

## Legislative Oversight Committee

### Questions

#### *Video Policies*

- What reasons, if any, would the agency not want a supervisor to record, on the Audio/Video Monitor Report, the reason the supervisor is reviewing a video?

While the Audio/Video Monitor Form does not specifically list reasons for the review, the purpose for a review is effectively documented in the event that a policy violation is uncovered. This information would be captured in the remarks section in outlining the circumstances under which improper conduct was found (i.e. during a random review of a video recording, based upon a complaint, after reviewing a video tape pursuant to a use of force incident, etc.).

- Is the information on the Monitor Report tracked in the activity console (i.e. number of hours a supervisor spent during the day reviewing video)?

No

- What reasons, if any, would the agency not want a supervisor to note the number of stops, etc. on a video where an officer followed all policies and procedures, so the report would include a complete picture of the trooper's actions, not just the procedures/policies potentially violated?

The Audio/Video Monitor Report captures the total number of minutes reviewed per trooper and documents if violations were not detected (Option A) or were detected (Options B or C) for each portion of video reviewed. This process clearly establishes both patterns of proper conduct and instances of improper conduct. For example, if a supervisor reviews five video recordings from a certain trooper and records no noted violations (Option A) for each portion of these recordings, then a definitive picture of the trooper's proper actions is effectively documented.

- The report asks the supervisor to indicate whether the violation seen in the video was "minor" v. "serious." Please provide the definitions of "minor" and "serious" as well as the documents in which supervisors could find these definitions.

Departmental policies and procedures provide no specific definitions for "minor" and "serious" violations. However, the SCDPS Audio/Video Recording Policy (attached) does specify that the supervisor conducting the review of a recording shall evaluate an officer's actions to ascertain compliance with SOPs, safety procedures, and training; interactions with the public; and professional behavior and demeanor. The policy further provides that if extraordinary issues are detected during the review of video recordings that involve "serious incidents of misconduct or have the potential for developing into serious incidents of misconduct", they shall be reported

to the troop and unit commander. It must be noted that this same policy requires a review of any serious violation through the chain-of-command to include the division director, the director, and the Office of Professional Responsibility. Moreover, the following SCDPS policies (attached) provide extensive guidance on issues of employee conduct, officer safety, and police authority from which any reasonable supervisor can readily discern the difference between “serious” and “minor” violations.

- Arrest Policy
  - Audio/Video Recording Policy
  - Code of Conduct Policy
  - Guidelines for Progressive Discipline Policy
  - Search and Seizure Without a Warrant Policy
  - Traffic Enforcement Policy
  - Use of Force Policy
  - Vehicle and Foot Pursuit Policy
- Please provide examples of “critical incidents” that must be reviewed immediately, pursuant to Highway Patrol Manual of Operations Section I, pg. 46.

The Highway Patrol most commonly categorizes “critical incidents” based upon SCDPS policy requirements relevant to the collection of essential information (i.e. evidence, data, etc.) resulting from law enforcement actions that are subject to review by the appropriate chain-of-command and the Office of Professional Responsibility. These situations include, but are not necessarily limited to, use of force situations and vehicle pursuits. Other similar situations may involve major drug arrests, complaints, or civil rights allegations. (Please reference the above listed policies.)

# South Carolina Department of Public Safety

Office of the Director

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<b>POLICY</b>	<b>300.11</b>
<b>EFFECTIVE DATE</b>	<b>MARCH 18, 1997</b>
<b>ISSUE DATE</b>	<b>SEPTEMBER 10, 2009</b>
<b>SUBJECT</b>	<b>ARREST</b>
<b>APPLICABLE STATUTES</b>	
<b>APPLICABLE STANDARDS</b>	<b><u>1.1.3, 1.2.1, 1.2.3, 1.2.5, 1.2.6, 2.1.1, 33.4.1, 61.1.2, 74.1.1, 74.1.2, 74.1.3, 74.3.1, 74.3.2</u></b>
<b>DISTRUBTION</b>	<b>TO ALL EMPLOYEES</b>

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

## I. POLICY

Department of Public Safety officers shall make lawful arrests, whether with or without a warrant, that adhere to the requirements imposed by the U.S. Constitution, U.S. Supreme Court and other applicable courts, and the Constitution and statutes of South Carolina.

## II. AUTHORITY

- A. Department officers must have completed basic training and be certified as Class 1 – LE law enforcement officers before they are authorized to carry an agency issued weapon or make arrests. [1.2.1] [33.4.1]
- B. Department officers certified as Class 3 - SLE officers are not authorized to make arrests. They are authorized to carry assigned weapons after being certified and perform those law enforcement tasks as specifically authorized by the director or his designee. [1.2.1]
- C. All department officers' authority to make arrests lies only within the boundaries of South Carolina, unless specifically deputized otherwise. [1.2.1] [74.3.1]

## III. DEFINITIONS

**Arrest** - To deprive a person of his liberty, by legal authority, for the purpose of holding or detaining that person to answer a criminal charge.

**Class 1 – LE Certification** - A person who has successfully completed a training program as approved by the Law Enforcement Training Council through the Criminal Justice Academy. [1.2.1]

**Class 3 – SLE - Certification** - Law enforcement officers with limited powers of arrest or special duties shall successfully complete a training program as approved by the Law Enforcement Training Council through the Criminal Justice Academy. [1.2.1]

**Probable Cause** - Articulate facts and circumstances which exist within the arresting officer's knowledge which are sufficient to warrant a reasonable person to believe that a crime has been or is being committed by the person to be arrested.

**Reasonable Suspicion** - Articulate facts sufficient to the officer, based on his knowledge, training and experience, that the person is committing, has committed or is about to commit a crime.

#### IV. GENERAL PROCEDURES

- A. DPS officers have the responsibility to preserve the peace, to protect the safety of citizens and their property, and to enforce the traffic and criminal laws of South Carolina. These responsibilities are sometimes accomplished by the active enforcement efforts of officers through the arrest and incarceration of individuals violating such laws.
- B. The constitutional validity of every arrest, whether with or without a warrant, depends on the existence of probable cause that a crime has been committed and that the person to be arrested committed the crime. Probable cause must exist at the time the officer makes the arrest. [74.3.1]
- C. Whenever an arrest is made, the officer must inform the person arrested of the reason for the arrest. [74.3.1]
- D. After assessing the situation, officers may call for back-up in appropriate situations. [74.3.1]
- E. In accordance with department policy, officers shall use only the amount of force which is reasonable and necessary to accomplish an arrest. (Use of Force Policy 300.04). [74.3.1]
- F. All persons arrested by department officers shall be handled in accordance with Prisoner Transport Policy 300.07. [74.3.1]
- G. All department officers shall comply with appropriate county jail policies and procedures, including those relating to the preparation of required reports, fingerprinting, and photography. [1.2.5 (a) (b) (c)] [74.3.1]
- H. The Department of Public Safety acknowledges that criminal justice and social service diversion programs are effective alternatives to the criminal justice process. All department officers, in recognition that prosecutorial discretion is the province of the solicitor and of the social service function of law enforcement, shall cooperate with the appropriate circuit solicitor's office when requested to recommend or approve candidates for pretrial or other appropriate diversion programs. Juvenile offenders shall be processed in accordance with the departmental Policy 300.19, "Juvenile Operations" and will be afforded the opportunity to participate in diversion programs where appropriate. [1.1.3]

#### V. ARREST WITH A WARRANT

- A. Felony - When there are no exigent circumstances, an arrest warrant is required for a non-consensual entry at a suspect's residence to make a routine felony arrest. A search warrant as well as an arrest warrant is required, absent exigent circumstances,

for a non-consensual entry at any other residence to make a routine felony arrest. [1.2.5 (a)]

- B. Misdemeanor - An arrest warrant is required to make an arrest in all misdemeanor cases except where the crime was committed in the officer's presence, evidence indicates a crime was freshly committed, or in a criminal domestic violence case. When there are no exigent circumstances, an arrest warrant is required for a non-consensual entry at a suspect's residence to make a routine misdemeanor arrest. A search warrant as well as an arrest warrant is required, absent exigent circumstances, for a non-consensual entry at any other residence to make a routine misdemeanor arrest. [1.2.5 (a)]
- C. Only sworn officers may execute an arrest warrant in the state of South Carolina and only when such warrant appears to be valid on its face. An arrest warrant will not be served by the affiant. [1.2.5 (a)] [74.3.1] [74.3.2]
- D. When anyone is arrested pursuant to an arrest warrant, the officer shall provide a copy of the warrant and affidavit to the arrestee. [1.2.5 (a)]
- E. All arrest warrants served by DPS officers shall be checked for accuracy and completeness and must be countersigned by the court official having jurisdiction when service of the warrant does not originate in the issuing county. [1.2.5 (a)] [74.1.3 (d)]
- F. Information regarding each item of legal process shall be recorded including:
  - 1. Date and time received; [74.1.1 (a)] [74.1.3 (c)]
  - 2. Type of legal process; [74.1.1 (b)] [74.1.3 (c)]
  - 3. Nature of document; [74.1.1 (c)] [74.1.3 (c)]
  - 4. Source of document; [74.1.1 (d)] [74.1.3 (c)]
  - 5. Name of plaintiff/complainant or defendant/respondent; [74.1.1 (e)] [74.1.3 (c)]
  - 6. Officer assigned for service; [74.1.1 (f)] [74.1.3 (c)]
  - 7. Date of assignment; [74.1.1 (g)] [74.1.3 (c)]
  - 8. Court docket number; and [74.1.1 (h)] [74.1.3 (c)]
  - 9. Date service is due. [74.1.1 (i)] [74.1.3 (c)]
- G. A record of the service or attempted execution of warrants shall be maintained and includes
  - 1. Date and time service was executed/attempted; [74.1.2 (a)] [74.1.3 (c)]
  - 2. Name of officer(s) executing/attempting service; [74.1.2 (b)] [74.1.3 (c)]
  - 3. On whom the warrant was served; [74.1.2 (c)] [74.1.3 (c)]
  - 4. Method of service/reason for non-service; and [74.1.2 (d)] [74.1.3 (c)]
  - 5. Address of service/attempt. [74.1.2 (e)] [74.1.3 (c)]
- H. After a warrant has been served, the officer shall conduct any follow-up activities necessary to complete the process, e.g., arranging prisoner transportation to the county of jurisdiction and ensuring bond is forwarded to the warrant originator. [1.2.5 (a)]

## VI. ARREST WITHOUT A WARRANT [1.2.5 (a)]

- A. Felony - After probable cause is established, a warrantless arrest may be made. Other exceptions to the warrant requirement are hot pursuit, known or suspected felon, and exigent circumstances.
- B. Misdemeanor - Generally, DPS officers will not arrest without a warrant when a misdemeanor is committed outside of their presence. However, the officer may arrest without a warrant when easily observable evidence strongly indicates the crime was freshly committed or in criminal domestic violence cases where probable cause exists.
- C. The uniform traffic ticket can be used in lieu of an arrest warrant for traffic offenses and those non-traffic offenses listed in SC Code of Laws §56-7-10. In cases where the offense occurred outside the presence of the officer, or for non-traffic offenses not listed in §56-7-10, an arrest warrant must be obtained. [1.2.6] [61.1.2 (a)]

**VII. SEARCH INCIDENTAL TO ARREST [1.2.5 (a)]**

All searches conducted incidental to arrest shall be in accordance with department policy and procedure (Search and Seizure Policy 300.16).

**VIII. ARRESTEE RIGHTS**

- A. The Miranda Rule applies whenever there is a custodial interrogation. Once a suspect is in custody, officers must warn the suspect of his/her rights prior to conducting an interrogation. [1.2.3 (b)] [1.2.5 (a)]
- B. Department officers will read the Miranda Warnings to suspects from a printed Miranda Warning Card issued by the department. If a printed card is not immediately available, the officer may advise the suspect of his Miranda Warnings from memory, but must re-advise the suspect from the printed card as soon as one is available. [1.2.3 (b)]
- C. The Miranda Rule requires that prior to any custodial interrogation the suspect must be advised that: [1.2.3 (b)]
  - 1. You have the right to remain silent; [1.2.3 (b)]
  - 2. Anything you say may be used against you in court; [1.2.3 (b)]
  - 3. You have a right to have a lawyer and consult with him before and while answering any questions; and [1.2.3 (b)]
  - 4. If you cannot afford a lawyer, one will be provided for you without cost. [1.2.3 (b) (c)]
  - 5. Officers must also ask the suspect the following:
  - 6. Do you understand your rights as explained to you?
  - 7. Are you willing to talk with us without a lawyer present? [1.2.3 (c)]
  - 8. Officers may request that the suspect acknowledge the advisement of rights and the waiver in writing using an approved department form. [1.2.3 (c)]
- D. Officers should never assume a suspect knows his rights or that another officer Mirandize a suspect. If the suspect does not understand English, an interpreter will be provided.

