

Laurel Police Department - General Order
Chapter 4, Section 100, Order 115 – Video Recording of Police Activity
August 12, 2012

4 / 115.05 POLICY

It is the policy of this Department to ensure the protection and preservation of every person's Constitutional rights.

4 / 115.10 PURPOSE

To set Department re-action guidelines to the video recording of officer's actions by Non-Department persons.

4 / 115.15 DEFINITIONS

Hindering The common law criminal misdemeanor of obstructing and hindering a Police Officer in the performance of his/her police duties. The elements of this offense are:

1. The Police Officer is engaged in the performance of an official police action or duty;
2. The accused bystander commits an act, or perhaps an omission, which obstructs or hinders the Police Officer in the performance or completion of that official police action or duty;
3. The accused bystander knew, or should have known, of the Officer's identity as a sworn law enforcement officer (i.e., the Officer was in uniform, was wearing some outermost garment on which the word "POLICE" was printed, etc.);
4. The accused bystander knew, or should have known, that the Officer was engaged in an official police action or duty; and
5. The accused bystander intended to obstruct or hinder the Police Officer by the act or omission described in item 2.

Photographing The act of capturing and storing a still image, whether in an electronic/digital format, or on any type of light-sensitive film (e.g., traditional 35mm film).

Member(s) A sworn law enforcement officer of the Laurel Police Department.

Video Recording

The act of capturing a series of images that, when replayed in succession reproduce a sequence of activities in motion. Video recordings may be stored on a length of light-sensitive film, a videotape cassette, or in a digital format (e.g., a removable memory card), and may or may not contain a simultaneous audio recording.

Video Recording Device

For purposes of the General Order, a Video Recording Device includes, but is not limited to, any device capable of capturing a still or moving image(s), regardless of whether or not a simultaneous audio recording is included.

Examples may include any of the following devices:

1. A cellular telephone of any make, model, or manufacturer, including those devices referred to as "Smart Phones."
2. A Personal Digital Assistant, also known as a Personal Data Assistant or PDA.
3. A tablet-style mobile computer, commonly referred to simply as a "tablet," such as an Apple iPad or a BlackBerry PlayBook.

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4. Any camera, whether still-photo and/or video, of any make, model, or manufacturer, regardless of whether or not the device is capable of capturing a simultaneous audio recording, and regardless of how the device stores the images it captures.

3 / 115.20 PROCEDURES

A. GENERAL

1. No member of this Department shall prevent or prohibit any person's ability to observe, photograph, and/or make a video, with or without simultaneous audio recording, of police activity that occurs in the public domain, so long as the person's location, actions, and/or behavior do not create a legitimate, articulable threat to Office safety, or an unlawful hindrance to successful resolution to the police activity.
2. Members of the Department shall assume that, at any time, a member of the general public is likely to be observing, and perhaps photographing or video recording, their activities.
3. Members of the general public have an absolute right to photograph and/or video record the enforcement actions of any police officer so long as the their actions do not:
 - a. Place the safety of the bystander, or of any police officer(s), witness(es), Victim(s), or suspect(s), in jeopardy;
 - b. Hinder the execution or performance of a police officer's official duties;
 - c. Interfere with or violate any section of any law, ordinance, code, or criminal or traffic article;
 - d. Involve an intrusion into any crime scene, private property, or other location under lawful police control and/or not normally accessible to the general public;
 - e. Threaten, by words or actions, other persons; or
 - f. Attempt to incite an immediate breach of the peace or incite others to commit a violation of the law.
4. In and of themselves, the acts of observing, photographing, and/or making a video recording of any police activity that occurs in the public setting are not criminal offenses.
 - a. On their own, these acts do not constitute probable cause for arrest of the observer/bystander, and they do not provide any search warrant or other appropriate court order, to review, seize, damage, erase, or otherwise inspect the contents of a person's camera or video recording device.
5. All members shall be aware that on rare occasions a person or group of persons will deliberately create hazardous conditions with the intent of provoking an inappropriate police response.

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B. SPECIAL CIRCUMSTANCES

1. Nothing in this General Order shall be construed by members of this Department as an elimination of their abilities to seek out, collect, or otherwise gather evidence in the course of a criminal investigation.
 - a. If an officer has probable cause to believe, or exigent circumstances indicate, that a bystander is in possession of any still photos/images, video recordings, and/or audio sound recordings that are, or could reasonably be considered, evidence related to a crime and/or identification of a person involved in a crime, members may take all lawful actions to collect that evidence.
 - b. However, members seeking to obtain material contained on a camera or video recording device that is the private property of a bystander must remember that the camera or video recording device, and the bystander who possesses it, enjoy the same Constitutional protections from unreasonable search and/or seizure as they would in any other law enforcement activity or investigation.
 - c. Unless the bystander voluntarily consents to surrendering their camera or video recording device; an examination of its contents; and a seizure by a police officer of any images or videos contained with it, members shall adhere to the requirements of this General Order and to the requirements of General Order 4/802, "Search and Seizure."

