



INTERIM ORDER

SUBJECT: REVISION TO PATROL GUIDE PROCEDURE 212-71, "GUIDELINES FOR THE USE OF PHOTOGRAPHIC/VIDEO EQUIPMENT TO RECORD POLICE OPERATIONS AND PUBLIC ACTIVITIES"		
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1. In order to comply with a recent decision of the federal court in *Handschu v. Special Services Division* a new procedure is being implemented temporarily to insure that members of the service understand the limited circumstances under which operational personnel may use video and/or photographic equipment at demonstrations.

2. Therefore, effective immediately, Interim Order 47, Series 2004, "Revision to Patrol Guide 212-71, 'Guidelines for the Use of Photographic/Video Equipment by Operational Personnel at Demonstrations' " is **REVOKED** and the following revised procedure entitled, "Guidelines for the Use of Video/Photographic Equipment by Operational Personnel at Demonstrations" will be complied with:

PURPOSE To describe those limited circumstances when operational personnel may use video and/or photographic equipment at demonstrations and to establish procedures for the use of such equipment, when permitted.

SCOPE Use of video and/or photographic equipment by operational personnel at demonstrations is appropriate only if a permissible operational objective exists. The following constitute permissible operational objectives:

- A bona fide need exists to prepare training materials on proper crowd control techniques; or
- When it reasonably appears that unlawful conduct is about to occur, is occurring or has occurred during the demonstration; or
- A bona fide need exists to continuously assess crowd conditions, through the use of live video transmissions, for the proper deployment of police resources.

PROCEDURE When ranking personnel of this Department contemplate the use of video and/or photographic equipment at a demonstration for a permissible operational objective:

RANKING OFFICER

- Submit a report, on **Typed Letterhead**, to the Deputy Commissioner, Legal Matters, through channels
- Include in the request the following information:
 - Date, time and location of demonstration (if known)
 - Specific permissible operational objective to be achieved

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- Review request for use of video and/or photographic equipment to determine whether videorecording/photography is for a permissible purpose and should be approved.

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(continued)**

4. If approved, forward copy of approved request to Chief of Department, Bureau or Borough Commander of Ranking Officer making request and Commanding Officer, Technical Assistance Response Unit.

NOTE

Every approved request for the use of video/photographic equipment will be entered into a serially numbered log, maintained solely for this purpose, at the Technical Assistance Response Unit.

**COMMANDING
OFFICER,
TECHNICAL
ASSISTANCE
RESPONSE
UNIT**

5. Ensure that appropriate entries are made in log upon receipt of request.
6. Assign members of TARU to the demonstration to operate video/photographic equipment.

UPON COMPLETION OF VIDEORECORDING/PHOTOGRAPHING:

**COMMANDING
OFFICER,
TECHNICAL
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RESPONSE
UNIT**

7. Ensure that all videorecordings/photographs prepared in connection with this procedure are maintained for a minimum of one (1) year from the date the images were recorded.

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8. Review recorded materials to determine whether they should continue to be preserved:
 - a. If the materials contain evidence of unlawful activity, they will be considered evidence, and handled accordingly.
 - b. If the materials are deemed valuable for civil litigation, training, or any other specific purpose, they will be similarly preserved in connection with that purpose.
 - c. After three (3) years, materials not meeting the criteria in (a) or (b) above shall be destroyed.

**ADDITIONAL
DATA**

Videorecordings/photographs should be consistent with the permissible operational objective. For example, videorecordings/photographs taken for training purposes or to assess crowd conditions should generally not contain close-ups of participants in the demonstration, but should focus on crowd size, police tactics and/or behavior. When the permissible objective is to record unlawful activity and/or arrest activity, videorecording /photography should commence only when there is a reasonable belief that criminal or unlawful activity is about to occur or when spontaneous criminal or unlawful activity actually occurs or has occurred.

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**ADDITIONAL
DATA
(continued)**

Video and/or photographic equipment authorized to be used pursuant to this procedure may only be operated by TARU personnel. Personnel assigned to other commands, e.g., Borough Task Forces, the Disorder Control Unit, shall not utilize video or photographic equipment at demonstrations pursuant to this procedure.

With the exception of members of the service assigned to or working under the supervision of the Intelligence Division, all personnel who operate video and/or photographic equipment pursuant to this procedure must be clearly identifiable as police personnel. They must wear either a police uniform or a jacket that is clearly marked "POLICE." Displaying a shield on a chain is not sufficient identification.

All videorecordings and photographs pertaining to this procedure, except materials invoiced as evidence, or used in connection with the preparation of training materials, will be stored at TARU. All requests to obtain or view such videorecordings or photographs will be made in writing to the Deputy Commissioner, Legal Matters, detailing the reason for the request. Commanding Officer, TARU shall maintain a record of all such requests and whether any copies were provided.

3. **REVISE** all references to P.G. procedure 212-71, "Guidelines for the Use of Photographic/Video Equipment to Record Police Operations and Public Activities" wherever they appear in the Department Manual to read:

"Guidelines for the Use of Video/Photographic Equipment by Operational Personnel at Demonstrations"

4. Interim Order 47, Series 2004, is **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

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