

# CITY OF ANDERSON POLICE DEPARTMENT

## Anderson, South Carolina

<b>DIRECTIVE TYPE</b> General Order	<b>EFFECTIVE DATE</b> January 12, 2018	<b>NUMBER</b> 1507.4
<b>SUBJECT</b> Wearable Video/Audio Recorders	<b>REVISED</b> December 14, 2015	
<b>REFERENCE</b> 1502	<b>AMENDS/SUPERSEDES</b> All Others	
<b>DISTRIBUTION</b> All Personnel	<b>RE-EVALUATION DATE</b> Annual	<b>NO. PAGES</b> 7

**I. Purpose:**

To establish rules and regulations for the use of officer worn video/audio recording devices and equipment issued by the City of Anderson Police Department; to set forth guidelines for the management, storage and retrieval of audio-visual media recorded by officer Wearable Video/Audio Recorders (WVAR).

**II. Policy:**

It is the policy of the Anderson City Police Department to issue and use video/audio recording equipment installed in Patrol Division vehicles, attached to and worn by Patrol Officers, and assigned to other Department officers for the purpose of collection of evidence which can be used for the prosecution of those in violation of local, state, and federal laws.

**III. Definitions:**

**Wearable Video/Audio Recorder:** An officer worn video/audio recording device utilizing a digital media format or other standard format that is provided by the City of Anderson Police Department.

**IV. Objectives:**

- A. To provide officers with additional methods of collecting evidence to offer into prosecution of those in violation of local, state, and federal laws.
- B. To increase officer safety.

- C. To decrease potential litigation against officers and the City of Anderson Police Department.

## V. Procedures:

- A. Equipment: WVAR's shall be used only in conjunction with official law enforcement duties. The WVARs shall not generally be used to record communications with other police personnel without the permission of the Chief of Police, encounters with undercover officers or confidential informants, 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, the officers should use discretion where there is a victim of rape or sexual assault. Additionally, to respect the dignity of others, unless articulable exigent circumstances exist, officers will try to avoid recording person(s) who are nude or when sensitive human areas are exposed.
  - 1. Officers will use only those WVAR issued and approved by the Department while on duty. The wearing or use of *personal* video/audio recorders while on duty is not authorized.
  - 2. All recording media, images, and audio are confidential and property of the City of Anderson Police Department and will not be copied, released, or disseminated in any form or manner outside the parameters of this policy, or for unofficial purposes, without the expressed written consent of the Chief of Police. Under no circumstances will any member of the City of Anderson Police Department make a *personal* copy of any recorded event without prior written permission of the Chief of Police.
  - 3. Each Patrol Division Officer will be assigned a WVAR. The City of Anderson Police Department IT Officer is responsible for assigning a WVAR to individual officers.
  - 4. The assignment of individual WVAR will be documented and a copy of the signed form will be maintained with the Department's IT Unit.
  - 5. WVAR will not be rotated at Patrol shift change and will remain the responsibility of each assigned officer.
  - 6. WVAR will be considered issued equipment until relinquished by the officer at the direction of the Patrol Division Lieutenant or Captain. All issued WVAR will be returned to the IT Officer. Officer will sign a "Returned/Receipt" form when WVAR is returned to the Department's IT Unit.
  - 7. Patrol Officers will ensure the security of the equipment by controlling access to the WVAR. This will be accomplished by maintaining possession of assigned equipment by the assigned officer.
  - 8. The use of specialized audio/video recording devices by Special Operations Division (SOD) to conduct official covert operations, investigations, and activity is not prohibited by this policy. The SOD Captain is responsible for purchasing and maintaining audio/video recording devices for SOD. The SOD Captain is also responsible for ensuring that all SOD personnel use assigned audio/video recorders and devices for official purposes and investigations only.

9. The use of specialized audio/video recording devices by Criminal Investigative Division (CID) to conduct official investigations, interviews, activities, and operations is not prohibited by this policy. The CID Captain is responsible for purchasing and maintaining audio/video devices for official use by personnel within CID.
10. The use of specialized audio/video recording devices by the Training Division to conduct training sessions or other related official purposes is not prohibited by this policy. The SOD Captain is responsible for purchasing and maintaining audio/video devices for official use by personnel within SOD.
11. The use of specialized audio/video recording devices by the Internal Affairs Unit (IAU) to conduct official investigations, interviews, and activities is not prohibited by this policy. The IAU Inspector is responsible for purchasing and maintaining audio/video devices for official use by IAU personnel.

