



Lexington-Fayette Urban County
Division of Police
PERSONNEL ORDER
Lexington, Kentucky

DATE OF ISSUE
October 21, 2022

EFFECTIVE DATE
October 13, 2022

NUMBER
PO:22-406

TO:
WRITTEN REPRIMAND

AMENDS:

INDEX AS:
OFFICER
KEVIN PRESTON

RESCINDS:

Officer Kevin Preston is hereby given a Written Reprimand for violation of General Order 1973-02K, Disciplinary Procedures of Sworn Officers, Section 1.04 and Section 1.08 – Body Worn Camera Procedures & Accountability and Responsibility.

This Written Reprimand was approved by the Urban County Council on October 13, 2022.

Lawrence B. Weathers
Chief of Police

LBW/rmh

LEXINGTON POLICE DEPARTMENT

AGREEMENT OF CONFORMITY WITH KRS 95.450 / 15.520 AND RELEASE

FORM 113 (8/20)

An allegation has been made that: Officer Kevin Preston #51905

has committed the offense of:

Body Worn Camera Procedures & Accountability and Responsibility

which constitutes misconduct under the provisions of KRS 95.450 and/or KRS 15.520

(list other applicable law or rule)

General Order 1973-02K Disciplinary Procedures of Sworn Officers Section 1.04 and Section 1.08

in that on the 12th & 13th day(s) of July, 20 2022 he/she allegedly:

On July 12th and 13th, 2022 Officer Kevin Preston reported to work feeling ill and stayed in the parking garage during his shifts. During those two duty days he did not respond to any calls for service. Also during this timeframe, Officer Preston failed to power on his Body Worn Camera. The above policies state:

-Officers are directly accountable for their actions, through the chain of command, to the Chief of Police. Officers shall report for duty, including court and overtime assignments, at the time and place required, being both physically and mentally fit, and properly equipped and aware of the information required for the proper performance of their duties.

-Officers issued Body-Worn Cameras shall wear and use them, as outlined in department policies, to record contacts and interactions that occur between officers and members of the public, suspects, and others in a wide variety of situations to promote transparency in accordance with state law and accountability for officers and the community through objective evidence.

This is Officer Preston's first sustained formal complaint since his employment since March 18, 2013.

I have read KRS 95.450, 95.460 and 15.520, and attest that I fully understand all rights guaranteed by these statutes, including the rights to have formal charges preferred and a hearing conducted on those charges.

Further, I, with knowledge of the provisions and my rights under KRS 95.450, 95.460, and 15.520 and in consideration of the recommendation of the Chief of Police of the Lexington Police Department, acknowledge that the appropriate punishment for this conduct is:

Written Reprimand

I do hereby voluntarily accept the above disciplinary action, provided that the punishment awarded by the Urban County Council will not exceed the above recommendation of the Chief of Police.

If the Urban County Council rejects the above recommendation, I will be so notified, in which case I may withdraw my acceptance, and will be entitled to all rights, as applicable, under KRS 95.450, 95.460 and 15.520, and this agreement will not be used against me or by me in any hearing in determination of my guilt of punishment.

In further consideration of the acceptance of the above recommendation and penalty by the Urban County Council, I do for myself, my heirs, legal representatives, as assigns hereby expressly release and forever discharge the Lexington-Fayette Urban County Government, its officers, agents, employees, and their successors and assigns from all claims, demands, actions, damages or causes of action and from all liability for damages of whatsoever kind, nature of description that I ever had, now have or may have against the aforementioned entities created by or arising out of the action contained herein.



Employee Signature

10/3/22
Date




Chief of Police Signature

10/3/22
Date

ACTION BY URBAN COUNTY COUNCIL

APPROVE ABOVE RECOMMENDATION 10/13/2022

DISAPPROVE ABOVE RECOMMENDATION



Signature of Authorized Representative of
Urban County Council

SUSPENSION SERVICE GUIDELINES:

Suspensions will be served as outlined in General Order series 1973-02 Disciplinary Procedures of Sworn Officers.



Lexington-Fayette Urban County
Division of Police
MEMORANDUM
Lexington, Kentucky

DATE OF ISSUE
September 8, 2022

EFFECTIVE DATE

NUMBER
COP:
22-0163

TO: Kenneth Armstrong, Commissioner
Department of Public Safety

SUBJECT: Disciplinary Recommendation
PIU2022F-012
Officer Kevin Preston

FROM: Lawrence B. Weathers
Chief of Police

I met with Officer Kevin Preston on September 1, 2022, and have determined this as "Improper Conduct" for violation of:

- General Order 1973-02K - Disciplinary Procedures of Sworn Officers, Appendix B, Operational Rule 1.08 – Accountability and Responsibility
- General Order 1973-02K – Disciplinary Procedures of Sworn Officers, Operational Rule 1.04, Body-Worn Camera Procedures

I have recommended a **Written Reprimand** for the violation. I have included the summary of this formal complaint for your information.

