



WRITTEN DIRECTIVE	No. PD-13-0406	Page: 1 of 4
Recording Police Activities	Effective Date:	02-12-13
	Supersedes/ Amends:	NEW
	Reference:	83.2.5



I. Purpose

The purpose of this directive is to establish procedures for employees who encounter persons recording Lynchburg Police Department employee activities through the use of recording devices.

II. Policy

It shall be the policy of the Lynchburg Police Department that officers will adhere to all guidelines and laws governing the rights of citizens to record police activities and those governing search and seizure of related evidentiary recordings.

III. Procedure

- A. As public officials, department employees have no reasonable expectation of privacy during the performance of their duties in public places and should not expect their actions to be shielded from public observation.
- B. Members of the general public have a First Amendment right to make video, photographic, or sound recordings of LPD employees during official business in any public space unless such recordings interfere with police activity.
 - 1. A person recording LPD employee activity from a place that he or she has a right to be does not constitute illegal activity and does not, by itself, constitute suspicious activity.
- C. In areas open to the public, employees shall allow bystanders the same access for recording events as is given to the news media except for when VA Code exemptions allow members of the media to cross established police lines (VA Code 15.2-1714).
 - 1. A bystander has the same right to record activities as a member of the media as long as the bystander has a legal right to be present where he or she is located.

2. Public areas include, but may not be limited to, parks, sidewalks, streets, common areas of public and private facilities, where a person has a legal right to be present.
 3. The fact that a bystander has a camera or other recording device does not entitle the bystander to cross a police line, to enter an area closed to the public, or to enter an area designated as a crime scene.
 4. Members of the news media are allowed to cross designated police lines unless their presence obstructs police, fire, or rescue operations (VA Code 15.2-1714).
- D. Members of the public recording police activities from a location where they have a legal right to be, shall not be told to discontinue the activity. LPD employees shall not:
1. Inform the person that recording is not allowed, or requires a permit
 2. order the person to stop recording
 3. demand the person identify himself or herself
 4. demand the person provide a reason for his or her activity
 5. detain the person
 6. intentionally block or obstruct cameras or recording devices
 7. act in any intentional manner to threaten, intimidate, or otherwise discourage the person from recording activities.
- E. Officers may engage in a consensual conversation with person's using video or photographic equipment to record employee activity.
- F. Citizens using video or photographic equipment to record employee activity do not have the right to interfere with police activity.
1. If a person records employee activity from a position that impedes or interferes with the safety of employees; other members of the public, or that interferes with the ability to perform police duties, then the person will be directed to move to a position where such activity will not impede or interfere.

2. A person recording LPD employee activity from a safe distance, and absent any attendant action that obstructs the activity or threatens the safety of employees, does not constitute interference.
3. Citizens have the right to express criticism of police activity being observed as long as the expression does not jeopardize the safety of LPD employees, suspects, or bystanders; and so long as that expression does not violate the law, incite others to violate the law, or does not constitute interference.

G. Evidence on a recording device; Probable Cause

1. The warrantless seizure of material on recording devices protected by the First Amendment (photos, videos, etc.) under ordinary circumstances is not reasonable.
 - a. *Search warrants* may be issued for the search of or for specified places, things or persons, and for any object or thing constituting evidence of the commission of a crime (Code of Virginia, 19.2-53).
2. 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:
 - a. the device be handed over voluntarily for safe handling and processing by the Lynchburg Police Department, or
 - b. where possible and practicable, and in the presence of another officer, have the images or sound voluntarily sent via text message or email to the officer's official government email account.
3. If such recording device or medium is provided to the officer voluntarily, the officer shall:
 - a. exercise due care when handling the device or medium
 - b. provide event cc# to the device owner
 - c. enter the device into evidence and complete a Forensic Service Request DERU form

- d. provide detailed documentation in an IBR report regarding the circumstances surrounding the voluntary submittal of the device.
4. If the person declines to voluntarily provide the recording device or medium and the officer believes that exigent circumstances exist insofar as the evidence of a serious misdemeanor or felony crime will be lost absent seizure of the device, the officer will:
 - a. seize the recording device for no longer than reasonably necessary in order to obtain a search warrant
 - b. not view any evidence on the device until the search warrant is obtained
 - c. not alter or delete any recordings on the device
 - d. explain all circumstances to the owner and provide him or her with the related CC number
 - e. enter the device into evidence and complete a Forensic Service Request DERU form.
 - f. provide detailed documentation in an IBR report regarding the circumstances surrounding the seizure of the device
5. Once the evidence has been processed and it is determined the actual device is no longer needed, the Property & Evidence Unit will make arrangements to return the device and all original recordings back to the owner.

Original Signed

Parks H. Snead
Chief of Police

February 12, 2013

Date