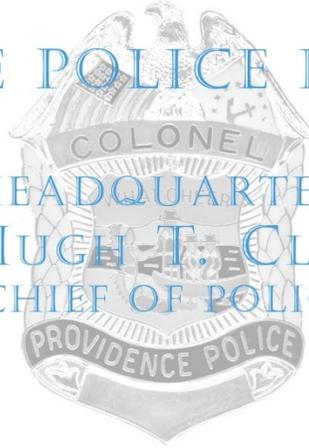


# PROVIDENCE POLICE DEPARTMENT

HEADQUARTERS  
COLONEL HUGH T. CLEMENTS, JR.  
CHIEF OF POLICE



TYPE OF ORDER	NUMBER/SERIES	ISSUE DATE	EFFECTIVE DATE
General Order	520.02	10/3/2014	10/5/2014
SUBJECT TITLE		PREVIOUSLY ISSUED DATES	
Public Recording of Police Officer Activities		N/A	
REFERENCE		RE-EVALUATION DATE	
		10/3/2017	
SUBJECT AREA		DISTRIBUTION	
Community Relations & Services		All Sworn Personnel	

## PURPOSE

The purpose of this policy is to provide all sworn Department personnel with a set of parameters for dealing with situations in which they have been or are being photographed and/or audio and/or video recorded by members of the public.

## POLICY

It is the policy of the Providence Police Department to recognize that members of the public have the right to record police officers in public places as long as the actions of those recording do not interfere with the officer's official duties or with the safety of officers or others.

## DISCUSSION

Officers should assume that they are being recorded at all times when on duty in a public space, and should act courteously and professionally at all times.

For the purpose of this directive, the following definitions shall apply:

***Record/Recording:*** The act of capturing still images and/or audio and/or video by means of a camera, video camera, cell phone, audio recorder, or other analog or digital recording device.

***Media:*** The storage repository for still images and/or audio and/or video recordings, whether such repository is of a physical (i.e. tape, memory card, hard drive, etc.) or digital (i.e. cloud storage, etc.) typology.

## PROCEDURE

### I. FIRST AMENDMENT CONSIDERATIONS

A. The First Amendment to the United States Constitution states:

*“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”*

- B. Individuals 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 activities that are within plain sight or hearing, including police activities.
- C. Members of the general public enjoy the same rights as members of the press to record police activities in areas accessible to the general public.
- D. Officers may not threaten, intimidate, or otherwise discourage or interfere with the recording of police activities.
- E. However, the right to record is not absolute, and is subject to legitimate and reasonable legal restrictions

### II. RESTRICTIONS ON AN INDIVIDUAL’S RIGHT TO RECORD POLICE ACTIVITIES

A. The right to record is subject to the following legitimate and reasonable legal restrictions:

- 1. A reasonable distance from the officer(s) engaged in enforcement or related police duties must be maintained by individuals who are engaged in recording police activities.
- 2. Individuals engaged in recording police activities may not interfere with or obstruct police actions.
  - a. For example, such individuals may not interfere through direct physical intervention; tampering with a witness, crime scene, or evidence; or by persistently engaging an officer who is in the midst of his or her duties with questions or interruptions.
  - b. However, the mere fact that the recording itself and/or any overt verbal criticism, insults, or name-calling aimed at officers may be annoying, such actions alone do not justify an officer taking corrective or enforcement action or ordering that recording be stopped, as doing so would constitute an infringement on an individual’s right to protected speech.

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 individual.

### **III. ARREST CONSIDERATIONS**

- A. Whenever practicable, officers should undertake the following actions prior to arresting individuals who violate the aforementioned restrictions:
  1. Inform the individual that they are engaged in prohibited activity.
  2. Provide the individual with information on acceptable alternatives, including, but not limited to, suggesting alternative locations from which the individual may continue to record.
  3. Notify, and receive instructions from, a supervisor.
    - a. If notification cannot be made prior to arrest, it shall be made as soon as practicable following arrest so as to give the supervisor an opportunity to respond to the scene and evaluate the circumstances.
- B. An arrest of an individual who is recording officers in public shall be related to an objective, articulable violation of the law unrelated to the mere act of recording. The mere act of recording does not, by itself, provide sufficient grounds for detention or arrest.
- C. An arrest of an individual does not provide officers with an opportunity to search the recording device or to gain access to the device's contents via a search incident to arrest. While equipment may be seized incident to an arrest, the downloading, viewing, or otherwise accessing of files requires a search warrant (unless exigency exists – see Section IV, below).
- D. Files and/or media shall not be erased under any circumstances.