- E. Information voluntarily provided by the arrested suspect, without being interrogated by the officer, may be used in court even though the officer had not Mirandize the suspect when the statements were made. [1.2.3 (b)]
- F. If an accused invokes his right to remain silent, officers will not attempt a second interview until a significant period of time has elapsed (the courts have ruled two hours to be reasonable). The accused must be provided a fresh set of Miranda Warnings and must waive them before questioning begins. [1.2.3 (a)]
- G. If an accused invokes his right to counsel during the first effort to interview him, officers will not attempt a second interview without legal counsel present, unless the accused initiates a second interview and waives his right to counsel. The right to counsel encompasses more than a one-time right to consult with legal counsel. It is a continuing right to have counsel present from the moment it is invoked and continues as long as the suspect remains in custody. [1.2.3 (a) (c)]

**IX. REPORTING [82.3.6]**

- A. A Uniform Crime Report form shall be completed for all incarcerations and submitted to the State Law Enforcement Division (SLED) for statistical purposes. If the arrested individual is determined to be a first time offender, SLED will assign a sequential State Identification Number (SID). [1.2.5 (a)]
- B. A copy of all arrest reports shall be maintained within the appropriate division. [1.2.5 (a)] [74.1.3 (c)]

GO TO WAIVER AFFIDAVIT

<b>By Order of the Director</b> <b>Date: September 10, 2009</b>
<b>Mark A. Keel</b>
<b>Director</b> <b>S C Department of Public Safety</b>
<b>The Original Signed Copy of this Policy</b> <b>is on File in the Office of the General</b> <b>Counsel</b>

# South Carolina Department of Public Safety



Office of the Director

10311 Wilson Blvd. Blythewood, SC 29016 Post Office Box 1993 Blythewood SC 29016

<b>POLICY</b>	<b>300.06</b>
<b>EFFECTIVE DATE</b>	<b>DECEMBER 2, 2016</b>
<b>SUBJECT</b>	<b>AUDIO/VIDEO RECORDINGS</b>
<b>REPLACES POLICY DATED</b>	<b>FEBRUARY 17, 2016</b>
<b>APPLICABLE LEGAL AUTHORITIES</b>	<b>S.C. Code §§ 17-1-40, 17-28-320, and 23-1-240</b>
<b>APPLICABLE STANDARDS</b>	<b>11.4.5, 41.3.8, 83.2.2</b>
<b>APPLICABLE STANDARD OPERATING PROCEDURES (SOP)</b>	<b>N/A</b>
<b>FORMS</b>	<b>DPS-LE-014 (Uniform Administrative Report); DPS-LE-026 (Audio Video Log); DPS-LE-027 (Audio Video Recording Chain of Custody &amp; Disposal); DPS-LE-027A (Audio Video Recording Chain of Custody &amp; Disposal Supplemental); DPS-LE-065 (Audio/Video Monitor Report)</b>
<b>DISTRIBUTION</b>	<b>TO ALL EMPLOYEES</b>

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## **I. PURPOSE**

To provide guidelines for South Carolina Department of Public Safety (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. [41.3.8(a)]

## **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. [41.3.8(a)]

## **III. DEFINITIONS**

For the purposes of this policy, the following definitions shall apply:

**Division Director** - The Chief Financial Officer; Bureau of Protective Services Chief; Human Resources Director; Office of Professional Responsibility Chief; Office of Strategic Services, Accreditation, Policy and Inspections Commander; General Counsel; Communications Director; Office of Highway Safety and Justice Programs Director; Office of Information Technology Director; Legislative Liaison; Immigration Enforcement Unit Commander; Colonel for Highway Patrol and Colonel for State Transport Police.

**Duplication** - a replicated tape/DVD utilized for training purposes, FOIA/litigation, and court prosecutions (e.g., Rule 5) that can be produced by any law enforcement officer.



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

**Review** - The initial supervisory review of an audio/video recording not including subsequent supervisory reviews of the same recording.

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

#### IV. GENERAL PROVISIONS

- A. Use of recording devices that are not issued by the department is prohibited. [41.3.8(a)]
- B. All audio, images, and recordings are confidential. No personal duplications are allowed under any circumstances. Officers will not upload any SCDPS recordings, images, and/or audio to any public or social media website. [41.3.8(a)]
- C. The viewing of any recording for anything other than approved SCDPS purposes is prohibited. [41.3.8(a)]
- D. Officers will not attempt to erase, edit, or otherwise alter recordings in any manner. [41.3.8(a)]
- E. Officers should make every effort to ensure that no background noise interferes with the audio portion of the recording. [41.3.8(a)]
- F. A tape/DVD shall not be tampered with before or after installation into the recorder.
- G. 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).

#### V. IN-CAR AUDIO/VIDEO RECORDING SYSTEM USE

- A. 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. [41.3.8(b)]
- B. In all cases involving enforcement activities, once the in-car video/audio recording system has begun recording, the device shall not be stopped, paused, turned off or otherwise interfered with at any time until the enforcement activity has concluded except as otherwise provided below. In cases where the blue light remains activated for safety purposes, the officer should also continue recording. [41.3.8(b)]
- C. SCDPS officers are permitted to stop or deactivate the audio portion of in-car audio/video recording devices when communicating privately with a supervisor and/or the Office of General Counsel (OGC). Upon completion of the private conversation with a supervisor and/or OGC, the recording devices will be reactivated. [41.3.8(b)]
- D. 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(b)]

- E. 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.
- F. If asked, officers shall inform violator(s)/individual(s) that audio and video recording equipment is in use.
- G. Officers who assist other officers in a backup capacity shall also activate their in-car video recording system 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)/individual(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. [41.3.8(b)]

## **VI. BWC USE**

- A. BWCs shall be worn by all SCDPS officers whose primary function is to answer calls for service and interact with the public.
- B. Commissioned officers involved in undercover operations are exempt from wearing a BWC.
- C. When there are interactions with individuals which do not involve the use of a blue light and/or siren, the BWC shall be activated when practical. The director may approve and/or mandate other activities be recorded at his discretion (e.g., internal investigations, special events, etc.). [41.3.8(b)]
- D. The BWC shall be positioned on the officer's body per training guidelines.
- E. When engaging with a violator, officers should position a violator in such a way that the violator is in plain view of the BWC.
- F. 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. [41.3.8(b)]
- G. Officers will only activate the BWC when arriving at a call for service or initiating any other law enforcement or investigative encounter between an officer and member of the public. These scenarios include, but are not limited to: [41.3.8(b)]
  1. the scene of all violent crimes;
  2. traffic stops;
  3. motor vehicle accident investigation when participants of the accident are present;
  4. encounters with suspicious persons or emotionally disturbed persons;
  5. public drunkenness or disorderly conduct;
  6. interaction with field contacts;
  7. arrests;
  8. situations in which weapons are actually or alleged to be present;
  9. use of force; and
  10. any potential adversarial contact. [41.3.8(b)]
- H. Officers who assist other officers in a backup capacity shall also activate their BWC to record the incidents when 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)/individual(s) involved. [41.3.8(b)]

- I. Officers will be permitted to deactivate the BWC during certain encounters including: [41.3.8(b)]
  1. engaging in break or personal activities;
  2. entering a public locker room/restroom;
  3. entering a doctor's office/hospital;
  4. attending court proceedings;
  5. interacting with departmental employees during daily work (e.g., meetings, briefings, award ceremonies, etc.);
  6. communicating privately with a supervisor and/or OGC, or;
  7. any other circumstances unrelated to law enforcement activity. [41.3.8(b)]
- J. The BWC shall not be used to record communications with other SCDPS employees except in conjunction with official law enforcement duties. The BWC shall not be used to record communications with undercover law enforcement personnel or informants from other law enforcement agencies without the permission of the appropriate law enforcement division director. [41.3.8(b)]
- K. There is no obligation to obtain consent from a victim or witness prior to utilizing a BWC during an interview. However, if asked, an officer must be forthcoming about its use.
- L. Officers shall use discretion when dealing with victims of rape or sexual assault, persons who are nude, and circumstances when any sensitive human areas are exposed.
- M. Officers are responsible for safely securing the BWC while not on duty and the device is not in use.
- N. Officers will be trained on how to download captured data before the BWC reaches maximum storage capacity. [41.3.8(d)]

## **VII. AUDIO/VIDEO RECORDING SYSTEM TAPE/DVD SECURITY AND CONTROL**

- A. Officers shall carry in their vehicle only the number of blank tapes/DVDs that will be needed during the duration of their shift.
- B. 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).
- C. 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 on DVDs.
- D. If at any time an officer transfers an original recording, the chain of custody will be documented on DPS-LE-027 (Audio/Video Recording Chain of Custody, Duplication, and Disposal) and, if applicable, DPS-LE-027A (Audio/Video Recording Chain of Custody, Duplication, and Disposal Supplemental).

## **VIII. AUDIO/VIDEO 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.
- B. Original tapes/DVDs will be protected as evidence.

- 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 with the chain of custody documented utilizing DPS-LE-027 and, if applicable, DPS-LE-027A shall be turned over to the unit's evidence custodian as soon as notification is received from a law enforcement supervisor. [41.3.8(c)] [83.2.2]
- D. The arresting officer shall maintain custody of and store recorded tapes/DVDs in a secure controlled area until final disposition of the case. [41.3.8(d)] Within five (5) working days of the final disposition of the case, the arresting officer shall release the tape/DVD to the unit evidence custodian or authorized supervisor utilizing DPS-LE-027 and, if applicable, DPS-LE-027A.
- E. The evidence custodian or authorized supervisor shall log submitted tapes/DVDs on DPS-LE-026 and store them for 90 days. If the officer turning in the tapes/DVDs does not notify the evidence custodian or authorized supervisor of any court appeals or other reason(s) to retain the tapes/DVDs during the 90 day period, the tapes/DVDs will be disposed. [41.3.8(d)] [83.2.2]
- F. To dispose of the tapes/DVDs, the evidence custodian or authorized supervisor will sign form DPS-LE-027 noting the date and method of disposal. After disposal of the recording, DPS-LE-027 and, if applicable, DPS-LE-027A will be retained for a period of five (5) years.
- G. The disposal date shall also be properly documented on DPS-LE-026. [83.2.2]
- H. The unit evidence custodian or authorized supervisor will periodically review DPS-LE-026 ensuring tapes/DVDs turned in are in compliance with this policy. The status of the tapes/DVDs with active cases will be *audited bi*-annually by each unit's evidence custodian or authorized supervisor with the officer who turned in the tapes/DVDs. Once all recordings indicated on the form have been returned and disposed, DPS-LE-026 shall be retained for five (5) years.
- 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 and, if applicable, DPS-LE-027A.
- J. For recordings of any (a.) arrests for or (b.) violations of offenses outlined below, officers shall follow the retention requirements outlined therein:
  - 1. S.C. Code of Laws § 17-28-320 (Preservation of Evidence Act);
  - 2. S.C. Code of Laws § 17-1-40 (Expungement); or
  - 3. any other statute, regulation, or case law which sets forth retention requirements.[41.3.8(d)]

## IX. DUPLICATIONS

- A. If a transcription of a recorded conversation is needed or if information contained on recordings requires frequent review for investigative purposes, a duplication will be made of the recording with the unit commander's approval.
- B. Tapes/DVDs can be copied or duplicated by officers for law enforcement or departmental purposes only.
- C. When practical, additional duplications of tapes may be made using the first duplication 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 and, if applicable, DPS-LE-027A reflecting that a duplication was made. Care should be taken to securely store duplications.

- D. The label for duplications shall contain the same information as the original recording, to include adding the words "Duplicate Copy." Duplication may be authorized by a supervisor.

## **X. REVIEW OF RECORDINGS**

- A. 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.
- C. The supervisor conducting the review of a recording 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.

A review will be documented by completing DPS-LE-065 (Audio/Video Monitor Report).

- 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 troop and unit commander utilizing DPS-LE-014. The unit commander shall immediately review the recording and take appropriate action to address those issues. These actions include notifying the appropriate division director, the director, and the Office of Professional Responsibility (OPR). [11.4.5]

## **XI. INSPECTION, MAINTENANCE, AND REPAIR OF RECORDING EQUIPMENT**

- A. 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. [41.3.8(e)]
- B. A supervisor shall routinely inspect cameras and evaluate the recording equipment to ensure it is working properly. This inspection will be documented on DPS-LE-029 (Line Inspection 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. The supervisor shall arrange for the repair of the malfunctioning equipment. [41.3.8(e)]
- C. The BWC will be inspected during the monthly line inspection by the officer's immediate supervisor. [41.3.8(e)]

## **XII. COMPLAINTS**

- A. If a complaint is made against an officer, a supervisor will immediately secure the recording(s) related to the complaint. A duplication of all tapes/DVDs will be made and the original tape/DVDs 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. [41.3.8(c)]

- B. The duplication of a tape or 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.

### **XIII. 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 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.

#### **C. DISTRIBUTION OF TRAINING VIDEOS**

1. Requests for department recordings pursuant to FOIA must be referred to the SCDPS FOIA Officer for processing.
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 training recordings. In instances where there is an active case or pending prosecution relating to the subject matter on the video, OGC must first approve the release of the recording.
3. The duplication shall be made by the department's training staff and shall be labeled "South Carolina Department of Public Safety."

#### **D. 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 SCDPS's training staff. Additionally, SCDPS 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 SCDPS 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.

### **XIV. FOIA REQUESTS**

- A. 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 director, Office of Communications and/or OGC can approve or disapprove the release of documents or recordings requests under FOIA.

- B. Data recorded by a BWC is not a public record subject to disclosure under FOIA. Only the following individuals/entities may be entitled to receive such data:
1. SLED, the Attorney General, and a circuit solicitor may request and must receive such data recorded by a BWC for any legitimate criminal justice purpose.
  2. A law enforcement agency may request and must receive data recorded by a BWC if the recording is relevant to an internal investigation regarding misconduct or disciplinary action of a law enforcement officer.
  3. In accordance with the South Carolina Rules of Criminal Procedure, the South Carolina Rules of Civil Procedure, or a court order, the following individuals are also entitled to request and receive BWC-captured data:
    - a. the individual who is the subject of the recording;
    - b. the criminal defendant if the recording is relevant to a pending criminal action;
    - c. a civil litigant if the recording is relevant to a pending civil action;
    - d. a person whose property has been seized or damaged in relation or otherwise involved with a crime to which the recording is related;
    - e. a parent or legal guardian of a minor or incapacitated person described in items (a) or (b) of this list; and
    - f. an attorney for a person described in items (a) through (e) of this list.

