



Roll Call Training Bulletin

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Katherine Lester, Chief of Police
Volume 90

First Amendment Audit Recording/Videoin/Photographing in a Public Place 3-16-22

Police personnel with field assignments are likely to be familiar with members of the public taking photographs or recording video during calls for service or other enforcement activity. However, officers should also be aware of individuals recording police vehicles, equipment, and the employees themselves at police facilities and other government buildings. This act is often referred to as a “**First Amendment Audit**.” Individuals participating in these activities are generally narrating while recording and may engage employees with questions or discussions in an attempt to provoke a negative police contact.

The City of Sacramento maintains several locations that are open to the public such as parking lots, building entrances, and sidewalks. If a facility has signage stating, ‘No Trespassing,’ this would usually only apply to the areas that are closed to the public and/or closed after business hours. Generally speaking, secured police parking lots would fall under applicable trespass laws, but spaces open to the public would not.

At all times, officers should take appropriate precautions to safeguard sensitive information that may be lawfully observed through the windows of law enforcement vehicles. MDC and laptop screens should be darkened or closed. Confidential documents, such as Incident Action Plans (IAPs) or Information Bulletins (IBs) should be protected from plain view.

During an encounter with members of the public who are conducting a “First Amendment Audit” or are otherwise recording police activities, officers should be polite, friendly, and professional, and should not engage in a debate or argument. For example, an officer should provide their name and badge number upon request in a professional tone. Whenever practicable, officers should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or other behavior to be unlawful. The warnings should be accompanied by clear directions on what an individual can do to be compliant; and directions should be specific enough to allow compliance. For example, rather than instructing an individual to “clear the area,” an officer could direct the person to a viable recording location.

Per California Penal Codes 148(g) and 69(b) the fact that a person takes a photograph or makes a recording of a public officer or peace officer, while the officer is in a public place or the person taking the photograph or making the recording is in a place he or she has the right to be, does not constitute, in and of itself, resisting arrest or obstructing/preventing official duties, nor does it constitute reasonable suspicion to detain the person or probable cause to arrest the person.

In short, persons who are recording the police have the same rights and responsibilities as any other member of the public. Therefore, while photography/recording may take place, these or any other activities are not permitted to obstruct peace officers, nor are the involved persons permitted to break any other laws.



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When taking enforcement action, officers need to clearly convey how the subject was obstructing or delaying them. For example, proximity to officers by itself is not enough, an explanation of the safety risk associated with the person's actions or behaviors should be articulated.

California Penal Codes:

148(a) Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician...in the discharge or attempt to discharge any duty of his or her office or employment [is guilty of a crime] ...

148 (g) The fact that a person takes a photograph or makes an audio or video recording of a public officer, while the officer is in a public place or the person taking the photograph or making the recording is in a place he or she has the right to be, does not constitute, in and of itself, a crime, nor does it constitute reasonable suspicion to detain the person or probable cause to arrest the person.

69 (b) The fact that a person takes a photograph or makes an audio or video recording of an executive officer, while the officer is in a public place or the person taking the photograph or making the recording is in a place, he or she has the right to be, does not constitute, in and of itself, a crime...