



OPERATIONS ORDER

SUBJECT: INVESTIGATION OF INDIVIDUALS ENGAGED IN SUSPICIOUS PHOTOGRAPHY AND VIDEO SURVEILLANCE	
DATE ISSUED:	NUMBER:
04-03-09	14

1. Members of the service are reminded that photography and the videotaping of public places, buildings and structures are common activities within New York City. Given the City's prominence as a tourist destination, practically all such photography will have no connection to terrorism or unlawful conduct. Since photography and/or videotaping is rarely unlawful, absent any other indicators of criminality (e.g., trespass, etc.), an investigation of a report of suspicious photography or videotaping thought to be terrorism-related is governed by the constitutional and statutory rules generally applicable to the investigation of any other type of suspicious activity or behavior. Forcible detention of an individual engaged in such activity may occur if the member of service can articulate reasonable suspicion that the suspect is engaged in photography or videotaping for some terrorism-related purpose. The investigation of these types of incidents will depend, in large part, upon the ability of the member to utilize the common law right of inquiry to ask questions.

2. Members of the service may not demand to view photographs taken by a person absent consent or exigent circumstances. When there is probable cause to believe that the camera, film or other media contains evidence of criminal activity, the item may be seized, and a search warrant must be obtained in order to view its contents. In addition, a person who has taken pictures should not be directed to delete or destroy images stored within the device.

3. *Patrol Guide 212-21, "Photography on the New York City Transit System,"* provides the procedure for members of the service to follow when they encounter individuals taking photographs while in the transit system. Metropolitan Transportation Authority (MTA) regulations expressly permit photography and video recording in the subways, Long Island Railroad, and Metro-North systems; although permission is required for commercial shoots and/or the use of additional equipment such as lights and tripods (persons holding valid NYPD press passes may use such ancillary equipment). All such photographic activity must be in accordance with MTA rules and must not endanger public safety or the operation of the transit system. Furthermore, violators of these provisions may be issued a Transit Adjudication Bureau (TAB) Notice of Violation or a Criminal Court summons for violation of 1050.9 (c) of the New York Code of Rules and Regulations (NYCRR).

4. Members of the service are reminded to follow *P.G. 212-12, "Citywide Intelligence Reporting System"* when suspecting or obtaining information about the involvement of a person or other entity (e.g., business, vehicle, association of criminals, etc.) in ongoing criminal activity or suspected terrorist activity and unable to effect a summary arrest. Additionally, when a uniformed member of the service has a suspect stopped and develops information that may indicate that the subject is connected to terrorism, they will comply with *Interim Order 32, series 2008, "Communications Between the Intelligence Division and Units in the Field Regarding Suspected Terrorist Activity."*