**XV. TRAINING**

All SCDPS officers shall be properly trained in accordance with the training guidelines before using a recording device. [41.3.8(f)]

**XVI. VIOLATION OF POLICY**

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

<b>By Order of the Director</b> <b>Date: December 1, 2016</b>
<i>Leroy Smith</i>
<b>Director</b> <b>S C Department of Public Safety</b>
<b>The Original Signed Copy of this Policy is on File in the Office Strategic Services, Accreditation, Policy, and Inspections</b>

# South Carolina Department of Public Safety

Office of the Director

10311 Wilson Blvd. Blythewood, SC Post Office Box 1993 Blythewood SC 29016



<b>POLICY</b>	<b>100.12</b>
<b>EFFECTIVE DATE</b>	<b>JULY 1, 2015</b>
<b>SUBJECT</b>	<b>CODE OF CONDUCT</b>
<b>REPLACES POLICY DATED</b>	<b>MAY 6, 2014</b>
<b>APPLICABLE STATUTES AND LEGAL AUTHORITIES</b>	<i>The Ethics, Government Accountability and Campaign Reform Act of 1991 (S.C. Code § 8-13- 100, et seq.); State Ethics Commission Rules of Conduct (S.C. Code § 8-13-700, et seq.); Executive Order 2014-23; S.C. St. Ethics Comm. Ops. A092-023, A092-061, A092-084, and AO-2000-002</i>
<b>APPLICABLE STANDARDS</b>	<b>1.1.2</b>
<b>APPLICABLE STANDARD OPERATING PROCEDURES (SOP)</b>	N/A
<b>FORMS</b>	<i>DPS-LE-064</i>
<b>DISTRIBUTION</b>	<b>TO ALL EMPLOYEES</b>

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

## **I. PURPOSE**

*To establish the highest standards of official conduct for public employees.* This directive *creates* a Code of *Conduct* for the Department of Public Safety (*SCDPS or department*) and requires all personnel to abide by it. [1.1.2]

## **II. POLICY**

All personnel shall be familiar with and adhere to the Code of *Conduct* of the department and receive training thereon at least *annually*. [1.1.2]

## **III. DEFINITIONS**

*For purposes of this policy, the following definitions shall apply:*



***Business with Which the Employee is Associated:*** A business of which the employee or member of the employee's immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth \$100,000 or more at fair market value and which constitutes five percent (5%) or more of the total outstanding stock of any class.

***Commonly-Provided Meal:*** A meal received by a public employee or public official who is participating in an event where the same meal is served to all other persons attending or participating in the same event.

***Ethics Officer:*** A licensed attorney designated to represent the department on ethical matters and assist department employees with questions concerning ethical conduct. The SCDPS General Counsel will serve as the Chief Ethics Officer and may designate any attorney under his/her supervision to serve in this capacity as directed on certain matters.

***Family Member:*** A spouse, parent, sibling, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, and an individual claimed by the employee as a dependent for income tax purposes.

***Individual with Whom the Employee is Associated:*** An individual with whom the employee or a member of the employee's immediate family mutually has an interest in any business of which the employee or employee's immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth \$100,000 or more at fair market value and which constitutes five percent (5%) or more of the total outstanding stock of any class.

***Official Capacity:*** All duties that are attached to a public office or employment by the South Carolina Constitution, statutes, Executive Order, promulgated rules and regulations, published job description or agency policies/directives. Speaking engagements undertaken in an "Official Capacity" are those which (1) arise because of the position held by the employee, (2) involve matters which fall within the responsibility of the agency or employee, and (3) are services the agency would normally provide and for which the employee would be subject to expense reimbursement by the public employee's agency.

***Social Media:*** Websites and applications that enable users to create and share content or to participate in social networking including, but not limited to Facebook, Instagram, and Twitter.

***State Resources:*** Personnel, equipment, materials, property or facilities.

***Whistleblower:*** An employee who files a report (1) within the specified time frame, (2) to the appropriate authority, and (3) in good faith of the wrongdoing

*of either their employer or another employee. Whistleblowers may not be demoted, lose compensation, or be dismissed or suspended from employment as a result of filing a report of wrongdoing. However, nothing prevents the agency from disciplining or terminating the whistleblower for causes independent of filing the report.*

#### **IV. ETHICAL PRINCIPLES**

*Employee conduct should be guided first and foremost by these principles:*

- *Honesty – Employees should be truthful and sincere in all interactions with the public and with each other.*
- *Fairness – Employees should seek to make impartial, just, and equitable decisions.*
- *Integrity – Employees should always act in a manner that instills public confidence and should avoid participating in any matter where a real or perceived conflict of interest exists.*
- *Respect – Employees should demonstrate respect to others at all times.*
- *Loyalty – Employees should remain loyal to the State and the citizens they serve and should not engage in any conduct that calls into question this loyalty.*

#### **V. GIFTS AND OTHER THINGS OF VALUE**

*Employees may not accept a gift or anything of value from a person or entity as a result of their employment with the State. The following are exemptions to this rule:*

- *Gifts given (1) due to a previous relationship, (2) for a reason other than employment with the State, or (3) by an employer or co-worker(s) are not prohibited.*
- *Promotional, informational, or educational items with a value of less than \$10 are not prohibited. At no time shall these items be prominently displayed in the agency to create an appearance of favoritism or endorsement of a particular product, vendor, or business.*
- *Acceptance of a personalized trophy or plaque with a value of less than \$150 is not prohibited.*
- *May accept (1) commonly-provided meals and (2) actual/reasonable travel and lodging expenses related to speaking engagements. Employees may not receive compensation for speaking.*

- *Gifts that include travel, lodging and/or meal expenses paid for on behalf of an employee to participate in a work-related event that could otherwise have been paid for by the agency employing the employee is a gift to the agency, not the individual employee, and is not prohibited with the following two exceptions: (1) a state agency may never receive any gift from a lobbyist; and (2) a state agency may receive a gift from a lobbyist principal up to the amounts prescribed by the State Ethics Commission.*
- *Department officers may accept free or discounted meals from restaurants and foodservice vendors if the discount is provided to all law enforcement officers generally.*
- *Commonly-provided meals may be accepted from outside sources at events when the department employee is participating in an official capacity at the event where the meal is served, provided that the meal is not being given to the employee by the outside source/event sponsor for the purpose of influencing the employee's discharge of his/her official responsibilities. In determining if such a purpose may exist, consideration should be given to whether the outside source/event sponsor has business with or seeks to do business with the department, conducts activities regulated by the department, or has interests that may be substantially affected by performance or nonperformance of the employee's official duties.*
- *Exceptions for retaining difficult-to-return items –An item that would be impractical to return because it is perishable may be donated to a charity or placed in a common area for the enjoyment of all agency employees if approved by the agency director, properly documented on form DPS-LE-064 (Gift Reporting), and submitted to the Ethics Officer. This form shall be retained by the Office of General Counsel in accordance with the department's retention schedule.*

## VI. CONFLICT OF INTEREST

*DPS employees may not make, participate in, or influence a governmental decision in which the employee, a family member, an individual with whom the employee is associated, or a business with which the employee is associated has an economic interest.*

*Employees may not have outside employment which creates a real or perceived conflict of interest or is incompatible with the duties and expectations of state employees. Employees wishing to engage in outside employment must make a request to do so in accordance with SCDPS policy 200.01 (Outside Employment).*

*Employees may not have an economic interest in a contract with the State or its political subdivisions if the employee is authorized to perform an official function relating to the contract.*

*Employees must report, in writing, any actual or perceived conflicts to the department's Ethics Officer, who will review and determine whether a conflict exists. The Ethics Officer will document his/her decision. If it is determined that a conflict exists, the employee must remove themselves from the decision, vote, or process. The Ethics Officer will document all recusals.*

#### **VII. FINANCIAL DISCLOSURES**

*Annually, identified department personnel must file a Statement of Economic Interests with the State Ethics Commission pursuant to S.C. Code § 8-13-1110.*

*Additional department personnel may be required to file a Statement of Economic Interest if directed to do so by the Department of Administration.*

#### **VIII. USE OF STATE RESOURCES**

*Department employees are not allowed to use state resources and/or property for personal use, except for situations in which incidental use is authorized by applicable department policies.*

*Employees may not use state resources for private business and/or financial gain.*

*Employees will not allow non-employees access or use of assigned equipment including state vehicles, laptops, cellular phones or other electronic devices, except as authorized by the agency.*

*Employees may never use state resources for political campaigns.*

*Unless specifically required by the department to perform a job function, employees may not use social media while on duty or through the use of state resources.*

#### **IX. CONFIDENTIALITY**

*Department employees must protect the integrity of agency data and shall not disclose restricted or confidential information to any unauthorized person or entity. Employees may only access, review, or examine data as necessary to perform a job function and in furtherance of official department business. The downloading of information, internal or external, is forbidden absent the legitimate need to perform a job function.*

*Information designated restricted or confidential under this policy consists of (1) personal identifying information as defined in S.C. Code §§ 16-13-510 and*

*30-2-310; (2) information relating to any ongoing investigation initiated by or involving the Department; (3) information of a personal nature where the public disclosure thereof would constitute an unreasonable invasion of personal privacy; and (4) information otherwise protected from disclosure by law or pursuant to any department policy.*

**X. POST EMPLOYMENT**

*For one (1) year following an employee's departure from state government, s/he may not represent another person or entity before this department in a matter the employee directly and substantially participated in during employment. (S.C. Code § 8-13-755)*

*Employees who have participated directly in the procurement of a contract on the department's behalf cannot resign and then accept employment with a person or entity contracting with the department if the contract falls or would fall under the employee's official responsibilities. (S.C. Code § 8-13-760) This prohibition has no time limitations. (S.C. St. Ethics Comm. Op. AO-2000-002)*

**XI. TRAINING**

*Department employees shall receive initial and annual training as it relates to this policy and the State Code of Conduct as approved by the Department of Administration.*

**XII. WHISTLEBLOWER PROTECTIONS**

*An employee must report to the Ethics Officer or the appropriate authority, either verbally or in writing, an intentional violation of this Code of Conduct or any federal or state law or regulation by any agency employee, whether temporary or full-time, including a co-worker, subordinate, supervisor, senior manager, or any other employee. Employees must also report any action by their employing agency, board, or commission that results in substantial abuse, misuse, destruction, or loss of substantial public funds or resources. These reports must be made no later than 180 days after the employee first learns of the wrongdoing. Intentionally providing inaccurate information may result in disciplinary action up to and including termination.*

**XIII. DEPARTMENT CODE OF CONDUCT**

**WHEREAS**, the Department of Public Safety is a law enforcement agency; and

**WHEREAS**, the citizens of South Carolina have the right to expect ethical conduct from those whose duty it is to enforce the laws of the state and country; and

**WHEREAS**, this duty falls upon all the employees of the Department of Public Safety, *both civilian and commissioned*;

**THEREFORE**; employees *shall* subscribe to the following Code of *Conduct*.

As a public employee, I believe public service is an honorable profession dedicated to bettering the lives of those I serve and requiring at all times that the public interest be placed above any personal concern.

As a public employee I believe that I should demonstrate the highest standards of personal integrity, truthfulness, honesty, courtesy and fortitude in all my public activities in order to inspire public confidence and trust in public institutions. I will confront and challenge any unethical behavior by my fellow employees and report such behavior to the appropriate supervisor. I pledge that I will neither give nor receive unauthorized aid *in connection with training, certification, recruiting, hiring or promotions*, and I will report such behavior by others to the appropriate supervisor.<sup>1</sup>

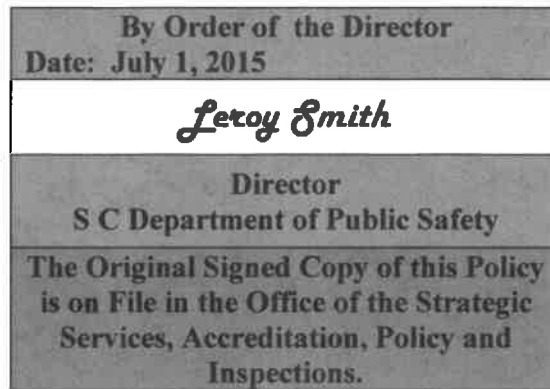
*As a commissioned officer, I have full authority to prosecute criminal offenses in summary courts and all actions I take in my capacity as a prosecutor must instill public confidence by avoiding any appearance of impropriety or preferential treatment. Furthermore, I will not inappropriately interfere in prosecutorial matters involving other law enforcement officers, including any officer(s) I may supervise.*

The public's opinion about the courtesy, honesty, truthfulness, and personal integrity of public officials and public employees is the premier value sought by citizens. Any individual or collective compromise with respect to these character traits can damage the ability of an agency to perform its tasks or accomplish its mission.

Therefore, I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions, nor will I tolerate such behavior by my fellow employees. I will enforce the law courteously and appropriately without fear, favor, malice or ill will.

As a public employee, I will oppose any discrimination because of race, color, religion, sex, *genetic information*, national origin, political affiliation, physical handicaps, age, or marital status, *veteran status*, in all aspects of personnel policy. I pledge to serve the public with respect, concern, courtesy, and responsiveness, recognizing that service to the public is beyond service to oneself.

As a public employee I recognize that all the employees of this agency must join with the men and women who carry a badge in the mission of this department – to protect and save lives. [1.1.2]



^ The following language is incorporated in each online test given by the department's training section:

South Carolina Department of Public Safety Training Honor Code

Employees of the South Carolina Department of Public Safety (SCDPS) will conduct themselves in accordance with applicable laws, regulations, Department policies, and generally acceptable work behaviors.

As a SCDPS employee, I pledge that I will neither give nor receive unauthorized aid during this online training course.

I acknowledge that if I do violate this agreement, I am subject to disciplinary action under SCDPS Policy 400.08 (*Disciplinary Action*).

I understand that by proceeding to the next element, I have accepted the stipulations stated above.

# South Carolina Department of Public Safety



Office of the Director

10311 Wilson Blvd. Blythewood, SC Post Office Box 1993 Blythewood SC 29016

<b>POLICY</b>	<b>400.08G</b>
<b>EFFECTIVE DATE</b>	<b>MAY 11, 1994</b>
<b>ISSUE DATE</b>	<b>MARCH 3, 2010</b>
<b>SUBJECT</b>	<b>GUIDELINES FOR PROGRESSIVE DISCIPLINARY ACTION</b>
<b>APPLICABLE STATUTES</b>	<b>S. C. Code of Laws §§8-11-230,, §8-11-690, R. 19-717 et al..</b>
<b>APPLICABLE STANDARDS</b>	<b>11.3.2, 26.1.1, 52.2.7</b>
<b>DISTRUBTION</b>	<b>TO ALL EMPLOYEES</b>

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<b>GUIDELINES FOR PROGRESSIVE DISCIPLINARY ACTION</b>				
<b>[26.1.1] [52.2.7]</b>				
<b>OFFENSE</b>	<b>FIRST OCCURRENCE</b>	<b>SECOND OCCURRENCE</b>	<b>THIRD OCCURRENCE</b>	<b>FOURTH OCCURRENCE</b>
Unauthorized Leave (absence without approval; does not show up; does not obtain prior approval for authorized leave; does not report for scheduled training.) [26.1.1] [52.2.7]	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination [52.2.7]	Termination [52.2.7]
Abandonment of Position	Employees who voluntarily fail to report to work for three consecutive work days and fail to contact the department during this time period will be considered to have abandoned their position and voluntarily resigned.			



