



MAINE STATE POLICE GENERAL ORDER

E-74

SUBJECT:

MAINE STATE POLICE POLICY REGARDING BODY WORN AND CRUISER MOUNTED RECORDING EQUIPMENT AND RECORDINGS THEREFROM

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I. PURPOSE

The purpose of this General Order is to establish the Maine State Police policy regarding body worn and cruiser mounted recording equipment and recordings therefrom.

It is important to understand that body worn or cruiser mounted recording equipment has limitations and the recordings may need to be analyzed to accurately understand the footage being observed. There are a number of factors where recording equipment footage may create perspective bias upon the review of such videos. These include but are not limited to, file compression, camera lens, angle, player and playback speed. For example, a Fisheye lens wide-angle panoramic field of view can distort perceived distances.

II. POLICY

A. The policy of the Maine State Police is to equip sworn officers whose primary duties include the routine patrol of Maine highways and roads, rural patrol, the Commercial Vehicle and Enforcement Unit (CVEU) to include civilian Motor Carrier Inspectors, Detectives in the Major Crimes Units and the Computer Crimes Unit with body worn and/or cruiser mounted recording equipment, which is to be used to create recordings for evidentiary purposes and as a source of information to inform civil, criminal, or administrative proceedings. BWRE will also be provided to other members upon their request, or their supervisor's request, with the approval of their commanding officer, if such equipment is available. **MLEAP 7.34-A**

B. The Maine State Police shall properly train members in the use of body worn and cruiser mounted recording equipment. **MLEAP 7.34-F.**

III. DEFINITIONS

For the purposes of this General Order, the terms included in this section are defined as follows, unless otherwise indicated in this order.

A. Cruiser. "Cruiser" means a Maine State Police vehicle used by sworn officers to routinely patrol the highways and roads of Maine.

B. Digital recording media. "Digital recording media" means a recording media used with digital recording equipment -- typically, a DVD, USB Flash Drive, or hard drive system whether cloud based or in the system.

C. Prosecuting authority. "Prosecuting authority" means a Maine District Attorney's Office, the Maine Office of the Attorney General, or the United States Attorney's Office.

D. Recording. "Recording" means a digital audio and/or video record of sounds and/or images.

E. Recording media. "Recording media" means the medium (typically a DVD, USB Flash Drive, or hard drive) on which a recording is stored.

F. Recording equipment. "Recording equipment" means equipment that may be used to create a digital audio and/or video recording.

G. CMRE. "CMRE" means cruiser mounted recording equipment to include the device and recording system.

H. BWRE. "BWRE" means body worn recording equipment to include the device and recording system.

I. System. "System" means both the body worn and cruiser mounted recording devices and their recording systems.

J. Event trigger. "Event trigger" means any input that causes the recording equipment to activate a recording. The system may have several event triggers to include but not limited to, activation of emergency lights, a "record" button, and automatic crash sensors built into the system.

IV. EQUIPMENT

A. INSTALLATION.

1. BWRE will be provided to sworn officers whose primary duties include the routine patrol of Maine highways and roads, rural patrol, the Commercial Vehicle and Enforcement Unit (CVEU) to include civilian Motor Carrier Inspectors, Detectives in the Major Crimes Units and the Computer Crimes Unit. BWRE will also be provided to other members upon their request, or their supervisor's request, with the approval of their commanding officer, if such equipment is available.

2. CMRE must be installed in the cruiser of sworn officers whose primary duties include the routine patrol of Maine highways and roads and or rural patrol.

a. CMRE must be installed so that it begins to record when the cruiser's emergency lights are activated.

b. CMRE must be capable of recording as soon as the boot up process is complete and must be set up to record throughout the officer's shift while the cruiser is on.

