




<h1>1ST AMENDMENT AUDITORS</h1>	
	<p>Sarah Boyd Public Relations Manager Clay County, Mo., Sheriff's Office</p>




CRAZY LUNCH LADY GOES AFTER ME!!
'You're Going To Jail!!' (Epic Fail)
17K views · 11 days ago




(MUST SEE) Florida Sheriff Dumps The Long WALK OF SHAME!! Kalamazoo Florida
15K views · 1 month ago




'STOP FILMING ME NOW!!' GONE INSANE FAST!! (MUST SEE) First Amendment Audi
9.12K views · 2 months ago



Must See: SWAT TEAM ARRIVES BUT FAILS!! San Juan Puerto Rico
15K views · 2 months ago




(MUST SEE) TYRANT COPS IN PUERTO RICO ARE CRAZY!! First Amendment Audi
15K views · 2 months ago




Clay: COPS IN PUERTO RICO GO INSANE OVER CAMERAMAN ASKING QUESTION!!
15K views · 2 months ago


<h1>Objectives</h1>	
	<ul style="list-style-type: none"> Identify the motives and practices of "First Amendment auditors" Determine how the First Amendment applies to "First Amendment auditors" Discern between different types of forums Identify the practices of "cop-watchers" Learn best practices when confronted by an "auditor" Prepare staff with policy




FIRST AMENDMENT AUDITORS: POLICE: WHEN COPIES MEET
15K views · 10 days ago




YOU'RE SUPPOSE TO BE HERE
15K views · 10 days ago




POLICE DO THE UNTHINKABLE!
15K views · 10 days ago



YOU'RE A FUCKING IDIOT!
15K views · 10 days ago



LEAVE NOW IN THE COURT IN MICHIGAN!!
15K views · 10 days ago




WE ARE GOING TO BE FAMOUS
15K views · 10 days ago

<p>DISCLAIMER: I AM NOT A LAWYER</p>	
<h1>This is not legal advice</h1>	



**TYRANT POLICE OFFICERS VIOLATE
CITIZENS RIGHTS! LAWSUIT FILED!**



LIKE & FOLLOW!
WATCH FULL VIDEO ON YOUTUBE
LINK IN BIO!

TikTok
@longislandaudit


Why?

Auditor Jason Gutterman, East Hampton, NY, aka Amagansett Press:

"confronting cops and public employees 'in defense of our Constitution, which has taken a whoopin' in recent days, and I'm not happy about it."

Zhoie Perez (aka Furry Potato) told reporters that she audits to shine a light on "crooked bad cops," but "an even brighter light on the good cops. You put yourself in places where you know chances are the cops are going to be called. Are they going to uphold the Constitution, uphold the law ... or break the law?"

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But also...


Sean-Paul Reyes (Long Island Audit) made \$8,000 on YouTube his first month of "auditing" Gutterman – claimed to make \$30,000 a month; got a \$9,500 legal settlement

Source: "First Amendment auditors aim to cancel cops via YouTube," New York Post, July 24, 2021

"Experts say the most popular auditing channels can generate more than \$150,000 a month through ads and subscriptions on YouTube, Facebook and TikTok. Individual auditors can earn tens of thousands a month."

Source: "Cop-watchers are now YouTube celebrities," Washington Post, Aug. 7, 2023

	
<h3>First Amendment</h3> <p>Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.</p> <p style="font-size: small;">First Amendment Auditors</p>	

 <p style="font-size: x-small;">LOCAL GOVERNMENT LAW BULLETIN NO. 141 NOVEMBER 2022</p> <h3>Responding to First Amendment "Audits" in the Local Government Context</h3> <p style="font-size: x-small;">Kristi A. Nickodem and Kristina Wilson</p>	<h2>Does the First Amendment apply to filming?</h2>

<h2>Mostly</h2>	
<ul style="list-style-type: none"> Supreme Court has recognized a "paramount public interest in a free flow of information to the people concerning public officials." Filming public officials engaged in public duties may fall within this broadly defined "news gathering" or "information gathering" right courts have recognized in prior First Amendment cases. 	<ul style="list-style-type: none"> <i>Gilk vs. Cunniff, 2011</i>: "Gathering information about government officials in a form that can readily be disseminated to others serves a cardinal First Amendment interest in protecting and promoting the free discussion of governmental affairs."
<p>Source: Nickodem & Wilson, "Responding to First Amendment 'Audits' in the Local Government Context"</p> <p style="text-align: right;">9</p>	

But ...


