Recording not Required or Authorization to Stop Recording

- a. An officer shall not be required to activate the BWC when engaged in conversations with individuals with whom the officer is in a privileged relationship (e.g., spouse, attorney, fellow police officer in non-enforcement activities, police peer counselor, labor representative, minister, etc.). This includes all nonenforcement/non-investigative activities.
- b. An officer is not required to record interactions with confidential informants or other persons that may not speak freely with the officer if being recorded. If the interaction transforms into a police incident the officer should activate the BWC or document why it was not activated in the related report.
- c. Officers shall have discretion on whether to use the BWC when interviewing reluctant crime victims or witnesses, particularly in situations involving rape, abuse, or other sensitive matters.
- d. An officer shall not be required to activate BWC when engaged in conversations with individuals considered as “walk-ins” to Headquarters. However, if this encounter evolves into a criminal incident, the officer shall activate the BWC.
- e. Officers will have discretion whether to record informal, non-law enforcement related interactions with members of the community. Officers should remain mindful that indiscriminate recording may inadvertently create an atmosphere of apprehension and uncertainty.
- f. A recording may be stopped during non-enforcement activities prior to the conclusion of an incident. Examples include protecting vehicle crash scenes from further vehicular traffic or parades.
- g. When the recording function is activated to document an incident, it should only be stopped at the end of the incident that the BWC was initiated to record. The cessation of recording prior to the conclusion of an incident may give the impression that the recording was halted to conceal an officer’s improper conduct.
- h. To avoid any appearance of improper conduct, a justification for halting a recording and the time and date should be verbally recorded prior to stopping a recording.
- i. Upon conclusion of an incident, officers should record a short statement that the incident has been completed and give the date and time.
- j. When the officer’s presence is lawful, the officer has no obligation to stop recording in response to a citizen’s request. The recording shall be pursuant to an investigation, arrest, lawful search or when circumstances clearly dictate that continued recording is necessary. However, officers may evaluate the situation and when appropriate, honor the citizen’s request.

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k. Federal Task Force Officers:

- 1.) Officers, assigned to federal agencies such as the ATF and U.S. Marshalls, as Task Force Officers shall follow the assigned agency's policies and procedures regarding the use of BWCs.
- 2.) This exception shall only apply when the officer is performing work as a Task Force Officer under the realm of the federal agency. BWC's shall be utilized as governed by the policies and procedures of this department for all other assignments and/or functions.

6. Sleep Mode

- a. In lieu of turning the BWC "Off", the Sleep Mode function may be utilized when pre-buffered video would record an officer where he or she has a reasonable expectation of privacy during non-enforcement activities (i.e., Restroom; Personal Residence).
- b. Sleep Mode may also be utilized while inside Kingston Municipal Police Headquarters when the officer(s) would not otherwise be required to utilize the recording mode.
- c. Sleep Mode must be deactivated and/or the BWC must be turned "On" at the conclusion of these activities or prior to leaving Kingston Municipal Police Headquarters.

7. Stealth Mode

The use of Stealth Mode is authorized where the cameras lights, sounds, or vibrations would cause officer safety issue or concern.

8. Tagging Metadata

- 1.) When the recording is stopped, officers shall tag the recording with metadata. Officers should tag recordings throughout their shift. Officers shall tag recordings prior to the end of their shifts. In the event officers are unable to tag recording prior to the end of their shift, the officer may his or her recordings at the beginning of their next scheduled shift.
- 2.) Officers shall tag recordings with the following metadata:
 - a) **ID:** The IRC or Incident Number assigned by Luzerne County 911 or badge number if there is no incident number assigned. "UA - Request Immediate Deletion" may also be used when a recording contains an unintentional activation of the BWC system during non-enforcement or non-investigative activities (restroom or meal breaks), or in other areas where a reasonable expectation of privacy exists.

