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June 17, 2015

Mr. Frank Knaack  
American Civil Liberties Union of Virginia  
710 E. Franklin Street, Suite 1412  
Richmond, VA 23219

Dear Mr. Knaack:

This is to respond to your Freedom of Information Act request dated June 12, 2015, received by this Department June 16, 2015, pertaining to body-worn cameras utilized by police officers. The Haymarket Police Department utilizes lapel-style body-worn cameras.

Each question is responded to numerically, as posed:

- #1 – Attached. Policy memorandum dated 9/6/2013.
- #2—No specific policy exists; attached is the General Order regarding personnel complaints.
- #3 –No agency policy exists; practice is in accordance with the Virginia Records Retention Schedule GS-17.
- #4 – No policy exists; §2.2-3706, *Code of Virginia*, would generally apply.
- #5 – No specific policy exists.
- #6 – None.
- #7 – No such material exists.

If this does not satisfactorily fulfill your request, I may be contacted at (703) 753-2700, or [gsmith@townofhaymarket.org](mailto:gsmith@townofhaymarket.org).

There is no cost associated with this response.

Yours truly,

A handwritten signature in blue ink that reads "G. P. Smith".

G. P. Smith  
Interim Chief of Police

CC: Mr. Brian Henshaw, Town Manager  
Ms. Jen Preli, Town Clerk  
Ms. Donna Knupp, PD Administrative Assistant

September 6, 2013

To: All Officers

From: Chief Roop

Re: Use of Body Cameras

When you are on duty it is mandatory for you to wear and use the issued body cameras as these cameras are in their own way as important as your ballistic vests. At the end of your shift, or when the camera memory becomes full, you are to download the footage onto your pc or to a thumb drive and maintain the file until you are certain it will no longer be needed. If you have recorded footage of trivial things that can in no way come back on you then it is not necessary to keep that footage and you may erase it, however if there is even the slightest chance that something could come up where the footage may be the only thing standing between you and the unemployment line then by all means retain the footage as long as is necessary. The Body cameras are to be worn and used at all times during the course of your duty and remember they are for your protection as much as anyone else's should an issue come up regarding your performance of your duty. If there is a complaint against you and you did not have your body camera on and recording then you have nothing to back up your side of the story and no evidence to the contrary of the complainants side of the story.

**WEAR THE CAMERAS AND USE THEM!!**

Chief Roop

# TOWN OF HAYMARKET POLICE DEPARTMENT

## General Orders

Section: II

Subject:

Accreditation Standards:

**Disciplinary Action**  
(Pending)

Administration 2-21

Date: 11/19/14

Authorized by: GRS

**Purpose:** The purpose of this General Order is to establish procedures pertaining to the handling of complaints or allegations of misconduct against members and the administration of the Department's disciplinary system.

### I. Policy:

It shall be the policy of the Department to accept and investigate all complaints or allegations of misconduct, to include anonymous complaints, on the part of any member. In doing so, the Department will strive to be fair to both the complainants and the members involved. The Department will also strive to impose such disciplinary actions as deemed necessary in a fair and impartial manner and to provide adequate appeal procedures to ensure the rights of all members are protected.

- A. While encouraging the filing of legitimate complaints against members as a means by which the Department can be held accountable to the public, the Department simultaneously seeks to hold complainants responsible for filing false and malicious allegations against members. The Department will actively seek appropriate legal proceedings against complainants who file false and malicious complaints against members.
- B. The Department will maintain a supply of Citizen Complaint Information forms, accessible by the police station. Information on how to file a complaint will be made available at Town Hall.
- C. The provisions of the General order shall apply to sworn members of the Town of Haymarket Police Department. Non-sworn members shall be afforded the same procedural rights, except that the appellate rights for sworn member will be limited to the level of the Chief of Police and the Town disciplinary action appeal procedure (Personnel Policy §XIV-B).
- D. **Authority:**
  1. **Statutory Authority** – While the Town police force is not subject to §§9.1-501 through §9.1-507 (Law Enforcement Officers' Procedural Guarantees), the Town will look to those provisions for guidance.
  2. **Authority of the Chief of Police** – Final departmental disciplinary authority and responsibility rests with the Chief of Police. Disciplinary action of a demotion or greater requires the concurrence of the Town Manager.
  3. **Authority to Impose Emergency Suspension**
    - a. Departmental supervisors shall have the authority to impose emergency suspension (relief from duty) on a subordinate. An emergency suspension is justified any time it appears that a member's continued presence on the job is a substantial and immediate threat to the welfare of the Department or the public, or whenever the member refused to obey a direct order issued in conformance with the law or departmental directives. In such situations, the relieved member and the supervisor who imposed the emergency suspension shall report to the Chief of Police on the next business day at 10:00 a. m., unless otherwise directed. The Chief shall hear the suspended member and the supervisor who imposed the suspension and determine whether the suspension should continue. If the Chief decides that the suspension should continue, the Chief will place the suspended member on administrative leave with pay.
    - b. When a member is suspended thereunder (regardless of the period of time involved),

