

Schoharie County Law Enforcement Review Committee (LERC)

January 12, 2021

Attendees: please see attached roster

Meeting called to order at 3:02 pm.

Chairman Federice – I understand the reluctance people have with coming to face-to-face meetings due to Covid-19. We researched using Zoom but it's very impractical and expensive for a municipality. IT may investigate getting a conference line open for all our meetings and maybe that can begin next week. That way people can ask real time questions. I would also like to solicit additional topics to discuss or delve more in depth into current topics. I expect we will continue to meet weekly through January and possibly February.

Mr. Lape – Mr. Baker emailed out Policy 401, Bias-Based Policing.

Inv. Baker – The Sheriff has signed off on this policy. We reviewed the “shall” and “should” and adjusted where feasible.

DCJS has completed their Implicit Bias Training and once it comes to Albany, we will take it and add it to our annual procedural justice training.

Discussion regarding the attached Bodycam Pull Request Form.

Inv. Baker – We can talk more about Bodycams next week. We still need to look at the taser policy and the handcuffing policy.

Pastor Ray – Discussion regarding the Village of Cobleskill Police Department's recommendations. I would like this group to talk more about collaborative mental health services and criminal issues related to mental health issues. This way they are working with the whole person – body, mind, and spirit.

Chairman Federice – Would like to look more into the Compliment or Complaint forms that was discussed at a previous meeting.

D.A. Susan Mallory – We need to discuss how to track racial bias. The courts already collect those statistics. The Sheriff would need to obtain that information from the 17 courts in the county somehow.

Inv. Baker – Could the Magistrates Association help with this?

Ms. Graulich – Perhaps Ms. Mallory and I could ask to attend a Magistrates Association meeting and discuss this. I will contact them.

Meeting adjourned at 3:50 pm.

Law/Radio/Law Review Meeting January 12, 2021 (Board Chambers)

	<u>NAME</u>	<u>PHONE NUMBER</u>	<u>AGENCY/DEPT/VISITOR</u>
1	Bill Federice	607-353-2110	Chairman of the Board
2	Bruce Baker	518-295-2266	Sheriff's Dept.
3	C.J. Smith	518-295-8300	BOS
4	Carl Walthers		SchoPeg
5	Dick Lape	518-231-3084	Chair of Law Committee
6	Duane Tilipaugh, Undersheriff	518-295-2230	Sheriff's Dept.
7	Pastor Ray Richards	518-234-2120	Committee member
8	Peter Harrison	917-449-4512	Rural Awakenings
9	Rebecca Terk		Village of Cobleskill
10	Scott Haverly/Jordan	518-295-8465	I.T. Director
11	Sgt. Zach Reinhart		
12	Sheriff Ron Stevens	518-295-2207	Sheriff's Dept.
13	Susan Mallory	518-295-2272	DA
14	Suzanne Graulich	518-295-8740	LDI
15	Albro Fancher		NYS Police
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Bias-Based Policing

401.1 PURPOSE AND SCOPE

This policy provides guidance to office members that affirms the Schoharie County Sheriff's Office's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the office's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach and partnerships).

401.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based policing - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement.

401.2 POLICY

The Schoharie County Sheriff's Office is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this office to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

401.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit a deputy from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

401.4 MEMBER RESPONSIBILITIES

Every member of this office shall perform his/her duties in a fair and objective manner. Members should, when reasonable to do so, intervene to prevent any bias-based actions by another member.

401.4.1 REASON FOR CONTACT

Deputies contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

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To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved deputy should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any deputy to document a contact that would not otherwise require reporting.

401.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

- (a) Supervisors should discuss any issues with the involved deputy and his/her supervisor in a timely manner.
 - 1. Supervisors should document these discussions, in the prescribed manner.
- (b) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (c) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this office who discloses information concerning bias-based policing.

401.6 TRAINING

Training on fair and objective policing and review of this policy should be conducted as directed by the Training Coordinator.



SCHOHARIE COUNTY SHERIFF'S OFFICE

BODYCAM PULL REQUEST FORM

CUSTODIAN USE ONLY

DATE OF REQUEST: _____

DATE OF PULL: _____

OF ITEMS VIDEOS: _____

DATE OF INCIDENT: _____

DEPUTY: _____ SHIELD: _____ BODYCAM NUMBER: _____

It is requested that the following item(s) of BODYCAM Video be downloaded and converted to a media for presentation to: District Attorney ___ Case File: ___ Member: ___

Outside Agency: ___ Agency/Member Name: _____

Foil Request: ___

INCIDENT TYPE: _____ SUBJECTS NAME: _____

ASSISTING DEPUTY(S): _____

Event Time & SJS Number	Court Date

Forward to: _____

I, _____ ACKNOWLEDGE THE RECEIPT OF THE ABOVE REQUEST AND HAVE PREPARED THE REQUESTED FILES ON THIS _____ DAY OF _____, 20__.

