



June 12, 2015

York / Poquoson Sheriff's Office
Attn: FOIA Officer
P O Box 99
Yorktown, VA 23690-0099

Re: FOIA Request / Body Camera Equipment and Policy

Dear Attn: FOIA Officer:

This letter is a request under the Virginia Freedom of Information Act (FOIA), Va. Code § 2.2-3 700 et seq. This request seeks records regarding law enforcement worn body cameras, also referred to as police body cameras or body-worn cameras (hereinafter "body cameras").

Records Requested

Please provide copies of the following records:

1. All policies, practices, procedures, rules, or orders concerning the use of body cameras, including:
 - a. policies or procedures governing use of body cameras;
 - b. what types of data are obtained;
 - c. the conditions under which body cameras are used;
 - d. the frequency of body camera use;
 - e. the number of body camera units or systems acquired; and
 - f. the number of officers equipped with body cameras;
2. All policies, practices, procedures, rules, or orders concerning the review of body camera data by supervising officers or staff or civilian review personnel to ensure officer compliance with department or agency policies and applicable state and federal law;
3. All policies, practices, procedures, rules, or orders concerning the storage of data obtained using body cameras, including:
 - a. where the data is stored;
 - b. how long data is stored;
 - c. when data must be discarded; and
 - d. how much data your agency or department currently stores;
4. All policies, practices, procedures, rules, or orders concerning access to body camera data, including:
 - a. the legal justification required before a law enforcement employee or
 - b. member of the public may access body camera data;

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- c. purposes for which the data may be accessed;
- d. purposes for which the data may not be accessed;
- e. who may access the data, what procedures they must go through to obtain access, and who must authorize access; and
- f. the existence of a system that records who accesses the data and when the data is accessed;

- 5. All policies, practices, procedures, rules, or orders concerning the sharing of data obtained through body cameras, including:
 - a. what type of data¹ is shared;
 - b. what databases your agency puts collected body camera data into; and
 - c. third parties, governmental or private, that may access your agency's body camera data, including what procedures a third party must go through to access the data and any restrictions placed on a third party regarding further sharing of your body camera data;
- 6. All agreements to share body camera data with outside agencies or departments, corporations, or other entities; and
- 7. All training materials used to instruct members of your department or agency in body camera deployment, data management, or operation of automated records systems that contain body camera data to which any member of your department or agency has access, including regional or shared databases.

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Please inform me in advance if the cost of complying with this request will be greater than \$50.


If the requested documents are available in electronic form, please e-mail them to me at fknaack@acluva.org. Otherwise, please mail them to me at ACLU of Virginia, 701 F Franklin Street, Suite 1412, Richmond, Virginia 23219. Please respond within five (5) business days as required by FOIA. Thank you for your prompt attention to this matter. If you have questions, please contact me at fknaack@acluva.org or (804) 523-2144.

Sincerely,



Frank Knaack
Director, Public Policy and Communications

¹ "Data" or "body camera data" means any data recorded by a body camera.

YORK COUNTY SHERIFF'S OFFICE		GENERAL ORDERS	
SUBJECT: Mobile Video/Audio Recording		NUMBER: 2-42	
EFFECTIVE DATE: November 25, 2014		REVIEW DATE:	
AMENDS/SUPERSEDES: October 05, 2009		APPROVED:  Sheriff	
CALEA STANDARDS:		VLEPSC STANDARDS: OPR. 01.11.	

INDEX WORDS

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- Equipment
- Monitor
- Ownership, tape
- Recorder
- Responsibilities,
 - Patrol Deputy
 - Evidence Custodian
 - Patrol Supervisor
- Vault
- Chain-of-custody
- Microphone,
 - Body
 - In-car
- Remote function
- Body Worn Camera (BWC)

I. POLICY

Mobile video/audio recording (MVR) equipment and body-worn cameras (BWC) have been demonstrated to be of value in collecting visual and audible evidence to expedite the prosecution and adjudication of criminal cases, as well as to promote deputy safety, provide corroboration of the deputies' testimony, and to be an eyewitness to events as they occur. In order to maximize the utility of this equipment, deputies shall follow the procedures for MVR equipment use as set forth in this policy. It is the policy of this department that officers shall activate the BWC when such use is appropriate to the proper performance of his or her official duties, where the recordings are consistent with this policy and law. This policy does not govern the use of surreptitious recording devices used in undercover operations.

II. PURPOSE

It is the purpose of this policy to provide deputies of the York-Poquoson Sheriff's Office with guidelines for the use of mobile video and audio recording equipment. In addition, this policy is intended to provide officers with instructions on when and how to use body-worn cameras (BWCs) so that officers may reliably record their contacts with the public in accordance with the law.