- c. CMRE must be set to record one minute of events prior to triggering event (video but not audio is preserved one minute prior to triggering event).
- B. INSPECTION. **MLEAP 7.34-E**
An officer whose equipment includes BWRE or CMRE shall inspect both the device and recording system at the beginning of each shift and report any malfunctions or problems to the officer's supervisor and the State Police Garage immediately.
- C. MAINTENANCE
An officer whose equipment includes BWRE and or CMRE shall routinely maintain the system to ensure it is in working order, to include taking reasonable steps to ensure keeping any battery charged and functioning throughout every shift.
- D. REPAIR
An officer who determines that BWRE or CMRE or any part of that system needs servicing, or repair shall arrange to have the equipment serviced / repaired AS SOON AS POSSIBLE.
- E. REQUIRED USE OF BWRE AND CMRE SYSTEMS
 - 1. An officer who is on duty, in uniform, and whose primary duties include the routine patrol of Maine highways and roads and or rural patrol shall wear the BWRE on their person. This includes even temporary assignments such as, for example, a Detective or a CVEU sworn member working a minimum shift.
 - a. BWRE shall be worn on the upper chest area, as high as practicable, in a manner that maximizes the BWRE's ability to record the officer's activities. Every attempt should be made to ensure the BWRE is not covered by outer garments or otherwise obstructed when in use.
 - b. Officers shall use BWRE in compliance with this policy. **MLEAP 7.34-B**
 - 2. All sworn members not included in E.1 (above) who are issued BWRE shall use the BWRE pursuant to their Unit's or

Specialty Teams' policy regarding the use of BWRE. The policy must in writing and approved by the appropriate Division Major. If the Unit policy requires the use of the BWRE the rest of this policy must be adhered to, unless the context clearly dictates otherwise. As examples: Detectives in the MCU's and the CCU, members in the CVEU, and members of Specialty teams shall follow their written policy regarding the use of BWRE. (see, section V, paragraph D, subparagraph 1)

3. An officer who is on duty, in uniform (Class B, C or D), and operating a cruiser equipped with CMRE system shall wear the audio microphone pack on their person and shall use the system in compliance with this policy, unless the officer is also issued and required to use and is using the BWRE.

4. An officer who is on duty and is equipped with both BWRE and CMRE shall take reasonable steps to ensure both are working in agreement with each other.

5. An officer who is equipped with BWRE and or CMRE shall be properly trained in the use of such equipment prior to using it.

6. An officer shall not alter agency established configuration settings on BWRE and or CMRE systems. Knowingly altering such configurations is grounds for disciplinary action, up to and including termination.

7. Training. BWRE may be used during training exercises with the approval of the Commanding Officer of the Training Unit. If training is conducted at the Troop / Unit level the BWRE may be used with the approval of the Troop / Unit Commander.

8. BWRE and CMRE shall remain active and in use when required by this policy throughout the event requiring their use notwithstanding a belief by the member that they will not be effective. For example, a member moves far enough away from their cruiser to believe they aren't in recording range – the equipment should remain active and not turned off.

9. An officer shall activate their issued BWRE and CMRE in accordance with this policy. ***Use of the BWRE or CMRE for any purpose other than in accordance with this policy is prohibited and grounds for disciplinary action, up to and including termination. Failing to use the BWRE or CMRE as required in this policy is grounds for disciplinary action up to and including termination.***

V. PROCEDURES FOR USING SYSTEM

A. GENERAL **MLEAP 7.34-B**

This policy is not intended to describe every possible situation in which the audio/video recording system may be used; however, as provided below, **there are many situations in which the system must be used.**

B. NOTICE. An officer using BWRE and or CMRE shall inform a person who asks if such equipment is being used that it is being used.

C. MANDATORY USE. The system **must be activated** in the following situations:

1. All field contacts, including, but not limited to, the following:
 - a. Vehicular pursuits;
 - b. Suspicious vehicles;
 - c. Arrests;
 - d. Transportation of arrestees or detainees (*see also* MSP GO E-112 (regarding transport of arrestees and detainees));
 - e. Pedestrian checks;
 - f. OUI investigations;
 - g. Consensual encounters;
 - h. Responding to an in-progress emergency call;
 - i. When ordered by a supervisor;

- j. Responding to a call where emergency privilege is invoked with the use of emergency equipment;
- k. Traffic enforcement;
- l. Mental health and welfare checks; or
- m. Anytime contact with an individual is made while investigating a call for service or a self-initiated encounter for the purposes of enforcing the law or investigating possible violations of the law.

