

## **TITLE III    OPERATIONS:**

### **Chapter 6**

### **Use of Department Equipment**

#### **608 Body Worn Camera (BWC) EFFECTIVE Date: 07/07/2020**

**PURPOSE:** The purpose of this policy is to provide the Ross Township Police Department and its Officers with guidelines on the use of Body Worn Cameras (BWC) as an effective tool to help audio/visually document events as they actually occur.

Recent changes to **Pennsylvania Law** allow uniformed law enforcement officers or clearly identifiable law enforcement officers on official duty such usage. Future changes in law and procedure, technology (e.g., facial recognition), as well as training provided on this procedure, may give rise to modifications of this policy. This policy shall be reviewed by the Chief of Police and/or his designee at a minimum of every six (6) months after its adoption. Violations of this policy may subject the officer to the Department's disciplinary policies as contained in Title II Chapter 1.

**POLICY:** When permissible under **Pennsylvania Law**, officers shall activate the BWC to Record contacts with citizens in the performance of their official duties, pursuant to this policy.

Officers 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.

This policy does not regulate the use and operation of In Car Video Recording Equipment that is permanently mounted inside of some Department-owned vehicles (Refer to the Department's In Car Video Recording Equipment Policy Title III Chapter 6; Section 607).

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## A) DEFINITIONS

The following words and phrases when used in this section (608) shall have the meanings here unless the context clearly indicates otherwise:

**Agency Administrator** – Member of the Department who will be identified at the administrator level, with full access to user rights. Appointed by the Chief of Police.

**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 Ross Township 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.

**BWC Technician** – Officer(s) of the Department who are specifically trained in the maintenance and care of the BWC equipment, and who are trained to maintain and administer the storage of the recordings. Appointed by the Chief of Police.

**Confidential Information** – Any of the following:

- (1) The identity of a confidential source.
- (2) The identity of a suspect or witness to whom confidentiality has been assured.
- (3) Information made confidential by law or court order.

**Information Pertaining to an Investigation** – An audio recording or video recording which contains any of the following:

- (1) Complaints or depictions of criminal conduct, including all actions or statements made before or after the criminal conduct that are part of or relate to the same incident or occurrence.
- (2) Upon disclosure, information that would:
  - (i) reveal the institution, progress or result of a criminal investigation;
  - (ii) deprive an individual of the right to a fair trial or an impartial adjudication;
  - (iii) impair the ability of the Attorney General, a district attorney or a law enforcement officer to locate a defendant or codefendant;
  - (iv) hinder the ability of the Attorney General, a district attorney or a law enforcement officer to secure an arrest, prosecution or conviction; or
  - (v) endanger the life or physical safety of an individual.
- (3) Upon disclosure, information that would:
  - (i) Reveal the institution, progress or result of an agency investigation.
  - (ii) Deprive a person of the right to an impartial administrative adjudication.
  - (iii) Constitute an unwarranted invasion of privacy.
  - (iv) Hinder an agency's ability to secure an administrative adjudication.
  - (v) Endanger the life or physical safety of an individual.

**Digital Evidence** – BWC files, including photographs, audio recordings and video footage, captured by a BWC and stored digitally.

**End User** – Officers of the Department who have been issued or assigned a BWC.

**Evidence Transfer Manager (ETM)** – A computer server with built-in, networked or wirelessly connected docking stations physically installed within the Department or a Department vehicle that simultaneously recharges the BWC equipment while digitally encrypting and uploading all data captured to the server.

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**Law Enforcement Agency** – The Office of Attorney General, District Attorney's Office or an agency that employs a law enforcement officer.

**Law Enforcement Officer** – An officer of the United States, the Commonwealth or a political subdivision thereof, another state or political subdivision thereof or who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in the Pennsylvania Consolidated Statutes or an equivalent crime in another jurisdiction, a sheriff or deputy sheriff and any attorney authorized by law to prosecute or participate in the prosecution of the offense.

**Oral Communication** – Any oral communication uttered by a person possessing an expectation that such communication is not subject to interception under circumstances justifying such expectation. The term **does not** include the following:

- (1) An electronic communication.
- (2) A communication made in the presence of a law enforcement officer on official duty who is in uniform or otherwise clearly identifiable as a law enforcement officer and who 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 communication in the course of law enforcement duties.
- (3) Act 22 revises the definition of "Oral Communication" in 18 Pa.C.S. §5702 of the Wiretap Act to specifically exclude communications made in the presence of a law enforcement officer on official duty who is in uniform or otherwise clearly identifiable as a law enforcement officer and who is using an electronic, mechanical, or other device which has been approved as set forth in the Act. Consequently, the following are no longer applicable to police recordings:
  - a. The prohibition on recording inside a residence;
  - b. The requirement for police to inform of the recording; and
  - c. Civil and/or criminal penalties contained within the Wire Tap Act.
  - d. Right to production of recordings made inside a facility owned or operated by a law enforcement agency.

