

Thermal Imaging

345.1 POLICY

This policy is to provide guidance to officers of the Bozeman Police Department (BPD) in the use of Thermal Imaging Devices.

345.2 DEFINITIONS

Thermal Imaging: A technology which generates an image of an object using the heat given off by the object.

345.3 PRIVACY CONSIDERATIONS

- A. The United States Supreme court has established that there is a reasonable expectation to privacy to activity revealed by use of thermal imaging, in particular, that the activities inside the home revealed through the use of thermal imaging technology constitutes a search under the 4th Amendment of the constitution (U.S. v. Kyllo).
- B. Additionally, courts have found that while techniques that amplify an officer's ordinary senses (such as binoculars which magnify the officers ordinary sense of sight, or a flashlight that lets you see in the dark) might be reasonable, technologies such as thermal imaging (which may be argued is a wholly different ability or "sense"), may constitute an unreasonable invasion of privacy, and thus constitute an unreasonable search. Some legal parameters on when thermal imaging is not permissible may be established, but parameters on what exactly is permissible and when, are not. Officers should therefore proceed cautiously with the use of this technology.
- C. As outlined more specifically in this policy, the use of thermal imaging is permissible in viewing areas only where there is no protectable privacy interest, when there are exigent circumstances, or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

345.4 AUTHORIZED USES

Approval from a shift commander or command officer is needed prior to the use of thermal imaging. Lawful deployments typically include, but are not limited to:

- (a) In-progress calls involving a particular immediate threat to the safety of any person (including, but not limited to, barricaded subjects, hostage situations, fugitive apprehension, active threats, special response team activities, etc.)
- (b) Search and rescue operations.
- (c) Searches for persons who are considered both missing and endangered.
- (d) Searches for missing children.

345.5 LIMITATIONS AND PROHIBITIONS

- (a) Thermal imaging will not be used to conduct random surveillance activities.

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- (b) Officers shall not use a thermal imaging device while driving a motor vehicle.
- (c) During the search for missing persons, officers shall only use thermal imaging to observe where:
 - 1. The location is generally open to the public: or,
 - 2. There is an articulable suspicion the missing/endangered person could reasonably be expected to be at the location observed.
- (d) The use of thermal imaging to conduct any pre-planned surveillance shall require an appropriate search warrant which specifies and permits its use.
- (e) Personal use of department thermal imaging devices is prohibited.
- (f) A thermal imager shall not be mounted to, or used to directly aim any weapon.

345.6 TRAINING

Any officer wanting to use a thermal imager in the performance of their duties shall receive training on its use and the legally permissible circumstances it may be employed.

345.7 EQUIPMENT

Officers shall only use thermal imaging equipment provided by the department.

345.8 MUTUAL AID REQUESTS

The use of thermal imagers at the request of outside agencies shall conform to this policy.

345.9 DATA COLLECTION AND STORAGE

- (a) With the exception of training, any use of thermal imaging which results in an image or video recording shall be preserved in accordance with BPD evidence policy.
- (b) All uses of thermal imaging shall be documented by the user, including reason for use and location used.