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June 17, 2015

By E-mail and First Class Mail

Mr. Frank Knaack
American Civil Liberties Union of Virginia
701 E. Franklin Street, Suite 1412
Richmond, Virginia 23219
fknaack@acluva.org

Re: Freedom of Information Request
Body Camera Equipment and Policy
Our File No.: 006738-090039

Dear Mr. Knaack:

This firm has been appointed to serve as City Attorney for the City of Hopewell, Virginia. I am writing in response to your request dated June 12, 2015, regarding the above-referenced matter. In accordance with subsection B of Virginia Code § 2.2-3704 (*[P]rocedure for requesting records and responding to request*), please find the document responsive to your request attached to this letter.

Please let us know if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric C. Howlett".

Eric C. Howlett

Enclosures

cc: Stefan M. Calos, Esquire (by e-mail)(w/o encls.)

Category:	Operations	Policy	#37
Subject:	Body Worn Cameras	Effective Date:	March 1,2015
Reference:		Review Date:	4/13/15
Amends-Supersedes		VLEPSC:	
Approved:	Luther Sodat, Sheriff		

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 this department, and then only in a non-judicial administrative setting.*

I. POLICY:

It shall be the policy of the Hopewell Sheriff's Office to utilize Body-Worn Camera (BWC) equipment to assist agency personnel in the performance of their duties by providing an accurate and unbiased recorded event of an incident. Additionally, to maximize effectiveness of the BWC and maintain integrity of evidence and related documentation, all personnel utilizing these devices will adhere to the procedures outlined within this policy. The wearing of a BWC by an assigned officer is mandatory and non-compliance with this order could result in disciplinary action.

II. PURPOSE:

The purpose of this policy is to provide guidance on the proper use of the Body-Worn Camera (BWC) and the proper storage of data retrieved by the use of this equipment.

III. DEFINITIONS:

Body-Worn Camera (BWC): A recording system that captures audio and video that is individually worn by officers and includes, at a minimum, a camera and recorder.

IV. PROCEDURES – BODY-WORN CAMERA SYSTEM:

Officers assigned a BWC shall don a fully-charged system prior to their tour of duty. In order to best capture that which is observed by an officer using a BWC, the camera should be located on the outer most garment, ie: shirt, jacket, vest. Officers shall activate the BWC whenever the Deputy determines there is a need to capture the event. This would include, but is not limited to, traffic stops, suspicious person contacts, potential volatile situations in or around the courts building. The BWC may also be activated whenever the officer feels its use would be beneficial to his/her official duties. Once the camera is activated to the "record" mode, it shall remain on until the event has concluded.

An officer who is lawfully present in an area protected by the Fourth Amendment shall activate the BWC when there is reasonable suspicion that a crime is being committed, has been committed, or is about to be committed, or that evidence of a crime is present. In the absence of such criteria, the officer must turn off the BWC if asked to do so by a person with apparent authority over the constitutionally-protected area. As a reminder, entry into a Fourth Amendment protected area requires probable cause and a warrant or warrant exception. (ex. Magistrates Office/Judges Chambers/Clerk of Courts Office/Medical Facility)

Inspections and maintenance of the BWC shall be the responsibility of the assigned officer. Only authorized personnel to whom a recording system is assigned may use, touch or handle that recording system. Unauthorized personnel shall not use, touch or handle any recording system.

V. DOCUMENTATION:

Officers will document the use of any video recording system in reports, citations, affidavits, field interviews, etc. Before writing reports involving the response to resistance, critical incidents, confessions or admissions, officers will review any video. Officers are encouraged to review available video while preparing written reports to ensure accuracy.

Note: The BWC records at a level beyond human ocular capability.

VI. RESTRICTIONS:

The following uses of Body worn recording systems are strictly prohibited:

1. Using a mobile video recording system to take a statement in lieu of a sworn written statement, unless approved by a supervisor.
2. Video-recording undercover officers or confidential informants.
3. Duplicating or distributing recordings for other than official law enforcement purposes.

4. Permitting citizens to review recordings for other than official law enforcement purposes.
5. Altering captured data.
6. Accessing recordings for other than case-related purposes, responses to resistance, formal or informal complaints, legal review, pursuant to established policy or as directed by the Sheriff or designee.
7. Making or creating, by separate device or otherwise, a copy of any recording except as directed by the Sheriff or designee.
8. Posting to social media sites without approval by the Sheriff.

VII. SYSTEM ADMINISTRATOR:

It will be the responsibility of each officer to download and safeguard any and all videos recorded by the officer. In the event the video has evidentiary value it will be entered into evidence via the Hopewell Police Departments Evidence Room.. The video will be made available by the officer if it is requested by a supervisor.

VIII. CONFIDENTIALITY:

All recording media, images, and audio are property of the Hopewell Sheriff's Office and will not be copied, released, or disseminated in any form or manner outside the parameters of this policy without the expressed written consent of the Sheriff or his designee. Under no circumstances will any employee of the Hopewell Sheriff's Office make a personal copy of any recorded event without prior written permission from the Sheriff or his designee.

IX. RETENTION:

The officer will maintain the video on file until it is determined that there is no further need of the video

X. VIDEO SHARING:

At times, officers will be asked permission to view video evidence that they have collected with outside agencies such as the Commonwealth Attorney's Office. Officers are permitted to share with the Commonwealth Attorney's Office as well as any Federal, State or Local agency that is in need of the video for a law enforcement purpose for a duration that satisfies that purpose. In the event that video evidence is provided via outside request the Sheriff must be notified. Additionally, officers are permitted to allow that evidence to be downloaded by the requesting agency for their law enforcement purpose if necessary. Any other request for video, either Evidentiary, Non-Evidentiary or Training/Demo, shall be approved in writing by the Sheriff or his designee prior to release.

XI. TRAINING:

Officers shall be trained and receive instruction prior to being assigned a BWC.