

PENNSYLVANIA

LAW ENFORCEMENT POLICY + TRAINING



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Public Recording of Law Enforcement Activity

425.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

425.2 POLICY

The Pennsylvania State Master Police Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Officers should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

425.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

- (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present.
- (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
 - 1. Tampering with a witness or suspect.
 - 2. Inciting others to violate the law.
 - 3. Being so close to the activity as to present a clear safety hazard to the officers.
 - 4. Being so close to the activity as to interfere with an officer's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the officer, him/herself or others.

425.4 OFFICER RESPONSE

Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or

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behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

425.5 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of department members, such as how and where to file a complaint.

425.6 SEIZING RECORDINGS AS EVIDENCE

Officers should not seize recording devices or media unless (42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
 - 1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
 - 1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
 - 2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Property Bureau Policy.

Daily Training Bulletins

Better Policy Understanding in Just Minutes a Day

Even the best policy manual isn't effective if it's not backed by ongoing training. Yet too often, public safety agencies merely ask personnel to acknowledge policies; they don't train on them. This creates risk for personnel and vulnerability for the agency.

Lexipol's Daily Training Bulletins use a proven system of solid, realistic, ongoing and verifiable training to help personnel learn to apply policies and improve their ability to make well-reasoned decisions. These brief, scenario-based lessons provide a convenient way to enhance your members' policy understanding. Each Daily Training Bulletin takes just a few minutes to complete and includes a test question to measure comprehension.

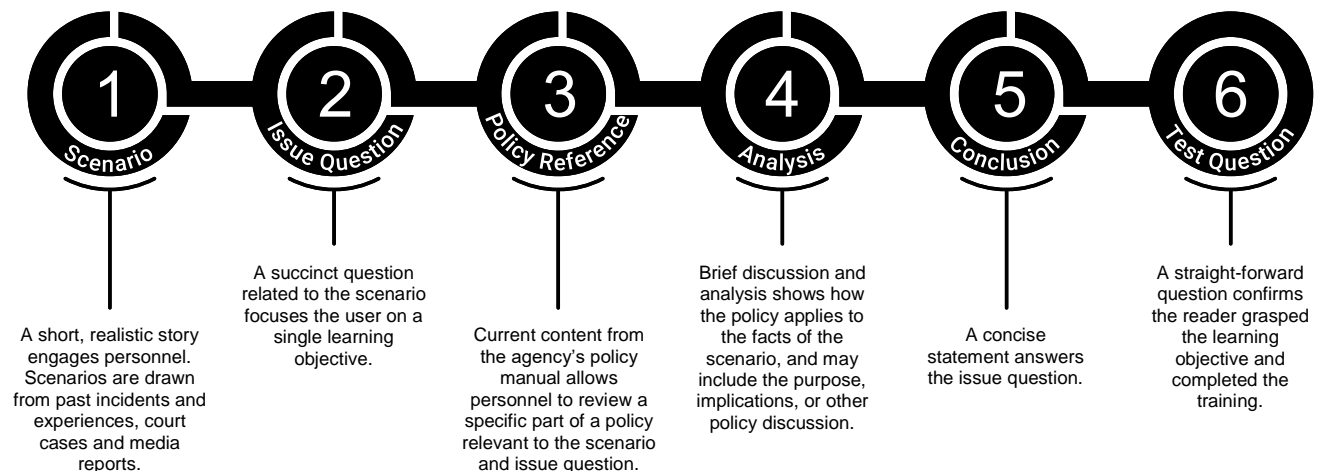
Training Designed to Protect

Lexipol's Daily Training Bulletins cover many aspects of your policy manual, with a focus on high-risk, low-frequency events – the incidents that pose the most risk to your personnel. Daily Training Bulletins are written by public safety experts and use news stories, industry reports, and court cases as inspiration to create realistic, relatable scenarios.

Each month, you'll receive a package of Daily Training Bulletins to review and issue to your members. Using Lexipol's online platform, you can:

- Customize and edit the training bulletins to reflect agency-specific practices
- Determine when you want your personnel to complete training and how many training bulletins you want to issue
- Tailor training so specific groups are assigned to complete only the bulletins applicable to them
- Generate reports that track completion of training
- Create custom training bulletins, or group bulletins into special-focus training packages

Anatomy of a Daily Training Bulletin



Officer Safety - Unsafe Tactics

Topic: Use of Force

DTB Date:

SCENARIO:

You are driving around a residential area looking for Mack Nichols, who just left his house after punching his wife, Sherry, in the face, bloodying her nose. He is reportedly drunk and angry. According to Ms. Nichols, Mr. Nichols is probably carrying his 4-inch folding knife, as usual, although he did not use or brandish it tonight. As you drive through the parking lot of the neighborhood park, scanning the area with your spotlight, you see Mr. Nichols sitting at a table in the covered picnic area. Mr. Nichols is alone and you cannot see anyone else in the park. Mr. Nichols looks up and clearly sees you. As you stop a safe distance away and get out of your car, Mr. Nichols does not react at all. He just sits there, somberly looking at his shoes.

ISSUE: What should you do?

REFER:

320.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
 - (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver's license, first aid).
 - (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
 - (d) Unsafe firearm or other dangerous weapon handling including loading or unloading firearms in an unsafe manner, either on- or off-duty.
 - (e) Carrying, while on the premises of the work site, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
 - (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
 - (g) Any personal action contributing to a preventable traffic accident.
 - (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.
-

ANALYSIS:

Mr. Nichols is suspected of a violent crime against his wife. He may be armed with a knife. He is reportedly drunk and his judgment may be impaired. You are in a position of relative safety. There is no need to approach or apprehend Mr. Nichols right this second.

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However, if you leave your position of relative safety, you would be unnecessarily placing yourself in danger. This would not be considered a safe working practice. In addition, you would be making the situation more dangerous for both of you and more dangerous for any officers who may come to help if an emergency develops. If Mr. Nichols' actions cause you to use force against him, your decision to unnecessarily leave your position of relative safety, a poor tactical decision, may cloud an otherwise appropriate use of force.

CONCLUSION:

You should not place yourself in unnecessary peril by leaving a position of relative safety.

You should summon additional resources and formulate a plan before approaching Mr. Nichols. Depending on available resources, your plan could include designating which officers will provide lethal cover, designating which officers will be ready with other control devices, deciding who will be responsible for verbal commands and deciding who will be responsible for handcuffing.

QUESTION:

Unnecessarily leaving a position of relative safety is a safe working practice.

ANSWERS:

- (a) True
- (b) False

CORRECT ANSWER:

False