

	Simpsonville Police Department Chief Keith P. Grounsell			
	EFFECTIVE DATE January 1, 2016	AMENDS / RESCINDS NONE	POLICY 956	NO. PAGES 7
 Chief Keith P. Grounsell		SUBJECT: Body Worn Cameras		
REFERENCES: CALEA 41.3.8 (a,b,c,d,e,f,g); SC Code of Laws 23-1-240; SC Code of Laws 17-28-230; SC Code of Laws 17-1-40			RE-EVALUATION ANNUAL	

I. Purpose:

The purpose of this policy is to direct Officers and supervisors in the proper use and maintenance of **Body Worn Cameras (BWC)** as well as directing how video will be utilized as a quality control mechanism and as evidence. **(CALEA 41.3.8 a)**

II. Policy:

The policy of the Simpsonville Police Department is to provide officers with body worn video recording devices, hereafter referred to as Body Worn Cameras (BWC), in an effort to collect evidence to be used in the prosecution of those who violate the law, for officer evaluation and training, and to provide accurate documentation of law enforcement and citizen interactions. The use of a BWC system provides persuasive documentary evidence and helps defend against civil litigation and allegations of Officer misconduct. Officers assigned the use of these devices shall adhere to the operational objectives and protocols outlined herein, so as to maximize the effectiveness and utility of the BWC and the integrity of evidence and related video documentation. **(CALEA 41.3.8 c)**

III. Definitions: BWC- Body Worn Camera that records both audio and visual data.

IV. Confidentiality:

A. BWC recordings made by officers in the process of law enforcement situations may constitute evidence that should only be used in the course of a criminal investigation. These recordings may ultimately be introduced into evidence at a trial and are statutorily excluded from disclosure under the State Freedom of Information Act (FOIA). BWC recordings are NOT public record under FOIA. **(SC Code of Laws 23-1-240)**

- B. All recorded media, images, and audio are the property of the law enforcement agency utilizing the BWC and shall not be copied, released, or disseminated in any form or manner outside the parameters of this policy, or as required by law, without the expressed consent of the Chief of Police or his/her designee.
- C. Officers have permission to review their own BWC footage immediately following an investigation in order to ensure quality control and accuracy in report writing. These individual officers do not have permission to allow anyone else to view their video without the permission of their supervisor.
- D. Requests for a copy of a BWC recording may be honored only under the following circumstances:
 - a. In response to a valid court order.
 - b. When authorized by the prosecuting authority (i.e. Solicitor's Office), State Law Enforcement Division (SLED) or the Attorney General's Office for any legitimate criminal justice purpose.
 - c. 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.
 - d. Only the portion of the recording that applies to a specific incident shall be copied, unless otherwise directed by the prosecuting authority or a valid court order.
 - e. When authorized by the Chief of Police or his/her designee, if he/she feels it is an immediate need for the safety of the public or for another reason.
 - f. In addition to the above people that can request and must receive the BWC audio/video recordings, they following are also entitled to request and receive the same data pursuant to SC Rules of Criminal Procedure, the SC Rules of Civil Procedure, or a court order:
 - i. A person who is the subject of the recording;
 - ii. A criminal defendant if the recording is relevant to a pending criminal action;
 - iii. A civil litigation if the recording is relevant to a pending civil action;
 - iv. A person whose property has been seized or damaged in relation to, or is otherwise involved with, a crime to which the recording is related;
 - v. A parent or legal guardian of a minor or incapacitated person described (defined under SC Code of Law);
 - vi. An attorney for a person described above in this section.
 - vii. A law enforcement agency, the State Law Enforcement Division, the Attorney General, or a circuit solicitor may release data recorded by a BWC in its discretion.

- E. Requests to review a BWC recording shall meet the following conditions:
 - a. It must be authorized by the prosecuting authority or in response to a valid court order.
 - b. It must be authorized by the Chief of Police or his/her designee.
 - c. The officer meeting with the requesting party shall remain present for the video review, but shall not be compelled to answer questions outside a judicial setting. Only the portion of the recording related to the incident requested shall be reviewed.

V. Procedures:

It is the intent of this policy that all Officers who will be using BWC equipment shall be trained on the manner in which the BWC shall be tested, maintained, used and how the recorded events will be properly documented and maintained as evidence for future judicial proceedings.

A. Personnel Assigned BWCs

- a. All uniformed Officers must wear their issued BWC at all times while on duty working shift assignments or off-duty working in uniform.
- b. BWC will be worn on the front of the Officer's body in the mid to upper torso region.
- c. Officers assigned BWCs include, but are not limited to: Uniformed officers whose primary function is to answer calls for service and interact with the public, or officers who have a reasonable expectation that they will such as Patrol Division Officers, School Resource Officers (High School SROs) and Animal Control.
- d. The department shall have on-hand and maintain spare BWCs that can be signed out in the event of a damaged or broken BWC. These spares are also for Officers that have not been permanently assigned a BWC, but are working extra duty events in uniform where public contact is expected (*i.e. Command Staff members or Investigators working extra duty security at any location*). Investigators shall sign out a BWC or request a Uniformed Patrol Officer wearing a BWC to accompany them when searching for a subject or during a warrant service (*i.e. search or arrest warrant*).