OFFENSE	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	FOURTH OCCURRENCE
Excessive or Habitual Tardiness [26.1.1] [52.2.7] or Failure to Observe Assigned Work Hours	Level I Reprimand		Level II Reprimand to Suspension	Suspension to Termination [52.2.7] Termination [52.2.7]
Leaving Assigned Non-Security Work Area without Authorization	Level I Reprimand		Level II Reprimand to Suspension	Suspension to Termination Termination
Leaving Assigned Security Work Area without Authorization [52.2.7]	Suspension to Termination [52.2.7]		Termination [52.2.7]	
Abuse of Leave (habitual use of annual or sick leave without sufficient notification, annual leave approved under false pretenses, or use of sick leave for purposes not authorized for the use of sick leave)	Level I Reprimand to Level II Reprimand		Level II Reprimand to Suspension	Suspension to Termination Termination
Excessive Absenteeism	Level I Reprimand		Level II Reprimand to Suspension	Suspension to Termination Action will be in accordance with the Family and Medical Leave Act
Insubordination (refusal to obey a directive or carry out instructions from a supervisor) [26.1.1] [52.2.7]	Level II Reprimand to Termination		Suspension to Termination [52.2.7]	Termination [52.2.7]
Reporting to Work Under the Influence of	Suspension to Termination [52.2.7]		Termination [52.2.7]	Action will be in accordance with the Act on Alcoholism and the department's policy on Alcohol and

Alcohol or Drugs [26.1.1] [52.2.7]			Drug Testing Program	
Possessing or Using Illegal Drugs on the Job [26.1.1] [52.2.7]	Termination [52.2.7]	Refer to the department's Policy on Alcohol and Drug Testing Program		
Gambling During Work Hours	Level I Reprimand to Suspension	Suspension to Termination	Termination	
Sleeping or Appearing to be Sleeping during Work Hours	Level I Reprimand to Suspension	Level II Reprimand to Termination	Suspension to Termination	Termination
Fighting, Other than Reasonable Defense to an Unprovoked Attack	Suspension to Termination	Termination		
Workforce Violence	Termination	Action will be in accordance with department's Violence in the Workplace Policy 200.29		
Inappropriate Use of Profane or Abusive Language [26.1.1]	Level I Reprimand to Level II Reprimand	Suspension to Termination	Termination	
Sexual Harassment	Level II Reprimand to Termination	Suspension to Termination	Termination	Action will be in accordance with the department's Harassment – Free Workplace Policy
Verbal or Physical Threats toward Another Employee or Supervisor [52.2.7]	Suspension to Termination [52.2.7]	Termination [52.2.7]		
Deliberate Interference with Other Employee's Work	Suspension to Termination	Termination		
Failure to Maintain Satisfactory or	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination

Harmonious Working Relationships				
Discourteous Treatment of Visitors or Customers	Level I Reprimand to Suspension	Suspension to Termination	Termination	
Stealing State Property, Stealing while on duty or Stealing while on State Property [26.1.1]	Three day Suspension to Termination	Termination		
Misappropriation of department funds (including authorized charitable fund drives) [52.2.7]	Termination [52.2.7]			
Falsification of application for employment (essential information used to determine eligibility for employment, e.g. conviction record, education, training, employment history, etc.) [52.2.7]	Termination [52.2.7]			
Willful False Statement to a Supervisor [26.1.1] [52.2.7]	Termination [52.2.7]			
Failure to Provide Truthful and Complete Information (includes written, and oral	Termination [52.2.7]			

communications, reports or testimony) [52.2.7]				
Refusal to Cooperate with Administrative Investigations	Level II Reprimand to Termination	Termination		
Misuse of State Property or Equipment [26.1.1]	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination
Negligent or Willful Destruction or Damage to State Property or Equipment	Level I Reprimand to Suspension	Suspension to Termination		
Destruction, Alteration or Falsification of Records or documents	Level II Reprimand to Termination	Termination		
Misuse of Work Time [26.1.1]	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	
Excessive Use of Telephone for Personal Matters	Level I Reprimand	Level II Reprimand	Suspension	Termination
Unauthorized Release of Confidential Information	Level II Reprimand to Suspension	Suspension to Termination	Termination	

Unauthorized Distribution of Written, Printed or Electronic Material of any kind on State property or through the use of State Equipment or Property.	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination
Unauthorized Procurements [52.2.7]	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination [52.2.7]	Termination [52.2.7]
Unauthorized Solicitation or Sales on State Property	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination
Unauthorized Use of State Equipment or Property [26.1.1]	Level I Reprimand to Level II Reprimand	Suspension	Termination	
Unauthorized Possession or Use of a Firearm or other weapon or contraband while on the job or on State property [52.2.7]	Suspension to Termination [52.2.7]	Termination [52.2.7]		
Negligence in the Performance of Duty	Level I Reprimand to Termination	Suspension to Termination	Termination	
Negligence in the Performance of Supervisory Responsibilities	Level I Reprimand to Suspension	Suspension to Termination	Termination [11.3.2]	
Negligence in Following Rules, Regulations, - Policies or Procedures	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination

Willful Violation of Rules, Regulations, Policy or Procedure	Level II Reprimand to Suspension	Suspension to Termination	Termination	
Mishandling of department funds [26.1.1]	Level II Reprimand to Suspension	Suspension to Termination	Termination	
Mishandling of department documents	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination
Engaging in Unlawful Work Stoppages, Slowdowns or Strikes	Suspension -to Termination	Termination		
Operating a State Vehicle while under the Influence of Alcohol or Drugs	Suspension to Termination	Termination	Refer to department's Policy on Alcohol and Drug Testing Program	
Operation of a State Vehicle or Equipment without Required Valid License	Suspension to Termination			
Violation of Traffic Laws in State Vehicle	Level I Reprimand to Termination	Level II Reprimand to Termination	Termination	
Negligent Authorized Operation of a State Vehicle Resulting in an Accident/Personal Injury	The Fleet Safety Policy should normally be followed regarding vehicle accidents; however, the department reserves the right to take disciplinary action as the Director of the department deems necessary. Accident reports should be reported to the Resource Management Office. If discipline is also required the Human Resources Office should be notified.			
Improper Conduct or conduct unbecoming a State employee [26.1.1]	Level I Reprimand to Termination	Level II Reprimand to Termination	Termination	

Failure to Report Probable Violations of Federal or State Laws, excluding minor traffic violations	Suspension to Termination	Termination	
Conviction of or Violation of Federal or State Laws, excluding minor traffic violation	Level I Reprimand to Termination	Termination	
Failure to report violation of Policy by others	Level I to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination
Failure to report violations of Federal or State Law by others	Level II Reprimand to Suspension	Suspension to Termination	Termination
Any Accumulation, within any 12-month period, of 3 or more Offenses which call for a Level I reprimand or above [26.1.1] [52.2.7]	Suspension to Termination [52.2.7]	Termination [52.2.7]	
Arrest or Indictment for Alleged Violation of Federal or State Law. [26.1.1] [52.2.7]	An employee charged (i.e. arrested or indicted) for an act which adversely reflects on his/her suitability for continued employment or which causes adverse publicity against the department may result in an immediate suspension pending the final disposition of the court. If the employee is exonerated or charges are dismissed through the judicial process or the court, the employee may be eligible for reinstatement with back pay. The Director, at his discretion, may temporarily reassign an employee until disposition of the charge. The department, however, may conduct its own investigation and take disciplinary action based upon its findings. An employee who is suspended due to an arrest or indictment for acts previously stated, may be terminated before the disposition of the charge against him/her, notwithstanding that (1) the charge is ultimately dismissed or dropped or (2) the employee is acquitted, if the Director or his designee, after investigation, determines that the charge is true. [52.2.7]		
<b>THE ABOVE INDICATED ACTIONS IN RESPONSE TO SPECIFIC OFFENSES ARE TO BE USED</b>			

AS A GUIDE AND ARE NOT INTENDED TO BE ALL INCLUSIVE. AT THE OCCURRENCE OF ANY OF THE LISTED OFFENSES, OR ANY THAT ARE NOT LISTED, THE APPROPRIATE DISCIPLINE WILL BE DETERMINED AFTER THE PARTICULAR CIRCUMSTANCES OF THE CASE HAVE BEEN CAREFULLY CONSIDERED. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY TAKE MORE SEVERE OR LESS SEVERE DISCIPLINARY ACTION THAN THAT INDICATED ABOVE, INCLUDING TERMINATION, IF A DIFFERENT ACTION IS DEEMED APPROPRIATE.

<b>By Order of the Director</b> <b>Date: March 3, 2010</b>
<b>Mark A. Keel</b>
<b>Director</b> <b>S C Department of Public Safety</b>
<b>The Original Signed Copy of this Policy</b> <b>is on File in the Office of the General</b> <b>Counsel</b>



# South Carolina Department of Public Safety

Office of the Director

10311 Wilson Blvd. Blythewood, SC Post Office Box 1993 Blythewood SC 29016



<b>POLICY</b>	<b>300.16</b>
<b>EFFECTIVE DATE</b>	<b>JUNE 12, 1997</b>
<b>ISSUE DATE</b>	<b>APRIL 30, 2009</b>
<b>SUBJECT</b>	<b>SEARCH &amp; SEIZURE WITHOUT A WARRANT</b>
<b>APPLICABLE STATUTES</b>	
<b>APPLICABLE STANDARDS</b>	<b>1.2.4, 1.2.5, 1.2.8</b>
<b>DISTRUBTION</b>	<b>TO ALL EMPLOYEES</b>

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## **I. PURPOSE**

The purpose of this policy is to establish procedures for the lawful search and seizure of persons, places, papers, and effects without a warrant.

## **II. POLICY**

It is the policy of the Department of Public Safety (DPS) to employ measures that safeguard the rights granted in the Fourth Amendment of the United States Constitution and applicable court rulings relating to search and seizure. [1.2.8 (a)]

## **III. PROCEDURES**

All searches and seizures by DPS officers shall meet the general requirements of reasonableness as defined by law. Whenever possible, searches should be conducted with more than one officer present. Officers shall conduct warrantless searches in accordance with the following procedures and safeguard all property and interests seized including recording any property or evidence seized pursuant to the search. [1.2.8 (a)]

### **A. Search by Consent**

Consent to search is a relinquishment of Fourth Amendment rights by the consenting party. The consent must be voluntary, without coercion, duress, or misleading statements. Since the burden of proof is on the officer, consent to search should be obtained in writing, when possible, using an approved DPS form. The person giving consent controls the conditions, scope, and length of time of the search and may revoke his consent at any time. If consent is revoked, the search shall cease. Any evidence or contraband found before the withdrawal of the consent to search shall be retained. Officers must have back-up present before initiating a search by consent of a

vehicle or in other situations in which the officer perceives a potential threat. [1.2.4 (a)]

B. Stop and Frisk

When an officer has specific and articulable facts giving rise to a reasonable suspicion of criminal activity, the officer may stop and detain a person for investigation. If the officer has reasonable and articulable suspicion to believe that the suspect is armed and dangerous, the officer may pat down the outer clothing for weapons. Any objects reasonably believed to be weapons may be seized and subsequently used as grounds for arrest if the possession of the object is unlawful. [1.2.4 (b)]

C. Search of a Vehicle

A search of a vehicle found on the open road or other public place may be made without a warrant, consent, or arrest where officers have probable cause to believe that the vehicle contains contraband or evidence of a crime. The scope of the search is the same as with a warrant and may therefore be extended to any part of the vehicle wherein the evidence sought could reasonably be located. Since the authority to search is directed against the vehicle, search of the driver and occupants for evidence is not permissible, although a frisk may be conducted upon a reasonable suspicion such persons are armed and constitute a threat. [1.2.4 (c)]

D. Passengers in a Stopped Vehicle

An officer making a traffic stop may order passengers to get out of the vehicle pending completion of the stop. If the officer has reasonable and articulable suspicion to believe that the driver or any passengers are armed and dangerous, the officer may pat down the outer clothing for weapons. Any objects reasonably believed to be weapons may be seized and subsequently used as grounds for arrest if the possession of the object is unlawful.

E. Crime Scene Searches

A crime scene may not present exigent circumstances that will permit a warrantless search of the entire premises or area. When responding to an emergency situation, officers may properly make a warrantless entry to protect life and safety and can seize evidence that is in "plain view". Any extended search of premises must be done with a search warrant or with consent. The premises may be secured and guarded by an officer while another officer attempts to obtain a warrant. If the "premises" is a vehicle and probable cause exists then the vehicle exception to the need for a warrant exists and the officer may conduct a warrantless search based upon probable cause. [1.2.4 (d)]

F. Emergency Searches

Under certain exigent circumstances, the requirement of a search warrant is waived and officers may properly make a warrantless entry. This immediate warrantless entry is justified to protect life and safety, to arrest a fugitive in hot pursuit, or to preserve evidence from being destroyed or removed. Officers must be able to justify their conduct based on a reasonable belief that an emergency existed. [1.2.4 (e)]

G. Inventory of Vehicles or Other Property [1.2.4 (f)]

1. There are three primary reasons for conducting an inventory:
  - a. Protecting the owner's property;
  - b. Protecting officers against claims of theft or damage; and
  - c. Protecting officers and the public against dangerous instrumentalities (e.g., explosives, and weapons).
2. All vehicles and property taken into DPS custody during a custodial arrest shall be inventoried to insure the safety of the public and their interests. A DPS officer must have lawful custody of the vehicle or property to conduct an inventory. The scope of the inventory extends to the entire vehicle and any containers therein.
3. Non-evidentiary items of significant value found in the vehicle may be removed for safekeeping and shall be returned to the owner or designated representative as soon as possible but within six months of disposition of the case. Any contraband or evidence found in the vehicle may be seized and shall be handled in accordance with department policy.
4. A written report shall be completed on all property in DPS custody that is inventoried which shall include a list of all items seized for evidence or removed for safekeeping. [DPS-LE 024 Towed Vehicle Report] The record shall be maintained in the appropriate case file and a copy provided to the owner. All property in DPS custody shall be stored in a secure location designated for property or evidence.

