

Bill as Introduced

HB 145 - AS INTRODUCED

2011 SESSION

11-0068

01/04

HOUSE BILL **145**

AN ACT permitting the audio and video recording of any public official while in the course of his or her official duties.

SPONSORS: Rep. Baldasaro, Rock 3; Rep. Jennifer Coffey, Merr 6; Rep. Hikel, Hills 7; Rep. L. Christiansen, Hills 27; Rep. Itse, Rock 9

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill permits the audio and video recording of any public official while in the course of his or her official duties.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

Amendments

Amendment to HB 145

1 Amend RSA 570-A:2, II(m) as inserted by section 1 of the bill by replacing it with the following:

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8

(m) Any person who is communicating in person with a public official acting in the course of his or her official duties, or the person's designee, to make an audio or video recording, or both, of the communication except where, in the reasonable judgment of the public official, the recording is likely to:

- (1) Result in physical harm to a person or property; or
- (2) Prevent the public official from carrying out his or her official duties.

employee

not adopted

*I approved amend
line three by adding
employee.
Ea*



2011-0053h

AMENDED ANALYSIS

This bill permits a person who is communicating with a public official who is acting in the course of his or her official duties to make an audio or video recording unless the recording is likely to result in physical harm to a person or property or prevent the public official from carrying out his or her official duties.

Rep. L. Christiansen, Hills. 27
January 25, 2011
2011-0064h
01/04

Amendment to HB 145

1 Amend RSA 570-A:2, II(m) as inserted by section 1 of the bill by replacing it with the following:

2

3 (m) Any person to make an audio or video recording, or both, anywhere that person has
4 a right to be of any public official while in the course of his or her official duties. This subparagraph
5 shall not apply to emergency medical personnel.

"Not Adopted"

Rep. Lambert, Hills. 27
February 1, 2011
2011-0136h
01/09

Amendment to HB 145

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT permitting the audio and video recording of a law enforcement officer while in the
4 course of such officer's official duties if the officer is provided with notice of such
5 recording.
6

7 Amend the bill by replacing section 1 with the following:

8

9 1 New Subparagraph; Audio and Video Recording of law Enforcement Officer in the Course of
10 Official Duties Permitted. Amend RSA 570-A:2, II by inserting after subparagraph (l) the following
11 new subparagraph:

12 (m) Any person to make an audio or video recording, or both, of a law enforcement officer
13 in the course of such officer's official duties; provided that the person making the recording shall first
14 give notification of the recording to the officer.

not adopted



2011-0136h

AMENDED ANALYSIS

This bill permits the audio and video recording of a law enforcement officer in the course of such officer's official duties, if the officer is provided with notice of such recording.

Rep. Welch, Rock. 8
March 9, 2011
2011-0737h
01/09

Amendment to HB 145

1 Amend RSA 570-A:2, II(m) as inserted by section 1 of the bill by replacing it with the following:

2

3 (m) Any person to make an audio or video recording, or both, of any public official while
4 in the course of his or her official duties; provided that:

5 (1) The person making the recording shall first give notification of the recording to
6 the officer;

7 (2) The person making the recording is personally interacting with the officer or is
8 recording the officer in a public area; and

9 (3) The act of recording does not interfere with the officer's ability to perform his or
10 her official duties.

Note Deleted

Rep. Welch, Rock. 8
March 9, 2011
2011-0766h
01/09

Amendment to HB 145

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT permitting the audio and video recording of a law enforcement officer while in the
4 course of his or her official duties.

5

6 Amend RSA 570-A:2, II(m) as inserted by section 1 of the bill by replacing it with the following:

7

8 (m) Any person to make an audio or video recording of a law enforcement officer in the
9 course of his or her official duties; provided that:

10 (1) The person making the recording shall first give notification of the recording to
11 the officer;

12 (2) The person making the recording is personally interacting with the officer or is
13 recording the officer in a public area; and

14 (3) The act of recording does not interfere with the officer's ability to perform his or
15 her official duties.

2011-0766h

AMENDED ANALYSIS

This bill permits the audio and video recording of a law enforcement officer while in the course of his or her official duties.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 145

BILL TITLE: permitting the audio and video recording of any public official while in the course of his or her official duties.

DATE: January 25, 2011

LOB ROOM: 204 **Time Public Hearing Called to Order:** 11:45 a.m.

Time Adjourned: 2:20 p.m.

(please circle if present)

Committee Members: Reps. Swinford, Gagne, Welch, Fields, Eesh, Charro, Villeneuve, Antosz, Greazzo, Kreis, Parsons, Tasker, Warden, Pantelakos, Berube, Shurtleff and Ginsburg

Bill Sponsors: Rep. Baldassaro, Rock 3; Rep. Jennifer Coffey, Merr 6; Rep. Hikel, Hills 7; Rep. L. Christiansen, Hills 27; Rep. Itse, Rock 9

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Baldassaro - Sponsor- Has an amendment coming. Everyone should have a right to record. Referenced a case in the Town of Weare. Someone was taking video and the camera was confiscated.

Rep. Lars Christianson - Supports. Brings forward an amendment. Amendment presented: 2011-0064h. No written testimony above and beyond amendment.

Rep. John Hikel - Supports the bill because it would provide proof via video and audio.

Rep. Coffey - Supports. Tells story of a third party incident. The bill is responsible to protect the privacy under the exemption for Emergency personnel.

Rep. Kurk - Presents - Amendment 2011-0053h. Amend bill to read as "Employee" really feels that this amendment is fair. The earlier amendment is too broad.

***Rep. Cunningham-** In favor of HB 145 also a health officer. Written testimony provided.

Rep. Itse: Quoted the Constitution of the United States.

HB 145 Page Two

Atty. General Ann Rice - Opposed as written. The bill is too broad as written. Definition of what a public official must be defined. Think about the enforce ability of the bill. Intent of bill must be defined. Does the bill allow a person to enter an official's office? Doesn't have an exception for Law Enforcement. Should be a provision for distance away from the person being recorded due to the type of event. No taping of juveniles. Sub Committee urged to study. 570A:II statute under "J". There is a lack of clarity.

