




# DESCHUTES COUNTY SHERIFF'S OFFICE

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## I. PURPOSE AND OBJECTIVE

- A. The purpose of this policy is to establish and provide guidelines for the use, management, storage, and retrieval of audio-visual media recorded by in-vehicle and body-worn recording systems.
- B. The objectives for the Sheriff's Office Mobile Recording Equipment (MRE) program include:
  - 1. Enhancing the public trust by preserving factual representations of deputy interactions with the community in the form of video and audio recordings
  - 2. Promoting deputy safety
  - 3. Recording certain activities and creating a visual and audio record to supplement a deputy's report
  - 4. Enhancing the deputy's ability to document and review statements and actions for accuracy and consistency for both internal reporting requirements and courtroom preparation and presentation
  - 5. Preserving visual and audio information for use in current and future investigations
  - 6. Providing an impartial measurement for self-critique and field evaluation during deputy training
- C. Recordings will only be used for official Sheriff's Office business. The camera equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the Sheriff's Office. Per ORS 133.741, our office will not allow the use of facial recognition or biometric matching to analyze recorded data, except pursuant to court order.

## II. POLICY

- A. Applies to all members, except those working certain investigations where covert recording with body-worn cameras is necessary. For those cases, staff will follow ORS 133.726 and current case law.
- B. It is the policy of the Deschutes County Sheriff's Office to use in-vehicle and body-worn mobile video and audio recording equipment (MRE) when such equipment is installed in Sheriff's Office vehicles or made available by the office to wear as part of the deputy's uniform or approved work attire.

- C. MRE video provides additional information regarding an investigation or enforcement contact with a member of the public. MRE recordings, however, provide a limited perspective of the encounter and must be considered with all other available evidence, such as witness statements, deputy interviews, forensic analysis and documentary evidence when evaluating the appropriateness of an individual's actions. Our office recognizes that video evidence has the following limitations:
1. MRE cameras may capture something that the wearer of the camera cannot see. Conversely, there may be a viewpoint or occurrence that the wearer sees or observes that the camera does not capture.
  2. The focal point of the camera may not be the focal point of the person wearing the camera.
  3. MRE video cannot capture the tactile responses that a deputy may feel or sense, such as a subject tensing their muscles or body or shifting their body weight or the sounds or smells observed during an encounter.
  4. Due to technological and environmental factors, MRE may, in some circumstances record more than a human eye can see, while in other circumstances, it may record less.
  5. MRE video may be slowed down and viewed frame by frame, but this is never how the wearer of the MRE would have perceived or experienced the situation.
  6. MRE recordings cannot capture the physiological or psychological phenomena that a person may experience during a high stress situation. The camera will not experience "tunnel vision", auditory exclusion, or other physiological reactions.
  7. File compression algorithms used by virtually all digital cameras will drop frames, interlace frames, or otherwise alter the video so that the viewer is not seeing everything that is actually captured by the camera. These compression algorithms can also result in the video track not being in alignment with the audio track, which is recorded separately and is not compressed.

### III. INITIAL TRAINING REQUIRED PRIOR TO ISSUANCE

Mobile Recording Equipment will be issued primarily to uniformed deputies who have received initial training on proper use and maintenance.

- A. Only deputies who have completed mandatory initial training are authorized to be issued or use MRE. They must familiarize themselves with the recording system and Sheriff's Office procedures prior to its use.
- B. Updated training may be required at periodic intervals to ensure the continued effective use and operation of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policy and equipment.

