

# Police

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tute intimidation and are vital tools for collecting evidence.

"We aren't going to just show up and monitor things," he said. "When there is an event with a history of violence, we use [cameras] so we can capture evidence and not rely on eyewitness accounts."

Though Critical Mass doesn't have a history of violence, Swenson said it has "a history of violations," mainly traffic infractions. The event is videotaped in case protesters who receive citations appeal their fines in court, he said.

"A picture is worth a thousand words," he said.

## Lawfulness of taping in question

But many people who are captured on film question the legality of police videotaping.

"We've had many, many, many complaints about this," said ASUO Legal Services attorney Ilona Koleszar. "We're researching the propriety of it."

According to the state attorney general's office, Oregon law doesn't contain a provision specifically addressing police use of video cameras. But a statute does exist that limits the police collection of information about political, religious or social activists and organizations.

Oregon Revised Statute 181.575 states that law enforcement agencies can collect information about activists only if the "information directly relates to an investigation of

criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct."

As long as police are filming in a public place and reasonably suspect that criminal activity is occurring or will occur, police have as much freedom to videotape as private citizens have, said Pete Shephard, special counsel to the Attorney General.

EPD spokeswoman Jan Powers said the department acts in accordance with this statute.

"Any time a criminal act is likely to occur, we can shoot video," she said. "We certainly can't just tape everybody on the street."

But some activists say the EPD does exactly what it aren't supposed to do — tape footage of parties and peaceful protests to identify troublemakers and activists in the community.

"At any rally where the police show up, they always have their cameras trained on people," Binder said. "Their use of training cameras on people has been absolutely oppressive."

## Creating hostile environments

Regardless of the legality of police videotaping, the use of cameras are worsening relations between police and the community, said University sophomore Elizabeth Boyarsky, who was videotaped at a party the EPD broke up on Oct. 15.

"The video cameras are very intimidating," she said. "Now, I don't feel I could turn to a cop if I had a problem, and I've had a few theft problems and safety issues at my home."

Eugene-based author John Zerzan,

an anarchist, said one of the reasons Eugene anarchists started wearing masks at protests is that they fear police videotaping and harassment.

"Some people don't want to be known to the cops," he said. "If you've got a camera on you all the time, you don't want to come [to protests]."

But Swenson, who said the EPD began using cameras when they became more lightweight and affordable, said that video cameras are so widespread that they couldn't be as intimidating as some activists say they are. Furthermore, he said, activists should appreciate the public record the videotapes make.

A videotape that doesn't contain evidence of a crime is erased, and a tape that is saved is discarded after the corresponding case is closed, Swenson said.

Adam Weiner, a Portland attorney representing an activist who was pepper-sprayed in a protest on June 1, 1997, said the EPD videos shot at the protest will be helpful in court.

"From my perspective, it's a good thing they videotaped, because what they taped I'll be using as evidence," he said.

But those activists who fear police harassment say the videotapes record protesters and not police.

"Who's watching the police?" Binder asked.

Recently, activists have begun wielding video cameras themselves to record police. This was the intent of the local television programs CopWatch and Cascadia Alive!

"We've begun fighting back to record their actions," Binder said.

A similar case, *Hanlon vs. Berger*, contested that special agents from the United States Fish and Wildlife Service — who had a warrant to search structures on a private ranch owned by residents suspected of illegally hunting wildlife — did not have the right to allow media to film the incident on private property.

A television crew from the Cable News Network (CNN) "accompanied and observed the officers, and the media crew recorded the officers' conduct in executing the warrant," officers said before the Supreme Court.

The court ruled the officers' actions in this case violated the homeowners' Fourth Amendment rights on the same grounds as *Wilson vs. Layne*.

"The fact is, both cases were different [from Schliefer's] in that the media were invited along [in the Supreme Court cases] by law enforcement authorities," Hiestand said. The sticking point in Schliefer's case is whether or not the sign constituted an invitation for the media to enter the premises.

Though Schliefer is not pushing for legal recourse, saying "what's done is done," he said even if the sign was an invitation for KVAL to enter through the back door, the television news team did not enter through his back door — they came in the rear gate.

He said the back door is located on the north side of the house by the carport, not the south gate where officers and KVAL originally entered.

# Privacy

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must decide if it constitutes an invitation to the media to enter, said Mike Hiestand, attorney for the Student Press Law Center.

He said the May 24, 1999, rulings by the U.S. Supreme Court, *Wilson vs. Layne* and *Hanlon vs. Berger*, don't necessarily ring true in Schliefer's case.

In *Wilson vs. Layne*, the court ruled that a media "ride-along" in a home violates the homeowner's Fourth Amendment rights to privacy. Though the officers had a warrant, the court said, the presence of the newspaper reporter and photographer accompanying them "was not in aid of the warrant's execution."

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