



Derbyshire Constabulary

**PUBLIC ORDER
EVIDENCE GATHERING TEAMS
AND
NON PSU CAMERA OPERATORS**

POLICY REFERENCE HNA

This policy is suitable for Public Disclosure

Owner of Doc: Head of Department, Operational Support

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1. Guidance Identification Page

This Guidance has been drafted in accordance within the principles of Human Rights, Race Relations, Sex Discrimination and Disability Discrimination Legislation. Public Disclosure is approved unless otherwise indicated and justified.

GUIDANCE TITLE:	Evidence Gathering Teams and Non PSU Camera Operators
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* This policy is only being posted on the Force Intranet/Force Internet		<input type="checkbox"/>
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Human Rights Act 1998

The Human Rights Act 1998 has been considered with regard to this policy. Proportionality has been identified as the key to Human Rights compliance. This means striking a fair balance between the rights of the individual and those of the rest of the community. There must be a reasonable relationship between the aim to be achieved and the means used.

Diversity Policies

Equality issues have been considered with regard to this policy. Adherence with this policy will therefore ensure compliance with Equal Opportunity legislation and internal Equal Opportunity policies.

Data Protection Act 1998

Data Protection issues have been considered with regard to this policy. Adherence to this policy will therefore ensure compliance with the Data Protection Act 1998 and internal Data Protection policies.

Freedom of Information Act 2000

Freedom of Information issues have been considered with regard to this policy. Adherence with this policy will therefore ensure compliance with the Freedom of Information Act 2000 and internal Freedom of Information policies.

Health and Safety Act 1974

Health and Safety issues have been considered with regard to this policy. Adherence with this policy will therefore ensure compliance with Health and Safety legislation and internal Health and Safety policies.

Policy Bureaucracy

The bureaucratic impact of this initiative has been considered; the benefits justify the costs of compliance with the policy.

2. Introduction

- 2.1 Overt Filming by Evidence Gathering Teams (EGTs) is an effective police tactic used for the prevention and detection of crime, the maintenance of public order and the gathering of intelligence in support of such policing aims.
- 2.2 Overt filming includes the deployment of staff utilising equipment for the purpose of capturing both still and video images. It should not be confused with surveillance or covert photography.
- 2.3 Overt filming does not involve the use of public space fixed CCTV systems, where those systems are placed and maintained by bodies other than the Police.
- 2.4 Overt filming has the potential to make a significant contribution to policing purposes, and serves to reassure the public that police are engaged in dealing with local policing issues.
- 2.5 Objectives associated with the use of overt filming include:
- Securing photographic, video and digital imagery and audio evidence in order to support the investigation and prosecution of offenders.
 - Supporting the use of specialist resources.
 - Recording the delivery of warning Messages.
- 2.6 Forward Intelligence Teams (FITs) provide a specialist resource that enables the collection of information to assist commanders when considering threat, risk and tactical options. FITs are able to facilitate communication between Police and those engaged in the policed event, and can also support the collection of information to assist in the preparation of community impact assessments.
- 2.7 The use of FITs reduces opportunity for anonymity and can identify elements within crowds, enabling the police to take targeted action towards those acting, or showing intent to act, outside the parameters of peaceful protest.
- 2.8 The decision to deploy (FITs) should be based upon an intelligence requirement to either respond to intelligence already received or to build a better understanding of the situation and intention of those involved in the policed event.
- 2.9 Whilst not an exhaustive list, objectives associated with the deployment of FITs are:
- The gathering of information in relation to the culture and general conduct of particular protest crowds, including information on the underlying intent of the protest group.
 - Engaging with crowd members to gather information on crowd intentions, demeanour, concerns, vulnerabilities and sensibilities.
 - Gathering information in relation to crowd leadership and organisation, its level of cohesion, emotional intensity and the identity of its key influencers.

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- The identification of, and building links with, community mediators, protest organisers and other key stakeholders who may have influence in relation to the policed event.
- The identification of areas of potential tension, such as prominent locations where local communities may be adversely affected by the policed event itself.
- Obtaining accurate information regarding potential risks and problems.
- The identification, location and capability of those in the crowd causing or intending to cause a risk.
- The identification of routes and means of transport in use by those attending the policed event.
- The identification, cultivation and handling of informants in accordance with RIPA.
- The utilisation of police powers to conduct searches.
- Locating potential caches of items for use in disorder.

Evidence gathering is now an integral part of the Force Public Order resources, and the Force Evidence Gathering team (EGT's) are highly trained to carry out their duty.