NH Supreme Court - Howard Zibel concerned with taping in Court. Court room should be exempted. They do record video on Court proceedings and can be requested. Concerned with definition of what is a public official. Concerned about confidentiality in and outside of Court. The Court rules what goes on in the Courtroom. "Dignity of the Court". No written testimony.

Capt. Jones - While Captain New Hampshire State Police, agrees with Atty. Ann Rice. Does have concerns and her points.

Carla Gericke - Supports. Constitutional issues. Would agree with some amendments. Feels everyone should be free to record video-audio in any public place including inside the Courtroom. Case law versus Constitutional issues.

Michael Williams - Opposed. Had to leave, but also agreed that Attorney General Ann Rice and her testimony is correct.

Claire Ebel - Opposed - Too broad. The bill should go into Interim Study including HB 127. No written testimony.

*Dennis Goddard - Supports. Will provide testimony.

*Bill McGonigle - Supports. Reads testimony.

Peter Demas, Dept. of Environmental Services - Opposes as written.

Respectfully Submitted:



Rep. Gene P. Charron, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 145

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TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

H B 145

January - 25th

Called to ORDER: 11:45

11:45 (1)

Rep. Balkasaro: Sponsor - has an amendment coming - Everyone should have a right to record, referenced a Case in the Town of Weare. Someone was taking video and the camera was confiscated.

12:10 (2)
supports
Bill

Rep. ~~Miller~~ ^{Rep.} LARS CHRISTIANSON - Bring Forward an amendment
Amendment presented: 2011-0064 H

12:15 3
supports

no written testimony above and beyond amendment
Rep John Hubel - supports this Bill. because it would provide proof via video and audio.

12:25 (4)
supports

Rep Coffey - tells story of a third party incident - the Bill is responsible to protect the privacy under the ~~scope~~ exemption for Emergency personnel

12:45 (5)

Rep-KURR - presents - Amendment - 2011-0053 H. Amend Bill to read on "Employee" really feels that this amendment is fair the ~~the~~ earlier Amendment is too broad.

January - 25th 2011

6
1255

Rep Cunningham in favor ^{HB-} 145
also a health officer. Written testimony
provided.

7

Rep. ITSE: Quoted the ~~US CONSTITUTION~~ -
CONSTITUTION OF THE UNITED STATES

8
opposed.
as written

Atty General Rice - The Bill is too
Broad as written - definition of
What a public official must be defined
think about the enforceability of the
bill. Intent of Bill must be defined -
Does the bill allow a person to enter
an officials office? Doesn't have
an exception for law enforcement - Should
be a provision for distance away from
the person being recorded due to the
type of event. No taping of juveniles.

9

~~Michael A. Ade~~ sub-Committee urged
to study. 570 A II STATUTE under "J"
~~There~~ There is a lack of clarity.

1:20

NA SUPREME COURT - HOWARD ZIBEL
~~Concerned~~ Concerned with taping
in court Court room should be
exempted. They do record videos on
Court proceedings and can be requested

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CONTD. HOWARD ZIBEL-

(9) OTD
Law as
Proposed
Too Broad
needs
work.

Concerned w/ definition of what is a
public official - Concerned about
Confidentiality, in and outside of Court.
The Court rules what goes on in the
Courtroom. "Dignity of the Court"
no written testimony -

(10) 1:30
Does have
concerns

Capt James White Capt New Hampshire State
Police, agrees with Atty Ann Rice
~~on~~ ~~written~~ and her ~~rights~~ points

(11) 1:35
supports.

Carla GERICKE -
Constitutional issues - would agree
with some amendments, feels everyone
should be free to record video-audio
in any public place including
inside the courtroom. Case law
versus Constitutional issues

1:45 (12)
opposed.

Michael Williams - had to leave but also
agreed that Attorney General Ann Rice
and her testimony is correct.

1:45 (13)
opposed
Too Broad

Clairo Ebel - The bill should go into
interim study including HB-127
no written testimony -

2:00 14
Support

Denis Goddard, will provide testimony.

HB 145
January 25th
2011

15

2:10

support

Bill McGOVIGLE - reads testimony

16 2:15

opposes
as written

Peter Demas, Dept of Environmental
Services -

Closed
2:20 -

Sub-Committee Actions

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 145

BILL TITLE: (New Title) permitting the audio and video recording of a law enforcement officer while in the course of his or her official duties.

DATE: March 9, 2011

Subcommittee Members: Reps. Gagne, Warden, Welch, Ginsburg and Pantelakos

Comments and Recommendations: OTP/A

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. David A. Welch

Seconded by Rep. Phil Ginsburg

Vote: 4-1

Respectfully submitted,

Rep. Larry Gagne, Chair
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 145

BILL TITLE: permitting the audio and video recording of any public official while in the course of his or her official duties.

DATE: 3-9-11

Subcommittee Members: Reps. GAGNE, WARDEN, WELSH, GINSBURG, PANTALAKOS

Comments and Recommendations: OTP/A

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. WELSH

Seconded by Rep. GINSBURG

Vote: 4-1

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk

Larry Gagne

Sub-Committee Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 145

BILL TITLE: permitting the audio and video recording of any public official while in the course of his or her official duties.

DATE: February 22, 2011

Subcommittee Members: Reps. Gagne, Warden, Welch, Ginsburg and Pantelakos

Comments and Recommendations:

Amendments:

Sponsor: Rep. OLS Document #: 2011 0136h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: 4-0

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Larry Gagne, Chair
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 145

BILL TITLE: permitting the audio and video recording of any public official while in the course of his or her official duties.

DATE: 2-~~23~~²³-11

Subcommittee Members: Reps.

Comments and Recommendations:

Amendments: 2011-01362 (4-0)

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.
Seconded by Rep.
Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.
Seconded by Rep.
Vote:

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk

Testimony



State of New Hampshire House of Representatives

6

Hon. Steven L. Cunningham, O.D. ~ Sullivan County, District 2

State-Federal Relations and
Veterans Affairs
Room 203, Legislative Office Building
Concord, NH 03301

351 Old Springfield Road
Sunapee, NH 03782
603 763-4359
DrSteveC@live.com

January 25, 2011

Regarding: HB145

Chairman, Committee Members:

I am Representative Steve Cunningham, representing Sullivan County District 2.

I am a Health Officer for the town of Croydon. My duties frequently impose upon the residents of my town. By the nature of my intrusion, I believe my position is open to abuse and the citizens of my town should be able to record any conversations with me.