Officer Preston accepted this discipline on September 2, 2022.

Lawrence B. Weathers (Signature)

Lawrence B. Weathers
Chief of Police

LBW/rmh

Attachment

**LEXINGTON POLICE DEPARTMENT
FORMAL COMPLAINT FORM**

FORM 111 (5/21)

File #: PIU 2022F-012

FOR OFFICIAL USE ONLY

Employee Involved: Preston, Kevin		Employee #: 51905	Hire Date: 03/18/2013
Present Assignment: BOSO/DED			
Complainant: Lt. Darin Salyer		Complainant Address: 150 E. Main	
Complainant Phone #:	Alternate Complainant Phone #:	Complainant Email:	
Date of Incident: 07/12-13/22	Time of Incident:	Location of Incident:	Date and Time Reported: 08/02/2022
		How Reported: <input type="checkbox"/> Letter <input type="checkbox"/> Phone <input checked="" type="checkbox"/> Person <input type="checkbox"/> Email	

DESCRIPTION OF ALLEGATIONS:

On July 12th and July 13th, 2022, Officer Kevin Preston reported for work feeling ill and stayed parked in a parking garage during his shifts. During those two duty days, due to his illness, he did not respond to any calls.

If the above allegation is true, then Officer Preston is in violation of General Order 1973-02K, Disciplinary Procedures, Appendix B, Operational Rule 1.08 Accountability and Responsibility: Officers are directly accountable for their actions, through the chain of command, to the Chief of Police. Officers shall report for duty, including court and overtime assignments, at the time and place required, being both physically and mentally fit, and properly equipped and aware of the information required for the proper performance of their duties.

On July 11th, 2022, Officer Preston turned his BWC off half-way through his shift. On July 12th and July 13th, Officer Kevin Preston, while on-duty, did not have his BWC properly activated to be in buffering mode. His BWC was not powered-on for two consecutive shifts.

If the above allegation is true, then Officer Preston is in violation of General Order 1973-02K, Disciplinary Procedures, Appendix B, Operational Rule 1.04 Body-Worn Camera Procedures: Officers issued body-worn cameras shall wear and use them, as outlined in department policies, to record contacts and interactions that occur between officers and members of the public, suspects, and others in a wide variety of situations to promote transparency in accordance with state law and accountability for officers and the community through objective evidence.

I swear/affirm that the facts set out in the allegations herein are true to the best of my knowledge and belief.

Complainant Signature: D. Salyer Date: 8-2-2022

Subscribed and sworn before me this date: 8-2-2022 (Date) Melanie R. Votaw KYNP 20919 (Notary)

My Commission Expires: 2-3-2025

Witness:

Name: _____ Address: _____ Phone: _____

Recorded By: Bureau of Investigation, Public Integrity Unit

File #: PIU 2022F-012

Employee: Preston, Kevin

CHIEF OF POLICE

[Finding: PC=Proper Conduct, IC=Improper Conduct, IE=Insufficient Evidence, PF=Policy Failure, UC=Unfounded Complaint]

Finding Policy Violation

<input checked="" type="checkbox"/>	IC General Order 1973-02K, Disciplinary Procedures, Appendix B, Operational Rule 1.08 Accountability and Responsibility
<input checked="" type="checkbox"/>	IC General Order 1973-02K, Disciplinary Procedures, Appendix B, Operational Rule 1.04 Body-Worn Camera Procedures

Chief of Police Recommendation: Case Be Closed Corrective Training Disciplinary Action (see below)

Materials Reviewed: Reviewed PIU Summary

Comments:
Recommend Written Reprimand

Signature: *Jamuna B. Weather* Date: September 8, 2022

DISCIPLINARY REVIEW BOARD

Finding Policy Violation

Disciplinary Review Board Recommendation: Case Be Closed Corrective Training Disciplinary Action (see below)

Comments:

Signature: _____ Date: _____

CHIEF OF POLICE FINAL RECOMMENDATION

Case Be Closed Corrective Training Disciplinary Action (see below)

Comments:

Signature: _____ Date: _____



LEXINGTON POLICE
DEPARTMENT
MEMORANDUM
Lexington, Kentucky

DATE OF ISSUE
August 17th, 2022

EFFECTIVE DATE

NUMBER
PIU 22-085

TO: Lawrence Weathers Chief of Police	SUBJECT: Summary of Formal Complaints on Officer Kevin Preston, PIU2022F-012
FROM: Lieutenant Matt Brotherton Bureau of Investigation - Public Integrity Unit	

Sir,

This memorandum will provide a summary of the investigation into the Formal Complaints filed by Lt. Darrin Salyer on Officer Kevin Preston.

On August 2nd, 2022, Lt. Salyer signed a formal complaint that alleged the following:

On July 12th and July 13th, 2022, Officer Kevin Preston reported for work feeling ill and stayed parked in a parking garage during his shifts. During those two duty days, due to his illness, he did not respond to any calls.

