

CALIFORNIA HIGHWAY PATROL

GENERAL ORDER 110.8

REVISED APRIL 2018

PROCESSING AND STORAGE OF DIGITAL MEDIA

1. **PURPOSE**. The purpose of this General Order (GO) is to establish policy for the management of digital media from sources such as digital cameras, audio recorders, departmental aircraft recording devices, personally owned body-worn cameras (PBWC), etc. This policy is intended for both departmental and personally-owned devices while on-duty.

2. **GENERAL**. Digital images of motor vehicle collision scenes and other investigation scenes captured by members of the Department, or furnished to the Department, constitute factual data and are part of the investigative report. Photographs shall be taken and prints made as necessary for the operation of the Department. Commanders shall not allow the preparation of prints for the purpose of maintaining a photographic file. The term "digital images" applies to both still images and video.

Area commanders are responsible for the selection of image coordinators and back-up coordinators to manage collision photographs that are not booked into evidence. These digital images may contain private or sensitive material; therefore, commanders shall ensure the coordinators understand this position mandates maintaining confidentiality.

Areas shall be responsible for creating a Standard Operating Procedure (SOP) to ensure the processing and storage procedures of digital media are compliant with this policy. This policy does not apply to the Department's Mobile Video/Audio Recording System (MVARs). For MVARs policy, refer to GO 100.61, Use of Mobile Video/Audio Recording Systems. Employees operating departmental aircraft recording devices refer to paragraph 4.c.

3. **EMPLOYEE RESPONSIBILITIES**. Digital media recorded or taken by members of the Department during the course of enforcement or investigative duties have potential evidentiary value and shall be processed in accordance with this policy. Unauthorized distribution, receiving, listening or viewing of digital evidence obtained during the course of employment is prohibited. Digital media captured while on-duty by members of the Department, whether the device is personally owned or owned by the Department, is the property of the state. Digital media produced shall be transferred from the device and submitted to the Department prior to the end of the employee's work shift. All state

work saved to a personal electronic device prior to submission shall be secured at all times. For policy regarding the use of personal electronic devices while on-duty, refer to GO 100.95, On-Duty Use of Cellular Telephones and Personal Electronic/Entertainment Devices.

Employees are strongly encouraged to use departmental resources in lieu of personally owned recording devices. If personally owned recording devices are used on-duty, employees are encouraged to delete all personal images prior to using such devices, or carry a designated "work only" removable digital storage card. Personal devices may be subpoenaed by the court.

4. PROCEDURE. Digital media copied onto a disc from an original recording device or removable digital storage card shall be considered the true copy of the original and shall remain in the Department's possession. Disposition of discs shall be in accordance with the retention of the coinciding report or Highway Patrol Manual (HPM) 70.1, Evidence Manual, if booked in evidence. For the purpose of this policy, the true copy will also be referred to as the original disc.

a. Digital Media. Digital media is easily altered; therefore, stringent controls regarding proper storage and handling are required. To ensure the integrity of digital media for use as evidence in future legal proceedings, employees shall adhere to the following:

(1) Prior to using a recording device, it should be formatted and set to the current date and time.

(2) Digital media files, regardless of evidentiary value, shall be downloaded directly from the recording device or removable digital storage card to a non-rewritable compact disc (CD-R) or digital versatile disc (DVD±R) using a departmental computer or duplicator. The digital media files saved on CD-R's or DVD±R's shall not be deleted, altered, or renamed.

(3) The originating employee (photographer/videographer/recorder) should transfer or be present during the transfer of the images to disc.

NOTE: If the recording device contains digital media files of multiple and unrelated incidents, the originating officer shall ensure the files are saved on different discs, packaged, and submitted separately. Saving files on different discs for unrelated incidents does not apply to PBWC's. For procedures regarding PBWC's, refer to the appropriate section in this GO.

(4) After the data is downloaded, it shall be reviewed to ensure it was fully and accurately copied.

(5) The case number or other identifying information shall be written on each disc.

(6) If the disc contains digital media likely to result in a criminal, civil (against or initiated by the Department), or administrative proceedings, the original disc shall be booked into evidence. If additional copies are required, the request shall be made through the property officer in accordance with HPM 70.1.

(7) Once the disc(s) have been created, all data from the recording device or removable digital storage card shall be deleted.

(8) Each disc shall be placed in a white disc sleeve with the label side up.

(9) Digital media being booked into evidence shall be packaged in accordance with HPM 70.1, Chapter 5, Packaging of Evidence/Property for Booking.

(10) At the conclusion of the employee's shift, nonevidentiary disc(s) shall be deposited into a drop-box or temporary locker designated for images. The Area may designate a preexisting temporary locker to be used for this purpose or make a request for a new construction drop-box from the designated Facilities Section coordinator from their Division. Digital media being booked into evidence shall be placed in the designated temporary evidence locker.

(11) The originating employee is responsible for verifying the accuracy and documenting the method used to capture and produce digital media. If the originating employee is not the investigator, it shall be noted in the report.

b. Film. Use of color film is no longer the preferred method of capturing images and its use should be discontinued. However, Areas that still have color film in their evidence inventories may obtain guidelines for its reproduction and management from the Office of Internal Affairs (OIA).

c. Departmental Aircraft Recording Device. Recording devices utilized in departmental aircraft record images in high definition which require a high volume of storage space. Due to the high volume of the recorded data from departmental aircraft, only images with evidentiary value shall be retained and processed in accordance with this GO and HPM 70.1.

