



CLEVELAND DIVISION OF POLICE

DIVISIONAL NOTICE



DATE OF ISSUE: June 30, 2016	DISTRIBUTION: ADMINISTRATIVE UNITS	NUMBER: 16-210
SUBJECT: VIDEO RECORDING OF POLICE ACTIVITY - REVISED		NO. PAGES: 1 of 2
CLASSIFICATION:	CHIEF OF POLICE: <i>Calvin D. Williams, Chief</i>	

This Divisional Notice (DN) revises the information contained in DN #14-192 Video Recording of Police Activity that was issued May 20, 2014. Members shall no longer distribute the handout attached to DN #14-192 Video Recording of Police Activity and instead use the updated handout attached to this DN.

Members are public servants and conduct most day to day business within the public arena. Most activities conducted by the Division within the public arena may be legally recorded by any person.

In general, persons have a First Amendment right to express their views about police and their activities. The First Amendments rights of persons can only be limited to articulable and reasonable time, place, and manner restrictions. Persons may photograph, video record, and audio record the on-duty activities of members of the Division when the activities are in public places, with a few exceptions. The primary exceptions are:

- The person’s conduct, verbal or physical, cannot materially (i.e., substantially or considerably) obstruct or impede members from performing their official duties.
- The recording must be occurring from a location the person recording has a legal right to be (i.e., public property, private property with permission).

Persons recording police activity may actually be, claim to be, or have credentials identifying them as part of the media or as a freelance journalist. Media representatives and journalists do not have any greater or any less rights than any citizen when it comes to documenting or recording police activity. If a citizen is legally able to stand in a location, then a media representative or journalist shall be allowed to stand there as well. This does not change because a media representative or journalist may have equipment that is capable of seeing farther or clearer than that of a citizen.

Members shall:

- Provide their last name and badge number when asked and it is safe to do so. Officer and civilian safety shall always be the priority.
- Be aware that if a person is permitted (has a legal right) to stand in a location without a recording device then they can stand in that same location with a recording device.

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- When giving instructions to persons that are too close to police activity (holding a camera or not), be specific about the instructions given (e.g., exact location to stand, distance to stand away).
- When safely able to do so, provide the attachment to persons aggressively recording police activity, asking questions of members engaged in other police activities, or attempting to interview members.
- When safely able to do so, provide any assistance or information to the person recording the police activity after the police activity is complete and the scene is safe. Officer and civilian safety shall always be the priority.

Members shall not:

- Ask a person why they are recording police activity.
- Tell a person to “leave”, or similar language, when the person is recording police activity.
- Demand a person to stop recording police activity.
- Demand identification solely because the person is recording police activity.
- Detain a person solely because that person is recording police activity.
- Delete any photographs, video, or audio of a crime scene or police activity. That material is considered evidence and the deletion or destruction of evidence is a crime.

Any member whose performance of official duties is materially impeded or obstructed by someone who is recording or questioning the member, or when a person threatens to materially obstruct or impede the member’s performance of official duties, that member shall notify the Communications Control Section (CCS). CCS shall dispatch additional zone cars and a supervisor to the scene. Except in situations where the members’ safety is at risk, members shall continue with their lawful duties and allow the responding zone car(s) and supervisor(s) to address the actual or potential obstruction based on the totality of the circumstances.

Members shall be aware that there may be pre-planned or organized attempts to record and/or interview members of the Division with prepared questions. Members shall refer to General Police Order (GPO) 1.3.01 Media Relations for directives on these types of situations, or may reference the attachment to this DN. The attachment has been formatted to be used as a handout to be given to those questioning and/or recording members.

CDW/jeh
Policy Unit
Attachment



CLEVELAND DIVISION OF POLICE



Every Person has the right to record members of the Cleveland Division of Police while the members are in public. When questioning or recording officers engaged in police activity, PLEASE consider:

- You know your intentions, the officers may not.
- Allow the officer(s) enough space for them to safely conduct the police activity. The distance required by officers will depend on the circumstances surrounding the police activity. Officers need to be allowed to focus on the police activity. If officers request that you move to a reasonable distance for their safety and operational effectiveness, please oblige.
- Officers are not required to answer questions from, or provide information to uninvolved persons about police activities.
- Cleveland Codified Ordinance 615.06 Obstructing Official Business, provides:
 - (a) No person, without privilege to do so and with purpose to prevent, obstruct or delay the performance by a public official of any authorized act within his or her official capacity, shall do any act which hampers or impedes a public official in the performance of his or her lawful duties.
 - (b) Whoever violates this section is guilty of obstructing official business, a misdemeanor of the second degree. (RC 2921.31)
 - (c) If the violation creates a risk of physical harm to any person, the individual may be charged under Ord. No. 1631-05.

Official information about police activity may be obtained through a public records request. To request public records or ask questions about the process, you may contact the Custodian of Records in Administrative Operations at (216) 623-5352 or go online to the City of Cleveland website at:

<http://www.city.cleveland.oh.us/CityofCleveland/Home/Government/CityAgencies/PublicSafety/Division%20of%20Police/Public%20Records>

If you have questions about a policy, the Chief of Police or the Chief's designee is the only source for official interpretations of Division policy. You may contact the Chief's Office at **(216) 623-5005** for more information.

Officers are not permitted to participate in an interview or to express personal viewpoints or opinions while on-duty without **prior approval** from the Chief's Office. You may contact the Chief's Office at **(216) 623-5005** with any further questions or to request an interview.

To file a complaint against an officer, contact the Office of Professional Standards (216-664-2944) or any police district, bureau, or unit and request a **Citizen Complaint Form**.

The Cleveland Division of Police strives to protect the rights of **all** while performing the police functions of protecting and serving the residents and visitors of Cleveland.