



WEST LAKE HILLS POLICE DEPARTMENT  
GENERAL ORDERS  
108.00 CITIZEN FILMING OF POLICE

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**West Lake Hills Police Department General Orders**  
**108.00 CITIZEN FILMING OF POLICE**

**108.01 Policy**

In recent years, it has become more common for citizens to film police officers while on-duty. It has also become more common for citizens to film police facilities, vehicles, etc. The West Lake Hills Police Department understands people should be allowed to exercise their First Amendment rights, including the right to film officers. We also understand that there are times when an officer may be justified in conducting a brief investigatory detention during a situation where filming is occurring. This policy is intended to provide guidelines for officers who are confronted with filming.

**108.02 Background**

In February, 2017, the Fifth Circuit Court confirmed a citizen's First Amendment right to record the police in *Turner v. Lieutenant Driver*, 848 F.3d 678 (5th Cir. 2017). While this is the most recent Fifth Circuit decision in our area, officers should keep up to date with current Fifth Circuit and Supreme Court decisions on this topic, in case there are updates. From the date of the *Turner* decision, Texas state and federal courts have considered an individual's First Amendment right to record the police "clearly established" which means that an officer will not have any immunity from a lawsuit if an officer interferes with that right. The right to record can only be limited by reasonable time, place and manner restrictions.

**108.03 Guidelines**

If an officer sees a citizen filming an officer or police facilities, the court held it is reasonable for the officer to approach and perhaps briefly detain this person for the purpose of determining whether there is a possible safety threat, based on the totality of the circumstances available to the officer at the time. Some items to consider when doing this include:

- A. Officers **should not** demand the individual stop filming;
- B. Officers **should not** take the camera or recording device from the individual;
- C. If the individual chooses to not identify themselves, they **will not** be arrested for failure to identify. Failure to identify alone is not sufficient to arrest or to even prolong a detention.
- D. If, after briefly detaining the individual, no further safety threat or probable cause for arrest has been identified, the officer should release the individual. Examples of probable cause occurring after the initial detention might be any of the following, but other facts leading to a probable cause determination could exist:
  1. The individual starts to make threats against the officer(s);
  2. The individual takes an aggressive action.
  3. The individual makes furtive gestures
- E. If an officer is aware of a citizen filming an officer or a police facility, they may want to notify a supervisor. Remember that notifying a supervisor does not extend the allowable time for a detention.
- F. Officers should maintain their professionalism throughout any encounters like these. There are documented instances where citizens deliberately try to antagonize officers by filming the officers or facilities.

**108.04 Complaints**

If a citizen wants to file a complaint against an officer, they should be referred to the Police Department section of the City website or given a copy of the "File a Complaint" brochure found in the lobby of the Police Department.