If the above allegation is true, then Officer Preston is in violation of General Order 1973-02K, Disciplinary Procedures, Appendix B, Operational Rule 1.08 Accountability and Responsibility: Officers are directly accountable for their actions, through the chain of command, to the Chief of Police. Officers shall report for duty, including court and overtime assignments, at the time and place required, being both physically and mentally fit, and properly equipped and aware of the information required for the proper performance of their duties.

On July 11th, 2022, Officer Preston turned his BWC off half-way through his shift. On July 12th and July 13th, Officer Kevin Preston, while on-duty, did not have his BWC properly activated to be in buffering mode. His BWC was not powered-on for two consecutive shifts.

If the above allegation is true, then Officer Preston is in violation of General Order 1973-02K, Disciplinary Procedures, Appendix B, Operational Rule 1.04 Body-Worn Camera Procedures: Officers issued body-worn cameras shall wear and use them, as outlined in department policies, to record contacts and interactions that occur between officers and members of the public, suspects, and others in a wide variety of situations to promote transparency in accordance with state law and accountability for officers and the community through objective evidence.

Investigation

Pursuant to the Formal Complaint, I reviewed information submitted by Lt. Salyer, Sgt. Chris Ruebsam and a memorandum submitted by Officer Preston. Additionally, I reviewed Officer Preston's BWC data and downtown calls for service on July 12th and 13th.

Interview with Officer Kevin Preston

On August 12th, 2022 at approximately 13:15, Lt. Biroschik and I interviewed Officer Kevin Preston in the PIU office; Mr. Scott Crosby was also present.

During the meeting, we addressed the two allegations in the Formal Complaint. Regarding the violation of the BWC policy, Officer Preston offered no defense nor mitigation. Officer Preston, without hesitation, took responsibility for his failure to turn on his BWC. He stated that he wasn't feeling well, and knew that he was going to be sitting in his cruiser in a parking lot with little to no community interaction.

Concerning the fitness for duty, Officer Preston stated that although he was not feeling well, in the event he was needed to respond, he would have. He stated that his beat partners, Kennedy and Ray knew that he was not feeling well and told him to rest in the parking lot. Officer Preston emphasized that there was very little activity on these evenings and that he was not needed to respond to any incidents. Additionally, he pointed out that DED is not dispatched to calls, but instead are expected to "jump" any calls downtown, and that during these two shifts, his beat partners did not need any assistance. Officer Preston argued that he did not negatively impact the community or Department by sitting in the parking lot.

Conclusion

The formal complaint against Officer Preston is composed of two allegations:

- *On July 12th and July 13th, 2022, Officer Kevin Preston reported for work feeling ill and stayed parked in a parking garage during his shifts. During those two duty days, due to his illness, he did not respond to any calls.*

If the above allegation is true, then Officer Preston is in violation of General Order 1973-02K, Disciplinary Procedures, Appendix B, Operational Rule 1.08 Accountability and Responsibility: Officers are directly accountable for their actions, through the chain of command, to the Chief of Police. Officers shall report for duty, including court and overtime assignments, at the time and place required, being both physically and mentally fit, and properly equipped and aware of the information required for the proper performance of their duties.

Officer Preston stated during the interview and his memo that he was not feeling well on July 12th and 13th. He stated that he came to work on those dates but that he stayed in his parked cruiser for the duration of those shifts. He says that although he was not actively patrolling, he was fit enough to respond to an incident if necessary. It was confirmed by his colleagues in DED that Officer Preston did, in fact, come to work and was downtown in his cruiser.

A review of calls for service on those dates and the activity of DED units shows that the other officers working; Kennedy, Ray, Nguyen, Godbold, Zaglul, and Sgt. Ruebsam appear to have handled downtown incidents without having to rely on on-duty patrol units. Officer Preston does not deny that during those two shifts, he was stationary, and not patrolling.

- *On July 11th, 2022, Officer Preston turned his BWC off half-way through his shift. On July 12th and July 13th, Officer Kevin Preston, while on-duty, did not have his BWC properly activated to be in buffering mode. His BWC was not powered-on for two consecutive shifts.*

If the above allegation is true, then Officer Preston is in violation of General Order 1973-02K, Disciplinary Procedures, Appendix B, Operational Rule 1.04 Body-Worn Camera Procedures: Officers issued body-worn cameras shall wear and use them, as outlined in department policies, to record contacts and interactions that occur between officers and members of the public, suspects, and others in a wide variety of situations to promote transparency in accordance with state law and accountability for officers and the community through objective evidence.

Officer Preston does not dispute that he powered off his BWC on July 11th and did not put it back into buffering mode during his July 12th or July 13th shifts. Officer Preston understood that he violated BWC policy during those shifts. Officer Preston stated that because he was ill and believed that his contact with the public would be limited, he absent-mindedly did not turn on his camera.

Lieutenant Matt Brotherton
Bureau of Investigation
Public Integrity Unit

cc: file – PIU 2022F-085