### IV. DEPUTY RESPONSIBILITIES

- A. Deputies with issued MRE shall properly equip themselves to record video and audio in the field consistent with the law, DCSO policy, and training.
  1. Care and maintenance of the MRE is the responsibility of the individual deputy it is issued to and will be used with reasonable care.
  2. Deputies who are assigned MRE must use the equipment unless otherwise authorized by supervisory personnel.
  3. Deputies shall test and use the equipment according to manufacturer guidelines and testing procedures.
  4. Deputies shall inspect and test the MRE prior to each shift in order to verify proper functioning. This includes ensuring the configuration of equipment on a load-bearing vest does not block or impede the camera lens, etc. Deputies shall report any issues, including insufficient recording media, to their supervisor immediately.
  5. **Deputies shall only use MRE issued by the Sheriff's Office unless otherwise authorized by the Sheriff.**
  6. Any unauthorized use of MRE, MRE data, or other violation of any part of this policy,

will be subject to disciplinary action.

## **V. REQUIRED ACTIVATION**

- A. Per ORS 133.741, deputies will record continuously beginning when the deputy develops reasonable suspicion or probable cause to believe that a crime or violation has occurred, is occurring or will occur and the deputy begins to make contact with the persons suspected of committing the offense. Recordings will cease no sooner than the termination of the deputy's participation in the contact.
- B. Deputies will activate MRE to record all public demand, community initiated, and self-initiated calls for service involving contact with community members. These include but are not limited to traffic stops, field interviews, searches and community policing contacts.
1. Deputies may also record any other legitimate law enforcement contact where the deputy believes it would be appropriate or valuable to document an incident, taking into account reasonable privacy expectations of those involved with the contact.
  2. At the beginning of any encounter, or as soon as reasonable, deputies will verbally advise any person they are communicating with during a call that the conversation is being recorded. (Deputies will make note in their report, or if no report then on the Mobile Data Terminal (MDT), the reason(s) an announcement was not possible).
  3. Per ORS 133.402, custodial interviews conducted with a person under 18 years of age in connection with an investigation into a misdemeanor or a felony, or an allegation that the person being interviewed committed an act that, if committed by an adult, would constitute a misdemeanor or a felony shall be recorded.
  4. MRE activation in school environments should only occur in relation to criminal investigations. Routine or otherwise day-to-day contacts that are administrative in nature are not to be recorded.
  5. Deputies should obtain consent prior to recording interviews with crime victims in recognition of privacy concerns of those who are to be interviewed.
  6. MRE will remain activated until the event is completed in order to ensure the integrity of the recording, unless the contact moves into an area restricted by this policy.
  7. The MRE may not be used to intimidate any person or to discourage them from observing law enforcement activity, making appropriate law enforcement inquiries, or lodging a complaint.
  8. Deputies shall document the existence of related recordings in their incident, arrest, and related reports. However, MRE recordings are not a replacement for written reports.
  9. Deputies do not have the ability to edit, alter, or erase MRE recordings. Deputies shall not attempt to edit, alter or erase MRE recordings or destroy an MRE recording device.
  10. Deputies will not duplicate, copy, share, or otherwise distribute MRE recordings in any manner without prior written authorization and approval of a Captain.
  11. Deputies are encouraged to inform their supervisor of any recordings that may be of value for training purposes.
- C. **Exceptions.** In the following circumstances, deputies have the discretion to refrain from audio and video recording their contacts (ORS 133.741)
1. In locations where individuals have a reasonable expectation of privacy, such as a hospital, locker room, or mental health facility.

2. In limited circumstances where the respect for an individual's privacy or dignity outweighs the need to record an event (e.g., a victim traumatized following a violent assault or a death notification to a family).
3. Lethality Screening, advocacy calls and child interviews (e.g. Saving Grace, Kids Center) will not be recorded. Once a decision has been made, the call has ended or the interview has concluded, recording should resume.
4. When requested, and/or if the deputy believes use of a MRE would impede or limit the cooperation of a suspect, victim or witness during an investigative contact in their public safety response, the MRE may be deactivated. The deputy will consider the importance of the information gained against the value of having a recorded statement.
5. Upon encountering exigent situations requiring immediate action where it is either unsafe or impractical for a deputy to immediately activate MRE, deputies shall activate the camera at the first available opportunity when the immediate threat has been addressed.
6. To protect the privacy or the safety of deputies or others (such as a confidential reliable informant, a crime victim, or undercover personnel).
7. In situations not involving self-initiated or public calls for service, deputies have discretion on whether to activate MRE during consensual contacts of a non-criminal nature.
8. MRE, including body-worn cameras, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.
9. **Deputies must document on the MRE recording when possible, and in written reports, the date, time, and any reason for not recording.**