- To date, there is no U.S. Supreme Court case establishing a right to film public officials engaged in carrying out their official duties or a right to film inside public buildings generally.
- Federal circuit court rulings are inconsistent.

Questions current case law leaves unanswered:


- How do the rulings of these cases apply to filming government officials who are not sworn law enforcement?
- How would the "right to record" public officials apply in a space that was not a clearly recognized traditional public forum?
- What about private citizens who get filmed in these videos?

Source: Nickodem & Wilson, "Responding to First Amendment 'Audits' in the Local Government Context"

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In government buildings





Cop watching

Two types of First Amendment "audits"

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Public Buildings: Forum Analysis





"Nothing in the Constitution requires the Government freely to grant access to all who wish to exercise their right to free speech on every type of Government property without regard to the nature of the property or to the disruption that might be caused by the speaker's activities."

Cornelius vs. NAACP Legal Defense and Education Fund, 1985

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<h3>Traditional public forum</h3> <ul style="list-style-type: none"> • Parks • Sidewalks • Traditional public forums have "immemorially been held in trust for the use of the public, and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions." <p style="text-align: right;">- <i>Perry Education Association vs. Perry Local Educators Association</i></p>	
<small>Source: Nickodem & Wilson, "Responding to First Amendment 'Audits' in the Local Government Context"</small>	

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<h3>Designated public forum</h3> <ul style="list-style-type: none"> • Generally accessible to all speakers • Government is not obligated to create such a forum or keep it open • But when the forum is open, the government must treat it as a traditional public forum • Examples: municipal auditorium, public university meeting facilities open to student groups 	
<small>Source: Nickodem & Wilson, "Responding to First Amendment 'Audits' in the Local Government Context"</small>	

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<h3>Limited public forum</h3> <ul style="list-style-type: none"> • Government has intentionally reserved a forum only for certain groups or the discussion of certain topics. • Government may impose restrictions on expressive activity. • Those restrictions must be view point-neutral and reasonable. • Examples: Public schools after hours, interior of city hall, your agency's Facebook page 	
<small>Source: Nickodem & Wilson, "Responding to First Amendment 'Audits' in the Local Government Context"</small>	

Nonpublic forum

- Examples from federal case law:
 - Offices of government employees
 - Interior of polling places
 - Lobby areas of government buildings (!)
 - Terminals in publicly operated airports
 - Military bases



Source: Nickodem & Wilson, "Responding to First Amendment 'Audits' in the Local Government Context"

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Nonpublic forums

- A government building that is open to the public does not mean it is a public forum for First Amendment purposes.
- U.S. Supreme Court: "[Government property] is not transformed into 'public forum' property merely because the public is permitted to freely enter and leave the grounds at practically all times and the public is admitted to the building during specified hours. " – United States vs. Grace, 1983

Source: Nickodem & Wilson, "Responding to First Amendment 'Audits' in the Local Government Context"

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Public building lobbies

Grossbaum v. Indianapolis-Marion County Building Authority

- Court ruled it was a nonpublic forum
- Banned private displays in lobby

Commonwealth v. Bradley (PA)

- Court upheld "no filming restriction" in police department lobby
- Said it was a reasonable time, place and manner restriction on speech

Akin v. City of Columbia, MO (2016)

- Plaintiff "had no constitutional right" to videotape a police department lobby

Source: Nickodem & Wilson, "Responding to First Amendment 'Audits' in the Local Government Context"

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Courthouses

Cell phones

- There is no First Amendment right to bring a cell phone into a courthouse – *Hodge v. Board of County Commissioners*

Trials

- Criminal trials are open to the public, but there is no right to record – *Richmond Newspapers Inc. v. Virginia*

Precedent

- Have you let recordings happen in the courthouse before?
- Could make it a limited public forum

Source: Nickodem & Wilson, "Responding to First Amendment 'Audits' in the Local Government Context"

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Public meetings

Limited public forums

- Where a public body "is justified in limiting its meeting to discussion of specified agenda items and in imposing reasonable restrictions to preserve the civility and decorum necessary to further the forum's purpose of conducting public business."