B. Officer Responsibility:

1. Prior to the start of a Patrol shift, officers assigned a WVAR will ensure its readiness by conducting an operational inspection. Officers should check the WVAR battery at the beginning of their shift. Any problems preventing the use of the equipment during the shift will be reported to the shift supervisor immediately. Problems that cannot be remedied will be reported via email to the Patrol shift supervisor and IT Officer. Patrol Officer will return the WVAR to the IT Officer to correct malfunction as soon as practical.
2. When a uniformed officer arrives at a call for service or initiates any other law enforcement or investigative encounter between the officer and a member of the public, including but not limited the following
  - On scene of all violent crimes
  - Traffic stops
  - Motor vehicle accident investigation when the parties to the motor vehicle accident are present
  - Suspicious person(s)
  - Public drunk
  - Public disorderly conduct
  - Field contacts
  - Arrests
  - Emotionally disturbed person(s)
  - Weapons are present or alleged to be present
  - Use of force
  - Adversarial contact or a potentially adversarial contact
  - Counting of money
  - Searches of either vehicles or residences
  - Anderson Police K9 activity

3. Officers should provide preparatory narration with each video activation or usage, if time and situations allow.
4. Once recording begins, the WVAR will remain activated until the incident has been resolved. The recording should begin when the Patrol Officer reports to Central Dispatch that officer is on-scene. During traffic stops or motor vehicle accident investigations officers may deactivate the WVAR when returning to their vehicle to conduct appropriate motorist checks. The WVAR must be reactivated when the officer re-engages the motorist to complete the investigation or traffic stop. Secondary or back-up officers WVAR will remain activated until the incident has been resolved. The recording should begin when the Patrol Officer reports to Central Dispatch that officer is on-scene.
5. Officers will ensure that their WVAR is *turned off* once a traffic stop has been completed or an incident resolved. The recording should cease when the Patrol officer reports to Central Dispatch that the officer has resolved the CFS and/or completed the traffic stop/accident investigation.
6. On-duty officers are prohibited from covertly recording conversations or activity with other officers or personnel under any circumstances. (This does not prohibit more than one officer that responds to a location initiated by a call-for-service to record activity on-scene simultaneously).
7. All audio/video recordings will be saved by the officer assigned a WVAR to a designated hard drive at police headquarters for review as needed before the end of their shift. The IT officer will identify the specific hard drive where the audio/video recordings will be saved.
8. There is no obligation to obtain consent from victims or witnesses prior to using a WVAR during an interview. However, if asked about it's use, a LEO will be forthcoming about it's use. At that time the LEO will have discretion on whether to keep the WVAR on or turn it off. If the LEO discontinues the recording, the LEO must document the reason for discontinuation either on the WVAR or in a written report.
9. Recording of Juveniles and Release of Materials. Access to a person's juvenile crime records is much more restricted than access to adult crime records. Most juvenile crime records are confidential and access will be denied to the public and media. Access to juvenile records is usually only granted to certain persons and organizations such as: Local, state and federal law enforcement, Prosecutors, Court officials, Parents, The juvenile's attorney. Recordings that capture criminal activity involving juvenile offenders will not be released to media or the general public. No recordings of Juveniles captured through the use of the Department's BWC/MVR will be released to the public or the media; this includes but is not limited to images and voice recordings of Juvenile Victims and Juvenile Witnesses. School Resource Officers (SRO): Students are protected from release of records by the Family Educational Rights and Privacy Act. The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. SRO's that capture video and audio recordings of students during educational and extra-curricular school activities are subject to FERPA.

C. Supervisor's Responsibility:

1. It is incumbent on supervisors to ensure officers utilize WVAR according to policy guidelines.
2. Patrol Shift Supervisors, and/or designee of the Chief, will conduct weekly reviews of recordings in order to identify officers that perform their duties at the highest level of professionalism. Supervisors should recognize these officers during Roll Call training and flag videos that may be appropriate for training purposes.
3. If a complaint is associated with a recorded event, or an officer believes an incident may generate a complaint, the supervisor will flag the video for indefinite retention.

D. Video Evidence:

1. Videos that are to be copied for evidence are to be copied by the recording officer.
2. Once a criminal incident has been recorded, the recording will be saved on the server for the length of time needed for Court purposes. When a recording is needed for Court, the incident recording will be written to a DVD for evidentiary purposes. Officers are responsible for obtaining their DVD for court and testifying to the content.
3. Each DVD is assigned a case number to ensure accountability.
4. Officers shall follow City of Anderson Police Department General Orders 2601.2 (Receiving Property) and 2605 (Records to be Accurate) in handling of DVD's as evidence.
5. If a DVD is used as evidence, it should be held for 10 days to allow for an appeal after which it may be turned over to Support Services Division as use for a possible training tool.
6. Videotapes that are to be used for training purposes are to be copied by the training officer in Support Services Division.
7. Recorded DVD's will be held for a minimum of 30 days provided they are not needed for prosecutorial purposes.

