



# City of Eugene

## **POLICE COMMISSION**

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The Police Commission recommends to the City Council, City Manager, police department, and the people, the resources, preferred policing alternatives, policies, and citizen responsibilities needed to achieve a safe community. We strive to create a climate of mutual respect and partnership between the community and the police department that helps to achieve safety, justice and freedom for all people in Eugene.

Police Commissioners: Bob Walker, Chair; Tamara Miller, Vice-Chair; Mike Clark; Edward Goehring; Jim Garner; Jesse Lohrke; James Manning; George Rode; Claire Syrett; Joe Tyndall; Bill Whalen

Police Commission Meeting  
February 12, 2015  
5:30 – 8:30

Item	Starting – Ending	Minutes
Review Agenda	5:30 – 5:35	5 min
Public Comments	5:35 – 5:50	15 min
Commissioner Comments / Responses	5:50 – 6:05	15 min
Review Minutes	6:05 – 6:10	5 min
Closed Circuit Television (CCTV) Proposal	6:10 – 6:45	35 min
BREAK	6:45 – 6:55	10 min
Chief's Presentation	6:55 – 7:10	15 min
Stops Data Collection Update	7:10 – 7:40	30 min
Citizens Filming Officers Policy Discussion	7:40 – 8:15	35 min
Commissioner Closing Comments	8:15 – 8:30	15 min

UPCOMING Police Commission Meetings:

March 12, 2015

NOTE – Retreat set for Saturday, May 2 – Washington Park Community Center

**City of Eugene Police Commission**

**December 11, 2014**

**DRAFT Meeting Notes DRAFT**

*Please note the official full record is contained in the video recording at  
<http://eugene-or.gov/index.aspx?NID=1344>*

The meeting convened at 5:30 P.M.

Members in attendance: Bob Walker, chair; Tamara Miller, vice chair; Jim Garner; Jesse Lohrke; James Manning; George Rode; Joe Tyndall; Bill Whalen

Members absent: Mike Clark; Edward Goehring; Claire Syrett

Staff in attendance: Chief Pete Kerns; Cpt. Karl Durr; Tim Schuck; Lt. Sean McGann; Becky DeWitt; Elizabeth Weber; Sgt. Matt Lowen; Jeremy Cleversey

**Agenda Review**

Mr. Cleversey reviewed the agenda.

**Public Comments**

Majeska Seese Green offered comments on the police budget. She also expressed concern that officers may be taking advantage of overtime in the municipal court.

Juan Carlos Valle represented the League of United Latin American Citizens (LULAC). Read a statement requesting the Police Commission support of his and LULAC's mentioned concerns.

Riley Webber said there is a problem with public authority. He believes there should be a transparency of the standard of police work and recommends mandatory body cameras in the field to promote accountability.

Carol Berg-Caldwell submitted folders containing three complaints that she submitted to the police auditor and shared concerns before CRB. She recommended a policy be put in place to protect citizens and police regarding recording police with cameras.

**Commissioner Comments**

Mr. Manning shared a few of the proposals that the State Advocacy Commission is advocating to Governor Kitzhaber.

Mr. Tyndall responded to public comment advising citizens to get involved with government if they want to change things, and suggests that the three minutes spent making a public comment before the police commission will have more impact than a public demonstration. He was glad the commission was looking at the budget this meeting.

Mr. Garner noted that Mr. Tyndall's comments were right on target and supports a lot of what Mr. Manning is proposing to the Governor. He asked Chief Kerns to comment tonight on Ferguson death and impact on EPD.

Mr. Lohrke thanked the public for the good turnout. He suggested policies the Police Commission could review. Reports a study that he read on police cameras and the objective benefit they provide.

Mr. Walker reminded the citizens that by charter the Police Commission cannot respond to individual EPD complaints and suggests three proper avenues: Civilian Review Board, Auditor, and Internal Affairs.

Ms. Miller commented on the loss of life in both Ferguson, Missouri and New York being very unfortunate and suggested the dialogue created from it is good. She commended Chief Kerns for being out front with body cameras and stated that the chokehold policy was reviewed by the commission a couple of years ago. Ms. Miller commented that police departments' receiving retired military vehicles is ironic in the light of the discussion of demilitarizing police departments.

Chief Kerns responded to public comment that police overtime in municipal court has decreased. He responded to public concerns about possible police officer retaliation for video recording them. He spoke about policing communities of color and protected classes; discussed EPD's body worn cameras; and other methods used for accountability. He also responded to the public Ferguson question.

Mr. Rode thanked the public for their input, and Ms. Caldwell for her time spent with the Civilian Review Board. He commented on the Ferguson situation. CRB would like to see if there is any Policy on holding hair or citizens filming police. Mr. Rode noted that he is thankful to EPD for in car video and body cameras, having video recordings is useful for the Civilian Review Board.

Mr. Whalen thanked the public for their attendance and especially the speakers. Comments in light of the instances occurring across the country, he believes EPD is ahead across the country on discussion of putting up more cameras, body cameras and with having the Civilian Review Board and Police Commission.

Mr. Rode clarified Mr. Walker's question about the Civilian Review Board wanting the Police Commission to respond to the request to know if there is a written policy for citizens filming police, hair pulling, and chokeholds.

### **Approval of Minutes**

MOTION AND ACTION: Mr. Tyndall moved and Mr. Rode seconded approval of the minutes as submitted. Approved unanimously.

### **Introduction New Captain and Staff**

Chief Kerns – Introduced Captain Sherri Meisel

Capt. Meisel – Responded to Commissioner Questions

Chief Kerns – Introduced AIC Police Commission Analyst Jeremy Cleversey

### **EPD Recruitment**

Chief Kerns introduced Human Resource Manager Becky DeWitt

Chief Kerns introduced Lt. Sean McGann

Becky DeWitt presented police officer recruitment process and responded to questions.

Lt. McGann introduced Mr. Tim Schuck, Operations Support Division Manager.

Lt. McGann explained he wanted to help shape the department. He learned the word recruit has a Latin origin, meaning to grow again. He advocated we need to make sure we develop a department to fit the community it serves; examples: Women in Blue, etc. Presented recent and future recruitment initiatives and responded to questions.

Mr. Tyndall asked how many female officers are at EPD.

Lt. McGann replied that they are interspersed across the department.

Mr. Tyndall questioned what a women's level of acceptance is in their roles.

Lt. McGann responded that acceptance is very good.

Mr. Manning shared he witnessed Chief Kerns handing out a recruitment card to a Latino gentlemen.  
Commissioners viewed Glenn Gilhuber Police Officer video  
Mr. Rode inquired to the pay range of a new officer  
Ms. DeWitt answered between \$45,000 and \$65,000  
Ms. DeWitt responded to commission's questions regarding police officer requirements.  
Mr. Manning appreciated the well done video that shows the human side of police.  
Mr. Garner asked if there are any alterations for the minimum requirement for age based or the applicant's sex.  
Ms. DeWitt responded, "No".  
Mr. Tyndall asked about expunged records and if they count against you  
Ms. DeWitt explained that the department does not consider the expunged records as a conviction but they do perform a full background of the applicant's life.

## **BREAK**

### **Eugene Police Budget**

Chief Kerns introduced EPD Finance Manager Elizabeth Weber  
Ms. Weber presented the EPD budget and responded to questions.  
Mr. Garner asked if the budget includes the 911 Center.  
Mr. Lohrke asked what is happening with health insurance and PERS.  
Mr. Walker requested an overtime budget report for the Police Commission to review.  
Mr. Tyndall asked if the officers on the street overall cost is between \$250k and \$270k

### **Revised Police Commission Vacancy Interview Questions**

Ms. Miller provided an update

MOTION AND ACTION: Mr. Tyndall moved and Mr. Rode seconded to change scoring scale from 1 - 7 to 1 - 10 on Vacancy Interview Questions. Approved unanimously.

MOTION AND ACTION: Mr. Rode moved and Mr. Lohrke seconded to amend the questions as printed with typos removed. Approved unanimously.

### **Chief's Presentation**

Chief Kerns reviewed his report and responded to questions.

### **Commission Comments**

The Commissioners offered comments about the meeting and topics discussed.  
The meeting adjourned at 8:15 P.M.

*Notes taken by Jeremy Cleversey*

**City of Eugene Police Commission**

**January 08, 2015**

**DRAFT Meeting Notes DRAFT**

*Please note the official full record is contained in the video recording at  
<http://eugene-or.gov/index.aspx?NID=1344>*

The meeting convened at 5:32 P.M.

Members in attendance: Bob Walker, chair; Tamara Miller, vice chair; Jim Garner; Jesse Lohrke; James Manning; George Rode; Joe Tyndall; Bill Whalen; Edward Goehring; Claire Syrett

Members absent: Mike Clark

Staff in attendance: Chief Pete Kerns; Asst. Chief Karl Durr; Sgt. Matt Lowen; Jeremy Cleversey

**Agenda Review**

Mr. Cleversey reviewed the agenda and apologized for the meeting minute's draft that was posted in the packet complete with Commissioner name errors and spelling errors.

**Public Comments**

David Jackson – Read a prepared statement where he reiterated that, “We have a justice system but we do not have justice.” He proposes three reforms that could improve our system and increase accountability:

- He would like the City of Eugene to expand its use of officer worn body cameras
- He would like Eugene Police Department to participate in the FBI national database of law enforcement involved deaths.
- He would like Eugene to explore the feasibility of having independent review boards and independent or special prosecutors for law enforcement involved deaths.

Carol Berg Caldwell – Comments on remarkable court overtime drops, asks EPD draft a policy that guides officers through dealing with civilian recorders, and suggests cash bonus for police officers.

Rachel Mallinga – Handed out the YouTube Community Guidelines and mentioned her concerns about posting officer video that may contain shock value/acts of gruesome violence.

**Commissioner Comments**

Several commissioners wished everyone good health in the New Year and thanked the public speakers for their participation.

Mr. Rode responded to Mr. Jackson's public comment, stating that there is a Citizens Review Board that is very thorough and does a good job of debating the issues. Mr. Rode thanked Rachel Mallinga for her public comment, stating that it is very important that the commission hears citizens' viewpoints.

Mr. Lohrke thanked Mr. Jackson for bringing up the FBI National Database and asked Chief Kerns if he knows the answer to Mr. Jackson's Question.

Mr. Jackson restated his question for Chief Kerns: does the City of Eugene currently participate in the FBI National Database of law enforcement involved deaths?

Chief Kerns responded that he does not believe we participate but there might be an automated report that he is not aware of. Chief Kerns said we will find out and respond in a weekly update.

Mr. Whalen – Thanked all of the speakers tonight for all of the information that they brought.

Mr. Manning thanked Mr. Jackson for his detailed presentation. Gave thanks for the combined efforts of the Police Commission, a visionary chief, and EPD who is open to change and accepting of responsibility.

Mr. Manning stated most officers are only going to run across 2% of the population and encouraged citizens to know their officers and encouraged the practice of citizens and officers waving at each other.

Mr. Goehring suggested there are always vacancies on both the Police Commission and CRB. He shared this is the last meeting of this year's term for his being appointed the liaison to the Police Commission by the Human Rights Commission. He does not know if he will be reinstated for another year or not.

Mr. Tyndall provided the City Club DVDs on Biased Based Policing to Mr. Manning and offered a set of copies to anyone who was interested. He expressed he was troubled by the scenarios of citizens recording police and the responses as provided in the documents by Carol Berg-Caldwell. Mr. Tyndall mentioned a policy regarding police interactions with citizens recording officers was discussed last month but there was no motion and it had not made it into the minutes.

MOTION AND ACTION: Mr. Tyndall moved and Mr. Manning seconded that a policy be drafted for review that looks at the issue of citizens recording of police during normal activities. Mr. Manning seconded for discussion.

Commission discussion ensued about citizens recording of police.

Mr. Rode recalled he asked on behalf of the CRB if there was any policy regarding citizens filming police and how many feet away is acceptable? He was certain he had mentioned this in the previous meeting.

- It was determined EPD currently did not have a policy that deals with citizens filming officers' activities.
- Multiple commissioners felt having a policy or at least the exploration of a policy had value.
- The suggestion was made by multiple parties to research existing policies before having one crafted.

POINT OF ORDER: Ms. Miller raised the objection that citizen's filming police are not on the Agenda and furthermore not on the Work Plan. Chairman Walker ruled the Motion is in order.

Commission discussion continued about citizens recording of police.

SUBSTITUTE MOTION: Offered by Mr. Tyndall and Mr. Manning seconded that staff should locate existing policies of the filming and recording of police and report back to the Commission. Approved (Aye - Walker, Miller, Rode, Garner, Goehring, Lohrke, Syrett, Tyndall, Manning and Nay – Whalen)

POINT OF INFORMATION: Ms. Miller asked if the policies researched for Mr. Tyndall's motion could be in a Friday update or if it is something that is trumping everything left on the two year work plan. She reminded the Commission they only have until June 30<sup>th</sup> to finish the work plan.

Chief Kerns stated that Sgt. Lowen can have something in a month on filming and recording.

POINT OF ORDER: Ms. Miller raises objection that we weren't done with the previous subject matter on the agenda which was commissioner comments. Chairman Walker thanked Ms. Miller for the reminder.

Mr. Tyndall asked about when we will get the replacement commissioner and Ms. Miller responded the letter is with the mayor. Mr. Tyndall shared he is troubled a little by the CRB no longer recording its meetings. Also, he met with Asst. Chief Durr and Lt. Klinko and learned a lot about body worn video.

Mr. Garner thanked everyone for the comments tonight. Expressed he finds it troubling the Officers who were killed in retaliation at Ferguson and New York are rarely mentioned and what makes the matter even more appalling was that the Officers whom were minorities themselves were killed during a protest of killing minorities.

Ms. Miller shared the Springfield Police Department has announced Cops Concerns of Police Survivors and has declared January 9<sup>th</sup> "Law Enforcement Appreciation Day." Ms. Miller also shared that on the afternoon of December 24<sup>th</sup>, her and her family brought badge cookies thanking officers on behalf of the Police Commission.

### **Approval of Minutes**

MOTION AND ACTION: Mr. Walker moved and Mr. Tyndall seconded that the minutes be tabled until they can be corrected. Approved unanimously.

### **CCTV Proposal**

Mr. Walker stated that administration had informed him they do not have a written proposal at this time and he has supplied an executive summary that appeared in the November packet of different CCTV programs. He requested everybody take it home, read it, and be prepared when the proposal is available. Mr. Walker invited commissioners to discuss any further suggestions for the development of the CCTV proposal.

Chief Kerns added that administration can provide a pilot project proposal and that it will still require the development of a policy for use during the CCTV. If the commission is willing to consider a pilot project then he would like to hear what the commission would like to see in a pilot project

Ms. Syrett stated she would not be in favor of a Pilot Project.

MOTION AND ACTION: Ms. Syrett moved and Mr. Goehring seconded to table discussion until Chief Kerns has a draft of the proposal or pilot program to share with the Commission. Approved unanimously.

### **Break**

### **Chief's Presentation**

Chief Kerns responded to questions.

### **Court Overtime Breakdown**

Chief Kerns and Asst. Chief Durr responded to questions.

### **Vehicle Impound Policy Review**

Sgt. Lowen gave overview of the Vehicle Impound Policy and he and Chief Kerns responded to questions.

Mr. Lohrke is going to vote against the motion because he believes there are breaking cases that will be changing how inventory cases will be looked at.

Chief Kerns noted Sgt. Lowen will do the research on those cases.

Ms. Syrett said she will vote in favor of supporting the policy but asked Chief Kerns to please share the review of the court case follow up.

Chief Kerns agreed to share EPD's results after reviewing the recent inventory cases Mr. Lohrke referred to.

MOTION AND ACTION: Mr. Rode moved and Mr. Manning seconded to approve the Impound Policy 510. Approved (Aye - Walker, Miller, Rode, Garner, Goehring, Whalen, Syrett, Tyndall, Manning and Nay – Lohrke)

### **Commission Comments**

Members of the Commission offered closing comments.

The meeting adjourned at 7:49 P.M.

*Notes taken by Jeremy Cleversey*



**PROTECT. SERVE. CARE**

# MEMORANDUM

**Date:** January 26, 2015  
**To:** Chief Pete Kerns  
**From:** Asst. Chief James K. Durr  
**Subject:** CCTV Pilot Project

## OVERVIEW:

The Eugene Police Department is proposing a pilot project for 18 months of a Closed Circuit Television (CCTV) camera system. The purpose of this project pilot project is to assist the Eugene Police Department mission in reducing crime and the fear of crime. The instillation of a CCTV system should be overtly installed in an area where there is: a) criminal activity, b) an area where there is high pedestrian foot activity. The goals of the law enforcement CCTV system would be to:

- Displace crime
- Prevent public disorder
- Identify criminal activity
- Identify suspects
- Gather evidence
- Improve the allocation of EPD resources in addressing crime

## DISCUSSION:

The utilization of CCTV systems by law enforcement has been utilized for the past fifteen years by law enforcement (New York City Police Department, Baltimore Police Department, University of Southern California, University of Pennsylvania). There have been numerous studies into the effectiveness of law enforcement CCTV's in reducing crime. There are cases which have shown success and failures but the lessons learned from the cases are the deployment of the CCTV's should be strategically conducted. Law Enforcement must identify the area where crime is occurring, analyze the type of crime and ask if the deployment of a CCTV will reduce/eliminate crime. The law enforcement agency that deploys a CCTV should have measured crime in the desired area prior to deployment and continue to conduct an analysis of crime post implementation. The agency should also have a sample group (secondary area) as a comparison to help determine if the goals are being achieved.

## Constitutional Issues:

There are two constitutional issues to consider in the deployment of CCTV cameras in the public sector. The first is the Fourth Amendment which protects people against unreasonable search and seizure. The second is the right of privacy which falls under the Fourteenth Amendment. The installation



of the CCTV system would be in a public area which the courts have ruled that there is no expectation of privacy where they can be observed by others. Police are able to observe activities that occur in plain view in a public place and thus the use of a CCTV to assist law enforcement does not violate the two constitutional issues. Due care should be utilized if the CCTV system has the ability to view into a business or residence which would be constitutionally protected.

The CCTV system should be used to identify crime and the behaviors associated and should not be used to track or observe people based upon their race, ethnicity, gender, sexual orientation, disability, economic status or other constitutionally protected status

#### Analysis of Crime:

The crime analysis unit of the Eugene Police Department examined all crime which occurred within the city for 2014. As a result of their analysis, there were three distinct areas where there is a high level of behavior based crimes (see crime analysis heat map). The reason behavior based crime was used as the baseline for analysis is there is a high volume of pedestrian activity and often leads to the fear of crime. Property crime is a continued focus for EPD but is hard to geographically locate as it is often a crime of opportunity.

