



DIVISION OF POLICE

DATE: April 30, 2020

TO: Chief of Police Calvin D. Williams

FROM: Inspector General Christopher Paul Viland, Esq., CIG®, #3700

SUBJECT: Review and Analysis of Current Division Wearable Camera System Policy for Compliance with Standards Set by the Ohio Collaborative Community-Police Advisory Board

Sir,

This memorandum has been prepared to serve informationally as guidance when determining whether current City of Cleveland, Division of Police (the Division) policy regarding wearable camera systems meets a standard that has been set and published by the Ohio Collaborative Community-Police Advisory Board (the Collaborative).

In 2016, the Collaborative established a standard regarding body worn camerasⁱ which has been published and is deemed a mandatory consideration for compliance with Collaborative review and assessment, should an Ohio law enforcement agency voluntarily enter into that process. The Division is currently not participating in that process.

In January of 2020, the Division published an updated policy for procedures and use of wearable camera systemsⁱⁱ. This was an update to a policy which had been reviewed in 2016 by the United States Department of Justice (the DOJ) under the auspices of a Settlement Agreementⁱⁱⁱ and was substantially similar in content^{iv}. That original policy had been thoroughly vetted and supported in general by the DOJ^v.

As a preliminary matter, it must be noted that compliance with Collaborative standards is not mandatory at this time. Additionally, current policy has been developed with stakeholder input and in cooperation with the DOJ as filed with the court, seeming to obviate any need to meet any other or unessential standards. Nonetheless, this review is being presented as part of a series of informational memoranda detailing compliance with various Ohio Collaborative standards.

In the alternative, this information may be utilized as needed by the Division in any instance where an explanation may be necessary in demonstrating where and why the Division's policy is or is not fully compliant with standards outside the scope of the considerations of the Division, its stakeholders, and the DOJ.

To restate, however, this memorandum is a review specifically of how current Division policy complies with standards promulgated by the Collaborative. It is **not** a review of best practices or recommendations for improvements to policy or procedure otherwise.

STANDARD 12.2016.04 Body Worn Cameras

The Collaborative standard has six separate requirements, as enumerated below and separately reviewed:

A written directive on body worn camera use shall include:

1. The purpose and organizational philosophy regarding use in support of the Ohio Collaborative guiding principles.
2. Requirements and restrictions for activation and deactivation of the device.
3. Criminal and administrative use of the camera captured data.
4. Data storage, retention, and disclosure requirements reflective of public records law and privacy concerns.
5. Requirements for a documented review of camera captured data.
6. Initial read and sign for users and supervisors.^{vi}

Guiding Principles: “Agencies utilizing body worn cameras must develop strong and consistent policies that provide guidance to their personnel as to the appropriate use of body worn cameras. Policies need to address, at a minimum, activation and deactivation, auditing, storage, retention, public records and releases video related to victims, especially child victims, injured victims, victims of sexual assault and other privacy concerns. It is recognized the audio and video data is viable recorded evidence that may provide a means of accountability for those officers and the public. It is also recognized the audio video data may not be an accurate reflection of all that is involved with an incident. Audio video data cannot reflect the human cognitive conditions associated with officer in public contact. Additionally, A/V shall not supersede the principles established by *Graham v. Connor*.”^{vii}

Provision 1 –

The Division’s current Wearable Camera System (WCS) policy contains a clear purpose statement, “To establish guidelines for use, management, storage, retrieval, and supervision regarding the Wearable Camera System (WCS), and to provide officers with clear guidance on the use of the WCS and preservation of recordings to foster transparency, increase accountability, build trust, and protect the privacy rights of individuals.”^{viii}

The Division has established a purpose statement and policy regarding wearable camera systems that in general are strong and consistent and address activation and deactivation, auditing, storage, retention, public records and release, privacy considerations and concerns, in support of Collaborative guiding principles. The Division’s purpose statement goes on to specifically address transparency, accountability, trust and privacy rights, also in support of

Collaborative principles. Additionally, the policy recognizes that camera captured data cannot replace thorough and accurate investigation and reporting^{ix}.

It is apparent that the Division has expressed its philosophy and purpose in the institution of its wearable camera system policy so that it is strong and consistent and supportive of Collaborative principles, and therefore in full compliance with this provision of the standard.

Provision 2 –

Division policy is detailed in regard to when officers shall activate the recording function^x, what circumstances or events are exempt from or prohibited from recording^{xi}, and when the recording function can be deactivated^{xii}. These procedures meet this provision of the Collaborative standard in great detail and are therefore in full compliance with this provision of the standard.

Provision 3 –

Division policy contemplates usage of camera captured data in criminal proceedings by providing detailed procedures for uploading and saving recordings to a proprietary, evidentiary database (Evidence.com®), categorized for use in traffic and criminal proceedings and cross referencing with record management system numbers^{xiii}.

