



AUSTIN POLICE DEPARTMENT

TRAINING ANNOUNCEMENT

December 8, 2016

ENFORCEMENT RELATED TO UNMANNED AIRCRAFT SYSTEMS (DRONES)

This Training Announcement is to clarify the enforcement policy of the Austin Police Department relating to the operation of Unmanned Aircraft Systems (UAS), also known as “drones.” This Training Announcement replaces the April 16, 2015 Training Announcement regarding enforcement related to drones.

Officers should not focus their enforcement efforts on drones flying safely in public places, or over private property where the drone operator has permission to operate. There are a number of different scenarios, however, where drone operation: (1) presents a potential hazard to public safety; (2) violates private property rights or privacy interests; (3) or interferes with legitimate law enforcement operations. It is in these situations that officers should consider enforcement action. Officers who encounter drones being used in these situations should use the title code “Drone Involved # 4208” for tracking repeat offenders.

1. Unsafe Operation of Drones in Public Places

- Enforcement will be primarily focused on the unsafe operation of drones over or near events with a large number of people, such as sporting events, races, outdoor concerts, and other special events. Officers may also respond to reports of unsafe drone operation in other situations. Examples might include flying a drone:
 - near buildings, people, motor vehicles, or animals;
 - outside of the operator’s line of sight;
 - near overhead lines; or
 - in the vicinity of other aircraft
- Officers may enforce the following City Code provisions—violation of which is a class C misdemeanor—when they observe unsafe drone operation in public places, including drones operating over crowds:
 - Section 13-1-14(B)(3) (Prohibited Acts): “The operator of an aircraft may not: (3) operate an aircraft in a careless or reckless manner that creates a danger to another person’s health or property.”
 - Section 13-1-13 (Hazards to Air Navigation): “If requested to do so by an airport official or police officer acting at the direction of the air traffic controller or the director (of the Aviation Department), a person in the corporate limits of the city must immediately remove a hazard to air navigation, including a kite, balloon, model aircraft, radio-controlled aircraft, or other similar device or object.”

- If an officer observes a drone operating within 5 miles of the airport, they may contact an air traffic control or aviation department official to determine if the flight is authorized. If requested by an airport official, an officer may require a drone operator to land a drone.
- *Officers should not:* Enforce City Code provisions, including § 13-1-11, that require an airman's certificate, or a certificate of airworthiness, for operation of a drone.

2. Drones on Private Property:

State law prohibits individuals from using drones to surveil private property or certain critical public infrastructure.

- Texas Gov't Code Chapter 423 creates an offense (class C misdemeanor) if a person uses a drone to:
 - "capture an image of an individual or privately owned real property...with the intent to conduct surveillance on the individual or property captured in the image." TEX. GOV'T CODE § 423.003(a).
 - It is a class B misdemeanor for a person to disclose, distribute, or display an image or video taken in violation of section 423.003. TEX. GOV'T CODE § 423.004. It is a defense to prosecution if the drone operator destroys the images captured upon being informed that capturing the images violates the law. Regardless, police officers should NOT destroy images captured by a drone.
- Texas Gov't Code Chapter 423 also makes it an offense to operate a drone over a "critical infrastructure facility" (e.g., electrical power facility or a water treatment plant) at an altitude of less than 400 feet, or in a manner that interferes with the facility, unless the person has prior written consent or (if a commercial drone) consent from the FAA to operate in the airspace.

3. Drones Interfering with Law Enforcement:

- Officers should NOT detain a drone operator who is safely using a drone to record police in a public place, performing law enforcement duties, from a safe distance that is outside of any cordoned-off or restricted area, UNLESS officers can articulate specific facts to demonstrate that:
 - the drone operator is in violation of one of the laws cited above;
 - the drone operator is interfering with or impeding a law enforcement operation in violation of Texas Penal Code § 38.15; or

- the drone operator, by flying the drone in the vicinity of an emergency or accident scene, is interfering with law enforcement, fire-fighting, or rescue efforts and refuses to comply with the direction of the on-scene authority (including police officers in control of the scene) or air traffic controller, in violation of Austin City Code § 13-1-16
- Examples of when a drone may be interfering with, disrupting, or impeding law enforcement or emergency responders include:
 - the drone is operating inside of a cordoned-off crime or accident scene that is not accessible to the public;
 - there is a police or emergency helicopter in the vicinity;
 - the drone is reasonably believed to be capable of streaming live video (this belief may be developed by interviewing the operator, prior experience with the operator, or by relying on facts developed by other officers who, for example, observe the live internet stream) and is monitoring a police pursuit, a SWAT deployment, or a search for a fleeing suspect; or
 - the drone is flying so close to officers or other emergency responders that it is disrupting operations or placing the officers or emergency responders in danger (drones can disrupt or pose a danger to officers or other emergency responders with their lights, noise, or proximity (drones may lose control and their rotor blades can cause injuries)).
- Officers making an arrest for interference or impeding should be able to articulate specific facts to demonstrate how the drone negatively affected emergency or law enforcement operations.

4. Seizure of Drones as Evidence:

- Drones may be or contain (typically in the form of stored video) evidence of a crime. Accordingly, in appropriate circumstances, they may be subject to search and seizure by police.
- Officers should adhere to APD Policy 306 when searching or seizing a drone.
- Officers who reasonably believe that a drone is evidence or contains evidence of crime must get permission from their supervisor before searching or seizing the drone.

The Federal Aviation Administration has published a printable reference card to help guide police officers who encounter potentially unsafe or illegal operation of drones. The card is available at: https://www.faa.gov/uas/law_enforcement/LEO_guidance_card.pdf