Video evidence recorded by departmental aircraft for use by the Department, or allied agency, shall be copied onto a disc from the original portable recording device used in the aircraft (i.e., Secure Digital [SD] card, thumb drive). The digital images copied from the portable recording device onto the disc shall be considered a true copy of the original. This true copy shall be viewed to confirm the information

was successfully transferred. A second copy of the original shall be made and maintained by the Department for a period of one year, after which it may be purged. Purging of these discs shall require the commander's approval. This second copy will be held by the respective Air Operations Unit as a courtesy for the investigating Area or allied agency, but will not be considered evidence or the original digital image nor treated as such. The responsibility for the securement of the evidentiary copy, or true copy, rests with the investigating Area or allied agency.

In cases of video evidence recorded for departmental use, the true copy shall be provided to the investigating officer who shall be responsible for booking the disc into their Area's evidence room. In cases of video evidence recorded for other agencies' use, the true copy shall be given to the agency for booking into their evidence system. Additionally, a disclaimer shall be completed and signed by the agency taking possession. A copy of the signed disclaimer shall be provided to them. The disclaimer will advise them of their responsibilities for booking the evidence. The Department's copy of the signed disclaimer shall be maintained for the length of time the disc is maintained plus five years. Contact the OIA for a copy of the disclaimer.

Personnel responsible for making these recordings shall create and maintain a log which contains at a minimum the following information:

- (1) Log number, date, time, and location of incident.
- (2) Agency, contact officer, and case number for the incident.
- (3) Name and badge number of person taking custody of the recording.
- (4) Date recording was purged and commander's initials.

The log shall be retained for five years plus the current year's log.

d. Personally Owned Body-Worn Camera. Use and management of PBWC shall mirror policy contained in GO 100.61 and HPM 70.1, Chapter 15, Storage of Mobile Video/Audio Recording System Discs, with regard to its activation, documentation, storage, duplication, release, and retention of discs and associated documents. Personnel shall transfer all recorded incidents onto a DVD and submit it in the same manner as the submission of MVARS discs at the end of each shift. Officers utilizing a PBWC shall make a separate entry on the daily CHP 36D, Mobile In-Car Camera DVD Evidence Log, indicating the use of a PBWC and subsequent submission of a disc. Officers shall write "PBWC" in the "Vehicle Number" column and complete all other information as required. The retention of these discs shall be in line with the MVARS disc retention schedule outlined in HPM 70.1. The storage and organization of PBWC discs should emulate the MVARS discs

procedures. However, a separation between the two disc categories should be considered to facilitate the retrieval of discs for any request. Each command shall outline a process which works best for their corresponding command in their Area SOP.

e. Copies. Only authorized personnel with a legitimate need to know may view or request copies of images. Alteration or enhancement of copies is allowed if determined to be beneficial to the investigation. Such alterations are admissible provided the altered image is a fair and reasonably accurate representation of what the originating employee observed.

For information relating to the release of collision images to persons with proper interest, refer to GO 110.2, Release of Collision Information. Procedures relating to the sale of images are contained in HPM 11.1, Administrative Procedures Manual, Chapter 4, Miscellaneous Sales-Transmittal of Collections.

(1) Images Not Stored in Evidence. Only the image coordinator, back-up, or supervisor shall be responsible for duplication of discs or printed photographs not booked in evidence. Copies shall only be used by officers for completion of reports or upon request by parties of proper interest. The investigating officer shall attach the copy to the investigation report or return to the coordinator. Copies returned to the coordinator may be destroyed or retained for sale to parties of proper interest.

(2) Images Stored in Evidence. Only the evidence officer or back-up evidence officer shall be responsible for duplication of discs or printed photographs booked in evidence. Copies obtained from the evidence officer shall be attached to the copy of the investigation report provided to the district or city attorney's office. Additional copies shall be returned to the evidence officer. Lost or misplaced copies shall be immediately reported to a supervisor and the evidence officer. The evidence officer shall make a notation on the chain of possession.

5. Storage and Documentation. Cabinets used to store digital media not booked in evidence shall be capable of being locked with dedicated keys limiting access to the employees designated within this policy. Cabinets similar to those used to store MVARS discs may be ordered from Facilities Section. Affix proper labels to the outside of the cabinets to identify their usage. The cabinet used to store digital media and MVARS storage cabinets shall not be keyed alike. Cabinets designated for the storage of digital media shall remain locked at all times. The retention period for the digital media shall coincide with the corresponding report. Digital media booked into evidence shall be processed in accordance with HPM 70.1. Areas shall designate a locked temporary drop-box or locker for depositing discs that are not required to be booked in

evidence. The coordinator should retrieve the discs from the designated drop-box or temporary locker on a daily basis. Discs shall be filed numerically by case number or incident date within the designated storage cabinet. The cabinet shall be used exclusively for the storage of digital media.

a. Additional Use for Images.

(1) Media. Field commanders may forward copies of unusual or spectacular collision images to the Office of Community Outreach and Media Relations. Release of images to the media shall be in accordance with HPM 90.1, Media Relations Manual.

(2) Training. Copies of images to be used for training purposes shall be at the discretion of the Area commander for Area use only, and the Division commander for use within the Division, or Commissioner for statewide use. A request for use shall be made in memorandum format. The images shall not involve an active investigation, legal proceeding, or any incident likely to result in litigation. Commanders should be cognizant of images which may result in liability or embarrassment to the Department. Graphic images should not be used, even if the subject(s) is not identifiable. The OIA should be contacted should any questions or concerns arise in this regard.

OFFICE OF THE COMMISSIONER

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