## **VI. PROHIBITED RECORDINGS IN THE WORKPLACE**

- A. MRE will not be used to record non-enforcement related activity in the workplace.
- B. Recordings will not be made of conversations with other law enforcement personnel that involve case tactics or strategy.
- C. MRE shall not be intentionally activated to record fellow employees during routine non-enforcement related activities without their knowledge or during rest or break periods, or in locker rooms, dressing rooms, restrooms, or designated break areas unless an active investigation is underway.
- D. Requests for deletion of accidental recordings (e.g., in the event of a personal or accidental recording) must be submitted in writing and approved by the Patrol Captain in accordance with state record retention laws. All requests and final decisions shall be maintained by the Information Technology Supervisor.

## **VII. PRE-EVENT RECORDING SETTINGS**

- A. Pre-Event recording options will be used to protect private communications with the community and Sheriff's Office staff members.
- B. The Information Technology Supervisor will ensure that pre-event settings record *video only* for no more than 30 seconds prior to body-worn camera activation and 60 seconds for in-vehicle cameras. Deputies using MRE will not change the pre-event recording settings.

## **VIII. UPLOADING AND PRESERVING MRE DATA**

- A. Deputies will ensure that all MRE data is uploaded at least once per shift.
  1. MRE data from the vehicle mounted system is designed to automatically upload to storage when they are within Wi-Fi range at Station 10, the Jail Sally Port or one of the

- Substations. The body worn MRE data uploads when placed in a docking station at one of these locations.
2. The system will automatically associate recordings with the time and date of recording and the deputy's name. However, deputies will need to manually associate recordings with a retention category if the recording has potential law enforcement value.
  3. Incident Numbers and/or names are to be entered manually in the MRE system to aid in future searches of recordings.
  4. Deputies will process MRE data that is evidence in a criminal investigation in accordance with Sheriff's Office policies 4.10 (Evidence Control) and 4.15 (Digital Images as Evidence).
  5. Deputies will identify and preserve MRE data that may be related to potential claims of liability or other civil action, even if it appears no future action will be filed, and even if a criminal investigation is not conducted. The deputy will also notify their supervisor as soon as practicable that such data has been recorded and preserved. The Information Technology Supervisor will assist deputies and supervisors with preserving this type of data, which will be maintained for a period of 30 months.
  6. If MRE data does not properly upload, the deputy will notify an on-duty supervisor and call or email the Information Technology Supervisor before the end of shift.

## **IX. ACCESS TO RECORDINGS**

- A. Deputies are allowed to review the recordings from their MRE. To help ensure accuracy and consistency, deputies are encouraged to review recordings as a resource prior to preparing reports, preparing to make or give a statement about their MRE recorded activities and/or testifying in any forum. Deputies should not use the fact that a recording was made as a reason to write a less detailed report. If the deputy sees something on the video that they do not recall seeing or was not aware of or if a deputy recalls something that is not apparent in the video, that should be noted in the report.
- B. Prior to testifying in a court case where recorded data will be offered as evidence, deputies are encouraged to review the recording.
- C. Deputies will not afford individuals outside the criminal justice system an opportunity to review a recording or still image produced by Sheriff's Office MRE, unless required or necessary during an investigation, and then only when approved by a Captain. Entities with enforcement authority for offenses including but not limited to code violations, may be permitted access to the recordings if needed for their investigation and enforcement. If a member is unsure whether an entity fits into a legitimate law enforcement purpose, contact the County Counsel's Office.
- D. Deputies are prohibited from posting on social media, such as YouTube or Facebook, or other internet and media outlets, any video, audio or still photos recorded with Sheriff's Office MRE. Such distribution is completed only by the Sheriff's Office Public Information Officer or other designee as directed by the Sheriff.
- E. Supervisors may view and utilize MRE recordings as a training tool for those deputies in probationary periods or working with field training officers.
- F. Following this initial training, supervisors shall have access to view recordings only for criminal investigative purposes or with the approval of a Captain.
- G. A Captain may grant access to MRE footage for the following approved purposes:
  1. A supervisor investigating a complaint may view MRE video footage to determine if an

