



Digital Imagery Policy

Bullet Points 6/11/21

Begin with a policy statement:

- Policy statement of purpose to:
 - protect confidentiality and privacy rights of members, patients and the public
 - protect the careers of members
 - protect the reputation of department
 - ensure efficient, professional operations of the department
 - comply with public records requirements
 - comply with Constitutional issues associated with photo taking
- Declare all photos taken by on duty personnel to be the property of FD
 - Taken within the scope of employment pursuant to copyright laws
 - Note: may want to advise members that selling imagery taken on-duty creates the potential for violation of ethics laws
 - Consider: extending policy to cover off-duty photo taking where member uses status as a member to obtain special access to an incident scene not allowed to members of the public, or is granted such access because of such status. Be aware of intruding on member's 1st Amendment right to film newsworthy events in public places.
 - Volunteer and paid-on call organizations need to define "on-duty".
- Prohibit on-duty photo taking except as permitted by the policy
- Limit on-duty photo taking to FD issued cameras by approved members (recommended)

- Alternative 1: Limit photo taking to FD approved members using FD approved personal cameras
- Alternative 2: Allow all members to take photos provided they comply with policy
 - NOTE: Approved member means members who have been approved by the department after they have been trained in, and demonstrate a willingness to comply with, the policy
- Alternative 3: Require members to use department approved App when taking photos
- Place restrictions on photo taking activities: business purposes only
 - Cannot interfere with or delay operations
 - Cannot alter operational decision-making and activities simply to obtain imagery (ie. do not remain in unsafe areas simply for a photo op)
 - Address state law privacy & confidentiality issues
 - Identify any locations where photo-taking is prohibited (requires research of state law. Common examples: bathrooms, changing rooms, bedrooms, etc.)
 - Prohibit secret/hidden photos
 - Prohibit use of stations, apparatus, personnel, uniforms, or equipment for posing w/o permission (note: exception for personal photos below)
- Establish a procedure to download, inventory, & archive all photos (chain of custody) that ***treats every photo taken as a public record***
 - CDRom, SD cards, secure location on server, email
 - New apps that archive photos automatically
- Prohibit deleting any photo taken, including
 - Blurry, dark, overexposed, photos taken accidentally

- Procedure to identify all modifications to any copy of the original image
 - Crop, lighten, darken, contrast
 - Ensure an original, unedited image is preserved
- Prohibit any use of photos until reviewed for violation of privacy & confidentiality laws and FD guidelines
 - Appoint officer(s) to review all images for release (gatekeeper function)
 - Establish guidelines for approval by gatekeeper, including access to legal counsel
 - Gatekeeper must have authority to crop, blur or otherwise obscure obscene, personal, private, trademarked, confidential and personal information pursuant to public records laws for released images (archived copy not to be edited in any way)
- Develop system for members to obtain permission to use images for training, documentation, investigation, publication, etc. recognizing they are public records
- Limitations on use of images
 - Normal FD and law enforcement investigations and documentation
 - Training and public relations
 - Not for profit; not to endorse products or commercial use

Some departments may want to add an exception to allow the taking of photos that are **purely personal** (eg family visits at station) with personal devices, as well as posing for personal photos. Must be carefully drafted to meet state public records law requirements. Any photos allowed under this exception must have no business related value or purpose. The purely personal photo exception cannot include incident related photos, response related photos, or training related photos, all of which have business related value.

Note: Retention of all images should be governed by the department's records retention policy, and may be subject to the jurisdiction's open records/freedom of information act.

Training on the policy is essential, and must include an additional ***focus on raising member's awareness about the potential risk of being perceived as glamorizing one's role in someone's tragedy***. This is non-disciplinary but attention needs to be drawn to it none-the-less.

Some departments may want to add a provision about posing for photos in this policy, or perhaps have a separate policy. If so consider the following:

- Prohibit use of stations, apparatus, equipment, uniforms, badges, and personnel in images taken by members or third parties ***for obscene, lewd, or immoral purposes*** or ***unauthorized commercial purposes***
 - Approval for ***commercial photos*** must come through chain of command
 - Caveat: Personnel cannot stop photo-taking in public places by the public and/or news media. This is an important training issue. However, this does not require personnel to pose for photos, or allow access to stations or apparatus, etc. for commercial or inappropriate purposes