I support HB145.

Thank you.

A handwritten signature in cursive script, appearing to read "Steve C".

Steven Cunningham, O.D.
New Hampshire State Representative

8

January 25, 2011, Hearing on House Bill 145
Notes of Associate Attorney General Ann Rice

- AG opposes bill as written
 - Supports the idea of accountability of public employees
 - Language extremely broad, presents of # of unresolved issues, concerns
- “Public official” is not defined
 - Only statutory definition of public official in statutes is RSA 15-B:2, X:
 - “Public official” means a commissioned, unclassified, or nonclassified executive branch employee, but shall not include any commissioned, unclassified, or nonclassified employee elected by the legislature.
 - Bill appears to allow taping at any time, in any place – no time, place, or manner restrictions
 - Does the person being taped have to be a party to the conversation?
 - No provision that taping has to be open and conspicuous
 - Does person taping have to inform the public official
 - Is the intent to allow for surreptitious recording?
 - Does this give a person the right to tape-record, regardless of whether the other person consents?
 - If yes, bill turns current law on its head
 - Does it mean that member of public has right to go into a public official’s office and set up a recorder?
 - Is taping permissible, regardless of the impact it may have on the official’s ability to do his/her job
 - Clerks at DMV – busy office, setting up a video recorder could impede flow of customers
 - No exception of law enforcement, emergency first responders
 - Does someone have the right to place him/herself in the middle of an arrest situation, to tape the events?.
 - There needs to be some provision to preclude taping when it impedes the ability of a police officer, fire official to respond to an emergency
 - Bill would create statutory inconsistencies:
 - Non-public session in RSA 91-A
 - Juvenile proceedings in district court
 - Attorney/Client privilege – AAG interacting with state official/state employee
 - Consider including language to the effect of “unless otherwise contrary to law, or the communication is confidentiality. . . .
 - If committee is inclined to pass the bill, urge you to put it in subcommittee and better define its scope

14
~~14~~

<http://www.dvorak.org/blog/2006/07/11/5963/>

UPDATE: Out Of Control Police in Nashua, NH. Man arrested for filming own property

Published on July 11th, 2006

UPDATE: Lawyer and civil rights activist Christopher King has picked this case up. It promises to be an interesting case, as Mr. Gannon plans to sue once he beats the charges and because the police intend to make an example of him for allegedly being "verbally abusive".

A city man is charged with violating state wiretap laws by recording a detective on his home security camera, while the detective was investigating the man's sons.

Michael Gannon, 49, of 26 Morgan St., was arrested Tuesday night, after he brought a video to the police station to try to file a complaint against Detective Andrew Karlis, according to Gannon's wife, Janet Gannon, and police reports filed in Nashua District Court.

3

Police instead arrested Gannon, charging him with two felony counts of violating state eavesdropping and wiretap law by using an electronic device to record Karlis without the detective's consent.

"We've had four break-ins," Gannon's wife told the *Nashua Telegraph*. "One guy came right up our stairs and started beating on my husband, and we called the cops." Following a subsequent break-in involving a camper on their property, an officer told the Gannons they were "too rich" for the neighborhood and should move out.

Janet eventually had to post \$10,000 in bail to get her husband out of jail. He faced a possible 21-year-prison sentence.

You can't record people on your own property? This guy had a sign, so it wasn't illicit. He wanted to use the tape to complain about a cop, what kind of irony is that?

<http://freedominourtime.blogspot.com/2007/06/watching-detectives-can-land-you-in.html>

4

Police in Rochester, New Hampshire found 48-year-old Christopher A. Power sitting in his car while apparently inebriated. The engine was running, and Power was sitting behind the wheel, but a good attorney could make a case that he was not "operating" the vehicle for the purpose of being charged with a DUI. He told the police that he was "stressed" and upset, and was listening to his stereo in the hope of dispelling his foul mood.

After the police removed Power from his vehicle, they discovered a mini-cassette recorder he had used to document the entire incident. In addition to being charged with driving while intoxicated, Power was slapped with a wiretapping charge, which is a Class B felony.

Recording Public Officials

From White Mountain Policy Research

Contents

- 1 Testimony
- 2 Press Coverage
 - 2.1 New Hampshire
 - 2.2 National

Testimony

Madam Chair,

RSA 91-A, our celebrated Sunshine Law, tells us that "Openness in the conduct of public business is essential to a democratic society. The purpose of this chapter is to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people." We know that transparency encourages good behavior. This chapter specifies: "all meetings, whether held in person, by means of telephone or electronic communication, or in any other manner, shall be open to the public" and that "Any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras, and videotape equipment, at such meetings." We can't all be in every place at every time, yet we ask our government to act on our behalf, and so such recordings are used to provide an un-biased, durable, and objective record of our government's actions.

In most cases of recording official interactions, the results are expected to be exceedingly dull - everything happens the way we expect it should. At issue is not whether most public officials are bad, but whether the State provides the very small minority of those who would exhibit poor behavior a veil of secrecy to be used as a tool of tyranny. Such acts among police only serve to sully the reputations of their fellow officers and damage the reputation of a State government which seemingly seeks to defeat the very transparency and accountability that can both correct and prevent such egregious violations of the public trust. An accountable government has no tolerance for such actions and offers them no harbor.

Over the past year, with the proliferation of both awareness and technology, this issue has come to the fore on both a local and a National scale. While the NH Legislature has been working its way through this issue for a few years, a few prominent cases, not the least of which being the notorious BART murder, have created a crescendo of support against State prosecution of recordings of this type, because of the essential feedback they provide to our system of government. Leading thinkers, analysts, and legal scholars from across America have concluded that both moral virtue and the march of progress demand an end to such prosecution.

I urge you to support this bill and have provided references to several research pieces with my written testimony. Thank you for your consideration of this matter.