H. Search Incidental to Arrest [1.2.4 (g)] [1.2.5 (a)]

1. The authority to search following a lawful custodial arrest allows a full and complete search of the arrestee for weapons, implements of escape, or evidence of any crime. The search should be made at the time and place of arrest or as soon as practicable thereafter.
2. All persons arrested by DPS officers shall be searched. Officers shall also search the area immediately accessible to the arrested person and others for weapons and evidence. A search incident to an arrest of a vehicle is only authorized when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search. Once the arrestee is secured and the area is secured, the only justification for the search of the vehicle are in cases where it is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle. Locked compartments or containers within the passenger area, the trunk, or the engine compartment may not be searched as incident to arrest unless probable cause exists that evidence relevant to the crime of arrest is contained therein.
3. In instances where a strip search or body cavity search is deemed necessary, it will only be conducted in a private area of a detention center or medical facility. A strip search or body cavity search shall only be conducted by qualified detention center staff of the same sex as the prisoner or by qualified medical personnel. Only law enforcement officers of the same sex as the prisoner may be present during the search. [1.2.8 (a) (b)]

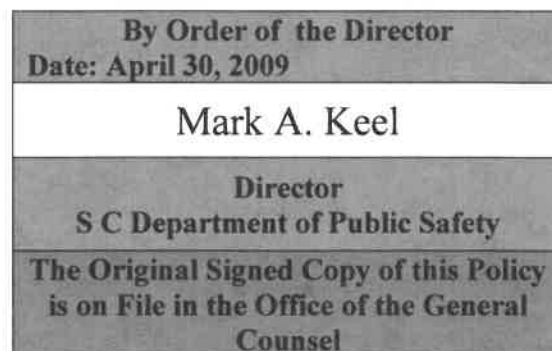
4. A "protective sweep" of a premise where an arrest is made may be conducted if the officer has a reasonable suspicion that accomplices or other persons are present and could jeopardize the safety of the officer, the suspect or other persons. The protective sweep is limited to places where a person could be concealed. Evidence or contraband that is discovered in a protective sweep may be seized if the seizure meets "plain view" standards.
5. In accordance with department policy, reasonable force may be used to overcome resistance to accomplish a search incidental to a full custody arrest.

I. Search With Probable Cause [1.2.4 (g)]

1. If probable cause is established through officer observation, the use of canines, or other methods, officers may search a vehicle.
2. Probable cause searches may extend to all areas of the motor vehicle, unless the probable cause is limited to a specific area of the vehicle. The search may include the opening of closed or locked containers found in the vehicle or trunk when there is probable cause to believe contraband or evidence of a crime may be found therein.
3. Any evidence or contraband found during a probable cause search or observed in "plain view" by an officer who is in a place where he has the lawful right to be may be seized.

J. Canine Searches [1.2.4 (g)]

1. When a motor vehicle is stopped legally, based on reasonable suspicion that a crime has occurred or is about to occur or probable cause exists, a trained canine may be utilized to sniff the air space around the exterior of the vehicle. Courts have upheld a canine sniff of the exterior of a motor vehicle not to be a seizure under the Fourth Amendment. Probable cause must be established before canines may be utilized to sniff the interior of a motor vehicle.
2. When a trained canine alerts to the presence of narcotics, explosives, etc. in a motor vehicle, probable cause has been established to search the vehicle without a warrant under the vehicle exception to the warrant requirement.



# South Carolina Department of Public Safety



Office of the Director

10311 Wilson Blvd. Blythewood, SC Post Office Box 1993 Blythewood SC 29016

<b>POLICY</b>	<b>300.14</b>
<b>EFFECTIVE DATE</b>	<b>FEBRUARY 10, 1997</b>
<b>ISSUE DATE</b>	<b>APRIL 16, 2001</b>
<b>SUBJECT</b>	<b>TRAFFIC ENFORCEMENT</b>
<b>APPLICABLE STATUTES</b>	<b>§56-5-760; Title 56, Chapter 5, Article 33</b>
<b>APPLICABLE STANDARDS</b>	<b><u>1.2.6, 1.2.7, 41.2.1, 44.2.1, 61.1.1, 61.1.2, 61.1.3, 61.1.4, 61.1.5, 61.1.7, 61.1.8, 61.1.10, 61.1.11, 61.4.1, 61.4.3, 81.2.5, 83.2.2</u></b>
<b>DISTRUBTION</b>	<b>TO ALL EMPLOYEES</b>

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## **I. PURPOSE**

The purpose of this policy is to establish guidelines for conducting traffic enforcement while providing maximum safety to the officer and others involved and maintaining a level of professionalism and courtesy.

## **II. POLICY**

In order to enhance the safety of Department of Public Safety (DPS) officers and the general public, officers shall maintain good public relations and service through uniform guidelines for contacting violators and taking proper enforcement action. [61.1.8]

## **III. GENERAL PROCEDURES**

### **A. DPS officers shall ensure that:**

1. They conduct themselves in a professional and courteous manner at all times while interacting with the public. This requirement must be balanced with the need for caution and detection of criminal activity. [61.1.7 (a)] [61.1.8]
2. Department vehicles are operated, stopped and parked in a manner which will provide the greatest degree of safety to the officer and the motoring public and which is consistent with applicable state law and department policy. [61.1.7 (a)]
3. Every precaution is taken when approaching the violator and the officers shall position themselves at the vehicle so as to observe all occupants of the vehicle and approaching traffic. [61.1.7 (a)]
4. Appropriate enforcement action is taken. [61.1.7 (a)]

- B. DPS officers shall comply with the provisions of §56-5-760 and department policy when operating an authorized emergency vehicle. Officers will carefully weigh any contemplated use of the radio system and ascertain that the nature of their communication is either urgent in nature or pertains to official police business. Officers and Telecommunication Operators (TCOs) shall use the following codes for calls ranging from routine to emergency.
  - 1. CODE-1 Normal Run
  - 2. CODE-2 No Delay - Silent Run - No Lights or Siren
  - 3. CODE-3 Urgent - Use Lights and Siren [41.2.1] [61.1.7 (a)]
- C. Tele-communications operators and officers are required to follow the rules and regulations pertaining to the operation of the radio along with the Federal Communications Commission regulations to use complete radio identification numbers in communicating with other units. For instance, if a station or an officer is to call A-40, it is necessary to use all three digits and not abbreviate by using only the digit "40".
- D. DPS enforcement and accident report data shall be compiled through the utilization of electronic data processing. Analyzed data shall be distributed to enforcement supervisors who will utilize these reports in planning enforcement efforts and assigning officers in their area. Planning may be based on the evaluation of traffic volume, numbers of accidents, and frequency of traffic violations. [61.1.1 (a-f)]

#### **IV. DRIVING UNDER THE INFLUENCE ENFORCEMENT COUNTERMEASURES** [61.1.10]

- A. DPS is dedicated to the cause of reducing alcohol and drug-related offenses and accidents on South Carolina highways. In doing so, officers shall:
  - 1. Maintain a high level of alertness to detect alcohol and drug impaired drivers while performing their normal duties.
  - 2. Follow appropriate training and guidelines in apprehending, stopping and processing alcohol and drug impaired drivers.
- B. Supervisors shall:
  - 1. Monitor alcohol and drug-related arrests, collisions, fatal crashes and complaints to determine the location, day of week, and time of day of these incidents and target these areas when necessary. Data may be obtained using selective enforcement data, pin-map system, officer reports, information from other police agencies, and any other reliable source.
  - 2. Ensure various enforcement programs are utilized to combat driving under the influence violations within their area. These may include but are not limited to:
    - a. supervised saturation patrols in known areas of high DUI cases and collisions;
    - b. supervised line patrols on certain highways or streets;
    - c. checkpoints in known areas of high DUI cases and collisions;
    - d. observation of movement near nightclubs and bars;

- e. public announcements of stepped-up enforcement;
- f. public relations programs to encourage public reporting; and
- g. swift prosecution of DUI cases.

**V. STOPPING THE VIOLATOR [61.1.7 (a)]**

- A. The officer shall use discretion when selecting a place where the violator can be stopped promptly and safely. Officers should avoid stopping vehicles on hills, curves and other hazardous locations. Both vehicles should be positioned off the traveled portion of the road as far as possible. DPS officers shall position their vehicles in one of three ways during unknown risk traffic stops, depending on the circumstances: left offset, in line, or right offset.
- B. Emergency equipment (i.e., blue lights and sirens) shall be operated in accordance with §56-5-760 when initiating a traffic stop. Absent extenuating circumstances, blue lights shall remain on during the traffic stop in order to ensure safety and visibility at the scene. [41.2.1]
- C. Every reasonable effort should be made by the officer to identify himself as a law enforcement officer without jeopardizing his/her safety or the safety of others. Absent extenuating circumstances, officers shall be in full uniform before initiating a traffic stop. If, while attempting to stop a violator, the officer perceives that the violator is unable to identify him/her as an officer, the following procedures should be employed:
  - 1. wear the campaign hat;
  - 2. activate the dome light during hours of darkness;
  - 3. use the vehicle's public address system; and/or
  - 4. pull alongside the violator.
- D. The Communications Center shall be notified of all traffic stops initiated by DPS officers. Officers who have patrol cars equipped with mobile data terminals (MDT's) may notify Communications either by MDT or by radio. Prior to exiting the vehicle, the officer shall provide the location of the stop, license plate number, make, model and color of the vehicle(s), and number of occupants and description, if known. The officer shall contact Communications within 10 minutes after the stop to advise if the stop will take an extended period of time. If Communications has not been notified within 10 minutes, the TCO shall radio the officer. The officer shall also notify Communications when the traffic stop is complete. Communications shall maintain a log of all traffic stops. [81.2.5 (e)]
- E. Officers operating DPS vehicles equipped with video cameras shall activate the audio-video equipment as soon as the emergency equipment has been activated. The audio-video equipment shall not be stopped, paused or otherwise interfered with at any time during the stop and shall remain on record mode until the traffic stop is complete. If an individual is transported by the officer as a result of the stop, the audio -video equipment shall remain on record mode until arrival at the jail or other appropriate destination. [41.2.1] [83.2.2]

**VI. APPROACHING THE VIOLATOR [61.1.7 (b)]**

- A. In every case, officers shall use caution in approaching the violator and/or the violator's vehicle and shall be alert to any suspicious movements within the vehicle.
- B. While conducting traffic stops, DPS officers shall conduct themselves in a professional and courteous manner. The officer shall identify him/herself and inform the driver of the reason for the stop. At no time should the officer argue with the violator. [61.1.8]
- C. Officers shall fully explain the rights and requirements of violators. The officer shall explain the violation(s) and all actions required of the violator including: [61.1.8]
  - 1. optional or mandatory court appearance and court date; [61.1.4 (a) (b)]
  - 2. how and where to pay fines; and [61.1.4 (c)]
  - 3. any other information pertinent to the specific violation or situation. [61.1.4 (d)]
- D. If during the course of the stop, an officer develops probable cause that the violator or vehicle possesses contraband or evidence of a crime, any search shall be conducted in accordance with DPS policy and procedure and applicable laws.
- E. During dark hours, the officer may use the spotlight\take-down lights if necessary to see inside the vehicle after the violator has stopped while using caution not to project the light toward on-coming traffic.

**VII. HIGH RISK STOPS [61.1.7 (c)]**

- A. If the officer has reason to believe a wanted person is being stopped or the violator has committed a serious offense, the officer should request backup.
- B. Officers shall use their body armor in accordance with DPS policy when attempting a high risk stop.
- C. When officers are dealing with a known or suspected felon, officers shall remain in a protected position and may use the vehicle's public address system to instruct the occupant(s) to exit the vehicle.
- D. All occupants shall be ordered from the vehicle one at a time with hands above the head, palms showing.
- E. All searches and any subsequent arrests shall be conducted in accordance with DPS policy and procedure.

**VIII. STOPPING COMMERCIAL VEHICLES [61.1.5 (g)] [61.1.7 (a)]**

- A. All procedures and guidelines provided within this policy apply to commercial motor vehicles. However, special or additional precautions may be necessary when stopping commercial vehicles in order to enhance the safety of the officer and motoring public.
- B. The officer shall position the enforcement vehicle in such a manner that the driver can see its emergency lights while attempting to make the stop.
- C. The driver should be allowed sufficient time and distance to make a safe stop. The officer should avoid stopping a commercial vehicle on steep upgrades or downgrades.
- D. Generally, commercial vehicle stops are best conducted with the patrol vehicle positioned at the front of the truck. However, an officer should position the patrol vehicle at the safest position depending upon the circumstances of the stop.



- E. When feasible, the officer shall request the driver to climb down out of the commercial vehicle and come to the officer in order to conduct the traffic stop.

## **IX. CITING THE VIOLATOR**

### **A. Uniform Enforcement**

Department of Public Safety officers shall uniformly enforce South Carolina traffic laws and have a thorough knowledge of the traffic laws and the elements of the law that comprise the violations. [61.1.3 (e)] Enforcement efforts of traffic laws shall be in accordance with the South Carolina Code of Laws and shall include, but not be limited to, the following violations: [61.1.5 (a-l)]

1. driving under the influence of alcohol/drugs or suspension; [61.1.5 (a) (b)]
2. speed and equipment violations; [61.1.5 (c) (f)]
3. violations resulting in traffic accidents; [61.1.5 (k)]
4. commercial motor vehicle violations; [61.1.5 (g)]
5. multiple violations; [61.1.5 (i)]
6. off-road vehicle violations; [61.1.5 (e)]
7. pedestrian and bicycle violations; [61.1.5 (l)]
8. newly enacted laws and/or regulations; and [61.1.5 (i)]
9. other hazardous and non-hazardous violations. [61.1.5 (d) (h)]

### **B. Warning Tickets**

Warning tickets may be issued to violators who, in the officer's opinion, are not in violation to the degree that a summons ticket would be in order under the existing circumstances. Officers shall exercise their discretion and good judgment in using this enforcement tool. A summons for arrest shall be issued in all cases of driving under the influence, reckless driving, hit and run, reckless homicide and driving under suspension. Warnings shall not be issued for these offenses or any other offenses where a warning is prohibited by the department or division(s). [1.2.6] [1.2.7] [61.1.2 (a)] [61.1.3 (b)] [61.1.5 (a) (b)] [61.1.11]

### **C. Uniform Traffic Tickets [61.1.2 (a) (b)]**

1. DPS officers will use the uniform traffic ticket as prescribed in §56-7-10. DPS officers are empowered by law to accept a cash bond, when not statutorily prohibited, from any person apprehended and charged with a violation of traffic law in lieu of incarceration. The person charged shall be issued an official summons on which the violator will be receipted for any sum of cash bond deposited with the arresting officer. The person charged may be permitted to leave until further appearance before the proper court if required by the summons. Once a summons has been served, the officer has jurisdiction to dispose of the case. [1.2.6] [44.2.1 (b)] [61.1.3 (b)]
  - a. When a bond is accepted at the time the summons is issued, the exact amount received shall be shown on all five copies of the summons ticket in the space marked "Bail Deposited".

