



Policy 1016

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CITIZEN OBSERVATION/RECORDING OF OFFICERS	
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By Order of the Police Commissioner

POLICY

1. **Citizen's Right to Observe.** It is the policy of the Baltimore Police Department (BPD) that people not involved in an incident may be allowed to remain in proximity of any stop, detention or arrest, or any other incident occurring in public so long as their presence is lawful and their activities, including verbal comments, do not obstruct, hinder, delay, or threaten the safety of another or compromise the outcome of legitimate police actions and/or rescue efforts. Officers should assume that a member of the general public is observing, and possibly recording, their activities at all times.

2. **Citizen's Right to Record.** Members may not prevent or prohibit any person's ability to peaceably observe, photograph or otherwise record police officers, police activity that occurs in public, or individuals who are the subject of police action (such as an Investigative Stop or an arrest) (collectively "police activity"), when the person recording otherwise has the right to be there, does not interfere with a member's safety, and does not obstruct, hinder, delay, or threaten the safety of another or compromise the outcome of legitimate police actions and/or rescue efforts.
 - 2.1. If these conditions are met, members shall not:
 - 2.1.1. Tell the individual taking the photograph or recording that the person's actions are not allowed, require a permit, or require a member's consent;
 - 2.1.2. Order that person to cease such activity;
 - 2.1.3. Demand that person's identification;
 - 2.1.4. Demand that the person state a reason why he or she is taking photographs or recording;
 - 2.1.5. Detain that person;
 - 2.1.6. Intentionally block or obstruct cameras or recording devices;
 - 2.1.7. Demand to review or erase any image or recording; or

5. In areas open to the public, members shall allow all persons the same access for photography and recording as is given to the news media, as long as the person has a legal right to be present where he or she is located.
6. Although contact with individuals to obtain evidence is encouraged, members will not detain citizens or seize their recorded media when that media contains video, still images, or sounds associated with a crime.
 - 6.1. If a member has probable cause to believe that a camera or recording device contains images or sounds that are evidence of criminal acts, the member shall request that the person in possession of that camera or recording device either (1) voluntarily provide the device or recording medium (e.g., the memory chip) to the member; or (2) where possible and practicable, and in the presence of the member, voluntarily transmit the image or sound, via text message or electronic mail, to the member's official BPD electronic mail account.
 - 6.2. Consent to take possession of a camera or recording device must be given voluntarily, without coercion or threats. A member shall not, implicitly or explicitly, coerce consent to take possession of any recording device or any information thereon.
 - 6.3. If the person voluntarily provides the camera or recording device to the member, the member shall:
 - 6.3.1. Exercise due care and caution with any of the individual's property or electronic device(s);
 - 6.3.2. Complete a Property Receipt, Form 56 and provide the pink copy to the individual. Retain all other copies;
 - 6.3.3. Provide the individual with the name and contact information of the officer who took custody of the individual's property;
 - 6.3.4. In the Property Listing/Evidence Recovered section of any applicable field report(s), list the item(s) surrendered by the individual and held/submitted as evidence.
 - 6.3.5. Document his/her request, and the individual's response, in the narrative of applicable field reports and/or charging documents.
 - 6.3.6. Not make any attempt to view, download, or otherwise access any material contained on the device.
 - 6.4. If the person declines to voluntarily provide the camera or recording device, or to electronically transmit the sound and/or images where possible and practicable, and there is probable cause to believe that the evidence is in immediate jeopardy of being tampered with, altered, deleted, or destroyed, you may temporarily seize the device for safekeeping/preservation of the evidence while the appropriate application(s) for search and seizure warrants(s) are made.

- 6.4.1. Do not make any attempt to view, download, or otherwise access any material contained on the device.
 - 6.4.2. Apply for, execute, and return any Search and Seizure Warrant(s) in accordance with Policy 1007, *Search and Seizure Warrants*.
 - 6.4.3. Submit the recovered camera, video recording device, etc., in accordance with Policy 1401, *Control of Property and Evidence*.
 - 6.4.4. Complete all appropriate field reports.
- 6.5. Members shall maintain cameras and other recording devices that are in BPD custody so that they can be returned to the owner intact with all images or recordings undisturbed.
- 6.6. Only members of the Cyber and Electronic Crimes Unit may make efforts to access material contained on the device.
7. Members shall not, under any circumstances, erase or delete, or instruct or require any other person to erase or delete any recording images or sounds from any camera or other recording device that is in the possession of a non-member, or that has been voluntarily turned over or seized under the terms of this policy.

PERMANENT– RANK SUPERVISORS/OIC

1. Ensure that any camera or video recording device that has been used to photograph and/or video record police activity that comes into the custody of the BPD, has only come into custody in the following circumstances:
 - 1.1. Through the voluntary consent of the individual in possession of the item.
 - 1.2. Through execution of a search and seizure warrant.
 - 1.3. Through some valid exception to the warrant requirement.
2. Permanent–rank supervisors must review and approve/disapprove all applications for Search and Seizure Warrants as required by Policy 1007, *Search and Seizure Warrants*.

DUTY DETECTIVE, CYBER AND ELECTRONIC CRIMES UNIT

1. Provide guidance and assistance to members on those occasions when an application for a Search and Seizure Warrant is made for a camera, video recording device, etc.
 - 1.1. Specific attention should be given to helping those members properly define or describe the various data formats and storage devices they may be seeking in the warrant application.
 - 1.2. Make any appropriate recommendations that may assist in the preservation of data, photographs, video “clips,” etc.

2. In the course of a criminal investigation, and/or at the request of a member of the BPD, access and download evidentiary materials contained on a device in the member's custody.

ASSOCIATED POLICIES

Policy 1007, *Search and Seizure Warrants*
Policy 1401, *Control of Property and Evidence*

RESCISSION

Remove and destroy/recycle Policy 1016, *Video Recording of Police Activity*, dated 23 April 2014.

COMMUNICATION OF POLICY

This policy is effective on the date listed herein. Commanders are responsible for informing their subordinates of this policy and ensuring compliance.