**Storage Server** – Digital media storage that can be accessed by **Authorized** End Users and Administrators. This virtual evidence warehouse stores digitally encrypted data in a highly secure environment that is only accessible to approved personnel based upon their security clearance.

**Victim** – An individual who was subjected to an act that was committed by another individual, including a juvenile, which constitutes any of the following:

- (1) An offense committed under any of the following:
  - (i) The act of April 14, 1972 (P.L.233, No. 64), known as The Controlled Substance, Drug, Device & Cosmetic Act.
  - (ii) 18 Pa.C.S. (relating to crimes and offenses).
  - (iii) 30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance).
  - (iv) 30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence).
  - (v) 75 Pa.C.S. § 3732 (relating to homicide by vehicle).
  - (vi) 75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).
  - (vii) 75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).
  - (viii) 75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).
  - (ix) 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).
  - (x) Any other Federal or State law.

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- (2) An offense similar to an offense listed under paragraph (1) committed outside of this Commonwealth.
- (3) An offense which would constitute grounds for the issuance of relief under Chapter 62A (relating to protection of victims of sexual violence or intimidation) or 23 Pa.C.S. Ch. 61 (relating to protection from abuse).
- (4) An offense against a resident of this Commonwealth which is an act of international terrorism.

**Victim Information** - Information that would disclose the identity or jeopardize the safety of a victim.

## **B) PROCEDURES**

### **(1) Officer Responsibilities**

- (a) Officers must successfully complete all departmental BWC training. This training will include the Body Worn Camera itself, its operation, storage, download and retrieval as well as training on the policies and procedures herein. This shall also include periodic refresher trainings that may include relevant case law and procedural updates.
- (b) Officers shall only use BWC equipment in the performance of their official duties. This shall also include extra work details contracted through the Township. BWC are strictly prohibited for any off-duty work outside of contracted Township.
  - (i) Officers working extra work details shall not be required to activate their BWC during their entire detail. Incidents that occur or are likely to occur outside the norm of the extra work requirements shall dictate the activation process.
- (c) Officers shall only use the Departmental issued BWC equipment.
- (d) During BWC use, officers shall ensure that they are on official duty, in uniform or clearly identifiable as a law enforcement officer. This requirement is satisfied if the officer is in uniform and operating a properly equipped police vehicle, or is otherwise clearly identifiable as a Law Enforcement Officer.
- (e) Officers shall only wear body-worn cameras in a manner consistent with the department training.
- (f) The BWC shall be worn for the entire shift when practical and maintained in a constant state of operational readiness.
- (g) When the BWC has been activated to record an incident, it shall not be deactivated until the incident has been completed, unless otherwise authorized per the policy.
- (h) Although notice is not required by law, in certain circumstances it may prove beneficial for the officer to provide notice of the recording, using a phrase such as, "Our actions and words are being recorded," or "Our interaction is being recorded on my Body Camera". Such notice may assist an officer to deescalate confrontational situations.
- (i) When safe and practical to do so, officers may narrate the video recording contemporaneously (i.e., at the same time) with a recorded incident, to assist with accurate documentation of events.
- (j) Officers shall note in the incident, arrest, and any related reports if BWC recordings were made during the incident in question.

