



What is a First Amendment Auditor?



“First Amendment auditors” are people who seek to exercise their constitutional rights particularly through photographing and video recording in public spaces and engaging in protected free speech activities such as using profanity in public spaces. They typically attempt to provoke a response or otherwise “test” local government officials, while continuously recording the encounter. The “auditor” then shares the video on social media and critiques the officials’ response.

These encounters, when handled inappropriately, can result in costly or time-consuming litigation and potentially impact the employees involved in the interaction. When handled appropriately, the “auditors” walk away with non-sensationalistic photos or recordings and employees return to providing services to their citizens.

Texas has seen more than its fair share of these “auditors”, and they have a right to be on public property and record, which means local officials need to train in advance on how to respond. The following tips can help you successfully represent your entity when an “auditor” shows up:

What to do:

- Stay calm and be polite
- Limit interaction
- Provide your name if asked
- Maintain good customer relations/professional communication
- Pre-position computer screens so they can’t be seen by the public
- Use signs, doors, or physical barriers to restrict public access to sensitive areas
- Call the police if the “auditors” disrupt operations or attempt to gain access to restricted areas

What not to do:

- Don’t argue or use profanity
- Don’t have personal items/sensitive information in plain view
- Don’t tell an “auditor” they can’t film in public areas
- Don’t touch them (you may be committing assault)
- Don’t grab their camera or phone (you may be committing theft)
- Don’t video an “auditor” in a “tit-for-tat” (your video is subject to the Public Information Act)

Examples of Public Spaces where anyone can record:

- Customer service areas/entry ways
- Publicly accessible halls/corridors
- Publicly accessible streets/sidewalks/parks/plazas

Examples of Prohibited Public Spaces:

- Areas of government buildings that aren’t open to the public, such as office space behind closed doors.
- Restrooms
- Areas restricted by membership or tickets
- Non-publicly accessible areas at recreation facilities
- Non-publicly accessible areas at performance venues

Additional Resources

- [T.M.L. Risk Pool Photos and Videos at City Facilities](#)