

Circular

Houston Police Department



January 16, 2013

NO. 13-0116-023

SUBJECT: CITIZENS TAKING PHOTOGRAPHS AND RECORDINGS

The department has been notified that on the 3rd Thursday of each month a community group will follow and videotape officers during arrest situations. Officers should not be alarmed or surprised when a citizen videotape or photograph them while performing their duties, which is the public's right.

Officers are reminded not to initiate an investigative detention or ask for identification merely because a citizen is photographing or recording an officer. In a recent court case outside of Texas, officers were denied qualified immunity when they arrested a person for videotaping the officers, thereby becoming potentially personally liable. Furthermore, a person's action of photographing or recording an officer **alone** will not be sufficient to detain the person for the offense of *Interference with Public Duties*, Texas Penal Code §38.15.

It may be appropriate, however, to conduct a consensual encounter or an investigative detention of a suspicious individual who is recording or taking photographs of critical infrastructure or secure sites, including the number of officers going to and from such locations, such as power plants, federal buildings or police stations. In these cases, the officer must properly document the contact in an offense report.

If an officer believes a videotape or photograph may contain evidence of a crime, the officer shall consult with the District Attorney's office to determine if a search warrant is needed to either seize the video or view the contents on the device in question. Officers should also be aware that certain recording devices may actually be transmitting the data live to a website or live video stream. Officers should consult with the Digital Forensics Unit to determine how to proceed should the video or audio stream be needed as evidence.

I expect all employees to follow the Houston Police Department's core values of **Honor, Integrity and Respect** at all times.


Charles A. McClelland, Jr.
Chief of Police

cam:bam:dc

COP #. 13-45293

PLEASE READ THIS CIRCULAR AT ROLL CALLS FOR FIVE CONSECUTIVE DAYS

Circular

Houston Police Department



February 8, 2012

Received in
INSPECTIONS DIVISION

Date: 2/9/12 /By: JSD

NO. 12-0208-040

SUBJECT: REMINDER AND LEGAL UPDATE OF TRAINING REGARDING CITIZENS
TAKING PHOTOGRAPHS AND RECORDINGS

Officers are reminded of the department's training that citizens have a right to photograph, record, or videotape officers while officers are doing their job. Officers are expected to respect the rights of the public to photograph, film or record police actions. Officers are further reminded not to initiate an investigative detention or ask for identification merely because a citizen is photographing or recording an officer. In a recent case, officers were denied qualified immunity when they arrested a person for videotaping the officers, thereby becoming potentially personally liable.

Furthermore, a person's action of photographing or recording an officer alone will not be sufficient to detain the person for the offense of *Interference with Public Duties*, Texas Penal Code §38.15. It may be appropriate, however, to conduct a consensual encounter or an investigative detention of a suspicious individual who is recording or taking photographs of critical infrastructure or secure sites, including the number of officers going to and from such locations, such as power plants, federal buildings or police stations. In these cases, the officer must properly document the contact in an offense report.

If an officer believes a videotape or photograph may contain evidence of a crime, the officer shall consult with the District Attorney's office to determine if a search warrant is needed to either seize the video or view the contents on the device in question. Officers should also be aware that certain recording devices may actually be transmitting the data live to a website or live video stream. Officers should consult with the Digital Forensics Unit to determine how to proceed should the video or audio stream be needed as evidence.


Charles A. McClelland, Jr.
Chief of Police

cam:bam

Originating Party:
James G. Jones, Captain
Chief's Command / Legal Services

COP #12-42150

Please read this Circular at roll calls for three consecutive days.

Circular

Houston Police Department



August 23, 2013

NO. 13-0823-214

SUBJECT: VIDEOTAPES AS POTENTIAL EVIDENCE

This Circular shall serve as a reminder to all officers that they should always be cognizant that any time they are investigating a crime, regardless whether the response is to a call for service or an on-view incident, that there are often video cameras in the surrounding businesses and area that may have caught the incident on videotape. Officers should attempt to determine if the video camera(s) did in fact capture video footage that has evidentiary value and request the videotape so it can be tagged as evidence.

If officers have any questions regarding the appropriate manner to handle the evidence or should the owner refuse to release the videotape, they should contact the concerned division or the District Attorney's office for guidance.

While this Circular is primarily directed towards video cameras affixed to buildings or other fixed objects, officers may encounter citizens videotaping officers. Officers are reminded not to initiate an investigative detention or ask for identification merely because a citizen is photographing or recording an officer. This activity is permitted by law. Please see *Circular No. 13-0116-023, Citizens Taking Photographs and Recordings*, for complete details.


Charles A. McClelland, Jr.
Chief of Police

cam:jgj

Originating Party:
J. G. Jones, Captain
Chief's Command/Legal Services

COP#13-47472

TO BE READ AT ALL ROLL CALLS FOR 5 DAYS