



Minneapolis Police Department Policy and Procedure Manual

Number:
9-100

Volume Nine – Enforcement Policies

Adult Stops, Searches, and Seizures

9-109 Public Recording of Police Activities

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I. Purpose

The purpose of this policy is to acknowledge and protect the legal rights of the public to photograph and make audio and video recordings of Minneapolis Police Department (MPD) members. This policy provides members with guidance in dealing with situations in which they are being recorded. Members shall adhere to all relevant guiding principles listed in P&P 9-101.

II. Procedures/Regulations

A. General Public Recording of Police Activities

MPD recognizes that the public has a right to record members while they are conducting official business or while acting in an official capacity in any public space, unless such recordings interfere with police activity. Members should assume that the public is likely to be observing and possibly recording their activities.

1. Members shall be aware that recording of people, places, buildings, structures, and events is a common and normally lawful activity. If a person is taking photographs or recording from a place where they have a right to be, this activity by itself does not constitute suspicious activity, nor does it constitute interference with police activity.
2. In public areas, anyone has the same right to photograph and record as the media. No one is required to have or display 'press' credentials to record events, including police activity.
3. Members shall not tell people who are recording police activity in a place where they otherwise have a right to be that recording police activity is not allowed, requires a permit, or requires consent of the member or others being recorded.
4. Members shall not erase, delete, or request any person to erase or delete any files, media or recorded images or sounds from any camera or other recording device that is in possession of a community member, or that has been seized or voluntarily turned over.

B. Responding to Public Recording of Police Activities

1. When a member observes a person taking photographs, or audio or video recording in a setting at which that person has a legal right to be present, the member shall not:

- a. Order the person to cease recording.
 - b. Order the person to move further away unless there are legitimate law enforcement reasons for doing so.
 - c. Demand the person's identification.
 - d. Demand that the person provide a reason for recording.
 - e. Detain or investigate the person for recording.
 - f. Intentionally block or obstruct recording devices, take the person's recording device, or demand that the person hand over their recording device.
 - g. In any way threaten, intimidate, or otherwise discourage the person from recording.
2. However, if a member reasonably believes that evidence of a serious crime has been recorded by a member of the public, the member may provide the person with the Evidence.com link, so they can upload any evidence they may have. Members are prohibited from coercing a person into providing evidence.

C. Right to Record and Limitations

1. The right to record does not grant a person the right to physically interfere with police activity. A person is committing a criminal offense if they interrupt, disrupt, impede, or otherwise physically interfere with a member while the member is performing a duty or exercising authority imposed or granted by law.
 - a. Verbal interference alone does not amount to obstruction of legal process.
 - b. A person's recording of a member's activity from a safe distance, without any action to obstruct the activity or threaten the safety of a member, does not constitute interference.
2. If a person is recording from a position that impedes or threatens the safety of the public, of members, or of members' ability to perform their duties:
 - a. The member shall inform the person that they are allowed to record but cannot interfere.
 - b. The member shall direct the person to move to a safe position that will not interfere and give them the opportunity to comply prior to taking any enforcement action.
 - c. Members shall not order the person to stop recording.
 - d. The member may not require the person to move more than necessary to address the issue; the member shall, to the fullest extent possible, allow the person to continue recording within reasonable proximity to the police activities.

3. People have the right to express criticism of the police activity being observed.
 - a. If that expression does not jeopardize the safety of any member, suspect, or bystander, and does not violate the law or incite others to violate the law, the expression does not constitute interference.
 - b. Members shall not order a person to stop criticizing the police but may ask the person to back away if their presence is physically obstructing police activity or if the volume of the speaker is interfering with police activity.

D. Detentions or Arrests

1. Any detention or arrest of a person who is recording members in a public place shall be related to an objective, articulable violation of the law unrelated to the act of recording. The act of recording alone does not provide grounds for detention or arrest.
2. If safe to do so, members shall call a supervisor to the scene before detaining or arresting the person, and the supervisor must approve any related arrest.
3. If an arrest is made prior to supervisor arrival due to exigent circumstances, the person shall not be transported to a holding or detention facility until the supervisor is present and has approved the arrest.
4. An arrest of a person does not provide an exception to the warrant requirement justifying a search of the person's recording equipment or media (see P&P 9-110). While equipment may be secured incident to an arrest, downloading, viewing, or otherwise accessing files or media requires a search warrant, subject to the narrow exception in [II-E-3].

