



# AUSTIN POLICE DEPARTMENT

## Training Bulletin

August 28, 2012

### *Interference with Public Duties*

- ❖ Officers are reminded that it is lawful for a person to videotape or photograph a police officer who is in public. Officers should not tell a person to stop videotaping the officer, or other public servant, as long as the person is not interfering with the public servant's duties.
- ❖ If a person is interfering with the duties of an officer, firefighter, or paramedic, the person should be ordered to stop the interference and move away from the public servant so that he can perform his duties. The order must be reasonable. If the person does not comply, then the person may be arrested for Interference with Public Duties.

#### Guidelines for Interference:

- Officers need to give clear verbal commands to the individual who is interfering. For example, an officer could say "Sir (or Ma'am), you are interfering with my public duties and you need to stay back".
  - Officers will give the individual being warned a specific area or location where the individual can stand so as not to interfere with their public duties. "You can stand on the north curb line" or "you can stand beside that telephone pole" (First Warning).
  - The location where the officer directs the individual to stand will be specific to each individual incident and any officer safety concerns. The officer should advise the subject to stand at or beyond the location identified or the individual will be arrested for interference.
  - If the individual does not comply after they have received the first warning, the officer will issue another warning providing the same information (second warning).
  - If the individual does not comply after they have received the second warning, the officer will make an arrest for interference.
  - The officer will document the instructions given to the individual in their offense report.
- ❖ If an arrest becomes necessary, officers should utilize Texas Penal Code §38.15(a)(1) *Interference with Public Duties*, which states, in part:

- (a) A person commits an offense if the person with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with:*
- (1) a peace officer while the peace officer is performing a duty or exercising authority imposed or granted by law;*
  - (2) a person who is employed to provide emergency medical services including the transportation of ill or injured persons while the person is performing that duty;*
  - (3) a fire fighter, while the fire fighter is fighting a fire or investigating the cause of a fire;*
  - (4) an animal under the supervision of a peace officer, corrections officer, or jailer, if the person knows the animal is being used for law enforcement, corrections, prison or jail security, or investigative purposes;*
  - (6) an officer with responsibility for animal control in a county or municipality, while the officer is performing a duty or exercising authority imposed or granted under Chapter 821 or 822, Health and Safety Code*

❖ §38.15(a)(1) also states:

*(d) It is a defense to prosecution under this section that the interruption, disruption, impediment, or interference alleged consisted of speech only.*

❖ Regarding seizure of cameras and video cameras, officers should adhere to APD policy §306 *Search and Seizure*. If an officer has probable cause to believe that a person has recorded evidence of a criminal offense, and there are exigent circumstances (for example, the evidence will be lost because the person is leaving the scene) the officer can seize the camera without a warrant. However, a search warrant should be obtained before viewing the recorded images, video, or sound. Prior to seizing a camera or video camera based on probable cause, officers should consider obtaining consent to download images or video footage, which would eliminate the need to obtain a search warrant for the seized camera or video camera. Officers are reminded to abide by the consent to search policy 306.4 in these instances.