

South Carolina Department of Public Safety

Office of the Director

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POLICY	300.06
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DATE OF ORIGINATION	MARCH 14, 2001
SUBJECT	AUDIO/VIDEO RECORDINGS
REPLACES POLICY DATED	MARCH 14, 2001
APPLICABLE STATUTES	N/A
APPLICABLE STANDARDS	<u>11.4.5, 41.3.8, 83.2.2</u>
APPLICABLE STANDARD OPERATING PROCEDURES (SOP)	N/A
FORMS	DPS-LE-014; DPS-LE-026; DPS-LE-027; DPS-LE-056
DISTRIBUTION	TO ALL EMPLOYEES

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I. PURPOSE

To provide guidelines for the South Carolina Department of Public Safety's (SCDPS or department) law enforcement personnel as they relate to the use of audio/video recordings to enhance officer safety, collect and document evidence, and enhance training and officer evaluation initiatives.

II. POLICY

*SCDPS will ensure the proper collection, preservation, handling, retention and **disposal** of audio and video recordings produced in the line of duty by officers of the department.*

III. DEFINITIONS

For the purpose of this policy, the following definitions will apply:

Division Director- an individual who is accountable for the daily operations of an SCDPS division and reports directly to the director.

Duplication- a replicated tape/DVD utilized for training purposes, judicial requests, and court prosecutions (ex. Rule 5) that can be produced by any law enforcement officer.

Unit- a troop, district, or operating DPS law enforcement office that has the ability to issue, maintain, and track audio and video recordings.

Recording- digital devices (e.g. Body-Worn Cameras (BWC), tapes, or DVDs) utilized to capture sounds and/or visual images.

Working Copy- a replicated tape/DVD utilized for investigative review purposes that can be produced by a law enforcement supervisor only.

IV. GENERAL USE

- A. *Training on the appropriate use of recording devices will be provided to SCDPS officers who are assigned these devices.*
- B. *Commissioned officers involved in undercover operations are exempt from wearing BWC.*
- C. *When the blue lights and/or siren are activated in a law enforcement vehicle, the in-car video/audio recording system will automatically activate. The in-car system will remain on as long as the officer has interaction with the violator being stopped to include transporting the violator to a jail or detention facility. When there are interactions with citizens which do not involve the use of a blue light and/or siren, the BWC shall be activated when practical [41.3.8]*
- D. *Officers will activate the BWC when contact with the public involves law enforcement activity (e.g., traffic stops, arrests, emergency response, domestic/civil disputes, pursuits, accidents, investigations, etc.). The director may approve and/or mandate other activities be recorded at his/her discretion (e.g., internal investigations, special events, etc.).*
- E. *SCDPS officers are permitted to stop or deactivate the audio portion of recording devices when communicating privately with an immediate supervisor and/or the Office of General Counsel (OGC). Upon completion of the private conversation with an immediate supervisor and/or OGC the recording devices will be reactivated.*
- F. *In all cases involving enforcement activities other than those noted in Section IV, E. of this policy, once the in-car video/audio recording system and the BWC have begun recording, the devices shall not be stopped, paused, turned off or otherwise interfered with at any time until the enforcement activity has concluded. In cases where the blue light remains activated for safety purposes, the officer should also continue recording. [41.3.8]*
- G. *At the time of a traffic stop, officers shall use the wireless microphone to record the following information:*
 - 1. *location of stop;*
 - 2. *description of vehicle(s);*
 - 3. *number of occupants in vehicle(s) and their race and sex, if known; and*
 - 4. *License plate number(s) and state(s) of issuance for vehicle(s). [41.3.8]*
- H. *If asked, officers shall inform those violators/citizens that audio and video recording equipment are in use.*
- I. *Officers should position a violator when outside of the stopped vehicle in such a way that the violator is in plain view of the in-car video/audio equipment.*

