

**COUNTY OF MONROE
OFFICE OF THE SHERIFF
ROCHESTER, NEW YORK**

GENERAL ORDER MULTI-BUREAU	DATE OF ISSUE JUNE 12, 2025	EFFECTIVE DATE JUNE 12, 2025	NO. 113-25
SUBJECT: GENERAL ORDER Recording Police Activity and Seizure of Recording Devices		DISTRIBUTION All Personnel	AMENDS
REFERENCE: NYSLEAP 50.1			RESCINDS New

Purpose: To provide guidance to Monroe County Sheriff's Office members for dealing with situations in which they are being recorded, to include photographing, videotaping, or both, by members of the public or the press.

Policy: Individuals have a First Amendment right to record police officers in the performance of their public duties. This right extends to recording of police activity in public or where an individual has a legal right to be present provided their presence is lawful, does not create a safety risk, and their activities do not interfere with police activity. Members may not threaten, intimidate, or otherwise discourage or interfere with the recording of police activities.

Definitions: **Recording:** Capturing of images (still or moving), audio, or both, by means of a camera, cell phone, audio recorder, or other device.

Media: The storage source for visual or audio recordings, whether by film, analog, or digital means.

Electronic/Recording Device: Any device capable of capturing or preserving any still or moving visual images and/or sound. This includes cameras and video recording devices with or without simultaneous audio recording. Examples include cellular telephones, personal digital or data assistants, tablet style mobile computers or any camera.

Public Places: Anywhere an individual has a legal right to be present. Locations that are open and legally accessible to the public, such as parks, beaches, streets, and buildings designated for public use, such as libraries and the open and common areas of government buildings.

Private Places: Places not open to the public unless the owner or resident has given permission to others to be present.

Privately Owned Public Places: Accessible and open to the general public, and intended for public use, although their use can be limited by property management. Examples include community shopping malls or other places of commerce.

Interference with Police Activity: includes conduct that threatens another's safety; obstructs, hinders, or delays police activity; or compromises the outcome of legitimate police actions and/or rescue efforts.

I. Procedure

A. The right to record is subject to legitimate and reasonable legal restrictions, as follows:

1. A reasonable distance must be maintained.
 2. Persons engaged in recording activities may not obstruct police actions.
 3. Recording must be conducted in a manner that does not impede the movement of emergency equipment and personnel or flow of vehicular traffic.
 4. The safety of officers, victims, witnesses, and third parties cannot be jeopardized by the recording party.
- B. Persons who violate the above restrictions should be informed that they are engaged in prohibited activity and given acceptable alternatives, prior to making an arrest.
- C. Members will allow persons to remain in the proximity of police activity occurring in public, and to observe, photograph, and record police activity provided their presence is lawful, does not create a safety risk, and their activities do not interfere with police activity. Deputies **will not**:
1. Order a person to stop activity.
 2. Tell the person that their actions are not allowed; or require the member's consent.
 3. Request or demand a reason or explanation as to why the person is observing or recording police activity.
 4. Request or demand the person's identity unless there are grounds to seize the recording device (refer to Section III.)
 5. Detain the person because he/she is observing or recording police activity.
 6. Intentionally block or obstruct the person's view or recording device.
 7. Attempt to alter, erase, or destroy images or recordings, or demand or request the person to do so.
 8. Threaten, intimidate, discourage or otherwise prevent a person from observing or recording police activity.
 9. Request a display of media or press credentials to exercise their right to observe or record police activity in an area accessible to or within view of general public.

II. Court Procedures

- A. A member of the public (including the media) may not use an electronic or other device to record sound, video or photographs in the courthouse or courtroom unless it is with the prior approval of the presiding judge of a proceeding, or the Administrative Judge.
- B. When a deputy has reason to believe that an individual is using or has improperly used an audio/recording device (including a cell phone used as a camera or recorder) in a court facility, and unless the appropriate administrative judge, has established an approved alternative protocol, the following procedures should be followed:
1. The deputy should approach the individual in possession of the device (operator) for questioning. If possible this interview should be conducted outside the

courtroom.

