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|  | STANDARD OPERATING PROCEDURE State Form 39870(R/S-06) | Reference Number ENF-010 |
| | Subject Law Enforcement Recording Devices (Body and Dash Cams) | |
| | Special Instructions Replaces ENF-031 dated October 27, 2016 | Effective Date June 1, 2021 |

I. PURPOSE

Establish guidelines for the use of audio, visual, or audiovisual law enforcement recording devices (LERD) and the storage, release, and retention of law enforcement recordings by Department personnel.

II. POLICY

The Department utilizes technology that falls under the definition of Law Enforcement Recording under Ind. Code 5-14-3-2(k). Officers equipped with devices meeting this definition shall follow the procedures outlined herein for proper use, storage, release, and retention of law enforcement recordings. **Officers shall not utilize any law enforcement recording devices not issued by ISP.** This policy does not govern the use of surreptitious recording devices used in undercover operations.

III. DEFINITIONS

A. LAW ENFORCEMENT ACTIVITY – means a traffic stop, a pedestrian stop, an arrest, a search, an investigation, a pursuit, crowd control, traffic control, or any other instance in which an officer is enforcing the law. The term does not include administrative activity such as the completion of paperwork. See Ind. Code 5-14-3-2(j).

*Note – Crowd control does not include traffic direction. Crowd control should only be recorded if ordered by a Commander, enforcement activity is about to be taken, or if enforcement activity is being taken. This shall be addressed in any operation plan, if applicable, prior to a scheduled event.

B. LAW ENFORCEMENT RECORDING (LER) - means an audio, visual, or audiovisual recording of a law enforcement activity captured by a camera or other device that is provided to or used by an officer in the scope of their duties and designed to be worn by the officer or attached to their vehicle or transportation. See Ind. Code 5-14-3-2(l).

C. LAW ENFORCEMENT RECORDING DEVICE (LERD) – a camera or other device that is provided to or used by an officer in the scope of their duties and designed to be worn by the officer or attached to their vehicle. This term encompasses body worn cameras and dash cameras.

D. LAW ENFORCEMENT RECORDING SYSTEM – includes a LERD as well as all associated equipment used to capture audio/video interactions between law enforcement

and the community. This includes, but is not limited to; automated sensors, cloud storage, mounting clips/devices and evidence management software.

E. OFFICERS – any employee of the department that has law enforcement powers; to include troopers, capitol police officers, and motor carrier inspectors.

IV. **PROCEDURE**

A. **Configuration and Functionality Issues**

1. The Criminal Justice Data Division (CJDD), through the Law Enforcement Recording Device Administrator, shall be responsible for setting administrator configuration standards for all Department LERDs.
2. Employees are prohibited from changing or attempting to change the administrator configuration standards without express direction of the Law Enforcement Recording Device Administrator. Officers may configure individual user settings.
3. Officers shall ensure that any LERD that requires charging is charged prior to the beginning of a shift and should periodically charge any LERD during their shift when not in use.
4. Officers shall check the functionality of their LERD systems prior to beginning a shift.
5. Officers shall report, as soon as identified, any technical or functionality issues of law enforcement recording systems as follows:
 - (i) An immediate verbal notification to the regional dispatch center;
 - (ii) A written notification to their immediate supervisor; and
 - (iii) A written notification to the Law Enforcement Recording Device Administrator
6. Following notifications of issues, officers shall continue working their scheduled shift.

B. **Activation and Deactivation**

1. CJDD will establish automatic activation triggers for all LERDs.
2. LERDs shall only be utilized while on-duty. LERDs shall not be utilized for non-department employment positions.
3. If not already activated due to a trigger, Officers shall activate a LERD as follows:
 - a. Dash camera:
 - (i) When responding to a call for service;
 - (ii) When engaging in a law enforcement activity; or
 - (iii) When engaging with the public in a non-enforcement activity such as a stranded motorist.

b. Body camera:

- (i) Upon exiting their commission at the scene of a call for service;
- (ii) When engaging in law enforcement activity; or
- (iii) When engaging with the public in a non-enforcement activity such as a stranded motorist.

c. Rear facing interior camera:

- (i) While transporting a prisoner;
- (ii) While on-duty and transporting a member of the public;
- (iii) Conducting an interview in their commission; or
- (iv) While allowing a member of the public to sit in commission unattended.

5. During a LER, officers shall not mute their microphones or otherwise stop a recording to prevent audio from being recorded.

6. Officers shall deactivate the recording only at the conclusion of the event. The conclusion of an event occurs when:

a. Dash cameras:

- (i) The officer clears the scene and marks in service; or
- (ii) Transportation and/or transfer of custody is completed;

b. Body Cameras:

- (i) All interaction with the public has concluded; or
- (ii) The employee reasonably believes further recording will not capture law enforcement activity.

c. Rear facing interior camera:

- (i) When the individual(s) that the recording was activated for exits the vehicle. Such as, when an interview has concluded and the individual exits or prisoner is removed from the vehicle to jail.

d. To further an investigation:

- (i) During a consensual encounter, a member of the public requests the recording be deactivated and will not cooperate without stopping the recording;
- (ii) The officer(s) is on private property and requested by the property owner to deactivate the recording, but only if the officer does not have a legal right to be there.
- (iii) However, prior to deactivating the recording, the request by the citizen must be made on camera.
- (iv) Following deactivation, if an interaction becomes contentious or confrontational, the officer will resume the video recording.

e. Officers shall deactivate a LERD prior to entering a secured crime scene. The responsibility for videoing and documenting a crime scene is the responsibility of a Crime Scene Investigator (CSI).

f. Officers shall deactivate a LERD when entering a facility that prohibits recording by rule or policy, such as a medical facility, jail/prison, courthouse, etc.

g. If the officer is involved in a police action resulting in serious bodily injury or death, upon providing a public safety statement to the first responding officer, **and** at the direction of the first responding officer, the LERD shall be deactivated.

