



# POLICY AND PROCEDURE

# NO. 580

## Photographic Surveillance of Demonstrations, Parades, Strikes, Etc.

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### PURPOSE:

The purpose of this policy is to establish guidelines for conducting of photographic surveillance of individuals or groups in public places. This policy is designed to balance an individual's right to privacy, freedom of speech, freedom of assembly, freedom of association and freedom to petition the government for redress of grievances with the police department's obligation to provide for public safety, preservation of the peace, protection of all citizens and property, and the preservation of peace and order in the community.

### INTENT OF POLICY:

It is a fundamental function and duty of the police department to protect the lawful exercise of constitutional rights and civil liberties and to prosecute individuals who violate the law. The development of a photographic record of events in and around public demonstrations is a proactive investigative tool. Photographing is a proven law enforcement tool to identify individuals who have committed unlawful acts, to identify others who might wish to disrupt a demonstration by harassing or assaulting peaceful demonstrators, and to dissuade individuals who have intended to act unlawfully.

### SAFEGUARDS:

No group or person shall become the subject of the collection of information on account of a lawful exercise of a constitutional right or civil liberty; no information shall be collected upon a group or person who is active in politics or community affairs, unless under the same or similar circumstances the information would be collected upon another group or person who did not participate actively in politics or community affairs.

All information collected shall reasonably appear relevant to the performance of an authorized police function; no information shall be collected or used for political purposes.

### PROCEDURES:

#### 1. Rationale For Photographic Surveillance:

The decision to engage in photographic surveillance shall be made in accordance with the terms and intent of this policy and shall not be based on any other factors or criteria. In deciding whether to conduct photographic surveillance, the chief, deputy chief or officer making the decision shall consider the particular circumstances, prior experience or knowledge, intelligence information, or the existence of an ongoing criminal investigation.

The decision shall be based upon a reasonable belief that photographic surveillance may provide information necessary to facilitate investigations.

**2. Authorization:**

When possible, prior authorization from the chief or a deputy chief must be obtained before undertaking photographic surveillance of persons or groups in public places. In those instances where prior authorization cannot be obtained, a police captain or police official acting in the capacity of a unit commander may make such authorization. In such cases, the official giving authorization shall submit a report detailing his justification for the use of photographic surveillance.

**3. Conducting Photographic Surveillance:**

Photographic surveillance may be conducted openly in public, by covert means or by using both in combination. Open photograph taking is preferred but covert methods can be employed depending upon particular circumstances, prior experience, intelligence information or if there is an ongoing criminal investigation. The police official giving the authorization will determine when covert methods are warranted, except in the case of an on-going criminal investigation in which case no prior approval is necessary. The official authorizing the use of photographic surveillance shall base his decision as to the proper method for surveillance against the intent of this policy.

**4. Storage Of Photographs:**

All surveillance photographs of a general nature shall be cataloged and stored in the Bureau of Criminal Investigation. Photographs connected with an on-going criminal investigation shall become a part of and remain with the particular criminal case file. All other photographs shall be catalogued only by the date and name of group and not by the name of any individual. Responsibility for the cataloging, storage and maintenance of the surveillance photographs shall be the responsibility of commander of the Bureau of Criminal Investigation. Any storage method, including a computerized database for surveillance photographs, shall be password controlled and access strictly limited. Unless related to an active criminal investigation or otherwise exempt from disclosure under the public records law, photographs shall be deemed public records.

**5. Sharing Of Photographs:**

Access to surveillance photographs shall be limited to the Chief of Police, the deputy chiefs, and officials and officers conducting criminal investigations. Requests to review surveillance photographs by officials and officers of the department or agents of other law enforcement agencies shall be made in writing, demonstrating a reasonable belief that the photographs will further their criminal investigation. Permission to access these photographs shall be granted by the Chief, a Deputy Chief or in their absence, the Captain of the Detective Bureau. A copy of all written requests for access to photo files that are subject to this policy shall be retained in a file.

**6. Disposal Of Photographs:**

All general surveillance photographs shall be periodically reviewed and assessed for relevance and need. The file of surveillance photographs taken of persons or groups of protestors shall be reviewed at least once per year. This time period is based on the anticipated utility of the photographs. The utility of the photographs shall be determined on an incident-by-incident basis. The Chief or a designated Deputy Chief will make a final determination as to whether or not photographs in the file will be retained or purged.

**7. Record Keeping:**

The Bureau of Criminal Investigation will be responsible for the record keeping of all incidents involving general photographic surveillance of persons or groups demonstrating in public places. This record shall include the name of the official authorizing the use of surveillance photographs, the event subject to photographic surveillance including the date time and location where photographs were taken, the name of the photographer, length of time the photographs were kept on file, the individuals and agencies requesting and obtaining access to the photographs, the date the photographs were disposed of, and the method of disposal.

Per:

*James M. Gallagher*  
Chief of Police

(Policy #580 Photographic Surveillance of Demonstrations, Parades, Strikes, etc. May 8, 2002 was revised on June 21, 2002.

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