

Written Testimony Supporting Raised Bill No. 1206 An Act Concerning the Recording of Police Activity by the Public

Good afternoon Senator Coleman, Representative Fox and members of the Committee on Judiciary. My name is Sandra J. Staub. As the Legal Director for the ACLU of Connecticut, I am here to support Raised Bill No. 1206, An Act Concerning the Recording of Police Activity by the Public.

Much attention has been devoted to recent reports in Connecticut of police officers arresting members of the public for recording police activity. These arrests raise serious constitutional concerns that this bill addresses.

In this day and age of decreased technology costs, and increased information availability, the line between the ordinary citizen and members of the press is blurred; new stories are as likely to be broken by an internet blogger as they are by the Associated Press. Denying the right to record police officers infringes on the freedom of the press. Moreover, the public needs access to information regarding how police officers conduct themselves in order to protect their right to petition the government for change if change is necessary.

Protecting the ability of the public to record police is vital for the First Amendment freedoms of speech and of the press. The Supreme Court has long protected symbolic conduct as a form of speech. The act of a citizen in standing up to record what the police are doing is a symbolic act, illustrating the citizen's concern with police conduct, and should be protected as much as other forms of symbolic conduct are. Further, recordings of police activities are building blocks of speech. Denying people the ability to record police officers in public denies them the footage necessary to create, for instance, a documentary on the police, essentially allowing the police to censor speech they may not like.

Allowing civilians to record police conduct prevents police misconduct. Police misconduct is most likely to occur when the police are dealing with politically powerless groups: the young, the poor, the minorities, groups that have fewer resources and abilities to bring complaints. When police officers know their actions are likely to be recorded, they have an incentive to be on their best behavior whenever they deal with the public, because recordings create a genuine threat that police misconduct will be reported and taken seriously. This more solicitous behavior will in turn help to strengthen community relations with the police, making citizens more likely to trust and cooperate with police officers. Even when officers are on their best behavior, refusing to be recorded makes people wonder if they have something to hide. The public is more likely to trust police officers who allow recordings, and officers are more likely to toe the line if they know any breaches may be recorded.

Recordings of police arrests can in some cases provide vital exculpatory information. Human memory is flawed under the best of circumstances, and under

stressful situations is even less likely to be accurate. Pictures and videos accurately capture information that might be missed in the heat of the moment, and can provide important evidence for juries to consider at trial. Recordings can help courts determine the truth of events more easily, and protect defendant's due process right to a fair trial.

Police are also protected by recordings. In the absence of proof, an angry arrestee can bring a case against the police for misconduct. In a heated moment, under the influence of alcohol or drugs, an arrestee's memories of how an incident happened may be very different from what actually occurred. Recordings of police in their work protect the police from frivolous lawsuits by providing disinterested proof that no misconduct took place.

For all these important reasons, the legislature should pass Raised Bill No. 1206 and clarify the right to record police in Connecticut.