- b. When accepting a bail bond card, the name of the bail bond company shall be entered in the "Bail Deposited" block of the summons and no amount of money shall be entered there. The appropriate amount of bond will be written on the top right, front side of the violator's copy only.
  - c. When a courtesy summons is given and no bond is accepted, the word "none" shall be written in the "Bail Deposited" block.
  - d. If the violator is arrested and transported to a detention facility and no bond is accepted, the word "jail" shall be written in the "Bail Deposited" block.
2. The nature of bonds accepted should be cash, properly endorsed traveler's checks, or bail bonds. Personal checks are not accepted. No officer shall accept personal property of any description as a bond or pawn.
  3. When a cash bond is accepted, the officer shall turn the full amount of bond received over to the trial officer within 72 hours of receipt, excluding weekends and holidays. The trial officer's copies of the Uniform Traffic Ticket shall be received by the magistrate or municipal judge within 72 hours from the time of the alleged traffic violation.
  4. When a summons is issued to an out-of-state driver whose home state is a member of the Non-resident Violator's Compact, the driver may be permitted to continue without posting bond. Exceptions to this are offenses that would result in the suspension or revocation of the driver's license under the laws of this state. Failure by the driver to comply with the summons will result in the suspension of the violator's driver's license by the home state. [61.1.3 (a)]
  5. When an out-of-state motorist is not a resident of a compact member state, the officer shall explain the procedure of accepting cash bond and court proceedings and may request bond be deposited. [61.1.3 (a)]
  6. The officer should ascertain the trial date that would be convenient to an out-of-state motorist and if possible, the officer shall set the date of trial accordingly. [61.1.3 (a)]
  7. Legibility and correctness is vital when writing a summons ticket. Officers shall exercise care to properly document all information correctly on summons tickets to avoid voiding tickets due to carelessness. Writing over errors or using liquid paper is not permitted. In the event an error or correction is necessary, a single line shall be drawn through the error and the correct information written above the error on all copies of the summons. Exceptions to this include information in the nature of offense block, violation section number, bail deposited block, BA level, or any part of the disposition section.
- D. Size and Weight Summons Tickets [61.1.2 (b)]

State Transport Police Officers will issue the Uniform Size and Weight Summons Tickets prescribed by the Department. Tickets must be issued for violations contained in Title 56, Chapter 5, Article 33, of the S.C. Code of Laws, entitled "Size, Weight and Load." At the time that a uniform size and weight ticket is issued, the officer must inform the individual receiving the ticket that he has the option, at that time, to elect to pay his fine directly to the department or to receive a hearing in magistrate's court. Fines assessed by ticket for size and weight violations must be paid to the State

Transport Police within 28 days to avoid the addition of assessments to the original fine. [61.1.4 (b) (c)] [61.1.5 (g)]

## **X. OPERATIONAL PROCEDURES FOR ABANDONED VEHICLES**

An abandoned vehicle is any vehicle that is left unattended on a highway for more than 48 hours, or a vehicle that has remained on private or other public property for a period of more than seven days without the consent of the owner or person in control of the property. DPS officers shall comply with existing laws, rules and regulations concerning identifying, tagging, contacting owners, towing and reporting abandoned vehicles.

A. The following procedures will be observed when dealing with an abandoned vehicle on the highway:

1. Notify the Communications Center to run a stolen vehicle and registration check to establish if the vehicle is stolen and determine ownership.
2. Place a tag on the vehicle in a conspicuous place, in accordance with §56-5-5850.
3. Conduct another stolen check after 48 hours.
4. When practical, attempt to contact the owner prior to having the vehicle towed. If the owner cannot be contacted, dispatch for towing.
5. Prior to releasing the vehicle to the towing service, inventory the contents of the vehicle when possible using an approved DPS form.
6. Advise the Communications Center of the date, time, location, make, model and tag number of the towed vehicle.
7. Once towed, the owner should be notified immediately of the location of the vehicle.
8. If the vehicle is stolen, verify the stolen report with the originating agency, advise them of the recovery, and complete an incident report. The originating agency is responsible for notifying the owner.

B. The following procedures will be observed when dealing with an abandoned vehicle situated in unlawful or dangerous areas:

1. If a vehicle is abandoned or unattended on a bridge, causeway, underpass, in the roadway, on a railroad track, within an intersection, or blocking an entranceway or exit, the officer should stop, activate the emergency lights, and contact the Communications Center for stolen and registration reports.
2. A reasonable attempt to contact the owner should be made. However, if contact cannot be made, the vehicle should be towed in accordance with DPS policy.

## **XI. HIGHWAY ASSISTANCE**

A. Department of Public Safety officers will provide general assistance and information to the motoring public upon request. [61.4.1 (a)]

B. Officers will stop to assist disabled motorists, not necessarily to repair the automobile, but to help the motorist to contact someone for mechanical assistance or towing. The owner/operator may request a towing service of choice. If not, one shall

be summoned from the rotation list through the communications center, according to department policy. [61.4.1 (b)]

- C. Officers shall ensure the protection of stranded persons on the highway by directing them away from traffic. Officers should be prepared to provide first aid, extinguish small fires and call for medical and/or fire assistance, if necessary. [61.4.1 (c) (d)]
- D. At the request of any stranded or disabled motorist, the officer will ensure that the motorist does not remain in a hazardous location or environment, even if it means transporting the motorist to a suitable public location. [61.4.1 (c) (d)]

<b>By Order of the Director</b> <b>Date: April 16, 2001</b>
<b>B. Boykin Rose</b>
<b>Director</b> <b>S C Department of Public Safety</b>
<b>The Original Signed Copy of this Policy</b> <b>is on File in the Office of the General</b> <b>Counsel</b>

# South Carolina Department of Public Safety



Office of the Director

10311 Wilson Blvd. Blythewood, SC Post Office Box 1993 Blythewood SC 29016

<b>POLICY</b>	<b>300.04</b>
<b>EFFECTIVE DATE</b>	<b>NOVEMBER 25, 2015</b>
<b>SUBJECT</b>	<b>USE OF FORCE</b>
<b>REPLACE POLICY DATED</b>	<b>AUGUST 27, 2013 &amp; MEMO DATED SEPTEMBER 15, 2014</b>
<b>APPLICABLE LEGAL AUTHORITIES</b>	N/A
<b>APPLICABLE STANDARDS</b>	1.2.2, 1.2.7, 1.3.1, 1.3.2, 1.3.3, 1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.8, 1.3.9, 1.3.10, 1.3.11, 1.3.12, 1.3.13, 52.2.7
<b>APPLICABLE STANDARD OPERATING PROCEDURES (SOP)</b>	N/A
<b>FORMS</b>	<b>DPS-LE-027, DPS-LE-028</b>
<b>DISTRIBUTION</b>	<b>TO ALL EMPLOYEES</b>

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## **I. PURPOSE**

This directive establishes guidelines for the use of force by all *South Carolina* Department of Public Safety (*SCDPS or department*) law enforcement officers and the reporting and review procedures to be followed once the use of force has occurred.

## **II. POLICY**

Officers shall use only the amount of force which is reasonable and necessary to accomplish lawful objectives while protecting their lives and the lives of others. [1.3.1]

## **III. DEFINITIONS**

For purposes of this policy, the following definitions shall apply:

**Administrative Duty** - *The reassignment of an employee to other duties on a temporary basis.*

**Deadly Force** - Any use of force that is likely to cause death or serious physical injury.

**Line Duty** - Regularly assigned law enforcement duty.

**Physical Force** - Any force required to overcome an assault or active resistance to arrest or to control or restrain the movement of another, and which may result in, or is alleged to have resulted in, death or injury.

**Reasonable Belief** - The facts or circumstances an officer knows which would cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

**Serious Physical Injury** - An injury that creates a substantial risk of death, causes serious

or permanent disfigurement, or results in long-term loss or impairment of the functioning of any bodily member or organ.

#### **IV. GUIDELINES AND RESTRICTIONS ON USE OF FORCE**

- A. Officers shall use only the level of force necessary to accomplish lawful objectives. The use of force must be discontinued when it becomes apparent to the officer that the force is no longer needed or the use of force poses a threat to innocent bystanders. [1.3.1]
- B. An officer may use deadly force against persons only when the officer reasonably believes such action is in defense of human life or in defense of any person in immediate danger of serious physical injury or death. [1.3.2]
- C. Officers shall provide or arrange for appropriate medical assistance for persons against whom force was used. [1.3.5]

#### **V. OFFICER RESPONSIBILITY**

- A. The use of a particular type and amount of force must be judged from the officer's perspective at the scene. The proper application of force requires careful attention to the facts and circumstances known or available to the officer involved at that time, including: [1.2.7]
  - 1. Whether the suspect poses an immediate serious threat to the safety of the officer or others;
  - 2. The severity of the crime committed; and
  - 3. Whether the suspect is physically resisting arrest or merely attempting to evade arrest by flight.
- B. In an effort to accomplish lawful objectives, the following levels of control will be used when controlling suspects:
  - 1. Officer Presence – the identification of authority (badge, gun, etc.).
  - 2. Verbal Direction – commands of direction or arrest (stop, put up your hands, etc.).
  - 3. Empty Hand Control
    - a. Soft Empty Hand Control – techniques that have a minimal chance of injury (touch pressure or joint locks). [1.3.4]
    - b. Hard Empty Hand Control – techniques that have a probability of injury (leg strikes, hand strikes, arm strikes). [1.3.4] [1.3.6(d)]
  - 4. Intermediate Weapons [1.3.4]
    - a. Soft Intermediate Weapon Control – impact weapon joint locks and come-alongs.
    - b. Hard Intermediate Weapon Control – impact weapon strikes, chemical agent use, or electro-muscular disruption weapon use.
  - 5. Lethal Force – officer using deadly force.
- C. Under most circumstances when an officer is facing active aggression such as punching or kicking, the officer will be justified in responding with defensive counterstrikes. There may be circumstances when the officer is unable to effect control of the suspect at lower levels of resistance and defensive counterstrikes may be justified. If the officer does escalate the amount of force used, it is imperative that the officer be able to justify such actions. [1.3.11]

## VI. AUTHORIZED WEAPONS

Officers will only be issued weapons for which they have been trained and qualified. While on duty, officers will carry and use only department-authorized firearms, ammunition, weapons and equipment for which they have been trained. Before issuance of weapons, officers must demonstrate proficiency in the use of authorized weapons and must be issued and trained on related policies. All issuance and instruction of weapons and related policies shall be documented. [1.2.2] [1.3.4] [1.3.9] [1.3.10] [1.3.11(b)] [1.3.12]

### A. Firearms

1. Officers shall exercise due care in handling firearms.
2. The decision to use a firearm must be based on facts and the totality of the circumstances known to the officer(s) involved.
3. Officers may use authorized firearms while performing the following duties:
  - a. Situations where the officer has reasonable belief that deadly force is justified, there is a high probability of striking the intended target, and the discharge poses no substantial risk to the safety of other officers or innocent bystanders;
  - b. To kill an animal that is an immediate threat to any person or law enforcement canine;
  - c. To kill a sick or injured animal for humanitarian reasons (officers must secure prior permission from the owner when feasible); or
  - d. For authorized practice, training, qualification, or firearm competition.
4. Because any discharge of a firearm may constitute deadly force, warning shots are prohibited. [1.3.3]
5. The department armorer maintains a list of approved weapons and approved ammunition and their uses. [see Attachment A]
6. Off duty practice shooting is encouraged; however, the ammunition used for personal target practice must be commercially manufactured and comparable to the approved ammunition provided by the department. The use of hand-loaded or reloaded ammunition is prohibited in any department-issued weapon.

### B. Baton [see Attachment B] [1.3.4] [1.3.10] [1.3.11]

1. Uniformed officers shall be trained and certified in the proper use of a baton prior to its issuance. The baton shall be used according to training instructions.
2. All officers shall receive additional training and be re-certified in the use of the baton on an annual basis.

### C. Oleoresin Capsicum [OC] [see Attachment B] [1.3.4]

1. Officers who are issued OC must first be trained and certified in its proper use and will receive additional training on an annual basis. [1.3.10] [1.3.11]
2. Officers shall visually inspect the OC canister on a weekly basis to ensure proper functioning.
3. Officers shall test fire their OC every three (3) months to ensure pressurization and spray pattern are functioning properly. Empty or defective canisters shall be returned to Supply and replaced immediately. [1.3.9 (c)]

4. After using OC on a subject, decontamination procedures shall be administered and documented as soon as safety allows. If required, appropriate medical attention will be provided for the suspect or anyone involved. [1.3.5]
- D. Electronic Control Device [ECD] [see Attachment B] [see ECD Use Procedures] [1.3.4]
1. Officers who are issued an ECD weapon must first be trained and certified in a department-approved training course. Recertification training will be conducted on an annual basis. [1.3.10] [1.3.11]
  2. All ECD carriers will conduct a spark test at the beginning of each shift to insure that the weapon is working properly. [1.3.9 (c)]
  3. The ECD should not be intentionally aimed at a person's head, neck or genitals. ECD darts are only to be removed by a certified ECD operator or a qualified medical person. [1.3.5]
  4. Any discharge other than a function test, either intentional or accidental, shall be reported to the officer's supervisor. Supervisors shall investigate each incident to ensure proper reports are submitted.
- E. Rifles [see Attachment A] [see Rifle Use Procedures]
- Officers who are issued or otherwise permitted to carry an approved rifle must first be trained and certified in a department-approved training course. Recertification training will be conducted on an annual basis. [1.3.10] [1.3.11]

## VII. FORCIBLE VEHICLE STOPS

The use of a vehicle to force another vehicle to stop should be conducted in accordance with DPS Policy 300.02 (Vehicle and Foot Pursuit).

