



Minneapolis Police Department Policy and Procedure Manual

Number:
9-200

Volume Nine – Enforcement Policies

Adult Stops, Searches, Seizures and Warrants

9-204 **Public Recording of Police Activities** (05/05/16) (xx/xx/24)

I. Purpose

The purpose of this policy is to acknowledge and protect the legal rights of citizens 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 9-201.

II. Policy

A. General Public Recording of Police Activities

1. The MPD recognizes that people of the general public have 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 a person of the public is likely to be observing and possibly recording their activities at all times.
2. 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.
3. In public areas, anyone has the same right to photograph and record as people of the media. No one is required to have or display 'press' credentials to record events, including police activity.
4. 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.
5. The warrantless seizure of recording equipment or recorded materials (e.g., cameras, phones, photos, videos) will undergo strict scrutiny in court and is subject to a higher standard of reasonableness under the Fourth Amendment.
6. 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 any person, or that has been seized or voluntarily turned over. Such action may constitute a violation of the First, Fourth and Fourteenth Amendments.

B. Responding to Public Recording of Police Activities

1. When a member observes a person taking photographs, audio, or video recording in a setting at which that person has a legal right to be present, the member shall not:
 - a. Order that person to cease recording.
 - b. Demand that person's identification.
 - c. Demand that the person provide a reason for recording.
 - d. Detain that person for recording or investigation of a recording.
 - e. Intentionally block or obstruct recording devices.
 - f. In any way threaten, intimidate, or otherwise discourage an individual 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 shall immediately request a supervisor respond to the scene.
3. The right to record does not grant a person the right to interfere with police activity. A person is committing a criminal offense if they interrupt, disrupt, impede or otherwise physically interferes with a member while the member is performing a duty or exercising authority imposed or granted by law.
 - a. 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.
 - b. If a person is recording from a position that impedes or threatens the safety of members or their ability to perform their duties, a member may direct the person to move to a position that will not interfere. Members shall not order the person to stop recording.
 - c. If a person is recording from a position that impedes or threatens the safety of the public, the member shall direct the person to move to a safe position that will not interfere. Members shall not order the person to stop recording.
 - d. People have the right to express criticism of the police activity being observed. As long as 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. 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.

C. Arrests

1. Any 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 does not provide grounds for detention or arrest.
2. If safe to do so, members shall call a supervisor to the scene before any restrictive police actions are taken, and the supervisor must approve any related arrest.
3. If an arrest is made prior to supervisor arrival due to exigent circumstances, the arrestee 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. While equipment may be secured incident to an arrest, downloading, viewing, or otherwise accessing files or media requires a search warrant.

D. Handling of Evidence on a Recording Device

1. People have a high expectation of privacy for the contents of cellular phones and other recording devices. Absent arrest of the recording party, recording equipment shall not be confiscated.
 - a. Members shall not order a person to show recordings that have been made of police activity.
 - b. A supervisor must be notified before a member takes any action involving a person's recording device, including a request for voluntary consent to search or seizure of the device.
2. If a member reasonably believes that evidence of a serious crime has been recorded by a member of the public, the member shall immediately request a supervisor respond to the scene.
 - a. With approval of the supervisor, the member may ask the person in possession of the recording if they will consent to voluntarily allow the member to take possession of the recording device or media and process it as evidence.

- i. The member shall not, implicitly, or explicitly, coerce consent to take possession of any recording device or information it may contain.
- 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, the member shall notify a supervisor.
 - i. The supervisor will assess the situation and determine whether exigent circumstances exist to permit the seizure of the device without a warrant.
 - aa. 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.
 - ab. A warrant must be obtained in order to examine or copy the recording and the chain of custody must be clearly documented.
 - ac. The recording or device shall be processed as evidence (see P &P 10-400) and a DIMS download station shall **not** be used for retrieval (see P&P 4-217).
- c. 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.
 - i. The supervisor will assess the situation and determine whether exigent circumstances exist to permit the seizure and search of the device without a warrant. The supervisor shall notify the Watch Commander if a search is approved.
 - ii. Photographs, videos, or recordings that have been seized as evidence and are not directly related to the exigent circumstances will not be viewed until a search warrant has been obtained.
- d. Any recording devices or media taken into custody shall be returned as soon as practical.
- e. 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.

III. Definitions

Public Space/Setting: Public settings include but are not limited to parks, sidewalks, streets, and locations of public protests. The right to record also extends to an individual'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 an individual has a right to be.

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