the suspended member's gun, badge, and police I. D. cards will be taken and held by the Department for the duration of the suspension. All suspensions, except those ordered as a disciplinary penalty after an investigation has been completed, will be with pay.

4. **Authority to Allow Informal Guidance** – Nothing contained in this General Order shall prohibit the giving of informal guidance, counseling, and/or remedial training to a member by a supervisor regarding minor infractions of departmental policy or procedures which do not result in formal disciplinary action.

## II. **Specific Categories of Misconduct.**

- A. **Crime** – A complaint regarding actions or omissions which may violate the criminal laws or ordinances of any county, city, town, state, or the United States, such as bribery, theft, perjury or narcotics violations.
- B. **Excessive Force** – A complaint regarding the threatened use or the use of excessive force against an individual or individuals which exceeds the force reasonably necessary under the circumstances to preserve peace and order, or to secure a suspect.
- C. **Unlawful or False Arrest** – A complaint that the arrest or restraint of an individual or their liberty was improper or legally unjustified.
- D. **Unlawful Entry** – A complaint that entry into a building or onto property was improper or illegal and/or that excessive force was used to gain entry.
- E. **Unlawful Search** – A complaint that the search of a person or their property was improper, illegal, or unjustified or in violation of established procedures.
- F. **Harassment** – A complaint that the taking, or method, of police action was predicated upon impermissible factors such as race, gender, sexual orientation, age, etc.
- G. **Improper Demeanor** – A complaint in which
  1. A member's bearing, gestures, language, or other conduct is prejudicial to the Department or brings the Department into disrepute, or
  2. A member's conduct or actions are offensive or of questionable social propriety, or
  3. A member's conduct constitutes a conflict of interest, misuse of influence, or a lack of jurisdiction or authority.
- H. **Other Violation** – A violation of any Department directive, General Order, or Town rule or regulation.

## III. **Specific Listing of Possible Consequences.**

To promote uniformity and fairness in the administration of disciplinary actions, supervisors delegated with authority to recommend discipline will conform to the general guidelines listed below.

- A. When a supervisor has identified job performance issues or deficiencies that should be addressed by a member, the supervisor may provide informal counseling, guidance, and/or remedial training as referenced in General Order 2-21 (I-D-4). Such issues may also be addressed in the member's performance evaluation. When these actions do not result in improved performance, or when the violation requires more serious discipline, the following is a specific listing of possible formal disciplinary consequences that may result. This list is not necessarily reflected in a specific, sequential order:
  1. Verbal Reprimand
  2. Written Reprimand
  3. Suspension or Disqualification from Off-Duty Details
  4. Suspension or Disqualification from Take-Home Vehicle Program
  5. Loss of Annual Leave
  6. Suspension without Pay
  7. Demotion
  8. Disciplinary Probation (may only be imposed in addition to a demotion or suspension)
    - a. Any such disciplinary probation will require monthly reports by the involved member's immediate supervisor.
    - b. Any subsequent disciplinary action incurred while the member is on disciplinary probation may result in termination. The probation period begins with the date of the disciplinary memorandum from the Chief of Police.
  9. Termination from Employment
  10. Criminal prosecution