B. Equipment

- a. BWCs issued and used under this procedure are intended for official use of the Simpsonville Police Department only and are not to be used for frivolous or personal activities. Intentional misuse or abuse of the units shall result in disciplinary action, up to and including termination.
- b. Only BWCs issued and approved by the Simpsonville Police Department shall be used. The wearing of personally owned video recorders is not authorized.

C. Supervisor's Responsibility

- a.** Supervisory personnel shall ensure that officers who are equipped with BWC devices utilize them in accordance with policy and procedures defined herein. **(CALEA 41.3.8 f)**
- b.** At least on a bi-monthly basis (every 60 days), supervisors shall randomly review BWC recordings to ensure that the equipment is operating properly, that officers are using the devices appropriately and in accordance with these procedures, and to identify any areas in which additional training or guidance is required. **(CALEA 41.3.8 g)**
It is the responsibility of the supervisor to document all employee reviews of BWC recordings to be able to show compliance.

 - i. Every review needs to be logged by the supervisor. The supervisor will log this review in the "Guardian Tracking database." Thus each officer should have at least one notation of review in any given (60) sixty-day period, commencing with the full implementation of this policy.
 - ii. Supervisors should use these reviews as a quality control measure. Following such a review, the supervisor will hold a meeting with the Officer and provide the Officer with either positive reinforcement or constructive criticism with respect to the video reviewed. Constructive criticism may relate to Officer safety issues, demeanor, policy issues or legal issues related to the stop as well as any other supervisory observation relative to performance. This shall also be documented in the Guarding Tracking database.
 - iii. If upon review, the supervisor finds that corrective action is necessary regarding an Officer's conduct, the Commanding Officer of the Uniformed Division or his/her designee, along with the officer's direct supervisor may take the necessary action. In such cases, a special BWC review schedule should be implemented with respect to that particular officer for a set duration in order to ensure compliance with the corrective action. All future reviews shall be set up and documented in the Guardian Tracking employee database.
 - iv. In cases of serious infractions, the Commanding Officer of the Uniformed Division or his/her designee shall forward all information regarding the incident to the Chief of Police for determination of the proper disciplinary action. In such cases, a special BWC review schedule shall be implemented with respect to the particular officer for a set duration in order to ensure compliance with the corrective action. All future reviews shall be set up and documented in the Guardian Tracking employee database.
- c.** If a complaint is associated with a recorded event, or an officer believes an incident may generate a complaint, the supervisor shall ensure the video is flagged for an extended retention period and, if necessary, restrict access to the video. **(CALEA 41.3.8 g)**

D. Inspection, Repairs, and Maintenance

- a. Officers shall inspect and test the BWC prior to each shift in order to verify proper functioning and shall notify their supervisor of any problems prior to using the BWC. This includes each Officer ensuring that the batteries of the BWC are fully charged prior to the beginning of their shift or special event.
- b. Any problems preventing the use of the unit during the shift shall be reported immediately by the officer to the on-duty shift supervisor.
- c. Problems that cannot be remedied shall be reported to the Officer's Supervisor.
- d. Any damage to a BWC shall be reported immediately by the officer to his supervisor. Damaged equipment shall not be utilized in the field until repairs have been completed and the equipment has been inspected. The department shall have on hand and maintain spare BWCs that can be signed out in the event of a damaged or broken BWC, or by Officers that have not been permanently assigned a BWC, but are working extra duty events in uniform where public contact is expected.
- e. Each BWC shall be inspected at least annually by the Uniform Patrol Commander and the results of the inspection shall be recorded in a log to be maintained by the Accreditation Manager. The following information shall be recorded on the log:
 - i. Make,
 - ii. Model,
 - iii. Serial Number,
 - iv. Date of Inspection, and
 - v. The name of the person performing the inspection.
- f. If problems are identified during an inspection, the following information shall be provided on the log:
 - i. The problem encountered,
 - ii. The corrective action taken,
 - iii. The date of re-inspection, and
 - iv. The name of the person performing the inspection. **(CALEA 41.3.8 e)**

E. Restrictions to Use- BWCs shall be used only in conjunction with official law enforcement duties. Absent prior authorization from the Chief of Police, the BWC shall not generally be used to record:

- a. Communications with other police personnel without the permission of the Chief of Police, or his/her designee
 - i. Excluding more than one police officer on the same scene wearing and recording with their BWCs;
- b. Encounters with undercover police officers or confidential informants;

- c. When on break or otherwise engaged in personal activities, unless for a direct law enforcement purpose such as a crime in progress or the recording of the location is material to a criminal investigation. Furthermore, officers should use discretion where there is a victim of rape or sexual assault.
- d. When medical treatment is being done officers should not record because of HIPPA laws; or
- e. In any location where individuals have a reasonable expectation of privacy, such as a restroom, locker room, hospitals, elementary or secondary schools, unless for a direct law enforcement purpose, such as a crime in progress or the location is material to a criminal investigation. Officers shall try to avoid recording of persons who are nude or when sensitive human areas are exposed.
- f. Civilians shall not be allowed to review the recordings at the scene.

