

FOCUS

Facing prison for filming US police

By Chris Arsenault

When police arrested Anthony Graber for speeding on his motorbike, the 25-year-old probably did not see himself as an advocate for police accountability in the age of new media.

But Graber, a sergeant with the Maryland Air National Guard, is now facing 16 years in prison, not for dangerous driving, but for a Youtube video he posted after receiving a speeding ticket.

The video, filmed with a camera mounted on Graber's motorcycle helmet designed to record biking stunts rather than police abuse, shows a plain clothes officer jumping out of an unmarked car and pointing a pistol at the motorcyclist.

It does not portray the policeman in a positive light.

After he posted the video on Youtube, police raided Graber's home, seized computers and put him in jail.

"The case is critical to the protection of democracy because I don't think you can have a free country in which public officials are able to criminally prosecute people who film what they are doing," David Rocah, a lawyer with the American Civil Liberties Union in Maryland who is representing Graber, said.

Wiretapping

Even though he had never been arrested before, Graber is being charged with illegal wiretapping and could face 16 years in jail.

"This is about shielding the policeman, a public servant, from journalistic scrutiny," Steve Rendall, a media analyst with Freedom and Accuracy in Reporting (FAIR), told Al Jazeera.

The arrest happened in April and the trial is expected to begin later this year.

Rocah said his client "was charged under the wiretapping statute which prohibits taping oral communications without consent".

The statute, which does not mention video recording, is not supposed to apply to "conversations in a colloquial context, but in a private context" Rocah told Al Jazeera.

The encounter happened on a public street and, according to Rocah, police officers - public officials tasked with protecting the public interest - should not be able to hide behind such rules to avoid scrutiny.

"The value of documenting what is happening cannot be over-stated," he said.

Threat to privacy?

Supporters of the crack-down on filming police argue that citizen journalists pose a threat to privacy.

That is the logic Joseph Cassily, the prosecutor handling Graber's case, is likely to make at the trial.

In media interviews, Cassily presented a scenario where police stopped someone on suspicion of drinking and driving, asking for a breath test, and a random passerby filmed the encounter, putting it on the internet without consent from the driver or the officer.

"Is there some interest in protecting private individuals who may be having a conversation with the police? Yes," Rendall said.

"But in the end, I think that is out-weighted by the public's right to know."

"[Furthermore] you can't walk through Washington Square [a public space in New York] without being in the view of dozens of video cameras run by the police."

Recording ban

The wiretapping statute which bans "secret" recording of private conversations is legislated by the state of Maryland, not the US federal government.

Other US states, including Florida, Illinois and Massachusetts, have used similar laws against citizen journalists.

In 2007, police in Florida arrested Carlos Miller, after the journalist photographed the arrest of a woman.

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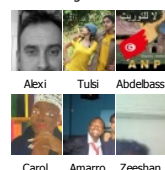
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"They [police] told me to leave the area, saying it was a 'private matter' and I said 'this is a public road'. They escorted me across the street and told me to keep moving. I had the right to be there and kept taking photos. They arrested me," Miller said.

He was charged with a series of misdemeanors and like many Americans arrested for filming police, Miller was eventually acquitted in court.



Security forces around the world use video evidence [Reuters]

The arrest prompted the reporter to start the blog **Photography is Not a Crime** where he has documented more than eight similar incidents.

But the idea of winning court battles against journalists may not be the reason security forces prosecute journalists with wiretapping laws and other methods.

Intimidating journalists

"The whole reason for these laws is to intimidate people from filming," Rendall said.

And attempts to intimidate journalists into putting down their cameras reach far beyond the US.

In February the UK's *Guardian* newspaper ran the headline "**Photographer films his own 'anti-terror' arrest**" for a story and video about a man who was held by police for eight hours after taking pictures of Christmas celebrations in the small town of Accrington.

Rocah points to the example of the post-election protests in Iran. "The regime completely shut down the traditional media," he said.

"It was citizens' video posted on the web that allowed the world to see what was happening."

Barack Obama, the US president, went so far as to ask Twitter to hold-off on a maintenance operation because the social networking site was playing an important role in the protests.

Police assault

The most prominent US example of a citizen journalist filming police was arguably the case of Rodney King, a black man in Los Angeles who was assaulted by several police officers. His beating was filmed by a citizen standing at a nearby gas station.

Without video evidence, King, a convicted felon, may have stood little chance testifying against police officers in court.

But the video of King's beating flashed across news screens and helped spark the 1992 Los Angeles riots, which left more than 50 people dead and caused about \$1bn in property damage.

The dynamics of video-tapping have fundamentally changed since then.

"I think that technology is making the issue [of arrests] arise with increasing frequency because the ability to record is more widely distributed than it ever has been," Rocah said.



The Rodney King case compounded anger at police who were perceived as racist [AFP]

The civil liberties lawyer, who believes the wiretapping law is unconstitutional and will eventually be struck down, says he is confident his client will be found not guilty.

Broader trends

But even if he is, this case is indicative of broader trends in media, and consequently, the exercise of power.

As technology outpaces the abilities of states to control the flow of information, governments in the US and beyond are cracking down on independent journalists.

"In the past, freedom of the press only really belonged to those who owned newspapers, TV stations or other major outlets," Miller said.

Now information is more diffuse; history easier to record and technology easier to afford.

Direct evidence, including video of police abuses, is the easiest way to hold the powerful to account. And that may be exactly why security forces do not want to be caught on tape.

Source: Al Jazeera

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