

DEPARTMENTAL GENERAL ORDER 18-111

ST. LOUIS COUNTY POLICE DEPARTMENT
OFFICE OF THE CHIEF OF POLICE

April 25, 2018

Index as:

**Recording
Mobile phone**

Cancels: 16-111

RECORDING POLICE ACTIVITY

I. PURPOSE

This policy provides officers with guidance for dealing with situations in which they are being recorded, to include photographing, videotaping, and/or audio taping, **or both**, by members of the public or the press.

II. POLICY

Members of the public, including media representatives, have an unambiguous First Amendment right to record officers in public places, as long as their actions do not interfere with the officers' duties or the safety of officers or others. Officers should assume that they are being recorded at all times when on duty in a public space.

III. DEFINITIONS

Recording – Capturing of images, audio, or both, by means of a camera, cell phone, audio recorder, or other device.

Media – The storage source for visual or audio recordings, whether by film, analog, or digital means.

IV. PROCEDURES

A. Persons who are lawfully in public spaces or locations where they have a legal right to be present, such as their home, place of business, or the common areas of public and private facilities and buildings, have a First Amendment right to record things in plain sight or hearing, to include police activity.

1. **Police may not threaten, intimidate or otherwise discourage or interfere with the recording of police activities.**
2. **If asked, Officers should identify themselves by providing the individual with their rank, last name, and DSN. Example: Officer Smith DSN 9999. If the circumstances of the situation (i.e. civil unrest) are a risk to officer safety, providing a DSN only will suffice.**
3. **Officers must not intentionally block or obstruct cameras or recording devices in any manner.**
4. **Officers must not inform the individual that recording is not allowed, or requires a permit.**

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5. **Officers must not demand the individual recording identify him/her or provide a reason for recording.**
 6. **Officers must not detain the individual recording without legal cause.**
 7. **Officers may engage in a consensual conversation with persons using video or photographic equipment.**
 8. **The fact that recording and/or overt verbal criticism, insults, or name-calling may be annoying, does not itself justify an officer taking corrective or enforcement action or ordering that recording be stopped, as this is an infringement on an individual’s constitutional right to protected speech.**
- B. The right to record is not absolute and is subject to legitimate and reasonable legal restrictions, as follows;**
1. A reasonable distance must be maintained from the officer(s) engaged in enforcement or related police duties.
 2. Persons engaged in recording activities may not obstruct police actions. For example, individuals may not;
 - a. **Repeatedly instruct a witness being questioned by a police officer not to respond to the officer’s questions;**
 - b. **Persistently engage or attempt to engage an officer in conversation while the officer is performing his/her duties;**
 - c. **Hinder a lawful arrest;**
 - d. **Incite bystanders to hinder or obstruct an officer in the performance of his/her duties.**
 - e. **Interfere through direct physical intervention.**
 3. Recording must be conducted in a manner that does not unreasonably impede the movement of emergency equipment and personnel or the flow of vehicular or pedestrian traffic.
 4. The safety of officers, victims, witnesses, and third parties cannot be jeopardized by the recording party.
- C. Arrest**
1. Persons who violate the foregoing restrictions should be informed that they are engaged in prohibited activity and given information on acceptable alternatives, where appropriate, prior to making an arrest.
 2. Arrest of a person who is recording officers in public shall be related to an objective, articulable violation of the law unrelated to the act of recording. The act of recording does not, in itself, provide grounds for detention or arrest.
 3. Arrest of an individual does not provide an exception to the warrant requirement justifying search of the individual’s recording equipment or media. While equipment may be seized incident to an arrest, downloading, viewing, or otherwise accessing files requires a search warrant. Files and media should not be altered or erased under any circumstances.

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- 4. A supervisor shall be summoned to any incident in which an individual recording police activity is going to be, or will most likely be, arrested, or when recording equipment may be seized without a warrant or lawful consent.**

D. Seizure of Recording Devices and Media

1. Absent arrest of the recording party, recording equipment may not be seized. Additionally, officers may not order an individual to show recordings that have been made of enforcement actions or other police operations.
2. If there is probable cause to believe that evidence of a serious crime has been recorded, an officer should:
 - a. Advise and receive instructions from a supervisor;
 - b. Ask the person in possession of the recording if he/she will consent to voluntarily and temporarily relinquish the recording device or media so that it may be viewed and/or copied as evidence.
 - 1) In this case, a consent form ([F-176](#)) must be completed, signed, and submitted with the recording device. The owner of the property shall be provided with a report number. When possible, officers should ask for a password for the device.**
 - 2) The device will be held only as long as necessary by the Department to complete the investigation.**
 - 3) The officer maintaining case responsibility will be notified by the Digital Forensics Unit upon finishing with the device.**
 - 4) Officers shall complete Evidence Status Report ([F-306](#)) as soon as the property is no longer needed, and forward to the Property Control Unit.**
 - 5) The Property Control Unit will notify the listed owner as soon as possible to release the property.**
 - c. In exigent circumstances, in which it is reasonable to believe that the recording will be destroyed, lost, tampered with or otherwise rendered useless as evidence before a warrant can be obtained, the recording device or media may be seized under temporary restraint.
 - 1) The owner of the property shall be provided with a case number and advised of the procedure to re-claim the property.**
 - 2) A warrant must be obtained in order to examine and copy the recording and the chain of custody must be clearly documented. The recording may not be viewed prior to obtaining the search warrant.**
 - 3) The officer maintaining case responsibility will be notified by the Digital Forensics Unit upon finishing with the device.**

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- 4) **Officers shall complete Evidence Status Report ([F-306](#)) as soon as the property is no longer needed, and forward to the Property Control Unit.**
 - 5) **The Property Control Unit will notify the listed owner as soon as possible to release the property.**
3. In exigent situations where it is objectively reasonable to believe that immediate viewing of recordings is necessary to prevent death or serious bodily harm of another before a warrant can be authorized, the recording device or media may be seized and viewed. **After viewing, the procedure for obtaining a warrant and release of property shall be followed.**
4. **Officers may not alter or delete any recordings on the seized device.**
5. Any time a Department employee seizes a recording device or media, with or without a warrant, a CARE report shall be completed detailing the circumstances, authorizing supervisor, and ultimate disposition.

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Attachments:

[Consent to Search Form F-176](#)
[Evidence Status Report F-306](#)

Adopted by Command Staff

By order of:

COLONEL JON M. BELMAR
Chief of Police

JB:jl

Approved at the regular meeting of the Board of Police Commissioners dated April 25, 2018.

ROLAND J. CORVINGTON
Chairman

MS. LAURIE L. WESTFALL
Secretary

Distribution
All Department Personnel

CALEA Reference
22.1.8; 83.2.2; 83.2.5