

Taking Videos With Sound

You have a right to take photos in public places, but you don't always have a right to record what people say.

In Pennsylvania, it's illegal to record private conversations — which can include conversations in public places — without the consent of all parties to the conversation.

You may record conversations with police doing their jobs in public. In addition, if the police themselves are recording and/or taking notes of a conversation, then you can also record the conversation because the police have no reason to think their conversation would remain private under those circumstances.

In short, you have the right to record (audio and video) police officers when they are on duty in public. That means you can record the video or audio of an officer during a traffic stop, interrogation, or while they are making an arrest.

Here are some best practices for recording police officers.

1. Record, don't live stream. You may be recording other community members who do not want to be recorded, including people who are experiencing trauma. Broadcasting them live without consent (even if technically legal) may be insensitive.
2. Stay a safe distance away from the police so you aren't charged with interfering or obstructing justice. Usually 10-15 feet (or 3 to 5 meters) away is enough, but we suggest you follow any police orders to move back farther.
3. Announce that you are recording. If officers know they're being recorded, it may help de-escalate the situation. It also avoids later accusations of secret recordings.
4. Film horizontally because that captures more of what's going on and provides clearer evidence of what really happened.
5. Focus on the officers. Try to keep officers in the center of the recording.
6. Narrate what the officers are doing, not what community members are doing. Make sure your comments don't block out what police are saying.
7. Try to identify the officers by their police department, badge number, car number, and anything else that could help identify them (e.g., appearance, how they speak, etc.).
8. Make sure you store any photos or recordings in a secure way. Consider backing up all your recordings and photos, too, just in case.

KNOW YOUR RIGHTS

Taking Photos & Videos of Police

You have a right to take photos and videos of police and other government actors doing their job in public and in plain sight.

Unfortunately, police often order people to stop taking photos or video in public places, and sometimes harass, detain, or arrest people who do so.

This pamphlet explains your rights and lists best practices.



Here are some important things to keep in mind:

- **Legally, police aren't allowed to order you to stop taking photos or videos of them, or demand that you delete your photos or videos of them, while they're doing their job in public.**
- But, if you are on private property, the property owner sets the rules, including rules about whether you can take photos or videos. If you don't follow their rules, they can order you off their property (and call police on you for trespassing if you don't leave).
- Police officers may order people to stop doing something if it interferes with legitimate police activity. Courts generally trust an officer's judgment about what is "interfering." If an officer orders you to stand back, it may be best to do so.
- If the officer says they will arrest you if you continue to use your camera, in most cases, it's better to put the camera away rather than risk arrest—or worse.

Typically, police aren't allowed to confiscate or demand to see your photos or videos without a warrant. They also aren't allowed to search the contents of your cell phone (including your texts, call history, etc.) without a warrant.

If police demand to see the contents of your phone without a warrant, you are within your rights to refuse.

However, it is possible for police to get a warrant allowing them to take your cell phone or camera if police have good reason to believe it contains evidence of a crime.

You should use a complicated password to lock your phone, and turn off fingerprint and facial recognition. Police officers don't have the authority to force you to give up a password that unlocks your phone, but they may be able to use your fingerprint or face to unlock your phone against your will.



If You are Stopped by Police for Taking Photos or Videos

If you're stopped for taking photos or recording videos, ask if you are free to go.

- Unless you ask to leave and the officer tells you "no," the stop is considered voluntary under the law.
- If the officer says "no," then you are being detained. An officer can only detain you if they have reasonable suspicion that you have committed a crime, are about to commit a crime, or are in the process of committing a crime.

If you are detained by police, say, "I believe I have the right to take photos or video. I do not consent to you searching my phone or deleting anything from my phone." But if the officer reaches for your camera or phone, do not resist. Just repeat that you do not consent to any search or seizure. Try to remember the officer's name and badge number, and report the incident to the ACLU.

If you think your rights have been violated, contact the ACLU of Pennsylvania.