SIGNED: _____ DATE: _____

I, _____ ACKNOWLEDGE THE RECEIPT OF THE ABOVE ITEMS ON _____ FROM _____ SIGNED: _____

DISTRICT ATTORNEY REPRESENTATIVE

BODYCAM EVIDENCE DOWNLOADED AND PRESENTED TO THE SCHOHARIE COUNTY DISTRICT ATTORNEY IN ACCORDANCE WITH NYS CPL 245.20(2)

Portable Audio/Video Recorders

424.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this office while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand-held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Schoharie County Sheriff's Office facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

424.2 POLICY

The Schoharie County Sheriff's Office will provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Office by accurately capturing contacts between members of the Office and the public, to enhance Deputy and Investigator's safety and ability to document and review statements and actions for both internal reporting requirements and for courtroom presentation, to provide an impartial measurement for self-critique and field evaluation for new deputy training, to capture visual and audio information for use in current and future investigations and most importantly, to enhance the public trust by preserving factual representation of Deputy/ Investigator interactions with the public in the form of audio and video recordings.

424.3 COORDINATOR

The Sheriff or authorized designee(s) should designate a coordinator responsible for:

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
- (b) Establishing procedures for accessing data and recordings.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.

424.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any office-issued device at any time, and any recording made while acting in an official capacity of this office, regardless of ownership of the device it was made on, shall remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of recordings of a member conducting their official duties.

424.5 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder, issued by the Office, and that the recorder is in good working order. If the recorder is not in working order or if the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning

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device as soon as reasonably practicable. Members shall promptly report any lost, damaged or missing part of any recording system to their supervisor and will subsequently document such issue in memo form.

Any member assigned to a non-uniformed position should carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner.

Members shall document in any report or other official record of the contact, any instance where the recorder malfunctioned.. If a member deactivates the recording device for reasons other than routine and allowable reasons (i.e. report preparation, return to vehicle for information or other break from direct participation in the event), Members shall include the reason for de-activation.

424.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER

This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview situations.
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- (c) Self-initiated activity in which a deputy would normally notify Dispatch.
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Members will avoid recording a child victim of any sex offense. in the event that a report of a sexual offense is disclosed following a Deputy or Investigator initiating video recording, every effort should be made to discontinue the recording promptly.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable. The Office recognizes that there will be times when, due to the nature of law enforcement work, exigent circumstances prevent the member from activation the recording system. In such instances the reason for not activating the recording system shall be documented in any report of the incident.

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Recording systems will not generally be used to record courtroom testimony. This does not apply to members assigned as court security or to members engaged in transportation of inmates or arrested subjects to court appearances.

424.6.1 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until his/her direct participation in the incident is complete. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident. Any time the scene will be further documented by photographs and Evidence Technician(s) will be responding to do so (i.e. death investigations, burglaries, etc.) recording device may be deactivated upon the arrival of the investigator and/or evidence technician. Any such discontinuation of recording shall be documented in any report the member makes of the incident.

424.6.2 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER

New York law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission. Members may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

424.6.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

424.7 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using office-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in an official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with office-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Sheriff. Any member who uses a personally owned recorder for office-related activities shall comply with the provisions of this policy, including retention and release requirements, and shall notify their supervisor prior to such use..

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule. This does not preclude recordings from being used for training purposes.

Recording systems should not be intentionally used to record personal activities, if such a recording is inadvertently made it shall be the responsibility of the Office to ensure that those such portions of any recording not be released in any fashion either publicly or for courtroom purposes.

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Recording systems shall not be intentionally activated to record conversations of/with fellow employees without their knowledge during routine, non-law enforcement related activities.

424.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

Members should, at least once per shift, place the recording system into the docking station to allow the transfer of data onto the storage server.

To assist with identifying and preserving data and recordings, members shall complete a "Pull Request Form" for any incident in which recordings are routinely requested or produced (issuance of a UTT, Appearance Ticket or other arrest is made) and place the form in a designated file in accordance with current procedure and document the existence of the recording in any related case report.

A member should complete a "Pull Request Form" when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

A 710.30 Notice shall be prepared or the District Attorney's Office shall be notified if a member intends to use any of the defendant's recorded statements or actions as evidence against them.

424.9 RETENTION OF RECORDINGS

All recordings shall be retained for a period consistent with the requirements of the established records retention schedule but in no event for a period less than 180 days.

424.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

424.10 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

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Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing a member's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Office who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Sheriff or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Records Access Officer prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court (Public Officers Law § 89).