Public comments

- The public comment portion of a public meeting could become a designated public forum if the governing body opens up the floor to all types of speech without imposing any restrictions on the topics that may be discussed or on who may speak.

Source: Nickodem & Wilson, "Responding to First Amendment 'Audits' in the Local Government Context"

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Other public buildings

Jails and prisons

- Nonpublic forums
- "A prison is most emphatically not a public forum" – U.S. Supreme Court, *Jones v. North Carolina Prisoners' Labor Union, Inc.*

Schools

- Nonpublic forums
- Certain areas of school property may become limited public forums if the school has opened them up for expressive activity by student groups or the outside public.

Health departments/ departments of social services

- Limited case law: nonpublic forums

Source: Nickodem & Wilson, "Responding to First Amendment 'Audits' in the Local Government Context"

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Content Neutrality



Restrictions OK if they're intended to:

- Limit congestion and disruption
- Prevent disruption of a government property's intended function
- Keep walkways free of obstruction
- Protect the safety of those who work in a government building
- Protect the safety and convenience of those using a public forum
- Avoid disruption and maintain the peace in a government workplace

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Restrictions OK if they're intended to:


- Prevent expressive activity that would hinder a government agency's effectiveness in serving and caring for a vulnerable population
- Provide patrons with a safe and comfortable environment for attending performing arts events
- Avoid the appearance of political favoritism on behalf of the government
- Maintain established legal procedures in the calmness and solemnity of a courtroom setting as necessary to the fair and equal administration of justice
- Prevent disruptions and safety threats to employees conducting city business.

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So how should you act?

- Avoid confrontation
- Politely disengage
- Face computers with sensitive info. away
- Don't fall for bait
- If they are not impeding government business, let them be.
- Put up proper signage for restricted areas, including parking lots
- Geek out and cite case law.
- Arrest should be your LAST resort.

Female Cop Puts Hands On 1st Amendment Auditor




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<p>Cop watching</p>	<h1>COPWATCH</h1> <p>STOP POLICE BRUTALITY</p>
<p>YOU CAN'T RECORD COPS!</p> 	<p>"Even with the higher degree of restraint, officers are human and likely to respond when cornered and subjected to a constant barrage of insults and profanity. Training should prepare officers not only to check their own emotions but also to look out for fellow officers and keep them from stepping into the traps."</p> <p><small>Gary Cummings, "Civil Rights Auditors: Reasonable Time, Place and Manner Restrictions on First Amendment Activities"</small></p> <p>26</p>





**NAVAL
POSTGRADUATE
SCHOOL**
MONTEREY, CALIFORNIA

THESIS

**CIVIL RIGHTS AUDITORS: DEFINING REASONABLE
TIME, PLACE, AND MANNER RESTRICTIONS ON
FIRST AMENDMENT ACTIVITIES**

by
Gary Cummings
December 2019

Co-Advisors: David W. Brunsen (contractual)
Carolyn C. Halsey

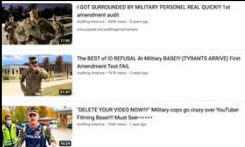
Approved for public release. Distribution is unlimited.

Tactics “auditors” use

December 2019 study by Lt. Gary Cummings of the Garland Police Department through the U.S. Naval Postgraduate school.

Reviewed 59 “First Amendment Auditor” YouTube videos representing audits around the nation to identify common tactics and targets.