#### **IV. Receiving Complaints.**

All allegations of misconduct by members shall be referred to a supervisor for initial action. Allegations will be handled in accordance with the following guidelines:

##### **A. Allegation Filed In Person by the Complainant.**

1. If the complainant files the complaint in person, the supervisor will request the complainant to fill out and sign a Citizen Complaint form. If the complainant needs assistance completing the Citizen Complaint form, the supervisor will assist as needed. If the complainant refuses to sign the form, then the complaint will still be taken and the refusal so noted. If the allegation involves a claim that a member used excessive force, the complainant will also be requested to sign a form authorizing the release of relevant medical records to the police department.
2. In addition to the aforementioned paperwork, the supervisor receiving the complaint will submit a written memorandum explaining their findings and opinions pertaining to their initial contact with the complainant.
3. The Citizen Complaint form, along with the memorandum, will be forwarded to the Chief of Police for follow-up action.
4. On receipt of the complaint paperwork, the Chief of Police will evaluate the complaint and take one of the following actions:
  - a. Endorse the case as needing no further action and state the reasons for this disposition.
  - b. Assign the case to be investigated further.

##### **B. Allegations Filed by Means of Telephone and Complainant Lives out of the Area.**

1. If the complaint is received by telephone and the complainant lives out of the area, the receiving supervisor will fill out a Citizen Complaint form. A notation will be made on Citizen Complaint form that the complaint was received by telephone. The Citizen Complaint form, along with a written memorandum from the receiving supervisor, will be forwarded to the Chief of Police.
2. On receipt of the complaint paperwork, the Chief of Police will evaluate the complaint and assign the case to be investigated further.

##### **C. Allegation Filed by Means of Telephone and the Complainant Lives in the Area.**

1. If the complaint is received by telephone and the complainant lives in the area, the receiving supervisor will take the information to complete a Citizen Complaint form and prepare a written memorandum pertaining to the complaint. The investigating supervisor will make every effort to have the complainant review and sign The Citizen Complaint form.
2. The complaint will then be handled as if it were received in person.

##### **D. Allegation Filed by Means of Mail.**

If the complaint is received by mail, the letter of complaint will be forwarded to the Chief of Police. The Chief of Police will evaluate the complaint and take one of the following actions:

1. If the Chief of Police feels the complaint fails to justify further action, he will compose a memorandum explaining the reasons he feels no further action is justified.
2. If the Chief of Police feels the complaint justifies additional investigation, he will assign the case for investigation.

##### **E. Allegation Filed Anonymously.**

If a complaint is received in which the complainant is unknown or wishes to remain anonymous, the receiving supervisor will fill out a Citizen Complaint form. A notation will be made on the Citizen Complaint form that the complainant is unknown. Under no circumstances will an anonymous complaint, without corroboration, be the basis for disciplinary action.

##### **F. Allegation by Department Member or Supervisor of Misconduct.**

1. On occasion the conduct giving rise to a complaint will arise solely from an alleged violation of a Department directive or Town rule or regulation, and a supervisor recommends that some form of action be taken. In these circumstances, no member of the general public is involved or is a complainant, but investigation and formal discipline may be called for.

2. In such cases, the complaining supervisor will write a memorandum that fully explains the circumstances of the complaint. The complaining supervisor will then forward the complaint to the Chief of Police for action in accordance with this General Order.
3. In those instances where any member has cause to file a complaint against any other member of the Department, the complaining member will submit a written memorandum fully explaining the circumstances of the complaint and attach any supporting information. The complaint will then be forwarded to the Chief of Police for action in accordance with this General Order.

G. Notification of Receipt.

The Chief of Police will send a verification letter to the complainant acknowledging the Department's receipt of the complaint.

V. **Investigating Complaints.**

When the Chief of Police determines further investigation of the initial complaint is called for, the following steps will be taken by the supervisor or investigator (hereafter referred to as "investigator") assigned to handle the complaint. Nothing in this policy shall prohibit the investigator from investigating any new allegations of misconduct that come to light in the course of the investigation.

