



COLORADO SPRINGS POLICE DEPARTMENT

BULLETIN



ORIGINATED BY: COMMANDER BRIAN GRADY	APPROVED BY: DEPUTY CHIEF RON GIBSON <i>RJG</i>	DATE ISSUED: 08/03/2009	GENERAL TOPIC: FREE SPEECH RIGHTS	SERIAL NO.: 1008-09(P)
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The legal counsel for some large business owners has contacted the City Attorney's Office to request that the Police Department enforce trespassing laws against individuals circulating petitions or otherwise expressing free speech views on their private property. Senior Attorney Will Bain has communicated with the attorneys and has done legal research to determine the current law regarding free speech on private property. Senior Attorney Bain advised that the private property rights of the business owner outweigh the free speech rights of the individual. Revisions to General Order 701, entitled Free Speech Rights, have been made.

Additionally, the research by the City Attorney's Office indicates that both the Citadel Mall and Chapel Hills Mall can be interpreted to be public areas due to their size, number of stores, and past court rulings concerning malls. While the mall can still impose time, place, and manner of restrictions, the charge of trespass will not be appropriate for these two locations in Colorado Springs when addressing free speech rights. This change in enforcement policy will apply to all other shopping areas, strip malls etc.

The revised General Order specifies the conditions under which individuals can be cited for Trespass and other violations of criminal law on private property. If officers are sent to a call for service that involves a petition gatherer or other individuals expressing free speech on private property, they should first contact the business owner or person acting on behalf of the owner to determine if they had asked the individuals to leave the property and if they are willing to sign a complaint for Trespassing in the event that they do not leave. The officer should then contact a supervisor who will respond to the scene and the individuals will be afforded an opportunity to leave the property without criminal charges being filed. If, after given a lawful order to leave, the individuals still do not leave the property then they may be cited for Trespass on Private Property and served and released into Municipal Court. The supervisor should notify Will Bain of the City Attorney's Office of the fact that individuals have been cited, as Mr. Bain will be responsible for the prosecution of the summonses issued. The City Attorney's Office is available to consult with or respond to the scene prior to making an arrest if there are any unusual circumstances present.