

ACLU Article: "Know Your Rights: Photographers"

Photographers

Taking photographs of things that are plainly visible from public spaces is a constitutional right – and that includes federal buildings, transportation facilities, and police and other government officials carrying out their duties. Unfortunately, there is a widespread, continuing pattern of law enforcement officers ordering people to stop taking photographs from public places, and harassing, detaining and arresting those who fail to comply.

YOUR RIGHTS AS A PHOTOGRAPHER

When in public spaces where you are lawfully present you have a First Amendment right to photograph anything that is in plain view. That includes pictures of federal buildings, transportation facilities and police. Such photography is a form of public oversight over the government and is important in a free society.

When you are on private property, the property owner may set rules about the taking of photographs. If you disobey the property owner's rules, they can order you off their property (and have you arrested for trespassing if you do not comply).

Police officers may not generally confiscate or demand to view your photographs or video without a warrant. If you are arrested, police can seize your phone or camera but should not generally review the contents without getting a warrant. If police have a reasonable, good-faith belief that your camera contains evidence of a crime (either by a member of the public or by the police themselves), they may be able to seize the camera if they have reason to think the evidence will be destroyed if they take the time to get a warrant, though they should still generally get a warrant to review the contents.

Police may not delete your photographs or video under any circumstances.

Police officers may order civilians to clear an area or to cease activities that truly interfere with legitimate law enforcement operations. But taking pictures or video aren't themselves interference with police, and police should never impose greater restrictions on photographers than on other members of the public or order people further away than is necessary to avoid interference with an investigation for the purpose of preventing them from photographing. Professional officers realize that they are subject to public scrutiny, including by citizens photographing them. You should obey an officer's orders to stand back, and you can politely ask where you can stand if you're unclear. But if you believe an officer is violating your First Amendment rights, don't argue or disobey orders. Document the incident and file a complaint or contact the ACLU.

Note that the right to photograph does not give you a right to break any other laws. For example, if you are trespassing to take photographs, you may still be charged with trespass.

Note that taking photographs in some settings, like schools, or taking photographs or recording audio where there is a reasonable expectation of privacy may be an invasion of privacy or other violation of law. Different states have varying laws about audio recording people without their permission. Like some other states, California makes it a misdemeanor to make an audio recording of any communication made with a reasonable expectation of privacy, without the permission of all parties to the communication. But courts have generally held that police officers do not have an expectation of privacy when they are on duty and in public.

If you are stopped or detained for taking photographs

Always remain polite and never physically resist a police 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 or are about to commit a crime or are in the process of doing so. But if an officer has just started asking you questions and you have answered them, courts would likely view your encounter with police as voluntary and lawful.

If you are detained, politely ask what crime you are suspected of committing, and remind the officer that taking photographs is your right under the First Amendment and does not constitute reasonable suspicion of criminal activity.

You are not required to allow police to review the contents of a phone or digital camera. If police search your electronic device without your consent, you should clearly state that you do not consent to the search.

Special considerations when videotaping

With regards to videotaping, there is an important legal distinction between a visual photographic record (fully protected) and the audio portion of a videotape, which some states have tried to regulate under state wiretapping laws.

Such laws are generally intended to accomplish the important privacy-protecting goal of prohibiting audio “bugging” of private conversations. However, in nearly all cases audio recording the police is legal.

In states that allow recording with the consent of just one party to the conversation, you can tape your own interactions with officers without violating wiretap statutes (since you are one of the parties).

In situations where you are an observer but not a part of the conversation, or in states where all parties to a conversation must consent to taping, the legality of taping will depend on whether the state's prohibition on taping applies only when there is a reasonable expectation of privacy. But that is the case in nearly all states, and no state court has held that police officers performing their job in public have a reasonable expectation.

Photography at the airport

Photography has also served as an important check on government power in the airline security context. The Transportation Security Administration (TSA) acknowledges that photography is permitted in and around airline security checkpoints as long as you're not interfering with the screening process. The TSA does ask that its security monitors not be photographed, though it is not clear whether they have any legal basis for such a restriction when the monitors are plainly viewable by the traveling public. The TSA also warns that local or airport regulations may impose restrictions that the TSA does not. It is difficult to determine if any localities or airport authorities actually have such rules. If you are told you cannot take photographs in an airport you should ask what the legal authority for that rule is.

Note: This is a summary of general principles under U.S. law. Laws can vary by state, and courts continue to refine the exact scope of these rights. The ACLU's national pages link similar guidance under sections like "Filming and Photographing the Police" and "Recording and Documenting Police and Federal Agents," emphasizing the same core First Amendment protections while noting that officers generally need a warrant to search devices (with some exceptions in exigent circumstances) and may never delete media. [Aclu](#)

For the most current version or state-specific details, check the ACLU website directly ([aclu.org](https://www.aclu.org)), as content is occasionally updated.