- J. *When engaging with a violator, officers should position a violator in such a way that the violator is in plain view of the BWC.*
- K. *Use of recording devices that are not issued by the department is prohibited.*
- L. *All recordings, images, and audio are confidential. No personal duplications are allowed under any circumstances. Officers shall not upload any SCDPS recordings, images, and/or audio to any public or social media website.*
- M. *The viewing of any recording for anything other than approved SCDPS purposes is prohibited.*
- N. *Officers will not attempt to erase, edit or otherwise alter recordings in any manner.*
- O. *Officers should make every effort to ensure that no background noise interferes with the audio portion of the recording.*
- P. *Officers who assist other officers in a backup capacity shall also activate their in-car video recording system and/or BWC to record the incidents at the point blue lights and/or sirens are activated or when the officer arrives on the scene, whichever is sooner. The recording shall continue until there is no longer contact with the violator(s)/citizen(s) involved. Since the primary officer is recording, backup officers may turn off their audio transmitters upon exiting the vehicle in order to avoid interference with the primary officer's audio recording.*
- Q. *Prior to an officer beginning his/her shift, the officer will be responsible for ensuring that all recording devices are functional. If the equipment is not functional, the officer must notify his/her supervisor immediately.*
- R. *If a tape/DVD malfunctions during use, the officer shall label the tape/DVD with the date and time of the malfunction. All audio/video malfunctions shall be reported to the officer's supervisor as soon as possible utilizing DPS-LE-014 (Uniform Administrative Report).*
- S. *Original tapes/DVDs and BWC utilized for the in-car video/audio recording system will be protected as evidence.*

V. IN-CAR VIDEO/AUDIO RECORDING SYSTEM TAPE/DVD SECURITY AND CONTROL

- A. *When issuing a blank tape/DVD, it shall be sequentially numbered identifying the issuing unit. Issued blank tapes/DVDs will be documented on DPS-LE-026 (Audio/Video Log). [41.3.8]*
- B. *Officers shall write identifying information on all recorded tapes/DVDs, which shall include the name of the officer responsible for the recording, the first date that the tape/DVD was used, and the last date that the tape/DVD was used. No adhesive tapes/labels are to be used.*
- C. *If at any time an authorized individual requests a recording, the record tab will be removed and the chain of custody will be documented on DPS-LE-027 (Audio/Video Recording Chain of Custody and Disposal).*
- D. *A tape/DVD shall not be tampered with before or after installation into the recorder. Tapes/DVDs can be copied or duplicated by officers for the specific purposes of*

court presentations, training or complying with Freedom of Information Act (FOIA) requests. Duplications of tapes/DVDs shall be documented on DPS-LE-056 (Audio/Video Duplication).

- E. *Officers shall only carry in their vehicle the number of blank tapes/DVDs that will be needed during the duration of their shift. Officers shall not exceed having four (4) blank tapes/DVDS in their possession under normal circumstances.*

VI. IN-CAR VIDEO/AUDIO RECORDING SYSTEM TAPE/DVD STORAGE RETENTION AND DISPOSAL

- A. *Each unit office shall turn over unissued tapes/DVDS to the unit evidence custodian for storage in a climate controlled and secured area. [41.3.8]*
- B. *The arresting officer shall maintain custody of and store recorded tapes/DVDs in a secure controlled area until final disposition of the case. Within five (5) working days of the final disposition of the case, the arresting officer will release the tape/DVD to the unit evidence custodian utilizing DPS-LE-027 (Audio/Video Recording Chain of Custody and Disposal). [41.3.8]*
- C. *When a video or audio recording contains information that may be used as evidence in a case involving a major drug arrest, complaint or civil rights allegation, the video or audio recording shall be turned over to the unit's evidence custodian as soon as notification is received from a law enforcement supervisor with the chain of custody documented utilizing DPS-LE-027 (Audio/Video Recording Chain of Custody and Disposal). [83.2.2]*
- D. *The evidence custodian will log in submitted tapes/DVDs on DPS-LE-027 (Audio/Video Recording Chain of Custody & Disposal) and store them for 90 days. If the officer turning in the tapes/DVDs does not notify the evidence custodian of any court appeals or other reason(s) to retain the tapes/DVDs during the 90 day period, the tapes/DVDs will be disposed of after a review as outlined in Paragraph IX, below. [41.3.8] [83.2.2] Tapes shall not be reused.*
- E. *The status of the tapes/DVDs with active cases will be verified by each unit's evidence custodian with the officer who turned in the tapes/DVDs on an annual basis.*
- F. *To dispose of the tapes/DVDs, the evidence custodian or authorized supervisor will sign form DPS-LE-027 (Audio/Video Chain of Custody and Disposal) noting the date and method of disposal. [83.2.2]*
- G. *The unit evidence custodian will periodically review DPS-LE-027 (Audio/Video Recording Chain of Custody and Disposal) ensuring tapes/DVDs turned in are in compliance with this policy.*
- H. *Completed DPS-LE-026 (Audio/Video Logs) will be forwarded to the unit's evidence custodian to assist with periodic reviews. The evidence custodian will maintain completed DPS-LE-026 (Audio/Video Logs) for a period of one (1) year from the date received. [83.2.2]*
- I. *Supervisors have the authority to take possession of videotapes/DVDs after a pursuit, shooting, complaint or other incident when a change of custody is deemed necessary by the supervisor. The transfer of custody will be documented on DPS-LE-027 (Audio/Video Recording Chain of Custody and Disposal).*