#### **W 8th Aly -W 10th Aly, Olive Aly-W Park**

In 2014, there were 805 incidents and 3602 calls for service

#### **W Park-Pearl, E 7th Aly-S Park**

In 2014, there were 263 incidents and 942 calls for service

#### **Washington Jefferson St Park**

In 2014, there were 282 incidents and 650 calls for service

#### Costing:

Pending the approval of the deployment of CCTV cameras at the approved location, a cost analysis can be conducted. EPD would submit a Request for Information (RFI) which we would obtain information from various vendors on the deployment of the cameras and the appropriate software camera management system. EPD would have a better understanding the associated costs and make any necessary revisions prior to a Request for Proposal (RFP). The RFI will:

- Assess the number of cameras needed to cover the area of focus
- Evaluate the lighting conditions (day and night)
- Choose the appropriate camera technology for the conditions and goals
- Choose the appropriate storage system for video retention

#### Recommendation:

Eugene move forward to identify funding for the project as well as implementing an RFI for the implementation of a CCTV system at the W 8th Aly – W 10<sup>th</sup> Aly; Olive Aly – W Park. It is believed the

system will be a force multiplier for law enforcement and is in alignment with the city's strategic goal of making downtown Eugene a safer place. This area has:

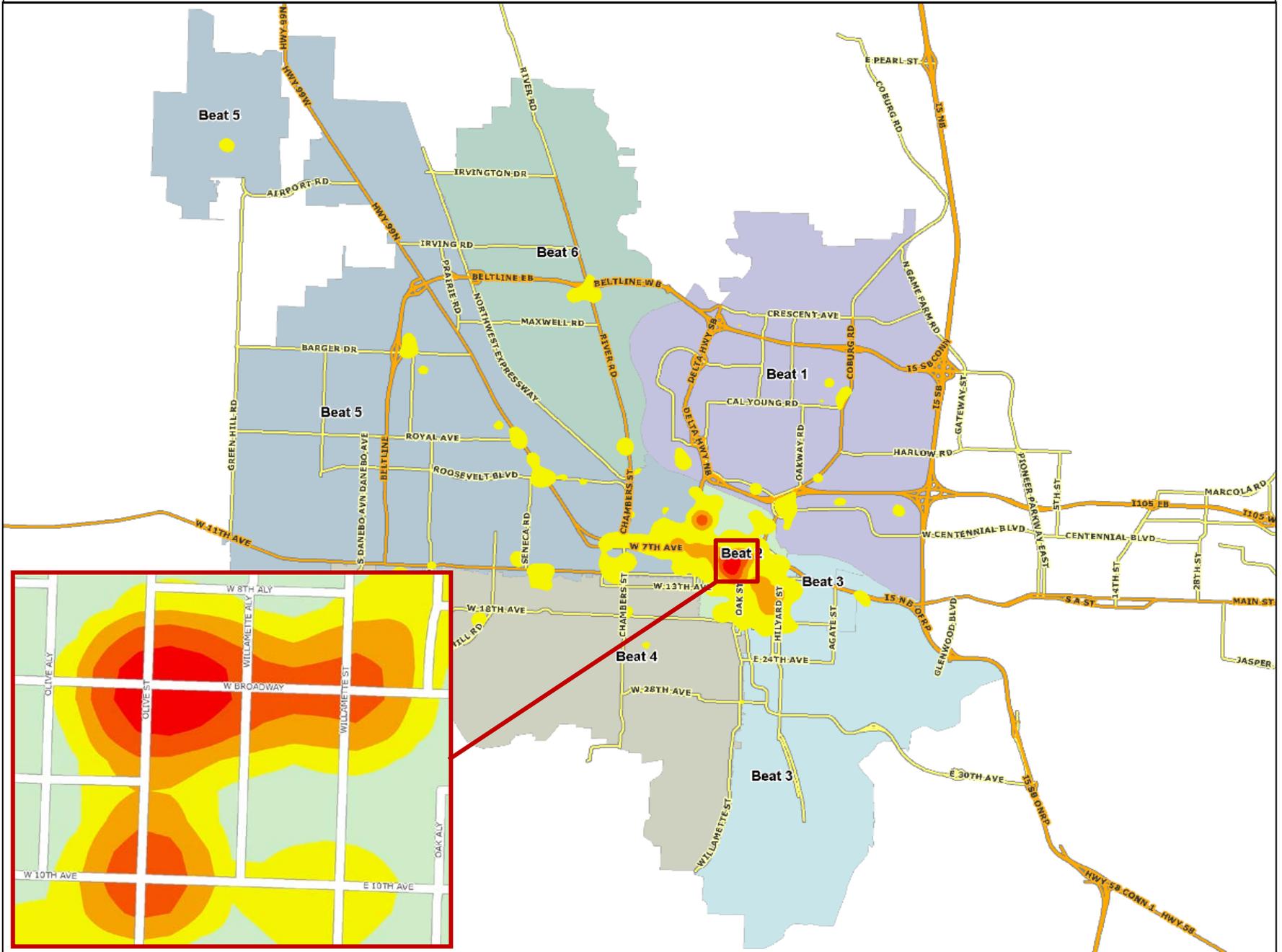
- High calls for service – It is anticipated the CCTV system will cause a reduction
- High incidents – It is anticipated the CCTV will cause a reduction
- Concentration of Bars which result in the area having 181 calls for service for disorderly persons and 197 incidents related to alcohol – It is anticipated the CCTV will cause a reduction
- High criminal enforcement efforts and the implementation of a CCTV system could have a reduction in court overtime.

The sample group to conduct a comparison and help analyze the effectiveness of the system will be W Park-Pearl, E 7th Aly-S Park and the Washington Jefferson Street Park locations.

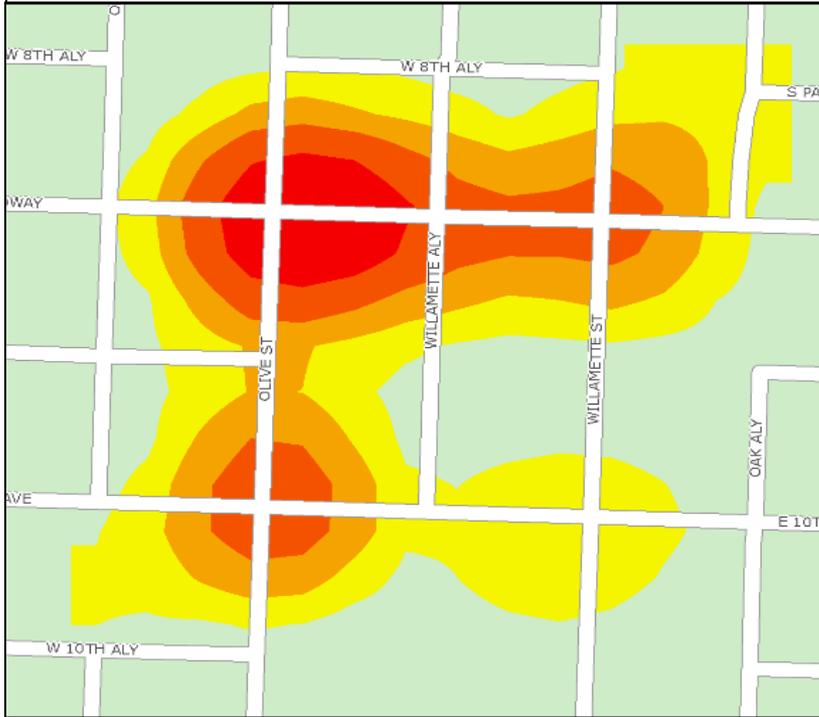
The project will be under the supervision of Downtown Lieutenant who will be responsible for ensuring the pilot project is meeting the goals of the program and makes necessary adjustments. The lieutenant will be responsible of reporting out the impact of the CCTV system at 6 months, 12 months and 18 months after implementation. The CCTV supervisor will be responsible to conduct audits of the system and collect data on any cases which it is used to assist law enforcement in the identification of crime and suspects. The CCTV supervisor will be responsible to review any case law which may have an impact upon the utilization of the system. The CCTV supervisor will be responsible to ensure that cameras are properly operating and make any recommended change of locations of camera deployment to the office of the chief.

After 18 months, the results of the program will be presented to determine if the project should be continued, discontinued or expanded.

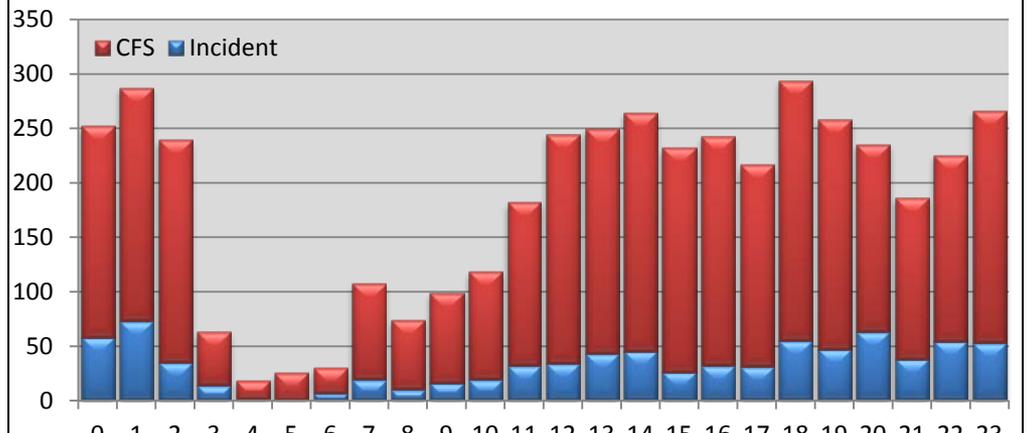
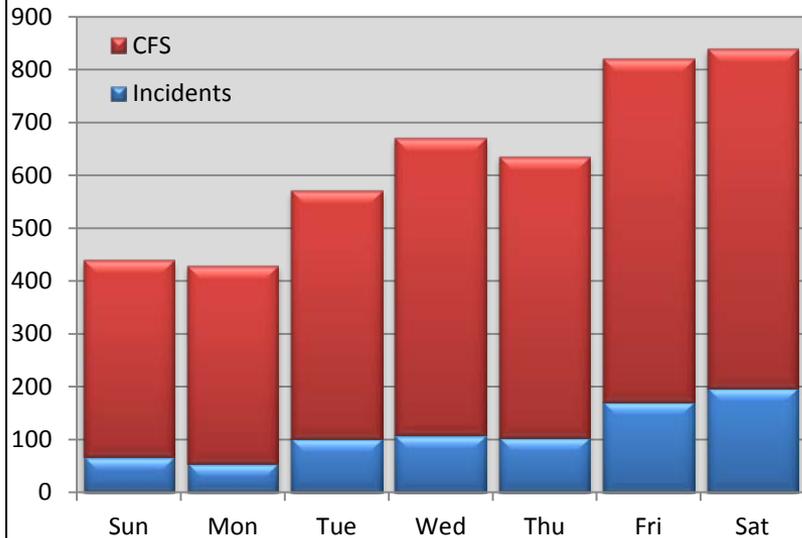
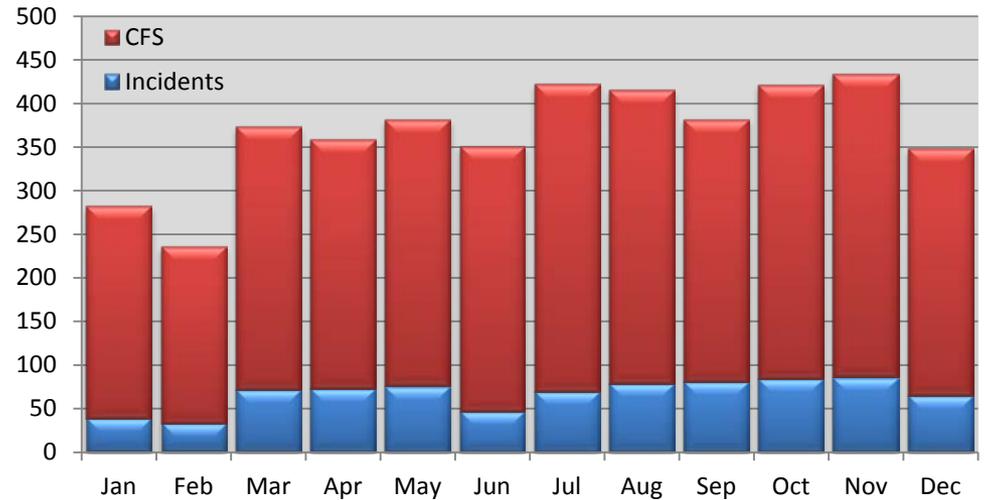
# Behavior Crimes Hot Spot Map 2014



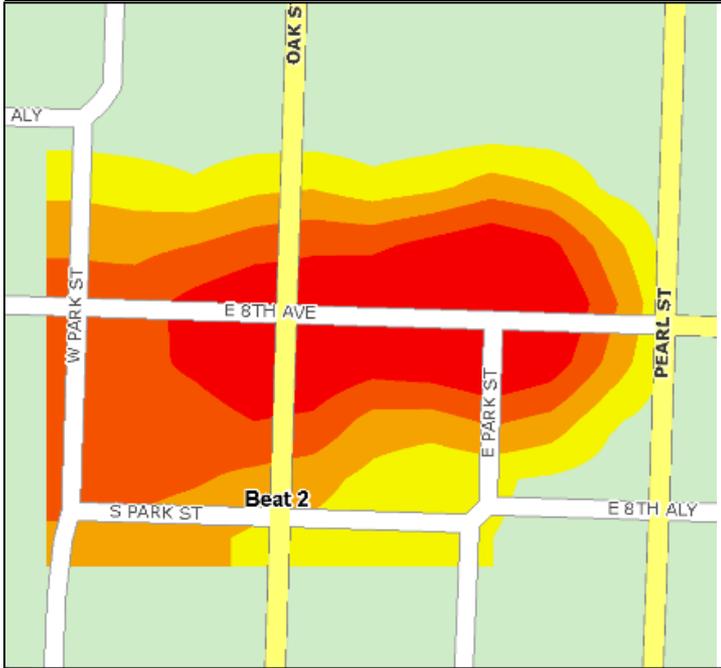
# W 8<sup>th</sup> Aly-W 10<sup>th</sup> Aly, Olive Aly- W Park



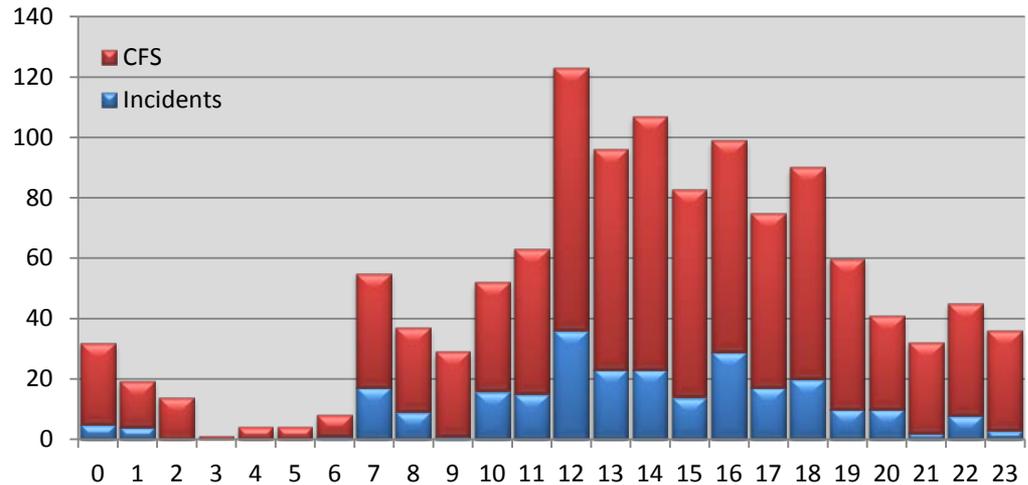
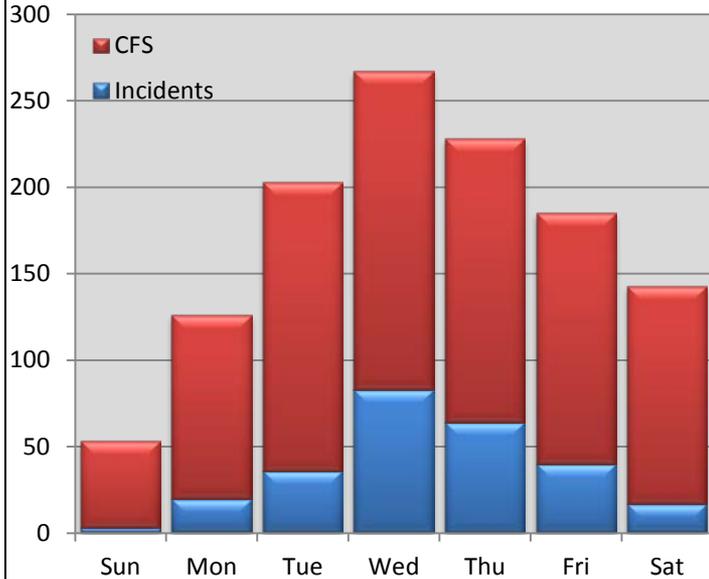
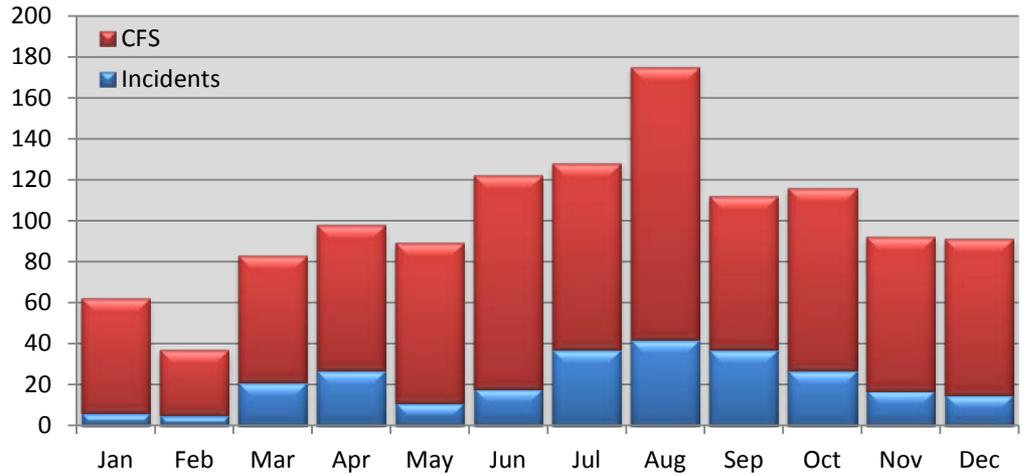
Top Incidents	Count	Top CFS	Count
CONS UNLIC PREM/OPEN CON	197	PERSON STOP	1383
POSS LT 1 OZ MARIJUANA	117	PATROL CHECK	223
CRIMINAL TRESPASS 2	87	CRIMINAL TRESPASS	183
DISORDERLY CONDUCT	64	DISORDERLY SUBJECT	181
SKATEBOARD PROH AREA	39	TRAFFIC STOP	138
All Other	301	All Other	1494
<b>Total</b>	<b>805</b>	<b>Total</b>	<b>3602</b>