- 2.10 EGT's are deployed to varied public order events from environmental protests through to urban disorder and generally work in teams of two, an Optical Evidence Gatherer and a Director/Team Leader. Should the Risk Assessment or the intelligence for the Operation indicate a high level of threat then the team can be augmented by the addition of a third team member, a minder, who will be either a trained EGT officer or at least a level 2 CMS trained officer.
- 2.11 When an EGT is deployed they will endeavour to obtain photographic and video evidence of any offenders / offence in any public order arena. They aim to capture the best evidence of the worst offence.
- 2.12 Evidence gatherers are a Force resource, who has been nominated by their respective Divisions to carry out this role.
- 2.13 There are within the force camera trained persons who are utilised to capture evidence of offences such as anti social behaviour. These persons are not to be confused with EGT's, they will be referred to as Non PSU camera operators.

3. Purpose

- 3.1 The purpose of this SOP is to ensure that the role of officers and staff overtly deployed as evidence gatherers or forward intelligence teams conforms to National policy, is clearly defined and is supported by an audit trail regarding decisions made.
- 3.2 This SOP does not relate to the covert deployment of officers or staff, and does not cover policing activity where a RIPA authority is required for surveillance to take place.
- 3.3 This SOP will help to ensure that images captured as a result of deployment are processed, stored, reviewed, retained and disposed of in accordance with the Guidance for the Management of Police Information 2006 (MoPI), the Data Protection Act (DPA) and Criminal Procedures and Investigation Act 1996 (CPIA)
- 3.4 Adherence to this SOP and National policy will also ensure that all deployments are made in line with the requirements of the:

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- Human Rights Act 1998 – Articles 2 & 8
- Management of Health and Safety at Work Regulations 1999
- (Personal Protective Equipment at Work) Regulations 1992
- Health and Safety at Work Act 1974
- Police (Health and Safety) Act 1997
- Regulation of Investigative Powers Act 2000
- Police and Criminal Evidence Act 1984

3.5 This SOP should be read in conjunction with the Manual of Guidance on Keeping the Peace.

4. Aims

4.1 The aims of this guidance are to ensure that: -

- all evidence obtained is done so with integrity;
- the potential for crime detection is exploited;
- all deployments of evidence gathering teams are done so with the minimum of risk;
- any training needs are identified and addressed;
- The reduction in crime, nuisance etc is reduced.

5. Legal basis

5.1 When deployed on a pre planned operation the requesting Division will ensure that force form 45 (Inspector's Authority) is available and completed. This should be handed over with the exhibits to the exhibit officer at the conclusion of the operation.

5.2 In addition, due regard will have to be given to the following legislation when deployed: -

In relation to the Human Rights Act 1998 there is a potential to infringe the rights contained within Articles 5(1) – 'Right to Liberty and Security' and 8(1) – 'Right to Family and Private Life'.

However, in relation to Article 5, a person can be deprived of his liberty for the purposes of a lawful arrest, detention and conviction as set out in Article 5(1). Therefore, as the evidence that is gathered by Evidence Gathering Teams may result in arrest, detention and conviction, it is important that the deployment is properly authorised by completion of Force Form 45 - Operational Use of Police Owned Technical Equipment.

5.3 Article 8 of the European Convention on Human Rights (ECHR) confers a right to respect for private and family life. It is a qualified and not absolute right:

Everyone has the right to respect for his private and family life, his home and his correspondence.

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There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

5.4 Wood v Commissioner of the Police of the Metropolis

This was a Judicial Review of the **taking** of overt photographs by an Evidence Gathering Team at a public order event in April 2005 and the police's retention of those photographs.

Mr Wood claimed that his right to respect for privacy under Article 8 of the European Convention on Human Rights had been violated by the taking and retention of the photographs.

In May 2009, the Court of Appeal in a majority decision, found that taking and retention of photographs in this case was done in pursuance of a legitimate aim (i.e. prevention of crime and disorder etc), but that it was not proportionate to retain the photographs once it had become clear that the person photographed, Mr Wood, had not committed any offence at the event in question (which on the facts of this particular case was within days). The fact that Mr Wood had been seen briefly associating with someone with a record of public order offences was found to be insufficient to justify the lengthier retention of the photographs for potential and unknown future use.

Therefore, while the Court of Appeal in Wood has accepted the **taking** of photographs at public order events in so far as it has not found the practice to be unlawful, it has found that the purpose for which the photographs were taken and the continuing **retention** of photographs will have to be justified and proportionate.

