



**INTERIM ORDER**

SUBJECT. REVISION TO PATROL GUIDE 212-71, "GUIDELINES FOR THE USE OF PHOTOGRAPHIC/VIDEO EQUIPMENT BY OPERATIONAL PERSONNEL AT DEMONSTRATIONS"		
DATE ISSUED:	REFERENCE:	NUMBER:
09-10-04	*PG 212-71	47

1. Recent modifications to the *Handschu* Consent Decree, along with advancements in and the availability of technology to aid in police operations, necessitates that procedures governing the use of video and photography by members of the service be updated.

2. Accordingly, this procedure establishes permissible operational objectives that authorize and apply generally to the use of video and photography, except in situations involving ongoing criminal or internal investigations, standard evidence collection, or arrest processing procedures. These revised procedures apply to the use of video and photography by members of the service to accurately record police operations and other public activity. Examples of such authorized uses include preparing training materials and monitoring and/or assessing: emergency incidents, traffic control, crowd control (parades, demonstrations, etc.), counter-terrorism, public safety, crime, or disorder conditions, deployment of police resources, etc. Moreover, the revised procedures permit the use of video and photography equipment by members of the service assigned to units other than Technical Assistance and Response Unit (TARU) and the Police Academy, Video Production Unit, and for approval of the use of these methods at the Patrol Borough/Bureau level.

3. Therefore, Interim Order 47 series 2001, "Revision to Patrol Guide Procedure 212-71, Guidelines for the Use of Photographic/Video Equipment by Operational Personnel at Demonstrations," is **REVOKED** and the following retitled procedure, "Guidelines for the Use of Photographic/Video Equipment to Record Police Operations and Public Activities," will be complied with:

**PURPOSE**

To set forth the permissible operational objectives for which members of the service may use photographic/video equipment to record images in situations outside of ongoing criminal or internal investigations, standard evidence collection or arrest processing procedures; to establish procedures for the approval and use of such equipment; and to establish responsibility for the maintenance, review, storage and disposition of such images.

**SCOPE**

This procedure establishes permissible operational objectives that authorize and apply generally to the use of video and photography, except in situations involving ongoing criminal or internal investigations, standard evidence collection, or arrest processing procedures. This procedure applies to the use of video and photography by members of the service to accurately record police operations and other public activity. Examples of such uses include preparing training materials and monitoring and/or assessing: emergency incidents, traffic control, crowd control (parades, demonstrations, etc.), counter-terrorism, public safety, crime, or disorder conditions, deployment of police resources, etc. Moreover, this procedure permits the use of video and photography equipment by members assigned to units other than Technical Assistance and Response Unit (TARU) and the Police Academy, Video Production Unit, and for approval of the use of these methods at the Patrol Borough/Bureau level.

**SCOPE**  
(continued)

The use of photographic or video equipment by operational personnel to accurately record police operations and other public activity is appropriate if a permissible operational objective exists. Permissible operational objectives include accurately documenting events, actions, conditions, or statements made:

- a. during special events, disorder events, arrests, public assemblages or any other critical incident in which such accurate documentation is deemed potentially beneficial or useful; or
- b. to prepare training materials; or
- c. when a reasonable belief exists that unlawful activity, terrorist activity or arrest activity will occur; or
- d. to make assessments and prepare after action reports concerning the proper deployment of police resources and/or use of tactics during any police operations, or
- e. to monitor public areas for crime control purposes.

**NOTE**

*Pursuant to Modified Handschu Guidelines, the investigation of political activity may only be initiated by and conducted under the supervision of the Intelligence Division. Therefore, members of the service not assigned to the Intelligence Division may not use video recording or photography for the purpose of investigating political activity, without the express written approval of the Deputy Commissioner, Intelligence. However, any member of the service may and should report his or her observations of suspicious conduct which involves political activity to his or her commanding officer or to the Intelligence Division, Operations Desk, (646) 805-6400, 24 hours a day, 7 days a week.*

*Members of the service are also reminded that the particular use of the equipment under the circumstances contemplated may require the prior issuance of a court order. For example, an eavesdropping warrant is required to use a camera with audio recording capability to intentionally overhear or record a conversation without the consent of at least one party thereto while not present thereat and a video surveillance warrant is required if images of a person are transmitted without the consent of that person or another person thereat under circumstances in which such observation in the absence of a video surveillance warrant infringes upon such person's reasonable expectation of privacy. Questions concerning these issues should be directed to the Legal Bureau at (646) 610-5400.*

**PROCEDURE**

When ranking personnel of this Department contemplate the use of photographic or video recording equipment for a permissible operational objective:

**RANKING  
OFFICER**

1. Submit a report, on **Typed Letterhead**, to Patrol Borough/Bureau Commander concerned, requesting the deployment of equipment and properly trained personnel.

**NOTE**

*In emergency situations, requests may be made by telephone, and equipment and personnel may be deployed. However, the report must be subsequently submitted in writing in accordance with this procedure.*

**RANKING  
OFFICER  
(continued)**

2. Include the following information in the request:
  - a. Date, time and location of incident or event to be recorded, and
  - b. Identity of the individuals or groups involved (if known), and
  - c. Specific permissible operational objective(s) to be achieved.