2. All calls for service involving a crime where the recording may aid in the apprehension and/or prosecution of a suspect, including but not limited to, the following:

- a. Domestic violence calls;
- b. Disturbance of the peace calls;
- c. Offenses involving violence or a weapon;
- d. Report of a crime in progress;
- e. Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording, when it is safe to activate the BWRE or CMRE; or
- f. Any other circumstance in which an officer believes that a recording of an incident would be appropriate.

D. DISCRETIONARY USE. In addition to the situations in which the system must be used as described in this policy, officers may activate the system any time they believe use of the system would be appropriate or valuable to document an incident.

1. Specialty Teams and others with BWRE and or CMRE: The expectation is that the Commander of the Unit or Specialty Team will create a policy unique to that Unit or Specialty Team, to be approved by the appropriate Major, and members will comply with the Unit or Specialty Team policy.

2. Conduct unrelated to trigger event. Use of BWRE and or CMRE may cease if an officer is:

- a. Simply waiting for a tow truck or a family member to arrive at an incident scene or in other similar uneventful situations;
- b. Audio only (video recording shall continue) may be paused if engaged in conduct that is **not related** to the incident, including, but not limited to, engaging in a phone call with dispatch, engaging in a phone call or in-person conversation with another Trooper or Supervisor, or engaging in a personal phone call. Audio must be resumed once the non-related conduct has been completed;
- c. After the situation has terminated; or
- d. During the after-action review process.

3. Operational conduct. At the discretion of the officer or officer's supervisor, use of BWRE and or CMRE may cease or pause if the content of a conversation should be protected from being recorded because, for example but not limited to:

- a. Discussion of investigative strategies and tactics;
- b. Conferring on cases;
- c. Discussion of information regarding or furnished by confidential informants; or
- d. Conferring when making arrest decisions.

4. Victim contact. The use of BWRE and or CMRE may cease or pause when the officer is discussing victim safety planning, or the officer is speaking to a member of the public who is a victim whose interview would not normally be recorded. **MLEAP 7.34-B**

E. AUDIO or VIDEO USE. In some circumstances, capturing images of an incident is not possible due to environmental conditions or the location of the camera; however, the audio portion of a recording can be valuable evidence and is subject to the same activation requirements as the BWRE or the CMRE video system.

VI. RECORDING EQUIPMENT AND RECORDINGS

A. GENERAL OPERATION. Recording equipment must be used in accordance with the following standards, and digital recording equipment specifically also must be used in accordance with this policy.

B. DIGITAL RECORDING EQUIPMENT & RECORDING MEDIA

1. Recorded digital video images may be recovered from the digital recording equipment even when the images were not intentionally saved, but the ability to do so is not guaranteed.

a. This feature is often referred to as "record after the fact," or "RATF."

b. For example, if an officer is involved in a crash and did not activate their digital recording equipment to record, video still might be captured depending on the amount of available un-used space on the system hard drive; however, audio would not be captured.

2. The DVD-based ("DV-1"), USB-based ("4RE") and BWRE recording systems allow events to be "tagged" with a pre-defined category at the completion of a recorded event.

a. For DVD-based ("DV1") systems, users shall tag events with the category that most closely matches the type of event. Such tags allow an event to be located more easily on a DVD.

b. For USB-based ("4RE") systems and BWRE systems, users shall tag all events with the tag category that most closely matches the type of event.

i. Tagging events in this manner is very important, as the tagging defines the resolution in which the recording will be saved based on the Maine State Police-established configuration settings; doing so also populates a central database that allows the recordings to be categorized and searched.

- ii. When tagging an event with USB-based (“4RE”) systems, a user has the option to upgrade the resolution that the event will be saved in; that option may be utilized at users' discretion.

C. IDENTIFICATION OF RECORDINGS

For systems which do not export directly to cloud-based storage and except as otherwise provided in this policy, an officer shall ensure identification of recording media as follows:

1. An officer shall place, or cause to have placed, an adhesive label on recording media containing one or more recordings that lists the following information:

- a. The name, rank, and officer code of the officer whose recording equipment created the recordings;
- b. The Troop or Unit to which the officer is assigned;
- c. The case number of the incidents, accidents, crashes, or other official matters to which the recordings relate;
- d. Any other information that may be relevant to identifying a recording or recordings on the media.