Submitted for HB145(2011) by Bill McGonigle, 251 Croydon Turnpike, Plainfield NH.
603.448.1668

Press Coverage

New Hampshire

No police scrutiny: Drop the camera and back away

Union Leader Editorial[1] ([http://unionleader.com/article.aspx?
headline=No+police+scrutiny%3A+Drop+the+camera+and+back+away&articleId=72e946b9-
ea84-4462-aafc-b6be8bfd303](http://unionleader.com/article.aspx?headline=No+police+scrutiny%3A+Drop+the+camera+and+back+away&articleId=72e946b9-
ea84-4462-aafc-b6be8bfd303))

July 13, 2010

It shouldn't be a crime to record public officials doing their jobs or to record public disturbances or other crimes. Doing so can be a public service. (Had someone taped the incident involving Christopher Micklovich and four off-duty Manchester police officers outside the Strange Brew Tavern earlier this year, that saga would not be dragging on and on.) But in New Hampshire it's not only a crime, it's a felony. This needs to change.

Arrested for recording the police on your own property[2] ([http://www.examiner.com/civil-liberties-
in-national/jerome-tuccille](http://www.examiner.com/civil-liberties-in-national/jerome-tuccille))

by Jerome Tuccille
Examiner.com
Dec. 11, 2008

Travis's arrest by a clearly annoyed cop is just the latest example of ticked-off police officers using the law as a weapon to block or punish efforts to monitor their conduct. New Hampshire law requires consent for audio recording (apparently you can record video alone without consent) -- even in encounters with government employees working in their official capacity, and even on private property. That law has been used to punish videographers monitoring police conduct in the past: The Concord Monitor refers to two other incidents in which private citizens were arrested for recording police encounters. Michael Gannon, 40, of Nashua was arrested after his home security camera made video and audio recordings of detectives who had come looking for his teenage son. Felony wiretapping charges against him were later dropped. Gannon was arrested after he brought the recordings to the police station to complain that a detective had been rude to him.... a case in the Keene area, in which a motorist was charged for turning on a tape recorder after being pulled over by the police, Dumaine said.

National

Our view on cops and cameras: When citizens film police, it shouldn't be a crime[3] (http://www.usatoday.com/news/opinion/editorials/2010-07-15-editorial15_ST_N.htm?loc=interstitialskip)

USA Today - Editorial
7/14/2010

This is an abuse of prosecutorial authority and a misinterpretation of state law. But it's typical of the attitude of too many prosecutors and police toward people who record their encounters with law enforcement and are usually completely within their rights to do so.

Recording The Police [4] (http://www.schneier.com/blog/archives/2010/12/recording_the_p.html)

Bruce Schneier
Schneier on Security
December 21, 2010

This is all important. Being able to record the police is one of the best ways to ensure that the police are held accountable for their actions. Privacy has to be viewed in the context of relative power. For example, the government has a lot more power than the people. So privacy for the government increases their power and increases the power imbalance between government and the people; it decreases liberty. Forced openness in government -- open government laws, Freedom of Information Act filings, the recording of police officers and other government officials, WikiLeaks -- reduces the power imbalance between government and the people, and increases liberty.

The Rules And Your Rights For Recording Arrests[5] (<http://www.npr.org/templates/story/story.php?storyId=128387108>)

Neal Conan
National Public Radio, Talk of the Nation

CONAN: The Maryland, you mentioned, is one of the places where it seems to be at least an interpretation of state law that it's illegal. There has been a celebrated case involving a student at the University of Maryland.

Mr. BALKO: Yeah, that's right. In Maryland in February, a University of Maryland student was pretty savagely beaten by some police officers after a University of Maryland basketball game, and it was caught on numerous cell phone cameras and posted to YouTube. And the videos that were documented and posted actually contradicted the police report. And in fact, there was a security camera, a police-operated security camera that was pointed in an area that would have covered the beating, and mysteriously, that camera stopped functioning during the period that the beating

occurred. But after this happened, we started seeing these arrests in Maryland. People were starting to be arrested for recording police officers, and Maryland prosecutors and police were using this old wiretapping statute. And, I mean, interestingly in Maryland, the Maryland law actually does have an expectation of privacy provision. So basically, if you record someone without their consent, you've broken the law unless that person had no reasonable expectation of privacy with respect to that conversation.

CONAN: But this is a public official in the course of their duty on a public street.

Mr. BALKO: Absolutely. And in one case, this was a police officer who actually had his gun out and was pointing his gun at a person that he had pulled over. And it's really absurd. I mean, the way that Maryland law enforcement officials have interpreted this law, when a police officer pulls you over, he has an expectation of privacy with respect to what transpires during the interaction. You, the citizen, don't, obviously, you know, the old Miranda warning, anything you say can and will be used against you. And it's really fundamentally at odds, I think, with some of the sort of core concepts of what we associate with a free society.

Straight Talk: Videotaping Police[6] (<http://www.foxnews.com/story/0,2933,284075,00.html>)

by Radley Balko

Fox News: Opinion

Tuesday, June 19, 2007

But it shouldn't end there. Legislators need to repeal laws explicitly forbidding the recording, photographing or videotaping of police officers. And to the extent that more generalized wiretapping laws meant for the general public also apply to the police, they should be amended to allow private citizens to record officers while they're on duty. This isn't to say police don't have the same privacy rights as everyone else. They do — when they aren't on duty, in possession of a sidearm and carrying with them the authority that comes with enforcing the law of the state. But while they're on duty, they serve the public. And the public, their employer, should have every right to keep them accountable.

Watching the Watchers: Why Surveillance Is a Two-Way Street [7]
(<http://www.popularmechanics.com/technology/military/4237005>)

By GLENN HARLAN REYNOLDS

Popular Mechanics

October 1st, 2009

Supporters of widespread surveillance often argue, "If you're obeying the law, you have nothing to fear." Why shouldn't the same go for police officers? The cases above all involve accusations of extreme misconduct or errors on the part of police. Let's hope those are rare. Far more common, I suspect, are cases where the existence of a video record helps protect honest cops from false charges. The "don't Tase me, bro" case became a YouTube sensation after footage emerged of University of Florida police using a Taser on an obstreperous student. But ultimately that same footage was instrumental in clearing the officers of charges of wrongdoing. Under the law, citizens

have no right not to be photographed in public places. So why should people who make their living on the taxpayers' dime enjoy greater freedom from public scrutiny than the taxpayers themselves? Civil liberties groups have begun supporting the trend toward a video-enabled populace. The Eastern Missouri chapter of the American Civil Liberties Union sends out volunteers with cameras, though they have faced police hostility at times. Over the long haul, such efforts may be superfluous. The widespread availability of digital cameras and video-capable cellphones means that ubiquitous surveillance on the part of the little guys is moving, if anything, even faster than ubiquitous surveillance on the part of the big boys. And distribution tools like YouTube make it easier to get the footage to a large audience.