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- (a) Supervisors, including Sergeants, Acting Officers-in charge (AOIC) and the Command Staff shall ensure officers use the body worn camera equipment.
- (b) Supervisors of the Command Staff, or a designee, shall conduct Just Cause Reviews of the following recordings:
  - (i) Recordings of any officer injury.
  - (ii) Recordings of any actor injury.
  - (iii) Recordings of any use of force incident.
  - (iv) Recordings of any vehicle pursuit and the actions taken following the pursuit.
  - (v) Recording of any citizen complaint.
- (c) Supervisors shall utilize the information from the recordings of just cause reviews as an assistance to the completion of any performance evaluations and/or performance observation reports.
  - (i) All Just Cause reviews conducted shall be documented via the department BWC log with the corresponding documentation for the just cause review and kept on file with the Chief of Police.
- (d) Supervisors shall take appropriate administrative action if an officer is found to have failed to properly use or care for the body worn camera equipment.
- (e) In a critical incident (such as an officer involved shooting, in-custody death or other officer involved incident that results in serious injury or death), a supervisor or their designee shall immediately take custody of any involved BWC(s) and, in such case, will assume responsibility for the upload or turn the BWC device over to a Command Staff Level personnel.
- (f) Periodic Random Reviews:
  - (i) To be completed as a compliance check;
  - (ii) To insure that the device(s) is operating correctly;
  - (iii) Process: An arbitrary system in which the officer BWC selected for review is completed in a random-type-drawing selection process. This process shall, when conducted, be witnessed by a member of the Ross Township Police Association Bargaining Unit, below a Command Staff level. This member shall be designated by the bargaining unit and within a reasonable amount of time, which shall not exceed 48 hours from initial notification.
  - (iv) These reviews shall be documented via the department BWC log and kept on file with the Chief of Police.
- (g) Audit Reviews: A program audit review is designed and intended to formally examine and evaluate internal policies, procedures, and operations related to the BWC program. An audit is seen as a proactive approach, to identify any gaps, and correct them within the program, thus establishing good practices to sustain. The purposes and procedure of the audit is as follows:
  - (i) Review procedures in the BWC are being followed.
  - (ii) Ensure compliance reviews are being conducted.

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- (iii) Evaluate that officers are receiving adequate training, and that cameras and data are being maintained properly.
- (iv) Audit review will supply a written recommendation for improvements with a follow-up report on any actions taken from the audit.
- (v) Audit shall consist of a minimum an annual review. The Chief of Police may determine if a semi-annual review may be needed.
- (vi) The audit-review team shall consist of:
  - 1. Operations Lieutenant
  - 2. Administrative Lieutenant
  - 3. Two (2) Sergeants
  - 4. Two (2) Patrol Officers (Selected by Ross Township Police Association)
- (vii) All review of BWC footage during the audit process shall be documented via the department BWC log and kept on file with the Chief of Police.
- (h) Department BWC Log: Any officer may request to view the department BWC log at any time by submitting a written request to the Chief of Police.

#### **(3) Use and Maintenance**

- (a) BWC-equipped Officers shall be responsible for the proper use and care of their assigned BWC at all times and are reminded that BWC recordings do not replace the written reports.
- (b) Prior to deployment, officers shall:
  - (i) Inspect and test their BWCs to ensure that they are operational and functioning properly. If a BWC is damaged or inoperable, officers shall immediately notify a supervisor who will immediately test the camera and, if inoperable, place the camera out of service and notify the Chief of Police or his designee.
  - (ii) Make every effort to ensure that they begin their shift with a fully charged BWC that does not contain data from a prior shift.
- (c) Lost or damaged BWC:
  - (i) Officers who discover at any time during their shift that their BWC is lost, shall immediately notify a supervisor.
  - (ii) Officers who discover at any time during their shift that their BWC is damaged, malfunctioning, or that it contains data from a previous shift shall immediately notify a supervisor who will immediately test the camera and, if inoperable, place the camera out of service and notify the Chief of Police or his designee.
- (d) 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 computer (MDC), or as soon as practical, or at the beginning of any self-initiated police action.
- (e) In addition, when reasonable and safe to do so, officers operating the BWC equipment will ensure all dispatched and self-initiated calls-for-service are recorded including but not limited to the following:
  - (i) all enforcement/investigation related citizen contacts (e.g. domestics, assaults, disturbances);

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- (ii) all stops (e.g., traffic and pedestrian), frisks and searches;
  - (iii) vehicle and foot pursuits;
  - (iv) all traffic crash scenes;
  - (v) DUI investigations, to include Field Sobriety Testing;
  - (vi) high-risk encounters (e.g., barricade situations, active shooter);
  - (vii) mental health encounters;
  - (viii) suspicious activities;
  - (ix) use of force situations;
  - (x) investigative detentions or arrests;
  - (xi) encounters that require the advising of Miranda rights;
  - (xii) all transports of prisoners and citizens (unless in a "In Car Video Recording" equipped car);
  - (xiii) any contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording;
  - (xiv) any of the following searches of a person or property:
    - 1. consent searches (record consent);
    - 2. warrantless searches;
    - 3. vehicle searches;
    - 4. searches conducted incident to arrest;
    - 5. inventory searches;
    - 6. cursory searches;
    - 7. probable cause searches;
    - 8. execution of search or arrest warrants;
    - 9. frisks;
    - 10. field searches;
    - 11. full-custody searches;
    - 12. during initial inventorying of seized money/high value property;
    - 13. deployment of drug detection dogs;
    - 14. any incident when the member deems it appropriate to activate the BWC in accordance with this policy or upon direction from a supervisor.
- (f) Officers who are on the scene of an incident and are not the primary reporting officer shall inform the reporting officer of their BWC recording(s) so that the primary officer may include this information in his/her report.
- (g) BWCs may also be used to record initial interviews of victims, complainants and witnesses.
- (h) Once activated in accordance with this policy, officers shall not deactivate their BWC until:
- (i) they have cleared the assignment or, in the case of arrest, have transferred custody of the arrestee to another member;
  - (ii) their involvement in the citizen contact or detention has concluded;
  - (iii) they receive an order from a supervisor (in these cases, officers shall document the order via a BWC recording prior to deactivation);
  - (iv) the incident requiring activation has concluded, and the officer has returned to service.