F. Operations

- a. Officers shall activate the BWC to record all investigative or enforcement related contacts in the performance of their official duties. The following are some, but not all, of the actions that require an Officer to turn on their BWC:
 - (i) All calls for service (dispatched or self-initiated) in which citizen contact is made;
 - (ii) All traffic stops;
 - (iii) All citizen transports (excluding ride-alongs);
 - (iv) All investigatory stops;
 - (v) All foot pursuits;
 - (vi) When arriving at law enforcement events;
 - (vii) Citizen contacts initiated by other Officers;
 - (viii) Other incidents the officer reasonably believes should be recorded for law enforcement purposes;
 - (ix) All searches (excluding strip searches)
 - In the event that a strip search is being conducted, the officer must remove his/her camera and slowly do a 360 degree scan and place the camera into his/her pocket. The camera is still recording, but will only capture the audio. After the search, take the BWC out of the pocket and remount it in the proper place and continue recording;
 - (x) Inventory of money and/or property and
 - (xi) Follow-up investigations;
- b. The recording shall continue until the law enforcement event or citizen contact is completed and the citizen involved departs or until the Officer, who is recording the event through a BWC, discontinues his or her participation in the law enforcement event or citizen contact by leaving the scene.

- c. In the event an Officer deems it necessary to stop recording, he/she will make a verbal statement citing his/her intentions to stop the recording and his/her reason.
- d. Supervisors on the scene can order individual Officers to turn off their BWCs if the incident being investigated is completed and none of the above mandatory recording situations are occurring. In the event that the BWC is turned off and one of the above actions occur, the individual Officer must turn back on the BWC immediately.
- e. Officers may be required to inform individuals that they are being recorded in locations where individuals have a reasonable expectation of privacy, such as a residence, citizens may decline to be recorded unless the recording is being made pursuant to an arrest or search of the residence or the individuals, or a crime in progress. As a general rule, if an Officer would have to obtain permission to enter a residence or area, then the Officer shall inform the individual(s) that they are being recorded. The request to record and any response will be recorded and documented. Officers shall repeat the notification, if practical, for additional people that become involved in the recording. The BWC shall remain activated until the event is completed in order to ensure the integrity of the recording unless the contact moves into an area restricted by this policy.
 - (a) Officers are not obligated to inform any citizen that BWCs are being utilized. However, if a citizen asks if they are being recorded, all Officers should respond truthfully to the inquiry.
 - (b) Officers may inform citizens that they are being recorded to possibly defuse an escalating incident.
 - (c) When interviewing Victims and Witnesses to a crime, Officers using BWCs should obtain verbal consent before recording. If consent is not given the recording must stop.
- f. Officers shall continuously record all incidents and encounters with citizens using both the audio and video capabilities. The recording shall not be discontinued or interrupted until after the conclusion of the incident.
- g. If an Officer fails to activate the BWC, his/her equipment fails to record, fails to record the entire contact, or interrupts the recording, the Officer shall document why a recording was not made, was interrupted, or was terminated in the incident report. If the encounter did not result in an incident report, the documentation shall be made in the daily patrol log. In addition, the officer shall immediately notify the supervisor as to the reasons why the event was not recorded. In addition, the notification to the supervisor shall be in writing and shall be forwarded through the chain of command to the commanding officer of the division the officer is assigned.
- h. Officers shall note in an incident report when recordings were made during an incident in question. However, BWC recordings are not a replacement for written reports.

- i. Officers shall not stop recording an incident merely upon request by a member of the public, if they are lawfully in a public place and there is no expectation of privacy.
- j. Civilians shall not be allowed to review the recordings at the scene.
- k. The Officer shall be responsible for erasing files off the memory card once all the files have been copied/moved to the appropriate permanent storage location. **(CALEA 41.3.8 b)**

G. File Management

General

- a. Officers shall not edit, alter, erase, duplicate, copy, share or otherwise distribute in any manner BWC recordings without prior written authorization of the Chief of Police, or his designee. Video and audio files generated by BWCs can only be deleted by the Chief of Police, or his/her authorized designees.
- b. BWC recordings shall be stored in a data base for six months before being erased and recycled, unless marked by an officer with a case number for evidentiary purposes.

