

June 12, 2015

Patrick County Sheriff's Office
Attn: FOIA Officer
742 Commerce
Stuart, Va 24171

Re: FOIA Request / Body Camera Equipment and Policy

Dear Attn: FOIA Officer:

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

Records Requested

Please provide copies of the following records:

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

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- c. purposes for which the data may be accessed;
 - d. purposes for which the data may not be accessed;
 - e. who may access the data, what procedures they must go through to obtain access, and who must authorize access; and
 - f. the existence of a system that records who accesses the data and when the data is accessed;
5. All policies, practices, procedures, rules, or orders concerning the sharing of data obtained through body cameras, including:
- a. what type of data¹ is shared;
 - b. what databases your agency puts collected body camera data into; and
 - c. third parties, governmental or private, that may access your agency's body camera data, including what procedures a third party must go through to access the data and any restrictions placed on a third party regarding further sharing of your body camera data;
6. All agreements to share body camera data with outside agencies or departments, corporations, or other entities; and
7. All training materials used to instruct members of your department or agency in body camera deployment, data management, or operation of automated records systems that contain body camera data to which any member of your department or agency has access, including regional or shared databases.

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


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

Sincerely,



Frank Knaack
Director, Public Policy and Communications

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

PATRICK COUNTY SHERIFF'S OFFICE POLICY MANUAL	
SUBJECT: Body Camera Policy	NUMBER: 2-46a
EFFECTIVE DATE: 4/01/2015	REVIEW DATE: annually
AMENDS/SUPERSEDES:	 APPROVED: _____ Daniel M. Smith, Sheriff
VLEPSC STANDARDS:	

NOTE

This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by the Patrick County Sheriff's Office, and then only in a nonjudicial administrative setting.

I. POLICY

The Body Worn Camera (BWC) will be utilized by deputies as an evidential aid to document any situation where the video recording of conduct or a crime scene may be useful in court, civil litigation, or the resolution of a citizen complaint. It will be used to its fullest extent to provide a fair and accurate representation of an incident. Video footage may also be utilized by supervisory personnel for reviews of deputy performance and as a training tool.

II. PURPOSE

To establish policy and procedures for the utilization of body worn cameras.

III. DEFINITION

- A. BWC- Body Worn Camera
- B. MVR- Mobile Video Recorder
- C. Recording Media- Storage device capable of capturing video images and audio

IV. PROCEDURES

A. Operation of Body Worn Camera Equipment.

1. Deputies will be issued Body Worn Camera equipment and given training on operation of the equipment. Deputies should familiarize themselves with this General Order.
2. At the beginning of each shift, the deputy shall inspect the BWC equipment and determine whether the equipment is functioning satisfactorily, that the time and date are correct, there is ample storage remaining on the BWC, and ample battery life on the BWC to complete the Deputy's shift. Any problem with the equipment initially, or at any time shall be brought to the attention of the Deputy's supervisor. The supervisor shall periodically inspect the BWC equipment of all officers on his watch to insure compliance of this general order.

B. Use of the Camera System

1. It is suggested the BWC system be powered on and in stand-by mode and ready for recording until the completion of the Deputy's shift. It is further suggested the BWC be activated on:
 - a) All traffic stops
 - b) All calls for service
 - c) Any other situation the deputy deems appropriate to give an accurate depiction of an event
2. The deputy shall ensure that the BWC equipment is worn on the duty belt in a front facing manner.
3. It is suggested the Deputy ensure that the BWC equipment is operating correctly and recording at the time of:
 - a) Arriving on scene for all calls for service
 - b) Traffic stops—beginning at point of a deputy initiating a traffic stop and continuing for the duration of the stop. Recording should be concluded as the violator drives away.
 - c) Vehicle searches
 - d) Suspected DUI—recommended when the Deputy exits his/her vehicle and approaches a suspected DUI concluding when the action is finished. If field sobriety tests are administered, where safety permits, the performance of the sobriety tests should be within view of the camera.
 - e) Interviewing of suspects/witnesses of a crime.
 - f) Any other law enforcement actions deemed necessary by the Deputy.