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- b) **Title:** This will be the type of incident followed by the location of the incident.- i.e. Robbery, 123 Main Street. The location is not required for Training Demo/False Activations.
- c) **Category:** Officers shall assign at least one of the following Categories. Multiple categories may be used.
- i. **Miscellaneous Incident:** The retention period for this category shall be 65 days. Officers shall use this category for incidents where an arrest is not or would not be warranted such as:
 - a. Citizen Contact/Field Interviews
 - b. Alarms and Building Checks
 - c. Traffic Accidents
 - d. Fire/EMS Calls (to include assisting)
 - e. Assisting other City Departments
 - f. Assisting Other PD's or Agencies
 - g. Mental Health or 302's
 - h. Civil Matters/Disputes
 - i. Domestic/Disturbances with NO arrest or possibility of arrest.
 - j. Death: Other than as described in subsection (f) - Major Case Investigation. i.e.: Natural Death
 - k. Other general Calls for Service
 - ii. **Traffic Stops/Summary Offense:** The retention period for this category shall be 65 days. Officers shall use this category when:
 - a. Traffic stops resulting in verbal warnings, written warnings or the filing or issuance of a traffic citation(s).
 - b. Incidents resulting the filing or issuance of non-traffic citation(s).
 - iii. **Person In Custody:** The retention period for this category will be 65 days. This category will be used by the jailer or transporting officer(s) during transport or contact with a person(s) in custody such as:
 - a. Warrant Arrest(s)
 - b. Processing and release of prisoners
 - c. Routine "Jail Cell Checks"
 - iv. **Misdemeanor Offense:** The retention period for this category shall be 3 years. Officers shall use this category for incidents in which the underlying offense is a misdemeanor as governed by Pennsylvania Statute.
 - v. **Felony Offense:** The retention period for this category shall be "Until Manually Deleted". Officers shall use this category for incidents in which the underlying offense is a felony as governed by Pennsylvania Statute.

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- vi. **Major Case Investigation:** The retention period for this category shall be "Until Manually Deleted". Officers shall use this category for **incidents involving death** where the manner has not been determined or criminal charges have been, will be or may be filed.
 - vii. **Use of Force:** The retention period for this category shall be 5 years. Officers shall use this category for incidents where force, as defined by General Order 1.3, is used, or alleged to have been used, by an officer.
 - viii. **Officer Injury:** The retention period for this category shall be "Until Manually Deleted". Officers shall use this category for incidents where an officer(s) is injured or alleged to have been injured.
 - ix. **Training Demo/False Activation:** The retention period for this category shall be 30 days. This category shall be used for training demonstrations and false activations.
 - x. **Taser - Routine Download:** The retention period for this category will be 2 years. This category will only be used by certified Taser Instructors when categorizing routine Taser downloads.
 - xi. **Taser – Use of Force:** The retention period for this category will be 5 years. This category will only be used by certified Taser Instructors when categorizing a use of force incident involving a Taser(s).
 - xii. **Pending Review:** The retention period for this category shall be "Until Manually Deleted". The use of this category is limited. Officers shall only use this when the category of an incident cannot be determined. Officers must consult and receive approval from their supervisor before using this category.
 - xiii. **Uncategorized:** The retention period for this category shall be "Until Manually Deleted". This is an Axon default category and shall not be used by officers when categorizing incidents or digital evidence.
- d) **Assigning “Tags” to Evidence:** This is recommended, but not mandatory. Tags are labels that an officer can apply to evidence and cases. Adding tags to evidence can help officers find evidence more easily later. Evidence searches allow you to filter the search results by tags.

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- e) **Description:** This is optional in Evidence.com. The officer should enter any other information the officer deems necessary or beneficial to identify the event data.

3.) Evidence may be labelled or tagged using the following methods:

a) In-field Labelling or Tagging

- i. Axon View Application: The BWC may be paired via Bluetooth/Wi-Fi to a smartphone or tablet. Event recorded data may be viewed and tagged as evidence.
- ii. Axon View XL: The BWC may be synced with the MDT or Department desktop computer using the sync cable. Event recorded data may be viewed on the MDT and tagged as evidence.

- b) Evidence.com – After the BWC is docked in the ETM and the data is uploaded to Evidence.com, the recorded data may be viewed by signing into Evidence.com and tagged as evidence.

