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| **Photography and Digital Imagery Policy** | Related Policies:Social Networking; Computer, Electronic Communications, and Internet Usage; Use of Recording Devices |
| *This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.* |
| Applicable KY Statutes: KRS Ch. 61.870 to 61.884 |
| OSHA: |
| NFPA Standard: 1500, 1561 |
| Date Implemented: | Review Date: |

**Purpose:** The purpose of this policy is to manage photographs and electronic images taken by fire department personnel in accordance with state law, in such a way that the privacy rights of department personnel, patients, fire victims, and the public are preserved; that evidentiary concerns related to such images are protected; and the professional image of the department is maintained.

**Policy:** It is the policy for the fire department to respect of privacy interests of department personnel, patients, fire victims, and the public, and to comply with the Kentucky Open Records Act of 1992.

**Definitions**

**Images:** Photographs, digital photographs, digital images, video recordings, or electronic files containing a graphic image or series of images, as well as any digital reproductions or copies of such photographs, digital photographs, digital images, video recordings, or files. This definition shall extend to derivations of the term images, including image, imagery and imaging.

**Digital imaging device**: Any device capable of producing a digital image, including but not limited to a digital camera or digital camcorder.

**Editor’s Note:** Volunteer or combination departments should include a definition of “on-duty” that describes when their personnel are considered to be engaged in fire department activities.

1. **Procedure**
2. **On-Duty Photography**
3. Fire department personnel are prohibited from using a non-department owned camera, video recorder, audio recorder, or the camera/video/audio function of a non-department owned cellular phone, PDA, or any other digital imaging device while on-duty. The fire chief may grant an exception to this rule on an individual basis. Any permission granted by the fire chief shall be in writing and shall indicate any conditions or limitations upon the employee. A basic condition of any employee using a non-department owned camera, video recorder, audio recorder, or the camera/video/audio function of a non-department owned cellular phone, PDA, or any other digital imaging device while on-duty is that the Fire Chief or his/her designee may inspect the device at any time. In addition, the member must comply with all other aspects of this policy as if the image was taken with a department-owned device.
4. Except as provided in Paragraph 1 above, all images taken by department personnel while on-duty shall be taken using department owned equipment.
5. Only personnel who have been trained on compliance with this policy and who have been approved by the Fire Chief shall be permitted to take images pursuant to this policy.
6. On-duty personnel shall only take images that are of business related matters and events for purposes of incident documentation, evidence, training, investigation, and/or public relations.
7. All images taken shall be preserved and shall not be deleted without the written permission of the fire chief or his/her designee, except as permitted by the record retention policy.
8. All images taken by on-duty personnel are the sole property of the department, and are under the control of the Fire Chief or his/her designee. This specifically includes any images taken inadvertently by an on-duty member with a non-department owned camera, cell phone camera, or any other digital imaging device. Any member who inadvertently takes such an image shall report the fact immediately through the chain of command. Members shall not be disciplined for inadvertent violations that are duly and immediately reported.
9. Personnel are expressly prohibited from taking any images of another person in any location where a person has a reasonable expectation of privacy, including a bathroom, bedroom, locker room, changing area, or any other location where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed, filmed, or videotaped by another; or a place where one would reasonably expect to be safe from hostile intrusion or surveillance.
10. **Responding to, operating at, and returning from, incident scenes**
11. Fire department personnel are prohibited from using a non-department owned cameras, video recorder, audio recorder, or the camera/video/audio function of a non-department owned cellular phone, PDA, or any other digital imaging device while responding to, operating at, or returning from, any incident. Any member who inadvertently takes such an image at an incident scene shall report the fact immediately through the chain of command to the incident commander at the earliest possible opportunity. Members shall not be disciplined for inadvertent violations that are duly and immediately reported.
12. On-scene photography/video taken by on-duty personnel shall be for incident documentation, evidentiary, training, investigation, and/or public relations purposes only, and taken by or with the approval of the incident commander in charge of the scene, using approved department equipment, or as approved by the fire chief.
13. The taking of imagery shall not interfere with nor delay operational activities, except to the extent that imagery of a fire’s cause and origin may require overhaul to be momentarily delayed.
14. All photographs and video containing individually identifiable patient information shall be presumed to be covered by HIPAA and state privacy laws and shall be protected in the same manner as patient care reports and medical documentation.
15. **Handling and Preservation of Images**
16. Fire department owned images shall not be used, printed, copied, scanned, e-mailed, texted, forwarded, posted, uploaded, shared, reproduced or distributed in any manner, except as provided herein. This prohibition specifically includes the posting of any images on personal Web sites such as, but not limited to: Face Book, MySpace, or YouTube; posting to public safety Websites; or e-mailing to friends, relatives, colleagues, or other third parties.
17. All fire department digital images as described in this policy shall be downloaded from the digital imaging device as soon as possible after they are taken, and will be cataloged and stored in a secure database with controlled access. After being downloaded and verifying that the downloading is successful, the images on the digital imaging device’s memory card shall be erased.