# W Park-Pearl, E 7<sup>th</sup> Aly-S Park

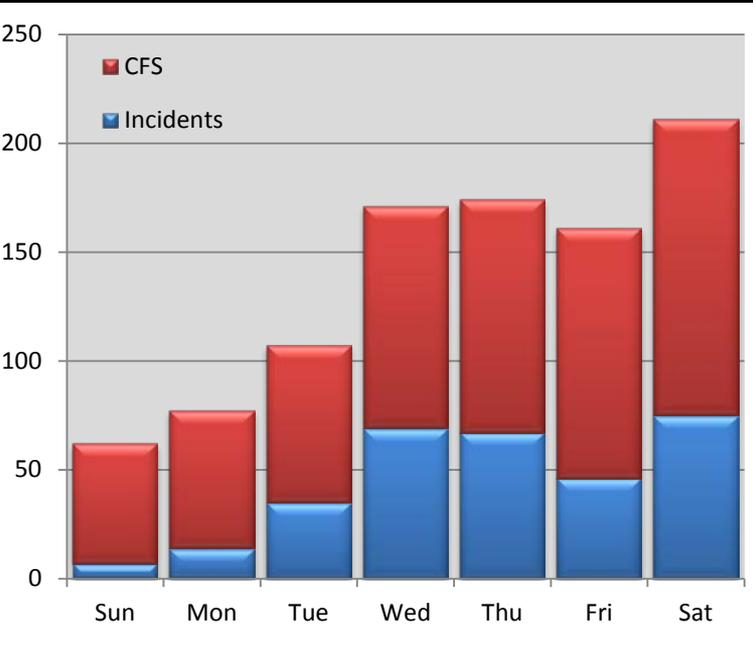
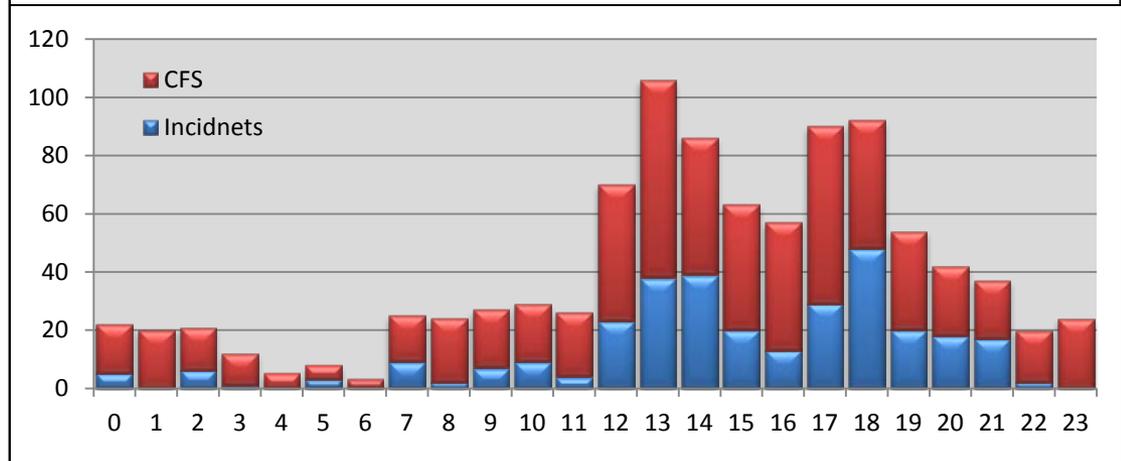
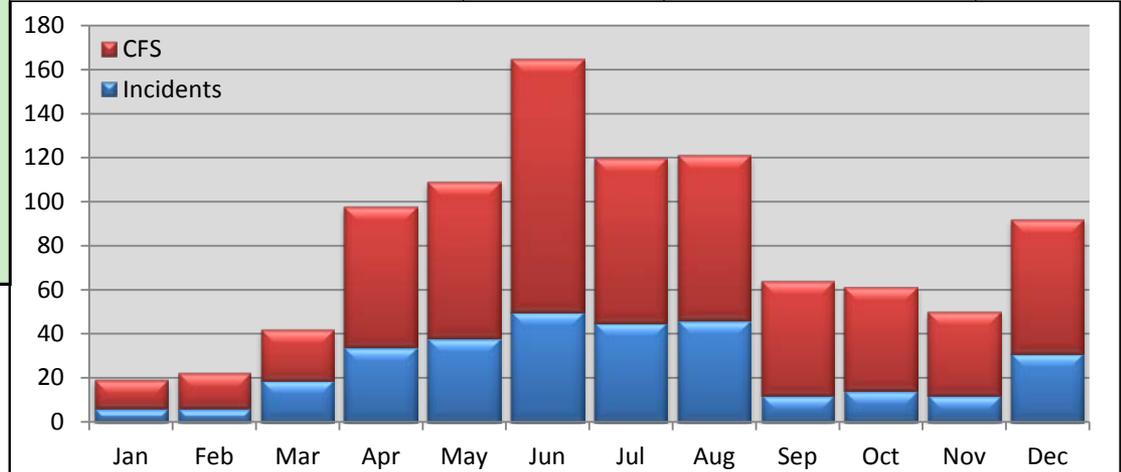


Top Incidents	Count	Top CFS	Count
VIOLATION PARK RULES	102	PATROL CHECK	285
POSS LT 1 OZ MARIJUANA	53	PERSON STOP	255
CONS UNLIC PREM/OPEN CON	33	TRAFFIC STOP	76
CRIMINAL TRESPASS 2	23	ASSIST PUBLIC- POLICE	30
POSSESS METHAMPHETAMINE	6	CHECK WELFARE	21
All other	46	All Other	275
<b>Total</b>	<b>263</b>	<b>Total</b>	<b>942</b>



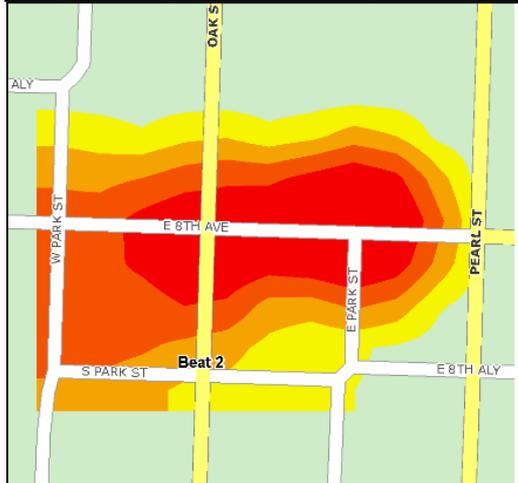
# Washington Jefferson St Park

Top Incidents	Count	Top CFS	Count
VIOLATION PARK RULES	106	PERSON STOP	200
CONS UNLIC PREM/OPEN CON	71	PATROL CHECK	145
CRIMINAL TRESPASS 2	55	BEAT INFORMATION	33
POSS LT 1 OZ MARIJUANA	14	TRAFFIC STOP	25
POSSESS METHAMPHETAMINE	7	DISPUTE	22
All Other	29	All Other	225
<b>Total</b>	<b>282</b>	<b>Total</b>	<b>650</b>

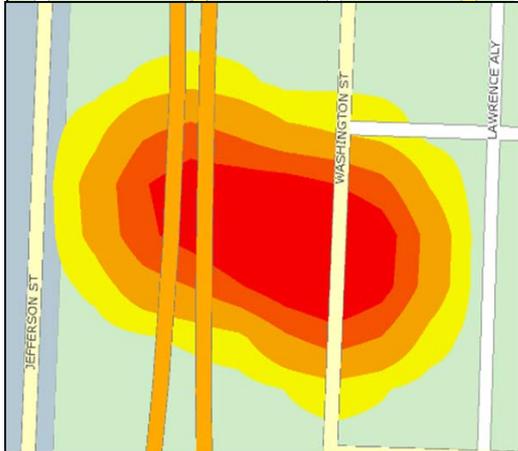




W 8th Aly -W 10th Aly, Olive Aly-W Park			
Top Incidents	Count	Top CFS	Count
CONS UNLIC PREM/OPEN CON	197	PERSON STOP	1383
POSS LT 1 OZ MARIJUANA	117	PATROL CHECK	223
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W Park-Pearl, E 7th Aly-S Park			
Top Incidents	Count	Top CFS	Count
VIOLATION PARK RULES	102	PATROL CHECK	285
POSS LT 1 OZ MARIJUANA	53	PERSON STOP	255
CONS UNLIC PREM/OPEN CON	33	TRAFFIC STOP	76
CRIMINAL TRESPASS 2	23	ASSIST PUBLIC- POLICE	30
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Washington Jefferson St Park			
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POLICY  
606

EFFECTIVE  
DATE  
Draft 092914

# Eugene Police Department



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## Public Safety Camera System

### 606.1 PURPOSE AND SCOPE

The City of Eugene operates a public safety camera system for the purpose of creating a safer environment for all those who live, work, and visit the City. This policy provides guidelines for the operation of the cameras, the purpose of their use and the storage of captured images.

### 606.2 POLICY

Cameras are strategically placed throughout the City at the direction, or with the approval of the Chief of Police for the purpose of assisting the Eugene Police Department to detect and deter crime, to safeguard against potential threats to public safety, to manage emergency response situations to natural and man-made disasters, and to assist other City officials to aid in the enhancement of services provided to the community.

Public safety cameras are a crime prevention tool and can assist with evidence gathering and scene reconstruction. Public safety cameras are also a key resource to assist in securing vulnerable sites by providing real time monitoring and early detection of unusual or criminal activity allowing for a more efficient and timely response by law enforcement and emergency response personnel.

Any unmanned, stationary camera placed by a member of the Eugene Police Department will have the placement approved by his/her Division Manager.

The cameras only record images and do not record sound. Recordings may be used for a variety of purposes including criminal investigations, reducing crime problems and monitoring of behavior activity. In addition, the public safety camera system helps to provide the following benefits:

- a. Assistance in identifying, apprehending and prosecuting offenders.
- b. Assistance in gathering evidence for criminal and civil court actions.
- c. Assists emergency service personnel in maintaining public order through deterrence.
- d. Assistance in monitoring pedestrian and vehicle traffic activity.
- e. Assistance improving the general environment and security on public streets.
- f. Assistance in providing effective services to community.

### 606.3 PROCEDURE

The following procedures have been established for the effective operation of the public safety camera system.

### **606.3.1 CAMERA SYSTEM MONITORING**

Video images from the cameras are transmitted to monitors installed at designated locations within the Eugene Police Department. When there is an in-progress call in the vicinity of one of the camera locations, an on duty watch commander may authorize Eugene Police Department Personnel to selectively view the appropriate camera and relay any available information to responding units. The on duty watch commander is authorized to adjust the cameras in such a manner as to most effectively view a particular area for any legitimate public safety purpose.

The video feed from cameras may be accessed by other City employees, or other law enforcement agencies (OLCC, neighboring jurisdictions, etc.) for official business only. If the request is approved by the on duty watch commander, arrangements will be made for the requestor to view the video.

### **606.3.2 TRAINING**

Personnel involved in monitoring the Public Safety Camera System will be appropriately trained on the technology and policy regarding the system.

### **606.3.3 PROHIBITED ACTIVITY**

Video monitoring will be conducted in a professional, ethical and legal manner. The public safety camera system will not be used to invade the privacy of individuals, or to look into private areas or areas where the reasonable expectation of privacy exists. All reasonable efforts will be taken to protect these privacy rights. Video monitoring shall not be used to harass, intimidate or discriminate against any individual or group.

### **606.3.4 NOTIFICATION TO THE PUBLIC**

Areas that are under the surveillance of the Public Safety Camera System will be conspicuously marked in order to notify the public that the area is under video surveillance.

### **606.4 MEDIA STORAGE**

All media will be stored in a secure area with access restricted to authorized persons only. The system will store the images from every camera which are recorded throughout the twenty-four hour period of every day of the week. All of the images from every recording device for a particular 24-hour period, beginning at 12:00 a.m. and ending at 11:59:59 p.m. will be referred to as the Daily Recording.

The Daily Recording will be stored for a period of not less than 30 days and thereafter may be erased if not otherwise required for any related investigation, claim or other official need (Oregon Administrative Rules 166-200-0100 (68)). The system will be configured to automatically purge and write over any Daily Recordings, not flagged for court or further investigation, more than 60 days old.

### **606.5 RETREIVAL OF RECORDED INFORMATION**

Authorization to research and retrieve recorded information is restricted to the Chief of Police or his/her designee. These individuals will be authorized to provide video images for investigative purposes to a Eugene Police Department employee who has completed a video request form in accordance with chain of custody procedures established by the Eugene Police Department.

**606.5.1 PUBLIC AND OTHER AGENCY REQUESTS**

Requests for recorded video images from other law enforcement agencies or through the submission of a court order or subpoena will be promptly submitted to the City Attorney, or his designee. Upon the receipt of any such request, it will also be promptly submitted to the Communications Operations Manager, or designee who will promptly research the request and submit the results of such search through the Chief of Police to the City Attorney's office for further handling. Every reasonable effort should be made to preserve the data requested until the request has been finally processed by the City Attorney's office.

Public and media requests for video images captured by public safety cameras will be made available only to the extent required by law. As provided by Oregon public records law, video footage that is evidence in an ongoing police investigation will generally not be disclosed to the public where a disposition has not been reached, absent such disclosure being compelled by a court or other governmental entity of competent jurisdiction.

**606.6 ANNUAL REVIEW OF CAMERA SYSTEM**

The Chief of Police or his/her designee will conduct an annual review the agency's use of the public safety camera system. The annual review will include an inventory of video monitoring installations, date of installation, summary of their purpose, adherence to this policy and any proposed policy changes. The results of each review will be documented and maintained by the Chief of Police or his/her designee and other applicable advisory bodies. Any concerns or deviations from this policy will be addressed promptly and effectively.

DRAFT

# Chief's Report to the Police Commission



**January 2015**

# Chief's Activities

- 2015 State of the City, Springfield
- 2015 State of the City, Eugene
- Attended Executive Leadership Seminar at Seaside, OR
- Police Misconduct & Racial Profiling Forum
- Team 51 Ride Along
- Council Retreat

# In the News



**Commercial Burglary Increase**



**Keep Celebrations Enjoyable For All: UO  
Duck Football National Championship Game**



**Man Arrested for DUI After Other Motorists Call 9-1-1**



**Street Robbery of Three Females**

# Looking Ahead

- **Eight call taker's are in the Call taker Academy**
- **Communications Supervisor interviews are underway.**
- **16 Police Officer candidates are scheduled for backgrounds; second hiring process started with Career Night on January 28<sup>th</sup>.**

# Senior Staff DLP January 27, 2015

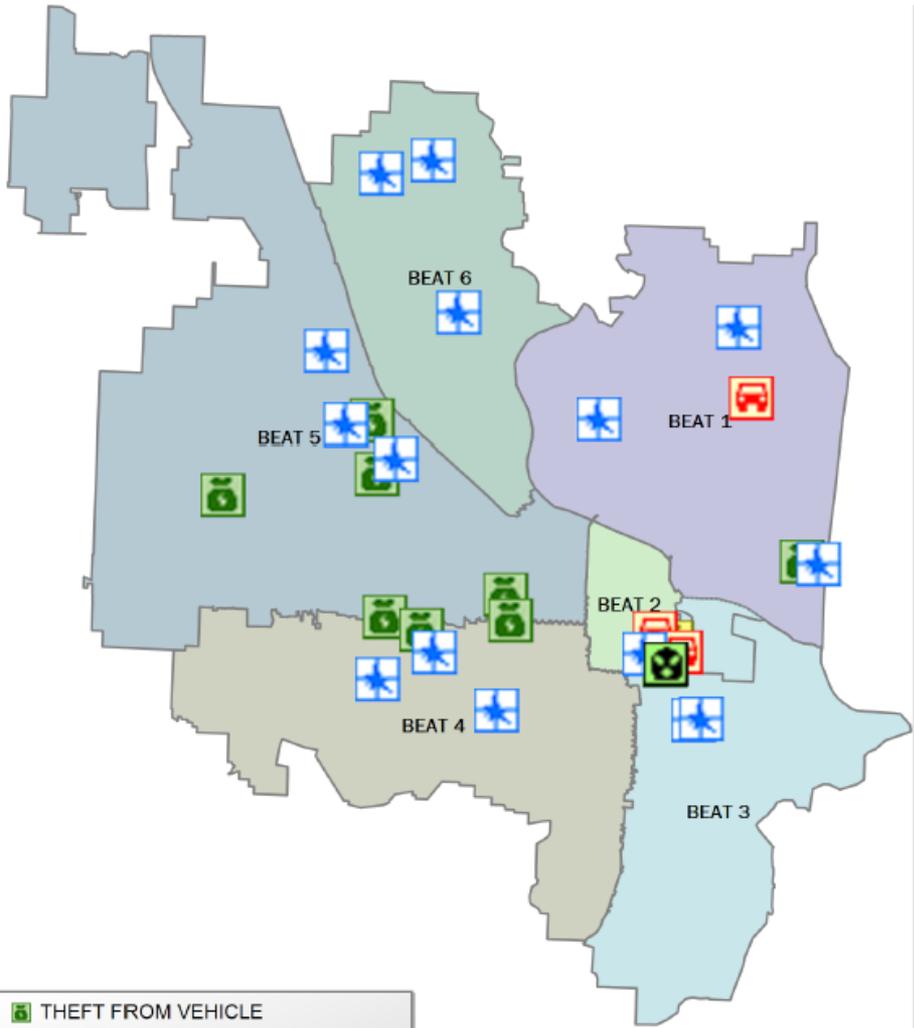
## Topics:

- Weekly DLP Slides and Areas of Concern
- Beat Comparisons
- Bike Theft
- MVA Monthly and Closer Look
- Top Locations for CFS
- Downtown Monthly
- Case Conversion Monthly

# One Week City-Wide

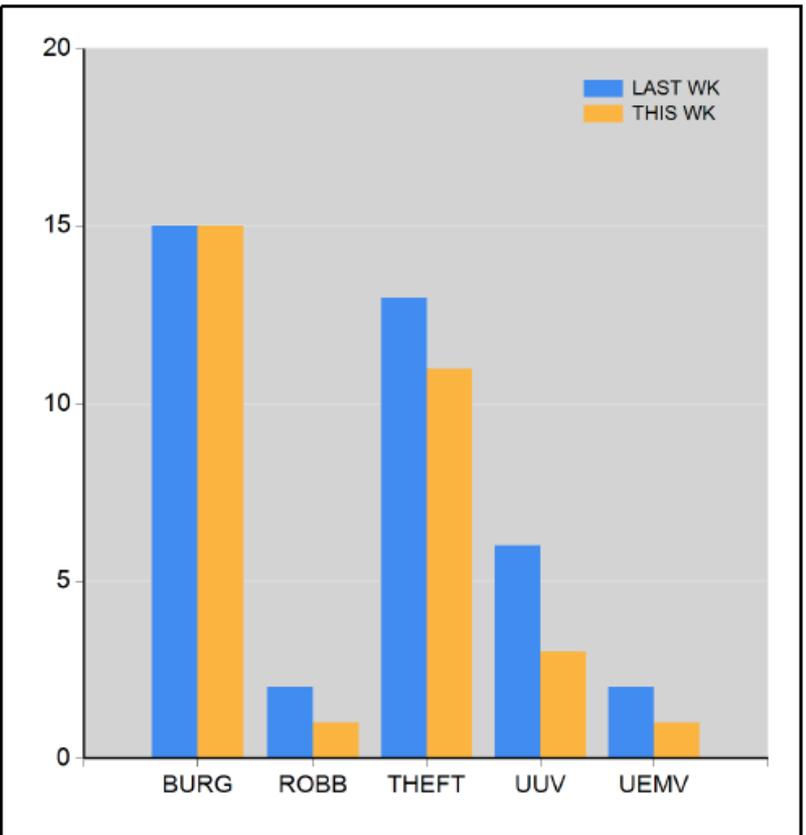
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DLP - CITY WIDE 1 ONE WEEK