Division policy contemplates usage of camera captured data administratively in separate ways. First, policy dictates how an officer has access to their own camera captured data, especially during an investigation by the Force Investigation Team^{xiv}. Additionally, camera captured data is downloaded and preserved in the Division's internal investigations software database and utilized administratively in investigations related to use of force incidents, injuries to officers, vehicle pursuits, motor vehicle collisions, and commendations^{xv}. And, finally, camera captured data is used in supervisory review to ensure overall compliance with policy and identify training needs^{xvi}.

The above considerations meet this provision of the Collaborative standard.

Provision 4 –

Division policy specifically identifies authorized data storage^{xvii} (Evidence.com®), retention periods^{xviii}, and access concerning public records law and privacy concerns^{xix}. These procedures meet this provision of the Collaborative standard.

Provision 5 –

Division policy details with extreme specificity how first line supervisors, Division Lieutenants and Division Captains are to review camera captured data, at what rates, and how these reviews are documented and reported^{xx}. These procedures meet this provision of the Collaborative standard, and are therefore in full compliance.

Provision 6 –

Division policy requires training specific to wearable camera systems prior to utilization^{xxi}. All new sworn police officers with the Division receive four hours of training (two hours in policy and two hours in operation) in the current wearable camera systems during their time in the academy^{xxii}. Training is presented by the Mobile Support Unit during academy sessions, and recruit signatures attesting to attendance at this training are maintained by the Training Unit.

These practices result in the Division being fully compliant with this Collaborative standard provision.

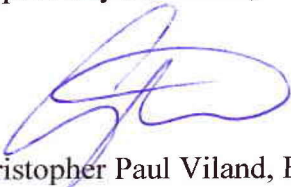
SUMMARY

The current Cleveland Division of Police General Police Order which provides for principles, policies, and specific procedures regarding wearable camera systems is substantially compliant with standard 12.2016.4, Body Worn Cameras, as published by the Ohio Collaborative Community-Police Advisory Board.

The Office of the Inspector General has no further comment or recommendations regarding this review.

[The Cleveland Police Monitoring Team has provided an independent review of Division wearable camera system policy compliance with the Settlement Agreement referenced above by motion in Federal district court.]

Respectfully submitted,



Christopher Paul Viland, Esq., CIG®
Inspector General, #3700
Cleveland Division of Police
Work Product Number 20009-R

cc: *via email only:* Deputy Chief J. O'Neill
Hon. Gregory White

ⁱ Ohio Collaborative Community-Police Advisory Board, Standard 12.2016.4 Body Worn Cameras, <https://www.ocjs.ohio.gov/ohiocollaborative/law-enforcement.html>, as downloaded 4-22-20.

ⁱⁱ City of Cleveland, Division of Police, General Police Order 4.06.04 Wearable Camera System, January 1, 2020.

ⁱⁱⁱ *United States of America v. City of Cleveland*, United States District Court, Northern District of Ohio, Eastern Division, 1:15 CV 01046, Settlement Agreement, June 12, 2015.

^{iv} *Compare*, General Police Order 4.06.04, *supra* note ii with *United States of America v. City of Cleveland*, United States District Court, Northern District of Ohio, Eastern Division 1:15 CV 01046, Motion Regarding Cleveland Division of Police Wearable Camera System Policy, December 19, 2016, Document 92, Page ID#1434, at Exhibit A. [Generalized listing of changes between 2016 and 2020 GPO 4.06.04: Added definitions; New prohibition to stopping recording when officer is subject of an incident; Stricter guidelines for camera placement/wear; Additional prohibitions on recording undercover vehicles and plain clothes/undercover personnel and procedures; Clarification to some uploading language; Reconfiguration, addition to and clarification of supervisory duties; Inclusion of new supervisory duties related to Blue Team; Addition of retention period for overdose incidents.]

^v *See, e.g.*, *U.S. v. Cleveland*, 1:15 CV 01046, Motion Regarding Cleveland Division of Police Wearable Camera System Policy, *supra* note iv.

^{vi} Ohio Collaborative Standard, *supra* note i.

^{vii} *Id.*

^{viii} Cleveland General Police Order, WCS, *supra* note ii, at pg. 1.

^{ix} *Id.* at Section I(E).

^x *Id.* at Section II(B).

^{xi} *Id.* at Section II(C & D).

^{xii} *Id.* at Section II(B)(4) & (C).

^{xiii} *See, e.g., Id.* at Section II(E).

^{xiv} *Id.* at Section I(H).

^{xv} *Id.* at Section IV(A).

^{xvi} *Id.* at Section V(A).

^{xvii} *Id.* at Sections II(E) & VIII(A).

^{xviii} *Id.* at Sections VIII(A) & X(B).

^{xix} *Id.* at Sections IX & II(C).

^{xx} *Id.* at Sections V & VI.

^{xxi} *Id.* at Section XI(A).

^{xxii} Information from Sgt. Ball, Mobile Support Unit and Sgt. Lam, Training Unit.