Once it becomes clear that the purpose for which the photographs were taken are no longer valid or no longer exist the mere possibility that the photographs could be of some legitimate use in the future will generally be insufficient to justify continuing retention.

6. Deployment

- 6.1 All requests for EGT's for pre planned operations including football must be via the Public Order Support Unit (P.O.S.U.) within Force Operational Planning at Operational Support. Any requests for spontaneous incidents that occur either within the Force or another Force area should be directed through the Centralised Contact Management Centre at Police Headquarters.
- 6.2 When requested to go on Mutual Aid each EGT will work in teams of two unless the host force requests teams of three or the risk assessment identifies a risk that would require that the team needs a minder.
- 6.3 EGT's will be controlled directly through the Silver Commander or at a major operation through a Bronze Intelligence function.
- 6.4 EGT's should work in teams of 2 at football matches unless there is a high potential for disorder and the Silver Commander makes a decision to deploy in teams of three due to the risk factors.
- 6.5 At low level public order events such as Animal Rights, Marches and protests where

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there is little violence expected the EGT's can be deployed in teams of two.

- 6.6 EGT officers will record in their portfolios every time they are deployed. This record will be kept up to date whilst they remain an EGT officer and for 5 years afterwards.
- 6.7 Evidence Gatherers will ensure that when deployed, they carry and use the Digital Video Camera, the Digital Stills Camera, the Digital Audio Recorder and all necessary consumables for the event or incident.
- 6.8 Evidence Gatherers will deploy in normal street uniform except for the utility vest and a fluorescent police hard baseball cap, unless instructed otherwise by the Bronze / Silver commander for an event e.g. Category C and C(IR) football matches.
- 6.9 Evidence Gatherers will not form part of the Divisional Police Support Unit (PSU) but will be a Force resource.
- 6.10 All requests for non PSU camera operators should go through local supervision.
- 6.11 Non PSU camera operators should generally be deployed in pairs unless unforeseen circumstances dictate otherwise and will be in normal street uniform.

7. Equipment

The following is for the force evidence gathering teams only (7.1 - 7.5).

- 7.1 All non-consumable equipment will be purchased centrally via Operations Division. Master Copy CD/DVD's will be supplied by Operations Division POSU in the first instance and from central stores thereafter.
- 7.2 Any repairs to the equipment will also be arranged via the Public Order Support Unit, Operational Support.
- 7.3 Any equipment purchased must be compatible to existing equipment, be of the current high quality and be suitable to use in Public Order situations.
- 7.4 Any equipment that needs to be evaluated should be identified to the Public Order Support Unit who will then arrange for the necessary trials and evaluation to take place.
- 7.5 Each Division has the following items issued to them which are to be kept secure at their Divisional Operational Planning Office ready to be issued to trained evidence gathering personnel only: -
 - 1 Peli Case
 - 1 Sony Camcorder and multi charger
 - 2 Handycam batteries
 - 1 Monopod
 - 1 Evidence Gatherers vest
 - One Nikon D3100 Digital SLR Camera including 2 batteries and charger
 - One Nikon 70-300mm lens
 - Six 4gb Memory Cards
 - One EZ Digimagic DVD/CD burner and car charger

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- 8 rechargeable AA Batteries with charger
- 1 SB700 Digital Flash Unit with bracket and cable.
- 1 Sanyo Audio Recorder
- 1 four gang extension cable
- 150 pre labelled WORM CDr's. and 50 pre labelled WORM DVDr's

- 7.6 The following points are for non PSU camera operators (7.7 – 7.9)
- 7.7 All equipment and consumables will be purchased by the respective Division. All equipment that is to be purchased should be done in consultation with the Technical Support Unit (TSU) thus enabling a corporate approach throughout the force area.
- 7.8 Any repairs to the equipment will also be arranged via the respective Division.
- 7.9 Any equipment purchased must be compatible to existing equipment, be of the current high quality and be suitable for use in general policing duties.