4. Once the system is recording, it is suggested it continue to record until the completion of the incident. The deputy may manually stop the recording at the completion of each incident.
5. It is further suggested the Deputy not cease the video/audio recording of an incident unless one of the following conditions exists.
 - a) The deputy receives an order from a supervisor to stop recording;
 - b) The deputy is directing traffic or assisting in some other type of traffic control;
 - c) The deputy is parked behind a disabled vehicle or waiting for a wrecker following an accident investigation;
 - d) The deputy is providing a funeral escort;
 - e) The deputy initiated the recording and no longer sees a legitimate purpose for documenting the activity because it was determined to be a civil issue.
 - f) When conditions make it unsafe or impossible to activate the camera.
6. In addition to the above, whenever possible, deputies should utilize their BWC equipment to record:
 - a) Any acts of hostility or violence when feasible;
 - b) Any confrontational citizen or violator contact;
 - c) The circumstances at a crime scene, accident scenes, or other events, such as the confiscation and documentation of evidence or contraband.
 - d) During the transportation of combative prisoners, juveniles, or members of the opposite sex of the deputy if the vehicle is not equipped with a MVR or the MVR is not working properly.
7. Deputies shall not do the following:
 - a) Attempting to erase or alter the video recordings.
 - b) Recording during strip searches or any bathroom encounters
 - c) Intentionally record other employees unless given authority to do so by supervision.
 - d) Record on informal, non-law enforcement related encounters with the public unless the encounter becomes adversarial.
8. Unauthorized use of BWC equipment or digital media may result in disciplinary action.

C. Care of Video Equipment

1. The Chief Deputy or his designee shall have overall responsibility for the BWC systems. The responsibility of storage of unknown evidential recordable media and evidential recordable media shall be assigned to the Chief Deputy or his designee. This individual(s) shall also be responsible for replacing BWC components, as needed, inspections of the BWC and scheduling training.
2. Deputies will report all malfunctions of the video equipment to the patrol Lieutenant or chief Deputy. The Patrol Lieutenant will notify the Chief Deputy so they can fix the malfunction or issue another BWC to the deputy

D. Media Download of Recordable media for BWC Equipment

1. The media download of the BWC will be the responsibility of the deputy. They shall only download their BWC to the designated computer located in the Sheriff's Office. This shall be done weekly or when the device is full, whichever comes first.
2. Deputies shall notify the Patrol Lieutenant or his designee in a timely manner if a video is needed for evidentiary reason. This shall be noted in the deputies IBR narrative.

E. Storage and Retrieval of Recordable Media when its value as evidence is not known

The recordable media will be downloaded and stored by the Chief Deputy or his designee for a period of three (3) months. At the end of the three (3) months the recordable media will be overwritten. If during this time period it is determined that the recordable media may be used as evidence it will be downloaded to a disk for court purposes.

F. Ownership, Custody and Control of Recorded Disk

1. It is the policy of this agency that the recordings generated by the body worn camera are the property of the Patrick County Sheriff's Office.
2. The recorded media is subject to continuing judicial review. The Commonwealth's Attorney will have a strong influence on the dissemination of digital media that contain evidential value.

G. Use of Recordings for Training Purposes

Periodically, the body worn cameras record events that may prove useful as training aids. Therefore, when these cameras record unusual, exceptional, or felony incidents and the incidents recorded are perceived to be of value as a training aid, the following procedures should apply:

1. Members are encouraged to bring to the attention of their supervisor any recordings they feel may be useful as a training aid.
2. Supervisors should arrange a time to view the recorded incident with the member responsible for generating the recording.
3. Upon viewing the recorded segment and upon reaching the conclusion that it is of value as a training aid, the supervisor will request the Sheriff or his designee to duplicate the segment for training.