9. Return and Upload of Evidence

- a. At the end of their shift, officers shall return the BWC into the Evidence Transfer Machine (docking station) for charging and uploading of media. The officer shall monitor the BWC Dock Status LED lights when docking to ensure that the BWC/dock is functioning properly.
- b. If officers are working extra-duty or overtime shifts following a scheduled shift, they will be permitted to maintain possession of their BWC.
- c. Officers will be required to ensure their BWC are charged and fully functional for the duration of the extra-duty/overtime shift. Trickle-charging the BWC via the sync cable is permitted to maintain a charge for the duration of the shift.

E. Prohibited and Restricted Use

- 1. The use of BWC equipment for any reason other than a law enforcement purpose is NOT authorized and will subject the officer misusing the equipment to disciplinary action.
- 2. Officers shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior written authorization and approval of the Chief of Police or his/her designee.
- 3. Officers are prohibited from tampering with the BWC, deleting any recordings, intentionally obscuring the view of the cameras or muffling the microphone.

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4. Audio or video recording devices shall not be used in department locker rooms, restrooms or any other place where there would be a reasonable expectation of privacy. If a criminal offense has occurred in these locations, a BWC recording may be initiated and every precaution shall be taken to respect the dignity of the victim by avoiding recording video and audio of persons who are nude or when sensitive areas are exposed.
5. The BWC should not be used to record confidential informants. Officers shall make a reasonable effort not to record vice or plainclothes officers. Officers are required to record a vehicle stop for plainclothes officers and shall keep recording until the plain clothes officers arrive on scene. Once plain clothes officers are on scene, recordings may be stopped at the discretion of the operation's or incident's officer in charge.
6. Prior to conducting a strip search, the officer will record a 360-degree video of the location where the strip search will be conducted. During the actual strip search, the BWC will be utilized to only capture audio of the event by positioning the camera away from the individual to be searched.
7. Unless responding to an emergency or incident, officers shall not record within a judicial facility or in an area adjacent to or immediately surrounding a judicial facility without the approval of the court or presiding judicial officer or except as provided by rules of court. Officers shall notify the presiding judicial officer if he/she activates his/her BWC because of an emergency or incident. (Refer to Title 18, 5103.1, Unlawful use of an audio or video device in court)
8. Officers will only use the BWC in patient care areas of a healthcare facility when the recording is for official purposes and caution should be used to record only the parties involved in the event being investigated.
9. The BWC shall not be intentionally activated to record conversations of fellow employees during routine, non-enforcement-related activities without their knowledge or during break periods, or in designated break areas unless an active pre-existing investigation is underway and authorized by law.
10. BWC audio recording equipment shall only be used to record conversations of individuals in the presence of an officer while the officer is on-duty or working an authorized extra duty assignment whether in police patrol uniform or while clearly identifiable as a police officer through other means. (i.e. clearly visible badge, verbally identified as police officer, etc.).
11. Recordings will not be used, shown, or viewed for the purpose of ridiculing or embarrassing an employee.
12. Officers are not authorized to playback BWC recorded media for citizen viewing.
13. Explosive Devices
 - a. In situations where an officer, using an Axon device or sensor, needs to enter a potentially explosive environment, Axon recommends proceeding with caution by powering off the device prior to entering a potentially explosive environment.
 - b. Axon devices and sensors which use wireless communication are not certified as intrinsically safe and shall be treated with the same care and caution as a cellular telephone (i.e. powered off) prior to entering a potentially explosive environment.

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F. Use of BWC Recordings.

1. BWC recordings may be used in court proceedings to establish probable cause for arrest.
2. The training unit may use BWC recordings to assess the training needs of the department or to develop training programs.
3. BWC recordings may be used for the purpose of facial recognition or identification of persons by the Kingston Municipal Police Department where possible.