8. Issue and Continuity of Discs and Evidence

- 8.1 The CD-R's/DVD-R's to be used for evidence gathering purposes should be kept secure at each Operational Planning Office. They should only be used by Trained EGT officers on EGT deployments.
- 8.2 It is the responsibility of each Division to maintain a supply of discs for the EGT officers to use at designated events. This should be a joint responsibility between the EGT officers on that Division and the Divisions Operational Planners.
- 8.3 If ANY images other than as above have been taken, then, at the conclusion of the operation the memory card will be placed into the EZ Digimagic burner and a CD or DVD will be burnt of all the images/video recording/audio recording contained on that card for that operation. This disc will be closed and finalised automatically by the CD/DVD burner. This first disc will be labelled as the Master disc and will have a pre printed face to the disc, and will sealed in the appropriate sleeve and exhibit bag. A second disc will then be burnt immediately afterwards. This disc will be the working copy and will be a non pre printed disc. The memory card will then be re formatted, erasing all data, and returned to the EGT case of the relevant Operational Planning Department.
- 8.4 Each Disc used and exhibited will become the Optical Evidence Gatherers exhibit. The Master Copy will be signed and placed in a tamper evident Exhibit bag. The working copy will also be signed and exhibited.
- 8.5 The Team Leader will be responsible for making the master and working copies of the Audio Recorder evidence and they will be exhibited as above.
- 8.6 The officer in charge of the case or the Exhibits Officer must ensure that the integrity of the exhibit is maintained by keeping a clear audit trail of the item throughout the investigation process.
- 8.7 No one will view the Discs unless it is to aid the investigation, or in the identification of persons. P.A.C.E. procedures will be complied with as per Code D paragraphs 3.28-3.29 and Annex E. If discs are required to defend civil claims brought against the Force or to assist in civil applications made on behalf of the Force, they may be viewed and

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copies may be provided to Legal Services.

- 8.8 If no other picture, other than the initial introduction card, has been taken with the Digital SLR, then the Optical Evidence gatherer will complete a statement to that effect, to confirm that there are no images of any evidential value. This officer will then format the memory card.
- 8.9 At the conclusion of each Operation it will be the responsibility of the EGT officers to hand over ALL exhibits, including Master and working copies of the Discs, the handover sheet, statements and the signed form 45, to the designated OIC, Exhibits or disclosure officer. It will then be that officer's responsibility to ensure that this data is retained as is necessary complying with the various Acts and policies mentioned above.
- 8.10 Only the issued EZ Digimagic should be used to burn copies of the memory card onto the appropriate disc. Once the initial copies have been made any further copying of the discs should not be done unless under authority of a Superintendent.
- 8.11 All EGT officers will be trained in the handling of their exhibits and continuity during their initial course and this will be refreshed in line with the training schedule.

9. Training

- 9.1 Only Officers that are currently qualified to Level Two Public Order Training will be trained as public order evidence gatherers.
- 9.2 To become a qualified public order evidence gatherer the officer will attend a NPIA accredited EGT course comprising of Module 1 Camera Competency and Module 2 Evidence Gathering in Public Order. Upon successful completion of both modules of this course they will be deployable within the Force area and on Mutual Aid.
- 9.3 Any EGT officer who has attended a local evidence gatherer course only will be given a National Upgrade at the earliest opportunity but can be deployed in the meantime.
- 9.4 Every public order evidence gatherer will maintain their Level Two qualification by attending the Spring Level Two training at least once every two years.
- 9.5 All public order training will be undertaken by nationally trained and NPIA accredited Public Order Tactical Trainers under the guidance of the Public Order Support Unit.
- 9.6 All training and refresher training will be arranged via the Public Order Support Unit who will keep a record of all qualifications and deployments.
- 9.7 All technical training into the use of the camera will be undertaken by the Force EGT Trainers with the assistance of staff from the Force Photographic Department.
- 9.8 In order to maintain the EGT qualification each EGT officer must maintain their Portfolio of evidence of competence in the role and be deployed on at least two occasions in each 12 month period. The portfolios will be open to inspection by an EGT Trainer at any time to ensure continued professional development in the role. Participation in a multi PSU live exercise will count towards the tally of deployments.
- 9.9 Training for non PSU camera operators will be undertaken by the Divisional training

officers and persons will be selected by use of the PDR system.

10. Health and Safety

- 10.1 Evidence Gatherers will ensure that they have with them their P.S.U. equipment at all deployments.
- 10.2 Evidence Gatherers and non PSU camera operators will wear the necessary Personal Protective Equipment at all deployments.
- 10.3 Evidence Gatherers will attend at least one Spring Level Two Training session shield training in any two years. If for any reason an Evidence Gatherer fails to attend two consecutive Spring Training sessions they will become unavailable for any deployments as an Evidence Gatherer until they have attended the next Spring Training session.

