
LEGAL



BULLETIN

March 17, 2014

TO: ALL SWORN PERSONNEL

FROM: KIRBY C. RAINSBERGER

Police Legal Advisor

KCR

SUBJECT: **RECORDING OF POLICE ACTIVITY BY CITIZENS OR MEDIA**
Legal Bulletin #2014-5

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It has become exceedingly common that police activity in public places is being recorded (audio and video) by private citizens or the media. With very few restrictions, this recording is both legal and consistent with TPD's philosophy of openness and transparency. Even recordings created by TPD's own equipment are, with very limited exceptions, public record available to anyone upon request. Occasionally, citizens recording police activity are also engaging in a critical (and profane) commentary that will eventually accompany the video onto the internet for worldwide distribution.

This sort of activity is generally constitutionally protected up until the point where the recording individual substantially interferes with law enforcement duties. The difficulty for officers lies in the fact that because the recording and commentary aspects are constitutionally protected, the officer bears a heavy burden to prove that the interference substantially outweighs the protected activity. The courts are not generally sympathetic with the fact that officers may be annoyed or inconvenienced by the recording activity. To justify official intervention, officers must articulate some real and material disruption of official duties.

Officers are encouraged to ignore citizens and media members who are engaged in recording the officers' activities. If the recording individual encroaches upon an active crime scene or disrupts police operations, he/she should be directly contacted and advised concerning appropriate boundaries. Again, don't expect the courts to protect you from the annoyance of having your general activities recorded from an appropriate distance. Only if you can clearly articulate how the recording or commentary materially impacts your ability to perform your duties should you take direct enforcement action. When such action proves necessary despite your warning, your report should painstakingly explain exactly how your duties were disrupted and any intermediate steps that were taken to avoid enforcement action.

Please contact my office with any questions.

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KIRBY C. RAINSBERGER • LAURIE B. WOODHAM
POLICE LEGAL ADVISORS 276-3769