7. Officers shall immediately deactivate a recording that has occurred accidentally and does not depict any law enforcement activity.

C. Transfer/Upload

1. Uploads from LERD will occur automatically when connected to the cloud-based storage system.

2. Any issues with LER not automatically uploading shall be immediately reported in writing to the Law Enforcement Recording Device Administrator and the officer's immediate supervisor.

D. Review and Reporting

1. Officers should review their own LER prior to the completion of any report that is required to be completed.

2. Officers shall review their LER prior to testifying in court for a criminal case.

3. When an officer has been involved in a police action that results in serious bodily injury or death, they may elect to view any LER, in which they are depicted in, up to two times. Upon request, this may occur prior to a formal interview. This is in accordance with Ind. Code 5-14-3-5.1.

4. Officers will document the existence of any LER in all incident reports and ECWS citations by stating, "This incident was recorded on body cam and/or dash cam" at the beginning of their narrative, probable cause, and/or UTT comment sections. If an Officer is equipped with a LERD that is not functioning, they shall document in the incident report and ECWS that their LERD was not functioning at the time of the incident.

5. Sergeants shall have access to their squads LERs and review video of each of their subordinates randomly on a monthly basis.

6. District First Sergeants and Lieutenants shall have access to all district enforcement personnel's LERs. District Lieutenants shall review LERs from each Sergeant. on a monthly basis. District First Sergeants and Lieutenants may review other LERs of enforcement personnel assigned to their command at their discretion if it will further their official duties.

7. Enforcement personnel of the rank of Captain and above will have full access to all Department LERs, but may only access to perform their official duties.
8. Investigative personnel of the rank of First Sergeant and above will have full access to all Department LERs, but may only access to perform their official duties.
9. The Department's CJDD, Internal Investigations Section, and Legal Office will have full access to all Department LERs, but staff may only access to perform their official duties.
10. The Department's Training Division will have access to videos identified as related to their official duties such as those identified to be used in future training, those used in training exercises for review purposes, and those related to review of police action and/or pursuit reports.
11. All employees shall enter notes on each video that is accessed with the purpose of the review. For instance, review prior to court testimony, review to complete case report, or supervisory review.

D. Release

1. Officers shall provide the prosecutor of jurisdiction with any and all LERs related to a criminal case or infraction that they have filed.
2. Members of the public that request video of an encounter shall be directed to submit their request in writing to publicrecords@isp.in.gov.
3. Any request for a LER received by an officer, district, or other personnel shall be forwarded to publicrecords@isp.in.gov.
4. Upon receipt of a request, the Legal Office will review the request and either deny the release of the video or release the video with the appropriate redaction applied as outlined in Ind. Code 5-14-3 *et seq.* and any other applicable laws.

E. Retention

1. Automatic retention will be set in the cloud-based storage system as follows:
 - (i) Traffic Citation Civil – one (1) year
 - (ii) Crash Non-Criminal – one (1) year
 - (iii) Criminal – five (5) years
 - (iv) Other non-criminal – one (1) year
 - (v) Accidental – one (1) year
 - (vi) Training – one (1) year
2. Retention will be extended when:

- (i) The pending criminal action or appeal is not yet completed; or
- (ii) A member of the public requests a video, the video must be retained for a two (2) year period.

3. Any LER that occurred on devices prior to the issuance of Axon devices will be stored at the district through the conclusion of criminal or infraction proceeding, or a minimum of 280 days.

F. Other

- 1. Officers shall, upon request, notify any party if the interaction is being recorded.
- 2. Employees shall not duplicate, disseminate, edit, alter, erase, or tamper with any LER, LERD, or LER System outside of the procedure outlined in this policy.
- 3. Employees shall not access or attempt to access any LER for which they do not have an official purpose.
- 4. Employees shall not activate a LERD for the sole purpose of recording another employee unless the other employee is aware or with the permission of the Superintendent.
- 5. Officers shall not misuse their equipment to cause a recording other than those depicting law enforcement activity.
- 6. Ind. Code 35-44.1-2-2.5 A law enforcement officer who, with the intent to commit or conceal the commission of a criminal act, turns off or disables a law enforcement recording device in violation of regulations or a policy adopted by the law enforcement agency that employs the officer commits disabling a law enforcement recording device, a Class A misdemeanor.
- 7. LERDs should not be worn at scheduled training unless directed by a training order or training personnel.

G. This procedure shall be used in conjunction with all relevant Department regulations, rules, policies, and procedures.