



Prepare for a First Amendment Audit

First Amendment auditors enter public buildings like libraries and police precincts and live-stream video interactions with public employees. They have two goals:

- 1.) To "test" a government agency and see if its employees will violate the auditor's First Amendment rights (therefore "failing" the audit), and
- 2.) To get as many clicks and views as they can on their blogs and video sites. They may be confrontational in an attempt to escalate the situation and create more interesting content.

PATRON PRIVACY VS. FIRST AMENDMENT AUDITORS

Filming patrons using the library is in direct conflict with patrons' rights to privately seek information or otherwise use the library. Privacy laws and many library privacy policies protect patrons, but enforcing them can escalate the situation. Public spaces can be filmed, but auditors cannot film in private areas--restrooms, staff areas, or private study rooms. They cannot harass or provoke patrons. Remember: auditors are not interested in honest discourse about their First Amendment rights versus patrons' right to privacy. They are there to capture a confrontation so their video will "go viral."

ULTIMATE GOAL: GET THE AUDITORS TO LEAVE THE BUILDING WITHOUT INCIDENT

First Amendment auditors want to make an "action" film. If there is no action, they will lose interest and leave. But doing nothing is harder than it sounds when your library is being filmed by an unwanted cameraperson. So what do you do?

- Alert other staff members and the library director (if possible) when the auditors arrive.
- Remain calm and keep the tone of your voice even and relaxed.
- Be professional and polite. Be as boring as possible.
- Circulate through the library, keeping distance from auditors, proactively looking for patrons who need assistance, and checking with those who are curious about the auditors.
- Do not engage auditors in a discussion about library privacy or the library's Code of Conduct.
- If you must discuss appropriate conduct with the auditors, emphasize the disturbance caused by filming, not the filming itself.



**"We can be right,
or we can be effective.
With this kind of behavior,
we can't be both."**

*DeLace Munger,
Safety & Security Coordinator
Jefferson County Libraries*

FAQS: FIRST AMENDMENT AUDITS

Is conducting an audit legal?

Yes. According to the Seventh Circuit Court of Appeals (that covers Illinois), the First Amendment has been interpreted to protect the rights of these individuals. The court ruled that members of the public CAN audio and video record an encounter with public employees and can "publish" those recordings online. If the recordings are made in a public place, they are protected by free speech. Although the ruling was made in regards to a recording of police officers, it applies to other public employees.

Can you "fail" an audit?

Some auditors will give an organization a "pass" or "fail" score based on how the employee(s) respond. Reasons you might fail include:

- Telling the auditor to turn off their recording device
- Informing the auditor they are not allowed to record in the library
- Telling the auditor they must leave the public space
- Calling the police

What tactics do the auditors use to try and get a response?

Auditors may try to provoke a library worker by:

- Asking repeated questions and not being satisfied with the responses
- Requesting documents (often asking if the library has a copy of the Constitution)
- Using profanity
- Intimidating or making veiled threats to try and get you to call the police

“ WHAT TO SAY TO AUDITORS ”

- *You are welcome to be here; you are allowed to film in the library.*
- *If there is any library business you need assistance with, I can help you. Otherwise, I need to be available to other patrons.*
- *If they ask for a specific staff member: That person is not available right now. Is there something I can assist you with?*
- *If they ask about a staff member's employment or any other specific information: I can't discuss that with you.*
- *If they engage in a debate about their rights: I'm not going to argue with you.*
- *If they continue to speak to you in a harassing manner, or you're going "around and around" with them: I've said what I need to say to you. This conversation is no longer productive. I am ending this conversation.*

WHAT TO SAY TO PATRONS DURING AN AUDIT

- *I understand [the presence of the auditors] is unsettling. I'm sorry for that experience.*
- *[Auditors] are allowed to film in the library. They are not allowed to harass others.*
- *Confrontation is what [auditors] are after. The most helpful thing you can do is ignore them.*
- *Our goal is to get them to leave without incident. You can help us by not engaging with them.*

It's okay to be honest with your patrons. Tell them you are not following normal procedures because you do not want to give the auditor what they seek. Be empathetic if a patron is upset. Discourage patrons from intervening on your behalf.

Practice how to respond at a staff meeting. Watch an online video posted by an auditor to be prepared for how they may behave in your library.

**Most of all, if you have interacted with an auditor, take time to recover. Seek support from sources available to you. Ask your employer how they might accommodate your needs. For more resources, contact your [Colleague on Call](#).*