administrative inquiry or internal affairs investigation is appropriate. If further investigation is required, the investigator will view MRE video footage with any involved staff members.

2. For crash or property damage reviews, to enable an assigned investigator to view footage with involved deputies.
3. For critical incident reviews, to enable assigned investigators to view footage with involved deputies.
4. For use of force reviews, to allow a supervisor or trainer to view footage with involved deputies.

The Sheriff must approve any exceptions.

## **X. ADMINISTRATIVE INVESTIGATIONS**

- A. Supervisors and authorized personnel conducting administrative investigations, and legal representatives of employees subject to administrative investigations may have access to MRE data for investigations and reviews. The scope of the review of MRE data should be limited to the specific complaint against the deputy. Inadvertent discovery of MRE data that could reasonably give rise to additional allegations during this review shall require the supervisor to articulate the purpose of expanding the scope.
- B. Audio and video recordings from MRE may be viewed by an involved deputy and/or their legal representative during their representation of that deputy. Copies of audio and/or video recordings associated with the legal representation matter will be provided to an involved deputy and/or their legal representative during their representation of a deputy in accordance with the policy or relevant provisions of a collective bargaining agreement.

## **XI. USE OF FORCE AND DISCIPLINARY INVESTIGATIONS**

- A. If a deputy is giving a formal statement about the use of force or if the deputy is the subject of a disciplinary investigation, the deputy shall, prior to giving a statement or an interview:
  1. Review the recordings in the presence of the deputy's attorney or association representative; and
  2. Have the right to review recordings from other MRE capturing the deputy's image or voice during the underlying incident and/or events that are the subject of the investigation.

## **XII. CRITICAL INCIDENTS**

- A. Following a deputy-involved use of deadly force, or other critical incident, and when safe and practical to do so:
  1. Body-worn cameras will be collected by the on-scene supervisor and will be immediately powered off to prevent viewing or uploading. Digital storage media located in vehicle-mounted MRE will also be collected by the IT Supervisor or their designee.
  2. Supervisors/deputies will only review the MRE recording when exigent circumstances exist, such as a deputy being injured or in order to obtain identifying suspect information or other pertinent information.
  3. Involved deputies' MRE and relevant recorded data will be turned over to the investigating agency or IT Supervisor for processing. The investigating agency will work with the Information Technology Supervisor to download any MRE data pertaining to the incident.
  4. Any MRE data that contains video of a critical incident or deputy-involved shooting shall immediately be categorized as "restricted" by the IT Supervisor once the data is uploaded.
  5. Deputies involved in a critical incident will have the opportunity to review any video or audio evidence relevant to the incident prior to any interview concerning the incident.