**EDITOR’s Note:** Departments may choose to have a more detailed procedure on image handling specific to their organization. Among the issues to be considered:

* How often should the images be removed from the device and archived (after each run, daily, weekly, monthly, when the memory card is ½ full, etc.)
* Where should the images be archived to: place memory card in archive; transfer images to CDRoms, transfer images to fire department computer system
* File naming protocols so that images can be found when needed
* Use of imagery software to catalogue and track downloaded images
1. Digital imagery that has evidentiary value, including vehicular accidents involving department vehicles, fire scenes showing evidence of cause and origin, incident scenes showing the locations of victims, fire code violations, etc., require that a Chain of Custody form be initiated by the photographer and forwarded with the imagery.
2. Digital images in the secured database shall not be accessed by any party, or altered via any software product or utility such as Photoshop, unless express permission is granted in writing by the Fire Chief or his/her designee. If permission to alter a photo is granted, the original photo shall not be altered in any way, and any copies that are altered shall be appropriately identified and documented as to being an altered copy. The details of the alteration including what was done (cropped, lightened, darkened, etc), the name and rank of the member performing the alteration, and the time and date of the alteration, shall be noted and preserved.
3. The use of fire department images shall be subject to approval of the Fire Chief or his/her designee. Prior to the release of any image, the image shall be evaluated by the Fire Chief or his/her designee to ensure that the release will not result in a breach of patient confidentiality or breach of privacy, and that the release will, in all other respects, be lawful.

**EDITOR’s Note:** Departments should appoint an officer to be responsible to review all requests for imagery. It is recommended that the procedure for firefighters to obtain permission to use images be as simple and fast as possible so as to minimize the risk that members will choose to take prohibited images rather than comply with the policy. The following language may be used:

*Any member desiring to use a department owned image shall submit a written request to the fire chief (or \_\_\_\_\_\_\_\_\_\_\_\_\_ ) identifying the image or images requested.*

Departments should place what-ever restrictions on the use of approved images they feel is necessary. Typically, departments will limit the use of approved imagery to training and/or personal non-commercial use. However, since the photos will likely be considered to be public records subject to the Freedom of Information Act, tight controls over their use will likely prove to be unenforceable. For that reason the following provision may be considered: *Members shall not post, disseminate, distribute, or release any department owned image in such a way that the releasing member may be viewed as by the media or members of the public as being a spokesperson for the department, except when duly authorized to do so.*

1. The use of unauthorized helmet cams and dash cams is strictly prohibited, and shall be considered a serious disciplinary breach for the employee involved and any officer who permits such use.
2. Use of department cameras to take images for personal purposes is strictly prohibited.
3. Violation of this policy or failure to permit inspection of any device covered in this policy may result in disciplinary action.

**EDITOR’s Note: Some fire departments may choose to add the following provision**

1. Off-duty personnel who respond to incidents to which this department responds, who are: in uniform; are identifiable as members of this department by virtue of the clothing they are wearing; or who utilize their credentials or identity as a member of this department to access areas of the incident scene that are not open to the public, shall be required to comply the all of the requirements of this policy for any images they may take.

**EDITOR’s Note:** The following is an additional provision to allow photos of a purely personal nature to be taken while on duty:

1. Personal photo exception
2. This policy shall not apply to photos taken by on-duty personnel with a personally owned device for purely personal and non-business purposes, including photos of friends and family members during a fire station visit, and co-workers posing for a group photo.
3. This exception shall not apply to imagery taken at emergency scenes, training events, or during other official activities of the department, nor shall any such photo be taken if it may have any training, operational, documentation, or evidentiary value.
4. Imagery taken pursuant to this exception shall not contain profanity, nudity or partial nudity, horseplay, hazing, harassment, be offensive, or depict vulgar or sexually suggestive images.
5. Imagery taken pursuant to this exception shall not be used or sold for profit.
6. Any photo taken pursuant to this exception that captures business related matters of the department that make it subject to the public records law, shall be considered to be a department owned photo and must comply with the procedures required for department owned photos, including the need to archive and the need to request formal permission to use.