C. REQUIRED ACTION

1. Officer Routine Encounters with the General Public Responsibilities
 - a. Upon discovery that a bystander is observing, photographing, or video recording the conduct of police activity:
 - 1) Do not impede or prevent the bystander's ability to continue doing so based solely on discovery of their presence;
 - 2) Do not seize or otherwise demand to take possession of any camera or video recording device;
 - 3) Do not demand to review, manipulate, or erase any images or video recording captured by the bystander based solely on discovery of their presence; and
 - 4) For investigative purposes, be mindful of the potential that the bystander may witness, or capture images/video of events considered at some later time to be material evidence.
 - b. Before taking any police action which would stop a bystander from observing, photographing, or video recording the conduct of police activity, an officer must have observed the bystander committing some act that falls within one of the six number conditions listed in this General Order, A.3.a through f.
 - c. If it becomes necessary to effect an arrest of a bystander who is has been observing, photographing, or video recording police activity:
 - 1) Immediately notify on the on-duty supervisor that an arrest for this nature has been made; and

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- 2) Clearly articulate the facts and circumstances that led to the arrest in all subsequent reporting and charging documents.
 - a) Probable cause must be clearly articulated.
 - d. Do not compromise the integrity of any established crime scene or other secured/restricted area so that a bystander may observe, photograph, or video record police activity.
 - e. A bystander's desire or intent to observe, photograph, or video record police activity does not entitle them to:
 - 1) Trespass on or enter into private property;
 - 2) Place themselves in physical danger;
 - 3) Enter into or upon established, marked crime scene; or
 - 4) Enter into or upon any area not accessible to the general public.
 - f. In public areas, any form of identification referred to as "press credentials" does not extend any special privileges or access to any individual
 - 1) Members of the press and members of the general public enjoy the same rights in any area accessible to the general public.
 1. No individual is required to display "press credentials" in order to exercise their right to observe, photograph, or video record police activity taking place in an area accessible to, or within view of, the general public.
2. Supervisor / Officer-In-Charge Responsibilities
- a. Respond to any scene where members believe that the presence of a bystander who is observing, photographing, or video recording their conduct is unlawfully or interfering with the successful execution of their duties.
 - b. At a scene where actions of a bystander who is observing, photographing, and/or video recording are approaching the level of a criminal offense:
 - c. Ensure adequate police attention remains focused or whatever originally required a police response;
 - 1) If feasible, inform the bystander that their actions may, if continued, rise to the level of criminal offense and could subject them to arrest; and/or
 - 2) If possible recommend a less-intrusive location to the bystander from which they may continue to observe, photograph, or video record the police activity.
 - d. Coordinate with the appropriate police personnel when establishing the limits of any crime scene.

D. SEIZURE OF A VIDEO RECORDING DEVICE FOR EVIDENTIARY PUPOSES

1. If a bystander is believed to possess any material that is , or could reasonably be considered evidence related to a crime scene and/or the identification of a person involved ins crime, a request may be made of the bystander that they voluntarily surrender their camera, video recording device, et., into police custody.
 - a. If the individual consents to the request:
 - 1) Exercise due care and caution with any of the individual's property or electronic device(s);

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- 2) Complete a Property Report;
 - 3) Provide the bystander with the name and contact information of the officer who took custody of the property;
 - 4) Record the information of the surrender of the property on the initial report;
 - 5) Document the circumstances of the surrender on the initial report;
 - 6) Do not make any attempt to view, download, or otherwise access any material contained on the device; and/or
 - a) Only a member of the Special Operations Division may make efforts to access material contained on the device.
 - 7) Submit the recovered camera, video recording device in accordance with General Order 4/502, "Property Submission."
- b. If the individuals refuses consent:
- 1) In the absence of exigent circumstances, develop the necessary probable cause to support an application for a Search and Seizure Warrant;
 - 2) If there is probable cause to believe that evidence exists on an individual's device, and there is probable cause to believe that the evidence is in immediate jeopardy of being tampered with, altered, deleted, or destroyed, temporarily seize the device for safekeeping and /or preservation of the evidence while the appropriate application for a Search and Seizure Warrant is made.
 - 3) Do not make any attempt to view, download, or otherwise access any material contained on the device;
 - a) Only a member of the Special Operations Division may make efforts to access material contained on the device.
 - 4) Apply for, execute, and return any Search and Seizure Warrant; and
 - 5) Complete all required Department documents and reports.
- c. Special Operations Division investigators will secure all warrants relating to seized video recording devices.

3 / 115.25 GOVERNING LEGISLATION AND REFERENCES

General Order 4-502, Property Submission
General Order 4-802, Search and Seizure

3 / 115.30 ANNEX

None