- THEFT FROM VEHICLE
- UNLAWFUL VEHICLE ENTRY
- UNAUTHORIZED USE OF VEHICLE
- BURGLARY
- ROBBERY

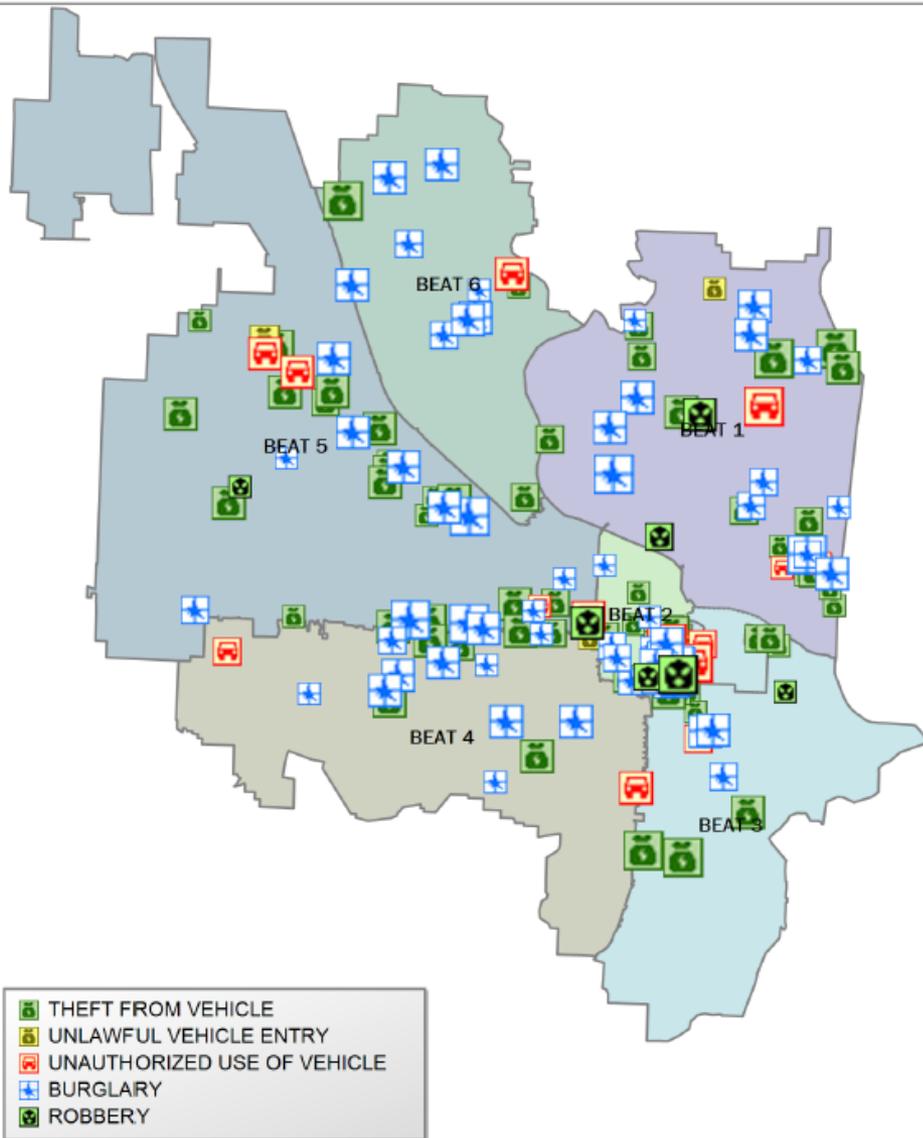
	LAST WK	THIS WK	TOTAL	%TOTAL
BURG	12	18	30	43%
ROBB	2	1	3	4%
THEFT	13	11	24	35%
UUV	6	3	9	13%
UEMV	2	1	3	4%
<b>TOTAL</b>	<b>35</b>	<b>34</b>	<b>69</b>	<b>100%</b>



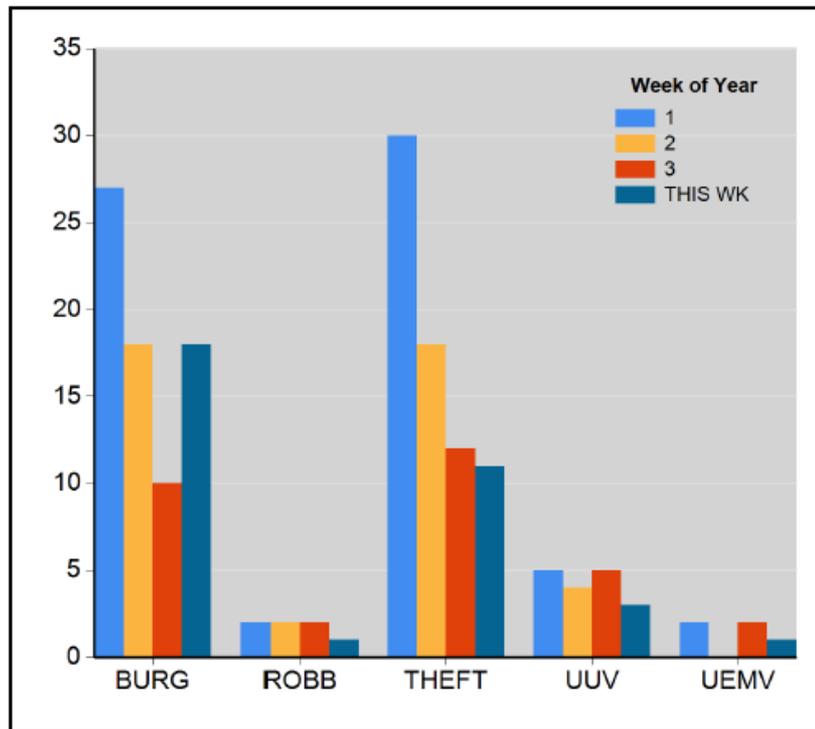
# Four Week City-Wide

PROTECT.SERVE.CARE.

DLP - CITY WIDE FOUR WEEK

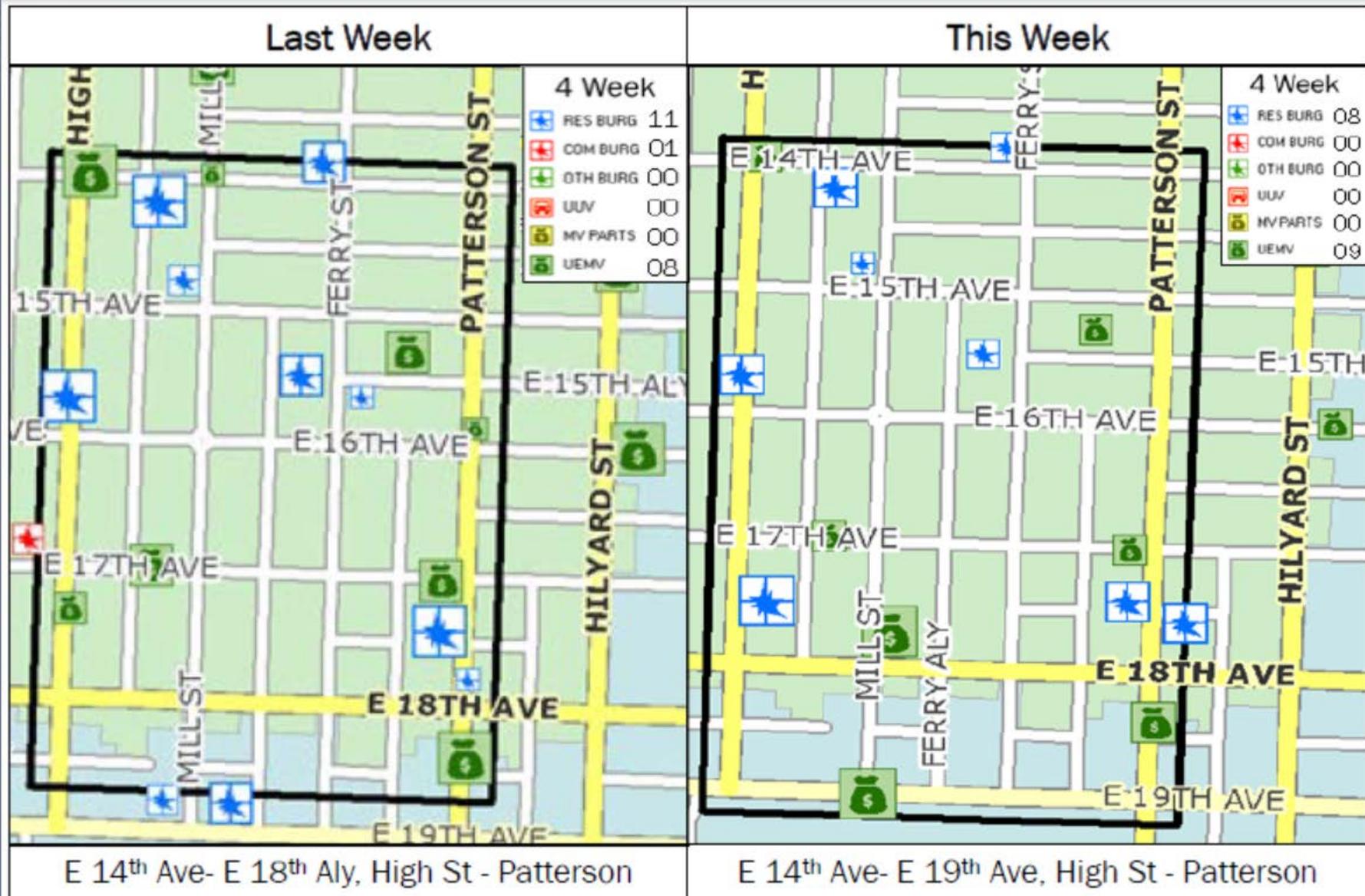


	BEAT 1	BEAT 2	BEAT 3	BEAT 4	BEAT 5	BEAT 6	TOTAL
BURG	19	19	4	10	12	9	73
ROBB	2	2	1	0	2	0	7
THEFT	15	14	13	5	21	3	71
UUV	6	1	3	2	4	1	17
UEMV	1	2	0	1	1	0	5
<b>TOTAL</b>	<b>43</b>	<b>38</b>	<b>21</b>	<b>18</b>	<b>40</b>	<b>13</b>	<b>173</b>



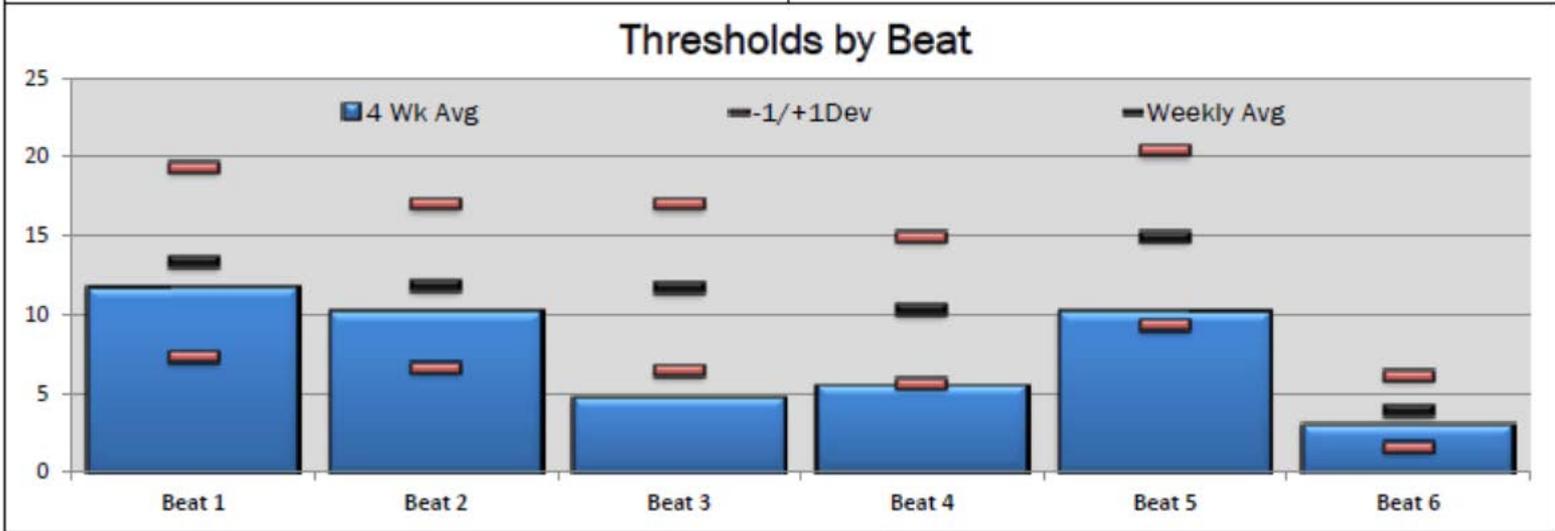
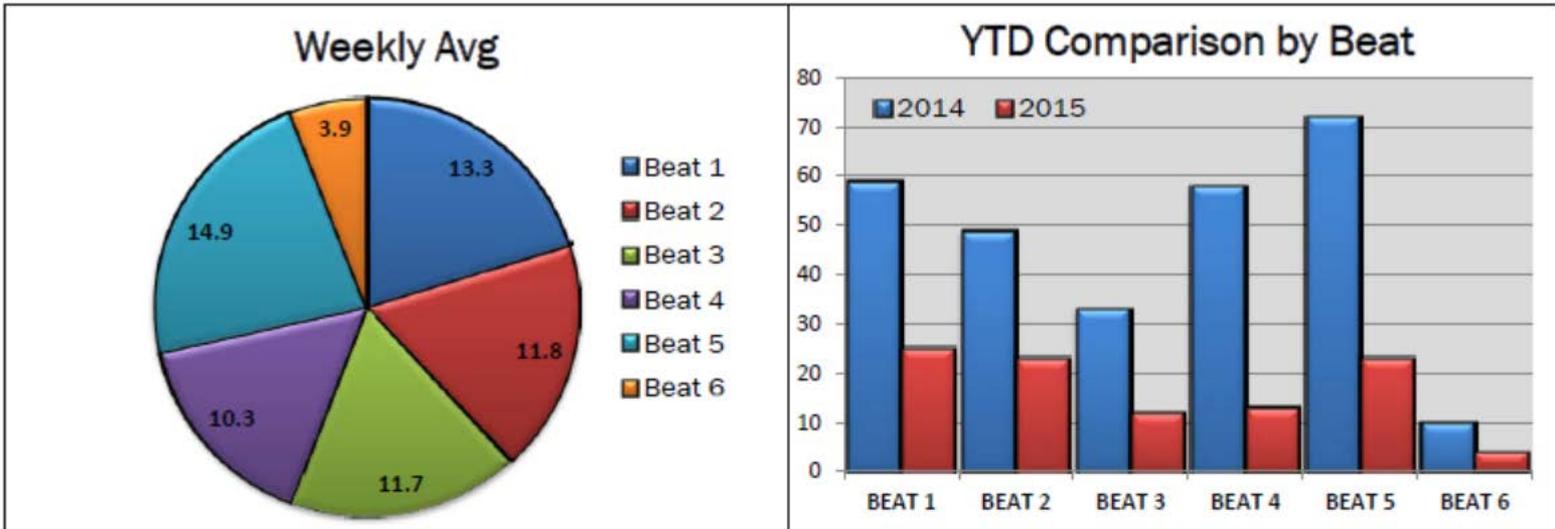
# Areas of Concern

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# Beat Comparisons

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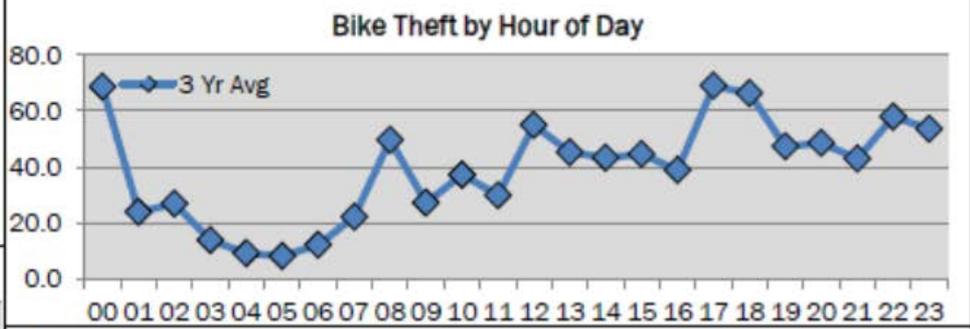
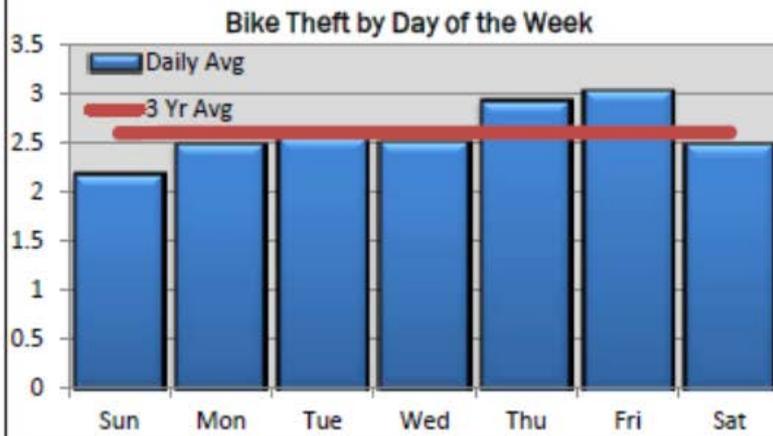
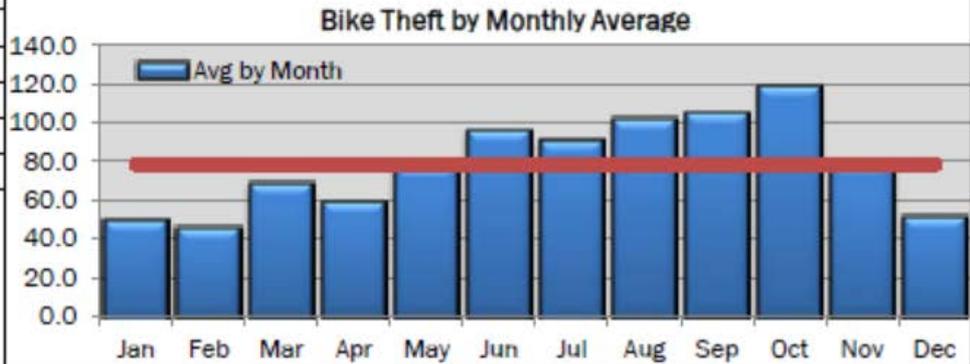
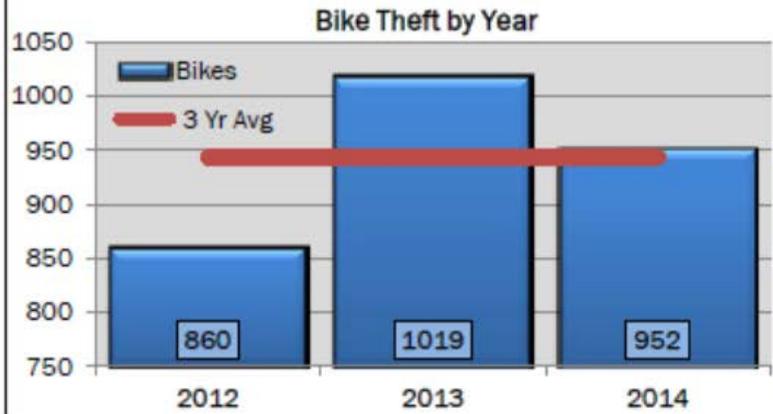


# Bike Thefts

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Top Offenses for Bike Theft	Count	% Of Total
THEFT 2 - BICYCLE	1711	60.44%
BURGLARY 1 - RESIDENCE	325	11.48%
THEFT 1 - BICYCLE	304	10.74%
THEFT 3 - BICYCLE	111	3.92%
BURGLARY 2 - BUSINESS	92	3.25%
THEFT 2 - OTHER	72	2.54%
BURGLARY 2 - OTHER STRUCTURE	71	2.51%

	2012	2013	2014	Avg Value	Grand Total
Value	\$502,080.00	\$518,785.99	\$596,931.52	\$571.50	\$1,617,797.51

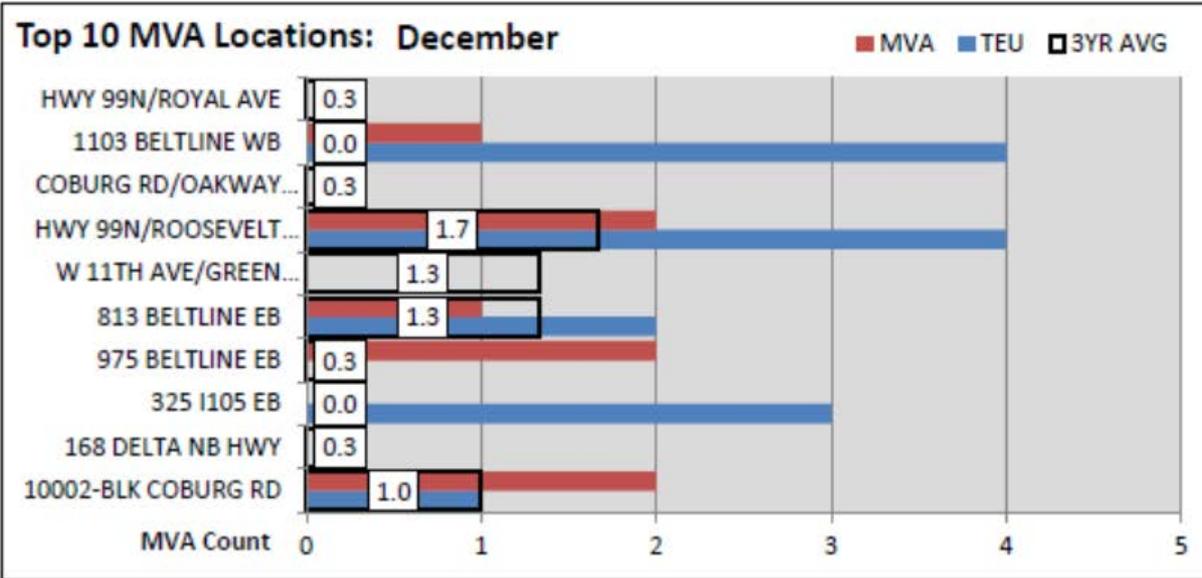


### Highlights:

- Theft 2 of a bicycle is the most common offense of bike theft followed by burglary
- There was a 6.6% decrease in bike thefts this year compared to last
- Bike thefts increase June-October
- Bike thefts occur more often on Thursday and Friday