**NOTE**

*Every request for the use of photographic/video equipment will be entered into a serially numbered log, maintained solely for this purpose, at the office of the Patrol Borough/Bureau Commander. In addition, the office of the Patrol Borough/Bureau Commander will maintain copies of all written requests.*

**PATROL  
BOROUGH/  
BUREAU  
COMMANDER  
CONCERNED**

3. Direct that appropriate entries in log be made upon receipt of request.
  - a. Include determination as to whether request is approved/disapproved and reason therefore.
4. Return approved/disapproved request to ranking officer concerned. Include:
  - a. Explanation for approval/disapproval.
  - b. Unit designated to operate photographic/video equipment, if approved.
5. Forward copy of approved request to
  - a. Office of the Chief of Department (for information), through channels.
  - b. Commanding Officer, Technical Assistance Response Unit (TARU), or other unit, as appropriate, to assign members to operate photographic/video equipment.

**NOTE**

*The Office of the Chief of Department will maintain a centralized file of all approved requests.*

*The Patrol Borough/Bureau Commander concerned shall have the option of assigning and deploying another appropriate unit, rather than engaging the services of TARU or the Police Academy, Video Production Unit. If this option is chosen, the Commanding Officer of the unit (borough, precinct, housing, transportation, task force personnel etc.) designated by the Patrol Borough/Bureau Commander concerned shall be responsible for the security, maintenance, chain of custody, review, storage, and disposition of the original media source, in the manner prescribed below. Receipts for the original media source should be prepared with captions noting who the operator of the equipment is, and who is receiving/accepting the recorded videotape or photograph. At future dates, should copies or transference of the original media be required, TARU can assist the requesting unit with processing. Any unit or persons requesting assistance in duplication of an original media MUST make such request in writing to the Commanding Officer of the Technical Assistance Response Unit. Once processing is completed, the requesting unit will resume the responsibility of securing the original media(s).*

INTERIM ORDER NO. 47

**NOTE**  
*(continued)*

*Photographs/video taken for training purposes should be consistent with the permissible operational objective. For example, photographs/video taken for training purposes should generally not contain close-ups of members of the public, but should focus on police tactics and behavior.*

**COMMANDING OFFICER, TARU/OTHER DESIGNATED UNIT**

- 6. Assign appropriately trained personnel to the approved request.

**NOTE**

*Training of selected personnel assigned to use the photographic or video equipment will be conducted by Technical Assistance and Response Unit (TARU). In addition, all photographic or video equipment that is needed will be obtained through TARU.*

UPON COMPLETION OF PHOTOGRAPHING/VIDEOTAPING:

**COMMANDING OFFICER, TARU/OTHER DESIGNATED UNIT**

- 7. Maintain all photographs/video recordings prepared in connection with this procedure for a minimum of one (1) year from the date the images were recorded.
- 8. Prepare and maintain a written summary describing the event and activities preserved in each recording, to assist in indexing and retrieval.
- 9. Facilitate review of the recorded materials by the ranking officer who initiated the request to determine whether they have value either as evidence of criminal activity or as documentation under a permissible operational objective.
  - a. If the materials contain evidence of criminal activity, they will be considered evidence, and handled accordingly.
  - b. If the materials are deemed valuable for other purposes, for example, litigation, training, after action reports, etc., they will be similarly preserved in connection with that purpose.
  - c. After one (1) year, materials not meeting the criteria in (a.) or (b.) above may be destroyed. In determining whether materials have such value or may be destroyed (video recordings, discs, etc. may be reused), the Commanding Officer, TARU/Other Designated Unit shall confer with the ranking officer who authorized or requested the taking of video/photographs.

**NOTE**

*The foregoing video recording maintenance, review, storage and disposition procedures shall not apply with respect to any closed circuit television patrol or other similar surveillance camera system for which separate procedures may be established, including those set forth in, but not limited to, Interim Order 11-1 series 2000, "Housing Bureau Closed Circuit Television Patrol."*

**ADDITIONAL DATA**

*Personnel assigned to operate photographic/video equipment pursuant to this procedure will strictly adhere to the following guidelines:*

- a. *Determine from the ranking officer in charge who is to be photographed/video recorded and/or what type(s) of activity or conduct is to be photographed/video recorded. Technicians will not engage in unauthorized photographing/video recording.*
- b. *Supervisors will monitor their subordinates' activity to ensure that there is no unauthorized photographing/video recording.*
- c. *All photographs taken and video recordings made are the property of the Department and shall not be released to entities outside the Department, except in accordance with existing law or by the direction of competent authority.*

*The ranking officer in charge will be held strictly accountable for all photographs and video recordings prepared.*

**RELATED PROCEDURES**

*Guidelines for Uniformed Members of the Service Conducting Investigations Involving Political Activity (P.G 212-72)*

**FORMS AND REPORTS**

*Typed Letterhead*

4. Interim Order 47, series 2001, is hereby **REVOKED**.

5. Any provisions of the Department Manual or any other Department directives in conflict with the contents of this order are suspended.

**BY DIRECTION OF THE POLICE COMMISSIONER**

**DISTRIBUTION**  
All Commands