

## Criminal Justice

# It's Definitely OK to Film Cops, Texas Judge Rules

By [Amy Silverstein](#) Wed., Jul. 30 2014 at 7:00 AM

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Smile for the camera, officer.

It's perfectly legal to film people who don't want to be filmed as long as it's all happening in public. If you're trying to provoke an asshole into kicking your ass without breaking the law yourself, getting a camera and the courage to overzealously use it may just be your ticket.

But filming cops, a popular pastime in Texas (and a topic [we cover a lot](#) here) doesn't quite have that same legal protection. The Supreme Court has never ruled on your right to record police. That's why activists and civil liberties experts are happy about a new ruling a Texas judge made in support of this avid cop-filmer.

Antonio Buehler may not feel safe around Austin Police Department officers, but he spends a lot of time filming them.

He became an activist back on January 1, 2012, after he thought Austin cops were too violent during the DWI arrest of a motorist. He started taking pictures and got arrested that night. He says it was just for taking the pictures, while the APD had claimed that Buehler had spit in the face of Officer Patrick Oborski.

After the arrest, Buehler decided to start recording his city's cops on a regular basis. One night he ran into Oborski again, camera in hand. "How you doing, Pat? Still harassing people?" Buehler asked.

Buehler got arrested a few more times in the course of his filming. Police also confiscated his camera.

Buehler is now filing a federal lawsuit claiming that the police have maliciously prosecuted him and used excessive force. More important to other cop-filmers, Buehler also argues that he had a First Amendment right to film.

The city of Austin tried to stop the case by arguing that filming officers isn't a recognized constitutional right. But last week, Judge Mark Lane said the lawsuit can still go forward because all citizens have the right to record public servants in public places as they do their job, as long as they don't interfere.

Lane also reviewed past rulings and determined that there is a "robust consensus" of past judges who similarly concluded that the First Amendment "encompasses a right to record public officials as they perform their official duties."

In other words, it's well-established case law that you can record police, even if nothing has landed on the desk of the Supreme Court yet. "He's definitely not the first judge to do that, that's kind of part of the point," says Rebecca Robertson, ACLU of Texas' legal and policy director. The ruling, she says, should send police officers nationwide the message that more citizens are going to be filming them and they need to figure out a way to handle all the cell phone cams appropriately.

It's a message that one of the local police unions has been slow to accept. In April, Dallas Police Association President Ron Pinkston [complained to CBS](#) that citizen taping is unsafe. "We don't know who it is pulling behind us," he said. "We don't know they're there to videotape. ... If that guy has just done a kidnapping they could be part of the kidnapping. You don't know."

**UPDATE:** Pinkston tells Unfair Park that being filmed doesn't bother him or other officers, as long as the person recording isn't getting in the way. "Make me look skinny in the video and I'm good with it," he jokes, and he's also expressed support in the press for equipping officers with squad car dash cams and body cams. It's the cameramen who follow cops in their cars that disturb him. "I don't like people pulling up behind officers," he says, pointing out that police officer deaths at traffic stops aren't uncommon.