

South Carolina Department of Public Safety

Office of the Director

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POLICY	300.06
EFFECTIVE DATE	MARCH 14, 2001
ISSUE DATE	APRIL 28, 2009
SUBJECT	IN-CAR VIDEO AND RECORDING
APPLICABLE STATUTES	
APPLICABLE STANDARDS	11.4.5, 41.3.8, 83.2.2
DISTRUBTION	TO ALL EMPLOYEES

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I. PURPOSE

The primary purpose of law enforcement audio/video recording equipment is to collect evidence for use in prosecuting persons who have violated a law or to document certain events or conversations.

II. POLICY

Recognizing that an analog or digital recording may become an important piece of evidence, the Department of Public Safety hereby adopts this policy to establish procedures relating to the proper collection, preservation, handling, disposition and retention of these recordings made in the line of duty by officers of the department.

III. GENERAL USE [41.3.8 (a)]

- A. Officers operating a patrol vehicle equipped with an in-car video recording system shall activate the in-car system, including the audio portion, beginning when the blue lights and/or siren are activated. Once the in-car system is activated, it shall remain on as long as the officer has any interaction with the individual being stopped, including the time during which the violator is being transported to a jail or detention facility.
- B. Interactions with citizens, which do not involve the use of a blue light and siren, shall be recorded when practical. In all cases involving enforcement activities, once the audio and video recording has begun, it shall not be stopped, paused, turned off or otherwise interfered with at any time until the enforcement event is concluded. In cases where the blue light remains activated for safety purposes, the officer should continue the recording.
- C. 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 all vehicles;
 3. number of occupants in all vehicles and their race and sex, if known; and
 4. all vehicles license numbers and states of issuance.
- D. Officers shall inform, those who ask, that audio and video recording equipment are in use.
- E. Officers who are assisting another officer in a backup capacity shall also record required incidents at the point they activate their blue lights and siren or when they arrive on the scene, whichever is sooner, and continue until they no longer have contact with the individuals involved. If the primary officer is recording, backup officers may turn off their audio transmitters upon exiting their vehicles in order to avoid interfering with the primary officer's audio recording.
- F. If a tape malfunctions during use, the officer shall label the tape with the date and time of the malfunction. The malfunction will be reported to the supervisor as soon as possible utilizing the Uniform Administrative Report (DPS-LE-014).
- G. Officers should make every effort to ensure that no background noise interferes with the audio portion of the recording.
- H. Officers should position the violator, when outside of the stopped vehicle, in such a way that the violator is in view of the video equipment.

IV. TAPE SECURITY AND CONTROL [41.3.8 (b)]

- A. When issuing a blank tape it shall be sequentially numbered identifying the issuing unit. Issued blank tapes will be documented on the Blank Videotape Log (DPS-LE-026).
- B. Officers shall write identifying information on the label of all recorded tapes, which shall include the name of the officer responsible for the recording, the first date that the tape was used, and the last date that the tape was used.
- C. If at any time the recording/arresting officer has to release videotape to an authorized individual, the record tab will be removed and the chain of custody will be documented on Videotape Chain of Custody and Disposal Form (DPS-LE-027).
- D. A recording tape shall not be tampered with before or after installation into the recorder nor shall tapes be copied or duplicated in any manner unless authorized by the district/unit commander who shall designate the place of duplication. This shall not prohibit the copying of tapes for training purposes under the procedures set forth in this policy.

V. TAPE STORAGE AND RETENTION

- A. Unissued blank tapes shall be stored in a climate controlled and secured area in each unit office. [41.3.8 (b) (c)]
- B. Officers shall only carry in the patrol car the number of blank tapes that will be needed during the duration of the day's work schedule. Taking into consideration the possible failure of a tape, the total number of blank tapes in the possession of an officer at one time should not exceed four under normal circumstances. [41.3.8 (c)]