# MVA/TEU Activity: December 2014

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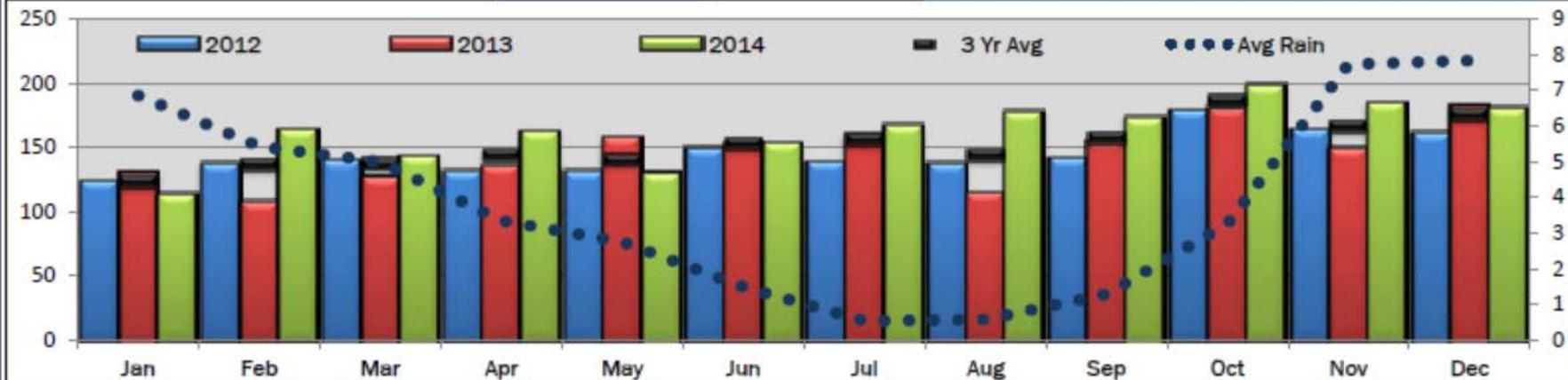
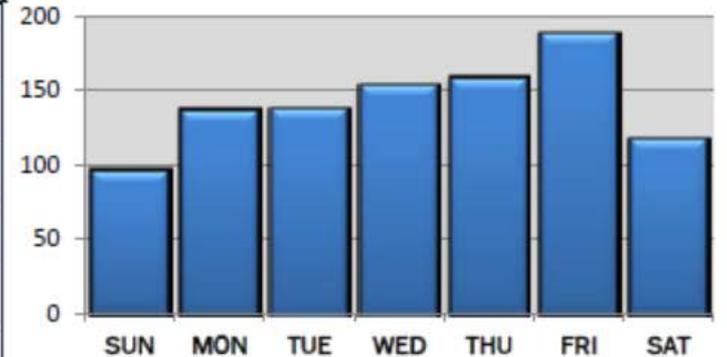
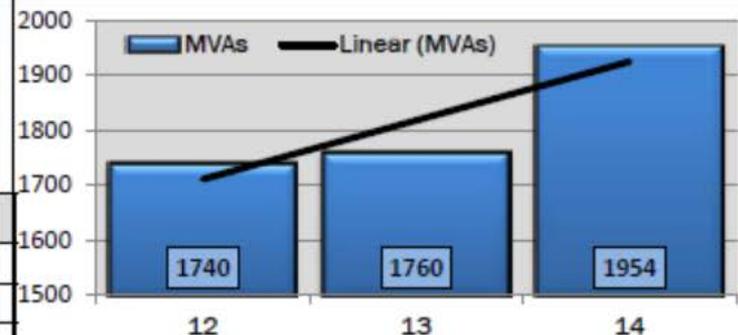
LOCATION	December				January
	TEU	MVA	3YR AVG	DIFF	3YR AVG
10002-BLK COBURG RD	1	2	1.0	-1.0	0.7
168 DELTA NB HWY	0	0	0.3	0.3	0.7
325 I105 EB	3	0	0.0	0.0	0.7
975 BELTLINE EB	0	2	0.3	-1.7	0.3
813 BELTLINE EB	2	1	1.3	0.3	0.0
W 11TH AVE/GREEN HILL RD	0	0	1.3	1.3	0.3
HWY 99N/ROOSEVELT BLVD	4	2	1.7	-0.3	1.0
COBURG RD/OAKWAY RD	0	0	0.3	0.3	1.3
1103 BELTLINE WB	4	1	0.0	-1.0	0.0
HWY 99N/ROYAL AVE	0	0	0.3	0.3	0.3
<b>Total</b>	<b>14</b>	<b>8</b>	<b>6.7</b>	<b>-1.3</b>	<b>5.3</b>

# Closer Look at MVAs

## Highlights

- We had a 11% increase in MVAs this year compared to last
- Average time spent on MVAs is 1:33hrs (All types of MVAs)
- Highest crash times are 1200-1800hrs
- MVA Spike in October, when the rain also increases

Nature Code	2012	2013	2014	%Diff
MOTOR VEH ACC INJURY	177	157	175	11.40%
MOTOR VEH ACC NO INJURY	774	797	948	18.90%
MOTOR VEH ACC UNKNOWN IN	789	806	830	2.90%



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# Top 10 Dispatched CFS Locations - Crimes

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## 4550 W 11TH AVE: (WALMART)

SHOPLIFT 3050 PROGRAM	120
THEFT	96
CRIMINAL TRESPASS	26
HIT AND RUN	25
ANIMAL CRUELTY	19
ALL OTHER	211
<b>Total</b>	<b>497</b>

## 100 W 10TH AVE: (EUGENE LIBRARY)

CRIMINAL TRESPASS	54
THEFT	34
TRANSPORT	29
ASSIST PUBLIC- POLICE	19
THEFT OF BICYCLE	13
ALL OTHER	138
<b>Total</b>	<b>287</b>

## 145 E 18TH AVE: (SAFEWAY)

SHOPLIFT 3050 PROGRAM	57
THEFT	56
SHOPLIFT	15
CRIMINAL TRESPASS	12
DISORDERLY SUBJECT	8
ALL OTHER	94
<b>Total</b>	<b>242</b>

## 3333 W 11TH AVE: (FRED MEYER)

THEFT	33
SHOPLIFT 3050 PROGRAM	32
HIT AND RUN	15
BEAT INFORMATION	12
CRIMINAL TRESPASS	12
ALL OTHER	130
<b>Total</b>	<b>234</b>

## 240 WASHINGTON ST: (WJ SKATEPARK)

BEAT INFORMATION	31
DISPUTE	17
DISORDERLY SUBJECT	16
DRUG INFO	14
THEFT	13
ALL OTHER	125
<b>Total</b>	<b>216</b>

## 90 COMMONS DR: (STADIUM PARK APARTMENTS)

THEFT FROM VEHICLE	24
BEAT INFORMATION	18
LOUD NOISE	18
BURGLARY	14
THEFT OF BICYCLE	14
ALL OTHER	114
<b>Total</b>	<b>202</b>

## 4275 BARGER DR: (WINCO FOODS)

SHOPLIFT 3050 PROGRAM	45
HIT AND RUN	19
THEFT	15
ANIMAL CRUELTY	13
CRIMINAL TRESPASS	11
ALL OTHER	94
<b>Total</b>	<b>197</b>

## 200 DAY ISLAND RD: (ALTON BAKER PARK)

ILLEGAL CAMPING	14
DISPUTE	10
THEFT	10
BEAT INFORMATION	8
DOG AT LARGE	8
ALL OTHER	111
<b>Total</b>	<b>161</b>

# Top 10 Dispatched CFS Locations - Services

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## 1255 HILYARD ST: (SACRED HEART UNIVERSITY DISTRI)

TRANSPORT	795
ASSIST PUBLIC- POLICE	68
DISORDERLY SUBJECT	39
FOLLOW UP	21
CRIMINAL TRESPASS	20
ALL OTHER	142
<b>Total</b>	<b>1085</b>

## 341 E 12TH AVE: (WHITE BIRD CLINIC)

TRANSPORT	505
ASSIST PUBLIC- POLICE	273
CRIMINAL TRESPASS	88
CHECK WELFARE	29
DISORDERLY SUBJECT	29
ALL OTHER	107
<b>Total</b>	<b>1031</b>

## 101 W 5TH AVE: (LCAC)

ASSIST PUBLIC- POLICE	205
TRANSPORT	50
LOCATION WANTED SUBJECT	27
FOLLOW UP	8
WARRANT SERVICE	8
ALL OTHER	60
<b>Total</b>	<b>358</b>

## 605 W 4TH AVE: (BUCKLEY DETOX)

TRANSPORT	125
ASSIST PUBLIC- POLICE	72
DISORDERLY SUBJECT	27
CRIMINAL TRESPASS	26
SUICIDAL SUBJECT	9
ALL OTHER	47
<b>Total</b>	<b>306</b>

## 1542 W 1ST AVE: (EUGENE MISSION)

TRANSPORT	105
ASSIST PUBLIC- POLICE	70
CRIMINAL TRESPASS	14
THEFT	12
INCOMPLETE CALL	9
ALL OTHER	65
<b>Total</b>	<b>275</b>

## 1420 W 1ST AVE: (EUGENE MISSION WOMEN)

TRANSPORT	95
ASSIST PUBLIC- POLICE	90
DISORDERLY SUBJECT	10
CHECK WELFARE	7
SUICIDAL SUBJECT	5
ALL OTHER	25
<b>Total</b>	<b>232</b>

## 450 HWY 99N: (EUGENE SERVICE STATION)

TRANSPORT	126
ASSIST PUBLIC- POLICE	22
CRIMINAL TRESPASS	13
DISPUTE	10
THEFT	9
ALL OTHER	50
<b>Total</b>	<b>230</b>

## 293 VALLEY RIVER CENTER: (VALLEY RIVER CENTER)

HIT AND RUN	33
THEFT	24
BEAT INFORMATION	10
SUSPICIOUS CONDITIONS	10
ATTEMPT TO LOCATE	8
ALL OTHER	140
<b>Total</b>	<b>225</b>

# Downtown CFS: December 2014

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W 5<sup>th</sup> Avenue to W 15<sup>th</sup> Avenue / Lincoln Street to High Street

Top Dispatched	Count	Top Self Initiated	Count
ASSIST PUBLIC- POLICE	70	PERSON STOP	191
CRIMINAL TRESPASS	59	TRAFFIC STOP	171
CHECK WELFARE	45	FOLLOW UP	23
DISORDERLY SUBJECT	33	FOOT PATROL	13
BEAT INFORMATION	30	WARRANT SERVICE	13
THEFT	27	ASSIST PUBLIC- POLICE	12
THEFT FROM VEHICLE	17	DISPUTE	8
SUSPICIOUS CONDITIONS	16	DISORDERLY SUBJECT	6
DISPUTE	16	DISABLED VEHICLE	5
INCOMPLETE CALL	15	CRIMINAL TRESPASS	5

Top Dispatched/Self Initiated CFS represent 72% of Downtown activity.

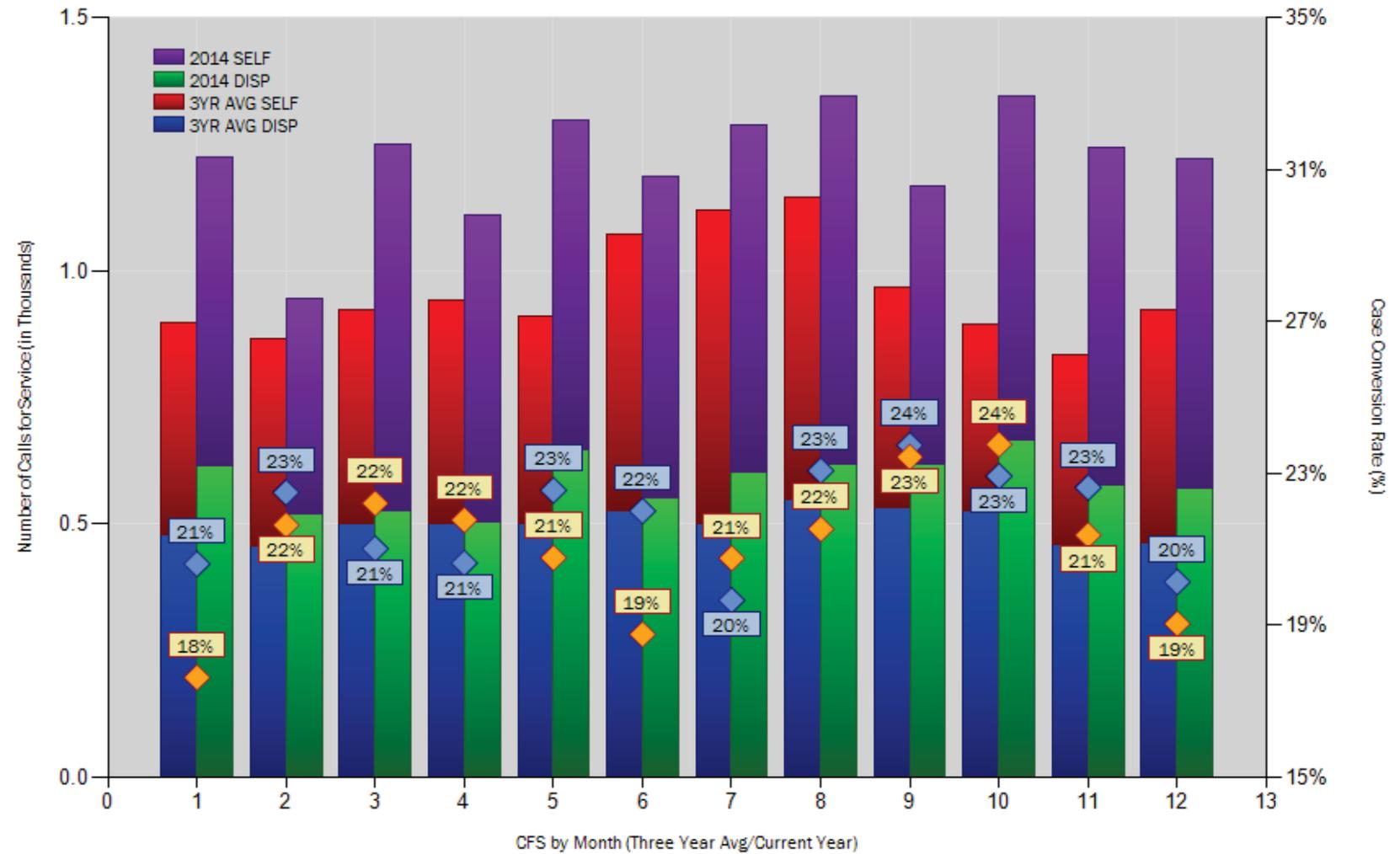
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
Sun	17	19	15	2	3	1	2	2	3	5	4	7	3	5	4	5	3	3	5	1	6	3	3	4
Mon	2	3	0	0	1	1	1	9	4	9	7	7	19	16	9	12	14	5	5	6	7	4	2	3
Tue	0	4	2	0	2	2	3	6	4	11	9	11	18	7	11	11	10	14	14	7	6	3	4	5
Wed	7	5	2	3	2	0	3	5	10	18	15	13	13	14	20	8	13	8	10	11	7	7	8	13
Thu	5	6	5	3	0	0	1	3	4	4	8	6	14	7	9	9	3	13	9	7	7	2	8	4
Fri	5	7	5	5	1	1	4	2	6	2	2	4	12	6	8	3	9	7	10	6	11	4	3	13
Sat	15	13	13	1	0	1	1	0	2	4	2	3	3	14	2	9	10	3	6	5	6	5	10	22

Includes Charnel-Mulligan Park. Excludes Transports/Patrol Checks.

# City Wide Case Conversion

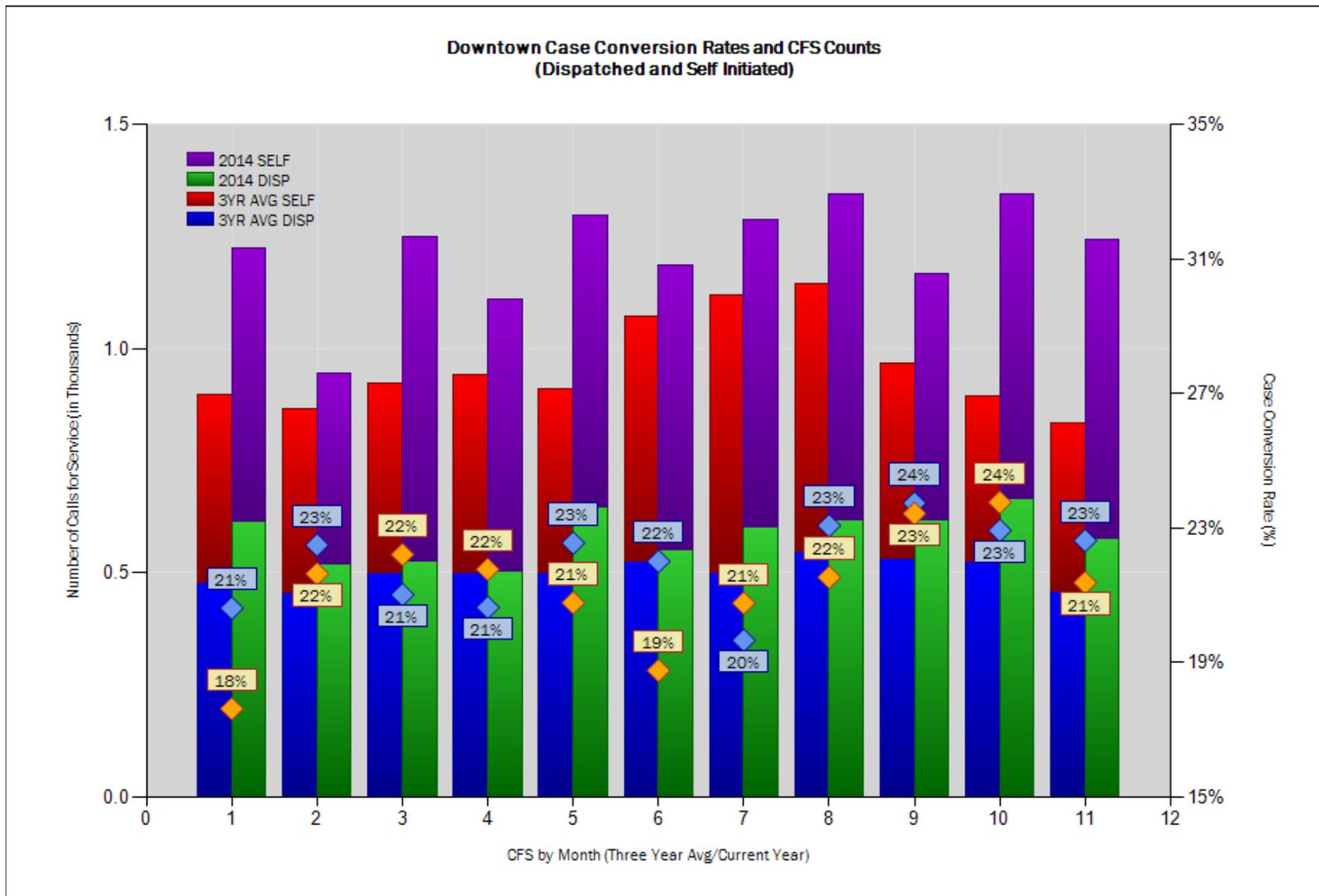
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Downtown Case Conversion Rates and CFS Counts  
(Dispatched and Self Initiated)



# Downtown Case Conversion

PROTECT. SERVE. CARE.





