



September 26, 2014

Chief Ray Moore
Greenwood Police Department
406 Main St.
Greenwood, Ms 38930

Dear Chief Moore,

We write on behalf of the American Civil Liberties Union of Mississippi, to address an important constitutional issue confronting police departments today: the right of private citizens to make audiovisual recordings of public police activity. In order for us to gain a better sense of current policies and practices among Mississippi police and sheriff departments, we are surveying departments throughout the state and as part of that survey, we ask that you provide us with a copy of your policy and all accompanying training materials regarding the rights of citizens to record police activity.¹

There is a consensus of circuit courts of appeals that "the First Amendment encompasses a right to record public officials as they perform their official duties and that "photographing a police officer performing his official duties falls under the umbrella of protected expression."² Unfortunately, many officers are either unaware of this right or refuse or fail to appropriately act in accord with same. Due to the prevalence of cell phone cameras, misunderstanding between police and citizen journalist have arisen with increasing frequency in recent years, and the ACLU is often contacted by citizens alleging violation of their rights to record official conduct. As a result, the ACLU and the ACLU of MS have been involved in legal challenges over this issue and have benefited from input by the United States Department of Justice³ allowing us to develop considerable expertise in the area. Thus beyond our collection of information about current police practices and policies, it is our hope that by providing examples and sharing information about best practices with law enforcement officials, we can assist police in protecting the rights of citizens as well as public safety, and establish Mississippi as a national leader in this area of constitutional law.

¹ Please consider this a formal request under the Mississippi Code of 1972 Annotates, Section 25-61-5. Public access to records. If your department does not have a policy specifically addressing this issue, please let us know that. In that instance, you might consider using the enclosed model policy as a guide to develop your own.

² Buehler v. City of Austin, A-13-CV-1100 ML (W.D. Tex. July 24, 2014) (Memorandum Opinion and Order. Granting In Part And Denying In Part Defendants' Rule 12(b)(1)&(6) Motion to Dismiss)

³ The Department of Justice (DOJ) intervened in a ACLU lawsuit against the Baltimore City Police Department in which a Maryland man challenged police erasure of his cell phone videos after he recorded officers violently arresting his friend.

The DOJ has offered the following guidance on important elements police departments should include in their policies and training:

- (1) affirmatively set forth the First Amendment right to record police activity;
- (2) describe the range of prohibited police responses to individuals observing or recording the police;
- (3) clearly describe when an individual's actions amount to interference with police duties;
- (4) provide clear guidance on the necessity of supervisory review of any proposed action to be taken by officers against an individual who is recording police;
- (5) describe the narrow circumstances under which it is permissible for officers to seize recordings and recording devices; and
- (6) indicate that no higher burden be placed on individuals exercising their right to record police activity than that placed on members of the press.

DOJ's guidance was intended to assist police departments in developing appropriate policies and training programs with respect to the public's right to record. In light of recent events in Ferguson, MO it is our hope that we will take heed of DOJ guidance, we believe we can make Mississippi's law enforcement officers a model for others to follow.

Sincerely,



Charles Irvin
Legal Director



Rebecca Curry
Director of Policy and Advocacy

THE CITY OF
GREENWOOD
MISSISSIPPI

November 19, 2014

Mayor
Carolyn McAdams

Administration
Thomas Gregory
Chief Administrative Officer

City Clerk
Nick Joseph, Jr.
City Clerk

Police Department
Ray Moore
Chief of Police

Fire Department
Marcus D. Banks
Fire Chief

Public Works
Susan Bailey
Director

Community Development
Victor L. Stokes
Director

Human Resources
Regina Rich
Director

City Council
Johnny Jennings, Ward 1
Lisa Cookston, Ward 2
Ronnie Stevenson, Ward 3
Charles McCoy, Sr., Ward 4
Dorothy Glenn, Ward 5
David Jordan, Ward 6
Carl Palmer, Ward 7

Municipal Judge
Carlos Palmer

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P.O. Box 907
Greenwood, MS 38935
Phone: 662.453.2246

Website
www.cityofgreenwood.org

Social Media
Facebook: [cityofgreenwood](https://www.facebook.com/cityofgreenwood)
Twitter: [@cityofgreenwood](https://twitter.com/cityofgreenwood)

Charles Irvin

Leal Director

ACLU

Mr. Irvin:

This letter is in response to your letter dated Nov. 6, 2014 in regards to Greenwood Police Department policy about the right of private citizens, and to make audio visual recording of public policies activity.

The Greenwood Police Department does not have a written policy that specifically addresses this issue. However, I have a standing order that private citizens have the right to video or audio record any public police activity. This has been addressed by staff and safety meetings. All of our patrol units have in car cameras and body mics and the officers have been advised to use this equipment when encountering the public. This department is currently conducting a survey on the use of personal body cameras, and getting prices and information on them. I personally feel that the use of this type equipment is extremely helpful in interacting with the public. Not only does it make sure that our officers always act in a professional manner with the public, it also gives us a first-hand view of the public reaction with the officers. Your letter also asked under what circumstances the public would be prevented from exercising this right. There is only extremely limited circumstances that this would be prevented etc: ERT training and response, hostage and tactical situations where public knowledge of our tactics and response would put our officers or citizens in danger of serious harm or death. Each of these type situations would be evaluated case by case, and decision will be made at that time.

If I can be of anymore assistance, please do not hesitate to contact me

Raymond Moore

Chief of Police