III. AUTHORITY FOR VIDEOTAPE RECORDING:

In Pennsylvania vs Muniz, the U.S. Supreme Court held that a deputy has the right to observe what the deputy can see, if the deputy has a legal right to be present. It follows that if a deputy may observe, a deputy also has a right to photograph or videotape. The recording is made by "one party consent."

IV. PROCEDURES FOR IN CAR VIDEO/AUDIO RECORDING:

- A. Program Objectives: The York County Sheriff's Office has adopted the use of in-car video/audio recording systems in order to accomplish several objectives, including:
1. Accurate documentation of events, actions, conditions and statements made during arrests and critical incidents, so as to enhance deputy reports, collection of evidence and testimony in court.
 2. The enhancement of the ability to review probable cause for arrest, arrest procedures, deputy and suspect interaction, and evidence for investigative purposes, as well as for deputy evaluation and training.
- B. Equipment:
1. MVR equipment installed in vehicles is the responsibility of the deputy assigned to that vehicle and will be maintained according to manufacturer's recommendations.
 2. Deputies shall inspect equipment prior to beginning a tour of duty.

- a. Each member shall inspect assigned MVR equipment for damage and/or functionality.
 - b. All deficiencies should immediately be reported in writing to a supervisor so that necessary repairs may be made. Describe in detail exactly what the system is or is not doing. Forward the report to the immediate supervisor for repair follow-up. **Note: No one is authorized to take any MVR system for repair, unless authorized by the Uniform Patrol Commander.**
 - c. Deputies are reminded that timely reporting will decrease the delay in correcting problems.
3. Supervisors shall inspect deputies' MVR systems periodically and document the results. This should be accomplished during routine line inspection. (See RR 1-4).
 4. Care of Mobile Video Recording Equipment:

Members will exercise reasonable care of MVR equipment.

- a. Cameras should be periodically checked to ensure they are securely mounted, properly adjusted and that all wires are properly connected. To prevent scratching, only an approved lens cleaning tissue and cleaning fluid shall be used when cleaning of the lens becomes necessary.
- b. Microphones and cords are very fragile and should be protected to the extent possible. It is recommended that the cords be concealed inside the uniform shirt, with the cord extended as far as possible for maximum operating range. When zipping the shirt, be careful to avoid damaging the cord with the zipper.
- c. Transmitters should be worn as designed by the manufacturer and placed on the duty belt in a comfortable/convenient location, and protected as to the extent possible. Transmitter frequencies are matched to those of their receivers, and all units **are not** interchangeable with each other. Transmitter batteries should be checked each time a disc is installed in the recorder and weak batteries should be recharged or replaced as necessary.

5. Issuance of Discs:

a. Patrol Lieutenants shall maintain an adequate supply of blank Discs in the patrol supervisor's office.

b. Deputies shall:

(1) Maintain an adequate supply of blank Discs during their tour of duty.

(2) Discs that contain no recordings of criminal activity will be turned into Property and Evidence and stored for a minimum of 90 days.

c. Patrol supervisors shall:

(1) Request Discs as needed to supply recording equipment.

(2) Ensure that any Discs that are turned over from Property and Evidence to be erased, contain nothing of evidentiary value and that a minimum of 90 days has past since the last record on the recording.

d. No Disc, other than those approved and/or issued by the Sheriff's Office will be used in agency recorders.

C. Operating Procedures:

1. Recorder:

a. The recorder may be activated in any one of three (3) ways:

(1) Manually, by pressing the "Record" button;

(2) Automatically, by turning on the emergency lights; or

(3) Remotely, by turning on the wireless microphone if the "Remote" feature is activated. It is recommended that the "Remote" feature be activated routinely. NOTE: When power to the unit is turned off, the "Remote" feature will automatically deactivate. When

power is restored, the "Remote" feature must again be activated.

- b. Regardless of how the recorder is activated, it can **only** be turned off manually, by depressing the "Stop" button until the "Record" indicator light (LED) goes off.

2. Remote Function:

- a. When the MVR is first turned on, the remote function is to be activated and will remain on until the MVR is turned off.

3. Auto Focus:

- a. Auto focus should be checked periodically and upon the initiation of any enforcement action when possible, to ensure proper focus.
- b. The auto focus may need to be turned off at night or during periods of inclement weather, ex: rain, snow, etc.

4. Monitor:

- a. The monitor is to be used for adjustment of the camera head and review of recorder incidents. The monitor should be turned off while the vehicle is in motion.