**America's Safest City**

**The Most Professional Agency**



# MEMORANDUM

**Date:** January 30, 2015  
**To:** Eugene Police Commission  
**From:** Captain Sam S. Kamkar – Patrol Division  
**Subject:** Demographic Data Collection – Status Update

In 2013, we learned that SunGard had the ability to develop a program that could track the demographics of the persons stopped during traffic stops. Building on our commitment to this important topic, a committee was created to advise Chief Kerns about how to best do this work, what should be collected, what and how to report to the community, and how to create and maintain positive dialogue with the communities we serve.

The advisory committee consisted of representatives from the ACLU, Police Auditor, NAACP, University of Oregon, Lane Community College, and other valuable internal and external stakeholders. I have had the privilege of leading this project and serving as the committee's cochairman. The committee reviewed documents from the latest research including, but not limited to the following:

The 2012 Annual Report from the Law Enforcement Contacts Policy and Data Review Committee (LECC); "A Resource Guide on Racial Profiling Data Collection Systems" by the US Department of Justice; and Racial Profiling DOJ requirements for the East Haven, Connecticut, Police Department (Consent Decree).

The committee initially identified as many as 21 data points and eventually narrowed the focus down to 10 data points to include the following:

1. Officer ID
2. Stop date, time & location details
3. Initial purpose of the stop
4. Enforcement action taken as the result of stop
5. Demographics of driver: Age, sex, race and ethnicity.
  - I (American Indian/Alaska Native);
  - A (Asian);
  - B (Black or African American);
  - H (Hispanic or Latino);
  - P (Pacific Islander /Hawaii Native);



W (White).

6. Number of passengers
7. Demographics of passengers: Age, sex, race.
8. Driver/passenger searched: Y/N
9. Kind of search
10. Contraband found
11. Open ended comment field

The committee's recommendation was also reviewed by the Senior Leadership Team of EPD and Dr. Brian C. Breauer of Portland State University's Criminal Justice Division. Dr. Breauer is also the lead staff for the Law Enforcement Contacts and Data Review Committee (LECC). This entity, by the power of the State Legislature, has the statutory authority and duty to receive and analyze demographic data to ensure law enforcement agencies perform their mission without inequitable or unlawful discrimination based on race, color, or national origin (ORS 131.906). Based on feedback from LECC, ethnicity was eliminated as a data point. The final data-points were endorsed by LECC as the new standard for the entire State of Oregon. (Please see Dr. Breauer's letter dated January 21, 2005).

Following the committee's work, EPD aimed to develop the necessary software, policy, training, and a pilot program. In the last few months, we adopted a Professional Stops policy that states unequivocally that bias based profiling by the Eugene Police Department will not be tolerated. We are now ready to move to the next stage of this comprehensive initiative. In the next few months, SunGard will be developing the software. Given the many important priorities and demands expected of SunGard, we do not expect to launch data collection until January of 2016. In the meantime, we will be developing the pilot project to test and evaluate this initiative.

## Law Enforcement Contacts Policy and Data Review Committee (LECC)

Criminal Justice Policy Research Institute  
Portland State University  
P.O. Box 751—JUST  
Portland, OR 97201-0751

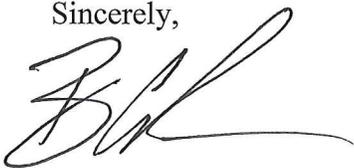
Phone: 503-725-8090  
Fax: 503-725-5162

January 21, 2015

Captain Kamkar and SunGard Representatives,

As lead staff for the Law Enforcement Contacts and Data Review Committee (LECC) I want to express my gratitude for the hard work that the Eugene Police Department has put into the development of their new stop data collection system. The data points that will be collected in the system sets a new standard for the entire State of Oregon that is fully endorsed by the LECC. The need to collect these data points have been discussed in many meetings of LECC. Both myself and David Fidanque (ACLU Oregon) as LECC representatives have been a part of your development team and provided you with the LECC perspective for obtaining better traffic stop data. These data points will make LECC analyses more valid and enable us to explore questions that we've been unable to examine in the past. We are grateful that the Eugene Police Department has integrated the LECC recommendations and essentially created the most comprehensive stop system for the rest of the state to follow your lead. As your efforts to finalize and launch the system advance please let the LECC know how we can be of assistance.

Sincerely,



Brian C. Renauer, Ph.D.  
Chair, Criminology and Criminal Justice Division  
Portland State University  
503-725-8090  
[renauer@pdx.edu](mailto:renauer@pdx.edu)



## EUGENE POLICE DEPARTMENT

# DEPARTMENT COMMAND DIRECTIVE

**No. CD14-028**

**Date:** December 31<sup>st</sup>, 2014

**Subject:** *Policy 402 – Professional Police Contacts*

### **New Policy**

Effective Thursday, January 15<sup>th</sup>, 2015 Command Directive 14-028 enacts *Policy 402 – Professional Police Contacts*. A subsection of the policy, specifically, §402.4.2 – *Recording Information on Stops by Police* will not initially be observed by the entire department. At a time to be determined in the future, a pilot project will identify a select number of patrol officers and these select officers will begin the pilot study in stops data collection. Once the pilot study can be completed and analyzed, the remaining members of the department will be notified by a command directive when they must adhere to §402.4.2.

### **Rescinded Policy**

The following General Orders are rescinded on the effective date listed above, and should be removed from any printed or electronic copies of the Police Operations Manual:

- General Order 308.40 – Person Stops and Contacts
- General Order 308.22 – Field Interviews or FI Cards

Affected employees are expected to familiarize themselves with the new policy, and ask for any clarification if needed.

  
\_\_\_\_\_  
**Pete Kerns**  
**Chief of Police**

POLICY  
402

EFFECTIVE  
DATE  
011515

# Eugene Police Department



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## Professional Police Contacts

### 402.1 PURPOSE AND SCOPE

This policy states unequivocally that bias-based policing by the Eugene Police Department will not be tolerated.

#### 402.1.1 DEFINITIONS

Definitions related to this policy include:

**Racial profiling** – When an officer uses race inappropriately as a primary motivator for law enforcement action, even when there is probable cause or reasonable suspicion.

**Bias-based Policing** - An inappropriate reliance on protected class characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, economic status, cultural group, disability or affiliation with any other similar identifiable group as a factor in deciding whether to take law enforcement action or to provide law enforcement services.

**Protected Class** – As defined by Eugene Code 4.613: Race, religion, color, sex, national origin, ethnicity, marital status, familial status, age, sexual orientation, source of income, or disability.

### 402.2 POLICY

The Eugene Police Department expects its employees to provide equitable law enforcement services to the community with due regard for the protected class status of those served. The Department will provide equal protection under the law to the people we contact and provide it fairly and without discrimination toward any individual or group. Eugene Police employees are forbidden to engage in racial profiling or bias-based policing practices.

### 402.3 USE OF PROTECTED CLASS AS A DESCRIPTION

Nothing in this policy is intended to prohibit an officer from considering factors such as race or ethnicity in combination with other legitimate factors to establish reasonable suspicion or

probable cause. This policy does not prohibit an officer from initiating a conversation with any person, so long as a reasonable person would conclude that they are free to go at any time.

#### 402.4 DEPARTMENT RESPONSIBILITY

Every member of this department shall perform his or her duties in a professional, fair, and objective manner.

##### 402.4.1 DETENTIONS

Eugene Police Department officers will always ensure the stopping, detaining, frisking, and/or searching any person is based on current and accepted legal principles.

Except as required by § **402.4.2**, nothing in this policy requires an officer to document a contact that would otherwise not require reporting.

If any employee is informed or perceives from a contact that the person contacted believes they have been contacted based upon bias by the officer, the employee should immediately notify a sworn supervisor.

##### 402.4.2 RECORDING INFORMATION ON STOPS BY POLICE

The Eugene Police Department will strive to record data on all discretionary traffic stops. The information to be recorded will include, but is not limited to:

- Officer ID
- Stop date, time, and location
- Initial purpose of the traffic stop (A check box list will be provided)
- Enforcement action taken at the stop
- Age, race, sex, ethnicity of driver
- Number of passengers
- Age, race, sex, ethnicity of any passengers (Only collected if passengers are arrested, cited, detained, or searched)
- Whether or not the driver, any passengers, or the vehicle was searched by officers
- Type of search (Warrant, Vehicle Inventory, Consent, Search Incident to Arrest, Mobile Vehicle)
- Contraband located during search (Guns, Money, Alcohol, Weapons)

#### 402.5 SUPERVISOR RESPONSIBILITY

A supervisor must promptly contact the complainant who has made an allegation of biased-based policing.

If the supervisor determines it necessary, he or she will complete a Blue Team entry before the end of their shift which details the circumstances of the contact and make a recommendation to their chain of command as to whether or not the complaint merits further investigation.

Supervisors shall monitor those individuals under their supervision for any behavior that may conflict with the purpose of this policy and shall address any alleged or observed violation of this policy in accordance with the *Policy 1020 Personnel Complaints*.

Supervisors should discuss any issues with the involved employee and his or her supervisor in a timely manner.

Supervisors may review ICV recordings, MDC data and any other available resource used to document contact between officers and the public to ensure compliance with this policy.

Recordings that capture a potential instance of racial- or bias-based profiling should be retained for administrative investigation purposes.

#### 402.6 ADMINISTRATION

The Professional Standards Lieutenant shall review the reported incidents of Biased-Based Policing and be prepared to submit an overview, including the public concern and complaint, to the Chief of Police or designee. The report should not contain any names or identifying information regarding a specific incident, complaint, citizen, or officer. It will be reviewed by the Chief of Police. The Professional Standards Lieutenant will assist the Chief in identifying any changes in training or operations that should be made to improve service.

#### 402.7 TRAINING

The Department will schedule annual training on conducting Professional Police Contacts. This training can include, but is not limited to: Biased-Based Policing, constitutional protections and search and seizure, cultural diversity, de-escalation techniques, and interpersonal communications skills.



# MEMORANDUM

**Date:** February 2, 2015  
**To:** Eugene Police Commission  
**From:** Sergeant Matt Lowen  
**Subject:** Policy Review and Analysis of Recording Police Activities by Civilians

Since the last Police Commission meeting I have been directed by the Chief of Police to provide the commission policies of other agencies who have adopted policy regarding the recording of police activities by members of the public; and those are included in the February packet to the commission. To assist the commission, I have included my notes regarding the attached policies, which I hope the commission finds helpful in evaluating this policy area and which also provides a solid base to develop a policy from.

Even though eight city policies are included in the packet, it is more accurate to say there are only four separate city policies that I have been able to provide, since the policies of Rockville, MD, Chevy Chase, MD, New Castle, DE, and LaVista, NE all essentially say the same thing. I'm not sure of the origin of their policy (it is not IACP or Lexipol), nor are any of these agencies CALEA accredited which would have explained the near identical policy wording. Nonetheless, the policy sticks rather closely to the general guidance level of good policy language and doesn't bog itself down in the mire of specific actions to take that make some of the other policies sound too procedural. Some of the language regarding case law from the Supreme Court of the United States is certainly true and even helpful for both officers and persons in the public reading the policy; however, the case law findings are better suited as training topics for officers, not actual policy language.

The policy of Manheim, PA is both overly proscriptive (with regard to a contacted person using a recording device) and also written in a manner that too easily affords the officer an opportunity to seize the recording device under the authority of officer safety, confidentiality or as a violation of the Pennsylvania Wiretap Act. While I don't suspect the Manheim PD's adherence to State and Federal law and rulings, most readers would easily deduce after reading this policy it would not stand in Eugene for long without much public scrutiny.

The policies of Baltimore and Washington DC are agency specific, and while much of what is contained in them is accurate and applicable to the Eugene community, they stray into great detail about seizing



phones and invoke several other general orders from each respective agency in the process. None of this is incorrect, but it does hamper the 'readability' for non-members of each agency who may be reading the policy, and ultimately they don't say anything much different than the less verbose policies of LaVista, NE and Chevy Chase, MD.

While nearly every policy included in the commission packet contains components worth incorporating into a draft version for EPD, I truly believe the best place for the commission to start is using the IACP model policy from April 2013. The policy is worded in a way that both cautions officers from infringing upon the First Amendment rights of citizens, but also admonishes the non-police reader those rights are not absolute and are subject to reasonable restriction, such as from engaging in unlawful activity while recording. Additionally, the policy gives enough structure to the rare instance of seizure of the recording device without becoming overly proscriptive and ends with the sound guidance of having a supervisor be notified and respond to each incident where an individual is arrested or will likely be arrested, and when a recording device is seized or should be seized.

Sergeant Matt Lowen  
Eugene Police Department



# RECORDING POLICE ACTIVITY

## Model Policy

<i>Effective Date</i> April 2013		<i>Number</i>	
<i>Subject</i> Recording Police Activity			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>		<i>Reevaluation Date</i>	<i>No. Pages</i> 3

### I. PURPOSE

This policy provides officers with guidance for dealing with situations in which they are being recorded, to include videotaping, audiotaping, or both, by members of the public or the media.

### II. POLICY

Members of the public, including media representatives, have an unambiguous First Amendment right to record officers in public places, as long as their actions do not interfere with the officer's duties or the safety of officers or others. Officers should assume that they are being recorded at all times when on duty in a public space.

### III. DEFINITIONS

*Recording:* Capturing of images, audio, or both, by means of a video camera, cell phone, audio recorder, or other device.

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

### IV. PROCEDURES

A. 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,<sup>1</sup> to include police activity. Police may not threaten, intimidate, or otherwise discourage or interfere with the recording of police activities. However, the right to record is not absolute and is subject to legitimate and reasonable legal restrictions, as follows:

1. A reasonable distance must be maintained from the officer(s) engaged in enforcement or related police duties.
2. Persons engaged in recording activities may not obstruct police actions. For example, individuals may not interfere through direct physical intervention, tampering with a witness, or by persistently engaging an officer with questions or interruptions. The fact that recording and/or overt verbal criticism, insults, or name-calling may be annoying, does not of itself justify an officer taking corrective or enforcement action or ordering that recording be stopped, as this is 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.

<sup>1</sup> In nearly all cases, audio recording of police is legally permissible and subject to the same guidelines as video recording. This is so even in states where eavesdropping statutes require two-party consent. Illinois and California statutes prohibit audio recording without two-party consent, to include recording of police. The Seventh Circuit Court of Appeals blocked implementation of the law during the May 20-21 NATO Summit protest, deeming it a violation of the First Amendment freedom of speech.

4. The safety of officers, victims, witnesses, and third parties cannot be jeopardized by the recording party.

B. Arrest

1. Persons who violate the foregoing restrictions should be informed that they are engaged in prohibited activity and given information on acceptable alternatives, where appropriate, prior to making an arrest.
2. 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.
3. Arrest of an individual does not provide an exception to the warrant requirement 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.<sup>2</sup> Files and media shall not be erased under any circumstances.

C. Confiscation of Recording Devices and Media

1. Absent arrest of the recording party, recording equipment may not be confiscated. Additionally, officers may not order an individual to show recordings that have been made of enforcement actions or other police operations.
2. If there is probable cause to believe that evidence of a serious crime has been recorded, an officer should
  - a. advise and receive instructions from a supervisor;
  - b. 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
  - c. 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 confiscated under a temporary restraint. A warrant must be obtained in order to examine and copy the recording and the chain of custody must be clearly documented per department policy.

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 confiscated and viewed.
4. Whenever a recording device or media is seized without a warrant or obtained by 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. In all cases property receipts shall be provided to the owner.

D. Supervisory Responsibilities

A supervisor should 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.

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<sup>2</sup> At least one state, California, permits such searches incident to arrest. See *People v. Diaz*, 51 Cal. 4th 84, 101 (2011).

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

This project was supported by a grant awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice or the IACP.

IACP National Law Enforcement Policy Center Staff:  
Philip Lynn, Manager; Sara Dziejma, Project Specialist;  
and Vincent Talucci, Executive Director, International Association of Chiefs of Police.

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**Document #:** 631151

**Title:** "Video Recording & Photographing Police Officers"

**Author:**

**Attributed To:** Rockville City Police Department

**Population:** 64000

**Sworn:** 51

**Last Updated:** 01/27/2014

**Supplemental Resource(s):**

 [www.rockvillemd.gov/index.aspx?nid=248](http://www.rockvillemd.gov/index.aspx?nid=248)  
(web)

**Summary:**

This policy is from the Rockville, Maryland, Police Department General Orders Manual. The purpose of this general order is to ensure the First Amendment right is preserved by allowing any individual to record police officers in the public discharge of their duties.

**Document Text:**

Rockville City Police Department  
General Order

Subject: Video Recording & Photographing Police Officers

Procedure: G.O. 4-53

Authorizing Signature

Effective: 07/01/2012

Total Pages: 2

V. POLICY

Rockville Police Employees will allow members of the press and members of the general public the same rights in any area accessible to the general public. No individual is required to have or to display 'press credentials' in order to exercise his/her right to observe, photograph, or record police activity taking place in an area accessible to, or within view of, the general public.

VI. PURPOSE

To ensure the First Amendment right is preserved by allowing any individual to record police officers in the public discharge of their duties. The right to record is not limited to streets and sidewalks -- it includes areas where individuals have a legal right to be present, including an individual's home or business, or other private property where the person has a right to be present.

VII. PROCEDURES

- A. Officers must not search or seize a camera or recording device without a warrant except under very limited circumstances as described herein.
- B. Officers will not threaten, intimidate or otherwise discourage any individual from recording police activities.
- C. Officers must not intentionally block or obstruct cameras or recording devices in any manner.
- D. Officers will not delete recordings or photographs, or damage or destroy recording devices/cameras under any circumstances.

E. A person may record public police activity unless the person engages in actions that jeopardize the safety of the officer, the suspect, or others in the vicinity, violate the law, or incite others to violate the law.

Examples of such actions include:

1. Repeatedly instructing a witness being questioned by a police officer not to respond to the officer's questions;
2. Persistently engaging or attempting to engage an officer in conversation while the officer is in the midst of their duties;
3. Hindering a lawful arrest;
4. Inciting bystanders to hinder or obstruct an officer in the performance of their duties.

F. An individual's recording of police activity from a safe distance without any attendant action intended to obstruct the activity or threaten the safety of others does not amount to interference.

G. A person's expression of criticism of the police (or the police activity being observed) does not amount to interference.

1. The First Amendment protects a significant amount of verbal criticism and challenge directed at police officers.
2. Even foul expressions of disapproval towards police officers are protected under the First Amendment.

a. The U.S. Supreme Court has held that 'a properly trained officer may reasonably be expected to exercise a higher degree of restraint' than the average citizen when it comes to reacting to insults or 'fighting words.'

b. Courts have given First Amendment protection to persons who made obscene gestures and yelled profanities at police officers, and they have prohibited the police from interfering with such speech.

H. The warrantless seizure of material protected by the First Amendment (photos, videos, etc.) will be strictly scrutinized by a court. In ordinary circumstances, the seizure of cameras or recording devices without a warrant will not be reasonable. Cameras or recording devices will not be seized without a warrant unless:

1. Officers have probable cause to believe that critical evidence of a felony crime is contained on/in the camera or recording device; and
2. Officers first have explained the circumstances and have unsuccessfully attempted to get the consent of the person in possession of the recording device; and
3. The seizure of the camera/recording device is for no longer than reasonably necessary for the officer, acting with diligence, to obtain a warrant to seize the evidence; and
4. Supervisory approval has been granted for the seizure.

