A. Purpose

Pursuant to S.C. Code 23-1-240, the South Carolina Law Enforcement Training Council has established guidelines for law enforcement’s use of body worn cameras. As such, the purpose of this policy is to set forth those guidelines for the utilization, management, storage, and retrieval of audio-visual media recorded by Body Worn Cameras (BWC). The availability of BWC’s enhances documentation of police-public contacts, arrests, and critical incidents. They also augment officer reporting and testimony in court. Audio and video recordings also enhance this agency’s ability to review probable cause for arrest, officer and suspect interaction, and evidence for investigative and prosecutorial purposes and to provide additional information for officer evaluation and training. The BWC’s may also be useful in documenting crime and accident scenes or other events that include the confiscation and documentation of evidence or contraband. (CALEA 41.3.8.a)

B. Policy

BWC’s shall be utilized, based on availability, by all on-duty 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. BWCs are intended to assist Department personnel in the performance of their duties by providing an accurate and unbiased recorded account of an incident. Additionally, to maximize effectiveness of the BWC and maintain integrity of evidence and related documentation, all personnel shall adhere to the procedures outlined within this policy. (CALEA 41.3.8.a)
C. Confidentiality

All recorded media, images, and audio are property of the Medical University of South Carolina Department of Public Safety and will 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 Director of Public Safety or his designee. Under no circumstances will any member of the Department of Public Safety make a personal copy of any recorded event without prior written permission of the Director of Public Safety, or his designee.

D. Procedure

Equipment:

Department issued BWC’s are intended for official Departmental use only and are not to be used for frivolous or personal activities. Intentional misuse or abuse of the units will result in disciplinary action.

1. Officers will only use those BWC’s issued and approved by the Medical University of South Carolina Department of Public Safety. The wearing of personally owned video recorders is not authorized.

Officer Responsibility:

Prior to beginning a shift, uniformed officers assigned to the Patrol Division at the rank of Lieutenants and below are required, based on availability, to utilize a BWC in accordance with this policy and will ensure its readiness by conducting an operational inspection. (CALEA 41.3.8.e)

1. Any problems preventing the use of the unit during the shift will be reported to the on-duty shift supervisor immediately. (CALEA 41.3.8.e)

2. Problems that cannot be remedied will be reported to the Operations Support Commander via chain of command. (CALEA 41.3.8.e)

3. Any damage to a BWC shall be immediately reported to the Officer’s supervisor. Damaged equipment shall not be utilized in the field until repairs have been completed.

Operating Procedures:

1. Officers and Supervisors shall receive training on this policy and the use of BWCs prior to operating a BWC in the field. (CALEA 41.3.8.f)

2. If possible, officers should advise the person of the use of the BWC during situations involving non-arrests and non-investigative encounters. (CALEA 41.3.8.b)
3. During these types of encounters, once the BWC is activated it should remain on until the incident has reached a conclusion or the Officer leaves the scene. If the citizen objects to being recorded, the officer will note this on the video and end the recording. The intention to stop the recording will be noted by the Officer verbally on the BWC. (CALEA 41.3.8.b)

4. If, during a non-investigative encounter, an officer develops reasonable suspicion or probable cause of a crime, the officer will activate the BWC. (CALEA 41.3.8.b)

5. Circumstances may exist during these types of encounters, which would not otherwise require recording, that unexpectedly or rapidly become adversarial. In those situations, it may be unsafe, impractical or unreasonable for the operator to activate their BWC before taking police action. In these cases, it is expected that once the immediacy of the situation is over, operators will activate their BWC to record the remainder of the incident. (CALEA 41.3.8.b)

6. If there is probable cause or reasonable suspicion at the beginning of an encounter or incident, the officer will activate the BWC. (CALEA 41.3.8.b)

7. BWCs must be worn and activated when a uniformed officer arrives at a call for service or initiates any other law enforcement or investigative encounter between an officer and a member of the public, including, but not limited to: on the scene of all violent crimes; vehicle and pedestrian stops; foot pursuits; motor vehicle accident investigation when the parties to the motor vehicle accident are present; suspicious persons; public drunk; public disorderly conduct; field contacts; arrests; emotionally disturbed persons; weapons are present or alleged to be present; use of force; crowd control; an adversarial contact or a potentially adversarial contact, and; any time that enforcement action may be taken, or any other time deemed appropriate by the operating Officer. (CALEA 41.3.8.b)

8. Exceptions include situations that would risk the safety of confidential informants or where there is a victim of rape or sexual assault. (CALEA 41.3.8.b)

9. To respect the dignity of others, unless articulable exigent circumstances exist, Officers will try to avoid recording videos of persons who are nude or when sensitive human areas are exposed. The BWC’s shall not be used to record areas where a reasonable expectation of privacy exists, such as locker rooms, dressing rooms or restrooms. (CALEA 41.3.8.b)

