

## **5.7 Body Worn Camera's**

### **I. POLICY**

It is the policy of the Johnstown Police Department to implement the use of the Body Worn Camera System to more accurately document events, actions, conditions and statements made during incidents. To protect the department and its members from civil liability resulting from wrongful accusations or misconduct.

### **II. PURPOSE**

To establish guidelines for the care, use and security of Body Worn Camera's worn by the officers of the Johnstown Police Department. To provide police personnel with guidelines for the utilization, establish procedures for the retention, duplication, storage and purging of recordings to be followed by the department personnel.

### **III. PENNSYLVANIA LAW**

The Pennsylvania Wiretapping and Electronic Surveillance Control Act [18 Pa. C.S. 5704 (16)] has been amended to authorize the use of Body-Worn Cameras or Body Cameras by law enforcement officers under certain terms and conditions. It shall not be unlawful and no prior court order shall be required under this chapter for a law enforcement officer, acting in the performance of their official duties, to intercept and record an oral communication between individuals. These recording devices provide an unbiased audio and video recording of events that an officer encounters.

#### **A. Safety and Documentation**

1. Enhance officer safety
2. Enhance the public trust by preserving factual representation of officer-citizen interactions in the form of video and audio recordings
3. Document statements and events during the course of an incident
4. Enhance law enforcement's ability to document and review statements and actions for both reporting requirements and for courtroom preparation /presentation.
5. Preserve visual and audio information for use in current and future investigations.
6. Provide an impartial measurement for self critique and field evaluations for officer training.

## **5.7 continued**

### **B. Regulations**

1. The oral communication does not occur inside the residence of any of the individuals.
2. 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 individual's oral communication
  - c. Is using an electronic, mechanical or other device which has been approved under 18 Pa. C.S. 5706[b][4]
  - d. Informs as soon as reasonably practical, the individuals identifiably present that they have intercepted and recorded the oral communication.

## **IV. PROCEDURES**

Any officer who has been issued BWC [body wire camera] equipment and trained on its use will be required to wear and use the equipment as a part of this policy. The BWC will be worn only when on duty.

### **A. Utilization**

When reasonable, and safe to do so, members operating the BWC equipment will ensure the following types of incidents are recorded.

1. Responding to crimes in progress
2. When initiating vehicular and/or foot pursuit
3. When conducting any vehicle or pedestrian investigation [DUI]
4. On view arrest or citations
5. When handling a disturbance or crisis related incident
6. When handling a protest or demonstration
7. When confronted by any member of the general public that is or may become confrontational, antagonistic or hostile.
8. Any other incident the officer deems necessary to activate the BWC

When it is safe to do so officers should also record the following

1. Pat downs
2. Obtaining consent to search
3. Search incident to arrest

## 5.7 continued

With the following exception, once a BWC has been activated, it shall remain activated and recording until the event or incident has concluded and the officer has been placed back in service by Police Radio. However, officers shall deactivate a BWC prior to the conclusion of an incident or event under the following circumstances:

1. Prior to entering the residence of any individual, unless prior consent is provided and recorded with the BWC
2. When requested by a crime victim, witness or informant
3. When the recording would capture gruesome images, persons nude or when sensitive human areas are exposed and there is no legitimate law enforcement need to capture the images
4. When entering a religious institution during services, etc.
5. When entering a hospital room or private patient are in a hospital
6. When authorized by the shift supervisor

### B. Prohibited Recording

Body worn cameras shall not be used or activated

1. To record non-work related personal activities
2. In places where a reasonable expectation of privacy exists [locker rooms, restrooms, etc]
3. Conversations with confidential informants and undercover officers
4. During any strip searches
5. When discussing operations strategies or tactics
6. To record routine conversations of fellow employees or supervisors during administrative activities

### C. Legal Requirements

Officers shall abide by the following legal requirements for BWC operations

1. Officers shall not use BWC equipment unless acting in the performance of their official duties
2. Officers shall only use JPD issued BWC equipment
3. Officers shall ensure that they are clearly identifiable as a police officer when using BWC equipment

## 5.7 continued

4. Officers shall inform all individuals identifiably present as soon as reasonable practical, that they are being visually and audio recorded.
5. BWC equipment shall not be used to record oral communications inside the residence of any individual unless the officer is in fresh pursuit of the individual and deactivation of the BWC equipment would create a risk to officer safety, or consent is given.

