

CAMDEN COUNTY POLICE DEPARTMENT		
GENERAL ORDER	# OF PAGES: 5	
SUBJECT: VIDEO/AUDIO RECORDING OF OFFICERS BY THE PUBLIC		
EFFECTIVE DATE: 24 November 2014	DISTRIBUTION TO: ALL COMMANDS	REVISION:
NUMBER: 2014-		
ISSUED BY: ASSISTANT CHIEF CUEVAS	APPROVED BY: CHIEF JOHN S. THOMSON	

This written General Order developed by the Camden County Police Department is for internal use only and should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of Camden County Police Department written order can only be the basis of a complaint by this Department, and then only in an administrative disciplinary setting.

PURPOSE: To provide guidance to officers of the Camden County Police Department when dealing with the public who may be video recording, audio recording devices when probable cause exists to do so.

POLICY: The Camden County Police Department recognizes that members of the general public have a First amendment right to video record, photograph, and/or audio record members of the office while they are conducting official business of while acting in an official capacity in any public space, unless such recordings interfere with police activity.

PROCEDURE:

Officers are reminded that photography, including videotaping, of places buildings structures and events can be lawful activities.

1. If a person is taking photographs or recording from a place where he or she has a right to be, officers are reminded that this activity by itself does not constitute suspicious conduct.
2. In areas open to the public, officers shall allow bystanders the same access for photography/recording as is given to members of the news media. Officers shall be aware that:
 - A. A bystander has the same right to take photographs or make recordings as a member of the media, as long as the bystander has a legal right to right to be present where he or she is located.

- B. A bystander has a right under the First Amendment to observe and record officers in the public discharge of their duties.
 - C. Public settings include, e.g., parks, sidewalks streets, and locations of public protests; but that protection extends also to an individual's home or business, common areas of public and private facilities and buildings, and any other public or private facility at which the individual has a legal right to be present.
 - D. The fact that a bystander has a camera or other recording device does not, however, entitle the bystander to cross a police line, to enter an area that is closed to the public, or to enter any area designated as a crime scene.
3. As long as the photographing or recording takes place in a location where the individual has a legal right to be present and does not interfere with an officer's safety or interfere police activity (as defined in section 5 below), an officer shall not inform or instruct a member of the public that photographing or recording of police officers, police activity or individuals who are the subject of police action (such as a Terry stop or and arrest) is not allowed; requires a permit; or requires the officer's consent. Additionally, an officer shall **not**:
- A. Order that person to cease such activity;
 - B. Demand that person's identification;
 - C. Demand that the person state a reason why he or she is taking photographs or recordings;
 - D. Detain that person;
 - E. Intentionally block or obstruct cameras or recording devices; or
 - F. In any way threaten, intimidate or otherwise discourage an individual from recording officer's enforcement activities.

NOTE: Officers may ask questions during the course of a contact, but they are reminded that there is no justification for ordering a person to stop or requiring that they answer unless the officer reasonably suspects that a person has committed, is committing, or is about to commit any crime.

4. Officers are reminded that the public does not have a right to interfere with police activity. Interference consists of conduct, threats, actions or activities that prevent or hinder, or purport to prevent or hinder, officers from doing their job.
- A. If a person is photographing or recording police activity from a position that impedes or interferes with the safety of officers or their ability to perform their duties, an officer may direct the person to move to a position that will not interfere. However, an officer shall not order the person to stop photographing or recording.

- B. If a person is photographing or recording police activity from a position that impedes or threatens the safety of members of the public, an officer shall direct the person to move to a position that will not interfere. However, officers shall not order the person to stop photographing or recording.
- C. A person's recording of an officer's activity from a safe distance, and absent any attendant action that obstructs the activity or threatens the safety of the officer, does not constitute interference
- D. A person has the right to express criticism of the police activity being observed. So long as that expression does not jeopardize the safety of any officer, suspect or bystander, and so long as that expression does not violate the law or incite others to violate the law, the expression does not constitute interference.

5. Evidence on a Camera Or Recording Device; Probable Cause

- A. Probable cause exist where the known facts and circumstances are such that a reasonable officer in the same situation would believe that evidence of a crime will be found.
- B. If an officer has probable cause to believe that a camera or other recording device contains images or sounds that are evidence of criminal acts, the officer shall request that the person voluntarily provide the device or recording medium (e.g., the memory chip) to the officer for searching, documenting this request on a Consent to Search form.
- C. Consent to take possession and search a recording device or medium must be given voluntarily. An officer shall not, implicitly or explicitly, threaten, intimidate, or otherwise coerce consent to take possession of any recording device or any information thereon.
- D. If the person **voluntarily** provides the device or recording medium to the officer for searching, the officer shall:
 1. Exercise due care and caution with the property or device provided;
 2. Document the item surrendered by the individual in the applicable reports in accordance with department policy;
 3. Document the officer's request and the individual's response in the in the narrative of applicable reports and other documents and
 4. **Officers are prohibited from damaging, destroying or deleting any photograph, recording or device under any circumstances.**

- E. If the person declines to voluntarily provide the device or recording medium, and the officer believes that exigent circumstances exist insofar as the evidence of criminal activity will be lost or destroyed absent a seizure of the device, the officer shall contact his/her Police Supervisor.
1. Unless a delay would facilitate the loss or destruction of any evidence or allow the subject to leave the area with the recording device, the Police Supervisor must be contacted before an officer takes any significant action involving a person's use of a recording device. This includes warrant-less seizure of a camera or recording device, or an arrest.
 2. The Officer shall inform his/her Police Supervisor of the nature of the evidence of criminal acts believed to be contained on the device.
 3. The Police Supervisor shall determine whether exigent circumstance, including the seriousness of the possible crime at issue, permit the seizure of the device with a warrant. Warrant-less seizure is permissible only when:
 - a. There is probable cause to believe that the property holds contraband or evidence of a crime; and
 - b. The exigencies of the circumstances demand it or some other recognized exception to the warrant requirements is present.
 - c. If the Police Supervisor finds that exigent circumstances permit the seizure of the device without a warrant, approval shall be given to the officer for the seizure.
 - d. The officer shall obtain and provide a case number to the individual possessing the device.
 - e. Any such seizure must be a temporary restraint intended only to preserve evidence until a search warrant can be obtained.

6. Viewing/Listening to Evidence on a Camera or Recording Device

- A. Absent exigent circumstance or a **voluntary consent to search**, officers shall obtain a search warrant before viewing photographs or listening to recordings on a camera or memory chip that has been seized as evidence.
- B. In exigent circumstance, where there is reason to believe that an immediate search of the seized material is necessary to prevent **death** or **serious injury** officers shall contact the police Supervisor to request authorization to review photographs or recordings without a warrant.
- C. The Police Supervisor will contact the Camden County Prosecutors Office Legal Advisor for the authorization to review photographs or recordings without a warrant.

- D. Photographs or recordings that have been seized as evidence and are not directly related to the exigent circumstances shall **not** be reviewed.
- E. Officers are prohibited from damaging, destroying, or deleting any photograph, recording or device under any circumstances.
- F. Officers shall not, under any circumstances erase or delete, or instruct or require any other person to erase or delete, any recorded images or sounds from any camera or other recording device, or that has been voluntarily turned over or seized.
- G. Officers shall maintain cameras and other recording devices so that they can be returned to the owner intact with all images or recording undisturbed