G. Maintenance

1. BWC equipment assigned to an officer is the responsibility of the officer and will be maintained according to manufacturer's specifications.
2. Prior to each shift, officers shall determine whether their BWC equipment is working satisfactorily. The officer shall bring any problems, at this or other times, to the attention of their immediate supervisor as soon as possible.
3. Officers shall report damage, loss or theft of BWC equipment immediately to their immediate supervisor.
4. Officers are permitted to clean the lens of their BWC with a soft, damp cloth as needed. Officers shall not use solvents or cleaning products that may damage the lens of the BWC (e.g., Windex).
5. All other maintenance or adjustments of equipment shall only be performed by BWC maintenance personnel who have been specifically trained and authorized to conduct such adjustments or repairs.
6. Officers shall not be disciplined or be responsible for damage to BWC equipment that occurs in the ordinary course of duty.

H. Training

1. All sworn personnel shall be trained in the proper operation and use of the BWC equipment as specified by the BWC manufacturer and this regulation prior to their authorization to use the BWC equipment.
2. The Training Unit shall maintain a record of all trained personnel.

I. Review of Recordings

1. Civilians on Scene
 - a. Civilians shall not be allowed to review BWC recordings at the scene of a crime or incident.

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2. Officer Review

- a. Officers may review BWC recordings to assist with investigations and the completion of required reports. Officers may also use BWC recordings to assist investigators and supervisors in evaluating on-going situations.
- b. Officers involved in any use of force incident, vehicle crash causing injuries or internal investigation will be permitted, but will not be required, to review their own BWC recordings prior to providing a recorded statement or completing reports. Witness officers will be allowed to review BWC recordings. Officers may only review recordings from their assigned BWC.
- c. Field Training Officers (FTO) may use BWC recordings to provide immediate training to recruits and to assist with the completion of agency reports and FTO evaluations.

3. Supervisor Review

- a. The Chief of Police or his/her designee may periodically review or copy BWC recordings to assess the training needs of the department, to evaluate departmental policies and procedures, or to supplement any investigation to include use of force incidents, citizen complaints, critical incidents, and/or intelligence functions.
- b. Shift Sergeants may review BWC recordings after receiving a specific complaint to determine if any apparent violation(s) of department policies or procedures has occurred.
- c. In the event an officer believes a recorded event may lead to a complaint, he/she should bring the recording to the attention of his/her immediate supervisor. The shift Sergeant should review the recording and conduct any further investigation that the supervisor deems appropriate.
- d. The Department shall not solicit complaints upon review of BWC footage.
- e. Self-Reporting Minor Violations
 - 1.) If an officer self-reports minor violation of policy and no complaint is received, the Department shall not take disciplinary action against the officer.
 - 2.) An officer shall be granted such amnesty once per each 180 days.
 - 3.) If a complaint is received, the officer's self-reporting shall mitigate the discipline.
 - 4.) Failure to self-report shall not be a basis for additional discipline.
- f. The Department shall not investigate minor violations of policy, such complaints regarding as attitude or demeanor, where the video has been deleted because of Department retention periods.

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g. Routine Audits of BWC Recordings

- 1.) The primary purpose of routine audits is to ensure officers are properly activating their BWC as governed under this policy. Routine audits shall be used for maintenance and training purposes only and not for formal discipline, absent additional corroborating evidence or complaint, unless an act would be defined as criminal activity or civil rights violations. Protection from discipline as defined in this section shall not extend to an officer's failure to use BWC when required.
- 2.) Audits will be conducted by the Shift Sergeant or BWC Administrator on a monthly basis.
- 3.) Audit Process:
 - a) The supervisor conducting the audit will randomly pick two eight hour shifts of at least one officer assigned to his/her shift.
 - b) The supervisor will cross reference the auditee's BWC recordings against the Luzerne County CAD dispatch log for each of the auditee's selected shift to ensure officers are properly activating their BWC. Incidents without BWC footage should be investigated to determine if justification existed not to activate the BWC.
 - c) The supervisor will then randomly review a least two BWC recordings of each eight-hour shift. BWC recordings categorized as "Training Demo/False Activation" may and should be reviewed; however, BWC recordings categorized as such shall not be counted as part of the audit.
 - d) When conducting audits, supervisors shall ensure that digital evidence is properly tagged or labelled and categorized.
 - e) Each officer and supervisor should be audited at least every 6 months. An officer should not be audited for consecutive months without specific, justifiable cause.
- f) Audit Forms and Video
 - i. The Shift Sergeant or BWC Administrator shall document the audit on the Kingston Municipal Police Body Worn Camera Audit Form found in PlanIt Police Scheduling.
 - ii. The audit forms shall be forwarded to the Chief of Police or his/her designee monthly within 10 days after the last day of the Audit Month.
 - iii. The audit forms shall be retained for the current and previous calendar year.
 - iv. The Digital Evidence Technician shall retain a copy of the audited BWC recording(s) on the local server or Evidence.com for a least the retention period of the audit forms.