### D. Additional Requirements

1. Officers shall not erase or alter BWC recordings
2. Upon completion of an assigned shift all officers shall insure the battery is recharging and the data is being transferred to the storage location
3. Lost, stolen or damaged BWC equipment shall be reported immediately to the shift supervisor accompanied by a memo as to how, why this occurred
4. Officers shall not use other electronic devices or other means to intentionally interfere with the capability of the BWC system
5. Officers shall not erase, alter, modify or tamper with any BWC software, hardware, or any audio/video recording

### E. Duplication/Retention of BWC Recordings

1. All data and recordings collected by the BWC equipment will be considered investigative materials. The recordings are property of the JPD and will be subject to JPD policies regarding the viewing, release, retention and destruction of such evidence
2. All data created by the BWC equipment are the exclusive property of JPD. Officers will not duplicate, copy or otherwise possess any data or recordings for any personal reason
3. Officers shall not allow non-sworn personnel to view the BWC recordings without permission from the Chief or their designee
4. Officers shall not allow unauthorized persons to view the digital recordings

### F. Mandatory Retention

The following incidents recorded on BWC equipment shall be retained and processed as evidence by the BWC Custodial Officer in accordance with this policy as soon as practical.

## **5.7 continued**

1. Incidents that may result in the filing of Misdemeanor or Felony charges or the service of a search warrant
2. Incidents that are likely to become the subject of civil litigation against the JPD or its personnel, including, but not limited to patrol vehicle crashes, pursuits, critical incidents, incidents involving use of force, and incidents involving verbal complaints against JPD or its personnel and SERT deployment within the jurisdiction of the JPD

### **G. Requests for Retention**

1. Any officer who believes that the retention of a recording not specifically required by this policy is advisable [e.g. encounters with sovereign citizens or something that could enhance training] shall notify the BWC custodial officer as soon as possible. All recordings collected by the BWC that is not on a regular retention schedule will be purged no later than fifteen [15] days from the date of the last recording
2. All requests for duplication/retention are to be requested to the BWC Custodial Officer
3. When properly requested and approved, the BWC Custodial Officer will duplicate the recording of the incident and ensure its delivery to the requesting officer in a timely manner.

### **H. Use of Media Collected by the BWC**

1. Video and audio captured via the BWC will be used for official purposes only
2. Events will be categorized according to event types so that proper retention periods will be applied
3. Officers may use the media captured via the BWC to assist with investigations and the completion or required reports. Officers may also use the media to assist the investigators and supervisors in evaluating on-going situations
4. Officers may use media captured on the BWC for training purposes with authorization from the Chief or their designee

## **V. RESPONSIBILITIES**

### **A. System Administrator**

The system administrators[s] is designated by the Chief of Police and have oversight responsibilities to include by not limited to, the following.

## 5.7 continued

1. Operation and user administration of the system
2. System evaluation
3. Training
4. Policy review and evaluation
5. Coordination with IT and vendor regarding system related issues
6. Ensure BWC files are reviewed and released in accordance with federal, state and local statutes and JPD policy
7. Designate files for “Internal Investigation Only” as it relates to Use of Force, citizen complaints and Internal Investigations

### B. Supervisory

1. Supervisors will ensure officers utilize the BWC according to policy
2. Supervisors are to review recordings only as directed by the Chief of Police or their designee
3. Supervisors shall ensure videos of critical incidents are properly uploaded and when practical retrieve the BWC from officers involved at the Critical incident scene
4. Supervisors may have the ability to immediately resolve citizen complaints by reviewing video captured by the BWC. In those circumstances where a complaint is resolved with no further action needed, supervisors will properly document the event via a Memorandum to the Chief of Police
5. It shall be deemed a violation of this policy for a supervisor to review recording for the sole purpose of searching for violations of department policy or law not related to a specific complaint or incident

### C. Personnel Utilizing the BWC are Responsible For

1. Ensuring the battery on the BWC is fully charged daily and operating properly prior to going into service
2. Officers shall position the camera on their uniform to facilitate optimum recording field of view
3. Immediately reporting unresolved problems, equipment malfunctions and/or problems to their supervisor
4. Monitoring system effectiveness and making recommendations for operational improvement and policy revision
5. Documenting the use of the BWC on the following
  - a. On the incident report/complain

## 5.7 continued

- b. As a notation on a citation
- c. DA cover sheet
6. Officers should continue to prepare reports in the same manner as prior to the implementation of the BWC. Officers should not substitute the report or parts of the report by the phrase “refer to video”

### D. Officer May Review the BWC Files Regarding

1. Their involvement in an incident for the purposes of completing a criminal investigation and preparing official reports
2. Prior to courtroom testimony
3. Providing a statement pursuant to an administrative inquiry, including officer involved shooting investigations
4. Critical Incidents; officers may review their video prior to providing a statement pursuant to an administrative inquiry

### E. Citizen Request for BWC

1. At no time will a citizen be permitted to view or obtain a JPD BWC recording which includes, but not limited to:
  - a. Citizen Complaints
  - b. Right to Know Requests
  - c. Incident to An Arrest
  - d. Private Citizen
  - e. Confidential Informant
  - f. Investigative or Police Incident Complaint

Effective:

Date: March 31, 2016

By Order Of:

Craig R. Foust  
Chief of Police