- A. The investigator will attempt to thoroughly interview the complainant concerning the incident. This interview will be done in person unless circumstances prevent a personal interview (e.g. complainant lives out of the area, refuses to meet, etc.). The interview should be recorded, if possible. The investigator will determine exactly what wrongdoing the complainant believes the member committed.
- B. The investigator will notify the member involved, unless notification could jeopardize the investigation.
- C. The investigator will interview the involved member or interview the witnesses and gather any pertinent evidence prior to interviewing the involved member. (This step will be left to the discretion of the investigator).
- D. Interviews of members involved in the investigation will be controlled by the following guidelines:
  1. The interview shall take place at a reasonable time and place as designated by the investigator, preferably when the involved member is on-duty, unless circumstances dictate otherwise.
  2. Prior to questioning as part of an administrative investigation, the accused member will be directed to read and sign the Law Enforcement Officer's Procedural Guarantees form.
  3. If there is a reasonable likelihood criminal charges may arise out of the investigation, the member will be told the case is being handled as a criminal matter. The accused member will be given the "Miranda" Rights Waiver form by the law enforcement officer conducting the criminal investigation. If the accused member refuses to answer under these circumstances, the interview will be terminated. Investigating members shall consult superiors and the Commonwealth's Attorney's Office in any case where there is question as to the necessity for the "Miranda" warning.
  4. In most situations involving criminal misconduct, two law enforcement officers investigate the allegation(s). One member will be assigned to conduct the criminal investigation and the other member will be assigned to conduct the administrative investigation. Generally, any criminal allegations will be turned over to an outside agency. The member who is the subject of possible criminal investigation will be told prior to any questioning the roles of the investigation members. Members are not required to waive their rights protected by the United States Constitution in a criminal investigation. They will, however, be required to answer all questions during an administrative investigation. The member conducting the criminal investigation shall not be present for the administrative interview ; however, the administrative investigator may be present to observe the criminal interview, if circumstances permit.

- E. During the interview, the accused member has the following administrative rights and responsibilities:
1. The responsibility to answer fully and truthfully any questions pertaining to the matter under investigation, except to the extent of the protections afforded by the United States Constitution. Failure to answer questions both truthfully and fully (except to the extent of the protections afforded by the United States Constitution) will result in severe disciplinary action. This will be in addition to any other action that may be pending.
  2. Except as provided by Constitutional guarantee, a member does not have the right to refuse to answer any questions concerning their performance of duty or their adherence to applicable directives. They may be required to give both verbal and written statements at the discretion of the investigator.
  3. A member cannot be asked to disclose personal financial information unless such information is required by law or related to the investigation.
  4. The interview will be for a reasonable length of time, depending on the seriousness of the investigation.
  5. Unless the investigation is being conducted as a criminal matter, the member has no right to have an attorney present.
- F. All internal investigations shall be completed within thirty (30) days unless circumstances require an extension. Such an extension may be granted to the investigator by the Chief of Police upon presentation of proper justification.

#### VI. Completion of Complaint Investigations.

- A. Procedure for Handling Allegations When Notice of Charges is Not Placed.  
Upon completion of the investigation, the investigator will review all the evidence and statements. The investigator will determine if any General Orders or directives were violated. If the investigator concludes that the complaint warrants a finding which does not necessitate administrative charges – such as unfounded, exonerated, not sustained, or informal finding – the investigation and finding will be forwarded to the Chief of Police for review. The Chief of Police will indicate concurrence or disagreement with the investigative findings. If the Chief of Police disagrees with the investigator's findings AND determines that the allegation is sufficient enough to necessitate administrative charges, such charges will be executed in accordance with General Order 2-21 (VI- B-1).
- B. Procedure for Handling Allegations When Notice of Charges is Placed.
1. If the investigator concludes that a General Order or other directive was violated and that administrative charges should be placed, the investigator will first consult with the Chief of Police. If the Chief concurs, the involved member will be furnished with a completed Notice of Charges in the format recommended in §9.1-500. At this stage, the review by the Chief will remain cursory and preliminary. Upon receipt of the Notice of Charges form, the charged member shall have seven (7) full calendar days in which to respond, either verbally or in written form. The charged member may choose not to respond. No complaint investigation shall result in a Sustained finding, nor discipline recommended or imposed, without the execution of a Notice of Charges on the specific violation and an opportunity for the accused member to respond.
  2. The investigator will then make one of the following conclusions pertaining to the complaint:
    - a. **UNFOUNDED** - The allegation is false or otherwise not factually supported; or the complaint did not involve police personnel from this Department.
    - b. **EXONERATED** - The alleged act did occur, but was lawful and in accordance with Departmental policy. Exoneration is a finding that the act was justified and lawful.
    - c. **INFORMAL FINDING** - The alleged act did occur, but did not rise to the level of a formal policy violation such that discipline is needed to correct the behavior. Informal findings are usually accompanied by guidance, counseling, or remedial training, and by definition cannot result in formal disciplinary actions.
    - d. **NOT SUSTAINED** - There is insufficient evidence to prove or disprove the allegation.
    - e. **SUSTAINED** - There is sufficient evidence to justify a formal finding of wrongdoing