- C. Unless otherwise required by this policy, the recording/arresting officer will maintain custody of and store recorded tapes in a secure climate controlled area until final disposition of the case. Within five workdays of the final disposition of the case, the recording/arresting officer will release the tape to the unit evidence custodian utilizing the Videotape Chain of Custody and Disposal Form. [41.3.8 (b) (c)]
- D. When it has been determined that a video or audio tape contains information that may be used as evidence in a case involving a major drug arrest, complaint or civil rights allegation that video or audio tape shall be turned over to the troop or unit evidence custodian as soon as practicable with the chain of custody documented. [83.2.2]
- E. Recorded tapes turned over to the unit evidence custodian shall be stored in a climate controlled and secured area in the unit office. The evidence custodian will log the tape in and store it for a period of ninety days. If the officer turning in the tape does not notify the evidence custodian of any court appeals or other reasons to retain the tape during the ninety day period, the tape will be disposed of after a review as outlined in Paragraph VII. [41.3.8 (b)] [83.2.2]
- F. The status of the tapes with active cases will be verified with the officer who turned in the tape on an annual basis.
- G. To dispose of in-car videotape, the evidence custodian or authorized supervisor will sign the Certification of Disposal block on the (DPS-LE-027) form noting the date and method of disposal as the final entry in the Chain of Custody block. [83.2.2]
- H. Erased in-car videotape may be returned to the blank tape storage area, relabeled and assigned a new number for reuse. The number of times the tape has been previously used will be noted in the upper left corner of the new label. An in-car videotape will not be reused more than four times. If an in-car videotape has been recorded on four times or if it shows any signs of degradation, it will be destroyed with the appropriate notation and supervisor's signature on the Video Tape Chain of Custody and Disposal form.
- I. The unit evidence custodian will periodically review the Video Tape Chain of Custody and Disposal forms ensuring that tapes are turned in within a timely manner and in compliance with this policy. Completed blank videotape logs will be forwarded to the unit evidence custodian to assist with this review. [83.2.2]
- J. The evidence custodian will maintain completed blank videotape logs for a period of one year from the date received. [83.2.2]
- K. Nothing in this policy prohibits a supervisor from taking custody of a video tape after a pursuit, shooting, complaint or other incident when such change of custody is determined necessary by the supervisor. In any such case, the transfer of custody will be documented on a Videotape Chain of Custody and Disposal form.

VI. WORKING COPIES

- A. If a transcription of a recorded conversation will likely be needed or when information contained on a tape will likely require frequent review for investigation purposes, a "working copy" will be made of the recording with the district/unit commander's approval. The original tape will be protected as evidence and should not be used on a routine basis. If necessary, additional working copies may be made by duplicating the first working copy. When making copies, the record protect tab should be removed from the original or source tape to avoid accidental erasure. A

notation must be made on the Videotape Chain of Custody and Disposal form reflecting that a "working copy" was made. Care should be taken to securely store working copies.

- B. The label on a "working copy" will contain the same information as the original tape label with the additional marking indicating "Working Copy". With the troop or unit commander's approval, a supervisor at the county or district level may make a "working copy" if duplicating equipment is available. If the necessary equipment is not available, a supervisor may request that the department's training unit make the "working copy". A properly completed chain of custody form must accompany tapes being transferred for duplication.

VII. REVIEW OF TAPES

- A. The following procedures are established to ensure that tapes recorded by officers are reviewed on a regular basis. Each tape will have a portion randomly reviewed by a supervisor prior to the disposal of the tape. In general, the review will take place after the officer has turned the tape in with no further court action pending. In the event of an inquiry or complaint, a supervisor may enter the chain of custody of a tape on a pending or active case in order to conduct the appropriate review.
- B. The evidence custodian may release tapes to other unit, troop or district supervisors to assist in the above review of each tape prior to its final disposition. All reviews will be documented by completing the appropriate section on the Videotape Chain of Custody and Disposal form.
- C. Each supervisor reviewing a tape shall evaluate an officer 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 any 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 the Uniform Administrative Report (DPS-LE-014). The troop or unit commander shall immediately review the tape and take appropriate action to address those issues including notifying the director, the deputy director and the Office of Professional Responsibility. [11.4.5]

VIII. INSPECTION, MAINTENANCE, AND REPAIR OF RECORDING EQUIPMENT

A supervisor shall routinely inspect the cameras and evaluate the recording equipment to ensure it is working properly. This review will be documented on the Line Inspections Checklist found in the Line and Staff Inspection Policy 300.10. If an officer experiences a malfunction with any part of the recording equipment, the officer shall notify his or her supervisor of the problem and record such notification on a Uniform Administrative Report (DPS-LE-014). The supervisor shall arrange for the repair of equipment reported to be malfunctioning or found to be in need of repair.

IX. COMPLAINTS

- A. If a complaint is lodged against an officer who has been issued an in-car video system, a supervisor will immediately secure any tapes that may be related to the complaint. A "working copy" of the tape will be made and the original tape will be turned over to the county/unit evidence custodian. Complaint related tapes may be made available to the officer for trial of cases in court, but may not be erased until the final disposition of the complaint.
- B. The "working copy" of the tape will be used during the course of the investigation. If a complaint is substantiated, the original tape will be released to the deputy director and the Office of Professional Responsibility after it is no longer required for court purposes.

