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VIA REGULAR AND ELECTRONIC MAIL

Chief Edward J. Googins
South Portland Police Department
30 Anthoine Street
South Portland, Maine 04106

RE: ***BWC/MVR Equipment Standard Operating Procedures***

Dear Chief Googins:

Recording equipment can be a valuable tool for improving police-community relations, but only when best practices are in place to ensure privacy and due process are protected. I am writing today to express our concerns about your Department's policy regarding body worn cameras (BWC) and mobile audio/video recording (MVR) equipment, and to offer suggestions for a policy that would more effectively build trust and accountability between your officers and the community they serve.

1. Objectives

Section III. A. identifies two objectives for the BWC/MVR policy. We agree with the identified objectives, but we notice that the goal of providing greater police transparency and accountability is not listed as one of the objectives. We believe that this should be included in the list.

2. Activation

Section III. C. 3. provides that "...officers shall activate and use the BWC and MVR equipment *during* response to and for the duration of any call for service..." This is unnecessarily ambiguous. The directive should require that officers activate and use the BWC/MVR equipment *at the inception* of any response, and for the duration of, any call for service. The same modification should be made to Section III. C. 5., so that it reads: "When officers are present without consent...recordings will be made of the incident *from its inception* until its conclusion."

Section III. C. 4. h. provides that BWC/MVR equipment shall generally not be used: “When specifically requested by a victim or witness being interviewed.” Because the request to terminate the recording should itself be recorded, this subsection should be amended to read: “When specifically requested by a victim or witness being interviewed *and such a request to terminate the use of the BWC is recorded by the BWC for verifiability purposes.*” This language should also be added to the end of subsection 4. i., so that it reads: “When specifically requested by an individual having a reasonable expectation of privacy in a location, such as a residence, when the officer’s contact or entry is based solely upon consent or permission, *and such a request to terminate the use of the BWC is recorded by the BWC for verifiability purposes.*”

Subsection III. C. 4. j. provides that the BWC/MVR equipment shall generally not be used: “When approved or directed by a supervisor.” This is vague, which creates opportunities for abuse. The policy should specify the criteria that a supervisor must utilize when deciding whether BWC/MVR recording is required.

3. Review

Section III. C. 9. encourages officers to review the recordings “to aid in preparing accurate written reports of events.” However, it also limits “civilian” access to the recordings, at the discretion of “supervisors.” At the outset, we wish to note that any police-civilian distinction is both false and harmful to the notion of community policing. Both the police and the “civilians” they work for are *citizens*. Apart from that, an officer’s report should reflect her recollection of the event. If the report simply details what the officer observes when reviewing the video, then the report will have no value whatsoever. Initial reports should be completed, and then an officer should review the video, at which point any correction, noted as such on the report, can be made.

4. Public access to BWC/MVR recordings

Section III. F. 3. should read: “Video capturing criminal incident information pertaining to an ongoing law enforcement investigation or prosecution shall not be publicly released if the release of the video is *highly* likely to jeopardize the investigation, prosecution, or safety of an individual...” The provision should also include this language: “*This subsection shall not apply where a suspect in the investigation is a police officer. Limited video redaction, to protect privacy – provided it does not prevent viewers from fully and accurately understanding the events captured on the video – shall be permitted.*”

In a similar vein, section III. F. 4. should be amended to read: “Recordings will not be released to other than bona fide criminal justice agencies without prior approval of the Chief of Police or designee, *however, videos should not be withhold from the public when they capture police uses of force or an interaction that is the subject of a police complaint.*” This subsection should make clear that recordings of use-of-force or questionable police

behavior are of the highest public importance, and should not be withheld from the public view.

We applaud your Department's efforts to increase transparency and accountability, and we thank you in advance for your consideration of these proposed changes. Please do not hesitate to contact me if I can be of further assistance in this matter or in any other matter.

Very truly yours,

/s/ Jamesa J. Drake

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