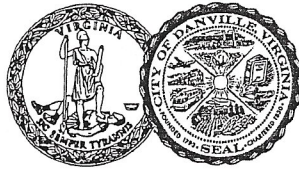


Commonwealth of Virginia



CITY OF DANVILLE

OFFICE OF THE COMMONWEALTH'S ATTORNEY

MICHAEL J. NEWMAN
Commonwealth's Attorney

Patricia S. Chaney
Director
Victim Witness Program

January 11, 2016

Alvin L. Sutherlin, Jr.
505 Jefferson Street, 1st Floor
Danville, Virginia 24541

Re: Sutherlin v. Smith et al
4:15CV00037

Dear Mr. Sutherlin:

This letter is in response to a subpoena *duces tecum* served upon the Danville Commonwealth Attorney's Office for certain documents. The subpoena is confusing at best. This Office does have Memorandums of Understanding with the Danville Police Department regarding disclosure of the types of records you seem to be requesting. These Memorandums do not permit this Office to disclose body worn camera (BWC) footage to anyone other than a defendant pursuant to the rules of discovery. As I understand it, you are the plaintiff in the matter for which the subpoena *duces tecum* was issued. Attached please find a copy of the Memorandums.

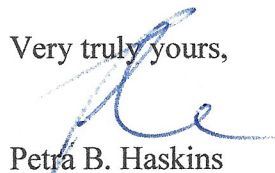
Having said that, I have checked with the Danville Police Department and they have the same video footage that is contained in our file regarding the offense for which you were criminally prosecuted. This Office would have no record regarding an officer's failure to activate his or her body worn camera. This Office would have no record regarding the failure of any body worn camera at the beginning or during an officer's shift. This Office does not have any information regarding any "written authorization to edit, alter, erase, duplicate, copy and/or share any BWC video and/or audio" beyond the written Memorandums discussed above.

The only videos contained in this Office's file relate directly to the September 25, 2013 incident for which you were prosecuted. This Office does not have video for any other criminal case involving 505 Jefferson Street and the three named individuals (Alvin L. Sutherlin, Michelle Owens and Brittney C. Logan) that I am aware of.

I would also add that these recordings you have requested have been provided to you through your criminal attorney in the context of the criminal discovery. One disc was provided containing BWC recordings on January 21, 2014 and a second disc was provided on February 18, 2014.

Thanking you in advance for your kind assistance and wishing you well, I remain,

Very truly yours,



Petra B. Haskins
Deputy Commonwealth Attorney

PBH/

Cc: J. Dudley, Clerk
P. Broadfoot
B. Gammon

UNITED STATES DISTRICT COURT
for the
Western District of Virginia

ALVIN L. SUTHERLIN, JR.,
Plaintiff
v.
Lieutenant J.W. Smith, et als

Civil Action No. 4:15CV00037

Defendant

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: The Danville Commonwealth Attorney Office, 341 MAIN STREET, #200, DANVILLE, VIRGINIA 24541

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material. Any and all body worn camera (BWC) video and/or audio, documentation from The Danville Police Department's records and/or Evidence.com. In accordance with the Memorandum of Understanding between the Danville Commonwealth Attorney Office and the Danville Police Department. Including, but not limited to any officers failure to activate his or hers BWC, failure of any BWC at the beginning or during their shift, any written authorization to edit, alter, erase, duplicate, copy and/or share any BWC video and/or audio from the following officers named: (SERGEANT H. S. RICHARDSON, OFFICER N.M. SLOVER, OFFICER M.C. PACE, OFFICER R.C. LANDRUM, OFFICER D.C. LANCASTER, OFFICER W.C. SHIVELY, OFFICER W.R. MERRILL, OFFICER J.D. DIXON, LIEUTENANT J. W. SMITH, OFFICER L. D. LAND, and/or CAPTAIN D. HALEY) in relating to any and all incidents at the location 505 Jefferson Street, Danville, Virginia 24541 on and after September 25th, 2013 involving Alvin L. Sutherlin Jr., Michelle Owens, and Brittney C. Logan.