VII. BODY-WORN CAMERAS (BWC)

- A. *The BWC will be positioned on the DPS officer's body per the Training guidelines/recommendations.*
- B. *The BWC will be worn throughout the duration of an officer's working hours. Once the BWC is activated, the device will remain activated until the conclusion of the law enforcement activity.*
- C. *Officers will only activate the BWC when contact with the public involves law enforcement activities.*
- D. *Officers will be permitted to deactivate the BWC during certain encounters which include, but are not limited to:*
 - 1. *entering a public locker room/restroom;*
 - 2. *entering a doctor's office/hospital;*
 - 3. *court proceedings;*
 - 4. *interacting with departmental employees during daily work (e.g. meetings, briefings, award ceremonies, etc.), or;*
 - 5. *any other circumstances unrelated to law enforcement activity.*
- E. *Officers will be trained on how to download captured data before the BWC reaches maximum storage capacity.*
- F. *Officers are responsible for safely securing the BWC when the officer is not on duty and the device is not in use.*
- G. *The BWC will be inspected during the monthly line inspection by the officer's immediate supervisor.*

VIII. WORKING COPIES

- A. *If a transcription of a recorded conversation is needed or when information contained on **recordings** requires frequent review for investigative purposes, a working copy will be made of the recording with the unit commander's approval.*
- B. *Additional working copies of tapes may be duplicated using the first working copy of a tape. When making copies of a tape, the record protect tab should be removed from the original or source tape to avoid accidental erasure. A notation must be made on DPS-LE-027 (Audio/Video Recording Chain of Custody and Disposal) reflecting that a working copy was made. Care should be taken to securely store working copies.*
- C. *The label for working copies shall contain the same information as the original recording, to include adding the words "Working Copy." **With the unit commander's approval, a supervisor may authorize a working copy if duplicating equipment is available.***

IX. REVIEW OF RECORDINGS

- A. *Portions of each recording will be randomly reviewed on a regular basis by a supervisor prior to the disposal of the **recording**. The review **shall** take place after the officer has turned the **recording** in with no **pending** court action. In the event of an*

inquiry or complaint, a supervisor may enter the chain of custody of a **recording** on a pending or active case in order to conduct the appropriate review.

- B. The evidence custodian may release **recordings** to other unit supervisors to assist in the above review of each **recording**. All reviews will be documented by completing the appropriate section of **DPS-LE-027 (Audio/Video Recording Chain of Custody and Disposal)**.
- C. Each supervisor reviewing **recordings** shall evaluate an officer's **actions** to ascertain the following:
 - 1. Compliance with standard operating procedures, safety procedures and other training;
 - 2. Interactions with the public; and
 - 3. Professional behavior and demeanor.
- D. Action shall be taken to address issues that arise as a result of this review. If extraordinary issues are detected that involve serious incidents of misconduct or have the potential for developing into serious incidents of misconduct, they shall be immediately reported to the director of the Department of Public Safety as well as the troop and unit commander utilizing **DPS-LE-014 (Uniform Administrative Report)**. The unit commander shall immediately review the **recording** and take appropriate action to address those issues, including notifying the director, the **division directors**, and the Office of Professional Responsibility (OPR). [11.4.5]

X. INSPECTION, MAINTENANCE, AND REPAIR OF RECORDING EQUIPMENT

A supervisor shall routinely inspect cameras and evaluate the recording equipment to ensure it is working properly. This review will be documented on **DPS-LE-029 (Line Inspections Checklist)**. If an officer experiences a malfunction with any part of the recording equipment, the officer shall notify his/her supervisor of the problem and record such notification on **DPS-LE-014 (Uniform Administrative Report)**. The supervisor shall arrange for the repair of the malfunctioning equipment.

