

FILMING THE POLICE

Law enforcement officers will often question you if you are holding up a smartphone or camera and capturing video or taking photos of them. You have very important and basic rights in this regard:

- 1** When in public spaces, you can photograph anything that is in plain sight.
- 2** When on private property, the property owner may set the rules about taking photos.
- 3** Police officers cannot confiscate or demand to view your digital photos or video without a warrant.
- 4** Police officers cannot delete your photos or video under any circumstances.
- 5** As long as you are not interfering with legitimate law enforcement operations, they cannot order you to stop filming.



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If you are stopped or detained for taking photos:

- ◆ Always remain polite. Never physically resist an officer.
- ◆ If stopped for photography, **the right question to ask is, “Am I free to go?”** If the officer says no, then you are being detained—something that under the law an officer cannot do without reasonable suspicion that you have, are in the process of, or are about to commit a crime. **Until you ask to leave, your stop is considered voluntary, and thus legal.**
- ◆ If you are being detained, politely **ask what crime you are suspected of committing.** Remind the officer that taking photos is your right under the First Amendment and does not constitute reasonable suspicion of criminal activity.
- ◆ **Special considerations while videotaping:**
 - Our right to record the police is a critical check and balance. It **creates an independent record** of what took place, free from accusations of bias, lying, or faulty memory.
 - **Police may not delete your photos or video** under any circumstance, nor take the camera’s memory card.
 - Police may legitimately order you to cease activities that are truly interfering with legitimate law enforcement operations.
 - There is a legal distinction between a video record and an audio recording. Some states try to regulate audio recording under state wiretapping laws, with the intention of protecting privacy and prohibiting “bugging” of private conversations. However, **in nearly all cases, audio recording of the police is legal.**
 - The right to photograph does not give you the right to break any other laws. For example, if you are trespassing to take photos, you may still be charged with trespass.