§ 700.65 Eavesdropping and video surveillance warrants; disclosure and use of information; order of amendment.

1. Any law enforcement officer who, by any means authorized by this article, has obtained knowledge of the contents of any intercepted communication or video surveillance, or evidence derived therefrom, may disclose such contents to another law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

2. Any law enforcement officer who, by any means authorized by this article, has obtained knowledge of the contents of any intercepted communication or video surveillance, or evidence derived therefrom, may use such contents to the extent such use is appropriate to the proper performance of his official duties.

3. Any person who has received, by any means authorized by this article, any information concerning a communication or video surveillance, or evidence derived therefrom, intercepted or conducted in accordance with the provisions of this article, may disclose the contents of that communication or video surveillance, or such derivative evidence, while giving testimony under oath in any criminal proceeding in any court, in any grand jury proceeding or in any action commenced pursuant to article thirteen-A or thirteen-B of the civil practice law and rules; provided, however, that the presence of the seal provided for by subdivision two of section 700.50, or a satisfactory explanation of the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any communication or video surveillance, or evidence derived therefrom; and provided further, however, that where a criminal court of competent jurisdiction has ordered exclusion or suppression of the contents of an intercepted communication or video surveillance, or evidence derived therefrom, such determination shall be binding in an action commenced pursuant to article thirteen-A or thirteen-B of the civil practice law and rules.

4. When a law enforcement officer, while engaged in intercepting communications or conducting video surveillance in the manner authorized

by this article, intercepts a communication or makes an observation which was not otherwise sought and which constitutes evidence of any crime that has been, is being or is about to be committed, the contents of such communications or observation, and evidence derived therefrom, may be disclosed or used as provided in subdivisions one and two. Such contents and any evidence derived therefrom may be used under subdivision three when a justice amends the eavesdropping or video surveillance warrant to include such contents. The application for such amendment must be made by the applicant as soon as practicable by giving notice to the court of the interception of the communication or the making of the observation and of the contents of such interception or observation; provided that during the period in which the eavesdropping or video surveillance is continuing, such notice must be given within ten days after probable cause exists to believe that a crime not named in the warrant has been, is being, or is about to be committed, or at the time an application for an order of extension is made pursuant to section 700.40 of this article, if such probable cause then exists, whichever is earlier. If the justice finds that such contents were otherwise intercepted in accordance with the provisions of this article, he may grant the application.