



U.S. Department of
Transportation

Office of the Secretary

General Counsel

1200 New Jersey Ave. S.E.
Washington, D.C. 20590

AUG 19 2009

Arthur B. Spitzer, Esq.
Legal Director
American Civil Liberties Union
of the National Capital Area
1400 20th Street, NW
Suite 119
Washington, DC 20036-5920

Dear Mr. Spitzer:

I write in response to your letter of May 29, 2009 to our Deputy General Counsel, Rosalind Knapp, concerning whether the Department of Transportation has a policy or practice of prohibiting individuals from photographing the exterior of our buildings.

We do not, and in the instance that you discuss in your letter, our uniformed security guard was incorrect in telling the individual that he was not permitted to take photographs. For that, we do apologize.

As I say this, I hope you realize that the Department must operate under certain security strictures. Most pertinent to this situation is a Special Security Bulletin of the Department of Homeland Security's Federal Protective Service, a copy of which I enclose for your information.

Thank you for your patience in awaiting this response. Please let me know if you require any additional information.

Sincerely,

Ronald A. Jackson
Assistant General Counsel
for Operations

Enclosure



SPECIAL SECURITY BULLETIN

PHOTOGRAPHY OF FEDERALLY
OWNED AND LEASED FACILITIES

November 10, 2004



A. Overview:

Recent questions have been raised concerning the legality of photography on federally owned and leased property. The Federal Protective Service takes the protection provided to federal facilities, employees and customers very seriously, but that security concern must be balanced with the public's legitimate right to view and photograph federally owned and leased facilities. This bulletin provides guidelines to ensure the proper level of security is maintained for facilities and occupants without adversely impacting citizens' rights.

B. Guidance:

As a general, overarching guideline, the Federal Register, Vol. 67, No. 240, §102-74.420, provides that:

1. Except where security regulations 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.

C. Discussion:

For properties under protective jurisdiction of the Federal Protective Service in the National Capital Region, there are currently no security regulations prohibiting exterior photography of any federally owned or leased buildings. It is important to note, however, that a widely known reconnaissance activity of

criminal and terrorist organizations has been to gather photographic information about prospective targets. As such, it is critical that law enforcement and security personnel be vigilant in carrying out the following proactive measures.

D. Implementation:

If individuals are identified taking photographs of the exterior of a facility, the following procedures should be followed:

1. Approach the individual or individuals taking the photographs.
2. Identify yourself.
3. Conduct a field interview to determine the purpose for taking photographs of the facility and endeavor to ascertain the identity of the individual.
4. If the field interview **does not** yield a reasonable belief of criminal behavior or terrorist reconnaissance activity, the photography should be permitted to proceed unimpeded.
5. If the field interview **does** yield a reasonable belief of criminal behavior or terrorist reconnaissance activity, **immediately contact the Federal Protective Service Mega Center at (202) 708-1111.**
6. All contact with the public, to include photographers, must be conducted in a professional but polite manner. Security personnel should not be distracted from their duties by engaging in assisting in the photographic effort.
7. Note that contract guards are only authorized to conduct security activities while on Federally owned or leased property. If the individual taking exterior photography of a Federally owned or leased facility is not physically located on property owned or leased by the Federal Government, the guard should immediately notify the Federal Protective Service Mega Center at (202) 708-1111 for a law enforcement response.

E. Conclusion:

Although it is legal to take photos and video of Federally owned and leased facilities, law enforcement and security personnel have an affirmative duty to carry out the protective measures above.