ACLU challenges law barring recording of police [8]

(<http://archive.chicagobreakingnews.com/2010/08/aclu-challenges-law-barring-recording-of-police.html>)

Chicago Breaking News Center
August 9, 2010

According to the ACLU, the law has been used to thwart people who want to monitor police activity for misconduct. That includes the ACLU itself, which states in the complaint that it wants to monitor police using recording devices, but it fears Alvarez's office will prosecute the civil rights organization for violating the eavesdropping act.

Woman Arrested For Recording Attempt To Report Police Officer Who Sexually Assaulted Her

by Mike Masnick
Techdirt Legal Issues
Jan 24th 2011

We've had a few stories about how police have been abusing wiretap laws to arrest people who video or audiotape the police, and here's a whopper of a case. Apparently a woman named Tiawanda Moore has been arrested and faces 15 years in prison in a case that goes to trial shortly. Her "crime"? Apparently, after being sexually assaulted by a Chicago police officer, she went to the Chicago Police Department's internal affairs group to report the officer. After being pressured not to file a report, she pulled out her mobile phone and started recording what was going on. The officers in the room saw this... and arrested her for eavesdropping. Oh yeah, while her trial starts shortly, the officer she reported is still "being investigated."

Deputy confiscates woman's cell phone BY RANDY LUDLOW The Columbus Dispatch July 29, 2010

When a deputy sheriff began questioning Melissa Greenfield's boyfriend at a Delaware County truck stop, she began recording video with her cell phone. ... Burke wrote in his report that he feared that Greenfield could have been holding a dangerous object such as a "cell-phone gun." However, neither the sheriff's office nor the Columbus office of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives has ever come

across one of the black-market devices that apparently are made in Eastern Europe. After Greenfield got her phone back, she said the video she took of the deputies at the Flying J truck stop at I-71 and Rt. 37 on July 9 had been deleted, along with a couple of vacation videos. Deputies did not delete any video, Davis said. A warrant would have been required to search the phone, and one was not obtained, he said. The sheriff's cruisers are not equipped with dashboard recording systems, so there is no public video to document what occurred.

Retrieved from "<http://wmpolicy.org/wiki/index.php/RecordingPublicOfficials>"

- This page was last modified on 25 January 2011, at 00:54.
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http://en.wikipedia.org/wiki/Lester_Eugene_Siler

Lester Eugene Siler, a convicted drug dealer in the United States, was beaten and tortured by Campbell County, Tennessee police during an interrogation at his home, during which officers attempted to coerce Siler to sign a consent form giving them permission to search his home without a warrant.

① On July 8, 2004, police officers entered the house of Siler and tortured him using various methods, including applying electricity to his genitalia. Upon arrival, the officers asked his wife, Jenny, and son to leave. Before the torture, however, Siler's wife set up an audio recorder which captured a large portion of the incident.

Five officers, Gerald David Webber, Samuel R. Franklin, Joshua Monday, Shayne Green, and William Carroll were convicted in federal court of the beatings and attempted cover-up. They received prison sentences ranging from 51 to 72 months.[1]

Transcript available at: <http://web.knoxnews.com/pdf/silertranscript.pdf>

<http://www.unionleader.com/article.aspx?headline=Wiretapping+wars%3A+Filming+police+should+be+no+crime&articleId=4b0a5c1d-b178-4303-8c59-4cc1610af295>

Wiretapping wars: Filming police should be no crime

Saturday, Jul. 31, 2010

② At a July 4th party in Portsmouth, 20-year-old Adam H. Whitman was allegedly drinking alcohol. This week Portsmouth police charged him with unlawful possession of alcohol, as he is not yet 21. Whitman never bugged anyone's phone or secretly intercepted someone else's conversation. Yet Portsmouth police still say they might charge him with, of all things, wiretapping.

That's because Whitman allegedly pulled out his cell phone and recorded video of the party after police arrived. For this, he might face a felony wiretapping charge.

USA Today and other news organizations have reported an increase lately in wiretapping charges against citizens. The country is not suddenly beset by spies or criminals secretly recording private conversations. It's just that nearly everyone now carries some sort of handheld video camera, often a cell phone with video capability.

When police arrive at a party or a traffic stop or another potential crime scene, it is now common for members of the public to record these encounters. A lot of police officers don't like that. To discourage it, some are charging people with wiretapping.

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 01/19/2005

An initial TENNESSEE BUREAU OF INVESTIGATION (TBI) investigation created a transcript of the EUGENE SILER recording from July 8, 2004. TBI provided FBI KNOXVILLE the SILER recording and a copy of the associated transcript. On November 19, 2004, Special Agent (SA) JOSHUA T. MCKINNEY revised the original transcript, provided by TBI (see serial 24).

On January 19, 2004, following interviews of WILLIAM PAUL CARROLL (see serial 27) and GERALD DAVID WEBBER (see serial 28), SA MCKINNEY revised the transcript, originally provided by TBI and previously revised on November 19, 2004, with the clarifications provided by CARROLL and WEBBER. The revised transcript is attached to this FD-302.

Investigation on 01/19/2005 at Knoxville, Tennessee

File # 282A-KX-69820-29 Date dictated 01/19/2005

by SA JOSHUA T. MCKINNEY J.T.M.

Officer Green: Sign it!

Eugene: Tell me...

Officer Green: Sign it!

Officer Monday: Let him set there a minute and we'll charge him up here again. He'll sign it.

Eugene: (moaning and crying continues)

Officer Monday: Look here, Eugene, your fucking TV's gone too. Your fucking dope dealing days are over.

Eugene: They were stealing from us...

Officer Monday: You understand? Your fucking dope dealing days are over.

Eugene: (pleading) They were stealing from us.

Officer ___: They were stealing from you?

Officer Franklin: ...come here to steal your dope, wasn't he, Eugene: No.

Officer Franklin: Don't lie now.

Eugene: They stole a dog... you can ask my boy about it... they steal our dogs...

Officer Monday: What's this, Eugene?

