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## Public Recording of Law Enforcement Activity

### 426.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public observe, document, or record (notes, photograph, audio/video recording, etc.) law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

### 426.2 POLICY

- A. The Sahuarita Police Department (SPD) recognizes the right of persons to lawfully observe, document, or record members of this department who are performing their official duties in certain settings such as a public place or settings and locations where persons who are observing, documenting, or recording have a right to be present.
- B. Members of this department will not prohibit or intentionally interfere with such lawful observation, documentation, or recording. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

### 426.3 RECORDING LAW ENFORCEMENT ACTIVITY

- A. Members of the public who wish to observe, document, or record law enforcement activities are limited only in certain aspects.
  - 1. Observation, documentation and recording may be made from any public place or any private property where the individual has the legal right to be present.
  - 2. Beyond the acts of observing, documenting or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
    - (a) Tampering with a victim, witness, suspect, or involved party.
    - (b) Inciting others to violate the law.
    - (c) Being so close to police activity or conducting actions which present a clear safety hazard to the member or others or that prevents a member from performing essential law enforcement tasks.
    - (d) Being so close to the activity as to interfere with a member's ability to perform effective communication with a victim, witness, suspect, or involved party.
    - (e) Distances associated with establishing a safe operating area for the safety of a member (officer or civilian) or another person, or a crime scene or other location, which may be impacted by the type of incident, investigation, the demeanor or actions of those observing, documenting, recording, or of those that are involved in the police action, incident, or investigation.

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3. Individuals or their actions will not be allowed to present an undue safety risk to the individual, a member (officer or civilian), crime or incident scene, or other persons.

#### **426.4 OFFICER RESPONSE**

- A. Members should promptly request that a supervisor respond to the scene whenever it appears that anyone observing, documenting, or recording activities may be interfering with an investigation or it is believed that the recording may be evidence.
  1. Members, if practicable, shall wait for the supervisor to arrive before taking enforcement action or seizing any documentation, cameras or recordings.
- B. Whenever practicable, members or supervisors should give clear and concise warning to individuals who are conducting themselves in a manner that would cause their observation, documentation, recording or behavior to prevent the appropriate collection of evidence, or creates a safety risk to the individual, a member (officer or civilian), crime or incident scene, or other persons. Accompanying the warnings should be clear direction on what an individual can do to be compliant; direction should be specific enough to allow compliance. For example, rather than directing an individual to, "clear the area," a member should advise the person that he/she may continue observing, documenting, or recording from a particular distance or location. This provides the individual with a defined location they can continue to observe, document, or record from.
- C. If an arrest or other significant enforcement activity is taken as the result of a person observing, documenting, or recording police actions and it interferes with law enforcement activity, members shall document in a police report the nature and extent of the interference and other unlawful behavior and any warnings or instructions that were issued.
- D. Some persons who engage members while trying to request or demand information or observe, document, or record members may display anger, a lack of respect, inappropriate language, or inappropriate actions or demeanor. This can be done in an effort to get a particular response. Upon request from a member of the public, members are required to politely advise the name of this department, their first initial, last name, and any applicable badge number. Upon request, they are also to provide the SPD main public phone number and physical address.
- E. Members are not to become involved in debates or arguments with the public. Some persons may demand to know why a member may be present at a location, justification for certain actions, or other questions or comments about policing. Members are to use good judgment regarding responding to questions or comments, as these could be attempts to simply distract a member from duties or pull them into a debate or argument.

#### **426.5 SUPERVISOR RESPONSIBILITIES**

- A. A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

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- B. The supervisor should review the situation with the officer and:
1. Request any additional assistance as needed to ensure a safe environment. This may include appropriately expanding the crime or incident scene that members are operating within.
  2. Take a lead role in communicating with individuals who are observing, documenting, or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded by SPD, in accordance with the SPD PAVR policy, Lexipol 425.
  3. When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
  4. Ensure that any enforcement, seizure of property or evidence, or other actions are consistent with this policy and constitutional and state law.
  5. Explain alternatives for individuals who wish to express concern about the conduct of Department members, such as how and where to file a complaint. If persons want to provide information about a complaint at the scene of an incident, a supervisor should at least take an initial in-substance statement from those complaining, or that are witnesses. These statements should be recorded in accordance with the SPD PAVR policy, Lexipol 425, and the personnel complaints and Administrative Investigation (1010).

#### **426.6 SEIZING RECORDINGS AS EVIDENCE**

- A. Members should not seize recording devices or media unless (42 USC 2000aa):
1. There is probable cause to believe the recording is reasonably necessary for prosecution of a significant crime. If practicable, staff may reach out to any Command Staff member or the Department of Law while at a scene or just after an incident has been stabilized to obtain advice on how to proceed.
    - (a) Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
  2. There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
  3. The person consents.
    - (a) To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
    - (b) If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.
- B. Recording devices and media that are seized will only be taken in accordance with law and SPD policy.

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### **426.7 POLICY ISSUANCE OR REVIEW**

06/13/2024 - Reviewed by Chief John D. Noland - SP#002