10. Officer will avoid, when possible, recording people who are unrelated to the incident or to specific police purpose. Additionally, officers will take into full account HIPAA considerations when dealing with medical and psychiatric
patients. Officers should normally turn their camera off when at a medical facility and when medical staff is interviewing a subject. (**CALEA 41.3.8.b**)

11. Officers shall not record with BWC while in a patient care facility, unless the patient becomes adversarial with the officer. If so, the officer shall record for law enforcement purposes only, but not record any patient/doctor conversations; having discussions with attorneys, peer support counselors, or any other privileged communication. (**CALEA 41.3.8.b**)

12. Tactical activities such as building searches, searches for suspects, and building checks of alarms will be recorded. (**CALEA 41.3.8.b**)

13. Whenever a BWC is used in any incident, investigation or during a traffic stop, this fact will be documented on the citation (UTC), field interview card (FI), and/or report prepared for the case. (**CALEA 41.3.8.b**)

14. Once the situation has evolved beyond the immediate preliminary encounter and has stabilized, if it becomes necessary to discuss the specifics of the event, investigation, or case with another officer or supervisor in furtherance of the investigation, the officer will note this on the video and end the recording. The intention to stop the recording will be noted by the Officer verbally on the BWC. (**CALEA 41.3.8.b**)

15. Officers will upload video to a limited access server dedicated to the body cameras upon completion of their shift, or as soon as practical immediately following a significant event. (**CALEA 41.3.8.d**) All recordings will be properly labeled and identified for uploading utilizing the appropriate meta-data forms provided.

16. Officers will have access to review the recordings when preparing written reports or statements of events to help to ensure accuracy and consistency of accounts.

17. Officers will not have the ability to edit or erase any BWC recordings.

18. If there is a hearing or other disciplinary matter involving the officer, the officer will be allowed to review the BWC of the incident in question.

**Restrictions on the use of BWCs:**

1. BWCs shall be used only in conjunction with official law enforcement duties. The BWC shall not generally be used to record communications with other police personnel without the permission of the Director of Public Safety, 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. (CALEA 41.3.8.b)

Supervisor Responsibility:

1. It is incumbent on all supervisors to ensure officers utilize BWCs according to policy guidelines.

2. The Patrol Commander, Shift Lieutenants, and shift Sergeants will conduct documented monthly reviews of five (5) selected recordings in order to assess officer performance as well as flag videos that may be appropriate for training purposes. (CALEA 41.3.8.c., g.)

3. If a complaint is associated with a recorded event, or an officer believes an incident may generate a complaint, the supervisor will ensure the video is flagged for indefinite retention and, if necessary, restrict access to the video. (CALEA 41.3.8.c)

Video Evidence and Retention:

1. Videos needed by Officers for evidence in court may be requested through the BWC administrator (Information Resource consultant I), assistant administrator (Training Manager), or the two evidence custodians (Investigators). The reason for making the copy will be documented in the appropriate box in VIEVU client and a supplemental report will be written. (CALEA 41.3.8.c)

2. Recordings that are non-investigative, non-arrest, and are not part of any internal investigation will only be retained for fourteen (14) days. If it becomes necessary to maintain any of these recordings beyond the 14-day retention schedule the reason for the extended retention will be noted in the meta-data of the specific video. (CALEA 41.3.8.d)

3. Recordings for any violations/offenses listed in the S.C. Preservation of Evidence Act will follow the retention requirements outlined in S.C. Code 17-28-320, 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. (CALEA 41.3.8.d)

4. Recordings that involve General Sessions offenses not listed in the South Carolina Preservation of Evidence Act will be retained for ten (10) years. If it becomes necessary to maintain any of these recordings beyond the 10 year retention schedule, the reason for the extended retention will be noted in the meta-data of the specific video. (CALEA 41.3.8.d)
5. Recordings that involve Summary Court offenses not listed in the South Carolina Preservation of Evidence Act will be retained for four (4) years. If it becomes necessary to maintain any of these recordings beyond the 4 year retention schedule the reason for the extended retention will be noted in the meta-data of the specific video. (CALEA 41.3.8.d)

6. Data recorded by a body-worn camera is not a public record subject to disclosure under the Freedom of Information Act:

   a. The State Law Enforcement Division, the Attorney General, and a circuit solicitor may request and must receive data recorded by a body-worn camera for any legitimate criminal justice purpose;

   b. A law enforcement agency, the State Law Enforcement Division, the Attorney General, or a circuit solicitor may release data recorded by a body-worn camera in its discretion;

   c. A law enforcement agency may request and must receive data recorded by a body-worn camera if the recording is relevant to an internal investigation regarding misconduct or disciplinary action of a law enforcement officer;

   d. In addition to the persons who may request and must receive data recorded by a body-worn camera provided in item (2), 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:

      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 litigant 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 in sub item (1) or (2); and an attorney for a person described in sub items (1) through (5);
vi. videos requested through Discovery Motions, including Rule 5, will follow South Carolina State Statute and the department process for this release.