

PA FIRE POLICE FIRE POLICE RESPONSIBILITIES

By Tony Riccardi - PA State Fire Academy Approved Fire Police Instructor

Ask a Fire Police Officer what his/her first responsibility is when arriving at the scene of an emergency and they most likely will say “their safety”, “traffic control” or some other remark relevant to their particular belief.

However, none of them are correct. By all means, the safety of the Fire Police Officer is extremely important but, the first responsibility of the Fire Police Officer on arrival at a fire, accident, or other type of an emergency is to go to either end of the emergency and post a warning device to alert motorists they are approaching an emergency scene. Failure to do so and an accident occurs as a result, the Fire Police Officer can be held liable.

The second most important duty of the Fire Police Officer is to make certain that the firefighters are provided the opportunity to operate unhampered and unimpeded at the emergency site. Remember, the Fire Chief is responsible for the safety of everyone including spectators, your purpose is to ensure that no one gains access to the emergency that does not have proper authority to do so.

A question often arises regarding the news media and/or the general public’s right to take photographs at the emergency scene.

Some Fire Police Officers have declared that they would confiscate their cameras or remove the film from their cameras. Is this allowed?

Do Firefighters and Emergency Medical Personnel have the authority to stop people from taking photos at emergency scenes?

Does it matter whether the filming is being done by the media or ordinary citizens? Perhaps as a result of the wide spread use of digital and cell phone cameras, these questions continue to resurface time and time again.

The United States 1st Circuit Court of Appeals reaffirmed that we have absolutely no right to interfere with photo taking by the

media or citizens in public places, and that we could be held liable for violating the First Amendment Rights of the photographers.

The case involved Boston Police Officers who arrested an ordinary citizen, Simon Glik, for video recording their rough handling of a suspect. The officers ordered Glik to stop taking photos and when he refused, he was arrested for disturbing the peace and violating a state law that prohibits secretly recording a conversation.

According to police, Glik’s video recording included audio, which they claim made it an illegal “clandestine” (secret) recording.

The criminal charges against Glik were eventually dropped, but he opted to file suit in Federal Court against the officers for violation of his First Amendment Rights.

The officers sought to have the case dismissed claiming they were entitled to qualified immunity.

One of the central issues in the case was whether or not the officers violated a “clearly established constitutional right”.

In writing the opinion, Judge Kermit V. Lipez cited dozens of First Amendment cases that clearly explain that the media and ordinary citizens have an absolute right to film governmental officials doing their work in public places.

He also cited cases holding that ordinary citizens have just as broad a right to gather news as the traditional media and government cannot unreasonably restrict the exercise of that right.

“Though not unqualified, a citizen’s right to film government officials, including law enforcement officers, in the discharge of their duties in a public space is a basic, vital, and well-established liberty safeguarded by the First Amendment”.

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As Judge Lipez noted, the right to take photos is not without limitation. It is subject to “reasonable time, place, and manner restrictions”.

While the decision did not discuss the boundaries of these restrictions, they are important for us to recognize and understand.

First of all, photographers must be in a publicly accessible location. They have no right to enter someone’s home, onto private property, or be granted access into restricted areas, such as the back of an ambulance.

Secondly, the right does not allow photographers to interfere with operations.

Third, photographers must respect reasonable hazard, safety inclusion zones that are set up.

From the responders’ perspective, what can we do if someone is filming something that we prefer they not film, such as a critically injured accident victim or a body.

Nothing in the First Amendment case law prohibits emergency responders from physically standing in such a way as to block the line of vision of a would-be photographer, or even erecting barriers (with blankets or sheets) to shield a patient from the glare of cameras.

Such actions may be entirely appropriate for responders when matters of patient confidentiality are an issue.

However, at no time should we attempt to stop someone from filming, physically restrain them, or attempt to turnoff or take their camera equipment.

The public has a “well established First Amendment Right” to take photos and video at incident scenes.

What recourse does a fire police officer have if he/she is attacked while on duty? Does that constitute an assault?

Pennsylvania no longer uses Battery; instead Assault and Aggravated Assault are the charges that would be levied.

When an emergency responder, on duty, is attacked by anyone, the charge is Aggravated Assault and is declared to be a Second Degree Felony with a maximum penalty of up to ten years in prison.

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