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NYPD The Key

The School founded with your success in mind.

1. According to Patrol Guide Procedure 212-130 titled, “Accessing NYC Department Of Education Cameras In Emergency Situations,” when responding to such an assignment, the Patrol Supervisor will assess the circumstances and determine if access to the camera system is necessary. If so, the sergeant will request the response of the precinct commanding officer/executive officer/duty captain. Of the following, which is not the properly stated duty of the UMOS initially assigned to the job?
 - A) Respond to Department of Education facility and take police action, as necessary
 - B) Request response of patrol supervisor if access to IPDVS camera system is necessary
 - C) Obtain details concerning the nature of the emergency situation.
 - D) Comply with 221-12, Active Shooter, and 221-14, Hostage Barricaded Person, as necessary.

2. Continuing with the information in the above question, when access to the DOE cameras has been deemed necessary, the Desk Officer will notify all of the following except;
 - A) Patrol borough command
 - B) Operations Unit
 - C) School Safety Division Operations Unit
 - D) Precinct commanding officer/executive officer/duty captain.

3. Patrol Guide Procedure 203-29 states that individuals have a right to observe/record police activity except inside a Department facility. Of the following statements, which is least correct?
 - A) Members may order any member of the public who is photographing or recording within Department facilities to stop such activity.
 - B) If person refuses to stop photographing/recording, member concerned will immediately notify the desk officer/counterpart at the Department facility.
 - C) Members may contact the Legal Bureau with any questions regarding this procedure.
 - D) If such person refuses to leave the premises, members of the service may take proper enforcement action under the trespass statutes (i.e., Penal Law sections 140.05 and 140.10).

ANSWERS

1. B) Although the other actors only make the next notification **IF** access to the cameras has been deemed necessary (Sgt calls Capt, Desk calls Borough, Capt calls Ops), they don't let the cop *make* the determination. The cop requests the response of the sergeant -PERIOD! **No "ifs."** In fact, the stem of the question even said that the sergeant will, "assess the circumstances and determine..." The way choice B) is worded, it has the cop making the determination and deciding whether it's necessary to call the sergeant or not. That's not the way it goes here with these DOE cameras.

Accessing DOE Cameras	
Cop call Sgt	ALWAYS
Sgt call Capt	IF access nec.
D.O. call Boro, etc	IF access nec.
Capt call Ops	IF access nec.

2. D) The answer to this question was found in the stem of the first question; the sgt calls the captain.

3. B) The desk officer is not mentioned in 203-29. And yes, we can arrest someone for this: first we tell them to stop. If they refuse to stop, then we tell them to leave, if they refuse to leave, *then* we can collar them for Trespass. Remember, when a rule seems important to agencies outside the Department (City Council, etc) and there's an opening; an exception where you should, basically break the rule, watch for a question on that exception. Here, 203-29 exists to have us allow people to film police activity and not lock them up. So when it gives one specific place where we *will* lock 'em up, expect a question on it.

Now here's the Key Lesson on these two procedures.

I.O. 1 (212-130) Access to Dept of Education (DOE) Cameras in Emergency

UMOS

- Take police action as necessary & request response of Patrol Supervisor.
- Get details & comply with 221-12, Active Shooter and 221-14, Hostage Procedure, as necessary.

Patrol Supervisor

Internet Protocol Digital Video Surveillance
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- Assess immediately & determine if access to IPDVS camera system is necessary.
- IF yes, request response of C.O/X.O/Duty Captain
- Notify D.O. of pertinent details.

Desk Officer

Cop call Sgt	ALWAYS
Sgt call Capt	IF access nec.
D.O. call Boro, etc	IF access nec.
Capt call Ops	IF access nec.

- IF access required, notify (3): Patrol Borough, Operations Unit & School Safety Division Operations.

C.O/X.O/Duty Captain

- Respond, assume command & IF access nec, notify Operations Unit.
 - Ops calls the ‘authorized MOS’ re; IPDVS access.
- Confer with authorized MOS & direct LMSI to access the IPDVS camera system.
- Ensure only necessary MOS view the footage.
- 49 to C.O, SSD detailing circumstances.