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- g) The Shift Sergeant is encouraged to view the video in the presence of the recording officer, discuss any positive or development issues found, and document corrective actions taken.
- h) The Shift Sergeant shall notify the recording officers via email when their videos are audited.
- i) The Shift Sergeant shall review use of force incidents in order to improve use of force and officer safety. Any issues or training deficiencies shall be reported to the Chief of Police for further review.

4. Fraternal Order of Police (FOP) Review

- 1.) FOP delegates, of the Kingston Municipal Police Department FOP Collective Bargaining Unit, upon the request to the Chief of Police, shall have the right to a copy of any video footage that will be utilized for internal investigations or disciplinary purposes. This copy may be shared with the FOP attorney.
- 2.) If a copy of said video is provided for viewing it shall not be released and/or transferred to any other party, including the media, without the prior approval of the Chief of Police.

J. Access to BWC Data

- 1. Access to all BWC stored media will be restricted to authorized users and the viewing of any BWC footage will be restricted to legitimate law enforcement purposes only.
- 2. Officers may request a recording of an incident be recorded to DVD/storage media. The DVD/storage device will be secured and may be reproduced as described in this policy.
- 3. In compliance with PA Rules of Criminal Procedure, Pretrial Discovery and Inspection (Title 234 Rule 573), a DVD/storage device may be reproduced and released to the District Attorney's office, or the recording(s) may be shared securely within Evidence.com. The BWC Digital Evidence Technician and the Prosecuting Officer shall ensure the correct recording is presented and properly identified.
- 4. Officers who receive a request/subpoena for BWC footage shall send the following information to the BWC Digital Evidence Technician via PlanIt Scheduling.
 - a. Incident Number
 - b. Defendant/suspect first and last name
 - c. Date and time of the incident
 - d. Party requesting the information
- 5. In compliance with subpoenas served upon the Chief of Police in civil cases, a DVD/storage device may be reproduced. Only those portions of the recording relevant to the incident should be reproduced and furnished in compliance with the subpoena. The Digital Evidence Technician shall ensure the correct recording is presented and properly identified.

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6. When an officer believes that a recording has value as a training aide, they are encouraged to advise his/her supervisor. Upon approval of the Chief of Police, the recording may be reproduced for educational purposes. Approval will not be granted for any recording that documents an active investigation or ongoing litigation. The Chief of Police shall obtain consent from any officer depicted in a video that is to be utilized for educational purposes.
7. Upon approval of the Chief of Police, recordings may be reproduced for public information purposes.
8. Recordings may be reproduced by the Chief of Police or his/her designee in cases where the recording would be of use in any investigation or litigation involving Department personnel.
9. Pursuant to Act 22 of 2017 and Title 42 Pa.C.S Chapter 67A, public requests for audio and video recordings, made by the Kingston Municipal Police Department BWCs under the guidelines of this policy, shall be made in writing within 60 days of the date when the audio or video recording was made. The written request shall be made to the Right to Know Office, 500 Wyoming Avenue, Kingston, PA 18704 during normal operating business hours. Service of the request is effective upon receipt of the written request by the Right to Know Office from personal delivery or certified mail with proof of service. Audio and video recordings requests will be processed pursuant to the guidelines established in Act 22 of 2017 and Title 42 Pa.C.S Chapter 67A. Prior to releasing footage based on an Open Records requests the Chief of Police or his/ her designee shall review and redact any footage, where necessary, prior to release.
10. The Digital Evidence Technician shall write a supplemental report to the requested case indicating what recordings were copied or shared with outside agencies, what media they were downloaded to, how many copies were made and who the copies were given to.
11. It shall be a direct violation of this policy for any officer or employee of the Municipality of Kingston to release any video without the direct consent from the Chief of Police or his/her designee.