### **IV. CONFISCATIONS OF RECORDING DEVICES AND MEDIA**

- A. Officers may not order an individual to show recordings that have been made of enforcement actions or other police operations.
- B. Additionally, absent an arrest of the recording party, recording equipment may not normally be confiscated.
- C. However, if there is probable cause to believe that evidence of a serious crime has been recorded, an officer shall:

1. Notify, and receive instructions from, a supervisor.
  2. Ask the person in possession of the recording if he/she will consent to voluntarily and temporarily relinquishing the recording device and/or media so that it may be viewed and/or copied as evidence.
  3. Obtain a warrant prior to confiscating the recording device and/or media if the person in possession of the recording device and/or media will not voluntarily consent to its temporary relinquishment.
  4. In exigent circumstances where it is objectively reasonable to believe that the recording will be destroyed, lost, tampered with, or otherwise rendered useless as evidence before a warrant can be obtained, officers may confiscate the recording device or media prior to obtaining a warrant. However, a warrant must still be obtained prior to examining and/or copying the recording, and the chain of custody of all confiscated items/media/recordings must be clearly documented in accordance with General Order 420.01, "Property and Evidence Control".
- D. Furthermore, in exigent situations where it is objectively reasonable to believe that immediate viewing of recordings is necessary to prevent the death of or serious bodily harm to any person prior to the issuance of a search warrant, the recording device and/or media may be confiscated and viewed.
- E. Whenever a recording device and/or media is either obtained by consent or seized without a warrant, the seized item(s) shall be held in police custody no longer than shall be reasonably necessary for the Department, acting with due diligence, to obtain a warrant.
1. Instructions must be provided to the owner/person from whom the item(s) was seized which outline how the item(s) can be retrieved, and the device and/or media must be returned to its owner or the person from whom it was seized at the earliest possible time.
- F. Confiscated recording devices and/or media shall be turned-off and/or have their power supplies removed as soon as practicable. This will help to prevent the accidental or intentional deletion of files or erasure of media which could be accomplished by means of either physical manipulation or remote access.
- G. Files and/or media shall not be erased under any circumstances.

## **V. SUPERVISOR RESPONSIBILITIES**

- A. Whenever practicable, a supervisor will respond to the scene and ensure that the totality of the circumstances pertaining to any arrest and/or seizure of items conforms to the policies set forth in this directive.
  - 1. If the supervisor determines that an arrest and/or seizure is necessary, he/she shall also determine whether or not an immediate search of the recording device and/or media is warranted.
  - 2. If the supervisor determines that an arrest and/or seizure is not necessary, he/she shall:
    - a. Ensure that the portable video and/or photo recording device is immediately returned to the person detained, and the person released on-scene.
    - b. Ensure that the supervisory findings are completely and accurately documented in a letter to his/her Division Commanding Officer.
- B. Supervisors shall ensure that:
  - 1. All required documentation is completed, including an electronic field report.
  - 2. The chain of custody of seized items is properly maintained and documented.
  - 3. Any questions regarding the appropriateness of the arrest and/or seizure are immediately directed to the next supervisory level in the chain-of-command.
  - 4. Notification of the incident is made to the Chief of Police as soon as practicable.

## **VI. PROVISIONS**

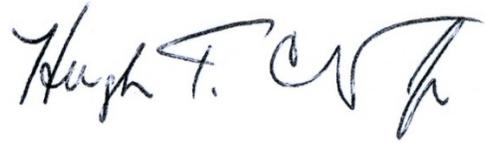
- A. This directive shall be considered in conjunction with General Order 520.01, "News Media Access".

**APPROVED:**

Handwritten signature of Steven M. Paré in black ink.

STEVEN M. PARÉ  
COMMISSIONER  
DEPARTMENT OF PUBLIC SAFETY

**APPROVED:**

Handwritten signature of Hugh T. Clements, Jr. in black ink.

HUGH T. CLEMENTS, JR.  
COLONEL  
CHIEF OF POLICE