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Additional Data

- If not an emergency, NO access w/o prior written consent from DOE or service of a judicial order.
- NO sharing personally identifiable info about a student/family with non-Dept personnel UNLESS;
 - Permission from DOE, adult students, or parents of students who are minors.
- IPDVS footage not copied to Dept databases, BUT authorized MOS can access from Dept workstation
- Comply with 203-10, Public Contact regarding the transmission or distribution of recorded media.

203-29 Observers at Scene of Police Activity

- Individuals have a right to lawfully observe/record detentions, searches, arrest, use of force, etc.
 - In public places, such as streets, sidewalks, and parks, as well as;
 - On private property in which the individual has a legal right to be present, such as buildings, lobbies, workplaces or an individual’s own property.
- The public is not allowed to photograph/record police activity within Department facilities.
 - If member of public photographing/recording in Dept facilities, may order them to stop.
 - If they refuse, they should be ordered to leave the premises.
 - If they refuse to leave, may take proper enforcement action under the trespass statutes.
- The right to record can be limited for reasons such as the safety of officers or other members of the public, or when a violation of law is committed by the individual(s) who are observing/videotaping.

DO NOT:

- Threaten, intimidate, or otherwise discourage observer from recording police activities.
- Intentionally prevent (or attempt), someone from recording police activities –period!
- Delete or seize images from their device unless authorized by law,
- Command an individual to cease recording when an individual is authorized to do so under law,
- Stop, seize, search, summons, arrest a person solely because such individual recorded police activities,
- Seize property or instruments used by an individual to record police activities,
- Copy a recording of police activity without **consent** of the individual who made the recording.

Regarding asking for consent:

- Request consent to view recording in a manner that elicits a clear “yes” or “no” response.
- If possible, use Body-Worn Camera to record request and response.
- If consent given, individual may email recording directly to member’s Department-issued smartphone.

DON’T make OGA (Obstructing Governmental Administration) Arrest for

- Photographing, videotaping or making a digital recording. Requesting/noting MOS shield # or names.
- Criticizing police or objecting to police activity, refusing to leave the area, crude or vulgar speech.
 - This procedure is not intended in any manner to limit the authority of the police to establish police lines (e.g., crowd control at scenes of fires, demonstrations, special events, etc.).

Making an OGA Arrest

- Actual interference with performance of official police function is required. Interference can include;
 - actual physical force (touching or physically interfering with officer or suspect, i.e, using camera so close to officer’s face that it intentionally obstructs view), or
 - intruding in physical space necessary to perform operation and refusing an order to move back,
 - purposefully engaging in passive behavior that prevents an officer from taking enforcement action (i.e., blocking a prisoner van, etc.).
- Admin Code 14-189 requires MOS to document summons/arrest of an individual who was recording police activities by indicating “**RTR**” for “Right to Record” **on the summons.**

When probable cause exists that a recording device contains evidence of a crime:

- Inform the observer that there’s probable cause that the recording contains evidence of a crime
- Request consent to view the recording and/or email the recording directly to MOS’ Dept smartphone
 - If observer refuses to consent, inform them that a search warrant for device will be requested.
- Inform observer that deletion of the content of the recording may be considered tampering with physical evidence in violation of PL 215.40, Tampering With Physical Evidence.
 - If you reasonably believe the observer will delete recording, obtain **approval from a supervisor to seize the device** if feasible (either before or immediately after seizing).
 - Seize device only for time necessary to secure warrant –don’t view or delete, just get warrant
 - If there’s probable cause an exigency exists and the recording has evidence of a crime, contact boss to see if you can review the recording **WITHOUT** a warrant.

A supervisor must be requested to respond to the above two scenarios;

- Where an observer is arrested for interference with police action or
- Where the contents of a recording device are believed to contain evidence of a crime.
 - Questions re; OGA arrest/seizure of device with evidence of crime, contact Legal Bureau.