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BAIT

- 49.2% triggered security concerns about what they were filming
- 22% elicited safety concerns
- 18.9% used “direct bait”

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TRAPS

1. Legal challenge
2. Policy issue
3. Personal authority issue

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Legal Challenge	
	% of Videos Included
Refusal to provide ID	54.2%
Refusal to answer questions	40.7%
"Am I being detained?"	23.7%
Refusing to stop/ Walking away	6.8%

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Missouri is a Stop and ID state	
RSMO 84.710 – Police force – officers of state – powers to arrest, section 2:	
<p>They shall have power within the city or on public property of the city beyond the corporate limits thereof to arrest, on view, any person they see violating or whom they have reason to suspect of having violated any law of the state or ordinance of the city. They shall have power to arrest and hold, without warrant, for a period of time not exceeding twenty-four hours, persons found within the city or on public property of the city beyond the corporate limits thereof charged with having committed felonies in other states, and who are reported to be fugitives from justice. They shall also have the power to stop any person abroad whenever there is reasonable ground to suspect that he is committing, has committed or is about to, commit a crime and demand of him his name, address, business abroad and whither he is going.</p>	

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Policy traps	
	% of Videos Included
Demanding officer's name and ID	44.1%
Demanding supervisor	13.6%
Requesting complaint form	5.1%

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Personal traps	
	% of Videos included
Knowledge/authority challenge	40.7%
Insults or harassment	20.3%
"You're dismissed"	6.8%

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Law enforcement response to "auditors"			
	% of Videos included		% of Videos included
Police notified or present	71.2%	Enforcement action taken	8.5%
Police not called	22%	Arrest made	3.4%
No police contact	6.8%	Trespass warning	5.1%

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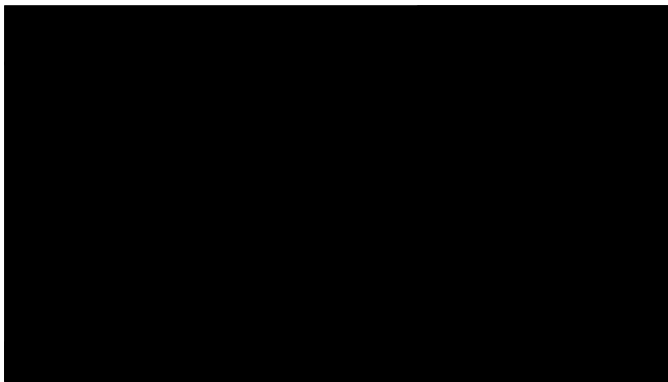


Deputy Jackson,



I would like to sincerely apologize to you for the incident that occurred the night of May 5th 2021. After careful reflection of the events that transpired, I now see that my actions were misguided. I want you to know that I take full responsibility for those actions. I fully understand your response to my actions that night. I now realize that a traffic stop presents a safety concern for law enforcement and that you have a responsibility to secure said traffic stop. I can see now you didn't violate my 1st Amendment rights, as you offered for me to film from another location nearby. I also would like to apologize for any collateral consequences that have negatively affected your family. I can promise you that never was my intention or desired outcome. I want you to know that I am a true believer in our constitutional rights that are afforded to us in this great country that we both love. I believe they should be appreciated everyday. I can now see that if I had simply moved to another location this all could have been avoided. I am a big believer in accountability and I accept that I should have made better choices. My goal with my platform is to bridge the gap between law enforcement and the public, not lengthen it. I understand my behavior did not bridge that gap. But I write this letter with the intention and hope that I may right the wrong and begin to bridge that gap once again. I will never stop peacefully exercising my constitutional rights, but going forward I will do so in a way that does not put the safety of law enforcement or the public at risk. That is not why I do what I do. My intention is to limit risk through accountability and transparency. Lastly, I appreciate the fact that you are in agreement to resolve this case by way of diversion. It shows that you as well are trying to bridge that gap and I truly appreciate it. Stay safe out there and God bless.

SearPaul Reyes


The apology



Questions?



**TYRANT
CLOWNS
OWNED!**

FIRST AMENDMENT AUDIT!

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