

## Danner, Rebecca

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**From:** Junginger, Craig  
**Sent:** Monday, September 08, 2014 1:32 PM  
**To:** Police Sworn Officers  
**Subject:** FW: Recording of police officers and the seizure of the device

Although our most recent incident is not about the subject recording the officer's actions but, about him interfering in a dangerous incident, it is always a good reminder to reread the parameters around the seizing of recording devices.

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**From:** Junginger, Craig  
**Sent:** Tuesday, March 05, 2013 2:19 PM  
**To:** Police Sworn Officers  
**Subject:** Recording of police officers and the seizure of the device

*To all sworn members:*

*Almost daily, technology is changing the way we do business. An important technology that has changed all of our lives is the use of cell phones to capture incidents coupled with the ability to immediately post the video for world viewing. More and more people are using them for a variety of things to include the filming of police actions. Although our laws are slowly being redefined by case law in this area, the variables of each case can make it difficult to decide when to take action against violations of the law. When should we make an arrest or seize property? We must balance our decisions to enforce the law with not only the letter of the law but the spirit for which it was intended. We must be reasonable in our actions.*

*With this in mind, I want to outline my expectations on this topic. I support the reasonable actions of officers to seize cell phones when there is probable cause to believe the recording contains evidence of a crime and there are exigent circumstances to seize the cell phone to prevent the destruction or loss of the evidence. Once seized, if no exigent circumstances that place the property at risk of destruction, you must obtain a search warrant to download the video.*

*However, the nature of the crime and the significance of the evidence must also be amongst the criteria used when determining the importance of seizing recording equipment from someone not consenting to the seizure. We should always strive to gain cooperation when a witness has possibly recorded elements of a crime. Although we have the right to seize under these conditions, citizens are uncomfortable with our seizing of their personal electronic devices. The officers involved should make every effort to gain compliance. Remember these individuals are electronic "witnesses" to a crime. We want to gain their cooperation with your investigation. All of you were issued recorders a few years back, you should consider*

*recording those who are non-compliant. This can assist you in building a case that the seizure was your last resort to save the evidence.*

*However, I highly discourage the seizing of property, or the arresting of persons, for simply recording your official actions without your knowledge. With few exceptions, officers should recognize that they are probably constantly being recorded when on duty. Since I truly believe that you are polite and professional in your contacts, and are doing nothing wrong, you should not concern yourself with a citizen who decides to record your actions on a call. The practice of video/audio recording officers is prevalent throughout the world and I believe the courts will take a very liberal view of a citizen's right to record an officer while on duty. It is common footage on television shows and internet videos, and we must recognize that it is part of doing business.*

*As always, if you have any questions, please don't hesitate to contact me.*

*Craig Junginger  
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