



RECORDING POLICE ACTIVITY
GENERAL ORDER #11.05

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Persons Affected: All personnel

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IACLEA Standards:

Revision History

New SUDPS General Order. No corresponding SCCSO G.O.

PURPOSE

This Order provides guidelines for Stanford University Department of Public Safety personnel when dealing with situations in which they are being recorded, to include photographing, videotaping, audiotaping, or both, by members of the public or the press.

POLICY

Members of the public, including news media representatives, have an unambiguous First Amendment right to record public safety personnel in public places as long as their actions do not interfere with the duties being performed or the safety of others. SUDPS personnel should assume they are being recorded at all times when on duty in a public space. Consistent with General Order 10.05 Body-Worn Cameras, SUDPS deputies are to make every reasonable effort to activate their body worn camera when dealing with situations addressed in this Order. SUDPS employees should also be familiar with SUDPS General Order 24.00 Media Relations.



DEFINITIONS

TERM	DEFINITION
Recording	Capturing of images, audio, or both, by means of a camera, cell phone, audio recorder, or other device.
Media	1) The storage source for visual or audio recordings , whether by film, analog, or digital means. 2) Media may also be used to refer to a person or entity engaged in disseminating information to the general public through a newspaper, magazine, other publication, radio, television, cable television, or other medium of mass communication. (2 USCS § 1602)

PROCEDURE

A. RIGHTS AND LIMITATIONS

Persons 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 things in plain sight or hearing, to include police activity.

SUDPS personnel may not threaten, intimidate, or otherwise discourage or interfere with the recording of law enforcement activities. However, the right to record is not absolute and is subject to legitimate legal restrictions as follows:

1. A reasonable distance must be maintained from personnel engaged in enforcement or related law enforcement duties.
2. Persons engaged in recording activities may not obstruct law enforcement actions. For example, individuals may not interfere through direct physical intervention, tampering with a witness, or by persistently engaging a deputy with questions or interruptions. The fact that the recording and/or overt verbal criticism, insults, or name-calling may be annoying does not in itself justify a deputy taking corrective or enforcement action or ordering that recording be stopped, as this is an infringement on an individual's constitutional 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 deputies, department personnel, victims, witnesses and third parties cannot be jeopardized by the recording party.
5. Pursuant to Penal Code 409.5 and SUDPS General Order 24.00 regarding media relations, news media representatives will be allowed access to locations or crime scenes under SUDPS control except:
 - a. When protection or preservation of the crime scene is necessary. In that event, a briefing area will be established that will allow reasonable media access without risking the safety of the media or others or contamination of the crime scene.
 - b. When the presence of media representatives jeopardizes the safety of others as determined by law enforcement personnel.
 - c. When on private property and the owner/agent declines or refuses permission for media access. Note: Stanford University's buildings and facilities are private property. Public access to buildings and facilities or areas within a building or facility may be granted to the public but access is generally restricted. Buildings and facilities on campus have designated representatives authorized to act as agents of the University to approve, decline or refuse permission for access.
 - d. When the presence of media representatives interferes with or obstructs the duties or responsibilities of law enforcement personnel.
6. When the recording device or media being used is attached to a drone that is being operated on campus, department personnel should refer to SUDPS Field Operations Procedure 106 Use of Unmanned Aircraft Systems (UAS).

B. ARREST

1. Persons who violate the foregoing restrictions should be informed that they are engaging in prohibited activity and given information about acceptable alternatives, where appropriate, prior to making an arrest.
2. Arrest of a person who is recording department personnel in public shall be related to the objective, articulable violation of the law unrelated to the act of recording. The act of recording does not, in itself, provide grounds for detention or arrest.
3. Arrest of an individual does not provide an exception to the warrant requirements justifying search of the individual's recording equipment or media. While equipment may be seized incident to an arrest, downloading, viewing, or otherwise accessing files requires a search warrant. Files and media shall not be altered or erased under any circumstances.



C. SEIZURE OF RECORDING DEVICES AND MEDIA

1. Absent arrest of the recording party, recording equipment may not be seized. Additionally, SUDPS personnel may not order an individual to show recordings that have been made of enforcement actions or other law enforcement operations.
2. If there is probable cause to believe that evidence of a serious crime has been recorded, Department personnel shall request a deputy to respond if one is not already on scene. The assigned deputy should assess the situation and then:
 - a. Advise and receive instructions from their supervisor;
 - b. Consistent with SUDPS General Order 10.05 Body-Worn Camera (BWC) section B.3.c.i activate their BWC to record the contact.
 - c. Ask the person in possession of the recording if he or she will consent to voluntarily and temporarily relinquish the recording device or media so that it may be viewed and/or copied as evidence; and
 - d. In exigent circumstances, in which it is reasonable to believe that the recording will be destroyed, lost, tampered with or otherwise rendered useless as evidence before a warrant can be obtained, the recording device or media may be seized temporarily. A warrant must be obtained in order to examine and copy the recording, and the chain of custody must be clearly documented in an Incident Report (IR).
3. In exigent situations where it is objectively reasonable to believe that immediate viewing of recordings is necessary to prevent death or serious bodily harm of another before a warrant can be authorized, the recording device or media may be seized and viewed.
4. Whenever a recording device or media is seized without a warrant or obtained by voluntary consent, the seized item shall be held in SUDPS custody no longer than reasonably necessary for the deputy, acting with due diligence, to obtain a warrant. The owner/operator of the device will be provided instructions on how the recording device or media may be retrieved and in all cases, will be issued a property receipt for the item(s). The device must be returned to its owner/operator at the earliest possible time.

D. SUPERVISOR RESPONSIBILITY

SUDPS deputies shall request the Patrol Sergeant or Watch Commander/Shift Coordinator respond to the scene of any incident in which an individual recording law enforcement activity is going to be, or will most likely be, arrested or when recording equipment or media may be seized without a warrant or lawful consent. The Patrol



Sergeant or Watch Commander/Shift Coordinator will respond and note the event in the Watch Commander's shift log.