

US Department of Homeland Security Federal Protective Service



OPERATIONAL READINESS ORDER

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Dissemination List: FPS Personnel and PSOs Only – Nationwide FPS Internal Use Only Media or Public Release is Prohibited

(U//FOUO) Photography and Videotaping Federal Facilities

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(U) BACKGROUND

(U/FOUO) Photography for news, advertising or commercial purposes is governed by 41 CFR 102-74.420. In October, 2010, FPS disseminated an FPS Information Bulletin (HQ-IB-012-2010) to the field addressing the photographing of the exterior of federal facilities. The purpose of the bulletin was to remind FPS personnel and PSOs that the public has the right to photograph the exterior of federal facilities from public forums. Since the publication of the bulletin, FPS has experienced an increase in the public's interest in photographing and videotaping both exterior and interior of federal facilities protected by FPS, to include individual's expressing their First Amendment-protected rights by intentionally photographing and videotaping the exterior and interior of the interpretation and implementation of FPS enforced regulations.

(U/FOUO) To address this increase in photography and videotaping by the public, this Operational Readiness Order reiterates the 2010 guidance; provides clarification on the public's right to photograph publicly accessible federal facility building entrances, lobbies, foyers, corridors and auditoriums; and directs FPS law enforcement personnel and PSOs to maintain security without adversely impacting the public's rights relating to photography and videotaping.

(U) PHOTOGRAPHING THE EXTERIOR OF FEDERAL FACILITIES

(U//FOUO) 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, in limited cases, a Facility Security Committee. Furthermore, it is important to understand that 41 CFR 102-74.420 does not prohibit photography by

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individuals of the exterior of federally owned or leased facilities. Rather, this regulation describes when an individual may photograph the interior of federally buildings, i.e., "space occupied by a tenant agency" or "building entrances, lobbies, foyers, corridors, or auditoriums." (b) (2), (b) (7)(E)

(b) (2), (b) (7)(E)

(b) (2), (b) (7)(E)

(U//FOUO) As a reminder, photography and videotaping, absent a criminal predicate, is a First Amendment protected activity. (b) (2), (b) (7)(E)

(U) PHOTOGRAPHING THE INTERIOR OF FEDERAL FACILITIES

(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, "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."

(U//FOUO//LES) In applying this regulation to FPS protected federal facilities, FPS law enforcement personnel and PSOs should consider the following information when contemplating enforcement of the regulation.

REGULATION	APPLICATION
"Except where security regulations, rules, orders, or	Photography and videotaping the interior of federal
directives apply or a Federal court order or rule	facilities is allowed under the conditions set forth in
prohibits it, persons entering in or on Federal property	(a) - (c) of the regulation unless there are regulations,
may take photographs of"	rules, orders, directives or a court order that prohibit it.

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	For example, SSA has rules that prohibit photography and videotaping in its spaces. Similarly many courts issue no photography or videotaping in courtrooms and surrounding areas. The prohibition must be clearly posted or actual (in-person) notice must be given in order to be enforced.
"a) Space occupied by a tenant agency for non- commercial purposes only with the permission of the occupying agency concerned"	Non-commercial photography and videotaping in space occupied by a federal tenant requires the verbal permission of the federal tenant. For example, a visitor to an Army Corps of Engineers office has verbal permission from the office manager to photograph the private promotion ceremony of a friend. A student is given verbal permission from the office manager to take photographs of the office for a school project.
"b) Space occupied by a tenant agency for commercial purposes only with written permission of an authorized official of the occupying agency concerned"	Commercial photography and videotaping in space occupied by a federal tenant requires the written permission of the agency official authorized to approve commercial photography and videotaping. Journalists, news media, or other individuals photographing or videotaping for news purposes is not considered a commercial purpose. For example, a professional photographer has obtained written permission from the designated official at a building housing only Department of Interior offices to photograph architectural design work performed by one of the photographer's clients. A movie company is given written permission from the designated official to videotape a federal facility.
"c) Building entrances, lobbies, foyers, corridors, or auditoriums for news purposes."	 (b) (2), (b) (7)(E) ecognizing this fact, the public is allowed to photograph interior building entrances, lobbies, foyers, corridors and auditoriums from publicly accessible areas. For example, someone can photograph in the common space and publicly accessible lobby of a federal facility. (b) (2), (b) (7)(E)

(U//FOUO//LES) If an individual is authorized to photograph or videotape the interior of a federal facility as discussed above, (b) (2), (b) (7)(E)

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(U//FOUO//LES) This right, however, does not authorize a photographer to intrude on restricted space surrounding a security post, create loud or unusual noises or cause a nuisance, obstruct the usual use of entrances, lobbies and other commonly accessible space, impede or disrupt the performance of official duties by government employees or federal contractors, including the PSOs, nor prevent the public from obtaining government services provided in the facility in a timely manner.

(b) (2), (b) (7)(E)

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(b) (2), (b) (7)(E)

(U) ANALYSIS

(b) (7)(E)

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(U) GEOGRAPHIC AREAS OF CONSIDERATION

(U//FOUO//LES) Nationwide.

(U//FOUO) This Operational Readiness Order becomes effective upon receipt and remains effective until canceled.

(U)-RESOURCES

(U//FOUO) For additional information regarding photography of federal facilities and this Operational Readiness Order, please contact the Protective Operations Division, <u>FPSIMC@hq.dhs.gov</u>, (b) (6), (b) (7) (c)

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