K. Storage of Data

1. The Kingston Municipal Police Department shall store BWC Data through automatic upload when the BWC is placed in the ETM docking station. The shift supervisor receiving the BWC at the conclusion of an officer's shift shall place the BWC on the ETM for recharging and uploading data.
2. Officers shall dock their BWC on the ETM if they receive notice that their BWC hard drive is almost full (available via Axon View Application) for upload of data.
3. Retention Periods
 - a. All BWC recording data shall be stored in Evidence.com and stored for minimum 65 days (Exception: Training Demo and False Activations).
 - b. Events tagged by category may be automatically stored for a longer period according to the tagged category.
 - c. Officers shall notify the Digital Evidence Technician to extend the default retention period if the recording is required to be retained for court proceedings beyond the default retention period.

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- d. Any recordings tagged as evidence in cleared cases shall not be disposed of until the court proceedings and appeal periods of all known accused have expired, or upon prior approval from the Attorney for the Commonwealth.
- e. Officers shall notify the Digital Evidence Technician when cases involving digital evidence may be disposed or deleted as indicated in subsection (K)(3)(d).
- f. For convictions of criminal homicide, the appeal period shall be deemed to extend until the conclusion of the sentence or the death of all convicted accused in the same case.
- g. In civil cases against the Kingston Municipal Police Department or its personnel, notice shall be immediately provided to the Kingston Municipal Solicitor and the Digital Evidence Technician. Recordings shall be retained for a minimum of two years from the date of the incident and may not be destroyed without the permission of the Kingston Municipal Solicitor.
- h. Requests for evidentiary recordings shall be made to the Digital Evidence Technician. Reproductions of the DVD/storage device may be made for the officer for use in the preparation for prosecution of a case. The DVD/storage device will be provided to the issuing officer and the officer will maintain the DVD/storage device if required for court.
- i. If deemed necessary, BWC recordings may also be attached or saved in the Departments RMS system.
- j. Unintentional Activations
 - 1.) In the event of an unintentional activation of the BWC system during non-enforcement or non-investigative activities (restroom or meal breaks), or in other areas where a reasonable expectation of privacy exists, officers may request that the Digital Evidence Technician delete or edit the recording.
 - 2.) Notification shall be made, via the chain of command, to the Chief of Police by submitting a BWC Footage Deletion Request form in PlanIt Scheduling.
 - 3.) To be approved, the request for deletion requires two-party authorization. One of those parties will be the Chief of Police or his/her designee and the other will be an Agency Administrator.

L. Documentation of Review, Access, or Release of BWC Footage

1. Documentation of review and access of BWC footage

- a. Any officer or personnel reviewing or accessing BWC footage shall document the reason or purpose of the review or access in the "Notes" section of Evidence.com.

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2. Release of BWC Footage

- a. The following information shall be documented in "Notes" section of Evidence.com and an Activity Report, if applicable, when any officer or personnel copies or releases BWC footage:
 - 1.) What files were copied
 - 2.) What media they were downloaded to
 - 3.) How many copies were made
 - 4.) Who the copies were given to

M. Supervisor Responsibilities

1. Supervisors shall ensure that all officers follow established procedures for the use and maintenance of BWC equipment, handling of recordings, and the completion of proper documentation.
2. When an incident arises that requires the immediate retrieval of BWC media for chain of custody purposes (including, but not limited, serious crime scenes, officer involved shootings or others as determined by policy/supervision), a supervisor will respond to the scene and ensure the BWC remains affixed to the officer in the manner it was found and that the BWC data remains uncompromised until it can be secured.

N. Axon Capture

1. The use of Axon Capture to securely record and upload photo, audio and video evidence to an officer's Evidence.com is authorized.

III.

By order of:



**Richard J. Kotchik
Chief of Police**