1. If a camera/recording device is seized without a warrant pursuant to Section H, above, officers are prohibited from seizing or viewing the evidence contained in the device until a warrant is obtained for that seizure, unless the officer can articulate the existence of the exigent circumstances where the viewing of the evidence contained in the seized camera/recording device is necessary in order to protect life and/or property.

**Contact Information:**

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**Document #:** 622954

**Title:** "Video Recording and Photographing Police Officers"

**Author:**

**Attributed To:** Chevy Chase Village Police Department

**Population:** 2772

**Sworn:** 19

**Last Updated:** 06/06/2012

**Supplemental Resource(s):**

 [www.ccvillage.org](http://www.ccvillage.org) (web)

**Summary:**

This policy is taken from the Chevy Chase Village, Maryland, Police Department. Individuals have a First Amendment right to record police officers in the public discharge of their duties. The right to record is not limited to streets and sidewalks -- it includes areas where individuals have a legal right to be present, including an individual's home or business, or other private property where the person has a right to be present. Police officers and police departments continue to face embarrassment and lawsuits when officers illegally interfere with persons who photograph or video record police officers in the performance of their duties. This memo establishes our policy on this issue, and the policy is effective immediately.

**Document Text:**

Memo 12-10

To: All Sworn Officers (all ranks)

CC: All Non-Sworn Police Department Employees, Ms. Shana Davis-Cook, Village Manager

From: John M. Fitzgerald, Chief of Police

Date: June 1, 2012

Re: Video Recording and Photographing Police Officers

Police officers and police departments continue to face embarrassment and lawsuits when officers illegally interfere with persons who photograph or video record police officers in the performance of their duties. This memo establishes our policy on this issue, and the policy is effective immediately.

1. Individuals have a First Amendment right to record police officers in the public discharge of their duties. The right to record is not limited to streets and sidewalks -- it includes areas where individuals have a legal right to be present, including an individual's home or business, or other private property where the person has a right to be present.
2. Members of the press and members of the general public enjoy the same rights in any area accessible to the general public. No individual is required to have or to display 'press credentials' in order to exercise his/her right to observe, photograph, or record police activity taking place in an area accessible to, or within view of, the general public.
3. Officers must not search or seize a camera or recording device without a warrant except under very limited circumstances as described herein.
4. Officers are prohibited from threatening, intimidating or otherwise discouraging any individual from recording police activities.

5. Officers must not intentionally block or obstruct cameras or recording devices in any manner.
6. Officers are prohibited from deleting recordings or photographs, and from damaging or destroying recording devices/cameras under any circumstances.
7. A person may record public police activity unless the person engages in actions that jeopardize the safety of the officer, the suspect, or others in the vicinity, violate the law, or incite others to violate the law. Examples of such actions include:
  - a. Repeatedly instructing a witness being questioned by a police officer not to respond to the officer's questions;
  - b. Persistently engaging or attempting to engage an officer in conversation while the officer is in the midst of their duties;
  - c. Hindering a lawful arrest;
  - d. Inciting bystanders to hinder or obstruct an officer in the performance of their duties.
8. An individual's recording of police activity from a safe distance without any attendant action intended to obstruct the activity or threaten the safety of others does not amount to interference.
9. A person's expression of criticism of the police (or the police activity being observed) does not amount to interference.
  - a. The First Amendment protects a significant amount of verbal criticism and challenge directed at police officers.
  - b. Even foul expressions of disapproval towards police officers are protected under the First Amendment.

\* The U.S. Supreme Court has held that 'a properly trained officer may reasonably be expected to exercise a higher degree of restraint' than the average citizen when it comes to reacting to insults or 'fighting words.'

\* Courts have given First Amendment protection to persons who made obscene gestures and yelled profanities at police officers, and they have prohibited the police from interfering with such speech.
10. The warrantless seizure of material protected by the First Amendment (photos, videos, etc.) will be strictly scrutinized by a court. In ordinary circumstances, the seizure of cameras or recording devices without a warrant will not be reasonable. Cameras or recording devices will not be seized without a warrant unless:
  - a. Officers have probable cause to believe that critical evidence of a felony crime is contained on/in the camera or recording device; and
  - b. Officers first have explained the circumstances and have unsuccessfully attempted to get the consent of the person in possession of the recording device; and
  - c. The seizure of the camera/recording device is for no longer than reasonably necessary for the officer, acting with diligence, to obtain a warrant to seize the evidence; and
  - d. Supervisory approval has been granted for the seizure.
11. If a camera/recording device is seized without a warrant pursuant to item 10, above, officers are prohibited from seizing or viewing the evidence contained in the device until a warrant is obtained for that seizure.

**Contact Information:**

John Fitzgerald

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Chevy Chase Village Police Department  
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**Document #:** 632936

**Title:** "Public Video Recording & Photographing Police Activity"

**Author:**

**Attributed To:** New Castle County Division of Police

**Population:** 534634

**Sworn:** 357

**Last Updated:** 05/21/2014

**Supplemental Resource(s):**

 [www2.nccde.org/police/default.aspx](http://www2.nccde.org/police/default.aspx) (web)

**Summary:**

This policy is from the New Castle County, Delaware, Police Department. Individuals have a First Amendment right to record police officers in the public discharge of their duties. The right to record is not limited to streets and sidewalks -- it includes areas where individuals have a legal right to be present, including an individual's home or business, or other private property where the person has a right to be present. It is the policy of the Department to ensure that officers that are being recorded continue to carry out their duties safely and effectively without interfering with an individual's constitutional rights.

**Document Text:**

New Castle County Police

Public Video Recording & Photographing Police Activity

Directive 41

Appendix 41-T

Captain Elmer M. Setting Acting Chief of Police

(January 11, 2013)

I. PURPOSE

To establish procedures for officers to follow when they are being video recorded or photographed while in the performance of their duties.

II. POLICY

Individuals have a First Amendment right to record police officers in the public discharge of their duties. The right to record is not limited to streets and sidewalks -- it includes areas where individuals have a legal right to be present, including an individual's home or business, or other private property where the person has a right to be present. It is the policy of the Department to ensure that officers that are being recorded continue to carry out their duties safely and effectively without interfering with an individual's constitutional rights.

III. PROCEDURES

A. Members of the press enjoy the same rights in any area accessible to the general public. No individual is required to have or to display "press credentials" in order to exercise his/her right to

observe, photograph, or record police activity taking place in an area accessible to, or within view of, the general public.

B. In situations where members of the general public are photographing or recording a police action, officers must not search or seize a camera or recording device (including cell phones) without a warrant, except under very limited circumstances as described herein.

C. Officers are prohibited from threatening, intimidating or otherwise discouraging any individual from photographing or recording police activities.

D. Officers must not intentionally block or obstruct cameras or recording devices in any manner.

E. Officers are prohibited from deleting recordings or photographs, and from damaging or destroying recording devices/cameras under any circumstances.

F. A person may record/photograph public police activity as long as the person's actions do not jeopardize the safety of the officer, the suspect, others in the vicinity, violate the law, or incite others to violate the law.

Examples of such actions include but are not limited to:

1. Repeatedly instructing a witness being questioned by a police officer not to respond to the officer's questions;
2. Persistently engaging or attempting to engage an officer in conversation while the officer is in the midst of their duties;
3. Hindering a lawful arrest;
4. Inciting bystanders to hinder or obstruct an officer in the performance of their duties.

NOTE: An individual's recording/photographing of police activity from a safe distance with no intent to obstruct the activity or threaten the safety of others does not amount to interference. A person's expression of criticism of the police (or the police activity being observed) does not amount to interference. The First Amendment protects a significant amount of verbal criticism and challenge directed at police officers. Even foul expressions of disapproval towards police officers are protected under the First Amendment.

The U.S. Supreme Court has held that "a properly trained officer may reasonably be expected to exercise a higher degree of restraint" than the average citizen when it comes to reacting to insults or "fighting words." Courts have given First Amendment protection to persons who made obscene gestures and yelled profanities at police officers, and they have prohibited the police from interfering with such speech.

G. The warrantless seizure of material protected by the First Amendment (photos, videos, etc.) will be strictly scrutinized by a court. In ordinary circumstances, the seizure of cameras or recording devices without a warrant will not be reasonable. Cameras or recording devices will not be seized without a warrant unless:

1. Officers have probable cause to believe that evidence of a crime is contained on/in the camera or recording device; and
2. The seizure of the camera/recording device is for no longer than reasonably necessary for the officer, acting with diligence, to obtain a warrant to seize the evidence.

H. If a camera/recording device is seized without a warrant pursuant to Section G above, officers are prohibited from seizing or viewing the evidence contained in the device until a warrant is obtained for that seizure.

**Contact Information:**

Quinton Watson  
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New Castle County Division of Police  
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**Document #:** 623199

**Title:** "Video Recording & Photographing of Police Officers"

**Author:**

**Attributed To:** La Vista Police Department

**Population:** 15758

**Sworn:** 34

**Last Updated:** 06/20/2012

**Supplemental Resource(s):**

 [ACLU -- Right to Record Law Enforcement \(pdf\)](#)

 [www.ci.la-vista.ne.us/](http://www.ci.la-vista.ne.us/) (web)

**Summary:**

This policy is taken from the La Vista, Nebraska, Police Department. Individuals have a First Amendment right to record police officers in the public discharge of their duties. The right to record is not limited to streets and sidewalks -- it includes areas where individuals have a legal right to be present, including an individual's home or business, or other private property where the person has a right to be present. Officers are prohibited from threatening, intimidating or otherwise discouraging any individual from photographing or recording police activities.

**Document Text:**

364

VIDEO RECORDING & PHOTOGRAPHING OF POLICE OFFICERS

JUNE 2012

POLICY

Individuals have a First Amendment right to record police officers in the public discharge of their duties. The right to record is not limited to streets and sidewalks -- it includes areas where individuals have a legal right to be present, including an individual's home or business, or other private property where the person has a right to be present.

PROCEDURE

A. Individuals have a First Amendment right to record La Vista police officers in the public discharge of their duties. The right to record is not limited to streets and sidewalks -- it includes areas where individuals have a legal right to be present, including an individual's home or business, or other private property where the person has a right to be present.

B. Members of the press and members of the general public enjoy the same rights in any area accessible to the general public. No individual is required to have or to display 'press credentials' in order to exercise his/her right to observe, photograph, or record police activity taking place in an area accessible to, or within view of, the general public.

C. In situations where members of the public are photographing or recording a police action, officers must not search or seize a camera or recording device (including cell phones) without a warrant, except under very limited circumstances as described herein.

D. Officers are prohibited from threatening, intimidating or otherwise discouraging any individual from photographing or recording police activities.

E. Officers must not intentionally block or obstruct cameras or recording devices in any manner.

F. Officers are prohibited from deleting recordings or photographs, and from damaging or destroying recording devices/cameras under any circumstances.

G. A person may record/photograph public police activity unless the person engages in actions that jeopardize the safety of the officer, the suspect, or others in the vicinity, violate the law, or incite others to violate the law.

Examples of such actions include but are not limited to:

1. Repeatedly instructing a witness being questioned by a police officer not to respond to the officer's questions;

2. Persistently engaging or attempting to engage an officer in conversation while the officer is in the midst of their duties;

3. Hindering a lawful arrest;

4. Inciting bystanders to hinder or obstruct an officer in the performance of their duties.

a. An individual's recording/photographing of police activity from a safe distance without any attendant action intended to obstruct the activity or threaten the safety of others does not amount to interference.

b. A person's expression of criticism of the police (or the police activity being observed) does not amount to interference.

i. The First Amendment protects a significant amount of verbal criticism and challenge directed at police officers.

ii. Even foul expressions of disapproval towards police officers are protected under the First Amendment.

\* The U.S. Supreme Court has held that 'a properly trained officer may reasonably be expected to exercise a higher degree of restraint' than the average citizen when it comes to reacting to insults or 'fighting words.'

\* Courts have given First Amendment protection to persons who made obscene gestures and yelled profanities at police officers, and they have prohibited the police from interfering with such speech.

H. The warrantless seizure of material protected by the First Amendment (photos, videos, etc.) will be strictly scrutinized by a court. In ordinary circumstances, the seizure of cameras or recording devices without a warrant will not be reasonable. Cameras or recording devices will not be seized without a warrant unless:

1. Officers have probable cause to believe that critical evidence of a felony crime is contained on/in the camera or recording device; and

2. Officers first have explained the circumstances and have unsuccessfully attempted to get the consent of the person in possession of the recording device; and

3. The seizure of the camera/recording device is for no longer than reasonably necessary for the officer, acting with diligence, to obtain a warrant to seize the evidence; and

4. Supervisory approval has been granted for the seizure.

I. If a camera/recording device is seized without a warrant pursuant to Section H above, officers are prohibited from seizing or viewing the evidence contained in the device until a warrant is obtained for that seizure.

NEW: June 2012

**Contact Information:**

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**Document #:** 603482

**Title:** "Persons Recording Police Employees"

**Author:**

**Attributed To:** Manheim Township Police Department

**Population:** 33697

**Sworn:** 45

**Last Updated:** 02/19/2009

**Supplemental Resource(s):**

 [www.manheimtownship.org/police.htm](http://www.manheimtownship.org/police.htm) (web)

**Summary:**

This policy is taken from the Manheim Township, Pennsylvania, Police Department Policy Manual. The purpose of this policy is to establish guidelines for reacting to and interacting with persons who are using an audio/video recording device to take sound and/or pictures of Department employees and/or police activity.

**Document Text:**

Manheim Township Police Department  
Lancaster, Pennsylvania  
Policy Manual

Subject: Persons Recording Police Employees

Policy 7.1.3

Date of Issue: December 11, 2007

Rescinds: G.O. 06-11

References:

I. Purpose

The purpose of this policy is to establish guidelines for reacting to and interacting with persons who are using an audio/video recording device to take sound and/or pictures of Department employees and/or police activity.

II. Policy

It is the policy of the Manheim Township Police Department to recognize the legal standing of members of the public to make video/audio recordings of police officers and civilian employees who are carrying out their official police duties in an area open to the public, and by citizens who have a legal right to be in an area where police are operating, such as a person's home or business. However, this right does not prevent officers from taking measures to ensure that such activity and recording does not interfere or impeded with the officer's law enforcement and public safety purpose.

III. Procedures

A. Persons Not Involved in Police Action

1. Police personnel will not normally interfere with persons in a public place who are using audio/video recording devices to record police activities. This will also apply to authorized persons on private

property.

2. When a person who is not the subject of a police action records or is about to record police activity and is located in a position that impedes or interferes with the safety of police personnel or the ability of police personnel to perform their law enforcement function or public safety duties, a police officer shall direct the person where they can move so that they are safely away from the scene but still in a position to use the device.

#### B. Persons Who Are Involved in or the Subject of Police Action

Whenever a person who is the subject of a police action produces a camera within close proximity to the officer and begins to film or indicates that they are going to point it at the officers and start recording, the officer shall:

1. Immediately inquire if the person is both audio and video taping. If audio taping then the officer shall proceed as described in Section C.
2. Inform the person that for safety reasons, they must either put the camera down and out of reach or present it to the officer for inspection.
3. After inspection, the officer shall return it to the person and allow them to videotape the officer from a distance from which the camera could not be used as an impact weapon, which is believed to be approximately 21 feet.
4. If the officer needs to be in close proximity to complete the task at hand, the officer shall request that the person put the camera out of reach until the officer has completed the task.
5. If the subject refuses to put the camera out of reach and there is a genuine law enforcement reason to be in close proximity to the subject, the officer may forcibly take away the camera, just as any other object that could be used as a weapon.

#### C. Audio Taping

The courts have made a distinction between simply videotaping an officer and videotaping with audio. When a person is out in public, he or she is voluntarily presenting their visage to the public and therefore can have no expectation that someone may photograph that person's actions. However, when a person engages in discourse with another, as provided in the Wiretapping and Electronic Surveillance Control Act, 18 PA C.S.A. 5701, et seq. ("Pennsylvania Wiretap Act"), that person is entitled to expect that the discourse will remain private and not be shared with others through a recording device unless specifically consented to by the person speaking. Therefore, whenever a videotaping situation presents itself, when involving persons described in Sections A or B above:

1. If the officer would normally have an expectation of privacy and the officer observes the person being addressed audio taping or videotaping with audio, the officer may inform such person that he or she does not consent to the audio portion of the taping and request that the audio be shut off.
2. If the request is not complied with, the officer should advise the person that the audio taping is a violation of the Pennsylvania Wiretap Act and failure to comply with the request can lead to the seizure of the recording device and arrest for such violation.
3. If the person continues to fail to comply, the officer may seize the recording device and turn it off and arrest the person for violation of the Pennsylvania Wiretap Act.

#### D. High Risk and Confidential Police Activities

In the event police are engaged in law enforcement activities that are of a high risk or confidential nature, and the video recording of such event would jeopardize the immediate police mission, the subject will be ordered to stop recording or be removed to a location where he/she cannot effectively record, and any tape or disc will be taken and retained by police until the danger has passed. If necessary, the tape or disc will not be returned to the owner until reviewed for confidential

activities/identities. Examples are: hostage situations, barricaded gunman situations, and undercover operations where the recording of officers and/or informants would jeopardize their safety during the operation or thereafter.

#### IV. Attachments

##### A. Background Information on State Law

[Editor's Note: IACP Net has not received attachments to this policy.]

By Order of:

---

Neil J. Harkins, Chief of Police

#### **Contact Information:**

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**Document #:** 621496

**Title:** "Video Recording of Police Activity"

**Author:**

**Attributed To:** Baltimore Police Department

**Population:** 631366

**Sworn:** 2800

**Last Updated:** 02/28/2012

**Supplemental Resource(s):**

 [www.baltimorepolice.org](http://www.baltimorepolice.org) (web)

**Summary:**

This policy is taken from the Baltimore, Maryland, Police Department General Orders Manual. It is the policy of the Baltimore Police Department to ensure the protection and preservation of every person's Constitutional rights. In furtherance of this policy, no member of the Baltimore Police Department may prevent or prohibit any person's ability to observe, photograph, and/or make a video recording (with or without a simultaneous audio recording) of police activity that occurs in the public domain, so long as the person's location, actions, and/or behavior do not create a legitimate, articulable threat to Officer safety, or an unlawful hindrance to successful resolution of the police activity.

**Document Text:**

Baltimore Police Department  
General Order J-16

Subject: Video Recording of Police Activity

Distribution: "A"

Date Published: 5 November 2011

Page: 1 of 7

By Order of the Police Commissioner

**POLICY**

It is the policy of the Baltimore Police Department to ensure the protection and preservation of every person's Constitutional rights.

In furtherance of this policy, no member of the Baltimore Police Department may prevent or prohibit any person's ability to observe, photograph, and/or make a video recording (with or without a simultaneous audio recording) of police activity that occurs in the public domain, so long as the person's location, actions, and/or behavior do not create a legitimate, articulable threat to Officer safety, or an unlawful hindrance to successful resolution of the police activity.

**DEFINITIONS**

Hindering -- The common law criminal misdemeanor of obstructing and hindering a Police Officer in the performance of his/her police duties. The elements of this offense are:

1. The Police Officer is engaged in the performance of an official police action or duty;
2. The accused bystander commits an act, or perhaps an omission, which obstructs or hinders the Police Officer in the performance or completion of that official police action or duty;

3. The accused bystander knew, or should have known, of the Officer's identity as a sworn law enforcement officer (i.e., the Officer was in uniform, was wearing some outermost garment on which the word "POLICE" was printed, etc.);

4. The accused bystander knew, or should have known, that the Officer was engaged in an official police action or duty; and

5. The accused bystander intended to obstruct or hinder the Police Officer by the act of omission described in item 2.

NOTE: Members may refer to Police Commissioner's Memorandum 13-10, "Quality of Life Offenses -- Core Legal Elements," page 10, under section entitled "HINDERING," for addition explanation.