under a General Order, departmental directive, Town rule or ordinance, or other law.

3. The investigator will then forward all reports and statements concerning the complaint to the Chief of Police for action.
4. At this point the Chief of Police will make or affirm a finding and determine disciplinary action, if appropriate. At the time disciplinary action is proposed, the member being disciplined will note on the final complaint paperwork whether he or she concurs or wishes to appeal the decision. The proposed disciplinary action will be imposed and become final only upon ratification by the Chief of Police.
5. Disciplinary measures will adhere to the concept of progressive discipline. The severity of the specific conduct, the disciplinary history (and similarity to previous misconduct) of the member, and consistency with disciplinary action imposed for similar conduct within the Department, are all taken into consideration.
6. If the Chief of Police's proposed disciplinary action consists of a demotion, he must have the concurrence of the Town Manager prior to imposition. This will serve as a due process review only and will not influence any subsequent appeal before the manager.
6. If the Chief of Police's proposed disciplinary action is termination from employment, a suspension of more than three (3) days, or demotion, a non-probationary member is entitled to written notice of the intent to discipline, at which point the member has three days to request a *Loudermill* Hearing.
7. **Loudermill Hearing.**
  - a. *Loudermill* Hearings afford a non-probationary member the opportunity for notice of the charges and an opportunity to be heard before significant disciplinary action is imposed.
  - b. Disciplinary action consisting of a suspension of more than three (3) days, or demotion, will not be instituted against a non-probationary member without a hearing between the member and the Chief of Police, if requested by the member within three days of written notice of the intent to discipline.
    - i. The hearing will be recorded.
    - ii. The member has no right to legal representation at this hearing.
  - c. If after deliberation the Chief believes the proposed disciplinary action to be just and fair, it may be imposed.
  - d. Proposed disciplinary action consisting of termination will proceed according to section 9, below.
8. The findings of the Chief of Police, along with the discipline being imposed, will be conveyed in writing. The notice to the member will outline their right to appeal the decision of the Chief of Police to the Town Manager in accordance with section XIV-B of the Town Personnel Manual.
9. If the recommended disciplinary action is termination, the Chief of Police forwards his recommendation, in writing, to the Town Manager.
  - a. The Town Manager may offer an informal meeting prior to imposing the discipline.
    - i. The hearing will be recorded.
    - ii. The member has no right to legal representation at this hearing.
  - b. If after deliberation the Town Manager believes the proposed disciplinary action to be just and fair, it may be imposed.
  - c. At this point, the findings of the Town Manager will be conveyed, in writing, to the member and the Chief of Police. The notice to the member will outline their right to appeal the decision of the Town Manager in accordance with section XIV-B of the Town Personnel Manual. The Chief of Police will be responsible for carrying out the dismissal process.





June 12, 2015

Haymarket Police Department  
Attn: FOIA Officer  
15026 Washington St  
Haymarket, VA 20169

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 data<sup>1</sup> 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](mailto: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](mailto:fknaack@acluva.org) or (804) 523-2144.

Sincerely,



Frank Knaack  
Director, Public Policy and Communications

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<sup>1</sup> "Data" or "body camera data" means any data recorded by a body camera.