X. DUPLICATION OR DISTRIBUTION OF TAPES FOR TRAINING PURPOSES

A. GENERAL

Once an officer no longer needs a tape for prosecution of a case and the Office of General Counsel or the Office of Professional Responsibility states that the tape is not needed for a criminal appeal, civil litigation or an internal investigation, the tape must be forwarded to the appropriate deputy director or the officer's supervisor if it is believed that the tape would be beneficial for training purposes. In such cases, a notation must be made on the log sheet indicating the tape was forwarded to the training division to be edited for training purposes along with the date the tape was forwarded. The deputy director, or his designee, in consultation with the department's training unit, shall decide if the tape should be used for training purposes. If the tape is not selected for use as a training video, it shall be returned to the county or unit evidence custodian for disposal as outlined in this policy.

B. SPECIAL CIRCUMSTANCES

In situations where the videotape has recorded the injury or death of a law enforcement officer, the deputy director shall consult with the officer or family of the officer before utilizing the tape for training purposes. If the officer or family of the officer does not wish for the tape to be utilized or distributed for training purposes, the department will respect the wishes of the officer or family of the officer and either forward the tape to the officer or family of the officer or dispose of the tape if the officer or family of the officer does not wish to maintain custody of the tape. Additionally, if the officer or family of the officer permits the department to utilize the tape for training purposes, the department will adhere to any reasonable restrictions or limitations of the officer or family of the officer as to the tapes use or distribution. The failure of an employee to adhere to such restrictions may result in disciplinary action. While the department will make every effort to respect the wishes of the officer or family of the officer regarding the distribution of such tapes, the department must comply with the requirements of distribution of materials pursuant to the Freedom of Information Act.

C. TRAINING VIDEO PROCEDURES

- 1. If a tape is approved for use as a training video, the training staff and the appropriate law enforcement division shall work together to produce a training tape that is acceptable to both. Once a video has been adapted for use as a training tape, the edited training tape must be forwarded to the Office of General

Counsel for review and approval prior to the edited training tape being use or distributed by the department.

2. Once an edited training tape has been approved by the Office of General Counsel, the original tape shall be disposed of in accordance with the provisions of this policy.

D. DISTRIBUTION OF TRAINING VIDEOS

1. Requests for department videos that are made pursuant to the Freedom of Information Act must first be referred to the Office of General Counsel to be processed in accordance with Paragraph XI of this policy.
2. Requests from another law enforcement agency or other sources having a legitimate need or statutory right to copies of evidentiary or training recordings shall be referred to the department's training staff and will be subject to the following guidelines:
 - a. Law enforcement agencies will forward requests for copies in writing on the 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, the affected court or prosecuting attorney and the Office of General Counsel must first approve the release of the recording.
3. The duplicated copy shall be made by the department's training staff and shall be labeled "South Carolina Department of Public Safety" and shall contain the following disclosure:

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

E. VIDEOS FROM OTHER LAW ENFORCEMENT AGENCIES

The Department may use training tapes from other law enforcement agencies. However, before such tapes may be used, approval must be secured from the respective law enforcement agency by the department's training staff. Additionally, department personnel shall strictly adhere to any reasonable restrictions of the law enforcement agency as to the tape's use or distribution. Similarly, videotapes recorded by other law enforcement agencies may be modified to a training format by the department training staff. However, the approval of the 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 tape.

XI. FREEDOM OF INFORMATION ACT REQUESTS

Video and training tapes or portions thereof, which are recorded and maintained by the department, may be subject to Freedom of Information Act requests. All Freedom of Information Act requests received by any office or division of the department shall be forwarded to the Office of General Counsel for response. It is the responsibility of the

appropriate deputy director to notify the Office of General Counsel if the tape or portions of the tape are not believed to be subject to release under this Act. Only the Office of General Counsel can approve or disapprove the release of documents or tapes under a Freedom of Information Act request.

XII. VIOLATION OF POLICY

Any violation of this policy shall be handled in accordance with the Disciplinary Action Policy 400.08 of the Department of Public Safety.

By Order of the Director Date: April 28, 2009
<i>Mark A. Keel</i>
Director S C Department of Public Safety
The Original Signed Copy of this Policy is on File in the Office of the General Counsel