Officer Monday: Here.

Muffled sound.

Eugene: (cries out)

Muffled sound.

Officer Monday: Here ya go. Looks like a fucking real gun to me.

Eugene: Sir, what are you doing?

Officer Monday: I'm gonna kill your fucking ass. Now you either sign or I'm gonna shoot ye'.

Eugene: (moans)

Officer Monday: Awright?

Officer Monday: It's what you wanted.

Officer Monday: Here. I'll stick it in ya' damn britches. That way ya' can't git up. There you go.
Muffled.

Eugene: I can git you a lot of people, you just don't understand.

Officer Webber: You need to sign that form.

Eugene: You just don't understand..

Officer Webber: No, you don't understand.

Eugene: (unintelligible)

Officer Webber: You don't understand. You need to sign that form.

Officer Monday: What do you use this flashlight for?

Officer Monday: Where you got your dope buried at,
Eugene?

Slapping, hitting or striking sound, followed by louder slapping, hitting or striking sound.

Officer Monday: Now, you gonna sign the son of bitch?

Eugene: (gasping)

Officer Monday: Now the next one is going in your fucking head, not your leg; your wooden leg any fucking way.

Eugene: (gasping)

Officer Webber: Eugene, sign it buddy or we're gonna go down and git your wife. You want us to do that?

Officer Carroll: Get the hell up thar'. Sit up thar'...fucking char'.

Officer Green: Git up here. Lean back now.

Officer Carroll: Sign this fucking paper and we'll leave you alone and we'll get on with our duty.

Slapping, striking, or hitting sounds.

Eugene: (moaning)

Slapping, striking, or hitting sounds.







Slapping, striking, or hitting sounds.

Eugene: (continues moaning)

Officer Webber: Why don't you want to sign the form, Eugene? You got a lot a bunch a' dope here, buddy?

No police scrutiny: Drop the camera and back away

Tuesday, Jul. 13, 2010

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 Reader comments

Take care, New Hampshire, that you don't let the police catch you using your cell phone or video camera to record their interactions with the public. You could be arrested and charged with a felony.

That's what happened to 20-year-old Adam H. Whitman of New Castle on July 4. Portsmouth police were called to a party after midnight and wound up filing charges against 20 people, many for underage drinking. Whitman, whom police say was intoxicated, was charged with disorderly conduct for allegedly encouraging partiers to resist the police, the Portsmouth Herald reported.



Then police explored the contents of a confiscated cell phone. It was Whitman's. Apparently, he had recorded some of what happened after police arrived. Law enforcement does not approve of that. Whitman found himself charged with wiretapping, a Class B felony in New Hampshire.

Wiretapping? Yes. Under New Hampshire law, using a device that "is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in telecommunication" to record an oral conversation without the permission of all participants is considered wiretapping.

Like the Driver Privacy Act, which was intended to protect citizens from criminals, the state's wiretapping statute has been used by law enforcement to protect itself from public scrutiny. Police who find their actions being recorded can, and do, charge citizens with wiretapping.

In Nashua in 2006, police charged Michael Gannon with wiretapping after he brought surveillance video from his home security cameras to the police station to show police brass how poorly he said officers treated his son while they investigated a robbery charge. The wiretapping charge was later dropped, but police kept the evidence — the security video recordings.

It shouldn't be a crime to record public officials doing their jobs or to record public disturbances or other crimes. Doing so can be a public service. (Had someone taped the incident involving Christopher Micklovich and four off-duty Manchester police officers outside the Strange Brew Tavern earlier this year, that saga would not be dragging on and on.) But in New Hampshire it's not only a crime, it's a felony. This needs to change.

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Dow ST

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Fax: 603-546-7456

Contact@NHLegalServices.com

www.NHLegalServices.com

PARTNERS:

Stephen T. Martin, Esq.

→ Seth J. Hipple, Esq.*

*Also admitted in MA

October 25, 2010

Jennifer Coffey
748 Raccoon Hill Rd.
Andover, NH 03216

Re: Union Leader Article

Dear Jenn,

Here is a copy of that article like you asked. Please let me know how I can help as far as testifying to the committee or any other things I can do to help this bill along.

In Liberty,


Seth J. Hipple, Esq.

Enclosure

Ed Smith

Je-
1922
Gr: 874-8a-
John Cebrowski

Activists claim police won't give back recording devices

◆ **New technologies:** House committee will re-examine RSA 570-A, especially as it relates to cell phone cameras.

By **DAN O'BRIEN**
Union Leader Correspondent

WEARE — Two civil liberty activists who were arrested on a felony wiretapping charge after they recorded a police traffic stop nearly seven months ago say their confiscated cameras still have not been returned.

Carla Gericke and William Rodriguez, members of the Free State Project, were arrested the night of March 24 when Weare police pulled over their friend who was driving another car on Route 114.

Gericke, 38, of West Lebanon, was driving behind Tyler Hanslin, 28, of Grantham, when Hanslin was pulled over by Sgt. Joseph Kelley for speeding in front of the Weare Middle School.

After Gericke was instructed by Kelley to pull into the school parking lot, she began recording the incident on her video camera, according to Gericke and a police report.

A mutual friend happened to drive by and called Rodriguez, who arrived moments later with his own camera.

The state's 40-year-old wiretapping law, RSA 570-A, says it's illegal to audio record someone without the person's knowledge. A conviction carries a possible 7-year prison term.

State Rep. Joel Winters, D-Manchester, has launched a State House committee to study the law to examine how it can be interpreted when people are recorded in public places, particu-

larly due to the rise of cell phone cameras.

"If someone is recording you without your knowledge or consent, that's the purpose of the wiretapping law, to protect you," Winter said. "The way it's been interpreted by some in law enforcement is that recording in public is a violation of the law. I don't think that's the right interpretation."

"Public officials are on the public pay roll, doing the public's duties in public," said Gericke's attorney, Seth Hipple, of The Law Offices of Martin and Hipple of Concord.

Sgt. Kelley called for back-up once he realized Gericke was recording him. After retreating to her car and rolling up the windows, Gericke was ordered out of the car by Officer Brandon Montplaisir, who arrested and charged her with disobeying a police officer.

According to Montplaisir's report, he was later ordered by Lt. James Carney to additionally charge her with felony wiretapping for recording the traffic stop.