11. Retention of/DVD-R's and CD-R's Discs.

- 11.1 All Discs which are exhibits will be treated as Exhibits and stored as per force policy on the storage of recorded exhibits. EGT officers will ensure that after they have created the Exhibit it is handed to a designated person at the earliest opportunity with as much information as possible as to what it contains on the handover sheet. It will then become the decision of the designated officer/exhibits officer/disclosure officer/SIO as to whether this exhibit is retained and for how long.
- 11.2 If the prosecutor makes a decision (prior to disposal by means of charge, caution, reprimand etc), that there will be no further action in a case, the DVD/CD must be sent to Tape Library, with a completed label 811 attached. This information will be reviewed there by the Force Data Protection Officer and the necessity of holding this information will be decided upon then. It could be destroyed or kept for 6 years dependant on the need to retain this information.
- 11.3 If a criminal investigation results in proceedings being instituted, all material which may be relevant **must** be retained. The DVD/CD must be sent to Tape Library, with a completed label 811 attached. This information will be destroyed at 6 years or retained indefinitely dependant on the offence.
- 11.4 If an appeal against conviction is in progress when the release or discharge occurs, or at the end of the period of 12 months all material which may be relevant **must** be retained until the appeal is determined. Similarly, if the criminal cases review commission is considering an application at that point in time, all material which may be relevant **must** be retained at least until the commission decides not to refer the case to the Court of Appeal, or until the Court determines that the appeal resulting from the reference by the commission.
- 11.5 Where a Disc contains no evidence of offences then it should be kept for 31 days. The responsibility to dispose of this footage lays with the officer in the case. However should a Disc during that period become subject of an investigation then it should be retained as above.
- 11.6 Any intelligence footage relating to football violence will be retained and reviewed within the 31 days and a decision on the necessity of keeping it will be made by the Football

Liaison Officer. If kept the discs will be stored by the relevant department and not in the CCTV Process Unit.

- 11.7 Any intelligence footage relating to terrorist activity will be retained and reviewed at 10 years from the date of the event whether 11.5 applies or not. This will be stored by the relevant department and not in the CCTV Process Unit. The relevant department will be responsible for reviewing the continued necessity of keeping the data and its retention.

12 Provision of Information

- 12.1 It is a requirement of the first DPA Principle (fair processing) that the following information is, so far as reasonably practicable, given or made available to individuals at the time their image is captured:
- Identity of the data controller (the relevant officer from the force within which the deployment is made);
 - The policing purposes for which images are captured ('processed');
 - Any further information which is necessary, having regard to the specific circumstances in which the data (photographs or images) are to be processed, to enable processing in respect of the data subject to be transparent and fair.
- 12.2 Reasonable steps must always be taken to provide information concerning the purpose of the filming. Where signs have been displayed, or a local media campaign has taken place, this may be sufficient where the filming is of a general nature (e.g. outside a pub or in a shopping precinct). Where, however, the filming is focused on an individual or group of individuals, it will be necessary to provide the individual(s) concerned with the information personally. This information may be provided verbally and/or by way of written notice. It is recognised that the nature of the policed event itself may preclude the use of written notices, however where practicable written notices should be available to ensure that the best quality of information concerning the police deployment is being provided to those attending the policed event.

13 Human Rights Compliance

- 13.1 The content of this guidance has been tested against Derbyshire Constabulary's Human Rights Compliance Test.
- 13.2 Consideration has been given to the compatibility of this guidance and related procedures with the Human Rights Act and European Convention on Human Rights; with particular reference to the legal basis of its precepts; the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making processes and outcomes of action.
- 13.3 However, the recent case of 'Wood v. Commissioner of Police for the Metropolis [2008] CA, in respect of the proportionality of police taking and retaining photographs taken in a public place-police must justify interference with Article 8 right to privacy', must be adhered to.

14 Diversity Compliance

- 14.1 The content of this guidance has been tested against Derbyshire Constabulary's Diversity Compliance Test.
- 14.2 The guidance has been drafted in accordance with all relevant employment legislation and with the general duty under the Race Equality Scheme to eliminate unlawful racial discrimination, to promote equality and to promote good relations between people of different racial backgrounds. Monitoring work will be undertaken on a regular basis to ensure this and the policy and procedure will be reviewed regularly in the light of monitoring results.

15. Monitoring and Review

- 15.1 The Divisional Commander, Operational Support is responsible for monitoring the implementation and impact of this guidance.
- 15.2 Data is monitored for disproportionate impact on minority groups.
- 15.3 This policy will be reviewed 12 months from its implementation date and the outcome of monitoring processes will inform this review.

16. Appeals Process

- 16.1 If a member of staff has an issue with the application of this guidance, they should raise this in the first instance with their line manager. Staff may have recourse to the Dispute Resolution Procedure.
- 16.2 Members of the public who take issue with the application of this policy have recourse to the police complaints system.

