

Surviving First Amendment Audits and Citizen Journalist Encounters ©

The First Amendment of the U.S. Constitution lists our right to:

R – Religion
A – Assembly
P – Press
P – Petition
S – Speech

The Right to Film

The United States Supreme Court has yet to recognize a person's right to film public officials in public places.

-However-

The 1st, 3rd, 4th, 7th, 9th, and 11th Circuit Courts of Appeal **HAVE** recognized a First Amendment right to record public officials carrying out their official duties in a public place.

In 2012, the **U.S. Department of Justice** recognized, "...individuals have a First Amendment right to observe and record police officers engaging in the public discharge of their duties."

Location, Location, Location *Public Forum Doctrine*

When it comes to First Amendment expression, not all public spaces are the same.

Be the
Adult in the Room.

NEVER show them
you're angry.

Four Layer Preparedness

- 1) Policy
- 2) Training
- 3) Signs & Physical Barriers
- 4) Consistent Enforcement

NEVER:

Touch - Herd
Block - Interfere

DO: Call police
if you need them.

Don't let the Auditor
dictate terms.

Use professional
language that reflects
your policy and training.

First Amendment Auditors are Journalists.

Be polite. Be professional.
Don't feel obliged to give
an interview.

Don't Play the *Name Game.*

Introduce yourself with
name, rank, and agency
BEFORE they ask.

Policy is your friend.

It's not sexy, it
isn't even fun, but
it will keep you
out of trouble.

**The Auditor
creates the
*opportunity.***

**The Public
Official
determines
the *outcome.***

NEVER FORGET

You swore an oath to
support the Constitution.

The auditor can't "agitate" you unless
you allow them to agitate you.

Own your feelings and emotions.

Take Your Time

Don't rush to make
contact.

Don't judge a book
by its cover.

Observations are
evidence.

First Amendment Auditing DOES NOT confer any special rights.

No right to Trespass, Breach the
Peace, or Interfere.

Don't focus on the filming. Consider the
Totality of the Circumstances.

Prepare for the Audit.

Conduct "what if" scenarios.

Create your own script.

Steer and deflect professionally.

The body can't go where the mind hasn't been.

Prokopton Training and Development, LLC