2. The Operator should be informed that unauthorized use of the audio/recording device in a court facility is improper and violates the clearly posted rule and policy at court facilities.
 3. The deputy should advise the Operator that, if any images or recordings have been taken in violation of the court rule, they must be deleted to the satisfaction of the court deputy or an appropriate supervisor and that the failure to delete such images/recordings will result in charging the Operator with disorderly conduct or, where appropriate, obstruction of governmental administration.
- C. If the matter is not satisfactorily resolved with the Operator's voluntary assistance, and the deputy has evidence that would cause a reasonable person to believe that the Operator has made improper photos or recordings, then the following discussion with the approval by a uniformed supervisor, the deputy should
1. Move the Operator to a non-public area.
 2. Contact CIS
 3. The device should be seized and vouchered as evidence until the conclusion of the criminal matter. Unless a search warrant has first been obtained, at no time should photos or recordings be examined without the Operator's consent.
- D. If a deputy has evidence that would cause a reasonable person to believe that the Operator has committed a more serious offense, for example, witnesses tampering or intimidation:
1. The Operator should be detained.
 2. The device should be seized immediately
 3. No photos or recording should be deleted.
 4. The judge presiding should be consulted for further instructions.
 5. No photos should be examined without a search warrant.
- E. Members of the press are permitted to use electronic devices during court proceedings subject to the discretion of the presiding judge. Express authorization of the presiding judge must be obtained prior to the taking of any photographs or the recording of audio or video in a courtroom by members of the press. In any case where a dispute arises over the use of electronic devices in a courtroom or courthouse by members of the press, the deputy should inform the UCS Press Office immediately.

III. Arrest

- A. Arrest of a person who is recording officers in public shall be related to an 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.
- B. Conduct that interferes with police activity include:
 1. Conduct which jeopardizes the safety of officers or other persons;
 2. Conduct that violates the law or incites others to violate the law;

3. Entering or attempting to enter an establishment and marked crime scene, an inner or outer perimeter, or other restricted area that is not accessible to the general public.
4. Physically encroaching on a deputy, or physically blocking a deputy's activities.
5. Intimidation, physical force, physical interference, or an independently unlawful act that obstructs a lawful and authorized police function.
6. Verbal threats or incitements to harm officers or other persons, or to violate the law.

IV. Seizure of Recording Devices

- A. All searches and seizures by a deputy must meet the requirements of both Fourth Amendment and First Amendment requirements to the United States Constitution and applicable New York State legal requirements.
- B. Absent arrest of a recording party, recording equipment may not be seized. Additionally, deputies may not order an individual to show recordings that have been made of enforcement actions or other police operations.
- C. If there is probable cause to believe that evidence of a serious crime has been recorded a deputy will;
 1. Contact a supervisor
 2. Ask the person in possession of the recording if he/she will consent to voluntarily and temporarily relinquish the recording device or media so that it may be viewed or copied as evidence.
 3. In exigent circumstances, if there is reason to believe that the recording will be destroyed, lost, or tampered with or otherwise rendered useless as evidence before a warrant can be obtained, the recording device may be seized under temporary restraint. A warrant must be obtained in order to examine and copy the recording and the chain of custody must be clearly documented.
- D. Deputies may not retrieve, access, view, or duplicate any recordings or images on the recording device until authorized by a warrant.

Note: The only exception would be an extremely rare situation when it is necessary to immediately retrieve, access, view or duplicate recordings or images to prevent serious physical injury or death (kidnapping, hostage situation, locating a person missing who may be in danger).

- E. Deputies shall not under any circumstances alter, destroy, erase, or delete any recording, photograph, image or sound from any recording device that is seized or voluntarily obtained or direct any other person to do so.

V. Warrantless Seizure/Exigent Circumstances

- A. In exigent situations where it is objectively reasonable to believe that immediate viewings of recordings is necessary to prevent death or serious physical harm of another before a warrant can be authorized, the recording device or media may be seized and viewed. To seize a recording device without a warrant under exigent circumstances justification, there

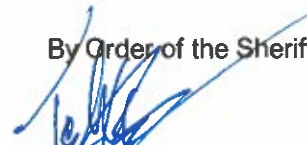
must be probable cause to believe;

1. A crime (misdemeanor or felony) has been or is being committed; AND
 2. That if immediate action is not taken, the crime will be completed; or that a person will suffer physical injury or death; or there is reason to believe that evidence of a crime will be destroyed or otherwise lost.
- B. Warrantless seizures of recording devices will be strictly scrutinized, and should be limited to situations when such a seizure is lawful and necessary. Non-consensual warrantless seizure of recording devices will be limited to situations involving serious crimes and/or serious safety threats. A lawful basis to make a warrantless seizure of a recording device does not necessarily include a lawful basis to retrieve, access, view, or duplicate any recordings or images on the recording device.
- C. When a recording device or media is seized without a warrant or obtained by voluntary consent, the seized item shall be held in police custody no longer than reasonably necessary for the police, acting with due diligence, to obtain a warrant. The device must be returned at the earliest possible time and its owner/operator given instruction on how it can be retrieved. A property receipt will be given to the owner.

VI. Supervisor Responsibilities

A supervisor will be summoned to any incident in which an individual recording police activity is going to be, or will most likely be, arrested or when recording equipment may be seized without a warrant or lawful consent.

By Order of the Sheriff,



Todd K. Baxter