

## WHAT ARE THE RESTRICTIONS?

- The right to photograph does not give you the right to trespass, break any other laws or interfere with lawful SAPS activities.
- Only senior SAPS leadership may authorise someone to take film or video of the inside of police premises, and the outside and inside of police cells.
- There may be restrictions on filming National Key Points (see opposite).
- Standing Order 156 is **just an instruction to SAPS members**; it is not a law and has not been tested in court (as far as we know).
- This order **doesn't apply to metro police departments**, which are separate from SAPS. It's not yet clear if any metro police departments have similar orders.

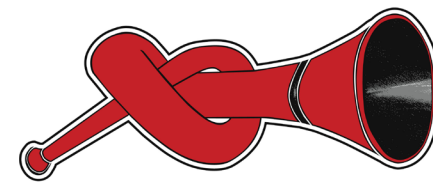
## IF A SAPS MEMBER STOPS YOU FROM TAKING PICS:

- Stay calm. Do not raise your voice or provoke violence against you.
- If police demand that you delete data under threat of violence, do so. Your life cannot be measured in megabytes.
- If you are detained, ask what crime you are suspected of committing. If the officer demands to view material or confiscate your equipment, ask what legal basis s/he to do so, and ask for the officer's name, police station and commanding officer.
- If you experience any contravention of Standing Order 156, you may lodge a complaint to the station commander of the nearest station. Disobeying a Standing Order is a disciplinary offence.
- If the SAPS station commander refuses to take disciplinary action against the member concerned or is otherwise unhelpful, you may take legal action against the SAPS.

Issued by the Right2Know Campaign, July 2015.  
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# RIGHT2KNOW

## THE RIGHT TO TAKE PHOTOS & THE POLICE

### WHEN CAN POLICE LEGALLY STOP THE MEDIA FROM TAKING PHOTOS OR VIDEO? ALMOST NEVER.

Media workers and citizen journalists have often complained that members of the South African Police Service (SAPS) have tried to stop them from taking photographs or video. That's why we've put together this advisory, which unpacks **SAPS Standing Order 156**, a direct instruction to SAPS members **not to interfere with the media**.

**NOTE:** Standing Order 156 refers to "media representatives", but it's vague on who qualifies. R2K believes this *should* include citizen journalists – anyone with a cell phone camera – but SAPS members may see it differently. We can find no extra restrictions on members of the public to take video or photos, but citizen journalists should be extra cautious when interacting with SAPS.

As of July 2015, Standing Order 156 was under review after the SA National Editor's Forum complained to SAPS about media harassment. This review is a chance to expand the order to cover the rights of citizen journalists as well as media professionals.

- Download Standing Order 156 at [r2k.org.za/156](http://r2k.org.za/156)
- Download this advisory at [r2k.org.za/filmthepolice](http://r2k.org.za/filmthepolice)

Disclaimer: This advisory may contain inaccuracies and omissions, and does not serve as legal advice. Be safe and exercise caution when interacting with SAPS!

## WHAT DOES STANDING ORDER 156 SAY?

- *Section 10(1)* states that police officers “must treat all media representatives with courtesy, dignity and respect, **even when provoked** .”
- *Section 10(3)a* states that, although the media may be prohibited in terms of s69 of the South African Police Service Act from *publishing* certain images, “a media representative **may not be prohibited** from taking photographs or making visual recordings” by any SAPS member. This includes photographs of police officers themselves.
- *Section 10(3)c* states that “a media representative may under no circumstances **be verbally or physically abused** and cameras or other equipment **may not be seized**”, unless the equipment is being seized as evidence in terms of the law.
- It is expressly prohibited to “**willfully damage** the camera, film, recording or other equipment of a media representative.”

## IN OTHER WORDS:

- When in public spaces you have the right to photograph anything in plain view, including SAPS members.
- However, *section 17(2)a* does make provision for the police to prevent the filming of police premises, but only when “there are reasonable grounds to believe that such visual material is *intended* to be used in the planning or execution of a crime or will jeopardise security measures.”
- SAPS members may not stop you from photographing any person, although there are prohibitions on *publishing* photos of certain people without permission (e.g. someone suspected of a criminal offence but who has not yet been charged, or a witness). This is spelled out in *section 17(1)* – media professionals should read it.

## CAN I PHOTOGRAPH A NATIONAL KEY POINT?

The apartheid-era National Key Points Act makes it an offence to publish information about the **security measures** at a National Key Point “without being legally obliged or entitled to do so”. As vague and problematic as this is – considering, for example, the President’s chicken coops have been called a security measure – it is not a blanket ban on taking photos of National Key Points.

Standing Order 156 says SAPS members may only interfere with someone recording a National Key Point if there’s “reasonable grounds to believe that the taking of photographs or the making of video recordings of such premises may aid in the planning or execution of a crime, or may jeopardise security measures”.

As flawed as this provision is, it clearly only allows members to interfere if you are taking photos of specific security measures at a site (e.g. metal detector, turnstiles, CCTV cameras) and only then if it is **reasonable** to suspect you are planning a crime or otherwise endangering security.

The order also states that, “if time permits”, the member should first consult the relevant SAPS media liaison office before interfering, or inform the media liaison office immediately after the fact.

The Standing Order adds that the officer “**must be careful in exercising his or her discretion in this regard**, since some of the national key points are also tourist attractions or places that generate media interest.”

There has been no legal challenge to the vague and possibly unconstitutional provisions of the National Key Points Act. You may therefore find yourself in a situation where the Constitution is on your side, but a still-existing apartheid security law is not. This means experiences may vary depending on the location and the officer involved.

But by understanding the confines of the Act and Standing Order 156, you should be able to stand your ground in most situations.

- *Download a list of NKPs, as of Jan 2015, at [r2k.org.za/?p=4260](http://r2k.org.za/?p=4260)*

Dear friends in the media,

SAPS officers almost never have the right to stop you from taking photos or video. In fact they are under explicit instructions not to. You can download our 4-page advisory at [r2k.org.za/filmthepolice](http://r2k.org.za/filmthepolice).

We've also summarised it on these cards, which you can cut out and laminate and distribute to your newsrooms.

Exercise due caution when dealing with SAPS, but know your rights!

- Right2Know Campaign

# Dear SAPS officer

**YES. I CAN PHOTOGRAPH YOU.**

Section 16 of the Constitution protects media freedom. And so do your own rules.

According to SAPS Standing Order 156:

- All police members “must treat all media representatives with courtesy, dignity and respect, even when provoked.”
- You may not stop me from taking photo or video, whether of people, buildings, or you.
- You may not seize or damage my equipment or force me to delete photos.

Interfering with me is against the law and Standing Order 156. I will take legal action.



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