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- (i) Exceptions:
  - (i) In situations when community members, witnesses, crime victims or other parties wish to share information related to criminal activity, but refuse to do so while being recorded, officers will have the discretion to turn off their BWC during the interview. In such situation, the officer shall record a brief verbal explanation for the deactivation prior to turning off the recording.
  - (ii) The BWC may be deactivated during conversations among/with officers or supervisors during information sharing sessions or discussing tactics and strategy. The same notification of cessation shall be noted as above deactivation procedures.
  - (iii) Officers shall use appropriate discretion when recording confidential informants or undercover officers.
- (j) When officers activate their BWCs and such activation was not required by policy, and the circumstances no longer need to be recorded, they may deactivate their BWC.
- (k) After officers deactivate their BWCs, it is their responsibility to ensure they reactivate their BWC should circumstances require.
- (l) Any delay or failure to activate their BWC required by this policy, as well as any interruption of a BWC recording required by this policy, shall be documented in the narrative section of any related report and shall be reported to a supervisor.
- (m) At the completion of their shift, officers shall:
  - (i) Inspect his/her BWC and ensure that it is operational and functioning properly, and that the battery is recharging. If the camera is damaged or inoperable, officers shall immediately notify a supervisor who will immediately test the camera and, if inoperable, shall place the camera out of service and notify the Chief of Police or his designee.
  - (ii) BWC recordings shall only be stored on a Department approved server or on a Department approved storage device. Officers shall ensure all BWC data is uploaded at the end of their shift, and when necessary, during their shift, to ensure storage capacity is not exceeded.
  - (iii) Charge the camera in an approved BWC charging device.
  - (iv) Ensure BWC devices are securely stored in authorized locations when devices are not in use.
- (n) Officers shall not:
  - (i) Remove, dismantle, or tamper with any hardware or software component or part associated with BWCs.
  - (ii) Erase, destroy, disseminate, edit, alter, or otherwise use BWC recordings without the written permission of the Chief of Police, except for approved annotation in accordance with the training and capabilities of the BWC system (e.g., flagging a location in the retrieval video for use in court at a later date).
  - (iii) Copy, convert, record, or disclose the contents of a BWC recording including posting to any public and/or social media site without written approval of the Chief of Police. BWC recordings shall only be shared for official law enforcement purposes.



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- (iv) Allow unauthorized personnel to view the BWC recordings without permission from his/her immediate supervisor. Governmental employees who are directly involved in the investigation and/or prosecution of a criminal case related to the digital evidence, or who are previously authorized to interact with Department evidence, are exempt from this restriction.
- (v) Delete any BWC recording except an accidental recording not required by this policy and after informing the Supervisor prior to deletion.
- (vi) Download or convert any BWC recording for personal use.
- (vii) Use Department-issued BWCs while off-duty.
- (viii) Record images or conversations of officers without their knowledge during routine, non-enforcement related activities such as in Department locker rooms, restrooms or any other place where there would be a reasonable expectation of privacy.
- (ix) Record gratuitously violent or obscene images, unless necessary for evidentiary documentation or required by this policy.
- (x) Record a particular person based solely on the person's race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, physical disability status, or political affiliation.
- (xi) Record strip searches
- (xii) Use any other electronic device or other means in order to intentionally interfere with the capability of the BWC.
- (xiii) End a recording based solely on a citizen's request/demand, except those listed in section (h)(i) Exceptions.
- (xiv) View recordings for other than official law enforcement purposes.

#### **(o) Facial Recognition Software or Programs**

- (i) If Facial Recognition Software or Programs are developed which interface with BWCs, their use will only be utilized in accordance with applicable law and approved by the Chief of Police or his designee.