5. Body Microphone:

- a. The body microphone shall be worn on the gun belt at all times.
- b. The body microphone shall be activated at all times during law enforcement activities.

6. In-Car Microphone (ICM):

- a. The ICM may be used during suspect or arrestee transport.
- b. The ICM shall be on during a violent or disorderly transport.

D. Guidelines for Recording:

1. Data identifying information on the monitor will be limited to:
 - a. Date/Time Counter
 - b. Initials for York-Poquoson Sheriff's Office, Deputy's Rank, First initial and last name, and vehicle number, e.g.; "YPSO-Deputy J.Richardson 288".
 - c. At the conclusion of the recording Deputies will add an event tag using the MVR software to detail the type of event and the case number.
2. Once the recording of an incident has begun, the recording of both audio and video shall be continued until its completion. If, for any reason the recording is discontinued, the reason should be properly documented on the recording.
3. Deputies will inform any person who asks, whether or not MVR equipment is in use.
4. Deputies may proactively inform subjects being videotaped that video-recording equipment is in use, if they (deputies) feel that it is beneficial to do so.
5. Deputies are not required to discontinue recording at the request of anyone other than a superior officer.
6. Deputies will indicate in their reports when recordings are made.
7. Absent any unusual circumstances, the video camera will remain in the record mode at all times while the vehicle is in motion and the rear deck microphone activated under the following circumstances. Events that shall be recorded include:
 - a. Emergency responses.
 - b. Traffic stops, beginning to end.
 - c. Pursuits.
 - d. Observation of DUI suspect prior to stop, during performance of field sobriety tests, and during transport, if arrested.

- e. Transporting prisoners (activate the rear camera mode), if the prisoner is or becomes disorderly.
 - f. Vehicle searches and/or inventories.
 - g. Acts of hostility or physical violence, when possible.
 - h. Any confrontational contact with a citizen/violator; and
 - i. Any other incident, which the member feels may become an issue of some importance at a later date. **If in doubt, record it!**
8. Anytime the recorder is on while outside the Patrol Vehicle, the microphone shall also be in the record mode. Deputies should narrate those things that are observed, which the camera may not be able to record (sights, smells, probable cause, etc.).
9. Deputies may also use the recorder for note taking by recording thoughts and observations for later use.
10. The microphone may be turned off while a deputy is speaking with another deputy outside the presence of the citizen.
- a. If an event should be recorded, and more than one vehicle equipped with MVR is present, each member should record, but only the first unit on the scene needs to record audio.
 - b. MVR equipment should not be used for non-official business.
11. Whenever the decision is made not to record an event, a report will be made detailing the reasons for not recording such an event. Failure to record events without good cause is reason for disciplinary action up to and including termination.

E. Storage and Retrieval of Recorded Tapes:

1. Recorded Discs are evidence, and must be handled as such. For this reason, the chain of custody must be kept as short as possible and documented by all who handle the recordings. (See GO 2-15.)

2. Deputies shall not erase, reuse or in any manner alter MVR Discs. The only exception will be when the Disc is re-issued (See Section IV.B.5.c2 of this General Order).
3. At the conclusion of each recorded DISC and upon removal of Recorded Discs, the deputy will:
 - a. Complete the appropriate information on the DISC;
 - b. Complete the appropriate P&E sheet;
 - c. Secure the MVR DISC(s) in an evidence locker.
4. The Evidence Custodian shall empty evidence lockers to retrieve used MVR Discs daily, Monday thru Friday.
5. The Evidence Custodian shall store the recorded Discs in a secure, climate controlled area. The Evidence Custodian shall maintain a record of all incoming Discs, which allows for the location and retrieval of specific Discs as needed for viewing, duplication, etc.
 - a. Those discs that contain evidence will be logged and filed under the case number assigned for that incident and downloaded onto the York-Poquoson Sheriff's Office computer system.
 - b. If the disc contains no recordings of criminal activity, it will be logged in separately, without a case number and filed.

F. Ownership, Custody, and Control of Recorded Discs:

1. It is the policy of this office that the recordings generated on any equipment located in any sheriff's office vehicle or made during terms of employment (compensated or volunteer) are the property of the York-Poquoson Sheriff's Office.
2. MVR's containing information that may be of value for case prosecution or in any criminal or civil adversarial proceeding, shall be safeguarded as other forms of evidence. As such, these Discs shall:
 - a. Be subject to the same security restrictions and chain of evidence

safeguards as detailed in the sheriff's office evidence control policy, GO 2-15.