## VIII. REPORT AND REVIEW OF USE OF FORCE

- A. Officers will notify their supervisor immediately and submit a written Incident Report within 24 hours of any incident in which the following occurs:
1. An officer discharges a firearm or intentionally discharges an ECD in a duty-related capacity. This does not include practice, training, qualification, or competition unless the discharge was a result of a safety infraction or carelessness. [1.3.6(a)(c)]
  2. The officer takes any action that results in, or is alleged to have resulted in, any injury or death of an officer or another person. [1.3.6(b)(c)]
  3. The officer uses Hard Empty Hand Control or any greater level of control as outlined in Section V.(B)(3)(b), with the exception of handcuffing a person who is exhibiting compliance. [1.3.6(c)(d)]
  4. The officer is injured as a result of being assaulted even though the officer may not have used force against the assailant. If for any reason the officer is unable to complete the report, the officer's immediate supervisor shall do so.
- B. *All* incidents involving the use of force will be *reviewed* by the Office of Professional Responsibility (OPR). [1.3.7]
- C. When an officer discharges an issued firearm (except in authorized practice, training, qualification, or the humane killing of sick or injured animals) or takes any action which results in any injury or death, the officer's supervisor shall immediately notify the division



*director* or designee and OPR *so that a proper investigation can be conducted*. The supervisor will be responsible for submitting a written report of the incident. [1.3.6(a)(b)] [1.3.7] [1.3.8]

- D. The supervisor shall immediately evaluate the use of force situation and determine whether the issued firearm or weapon needs to be secured as evidence or surrendered pending the results of the OPR investigation. The supervisor shall advise the *division director* of his/her decision regarding continued possession of the weapon and note the incident on the written report. [1.3.7]
- E. When force is used by any officer that results in death or serious physical injury *in a duty-related incident*, the officer shall be *temporarily reassigned from line duty status and placed on administrative duty*. *At the discretion of the director, officers involved in shootings may be required to undergo mental health evaluation(s)/counseling*. Removal from line of duty status during a pending criminal investigation, administrative review period, or OPR investigative stage is not punitive and the officer shall remain in paid status *with benefits intact*. *Assignment to administrative duty will continue until the director determines that it is appropriate for the officer to return to full duty.* [52.2.7] The director may withdraw the *administrative duty* after a minimum of three (3) calendar days if s/he determines in the exercise of his/her discretion that the involved officer(s) may safely return to duty.
- F. *Any approval to work any outside employment that is law enforcement related will be temporarily suspended for the duration of the administrative duty. Eligibility to resume outside employment will be reinstated at the close of administrative duty.*
- G. Results of the OPR investigation will be forwarded to the director and appropriate division director for review and appropriate action. [1.3.7]
- H. The investigation will determine whether the matter should be referred for criminal investigation, dismissed, or warrants disciplinary action. The *division director* or designee will discuss the findings of the investigation with the officer. If warranted, disciplinary action will be recommended by the *division director* pursuant to *DPS Policy 400.08 (Disciplinary Action)*. [1.3.7]
- I. *When on administrative duty, a commissioned employee shall not operate a law enforcement vehicle. The employee shall surrender his/her law enforcement vehicle and wear civilian clothes. Under no circumstances will the utilization of administrative duty be construed as disciplinary action or imply fault on part of the officer. Administrative duty assignments are shown as hours worked in SCEIS.*
- J. After the investigation has been completed and appropriate action taken, all reports related to the investigation will be filed with OPR.
- K. An analysis of all incident reports related to the use of force or discharge of firearms will be conducted annually by the Highway Patrol Training Unit. Results of the analysis will be supplied to the director for any action s/he deems necessary, such as training or policy modifications. [1.3.13]

By Order of the Director  
Date: November 24, 2015

*Leroy Smith*

Director  
S C Department of Public Safety

The Original Signed Copy of this Policy is  
on File in the Office of Strategic Services,  
Accreditation, Policy, and Inspections

# South Carolina Department of Public Safety



Office of the Director

10311 Wilson Blvd. Blythewood, SC Post Office Box 1993 Blythewood SC 29016

<b>POLICY</b>	<b>300.02</b>
<b>EFFECTIVE DATE</b>	<b>APRIL 13, 2015</b>
<b>DATE OF ORIGATION</b>	<b>FEBRUARY 20, 1996</b>
<b>SUBJECT</b>	<b>VEHICLE AND FOOT PURSUIT</b>
<b>REPLACE POLICY DATED</b>	<b>AUGUST 27, 2013</b>
<b>APPLICABLE STATUTES</b>	<b>S.C. CODE OF LAWS §56-5-760, §56-3-613, 614, 616, §17-13-47, §17-9-10; GEORGIA CODE OF LAWS §35-1-15; N.C. CODE OF LAWS §15A-403</b>
<b>APPLICABLE STANDARDS</b>	<b>1.3.2, 1.3.3, 41.2.1, 41.2.2, 41.2.3</b>
<b>APPLICABLE STANDARD OPERATING PROCEDURES (SOP)</b>	<b>N/A</b>
<b>FORMS</b>	<b>DPS-LE-028</b>
<b>DISTRIBUTION</b>	<b>TO ALL EMPLOYEES</b>

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## I. PURPOSE

To provide guidelines for *South Carolina* Department of Public Safety (*SCDPS or department*) law enforcement officers when engaged in pursuit activity to minimize any potential danger to the officers, the general public and fleeing suspects involved in a vehicle pursuit in accordance with Section 56-5-760 of the South Carolina Code of Laws or those involved in a foot pursuit.

## II. POLICY

*Officers shall pursue fleeing suspects in a manner that is reasonable and necessary to accomplish lawful objectives, while protecting their lives and the lives of others. Forcible stops are only authorized when deadly force is justified.*

## III. DEFINITIONS

*For purpose of this policy, the following shall apply:*

*Deadly Force: Any use of force that is likely to cause death or serious physical injury.*

*Division Directors: An individual that is accountable for the daily operations of an SCDPS division and reports directly to the director.*

**Foot Pursuit:** – *A situation in which an officer, on foot, pursues a suspect in an effort to detain or arrest that individual, whom s/he has reasonable suspicion to believe is about to commit, is committing, or has committed a crime, and is resisting apprehension by fleeing from the officer on foot.*

**Forcible Vehicle Stop:** *The use of a vehicle to force another vehicle to stop. Forcible vehicle stops are considered Deadly Force.*

**Fresh Pursuit:** *A pursuit by a law enforcement officer of a person who is in the immediate and continuous flight from the commission of a criminal offense.*

**Immediate Supervisor:** The officer responsible for the direct supervision of the primary pursuit officer.

**Precision Immobilization Technique (PIT):** *The intentional act of using a police vehicle to physically force a fleeing vehicle from a course of travel in order to stop it. The PIT maneuver is not considered deadly force.*

**Primary Pursuit Officer:** The officer who begins a pursuit or any other officer who assumes control of a pursuit.

**Pursuit Supervisor:** Any officer of any DPS law enforcement division holding a supervisory rank. In the event an officer of supervisory rank is unavailable, an officer holding the rank of Lance Corporal may be the pursuit supervisor. It is the intent of this policy that a supervisor of State Transport Police, the Highway Patrol or the Bureau of Protective Services has the authority to perform the supervisory duties defined herein for a pursuit initiated by any other division. Such cross-divisional supervision is anticipated where the supervisor for the pursuit officer is off-duty or otherwise unavailable, but a supervisor from another division is on-duty and immediately available.

**Pursuit Vehicle:** Any authorized law enforcement emergency vehicle which is involved in pursuing a fleeing vehicle.

**Secondary Pursuit Officer:** The officer(s) who assists the primary pursuit officer.

**Suspect:** A person who has committed or is alleged to have committed a crime.

**Vehicular Pursuit:** An active attempt by an officer to apprehend a driver or operator of a motor vehicle, who having been given a visual or audible signal by the officer to bring his/*her* vehicle to a stop, *but* willfully fails to obey the officer's direction, increases his/*her* speed, extinguishes his lights, or otherwise flees or attempts to elude the officer.

#### IV. VEHICLE PURSUIT

- A. The pursuit is justified only when the necessity of the apprehension of a suspect outweighs the risks created by the pursuit.

- B. The decision to pursue shall lie with the primary pursuit officer. The primary pursuit officer shall also evaluate and determine whether to continue a pursuit unless otherwise instructed by the pursuit supervisor to terminate the pursuit. [41.2.2(a)]
- C. The primary pursuit officer must consider the following circumstances and conditions before initiating a pursuit, and during a pursuit to determine if the pursuit should be continued:
  - 1. the seriousness of the original offense that led to the pursuit;
  - 2. the time, day and location of the pursuit;
  - 3. the weather and road conditions;
  - 4. the presence and volume of vehicular and pedestrian traffic;
  - 5. the officer's familiarity with the pursuit area;
  - 6. the presence of passengers in the fleeing vehicle;
  - 7. the known mechanical condition of the pursuit vehicle including its emergency and communication equipment;
  - 8. the likelihood of apprehending the fleeing suspect through continued pursuit or identifying and finding the suspect at a later date; and
  - 9. other circumstances or conditions which may present a hazard.
- D. An officer shall not become involved in a pursuit or respond to assist in a pursuit when prisoners or passengers, other than other law enforcement personnel, are present in the officer's vehicle.

## V. PRIMARY PURSUIT OFFICER

- A. The primary pursuit officer will:
  - 1. Be in control of the pursuit.
  - 2. Immediately notify the appropriate communication center of the pursuit.  
The following information will be reported, if known: [41.2.2(b)]
    - a. Description and license *plate* of the fleeing vehicle;
    - b. Location, direction of travel and approximate speed of the fleeing vehicle;
    - c. Initial reason for the pursuit;
    - d. Number of occupants and their description; and
    - e. Any other pertinent information.
  - 3. Continuously use blue lights and siren during pursuit, unless specific permission to do otherwise is received from the supervisor. [41.2.1]
  - 4. Communicate complete, accurate and timely information to communications personnel throughout the pursuit. The primary pursuit officer may delegate this task to the secondary pursuit officer. [41.2.2(b)]

5. Provide or arrange for assistance to persons who may be injured during the pursuit if there is no other officer in the immediate area to provide or arrange for assistance. [41.2.2(b)]
- B. Officers who have video equipment in their patrol vehicles will activate their video recorder upon initiating or responding to assist with a pursuit and will record all activities until the pursuit is terminated, the suspect is apprehended and transported to the appropriate location, or the officer is no longer involved in the pursuit. [41.2.2(b)]
- C. In the event the officer who initiated the pursuit is not present when the fleeing suspect is apprehended, that officer should proceed to the appropriate location to identify the suspect or vehicle or take the suspect into custody, if feasible.
- D. The primary pursuit officer shall complete *DPS-LE-028 (Pursuit Report)* after the pursuit has been terminated. [41.2.2(b)]

## VI. SECONDARY PURSUIT OFFICER

The secondary pursuit officer will:

- A. Notify communications personnel and the supervisor when joining the pursuit.
- B. Maintain a reasonable following distance from the primary pursuit vehicle to ensure proper reaction time and braking distance.
- C. Take responsibility for radio communications if assigned to do so by the primary pursuit officer.
- D. Provide first aid to any person injured during the pursuit and, if necessary, notify communications to dispatch an ambulance to the scene.
- E. Assume the primary pursuit vehicle position if instructed to do so or it becomes necessary. [41.2.2(c)]

## VII. TERMINATING A PURSUIT

The pursuit shall be terminated *for the following reasons*:

- A. When the primary pursuit officer determines that it is necessary or when directed by the pursuit supervisor.
- B. The danger of continuing the pursuit outweighs the need to apprehend the suspect based on the elements set forth in *Section IV C, above*; or
- C. The identity of the suspect is known and immediate arrest is not necessary; or

- D. The distance between the pursuing officer and the suspect is so great that further pursuit is futile.

The primary pursuit officer should notify communications personnel that the pursuit has been terminated and shall state the time and location where the pursuit was terminated. [41.2.2(b)] [41.2.2(g)] [41.2.2(f)]

### VIII. VEHICLES USED FOR PURSUITS

- A. All pursuit vehicles will be authorized law enforcement emergency vehicles, equipped with department issued lights and siren. When feasible the primary and secondary pursuit vehicles will be fully marked patrol vehicles. [41.2.2(d)]
- B. Motorcycles may be used for pursuit in exigent circumstances and when weather and related conditions allow. They shall disengage when support from marked patrol units becomes available. [41.2.2(d)]
- C. No more than *three (3)* vehicles should be in direct pursuit of a fleeing vehicle unless circumstances dictate an identifiable need and the use of additional vehicles have been authorized by a supervisor. [41.2.2(c)] [41.2.2(f)]
- D. Appropriate emergency equipment (e.g, blue lights and siren) on authorized emergency vehicles shall be used during pursuits. [41.2.2(d)]

### IX. INVOLVEMENT OF OTHER SCDPS OFFICERS

- A. All officers who may be of assistance or may provide any related information regarding a pursuit will immediately inform communications personnel and the appropriate supervisor. [41.2.2(h)]
- B. Officers not involved in the pursuit as a primary or secondary pursuit vehicle should:
  - 1. Remain aware of the direction and progress of the pursuit; and
  - 2. Not respond or parallel the pursuit in an emergency response mode unless directed to do so by the pursuit supervisor. [41.2.2(f)]

### X. COMMUNICATIONS PERSONNEL

During a pursuit, communication personnel will do the following:

- A. Clear the radio channel of non-emergency transmissions by advising all other mobile units and communication centers that a pursuit is in progress;

- B. Notify the appropriate supervisor, who shall become the pursuit supervisor and broadcast any pertinent information regarding the status of the pursuit as needed;
- C. Coordinate and manage radio traffic associated with the pursuit;
- D. Conduct appropriate checks of license plate number and relay other information concerning the fleeing vehicle or driver, if necessary; and
- E. Immediately notify responding units and any other agencies that may have been involved when the pursuit is terminated. [41.2.2(e)]

## **XI. SUPERVISION OF PURSUITS**

The pursuit supervisor will do the following:

- 1. Evaluate the pursuit and order the termination of the pursuit when it appears to constitute an unreasonable risk;
- 2. Evaluate the circumstances surrounding the pursuit to determine the need for additional law enforcement assistance; and
- 3. At the conclusion of the pursuit, report the pursuit to the immediate supervisor and provide any information or statements necessary on ***DPS-LE-028 (Pursuit Report)*** [41.2.2(f)]

The immediate supervisor will do the following:

- 1. Ensure that the primary pursuit officer completes ***DPS-LE-028, (Pursuit Report)*** upon termination of the pursuit. The immediate supervisor may also require other officers, including the pursuit supervisor involved in the pursuit, to submit ***DPS-LE-028 (Pursuit Report)***.
- 2. Ensure that department vehicles involved in a pursuit are inspected for proper safety and mechanical operation as soon as practicable after the pursuit has ended.