E. Video Purge:

1. Recordings that are non-investigative, non-arrest, and are not part of any internal Investigation will be retained not less than thirty (30) days.
2. Recordings of any arrests or violations of offenses listed in the South Carolina Preservation of Evidence Act, S.C. Code 17-28-320

**SECTION 17-28-320.** Offenses for which evidence preserved; conditions and duration of preservation.

(A) A custodian of evidence must preserve all physical evidence and biological material related to the conviction or adjudication of a person for at least one of the following offenses:

(1) murder (Section 16-3-10);

- (2) killing by poison (Section 16-3-30);
- (3) killing by stabbing or thrusting (Section 16-3-40);
- (4) voluntary manslaughter (Section 16-3-50);
- (5) homicide by child abuse (Section 16-3-85(A)(1));
- (6) aiding and abetting a homicide by child abuse (Section 16-3-85(A)(2));
- (7) lynching in the first degree (Section 16-3-210);
- (8) killing in a duel (Section 16-3-430);
- (9) spousal sexual battery (Section 16-3-615);
- (10) criminal sexual conduct in the first degree (Section 16-3-652);
- (11) criminal sexual conduct in the second degree (Section 16-3-653);
- (12) criminal sexual conduct in the third degree (Section 16-3-654);
- (13) criminal sexual conduct with a minor (Section 16-3-655);
- (14) arson in the first degree resulting in death (Section 16-11-110(A));
- (15) burglary in the first degree for which the person is sentenced to ten years or more (Section 16-11-311(B));
- (16) armed robbery for which the person is sentenced to ten years or more (Section 16-11-330(A));
- (17) damaging or destroying a building, vehicle, or property by means of an explosive incendiary resulting in death (Section 16-11-540);
- (18) abuse or neglect of a vulnerable adult resulting in death (Section 43-35-85(F));
- (19) sexual misconduct with an inmate, patient, or offender (Section 44-23-1150);
- (20) unlawful removing or damaging of an airport facility or equipment resulting in death (Section 55-1-30 (3));
- (21) interference with traffic-control devices or railroad signs or signals resulting in death (Section 56-5-1030(B)(3));
- (22) driving a motor vehicle under the influence of alcohol or drugs resulting in death (Section 56-5-2945);
- (23) obstruction of railroad resulting in death (Section 58-17-4090); or
- (24) accessory before the fact (Section 16-1-40) to any offense enumerated in this subsection.

(B) The physical evidence and biological material must be preserved:

- (1) subject to a chain of custody as required by South Carolina law;
- (2) with sufficient documentation to locate the physical evidence and biological material; and
- (3) under conditions reasonably designed to preserve the forensic value of the physical evidence and biological material.

(C) The physical evidence and biological material must be preserved until the person is released from incarceration, dies while incarcerated, or is executed for the offense enumerated in subsection (A). However, if the person is convicted or adjudicated on a guilty or nolo contendere plea for the offense enumerated in subsection (A), the physical evidence and biological material must be preserved for seven years from the date of sentencing, or until the person is released from incarceration, dies while incarcerated, or is executed for the offense enumerated in subsection (A), whichever comes first.


HISTORY: 2008 Act No. 413, Section 2, eff January 1, 2009

Or the expungement statute of S.C. Code 17-1-40 or any other statute, regulation or case law will follow

the retention requirements outlines therein.

3. Data recorded by a WVAR is not public record subject to disclosure under the Freedom of Information Act:
  - i. The State Law Enforcement Division, the Attorney General and a Circuit Solicitor may request and must receive data recorded by a WVAR for any legitimate criminal justice purpose;
  - ii. A law enforcement agency, the State Law Enforcement Division, the Attorney General or a circuit solicitor may release data recorded by a WVAR in its discretion
  - iii. A law enforcement agency may request and must receive data recorded a WVAR if the recording is relevant to an internal investigation regarding misconduct or disciplinary action of a law enforcement officer.
  - iv. In addition to the person(s) who may request and must receive data recorded by a WVAR provided in item (ii), the following are also entitled to request and receive such data pursuant to the South Carolina Rules of Criminal Procedure, the South Carolina Rules of Civil Procedure or a court order;
    1. A person who is the subject of the recording
    2. A criminal defendant if the recording is relevant to a pending criminal action
    3. A civil litigant if the recording is relevant to a pending civil action
    4. 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
    5. A parent or legal guardian of a minor or incapacitated person described in sub item (1) or (2); and
    6. An attorney for a person described in sub items (1) through (5).

By order of:



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Jim Stewart, Chief of Police

1-12-18

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Date