Photographing -- The act of capturing and storing a still image, whether in an electronic/digital format, or on any type of light-sensitive film (e.g., traditional 35mm film).

Video Recording -- The act of capturing a series of images that, when replayed in succession, reproduce a sequence of activities in motion. Video recordings may be stored on a length of light-sensitive film, a videotape cassette, or in a digital format (e.g., a removable memory card), and may or may not contain a simultaneous audio recording.

Video Recording Device -- For the purposes of this General Order, a Video Recording Device includes, but is not limited to, any device capable of capturing a still or moving image(s), regardless of whether or not a simultaneous audio recording is included. Examples may include any of the following devices:

\* A cellular telephone of any make, model, or manufacturer, including those devices referred to as "Smart Phones."

\* A Personal Digital Assistant, also known as a Personal Data Assistant or PDA.

\* A tablet-style mobile computer, commonly referred to simply as a "tablet," such as an Apple iPad or a BlackBerry PlayBook.

\* Any camera, whether still-photo and/or video, of any make, model, or manufacturer, regardless of whether or not the device is capable of capturing a simultaneous audio recording, and regardless of how the device stores the images it captures.

## GENERAL INFORMATION

It is increasingly common for uninvolved bystanders at the scene of police activity to photograph and/or video record the actions of Police Officers and their conduct. Members of the Baltimore Police Department should simply assume that, at any time, a member of the general public is likely to be observing, and perhaps even photographing or video recording, their activities.

As a result, members must understand that any bystander has an absolute right to photograph and/or video record the enforcement actions of any Police Officer so long as the bystander's actions do not:

1. Place the safety of the bystander, or of any Police Officer(s), witness(es), victim(s), or suspect(s), in jeopardy;
2. Hinder the execution or performance of an Officer's official duties;
3. Interfere with or violate any section of law, ordinance, code, or criminal or traffic article;
4. Involve an intrusion into any crime scene, private property, or other location under lawful police control and/or not normally accessible to the general public;
5. Threaten, by words or actions, other persons; or

6. Attempt to incite an immediate breach of the peace or incite others to commit a violation of the law.

In an of themselves, the acts of observing, photographing, and/or making a video recording of any police activity that occurs in a public setting or not criminal offenses. On their own, these acts DO NOT constitute probable cause for the arrest of the observer/bystander, and they DO NOT provide any justification whatsoever for any member of the Baltimore Police Department, without a Search and Seizure Warrant or other appropriate court order, to review, seize, damage, erase, or otherwise inspect the contents of a person's camera or video recording device.

#### SPECIAL CIRCUMSTANCES

Nothing in this General Order should be construed by members of the Baltimore Police Department as an elimination of their ability to seek out, collect, or otherwise gather evidence in the course of a criminal investigation.

If an Officer has probable cause to believe, or exigent circumstances indicate, that a bystander is in possession of any still photographs/images, video recordings, and/or audio/sound recordings that are, or could reasonably be considered, evidence related to a crime and/or the identification of a person involved in a crime, members may take all lawful actions to collect that evidence.

However, members seeking to obtain material contained on a camera or recording device that is the private property of a bystander must recall that the camera or video recording device, and the bystander who possesses it, enjoy the same Constitutional protections from unreasonable search and/or seizure as they would in any other law enforcement activity or investigation.

Thus, unless the bystander voluntarily consents to: surrendering his/her camera or video recording device; an examination of its contents; and a seizure by a Police Officer of any images or videos contained within it, members MUST adhere to the requirements of this Order AND to the requirements of General Order J-7, "Search and Seizure Warrants."

#### REQUIRED ACTION

##### ROUTINE ENCOUNTERS WITH THE GENERAL PUBLIC

Member

1. Upon discovery that a bystander is observing, photographing, or video recording the conduct of police activity:

1.1. DO NOT impede or prevent the bystander's ability to continue do so based solely on your discovery of his/her presence.

1.2. DO NOT seize or otherwise demand to take possession of any camera or video recording device the bystander may possess based solely on your discovery of his/her presence.

1.3. DO NOT demand to review, manipulate, or erase any images or video recording captured by the bystander based solely on your discovery of his/her presence.

1.4. For investigative purposes, be mindful of the potential that the bystander may witness, or capture images/video of events considered at some later time to be material evidence.

2. BEFORE taking any police action which would stop a bystander from observing, photographing, or video recording the conduct of police activity, Officer(s) must have observed the bystander committing some act that falls within one of the six numbered conditions listed in the section of this Order entitled "GENERAL INFORMATION."

3. If it becomes necessary to effect the arrest of a bystander who is or has been observing, photographing, or video recording police activity:

3.1. Ensure the arrest is for an unlawful activity or criminal offense (e.g., disorderly conduct, hindering, assault in any degree, etc.).

3.2. Notify the appropriate Permanent Rank Supervisor that an arrest of this nature has been made.

3.3. Clearly articulate the facts and circumstances that led to the arrest in all subsequent reporting and charging documents.

NOTE: All field reports and charging documents should clearly establish that the arrest was based on probable cause to believe that the bystander had committed, was committing, or was about to commit a criminal offense.

The fact that the bystander had been observing, photographing, and/or video recording police activity DOES NOT constitute probable cause and should never be the reason for any arrest.

4. Do not compromise the integrity of any established crime scene or other secured/restricted area so that a bystander may observe, photograph, or video record police activity.

5. A bystander's desire or intent to observe, photograph, or video record police activity does not entitle him/her to:

5.1. Trespass on private property.

5.2. Place him- or herself in physical danger (e.g., within an area defined by members of the SWAT Team as an "inner perimeter").

5.3. Enter another person's private dwelling, storehouse, etc.

5.4. Enter into or upon any established, marked crime scene.

5.5. Enter into or upon any area not accessible to the general public.

6. In public areas, any form on identification referred to as "press credentials" does not extend any special privileges or access to any individual. Members of the press and members of the general public enjoy the same rights in any area accessible to the general public.

7. No individual is required to display "press credentials" in order to exercise his/her right to observe, photograph, or video record police activity taking place in an area accessible to, or within view of, the general public.

Permanent Rank Supervisor / OIC

1. If possible, respond to any scene where members under your supervision believe that the presence of a bystander who is observing, photographing, and/or video recording their conduct is unlawfully hindering or interfering with the successful execution of their official duties.

2. At any scene where the actions of a bystander who is observing, photographing, and/or video recording police activity are approaching the level of a criminal offense:

2.1. Ensure adequate police attention remains focused on whatever situation originally required a police response.

NOTE: All members should bear in mind that, on rare occasions, they may encounter a person or group of persons who deliberately create hazardous conditions with the intent of provoking an inappropriate police response.

Supervisors shall not allow subordinates under their supervision to become distracted from their professional duties if it is suspected that this type of deliberate provocation is occurring.

2.2. If tactically feasible, inform the bystander that his/her actions may, if continued, rise to the level of a criminal offense and could subject him/her to arrest.

2.3. If possible, recommend a less-intrusive location to the bystander from which he/she may continue to observe, photograph, or video record the police activity.

3. Coordinate with the appropriate Primary Detective(s) when establishing the limits of any crime scene.

## SEIZING A BYSTANDER'S VIDEO RECORDING DEVICE FOR EVIDENTIARY PURPOSES

Member

1. If a bystander is believed to possess any material that is, or could reasonably be considered, evidence related to a crime and/or the identification of a person involved in a crime, you may make a request of the bystander that he/she voluntarily surrender his/her camera, video recording device, etc., into police custody.

1.1. If the individual CONSENTS to your request:

1.1.1. Exercise due care and caution with any of the individual's property or electronic device(s).

1.1.2. Complete a Form 93/56, "Property Receipt," and provide the pink copy to the individual. Retain all other copies.

1.1.3. Provide the individual with the name and contact information of the Officer who took custody of the individual's property.

1.1.4. In the "Property Listing / Evidence Recovered" section of any applicable field report(s), list the item(s) surrendered by the individual and held/submitted as evidence.

1.1.5. Document your request, and the individual's response, in the narrative of applicable field reports and/or charging documents.

1.1.6. DO NOT make any attempt to view, download, or otherwise access any material contained on the device.

1.1.7. Protection of any potential evidence is paramount. Only members of the Cyber and Electronic Crimes Unit may make efforts to access material contained on the device.

NOTE: Upon taking custody of the device, members are strongly encouraged to either remove the device's battery or switch it to a "Power Off" condition. This will aid in preventing any remote access to or deletion of the data or other material stored within it.

1.1.8. Submit the recovered camera, video recording device, etc., in accordance with General Order N-1, "Control of Property and Evidence."

1.2. If the individual REFUSES your request:

1.2.1 In the absence of exigent circumstances, develop the necessary probable cause to support an application for a Search and Seizure Warrant.

1.2.2. Coordinate with the Duty Detective, Cyber and Electronic Crimes Unit, for guidance and technical expertise in the wording and preparation of both Form 02/188, "Application for Search and Seizure Warrant," and any Affidavit(s) submitted in support of your application.

NOTE: During normal working hours, the Cyber and Electronic Crimes Unit may be contacted by calling 443-984-7135. At any other time, the on-call Duty Detective may be contacted via the Shift Commander, Communications Section.

1.2.3. If there is PROBABLE CAUSE to believe that evidence exists on an individual's device, AND there is PROBABLE CAUSE to believe that the evidence is in immediate jeopardy or being tampered with, altered, deleted, or destroyed, you may TEMPORARILY seize the device for safekeeping/preservation of the evidence while the appropriate application(s) for Search and Seizure Warrant(s) are made.

NOTE: Upon taking temporary custody of the device for the purpose of safekeeping/preservation, members are strongly encouraged to either remove the device's battery or switch it to the "Power Off" condition. This will aid in preventing any remote access to or deletion of the data, photographs, etc., stored within it.

1.2.4. DO NOT make any attempt to view, download, or otherwise access any material contained on the device.

1.2.5. Protection of any potential evidence is paramount. Only members of the Cyber and Electronic Crimes Unit may make efforts to access material contained on the device.

1.2.6. Apply for, execute, and return and Search and Seizure Warrant(s) in accordance with General Order J-7. "Search and Seizure Warrants."

1.2.7. Submit the recovered camera, video recording device, etc., in accordance with General Order N-1, "Control of Property and Evidence."

1.2.8. Complete all appropriate field reports.

#### Permanent Rank Supervisor / OIC

1. Ensure that any camera or video recording device that has been used to photograph and/or video record police activity comes into the custody of the Baltimore Police Department:

1.1. Through the voluntary consent of the individual in possession of the item.

1.2. Through execution of a Search and Seizure Warrant.

1.3. Through some valid exception to the warrant requirement.

2. Permanent Rank Supervisors must provide the review and approval of any application for a Search and Seizure Warrant as required by General Order J-7, "Search and Seizure Warrants."

#### Duty Detective, Cyber and Electronic Crimes Unit

1. Provide guidance and assistance to members on those occasions when an Application for a Search and Seizure Warrant is made for a camera, video recording device, etc., believed to contain evidence related to a criminal investigation.

1.1. Specific attention should be given to helping those members properly define or describe the various data formats and storage devices they may be seeking in their Warrant Application.

2. Make any appropriate recommendations that may assist in the preservation of data, photographs, video "clips," etc.

3. In the course of a criminal investigation, and/or at the request of a member of the Department, access and download evidentiary materials contained on a device in that member's custody.

#### COMMUNICATION OF POLICY

Supervisors shall be responsible for communication of this policy to their subordinates, and to ensure their compliance. This Order is effective on the date of publication, is to be read at all roll calls for five consecutive days, and is to be posted on all Departmental Bulletin Boards.

#### Contact Information:

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**Document #:** 623700

**Title:** "Video Recording, Photographing, and Audio Recording of Police by Members of the Public"

**Author:**

**Attributed To:** Washington DC Metropolitan Police Department

**Population:** 618000

**Sworn:** 4200

**Last Updated:** 07/26/2012

**Supplemental Resource(s):**

 [mpdc.dc.gov/mpdc/site/default.asp](http://mpdc.dc.gov/mpdc/site/default.asp) (web)

**Summary:**

This policy is taken from the District of Columbia Metropolitan Police Department. Members are reminded that photography, including videotaping, of places, buildings, structures and events are common and lawful activities in Washington, D.C. If a person is taking photographs or recording from a place where he or she has a right to be, members are reminded that this activity by itself does not constitute suspicious conduct.

**Document Text:**

GENERAL ORDER  
DISTRICT OF COLUMBIA

Title: Video Recording, Photographing, and Audio Recording of Metropolitan Police Department  
Members by the Public

Topic: OPS

Series: 304

Number: 19

Effective Date: July 19, 2012

Related to: GO-PER-201.26 (Duties, Responsibilities and Conduct of Members of the Department); GO-SPT-204.01 (Media); GO-OPS-304.10 (Police-Citizen Contacts, Stops and Frisks)

I. Policy: Page 1

II. Regulations: Page 1

III. Cross References: Page 6

I. POLICY

The Metropolitan Police Department (MPD) recognizes that members of the general public have a First Amendment right to video record, photograph, and/or audio record MPD members while MPD members are conducting official business or while acting in an official capacity in any public space, unless such recordings interfere with police activity.

II. REGULATIONS

A. Members are reminded that photography, including videotaping, of places, buildings, structures and events are common and lawful activities in Washington, D.C.

1. If a person is taking photographs or recording from a place where he or she has a right to be, members are reminded that this activity by itself does not constitute suspicious conduct.

2. Members shall refer to GO-HRC-802.06 (Suspicious Activity Reporting Program) for guidance concerning identification and reporting of suspicious activities.

B. In areas open to the public, members shall allow bystanders the same access for photography as is given to members of the news media [See GO-SPT204.01 (Media)]. Members shall be aware that:

1. A bystander has the same right to take photographs or make recordings 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. A bystander has the right under the First Amendment to observe and record members in the public discharge of their duties.

3. Public settings include, e.g., parks, sidewalks, streets, and locations of public protests; but that protection extends also to an individual's home or business, common areas of public and private facilities and buildings, and any other public or private facility at which the individual has a legal right to be present.

4. The fact that a bystander has a camera or other recording device does not, however, entitle the bystander to cross a police line, to enter an area that is closed to the public, or to enter any area designated as a crime scene.

C. As long as the photographing or recording takes place in a setting at which the individual has a legal right to be present and does not interfere with a member's safety, members shall not inform or instruct people that photographing or recording of police officers, police activity or individuals who are the subject of police action (such as a Terry stop or an arrest) is not allowed; requires a permit; or requires the member's consent. Additionally, members shall not:

1. Order that person to cease such activity;

2. Demand that person's identification;

3. Demand that the person state a reason why he or she is taking photographs or recording;

4. Detain that person;

5. Intentionally block or obstruct cameras or recording devices; or

6. In any way threaten, intimidate or otherwise discourage an individual from recording members' enforcement activities.

NOTE: Members may ask questions during the course of a contact, but members are reminded that there is no justification for ordering a person to stop or requiring that they answer unless the member reasonably suspects that a person has committed, is committing, or is about to commit any crime. [See GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks)].

D. Members are reminded that the public does not have a right to interfere with police activity. Interference consists of conduct, threats, actions or activities that prevent or hinder, or purport to prevent or hinder, members from doing their job.

1. If a person is photographing or recording police activity from a position that impedes or interferes with the safety of members or their ability to perform their duties, a member may direct the person to move to a position that will not interfere. However, a member shall not order the person to stop photographing or recording.

2. If a person is photographing or recording police activity from a position that impedes or threatens the safety of members of the public, a member shall direct the person to move to a position that will not interfere. However, members shall not order the person to stop photographing or recording.

3. A person's recording of members' activity from a safe distance, and absent any attendant action that obstructs the activity or threatens the safety of the member(s), does not constitute interference.

4. A person has the right to express criticism of the police activity being observed. So long as that expression does not jeopardize the safety of any member, suspect or bystander; and so long as that expression does not violate the law or incite others to violate the law, the expression does not constitute interference.

#### E. Evidence on a Camera or Recording Device; Probable Cause

1. Probable cause exists where the known facts and circumstances are such that a reasonable member in the same situation would believe that evidence of a crime will be found. See, e.g., *United States v. Scott*, 987 A.2d 1180, 1191 (D.C. 2010).

2. If a member has probable cause to believe that a camera or other recording device contains images or sounds that are evidence of criminal acts, the member shall request that the person either:

a. Voluntarily provide the device or recording medium (e.g., the memory chip) to the member; or

b. Where possible and practicable, and in the presence of the member, voluntarily transmit the images or sound via text message or electronic mail to the member's official government electronic mail account.

c. Consent to take possession of a recording device or medium must be given voluntarily. A member shall not, implicitly or explicitly, coerce consent to take possession of any recording device or any information thereon.

3. If the person provides the device or recording medium to the member, the member shall:

a. Exercise due care and caution with any of the individual's property or electronic device(s);

b. Obtain CCN numbers for the evidence obtained, and provide the CCN numbers to the individual;

c. In the "Property listing/Evidence Recovered" section of any applicable field report(s), Document the item(s) surrendered by the individual in the PD-81 in accordance with MPD procedures;

d. Document the member's request and the individual's response in the narrative of applicable field reports and other documents; and

e. Submit the device(s) to the Electronic Surveillance Unit to access any relevant material as quickly as practicable. Members shall not attempt to view, download, or otherwise access any material contained on the device.

4. If the individual declines to voluntarily provide the device or recording medium, or to electronically transmit the sound and/or images where possible and practicable, and the member believes that exigent circumstances exist insofar as the evidence of criminal activity will be lost absent a seizure of the device, the member shall contact the Watch Commander, Criminal Investigations Division (CID).

a. The Watch Commander, CID, or other official with supervisory authority over the member, must be present at the scene before a member takes any significant action involving a person's use of a recording device. This includes warrantless search or seizure of a camera or recording device, or an arrest.

b. The member shall inform the Watch Commander of the nature of the evidence of criminal acts believed to be contained on the device.

c. The Watch Commander, CID, shall, in consultation with the Commander, CID, determine whether exigent circumstances, including the seriousness of the possible crime at issue, permit the seizure of the device without a warrant. Warrantless seizure is permissible only when:

(1) There is probable cause to believe that the property holds contraband or evidence of a crime; and

(2) The exigencies of the circumstances demand it or some other recognized exception to the warrant requirement is present.

d. If the Watch Commander, CID, finds that exigent circumstances permit the seizure of the device without a warrant, approval shall be given to the member for the seizure.

e. The member shall obtain and provide CCN numbers to the individual possessing the device.

f. Any such seizure must be a temporary restraint intended only to preserve evidence until a warrant can be obtained. *Illinois v. McArthur*, 531 U.S. 326, 334 (2001).

F. Viewing/Listening to Evidence on a Camera or Recording Device

1. Absent exigent circumstances, members shall obtain a search warrant before viewing photographs or listening to recordings on a camera or memory chip that has been seized as evidence.

2. In exigent circumstances, where there is reason to believe that an immediate search of the seized material is necessary to prevent death or serious injury, members shall contact the Watch Commander, CID, for authorization to review photographs or recordings without a warrant.

3. The Watch Commander, CID, in consultation with the Commander, CID, may authorize such review without a warrant.

4. Photographs or recordings that have been seized as evidence and are not directly related to the exigent purpose shall not be reviewed.

G. Members shall not, under any circumstances, erase or delete, or instruct or require any other person to erase or delete, any recorded images or sounds from any camera or other recording device that is in the possession of a nonmember, or that has been voluntarily turned over or seized under the terms of this order.

H. Members shall maintain cameras and other recording devices that are in Department custody so that they can be returned to the owner intact with all images or recordings undisturbed.

III. CROSS REFERENCE

A. GO-SPT-204.01 (Media)

B. GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks)

C. GO-HRC-802.06 (Suspicious Activity Reporting Program)

Cathy L. Lanier  
Chief of Police

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