XI. COMPLAINTS

- A. If a complaint is **made** against an officer, a supervisor will immediately secure the **recording** related to the complaint. A working copy of **all tapes/DVDs** will be made and the original **tape/DVD** will be turned over to the unit's evidence custodian. Complaint-related **recordings** may be made available to the officer for court cases, but may not be erased **or destroyed** until final disposition of the complaint.
- B. The working copy of **tapes/DVDs** will be used during the course of **an** investigation. If a complaint is substantiated, the original **recording** will be released to OPR after it is no longer required for court purposes.

XII. DUPLICATION OR DISTRIBUTION OF RECORDINGS FOR TRAINING PURPOSES

A. GENERAL

Once a **recording** is no longer needed for legal purposes, the **recording** must be forwarded to the appropriate **division director** or the officer's supervisor if the **recording** could be beneficial for training purposes. In such cases, a notation must be

made on **DPS-LE-026 (Audio/Video Log)** indicating the **recording** was forwarded to the training division along with the date the **recording** was forwarded. If the **recording** is not selected for use as a training video, it shall be returned to the unit's evidence custodian for disposal as outlined in this policy.

B. TRAINING VIDEO PROCEDURES

1. If a **recording** is approved for training purposes, the training staff and the appropriate law enforcement division shall work together to produce a training **recording** that is acceptable to both.
2. Once an edited training **recording is completed**, the original **recording** shall be disposed of in accordance with the provisions of this policy.

D. DISTRIBUTION OF TRAINING VIDEOS

1. Requests for department **recordings** that are made pursuant to **FOIA** must first be referred to the **SCDPS FOIA Officer** to be processed in accordance with Paragraph **XIII** of this policy.
2. **The SCDPS FOIA Officer shall forward to the department's training staff all requests from other law enforcement agencies or other sources having a legitimate need or statutory right to copies of evidentiary or training recordings. These requests will be subject to the following guidelines:**
 - a. Law enforcement agencies shall submit a request in writing for copies on their department's letterhead and signed by the requesting agency's chief administrative official.
 - b. All other requests must also be in writing and must indicate the identity of the person making the request for the recording and any organization that the person represents.
 - c. In instances where there is an active case or pending prosecution, OGC must first approve the release of the recording.
3. The duplicated copy shall be made by the department's training staff, shall be labeled "South Carolina Department of Public Safety," and shall contain the following information:

*"Any duplication or distribution of this tape is prohibited without the **express** written consent of the Director of the South Carolina Department of Public Safety."*

E. VIDEOS FROM OTHER LAW ENFORCEMENT AGENCIES

SCDPS may use training **recordings** from other law enforcement agencies. However, before such **recordings** may be used, approval must be secured from the respective law enforcement agency by the **DPS's** training staff. Additionally, **DPS** personnel shall strictly adhere to any reasonable restrictions of the law enforcement agency as to the **recordings** use or distribution. Audio/video recordings from other law enforcement agencies may be modified to a training format by **DPS** training staff. However, the approval of that law enforcement agency must be secured in writing prior to such modification and the law enforcement agency shall be consulted regarding the modification of the **recording**.

XIII. FREEDOM OF INFORMATION ACT REQUESTS

Audio/video recordings or portions thereof which are recorded and maintained by the department may be subject to **FOIA** requests. All **FOIA** requests received by any office or division of the department shall be forwarded *to the SCDPS FOIA Officer* for response. It is the responsibility of the appropriate *division* directors to notify the *Office of Communications* if the *recording* or portions of the *recording* are not believed to be subject to release under **FOIA**. Only the *Office of Communications and/or the Office of General Counsel* can approve or disapprove the release of documents or *recordings* requests *under FOIA*.

XIV. VIOLATION OF POLICY

Any violation of this policy shall be handled in accordance with Policy 400.08 (Disciplinary Action).

By Order of the Director Date: February 5, 2015
<i>Leroy Smith</i>
Director S C Department of Public Safety
The Original Signed Copy of this Policy is on File in the Office Strategic Services, Accreditation, Policy, and Inspections