### **XIII. THE PATROL SERGEANT AND ADMINISTRATIVE LIEUTENANT AUDIT RESPONSIBILITIES.**

- A. The Administrative Lieutenant position will conduct preplanned and fully documented quarterly audits to ensure member compliance with policy and training. The audits will focus on:
1. Number of deputies issued MRE vs number of deputies using MRE
  2. Number of recordings captured
  3. Number of recordings submitted as evidence or for risk management purposes
  4. Statistics on public records requests for MRE recordings – frequency, reason, issues
  5. Consistent and appropriate use of MRE (i.e. comparing camera activations to Computer Assisted Dispatch (CAD) calls.
  6. Training needed on MRE operations (i.e. Nighttime lighting, recording quality, audio volume and quality, camera placement, etc.)
  7. Ensuring only authorized members are accessing data for legitimate and authorized purposes
- B. Each audit will be documented, including process, findings and recommendations, to improve the program, training, or individual use of the MRE system. Audits will be maintained by the Patrol Captain. Individual members shall not be targeted for audit purposes. Member recordings involved in audits shall be selected at random to avoid the perception of "fishing expeditions" for policy violations. Audits are not intended to be punitive to any member involved; however, clear violations of policy or law will be screened for investigation per policy 3.01 *Complaint Review*.
- C. Patrol Sergeants are expected to review a random sampling of no more than two (2) recordings per quarter per direct report subordinates to ensure there is overall compliance with the intent and use of the body-worn camera consistent with law and policy. This is not intended for general performance review.

Inadvertent discovery of misconduct during these permitted reviews shall require the supervisor to articulate the purpose of expanding the scope of the review in the misconduct inquiry/investigation reports.

A system to log and record information to determine who has accessed archived recordings will be maintained.

### **XIV. INFORMATION TECHNOLOGY (IT) SUPERVISOR RESPONSIBILITIES**

- A. The IT Supervisor shall be authorized and assigned with full access to user rights. Responsibilities include:
1. Assigns and tracks master inventory of equipment
  2. Controls passwords and end-user security access rights
  3. Is responsible for quality checks of video, audio, and sound quality
  4. Serves as liaison to the MRE manufacturer's representatives on operational and equipment-related matters to include maintenance and repair issues
  5. Maintenance of MRE data in accordance with ORS 133.741 (see below)
- B. The IT Supervisor shall not edit nor delete any recordings from body-worn cameras without specific written instructions from a Captain. The IT Supervisor will maintain documentation of changes or deletions to MRE data pursuant to Oregon Public Records Law.

## **XV. MAINTENANCE, USE AND RETENTION OF RECORDINGS**

- A. Files shall be securely stored and maintained in accordance with Oregon Public Records Law. Per ORS 133.741, MRE data shall be maintained for a minimum of 180 days and no longer than 30 months unless it is related to a court proceeding or is evidence in a criminal investigation. In accordance with this statute the Sheriff's Office will maintain all MRE data for a minimum of 200 days. MRE data related to a potential claim shall be maintained for 30 months as provided in Section VIII. This will be the responsibility of the IT Supervisor. The retention period begins from the date the data was labeled or categorized. Captains, in addition to the recording deputy, may label or categorize recording for retention.
- B. If the data is evidence in a criminal investigation, it must be maintained in the same manner as other criminal evidence. MRE data involving homicides shall be kept permanently. This will be the responsibility of the Evidence Unit.
- C. Calls for service that are medical in nature or that involve a person suffering from a mental health crisis will be tagged as "confidential" and disclosure will be made on a case-by-case review process. However, a deputy or the District Attorney's Office may be issued a copy of the recording for use in a court proceeding involving the individual or incident, and the recording may be subpoenaed into an administrative or civil proceeding.

## **XVI. MRE RECORDINGS MAY BE EXEMPT FROM DISCLOSURE UNDER OREGON PUBLIC RECORDS LAW (ORS 192.345 (40))**

- A. Public records requests for MRE recordings will be reviewed to determine if this exemption or any other exemption applies (personal privacy, pending criminal investigations, etc.) and to provide a response in accordance with the applicable Oregon Revised Statute on release of public records and information. Final determination is made by the Administrative Captain. This includes requests made by media outlets for the release of MRE recordings.
- B. When a recording is determined to be in the public interest and subject to disclosure on a public records request, the faces of the participants and other identifying information must be digitally redacted pursuant to ORS 192.345 (40)(c).