Public Recording of Law Enforcement Activity

425.1 PURPOSE AND SCOPE
This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this Department. In addition, this policy provides guidelines for situations in which the recordings may be evidence, as well as the limitations that can be placed on persons wanting to record a members' performance.

425.2 POLICY
The Temple Police Department recognizes the right of persons to lawfully record members of this agency who are performing their official duties. Members of this Department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Officers should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply, or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

425.3 RECORDING LAW ENFORCEMENT ACTIVITY
Members of the public who wish to record law enforcement activities are limited only in certain aspects.

(a) Recordings may be made from any public place or any private property where the individual has the legal right to be present.

(b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
   1. Tampering with a witness or suspect;
   2. Inciting others to violate the law;
   3. Being so close to the activity that they present a clear safety hazard to the officers, and
   4. Being so close to the activity that they interfere with an officer’s effective communication or interaction with a suspect, victim, or witness.

(c) The individual may not present an undue safety risk to the officer, him/herself, or others.

(d) When a person is lawfully recording and not interfering with an officer's safety or lawful duties, the officer shall not:
   1. Order the person to cease recording;
   2. Demand the person provide identification;
   3. Demand the person state the reason for recording the event;
4. Detain the person;
5. Obstruct the person's ability to record, or
6. Threaten, intimidate, or otherwise coerce the person to discourage them from recording an officer's enforcement duties.

**425.4 OFFICER RESPONSE**

Officers should promptly request that a supervisor respond to the scene whenever it appears that any persons recording activities may be interfering with an investigation, or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any camera, recording device, photograph, or recording.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant. Directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement action is taken as the result of a recording that interferes with a law enforcement activity, the officer shall document in a report the nature and extent of the interference or other unlawful behavior, and the warnings that were issued.

**425.5 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

(a) Request any additional assistance as needed to ensure a safe environment;
(b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded;
(c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior;
(d) Ensure that any enforcement seizure, or other actions are consistent with this policy and constitutional and state law, and
(e) Explain the complaint process to individuals who wish to express concerns about the conduct of Department members.
425.6 SEIZING RECORDINGS AS EVIDENCE

(a) 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 officers should request that the person either:

1. Allow the officer to listen to or view the recording;
2. Voluntarily provide the device or recording to the officer, or
3. Allow the recording to be copied.

(b) If the person provides the device or recording to the officer, the officer should:

1. Follow the Department's procedure for obtaining and documenting consent to search;
2. Exercise due care and caution with any said property, and
3. Not attempt to view, download, or access any material contained on the device.

(c) The officer shall take control of the camera or recording device and contact the supervisor if:

1. If the individual declines to voluntarily provide the device or recording or refuse to electronically transmit a copy where requested, and
2. The officer believes the device or recording contains evidence of criminal activity, and
3. Exigent circumstances exist that the evidence of criminal activity will be lost if not immediately seized.
4. The supervisor shall, after consulting with the officer, determine whether exigent circumstances permit the seizure of the device without a warrant. A warrantless seizure is permissible only when:
   (a) There is probable cause to believe the property holds contraband or evidence of a crime, and
   (b) The exigencies of the circumstances demand it, or some other form of recognized exception to the warrant requirement is present.

(d) Prior to viewing or listening to evidence on a camera or recording device:

1. Absent exigent circumstances or consent, officers shall obtain a search warrant before viewing or listening to recordings from the property which has been seized as evidence;
2. Supervisors should be contacted in exigent circumstances when there is a reason to believe that an immediate search of the seized material is necessary to prevent death or injury to any person, and
3. Recordings that have been seized as evidence and are not directly related to the exigent purpose shall not be reviewed.

Recordings, photographs, or devices that are seized will be submitted within the guidelines of the property and evidence policy and procedures.