- b. Not be released to another criminal justice agency for trial or other reasons without having a duplicate copy made and returned to safe storage.
- c. Will not be released to other than bona fide criminal justice agencies without prior approval of the Sheriff or his designee.
- d. Recordings shall be retained by the Evidence Custodian. Display of any of a recording's content during this time shall be limited by the Sheriff, Chief Deputy, Uniform Patrol Commander, or Commonwealth Attorney.
- e. All recorded Discs will be held for a minimum of ninety days before being erased and recycled. Discs containing evidence of a crime or civil litigation will be held until the case is disposed of and all appeals are exhausted, or until released by the courts and/or the prosecutor.

G. Use of Recordings for Training Purposes:

- 1. Periodically, video cameras mounted in sheriff's office vehicles record events, which may prove useful as training aids. Therefore, when these cameras record unusual, exceptional, or felony incidents and the incidents recorded are perceived to be of value as a training aid, the following procedure shall apply:
 - a. Members are encouraged to bring to the attention of their supervisors any recording(s) they feel may be useful as a training aid.
 - b. If the Uniform Patrol Commander determines that it is of value as a training aid, the supervisor(s) will request the Evidence Custodian to duplicate the segment for training purposes.
 - c. Duplication of any recording segment generated by any in-vehicle video cameras for other than legitimate law enforcement purpose is prohibited. The Evidence Custodian will make a record of all duplications and requests for duplications.

H. Viewing of Recorded Discs:

1. The Evidence Custodian shall arrange for viewing of Discs as requested and authorized by deputies, supervisors, prosecutors, defendants and defense attorneys, or as ordered by a court. Such viewing shall take place at the sheriff's office at a reasonable time. No original DISC recording will be allowed to be removed from the sheriff's office unless so ordered by a court. In this case, a duplicate DISC will be made prior to releasing the original.
2. Members may view and copy recordings for the purpose of critiquing their own performance, as well as preparing themselves to testify in cases where such recordings may be used as evidence.
3. Supervisors may (and should) periodically view recordings to:
 - a. Determine if sheriff's office rules, regulations and procedures are being followed.
 - b. Ensure officer safety is not being compromised.
 - c. Evaluate the sheriff's office's operational methods, and recommend changes when necessary.
 - d. Investigate allegations of misconduct filed by citizens or supervisors.
 - e. Evaluate subordinates for the purpose of correcting improper or inefficient actions.
4. The Sheriff, Chief Deputy, any Division Commander, or Patrol Supervisor may view recorded Discs at their discretion.
5. Investigators and prosecutors may also view recorded Discs as necessary to complete their investigations and/or prosecutions.
6. Recorded Discs relevant to a pending or contemplated criminal action may not be viewed by any others, including defendants and defense attorneys, without the permission of the arresting deputy and/or prosecutor. Dissemination of video recorded information is subject to the same laws and policy as other records material
7. Members of the press may view recorded Discs only as specifically

authorized by the Sheriff or Chief Deputy.

I. Duplication of Recorded Discs:

1. The Evidence Custodian shall make (or allow to be made) duplicates of Discs as requested in accordance with this policy or as specifically approved by the Sheriff or his designee.
 - a. Requests shall be made in writing.
 - b. Requests from other law enforcement agencies shall be made on official departmental letterhead and signed by the department head or his designee.
 - c. Requests from the media or other non-law enforcement agencies or individuals must be accompanied by a fee of a minimum of \$25.00 per event made payable to the York-Poquoson Sheriff's Office. All such requests must be in writing and from persons entitled to view such recordings in accordance with this policy and applicable law. Records will be kept of all requests and all duplicates made and the distribution of such duplicates.

IV. PROCEDURES FOR IN BODY WORN CAMERAS:

A. Administration

1. This agency has adopted the use of BWC's to accomplish several objectives. The primary objectives are as follows:
 - a. BWCs allow for accurate documentation of police-public contacts, arrests, and critical incidents. They also serve to enhance the accuracy of officer reports and testimony in court.
 - b. Audio and video recordings also enhance this agency's ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training.

- c. The BWC may also be useful in documenting Crime and Accident scenes or other events that include the confiscation and documentation of evidence or contraband.

B. When and How to use the BWC

1. Deputies shall activate the BWC to record all contacts with citizens in the performance of official duties.
2. If a Deputy fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated.
3. Civilians shall not be allowed to review the recordings at the scene.