2. IDENTIFICATION OF DIGITAL RECORDINGS other than CLOUD BASED

- a. FOR DVD-BASED (“DV1”) SYSTEMS: Before inserting the media into a cruiser's digital recording equipment, an officer shall write the following information with a permanent marker on a new DVD:

- i. The officer's name;
- ii. The officer's Troop; and
- iii. The recording start date.

- b. FOR USB-BASED (“4RE”) SYSTEMS: An officer shall ensure that the USB thumb drive that was issued with

the system is properly marked with the following information:

- i. The officer's name; and
- ii. The officer's Troop.

D. RETENTION OF RECORDING MEDIA - DVD SYSTEMS (“DV1” OR EQUIVALENT)

1. With respect to digital recording media specifically: A digital recording media must be finalized when the system indicates that the media’s memory is full. At such time, the officer shall remove the digital recording media from the cruiser's digital recording equipment and write with a permanent marker the recording end date on the media.
2. An officer shall log, or cause to be logged, each recording media at the Troop or Unit within five (5) days after the media has been finalized (in the case of a digital recording media) or reached its recording capacity.
3. Recording media must be stored at a single location at a Troop or Unit. This location must be designated by the Troop or Unit Commander.
4. A single log that accounts for each recording media must be maintained by each Troop and Unit, and the log must be continually updated and kept in a manner that allows for recording media to be searched for and located based on officer name and incident date information.
5. Digital recording media are **not** to be re-used.
6. Only Commanding Officers, Supervisors, or the Troop or Unit Administrative Assistant may remove a recording media from storage once it has been logged at a Troop or Unit. Appropriate documentation of such removal must be made in the Troop or Unit's log.

7. Troops and Units shall retain recording media containing recordings in accordance with the record retention schedule applicable to such media, after which time the media must be appropriately disposed of.

E. RETENTION OF RECORDING MEDIA - USB SYSTEMS (“4RE” OR EQUIVALENT) AND DIRECT TO CLOUD STORAGE MLEAP 7.34-D

1. If the display’s visual indicator indicates that more than eighty percent (80%) of the USB memory has been utilized there is a problem with your recording and or uploading system or you are outside of cell coverage:

As soon as practical, but not longer than two working shifts, the officer shall cause the recordings to be uploaded by returning to cell coverage or by notifying their supervisor and the Fleet Manager if coverage wasn’t the cause of failure, so that arrangements can be made to have the system repaired.

2. Recorded events must be uploaded to the evidence library.
3. Media currently saved on a local server: A storage library must be maintained by each Troop and Unit, and the library must be continually updated and kept in a manner that allows for recording media to be searched for and located based on officer name, event type, and incident date information.
4. Only Commanding Officers, Supervisors, and the Troop or Unit Administrative Assistant may access the complete library.
5. Quarterly the Commanding Officer or Supervisor shall conduct a random review of three (3) captured digital media events; each review shall be documented in a video/audio log.

6. Officers may only access their own recordings for the purpose of reviewing an event or making a recording.
7. Troops and units shall retain recording media containing recordings in accordance with the record retention schedule applicable to such media, after which time the media must be appropriately disposed of.
8. BWRE and CMRE that are uploaded directly to the cloud will be set to the proper retention schedule by your administrative team. If you want the record to be retained beyond the standard retention schedule you will need to manually change the retention period.

F. DISSEMINATION OF COPIES OF RECORDINGS

1. Recordings are to be disseminated in accordance with Maine State Police General Order MSP GO M-8, MAINE STATE POLICE POLICY REGARDING PUBLIC ACCESS TO MAINE STATE POLICE RECORDS, and this policy.
2. Under no circumstances shall any member destroy, give away, sell, discard, or damage any record or records in his or her charge, unless specifically authorized by law or as related to a record retention schedule.
3. Members shall not erase, edit, or alter any recording, storage media containing audiovisual recordings, or BWRE/CMRE hard drive without prior written authorization and approval of the Colonel or designee.

G. CUSTODY & CONTROL OF RECORDING MEDIA CONTAINING EVIDENCE TO BE USED IN CRIMINAL PROCEEDINGS

1. Discovery **MLEAP 7.34-C**
 - a. An officer shall make the prosecuting authority prosecuting a case in which one or more audio or video recordings were made, aware of the existence of such recordings.