Table with 2 columns: Place: 505 JEFFERSON ST, 1st, FLOOR DANVILLE, VIRGINIA 24541-2037; Date and Time: 01/11/2016 10:00pm

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place: ; Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/22/2015

Signature lines for Clerk of Court (with signature), OR, and Attorney's Signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) PLAINTIFF ALVIN L. SUTHERLIN, JR. (PRO SE), who issues or requests this subpoena, are: ALVIN L. SUTHERLIN, JR. (PRO SE), 505 JEFFERSON STREET, 1st, FLOOR, DANVILLE, VIRGINIA 24541-2037 (Sutherlin.jr@gmail.com), 434-728-2673

Notice to the person who issues or requests this subpoena
If this subpoena commands the production of documents, electronically stored information, or tangible things or the

inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:15CV00037

PROOF OF SERVICE
(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* *The Circuit Court Clerk's Office of Danville, Virginia,*

on *(date)*

I served the subpoena by delivering a copy to the named person as follows:

on *(date)*

; or

I returned the subpoena unexecuted because:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00

I declare under penalty of perjury that this information is true.

Date:

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding, entered into between the Danville Police Department and the Danville Commonwealth's Attorney Office, establishes the circumstances and conditions under which video, audio and information collected and maintained in selected databases pursuant to §17.2-1722 of the Code of Virginia by the Danville Police Department may be accessed by the Commonwealth's Attorney Office.

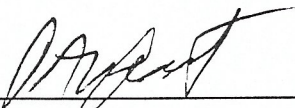
Direct access to selected police department video, audio, record and report databases by the Commonwealth's Attorney Office is critical to the efficient operation of the criminal justice system. To accomplish this, the Danville Police Department will grant selected members of the Danville Commonwealth's Attorney Office direct desktop inquiry access to selected video, audio and computerized record and report databases maintained by the police department.

Because of the raw, sensitive nature of the contents of the databases and the need to maintain the confidentiality and integrity of those databases, the Danville Commonwealth's Attorney Office agrees to the following restrictions:

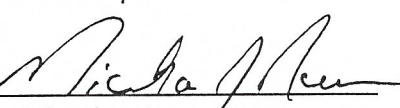
- Access to any video, audio or record or report database will be limited to personnel who have received appropriate training in the use of the databases and who have been granted direct inquiry access rights by both the Department of Information Technology and the Police Department.
- Any information accessed in the databases will only be used to support the investigation or prosecution of criminal cases.
- Except for information the Commonwealth's Attorney is required to disseminate to a defendant under the rules of discovery, no information accessed in the databases may be disseminated outside the Danville Commonwealth's Attorney Office without authorization of the Chief of Police.
- Periodic database audits will be conducted, as a function of accreditation and security requirements, to ensure compliance with these restrictions.

This Memorandum of Understanding is unending, but may be modified upon mutual agreement of both parties or terminated unilaterally by either party.

Date: 6-26-15

Signed: 
Philip A. Broadfoot
Chief of Police

Date: 6/26/15

Signed: 
Michael J. Newman
Commonwealth's Attorney

COPY

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding, entered into between the Danville Police Department and the Danville Commonwealth's Attorney's Office, establishes the circumstances and conditions under which computerized record and report information collected and maintained by the Danville Police Department may be accessed by the Commonwealth's Attorney's Office.

Direct access to the police department's record and report information by the Commonwealth's Attorney's Office is critical to the efficient operation of the criminal justice system. To accomplish this, the Danville Police Department will grant the Danville Commonwealth's Attorney's Office direct desktop inquiry access to the computerized criminal histories and incident report databases maintained by the police department.

Because of the complexity and sensitive nature of the information contained in the databases and the need to maintain its confidentiality, the Danville Commonwealth's Attorney's Office agrees to the following:

- Access will be limited to personnel who have received appropriate training in the use of the databases and who have been granted direct inquiry access rights by both the Department of Information Technology and the Police Department.
- Any information accessed will only be used to support the **investigation or prosecution of criminal cases.**
- No information accessed from the databases will be disseminated outside the Danville Commonwealth's Attorney's Office **except information the Commonwealth Attorney is required to disseminate to the defendant by the Rules of Court and the case law.**
- **No other information accessed from the databases will be disseminated outside the Danville Commonwealth's Attorney's Office** without authorization of the chief of police.
- Periodic audits will be conducted to ensure compliance with these restrictions.

This Memorandum of Understanding is unending, but may be modified upon mutual agreement of both parties or terminated unilaterally by either party.

Date: 1-11-10

Signed: 

Colonel Philip A. Broadfoot
Chief of Police

Date: 1/4/10

Signed: 

Michael James Newman
Commonwealth's Attorney