"We're on the front lines trying to protect things we see changing in America," said Gericke, explaining why she wanted to record it.

"When you don't exercise your rights, you lose them," Rodriguez said.

During that stop, in which Gericke was standing about 50 feet away, Kelley wrote in a police report that he smelled marijuana inside Hanslin's vehicle and that the passenger, Ngoc Tran, 26, of Brockton, Mass., had a 9 millimeter handgun attached to the outside of his waistband.

After a K-9 indicated an odor of drugs, police towed Hanslin's car and later found, with a search

warrant, marijuana residue in an ash tray.

He and Tran were both charged with drug possession, but the charges were dropped weeks later by police prosecutor Katherine Baumann.

Gericke's charges were also dropped by the prosecutor, but not after her car was impounded.

Rodriguez, 38, of Grafton, who was arrested at the Weare police station while attempting to bail Gericke out of jail, had his felony wiretapping charges dismissed as well, along with trespassing and disorderly conduct.

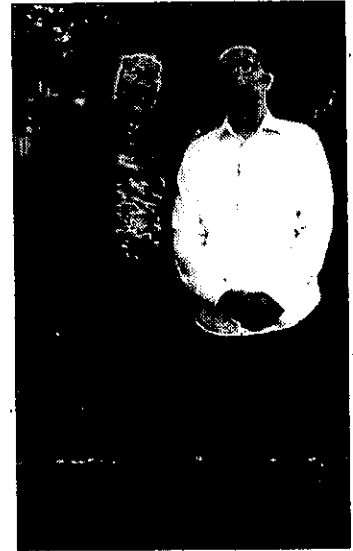
Rodriguez was arrested for allegedly videotaping Carney inside the police station lobby — an area outfitted with surveillance cameras — but Rodriguez said his camera was turned off and inside his pants pocket. He had been recording the traffic stop minutes earlier, but court records show his wiretapping charge was based on his alleged recording inside the police station.

Rodriguez said he's recorded police activity in public many times, but has never been arrested for it.

"I've had plenty of officers simply come over and say ... 'Would you mind recording from the other side?'" he said. "That's a level of professionalism I can respect, even if I disagree."

When reached for comment on this case in July, Weare Police Chief Gregory Begin refused to release any reports outlining details of the arrests to the New Hampshire Union Leader. The newspaper obtained reports from either Goffstown District Court or Hipple.

However, Begin confirmed that Gericke's and Rodriguez's cameras had not been returned



DAN O'BRIEN

Carla Gericke and William Rodriguez, both 38, were arrested by Weare police for felony wiretapping after they video recorded a traffic stop.

to them, saying there was a possibility the Attorney General's Office would indict the pair in Superior Court. A phone message for Begin left Friday was not returned.

Hipple said last week he does not believe an indictment is possible, especially given that seven months have passed since the arrests.

"There is no chance of it coming back," Hipple said. "They're not interested in these cases. That's why not a single one of them has been prosecuted."

Hipple requested police dashboard camera videos of the March incident, but Weare police said the cameras weren't working that night.

Police officials also said they don't keep maintenance records for the equipment when Hipple requested them.

The attorney is now fighting for the maintenance records in Hillsborough County Superior Court.

"The defendant is trying to make it public and the state is trying to hide it, so who do you believe?" Hipple said. "The tape doesn't lie."

Department of Safety Comments on HB_145___ SB ___ as Introduced (x) as amended ()

{This bill permits the audio and video recording of any public official while in the course of his or her official duties but does not apply to emergency medical personnel.}

This bill would permit anyone to audio or video record any public official while in the course of his or her official duties. It says this provision does not apply to emergency medical personnel.

It is good that the bill exempts emergency medical personnel so that people will not be sticking video cameras and tape recorders under their noses while they are trying to stabilize or transfer a patient. However, there are instances where allowing a bill that sweeps as broadly as this one is likely to impede other emergency responders such as police and firefighters when dealing with an emergency situation.

It's perfectly understandable that someone might wish to record conversations with their public officials. However, there are times when a police officer is responding to a tense situation involving possible weapons or trying to establish a perimeter around a scene to keep the public safe or keep them from interfering with a rescue operation or an arrest, when the last thing they need is for someone to be sticking a video recorder in their face and trying to make a recording. An officer could be negotiating with an armed or combative individual and trying to calm them and "talk them down" rather than have to use physical force, and the presence of someone stepping into the middle of this dialog with a recording device might lead an angry or disturbed individual into thinking that they need to "put on a show" for the camera and therefore cause the opposite effect of what the officer is trying to accomplish. This could lead to injury to the officer or to another person, or even leading to the person with the video equipment being shot if they approached an officer dealing with a dangerous situation and produced a device from under their coat that was mistaken for pointing a weapon at the officer.

We can think of other potentially dangerous situations. One would be a police officer dealing with a confused, intoxicated or deranged individual at a traffic stop and trying to keep the him or herself and the person they are dealing with safe from passing traffic. Another is the case if a Driver Licensing Officer is bringing a driver license applicant on a road test. Under this bill, if someone, whether related or friendly to the applicant or simply curious demanded to ride in the vehicle and video record that person while taking the road test, they could not be prohibited from doing so. This could make the applicant so nervous they failed the test or cause them to be involved in an accident. There are probably dozens of other instances, such as police applicants taking physical performance tests or participating in shoot-don't shoot and other scenario training, firefighters conducting simulated rescue operations where the presence of a video recorder might deflect their attention from the task at hand and result in an injury, etc.

Moreover, it could constitute an invasion of the privacy of the private citizen the officer or official was dealing with, who might be a fine, upstanding person who was under the influence of drugs, alcohol or extreme stress at the moment and could have their reputation permanently damaged or become a laughingstock when this video went "viral" on YouTube or a similar internet site.

We would suggest if this bill is deemed desirable public policy, at the least it be amended as follows, to address these concerns:

Amend the last sentence of the bill to read as follows:

“This subparagraph shall not apply to emergency medical personnel and shall not prevent police and fire personnel at the scene of a medical emergency, arrest, traffic accident, hostage situation or other hazardous situation or an official administering a physical performance test to a license applicant, when they reasonably believe the proximity of an individual with a recorder will pose an actual or potential hazard to the responders, bystanders or any individual involved in the incident or impede the peaceful resolution of the incident.”