E. Handling of Evidence on a Recording Device

People have a high expectation of privacy for the contents of cellular phones and other recording devices. Subject to the exceptions below in [II-E-2] and [II-E-3], recording equipment shall not be confiscated absent a warrant or arrest of the recording party and a separate warrant is required to view evidence on a device even if it was seized during an arrest.

1. Members shall not order a person to show recordings that have been made of police activity.
2. Where members reasonably believe that there is evidence captured on a cell phone or similar recording device that is essential for determining whether to arrest a person, then the member can ask to see that particular evidence. This does not give members, as a matter of course, authority or permission to ask to see unrelated communications, pictures or videos from a cell phone or similar recording device.

- a. When asking to see evidence that is essential for determining whether to make an arrest, the member may briefly look at the recording device solely for the purposes of determining whether to arrest a person. The member may not look at anything else on the person's cell phone or recording device other than what the person has offered to show the member to help make the arrest determination.
 - b. If the person refuses to voluntarily provide the recording or device and the member reasonably believes that the recording will be destroyed, lost, tampered with, or otherwise rendered useless as evidence before a warrant can be obtained:
 - i. The member shall notify a supervisor. The supervisor will assess the situation and determine whether exigent circumstances exist to permit the temporary seizure of the device without a warrant until a warrant can be obtained.
 - i. Any such seizure must be a temporary restraint intended only to preserve evidence, for no longer than reasonably necessary for the member, acting with diligence, to obtain a warrant to seize the evidence.
 - ii. A warrant must be obtained in order to examine or copy the recording and the chain of custody must be clearly documented.
 - iii. The member who has temporary custody of a device must return the device immediately if a warrant is denied.
 - iv. The recording or device shall be processed as evidence (see P&P 10-400).
3. In exigent circumstances when a member reasonably believes that an immediate search of the recording is necessary to prevent death or injury, the member shall notify a supervisor.
 - a. The supervisor will assess the situation and determine whether exigent circumstances exist to permit the seizure and search of a device without a warrant (see P&P 9-110).
 - b. The supervisor shall notify the Watch Commander if a search is approved.
 - c. Photographs, videos, or recordings that have been seized as evidence and are not directly related to the exigent circumstances shall not be viewed until a search warrant has been obtained.
4. Any recording devices or media taken into custody shall be returned as soon as practical.
 - a. Members who view or listen to a recording from a person or conduct a forensic examination of the recording or device shall undertake reasonable efforts to ensure only materials that constitute potential evidence are accessed. Members will refrain from examining any materials not relevant to the investigation.

Glossary

Arrest: Taking a person into custody, which may be imposed by force or may result from a person submitting to a member. An arrest is a restraint of greater scope or duration than an investigative stop or detention. An arrest requires probable cause that a crime was committed or is being committed. This includes booking, citing in lieu of booking, and releasing pending charges.

Public Space: Public settings include but are not limited to parks, sidewalks, streets, and locations of public protests. The right to record also extends to a person's home or business, common areas of public and private buildings, and any other public or privately owned facility which is generally open to the public or at which a person has a right to be.

Search: Sometimes called a "full search," a search is an inspection, examination or viewing of people, places, or items in which a person has a legitimate expectation of privacy, based on a warrant (P&P 9-301) or an exception to the warrant requirement (P&P 9-110). A search may be physical, visual, informational, or virtual.

- A **physical search** could include grasping, prying into or manipulating persons or objects (e.g., reaching into a purse or pocket, feeling inside of the trunk of a car; physical manipulation of a duffel bag, etc.).
- A **visual search** could include during a lawful traffic stop, a member observing the interior of a vehicle from the outside. If the member notices something in plain view, such as an open bottle of alcohol or a weapon, this constitutes a visual search.
- A canine sniff may constitute a search and as such be subject to the requirements in P&P 9-301 and P&P 9-110 (also see P&P 7-807 Authorized Use of Canines).
- Collecting someone's DNA from their person is a search.
- An **informational** or **virtual search** could include searching of certain types of paper or electronic records for information.