

Austin Police Policy

302.2 INTERACTION WITH COMMUNITY

(a) Officers are reminded that photography, including videotaping, of places, buildings, structures and events are common and normally lawful activities.

1. If a person is taking photographs or recording from a place where he or she has a right to be, officers are reminded that this activity by itself does not constitute suspicious conduct.

(b) In areas open to the public, officers shall allow bystanders the same access for photography as is given to members of the news. Officers shall be aware that:

1. A bystander has the same right to take photographs or make recordings as a member of the media, as long as the bystander has a legal right to be present where he or she is located.

2. A bystander has the right under the First Amendment to observe and record officers in the public discharge of their duties.

3. Public settings include parks, sidewalks, streets, and locations of public protests; but that protection extends also to an individual's home or business, common areas of public and private facilities and buildings, and any other public or private facility at which the individual has a legal right to be present.

4. The fact that a bystander has a camera or other recording device does not, however, entitle the bystander to cross a police line, to enter an area that is closed to the public, or to enter any area designated as a crime scene.

(c) As long as the photographing or recording takes place in a setting at which the individual has a legal right to be present and does not interfere with an officer's safety or lawful duties, officer's shall not inform or instruct people that photographing or recording of police officers, police activity or individuals who are the subject of police action (such as a Terry stop or an arrest) is not allowed; requires a permit; or requires the officer's consent. Additionally, officers shall not:

1. Order that person to cease such activity;

2. Demand that person's identification;

3. Demand that the person state a reason why he or she is taking photographs or recording;

4. Detain that person;

5. Intentionally block or obstruct cameras or recording devices; or

6. In any way threaten, intimidate or otherwise discourage an individual from recording officer's enforcement activities.

(d) Nothing in this policy prohibits officers from questioning or detaining individuals they reasonably suspect have committed, are committing, or are about to commit any crime.

(e) Officers are reminded that a person commits an offense if the person with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with a peace officer while the peace officer is performing a duty or exercising authority imposed or granted by law.

1. If a person is photographing or recording police activity from a position that impedes or interferes with the safety of officers or their ability to perform their duties, an officer may direct the person to move to a position that will not interfere. However, an officer shall not order the person to stop photographing or recording.

2. If a person is photographing or recording police activity from a position that impedes or threatens the safety of members of the public, the officer shall direct the person to move to a safe position. However, officers shall not order the person to stop photographing or recording.

3. A person's recording of officer's activity from a safe distance, and absent any attendant action that obstructs the activity or threatens the safety of the officers, does not constitute interference.

4. A person has the right to express criticism of the police activity being observed. As long as that expression does not jeopardize the safety of any officer, suspect or bystander; and so long as that expression does not violate the law or incite others to violate the law, the expression does not constitute interference.

(f) Evidence on a Camera or Recording Device

1. If an officer has probable cause to believe that a camera or other recording device contains images or sounds that are evidence of criminal acts, the officer shall request that the person either:

(a) allow the officer to listen to or view the recording

(b) Voluntarily provide the device or recording medium (e.g., the memory chip) to the officer; or

(c) Where possible and practicable, and in the presence of the officer, voluntarily transmit the images or sound via electronic mail to the officer's official government electronic mail account.

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