



UNCLASSIFIED//FOR OFFICIAL USE ONLY

**US Department of Homeland Security
Federal Protective Service
Threat Management Division**

FPS INFORMATION BULLETIN

Date: 08/02/2010	Dissemination List:
Report Number: HQ-IB-012-2010	FPS Management, FPS Law Enforcement,
Source: Open Source	Protective Security Officers - Nationwide
Prepared By:	
Approved By:	

(U) Photographing the Exterior of Federal Facilities

(U//FOUO) This information bulletin is intended to raise the awareness of FPS personnel, management and Protective Security Officers of the public's right to photograph the exterior of federal facilities. All information contained within this product was obtained through open source, law enforcement and intelligence community channels and is unclassified; however, this report is to be handled as FOR OFFICIAL USE ONLY. It may be disseminated to those within the law enforcement, security and intelligence community who have a need-to-know. At no time is any of this information to be provided to the general public or any individual or organization associated with a media affiliate.

(U//FOUO) GEOGRAPHIC AREAS OF CONSIDERATION:

(U//FOUO) Nationwide

(U) OVERVIEW:

(U//FOUO) This Information Bulletin (IB) is being released to raise awareness of the public's right to photograph the exterior of federally owned and leased facilities,

Law enforcement and PSOs are advised to review the guidance provided in this IB when encountering individuals photographing or videotaping the exterior of federal buildings and apply the guidance in the performance of their everyday duties to enhance the protection of federal facilities. It is important that law enforcement and PSOs uphold the public's general right to photograph the exterior of federal structures while being vigilant with respect to suspicious indicators of terrorist or criminal activity.

(U) DETAILS:

(U) Title 41, Section 102-74.420 of the Code of Federal Regulations provides federal "policy concerning photographs for news, advertising or commercial purposes." It states that:

"Except where security regulations, rules, orders, or directives apply or a Federal court order or rule prohibits it, persons entering in or on Federal property may take photographs of—

(a) Space occupied by a tenant agency for non-commercial purposes only with the permission of the occupying agency concerned;

(b) Space occupied by a tenant agency for commercial purposes only with written permission of an authorized official of the occupying agency concerned; and

(c) Building entrances, lobbies, foyers, corridors, or auditoriums for news purposes."

UNCLASSIFIED//FOR OFFICIAL USE ONLY

For properties under the protective jurisdiction of FPS, there are currently no general security regulations prohibiting exterior photography of any federally owned or leased building, absent a written local rule or regulation established by a Court Security Committee or Facility Security Committee. Furthermore, it is important to understand that this regulation does *not* prohibit photography by individuals of the *exterior* of federally owned or leased facilities from publicly accessible spaces such as streets, sidewalks, parks and plazas. Rather, this regulation only prescribes photography of the *interior* of federally buildings, *i.e.*, “space occupied by a tenant agency” or “building entrances, lobbies, foyers, corridors, or auditoriums.” Therefore, absent reasonable suspicion or probable cause, law enforcement and security personnel must allow individuals to photograph the exterior of federally owned or leased facilities from publicly accessible spaces.

(U//FOUO) GUIDANCE FOR FPS LAW ENFORCEMENT OFFICERS ENCOUNTERING INDIVIDUALS TAKING PHOTOGRAPHS OF THE EXTERIOR OF FEDERAL BUILDINGS:

- Observe the individual’s actions until such time that you believe that a Field Interview (FI) is warranted. Remember that the public has a right to photograph the exterior of federal facilities from publicly accessible spaces such as streets, sidewalks, parks and plazas.
- Approach the individual taking the photographs.
- Identify yourself.
- Conduct a FI to determine the purpose for taking photographs of the facility and endeavor to ascertain the identity of the individual. Note that such encounters are voluntary contacts, not detentions. A photographer may not be detained unless, and until, the officer develops **reasonable suspicion** (for a brief *Terry* Stop) or **probable cause** (for an arrest).
- If the field interview **does not** yield a reasonable belief of criminal behavior or terrorist reconnaissance activity, the photography should be permitted to proceed unimpeded.
-
- Because the initial interview is voluntary, officers should not seize the camera or its contents, and must be cautious not to give such “orders” to a photographer to erase the contents of a camera, as this constitutes a seizure or detention.
- All contact with the public, including photographers, must be conducted in a professional and polite manner. FPS personnel should not be distracted from their duties by engaging in assisting the photographic effort (posing for or taking a picture).
- People photographing federal property cannot impede law enforcement operations or ingress/egress of people or vehicles entering the facilities.

(U//FOUO) GUIDANCE FOR PSO’S ENCOUNTERING INDIVIDUALS TAKING PHOTOGRAPHS OF THE EXTERIOR OF FEDERAL BUILDINGS:

- Observe the individual’s actions until such time that you believe that a Field Interview (FI) is warranted. Remember that the public has a right to photograph the exterior of federal facilities from publicly accessible spaces such as streets, sidewalks, parks and plazas.
- Approach the individual taking the photographs
- Identify yourself.
- Conduct a FI to determine the purpose for taking photographs of the facility and endeavor to ascertain the identity of the individual. Note that such encounters are voluntary contacts, not detentions.
- If the FI **does not** yield a reasonable belief of suspicious activity the photography should be permitted to proceed unimpeded.

-
- Because the initial interview is voluntary, PSO's should not seize the camera or its contents, and must be cautious not to give such "orders" to a photographer to erase the contents of a camera, as this constitutes a seizure or detention.
- All contact with the public, including photographers, must be conducted in a professional and polite manner. PSO personnel should not be distracted from their duties by engaging in assisting the photographic effort (posing for or taking a picture).

(U//FOUO) REFERENCES:

- Title 41 Section 102-74.420 of the Code of Federal Regulation
- FPS Memorandum: Photographing of Federal Buildings - 111204

**For immediate reporting of any incidents or suspicious activities, please contact the 24-hour number for
FPS noted below:
1-877-4-FPS-411
(1-877-437-7411)**

For further queries regarding the above bulletin or questions regarding the dissemination process, please contact:
The FPS Intelligence Branch