#### **(4) Officer Access and Review**

- (a) Officers may review BWC recordings prior to documenting an incident, arrest, search, interview, or other enforcement or investigative activity to ensure that their reports, statements, and documentation are accurate and complete.
- (b) Deadly Force/In-Custody Death/Near Death Incident/Critical Incident: In an attempt to determine the unadulterated thought process and feelings perceived by the officer at the time of the incident, the officer shall not be provided, nor shall they review BWC recordings of these-type incidents prior to giving an initial statement to an investigator. Once the initial statement is provided, the involved officer may view BWC recordings of the incident prior to providing any additional statements to investigators.

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#### **(5) Agency Administrator/BWC Technician Responsibilities**

- (a) The Agency Administrator and/or the BWC Technician(s) shall be responsible for the retention, duplication and purging of BWC recordings. BWC Technicians shall also ensure recordings of incidents are maintained in accordance with this policy and department evidence retention procedures.
- (b) The Agency Administrator and/or the BWC Technician(s) shall ensure that the recordings are identified and retained in accordance with this policy. Electronically retained recordings shall be retained until the case is adjudicated or there is a court order, unless otherwise indicated.

#### **(6) Duplication/Retention of BWC Recordings**

- (a) The recordings produced on the BWC equipment are property of the Department and will be subject to applicable law and Department policies regarding the viewing, release, retention and destruction of such recordings.
- (b) Mandatory Retention: The following types of incidents recorded on BWC equipment shall be retained and processed as evidence:
  - (i) Incidents which may result or have resulted in the filing of criminal charges.
  - (ii) Incidents which are likely to become the subject of civil litigation against the Department or its personnel, including but not limited to, patrol vehicle crashes, pursuits, critical incidents, incidents involving the use of force, and incidents involving verbal complaint(s) against the Department or its personnel.
  - (iii) Incident involving injuries to officers and injuries incurred or alleged to have been incurred as the result of police actions.
  - (iv) Recordings which have been properly requested shall be retained pursuant to the Act.
  - (v) Recordings shall be retained for no less than 60 days.
  - (vi) If a request is denied additional retention time shall be necessary.
- (c) Other Requests for Retention:
  - (i) Any member who believes that the retention of a recording not specifically required by this regulation is advisable (e.g., for use in a summary proceeding involving a traffic violation or training), shall notify the Agency Administrator as soon as possible. The Agency Administrator shall evaluate each request in accordance with this regulation. All requests for duplication/retention are to be requested on the Department Car/Body Camera DVD Request Form. The completed form must be turned into the Agency Administrator.
  - (ii) When properly requested and approved, the Agency Administrator and/or the BWC Technician will duplicate the recording of the incident from the Storage Server system and ensure its delivery to the requesting officer in a timely manner. The Department Car/Body Camera DVD Request Form will specify the reason that the recording is requested (e.g., court), and the date that the recording is needed.
- (d) Procedure for Retention:
  - (i) Any recording to be preserved shall be saved by an approved storage method and placed into evidence.

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- (ii) The recording shall be placed in packaging as per the department's current accepted Car/Body Camera storage procedures and in accordance with the Department's Evidence Packaging Guidelines.
- (iii) The Evidence Custodian shall be responsible to store the media in a manner that provides protection from accidental erasure and/or destruction of the recorded material.
- (iv) Recordings that have been submitted as evidence shall only be purged following receipt of approval to destroy the evidence by the Allegheny County District Attorney's Office or the Chief of Police if a non-criminal matter.

#### **(7) BWC Media Documentation, Notation and Use in Reports**

- (a) The use of the BWC shall be recorded in the appropriate section of Department RMS Narrative section of the reports, and in the remarks section of citations.
- (b) Officers may use media captured via the BWC to assist with investigations and the completion of required reports. Officers may also use the media captured by the BWC to assist investigators and supervisors in evaluating on-going situations.
- (c) Officers may use media captured on the BWC for training purposes, with proper authorization from the Chief of Police. Additionally, Field Training Officers may use media captured via the BWC to provide immediate training to the department's probationary officers.

#### **(8) Storage and Erasure**

- (a) All BWC Recordings shall be maintained for sixty (60) days from the date of the recording. After sixty (60) days, the system will purge and stored data. Requests for copies shall be made in a timely manner before the sixty (60) day purge in order to have and preserve any possible evidence from the recordings.

#### **(9) Dissemination**

- (a) Dissemination of audio and video recordings shall be in accordance with current Pennsylvania Law.