There might be other unintended consequences where the presence of a recorder might lead to an unnecessary degree of formality in the interaction between a citizen and a public servant and we leave this to others who may be concerned to present that argument.

Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 145

BILL TITLE: permitting the audio and video recording of any public official while in the course of his or her official duties.

DATE: March 10, 2011

LOB ROOM: 204

Amendments:

Sponsor: Rep. David A. Welch OLS Document #: 2011 0766h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. David A. Welch

Seconded by Rep. Phil J. Greazzo

Vote: 14-3 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Mark Warden

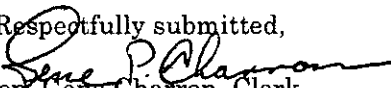
Seconded by Rep. Phil J. Greazzo

Vote: 13-4NO (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Gene Charron, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on {Type BILL NO.}

BILL TITLE: *permits the audio recording of any public official*
DATE: *while in the course of his or her duties*
LOB ROOM: {Type ROOM NO.} *204*

Amendments:

Sponsor: Rep. *welch* - OLS Document #: *2011-0766 H*
Sponsor: Rep. ~~Cerao~~ - OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *welch* -
Seconded by Rep. *Cerao-330* -
Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.
Seconded by Rep.
Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: {Type VOTE}

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,
~~Rep. Mary Allen, Clerk~~

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on {Type BILL NO.}

BILL TITLE: 145 permitting the audio recording
of any public officer while in the
DATE: {Type DATE} 3-29 course of his/her duties
LOB ROOM: {Type ROOM NO.} 204

Amendments:

Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Warden*

Seconded by Rep. *Greggo*

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: {Type VOTE}

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

~~Rep. Mary Allen, Clerk~~

regular

13-4

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB 145 Title: permitting the audio recording of any public official in the course of his/her duties

PH Date: 01/25/11

Exec Session Date: 3/10/2011

Motion: To pass Amendment 0766 H

Amendment #: 2011-0766 H

MEMBER	YEAS	NAYS
Swinford, Elaine B, Chairman	✓	
Gagne, Larry G, V Chairman	✓	
Welch, David A	✓	
Fields, Dennis H		✓
Fesh, Robert M	✓	
Charron, Gene P	✓	
Villeneuve, Moe	✓	
Antosz, Jason P	✓	
Greazzo, Phil J	✓	
Kreis, Kenneth	✓	
Parsons, Robbie L	✓	
Tasker, Kyle J	✓	
Warden, Mark	✓	
Pantelakos, Laura C		✓
Berube, Roger R	✓	
Shurtleff, Stephen J		✓
Ginsburg, Philip E	✓	
	14	3
TOTAL VOTE:		

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: 145 Title: permitting the audio recording of any public official while in the course of his or her duty

PH Date: 01/25/11

Exec Session Date: 3/1/11

Motion: OTP/A-

Amendment #: _____

MEMBER	YEAS	NAYS
Swinford, Elaine B, Chairman	✓	
Gagne, Larry G, V Chairman	✓	
Welch, David A	✓	
Fields, Dennis H		✓
Fesh, Robert M	✓	
Charron, Gene P	✓	
Villeneuve, Moe	✓	
Antosz, Jason P	✓	
Greazzo, Phil J	✓	
Kreis, Kenneth	✓	
Parsons, Robbie L	✓	
Tasker, Kyle J	✓	
Warden, Mark	✓	
Pantelakos, Laura C		✓
Berube, Roger R		✓
Shurtleff, Stephen J		✓
Ginsburg, Philip E	✓	
	13	4

Committee Report

REGULAR CALENDAR

March 10, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY to which was referred HB145,

AN ACT permitting the audio and video recording of any public official while in the course of his or her official duties. Having considered the same, report the same with the following amendment, and the recommendation that the bill **OUGHT TO PASS WITH AMENDMENT.**

Rep. Mark Warden

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	CRIMINAL JUSTICE AND PUBLIC SAFETY
Bill Number:	HB145
Title:	permitting the audio and video recording of any public official while in the course of his or her official duties.
Date:	March 10, 2011
Consent Calendar:	NO
Recommendation:	OUGHT TO PASS WITH AMENDMENT

STATEMENT OF INTENT

This bill is the result of extensive subcommittee work, testimony and input from a number of interested parties, including the Attorney General's office, police chiefs and the public. This bill promotes transparency and accountability among public officials and clarifies an ambiguous section of chapter 570:A that has been inconsistently applied, leading to arrests of people on felony wiretapping charges for simply recording routine traffic stops.

Vote 13-4.

Rep. Mark Warden
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB145, permitting the audio and video recording of any public official while in the course of his or her official duties. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Mark Warden for CRIMINAL JUSTICE AND PUBLIC SAFETY. This bill is the result of extensive subcommittee work, testimony and input from a number of interested parties, including the Attorney General's office, police chiefs and the public. This bill promotes transparency and accountability among public officials and clarifies an ambiguous section of chapter 570:A that has been inconsistently applied, leading to arrests of people on felony wiretapping charges for simply recording routine traffic stops. **Vote 13-4.**

Original: House Clerk
Cc: Committee Bill File

HB 145 permitting the audio and video recording of any public official while in the course of his or her official duties.

This bill is the result of extensive subcommittee work, testimony and input from a number of interested parties, including the Attorney General's office, police chiefs and the public. This bill promotes transparency and accountability among public officials and clarifies an ambiguous section of chapter 570:A that has been inconsistently applied, leading to arrests of people on felony wiretapping charges for simply recording routine traffic stops.

**Rep. Mark Warden
For the Committee
13-4 RC OTP/A 2011-0766h**

Rep. Elaine Swartz

HB 145 OTT/A Majority Report

This bill ~~comes out~~ is the result of extensive Subcommittee work, ~~the~~ testimony, and input from a number of interested parties, including the AG's office, police ~~departments~~ chiefs, and the public.

This bill promotes transparency and accountability among public officials and clarifies an ambiguous section of chapter 570A that has been inconsistently applied, leading to arrests of people on ~~felony charges~~ felony wiretapping charges for simply ^{recording} ~~recording~~ routine traffic stops.

Mark Warden