## **XII. PRECISION IMMOBILIZATION TECHNIQUE (PIT)**

- A. ***The Precision Immobilization Technique (PIT) is a specific technical and precise maneuver which requires advanced practical training. The PIT maneuver shall only be used by officers who have received Department training in the proper execution of the PIT maneuver and in accordance with the Department training received.***
- B. ***Officers shall utilize discretion in determining the need to initiate a PIT maneuver. [41.2.2(b)]***



- C. Because of its technical and precise nature, the PIT maneuver is not considered deadly force by the courts. PIT is a force option that when done correctly, will result in no injuries and very little damage to the violator and pursuit vehicle.*
- D. Whenever practicable, officers will obtain supervisory approval prior to utilizing the PIT maneuver. Once approval is obtained, the final decision to utilize the PIT maneuver rests with the pursuing officer. [41.2.2(a)] [41.2.2(b)]*
- E. The PIT maneuver should only be used when the danger from the continued pursuit is greater than the danger associated with using the PIT maneuver to end the pursuit. Before the PIT maneuver is used, the primary pursuit officer must consider the following circumstances and conditions:*
  - 1. Condition of the road:*
    - a. Wet or Dry*
    - b. Width of road and shoulders*
    - c. Divider or other obstruction*
    - d. Roadside obstructions (trees, ditches, buildings, etc.)*
  - 2. Visibility:*
    - a. Distance ahead*
    - b. Darkness*
  - 3. Traffic volume:*
    - a. Actual volume based upon observation*
    - b. Anticipated volume based on time of day (School hours, commuter traffic)*
  - 4. Pedestrian Traffic:*
    - a. Actual volume based upon observation*
    - b. Anticipated volume based on time of day (School hours, commuter traffic)*
  - 5. Type of fleeing vehicle:*
    - a. Vehicles with a high center of gravity and narrow wheel base*
    - b. Small cars with narrow wheel base and no target area on rear quarter panel*
  - 6. Occupants:*
    - a. Number of occupants in vehicle*
    - b. Whether children are visible in the vehicle*
    - c. Whether occupants are wearing seatbelts*
  - 7. Reasonable speed as determined by the following factors:*
    - a. Whether the violator is showing total disregard for public safety*
    - b. Whether the violator is darting at other vehicles*
    - c. Whether the violator is driving on the wrong side of the road*
    - d. Whether the violator is running other motorists off the road*

- F. *The PIT Maneuver shall not be attempted on the following vehicles:*
  - 1. *Motorcycles or ATV's*
  - 2. *Large Commercial Trucks, Buses, Vans*
  - 3. *Vehicles transporting hazardous materials*
  - 4. *Vehicles with flattened tires on both sides*
  - 5. *Pick-up Trucks with higher than normal suspensions*
- G. *A minimum of two (2) SCDPS vehicles is recommended before a PIT maneuver is attempted. The technique works best when three (3) vehicles are available.*
- H. *Prior to implementation of the PIT maneuver, other pursuing vehicles will be advised that the technique will be performed.*
- I. *The PIT maneuver is prohibited in a foreign jurisdiction.*

### **XIII. FORCIBLE STOPS**

- A. *Forcible stops involve the use of a vehicle or a weapon to force another vehicle to stop. Forcible stops constitute deadly force and are not authorized unless the use of deadly force is justified.*
- B. The implementation of a forcible stop should be carefully weighed by the pursuit supervisor against the safety of all officers involved in the pursuit and other persons in the area. [41.2.2(f)] [41.2.3(b)]
- C. There shall be no deliberate contact made between vehicles involved as a means of attempting to stop the suspect's vehicle except when there is substantial likelihood that neither vehicle will strike another vehicle. [41.2.3(a)]
- D. Officers shall not discharge a firearm at or from a moving vehicle unless the use of deadly force is justified and there is substantial likelihood that the projectile will not strike any person other than the suspect(s).
- E. *Pursuits against oncoming traffic create an increased risk and severity of potential crashes or injury. Unless deadly force is justified, officers shall not pursue against ongoing traffic on an interstate, controlled access highway, divided highway or one way roadways. Whenever practicable, officers will obtain supervisory approval prior to pursuing against oncoming traffic and when deadly force is justified. Once approval is obtained, the final decision to pursue against oncoming traffic rests with the pursuing officer.*

*With regard to pursuing a suspect who is traveling against oncoming traffic, other means of stopping the suspect, as well as alerting oncoming traffic (life saving measures), include, but are not limited to:*

- 1. *Stopping and/or diverting oncoming traffic ahead of the suspect;*
- 2. *Contacting other law enforcement agencies for assistance.*

#### **XIV. OTHER AGENCIES OR JURISDICTIONS**

*All department officers who assist other law enforcement agencies shall comply with department policies and procedures governing vehicle pursuits.*

When other agencies pursue vehicles and need assistance from DPS officers, the following shall govern the SCDPS officer(s) involvement: [41.2.2(h)]

- A. Officers shall not assist in active pursuit unless requested by the pursuing agency and such pursuit is approved by a supervisor who will become the pursuit supervisor.
- B. If the pursuing agency is joined by a DPS unit and the pursuing agency's back-up unit arrives to assist, the DPS unit will terminate active pursuit and cease emergency operation unless instructed otherwise by the pursuit supervisor.
- C. When assisting other agencies involved in a pursuit, the pursuit supervisor and officer should determine the following:
  - 1. The speed, direction, and roadway used by the fleeing vehicle;
  - 2. The offense(s) committed by the fleeing driver, including the initial reason for attempting to stop the subject;
  - 3. Whether the driver is armed or otherwise considered dangerous; and
  - 4. The method of communication to be used between the officers of the agencies involved in the pursuit. [41.2.2(a)] [41.2.2(b)] [41.2.2(f)]
- D. Officers assisting other agencies shall do the following:
  - 1. Advise the communication center of the pursuit;
  - 2. Cooperate with the reasonable and lawful efforts of the initiating agency to stop the fleeing vehicle;
  - 3. Continue to evaluate the pursuit and terminate DPS participation in the pursuit if the danger of continuing the pursuit outweighs the need to apprehend the suspect, or when directed to do so by the pursuit supervisor;
- E. Due to limited radio communications with other agencies, the pursuit supervisor shall terminate the pursuit if necessary. [41.2.2(f)] [41.2.2(h)]

#### **XV. PURSUITS INTO OTHER STATES**

- A. Generally, pursuits shall not cross state lines and must terminate prior to entering a clearly marked jurisdiction of another state. [41.2.2(g)(h)]

- B. When approaching a state line, the primary pursuit officer will inform the communications center of the pursuit location and request the other state be notified and supplied with all available information regarding the pursuit. [41.2.2(b)]
- C. SCDPS officers may pursue any person into foreign jurisdiction (North Carolina and Georgia only) when the officer reasonably believes the person has committed a serious violation as outlined in Section D below. The SCDPS officer must request via telecommunications to continue the pursuit into a foreign jurisdiction and must articulate the circumstances to support the request. [41.2.2.2(h)]

**NOTE: Approval to enter a foreign jurisdiction must be made by a command level position (Captain and above).** Approval will only be allowed for the felony violations outlined in Section D., below and after considering a totality of the circumstances.

**Forcible stops and PIT maneuvers are prohibited in a foreign jurisdiction.**

- D. Permission to continue pursuits will only be authorized for:
  - 1. Murder
  - 2. Manslaughter
  - 3. Attempted Murder
    - a. *The attempt must be confirmed by a law enforcement officer/agency*
    - b. *Intentional vehicular contact initiated by the violator does not constitute Attempted Murder for the purposes of this section.*
  - 4. Kidnapping
  - 5. Leaving the Scene of an Accident Involving a Death
- E. Once entering the foreign jurisdiction, SCDPS officers will serve as the primary pursuit officer. SCDPS officers shall yield the primary pursuit responsibility to the first law enforcement officer encountered from the foreign jurisdiction and SCDPS officers will assume the role of secondary officer as outlined in Section V., A, B, & D of this policy. If a second law enforcement officer from the foreign jurisdiction enters the pursuit, SCDPS officers will terminate the pursuit and may remain in the foreign jurisdiction observing all traffic control devices and traffic laws.
- F. In the event the subject(s) is captured, SCDPS officers will relinquish authority of the subject and initiate extradition proceedings. Under no circumstances will the subject(s) be immediately transported back into the state of South Carolina.

- G. All provisions of this policy are applicable in out-of-state pursuits, including the provision concerning the termination of a pursuit as outlined in Sections VI and X of this policy.

## XVI. PURSUITS FROM OTHER STATES

- A. Officers should provide reasonable assistance to out-of-state officers who are legally in pursuit of a vehicle that crosses into South Carolina.
- B. In accordance with the department's policies and procedures, officers should consider all available information to evaluate the situation and determine the course of action to take.
- C. *In accordance with SC Code of Law 17-13-47*, a law enforcement officer from Georgia or North Carolina who enters this State in fresh pursuit of a person has the same authority to arrest and hold in custody the person within this State as a law enforcement officer of this State has to arrest and hold in custody a person for committing a criminal offense in this State.

When an arrest is made in this State by a law enforcement officer of another state pursuant to subsection (A), the law enforcement officer must, without unnecessary delay, take the person arrested before a judicial official of this State. If the judicial official determines that the arrest was lawful, he must commit the person arrested to imprisonment for **20** days as provided in *SC Code of Law §17-9-10*. Once the person is imprisoned pursuant to this section, the provisions of Title 17, Chapter 9 govern the extradition and return of the person to the state in which the criminal offense was committed. [41.2.2(h)]

## XVII. PURSUIT SUMMARY AND REVIEW

- A. The immediate supervisor will begin a review of the pursuit as soon as practical following the termination of the pursuit. This includes *DPS-LE-028 (Pursuit Report)* submitted by the primary pursuit officer and other designated officers as determined to be necessary by the immediate supervisor. [41.2.2(i)] [41.2.2(f)] [41.2.3(d)] [41.2.3(e)]
- B. If the pursuit resulted in damage to a department vehicle, all policies and procedures related to accidents involving department vehicles shall be followed.
- C. Pursuits that result in injury to officers, suspects, or citizens will be immediately reported to the Office of Professional Responsibility (OPR). OPR may respond and initiate an investigation surrounding the circumstances.
- D. The appropriate sheriff's office will be notified to investigate any accident involving a *SCDPS* vehicle in accordance with Section §56-5-765. Any OPR investigation will cooperate with the sheriff's investigation and render all aid and assistance.

- E. The immediate supervisor will compile existing evidence and data related to the incident for a thorough review. *This review shall be documented and forwarded through the chain of command for approval.* [41.2.2(f)] [41.2.3(d)]
- F. The immediate supervisor will forward all pertinent information to the *appropriate division director* for review. If any misconduct is suspected, the appropriate investigation and action will be taken in accordance with applicable department policies. [41.2.2(f)] [41.2.3(d)] [41.2.3(e)] [41.2.2(i)]
- G. The *division director* will forward all *DPS-LE-028 (Pursuit Report)* to the *department's training staff* for the purpose of compiling the pursuit data. *The department's training staff* will conduct an annual analysis of all pursuits which will be submitted to the director with any recommendations. [41.2.2(j)] [41.2.3(e)]
- H. *The pursuit policy and procedures shall be reviewed on an annual basis.* [41.2.2(k)]

## XVIII. FOOT PURSUIT

- A. To achieve a reasonable degree of safety prior to engaging in a foot pursuit, an officer shall, if possible, notify the communication center of the exact location, direction of pursuit, nature of offense committed, the identity and/or physical description of the suspect, and any other pertinent information.
- B. The primary pursuit officer engaged in a foot pursuit shall, prior to initiating the pursuit, secure the law enforcement vehicle. In addition, where practical, the officer should remove the ignition keys and secure the suspect's vehicle to prevent further use.
- C. Officers shall not fire any warning shot(s) in an attempt to halt the flight of the suspect(s). [1.3.3]
- D. A foot pursuit shall be terminated when:
  - 1. The danger of continuing the pursuit outweighs the need to apprehend the suspect; or
  - 2. The officer has lost both sight and sound of the suspect; or
  - 3. The distance between the pursuing officer and the suspect is so great that further pursuit is futile; or
  - 4. So directed by the pursuit supervisor. [41.2.2(f)] [41.2.2(g)]

- E. The primary pursuit officer shall notify communications personnel that the pursuit has been terminated and shall state the time and location where the pursuit was terminated.
- F. If the suspect was not apprehended, the officer shall notify communications personnel and a perimeter to contain and prevent escape may be established where necessary and approved by the supervisor. [41.2.2(f)]
- G. The primary pursuit officer shall submit a **DPS-LE-028 (Pursuit Report)**. The report should note any injuries received by the pursuing officer or by the suspect. The report shall be reviewed by the *division* director and forwarded to the *department's training staff* for the purpose of compiling the pursuit data. The *training staff* will conduct an annual analysis of all foot pursuits and will submit to the director with any recommendations.

**XIX. TRAINING**

All officers operating a law enforcement emergency vehicle shall successfully complete a course of instruction relating to emergency response operation and pursuit operation. Appropriate training on vehicular pursuit policy and procedure will be included as part of the basic training curriculum. Policy and procedure training will be provided during in- service training sessions. [41.2.3(c)]

<p>By Order of the Director  Date: April 13, 2015</p>
<p><b><i>Leroy Smith</i></b></p>
<p>Director  S C Department of Public Safety</p>
<p>The Original Signed Copy of this Policy is  on File in the Office Strategic Services,  Accreditation, Policy, and Inspections</p>