- i. If the prosecuting authority asks to view a recording, the officer shall make a copy of the recording available.
- ii. One (1) copy of each such recordings shall be provided by the officer to a prosecuting authority with all other materials that are provided to the prosecuting authority through automatic discovery. The copies must be provided on a digital recording media, except as provided below.
- iii. If there is a memorandum of understanding (“MOU”) or other such agreement between a Troop or Unit and a prosecuting authority that permits recordings to be uploaded or a link to be emailed by officers of the Troop or Unit to a secure cloud-server to which the prosecuting authority also has access, then the recordings may be provided to that prosecuting authority in such manner, in accordance with the provisions of the MOU or agreement that is in place.

b. If an audio or video recording (or portion of a recording) is needed for a judicial proceeding, and the prosecuting authority wants to retain custody of the recording (or if the presiding Court is to retain custody of the recording after the recording has been entered into evidence), then the officer shall inquire with the prosecuting authority about whether the officer may provide a copy or link of the recording rather than the original version of the recording.

- i. If so, the officer shall arrange to provide a copy or a link of the recording to the prosecuting authority.

- ii. An officer shall provide an original version of an audio or video recording to a prosecuting authority only after receiving a **written** request from the prosecuting authority to do so.
- iii. The provision by an officer of an original version of an audio or video recording to a prosecuting authority must be documented in the case file by the officer who provided the original version of the requested recording to the prosecuting authority.
- iv. The return by a prosecuting authority of an original version of a recording to the Maine State Police must be documented in the file relating to the subject case.

H. CUSTODY & CONTROL OF RECORDING MEDIA CONTAINING RECORDINGS RELATING TO INCIDENTS OF SPECIAL SIGNIFICANCE

1. Death Investigations Conducted by the Attorney General's Office

a. The existence of a recording media containing a recording of an incident involving the death of a person caused by a member of the Maine State Police must be made known to the Department of the Attorney General as soon as the existence of the recording is known.

b. The original recording media must be retained by the Office of Professional Standards Commander.

(1) The Commander shall cause a duplicate of the recording on the media to be made for the Attorney General investigator if the investigator requests one.

(2) If recordings relating to other cases or incidents are contained on the recording media, the Commander

shall cause duplicate copies of those recordings to be made and returned to the officer. A notation that the recording is a duplicate must be placed on the identifying label affixed to the recording media.

2. Office of Professional Standards Investigations

a. The Commander of the Office of Professional Standards may take into her or his custody the original recording media of any incident that results in or relates to an Office of Professional Standards investigation.

b. If recordings relating to other cases or incidents are contained on the recording media, the Commander shall cause duplicate copies of those recordings to be made and returned to the officer.

c. A notation that the recording is a duplicate must be placed on the identifying label affixed to the recording media. **MLEAP 7.34- C**

3. Fatal Crashes

a. In the event a recording is made of a scene where a crash has occurred that resulted in the death of one or more individuals, a copy or a link of the recording must be forwarded to the Senior Accident Reconstructionist of the Maine State Police Traffic Unit.

b. Notwithstanding any other provisions of this policy, the Senior Accident Reconstructionist shall ensure that recording media containing such recordings are labeled and stored for a minimum of seven (7) years. At the end of that seven-year period the recording media may be disposed of in accordance with the record retention schedule applicable to such media.

NOTICE

THIS GENERAL ORDER IS FOR USE OF THE MAINE STATE POLICE AND NOT FOR ANY OTHER AGENCY. THE GENERAL ORDER IS NOT INTENDED TO BE RELIED UPON BY ANY OTHER INDIVIDUAL OR PRIVATE OR PUBLIC AGENCY. THE GENERAL ORDER EXPRESSLY DOES NOT CREATE, AND IS NOT INTENDED TO CREATE, A HIGHER LEGAL STANDARD OF SAFETY OR CARE IN AN EVIDENTIARY SENSE WITH RESPECT TO THIRD-PARTY CLAIMS. VIOLATIONS OF THIS ORDER ONLY MAY FORM THE BASIS FOR ADMINISTRATIVE SANCTIONS BY THE MAINE STATE POLICE.