C. Procedures for BWC use

1. BWC equipment is issued primarily to uniformed personnel as authorized by this agency. Deputies who are assigned BWC equipment must use the equipment unless otherwise authorized by supervisory personnel.
2. Departmental 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 agency.
3. Deputy Sheriffs who are assigned BWCs must complete an agency approved and/or provided training program to ensure proper use and operations. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.
4. BWC equipment is the responsibility of individual officers and will be used with reasonable care to ensure proper functioning. Equipment malfunctions shall be brought to the attention of the Deputy's supervisor as soon as possible so that a replacement unit may be procured.
5. Deputies shall inspect and test the BWC prior to each shift in order to verify proper functioning and shall notify their supervisor of any problems.

6. Deputies shall not edit, alter, erase, duplicate, copy, share, or otherwise distribute in any manner BWC recordings without prior written authorization and approval of the Sheriff or his or her designee.
7. Deputies are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
8. If a Deputy is suspected of wrongdoing or involved in a deputy-involved shooting or other serious use of force, the department reserves the right to limit or restrict a deputy from viewing the video file.
9. Requests for deletion of portions of the recordings (e.g., in the event of a personal recording) must be submitted in writing and approved by the Sheriff or his or her designee in accordance with state record retention laws. All requests and final decisions shall be kept on file.
10. Deputies shall note in incident, arrest, and related reports when recordings were made during the incident in question. However, BWC recordings are not a replacement for written reports.

D. Restrictions on Using the BWC

1. BWCs shall be used only in conjunction with official law enforcement duties. The BWC shall not generally be used to record:
 - a. Communications with other police personnel without the permission of the Sheriff;
 - b. Encounters with undercover officers or confidential informants;
 - c. When on break or otherwise engaged in personal activities; or
 - d. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room.

E. Storage

1. All files shall be securely downloaded periodically and no later than the end of each shift. Each file shall contain information related to the date, BWC identifier, and assigned officer.
2. All images and sounds recorded by the BWC are the exclusive property of the York-Poquoson Sheriff's Office. Accessing, copying, or

releasing files for non-law enforcement purposes is strictly prohibited.

3. All access to BWC files must be specifically authorized by the Sheriff or his or her designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.
4. Files should be securely stored in accordance with the Library of Virginia records retention schedule and no longer than useful for purposes of training or for use in an investigation or prosecution. In capital punishment prosecutions, recordings shall be kept until the offender is no longer under control of a criminal justice agency.

F. Supervisory Responsibilities

1. Supervisory personnel shall ensure that officers equipped with BWC devices utilize them in accordance with policy and procedures defined herein.
2. At least on a monthly basis, supervisors will randomly review BWC recordings to ensure that the equipment is operating properly and that officers are using the devices appropriately and in accordance with policy and to identify any areas in which additional training or guidance is required.
3. Supervisors shall review all Video files related to the following:
 - a. Injury to prisoners
 - b. Use of force by a department member
 - c. Injury to a Deputy
 - d. Vehicle Pursuits
 - e. "Officer Needs Assistance" calls; or
 - f. Known citizen Complaints
4. Each shift lieutenant will ensure that a supervisor on that shift shall randomly select and review at least three (3) BWC videos during each month.
 - a. Supervisors will not review incidents known to have been previously reviewed.
 - b. Supervisors conducting these reviews will document and forward their findings, in the form of an email, to the Patrol Division Commander and the Commander of Administrative Services Division, along with a copy to the recording officer.

NOTE: These reviews will be conducted for training and integrity purposes.

H. Procedures for Review of Recordings

1. Recordings may be reviewed as follows:
 - a. By any officer, at any time, who may wish to view those recordings made by them.
 - b. Any officer wishing to create a DVD of a recording made by him shall articulate the purpose and secure permission from his supervisor.
 - c. Footage burned to a DVD shall be original and unaltered.
 - d. Any DVDs burned by the recording officer shall remain the property of the YPSO, and shall not be used for any purpose other than set out for video recordings
 - e. By any supervisor investigating a specific incident.
 - f. By any detective or other law enforcement agent, as sanctioned by a supervisor, if they are participating in an official investigation (e.g., a criminal investigation, a personnel complaint or an administrative inquiry) or for other official reasons.
 - g. By any Personnel Support and Training Division personnel.
 - h. By the staff of the Public Information Office for possible release to media representatives in accordance with the law and with permission of the Sheriff.
 - i. Due to the heightened privacy concerns associated with a video recording, any video recording disclosed to the media may be edited/redacted to preserve the privacy of individuals unrelated to the case who were captured on a recording.
 - j. When appropriate, court orders preventing or limiting the dissemination of a video recording shall be secured prior to distribution.

NOTE: recordings shall be treated as other forms of direct evidence and subject to discovery and disclosure in accordance with law.

