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Congressman introduces resolution to protect citizens who videotape cops

Posted By [admin](#) On July 18, 2010 @ 8:43 am In [Prison Planet](#) | [1 Comment](#)

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[Photography is Not a Crime](#) ^[1]

July 18, 2010

A U.S. Congressman has introduced a resolution that would protect citizens who videotape cops in public from getting arrested on state wiretapping charges.

[Edolphus Towns](#) ^[2], a Democrat from New York, introduced the resolution on Thursday, the same day [USA Today](#) ^[3] wrote a scathing editorial denouncing these types of arrests.

These types of arrests have become an epidemic throughout the country as more people are carrying some type of video-recording device on them at all times.

But the case that has gained the most national attention has been the arrest of [Anthony Graber](#) ^[4], a National Guardsman who is facing 16 years in prison because he uploaded a video of a Maryland State Trooper pulling a gun on him during a traffic stop.

[H. Con. Res 298](#) ^[5] states the following:

Expressing the sense of Congress that the videotaping or photographing of police engaged in potentially abusive activity in a public place should not be prosecuted in State or Federal courts.



Whereas prosecutors in several States are applying State wiretapping laws in the prosecution of individuals for the videotaping of police engaged in potentially abusive activity;

Whereas State and Federal wiretapping laws were not intended to be used for such charges;

Whereas some police departments have been using national security as a justification for the harassment, charges, or an arrest of individuals, based solely

on a citizen recording, with no additional factors considered;

Whereas a study conducted by the U.S. Department of Justice in 2000 indicated that 22 percent of police officers claim their fellow officers sometimes, often, or always use excessive force; and

Whereas the privacy and safety rights of the police officers in the line of duty must be balanced carefully with the public's right to transparency and accountability of public servants: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) citizen recording fills in gaps in existing checks against law enforcement abuses, when balanced with the needs of law enforcement, police privacy, and citizen privacy;

(2) national security alone is insufficient justification for harassment, charges, or an arrest for otherwise innocent behavior, such as videotaping; and

(3) members of the public have a right to observe, and if they choose, to make video or sound recordings of the police during the discharge of their public duties, as long as they do not physically or otherwise interfere with the officers' discharge of their duties, or violate any other State or Federal law, intended to protect the safety of police officers, in the process of the recording.

[The Washington Post](#) ^[7], [NPR Talk of the Nation](#) ^[8] and [Gizmodo](#) ^[9] also reported on these types of arrests in the weeks leading to the proposed resolution with the Washington Post taking a strong stance against these arrests in [an editorial](#). ^[10]

Today, the [Cato Institute](#), ^[11] one of the most influential think tanks in the world, also reported on the issue as well as the [Tucson Citizen](#). ^[12] (where I got my start in newspapers back in the '90s).

These arrests tend to take place in states that have two-party consent laws regarding the electronic recording of conversations. These illegal wiretapping laws were created to protect people from having their phone conversations recorded, which is normally a situation where one would have an expectation of privacy.

However, police have twisted the law in their favor to arrest people who are videotaping them in public – where nobody has an expectation of privacy.

- In [South Florida](#) ^[13], a mother who was arrested last year for videotaping police arresting her son filed a lawsuit against the Boynton Beach Police Department this month.
- In [Oregon](#) ^[14], a police chief vowed that these types of arrest would continue even after his city had to dish out a \$19,000 settlement and the city attorney sent out a memo stating that these arrests were not legal.
- In [Massachusetts](#) ^[15], a pair of activists were arrested this month for openly videotaping cops in public, even after they had received permission from another law enforcement officer to videotape.
- In [Maryland](#), ^[16] where one prosecutor is threatening to send Graber, the motorcyclist, to prison for 16 years in prison, a prosecutor in another county has a completely different interpretation of the law and has refused to prosecute a citizen who arrested on these same charges after she videotaped cops in public.

And here are more wiretapping stories from PINAC.

- [Police continue to use wiretapping laws to crack down on people recording them](#) ^[17]

- [Police increasingly using false wiretapping charges to prevent public video recording](#) ^[18]
 - [If police have nothing to hide, then they shouldn't mind being videotaped](#) ^[19]
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URLs in this post:

- [1] Photography is Not a Crime: <http://carlosmiller.com/>
- [2] Edolphus Towns: <http://www.house.gov/towns/index.shtml>
- [3] USA Today : <http://carlosmiller.com/2010/07/15/usa-today-denounces-wiretapping-arrests-cops-offer-flimsy-argument/>
- [4] Anthony Graber: <http://carlosmiller.com/2010/04/16/maryland-motorcyclist-spends-26-hours-in-jail-on-wiretapping-charge-for-filming-cop-with-gun/>
- [5] H. Con. Res 298: <http://thomas.loc.gov/cgi-bin/query/z?c111:H.CON.RES.298:>
- [6] Image: <http://purewaterfreedom.com/>
- [7] The Washington Post: <http://www.washingtonpost.com/wp-dyn/content/article/2010/06/15/AR2010061505556.html>
- [8] NPR Talk of the Nation: <http://www.npr.org/templates/story/story.php?storyId=128387108>
- [9] Gizmodo: <http://carlosmiller.com/2010/06/04/gizmodo-mentions-pinac-in-an-article/>
- [10] an editorial.: <http://www.washingtonpost.com/wp-dyn/content/article/2010/06/20/AR2010062002532.html>
- [11] Cato Institute,: <http://www.cato-at-liberty.org/2010/07/16/cops-and-cameras-the-future-of-policing/>
- [12] Tucson Citizen : <http://tucsoncitizen.com/mark-evans/archives/304>
- [13] South Florida: <http://carlosmiller.com/2010/07/16/south-florida-model-sues-cops-who-arrested-her-on-wiretapping-charges/>
- [14] Oregon: <http://carlosmiller.com/2010/07/13/oregon-police-chief-wont-let-definition-of-law-get-in-the-way-of-a-few-arrests/>
- [15] Massachusetts: <http://carlosmiller.com/2010/07/06/cop-block-bloggers-arrested-on-felony-wiretapping-charges-for-filming-cops/>
- [16] Maryland,: <http://carlosmiller.com/2010/06/24/maryland-prosecutors-hold-different-interpretations-of-states-wiretapping-law/>
- [17] Police continue to use wiretapping laws to crack down on people recording them: <http://carlosmiller.com/2010/05/25/police-continue-to-use-wiretapping-laws-to-crack-down-on-people-recording-them/>
- [18] Police increasingly using false wiretapping charges to prevent public video recording: <http://carlosmiller.com/2010/01/12/police-increasingly-using-false-wiretapping-charges-to-prevent-public-video-recordings/>
- [19] If police have nothing to hide, then they shouldn't mind being videotaped: <http://carlosmiller.com/2008/02/06/if-police-have-nothing-to-hide-then-they-shouldnt-mind-being-videotaped/>

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