Access

- a. All access to BWC files must be specifically authorized by the Chief of Police or his/her designee. Authorized users are only those Officers who have been assigned a BWC and have been trained on the use of the BWC. Generally, Officers should not access other Officers' BWC files.
- b. Supervisors shall have access to BWC files of those Officers under his or her supervision. All access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes.
- c. If a complaint is associated with a recorded event, or an Officer believes an incident may generate a complaint, the supervisor shall ensure the video is flagged for indefinite retention and, if necessary, restrict access to the video.
- d. If an Officer is suspected of wrongdoing or involved in an officer-involved shooting or other serious use of force technique, the Simpsonville Police Department reserves the right to limit or restrict an Officer from viewing the video file.

Retention

- a. BWC files shall be maintained in accordance with State record retention laws.
- b. Recordings that are non-investigative, non-arrest, and are not part of any internal investigation shall be retained for ninety (90) days. If it becomes necessary to maintain any of these recordings beyond the ninety (90) day retention schedule, the reason for the extension shall be noted in the meta-data of the recording.

- c. Recordings for any violations/offenses listed in the S.C. Preservation of Evidence Act shall follow the retention requirements outlined in **S.C. Code 17-28-230**, the expungement statute of **S.C. Code 17-1-40**, or any other statute, regulation, or case law will follow the retention requirements outlined therein.
- d. Recordings that involve **General Sessions** offenses not listed in the S.C. Preservation of Evidence Act, and not part of an active appeal or post-conviction relief action, shall be retained for at least three (3) years. If it becomes necessary to maintain any of these recordings beyond the three (3) year retention schedule, the reason for the extension shall be noted in the meta-data or file name of the recording.
- e. Recordings that involve **Municipal Court** offenses not listed in the S.C. Preservation of Evidence Act shall be retained for at least three (3) years. If it becomes necessary to maintain any of these recordings beyond the three (3) year retention schedule, the reason for the extension shall be noted in the meta-data or file name of the recording.
- f. If a BWC recording is used in a disciplinary action against an employee, then the recording shall be held for a minimum of five (5) years from the completion of the disciplinary action.
- g. BWC files that are not evidence or otherwise flagged to be retained may be deleted by the Chief of Police or his/her designee after ninety (90) days
- h. Requests for deletion of portions of the recordings (i.e. in the event of a personal recording) must be submitted in writing and approved by the Chief of Police, or his/her designee and handled in accordance with State record retention laws. All requests and final decisions regarding such requests shall be kept on file by the law enforcement agency.
- i. BWC recordings containing information that may be of value for case prosecution or in any criminal or civil proceeding shall be copied to a DVD or other media and handled as other forms of evidence. A proper chain of custody will be maintained at all times.
- j. This media will be subject to the same restrictions and chain of evidence safeguards as detailed in the agency evidence control procedures.
- k. Media will not be released to another criminal justice agency for trial or other reasons without having a duplicate copy made and returned to safe evidence storage.
- l. All recording media, recorded images and audio recordings are the property of this agency. Dissemination outside the agency is strictly prohibited without specific authorization of the Chief of Police or his/her designee.

Storage

- a. All BWC video and audio files shall be securely downloaded at the end of the recording Officer's shift. Each video shall be identified by name to the assigned officer and include the date of recording.

- b. When an arrest has been made in which evidence exists from the BWC recording, the Officer shall make a copy of the BWC electronic file to be included with the case file and properly submitted to property & evidence for access by the prosecuting agency.
- c. When a BWC recording is being entered into the property and evidence (P&E) storage and management area of the agency the chain of custody log shall include, but need not be limited to:
 - i. Case tracking number
 - ii. Date recorded
 - iii. Date submitted
 - iv. Officer submitting the media
 - v. Hold for evidence indication (side note: Burn DVD for known evidence cases, can probably remove this bullet)
- d. Evidentiary tapes shall be marked with the corresponding report # and shall be forwarded to the evidence division for maintenance or custody until such time as the case in question reaches disposition.
- e. Where there is any indication that the BWC may contain evidence that may be helpful to a suspect's/defendant's defense, that recording must be saved and turned over to the prosecutor assigned to the case in accordance with the "Duty to Disclose" policy of this Office.
- f. When an officer makes a videotape or film recording of any transaction covered by this policy and a citation is issued or an arrest is made, the officer shall note on the uniform citation that a videotape has been made of the transaction **(CALEA 41.3.8 d)**

Training

- a. Police personnel who are assigned BWCs must complete an agency approved and/or provided training program to ensure proper use and operations. Additional training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.
- b. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
- c. Video recordings to be used as evidence shall not be used for training until the case is concluded. **(CALEA 41.3.8 f)**

Signature: _____ Date: _____