

Wiley Rein and ACLU Reach Landmark Settlement with Baltimore City Police in Right to Record Police Action Case

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Baltimore, MD – Wiley Rein and the American Civil Liberties Union (ACLU) of Maryland today announced a landmark settlement with the Baltimore City Police Department (BPD) in a right to record police action case. The agreement settles a 2011 lawsuit brought against the BPD by Wiley Rein’s pro bono client, Christopher Sharp, who alleged that BPD officers deleted two dozen personal videos from his cell phone after he used it to record officers violently arresting a female acquaintance at the 2010 Preakness. The civil rights suit was filed on behalf of Mr. Sharp by Wiley Rein attorneys Richard A. Simpson, Mary E. Borja, Craig Smith, Benjamin Kohr, and Laura E. Sherman, along with co-counsel Deborah A. Jeon, Legal Director of the ACLU of Maryland.

The agreement, which includes a settlement payment to Mr. Sharp, was approved today by the Baltimore City Board of Estimates. Other aspects of the agreement include:

- BPD will adopt a new policy that recognizes individuals’ rights to videorecord, audiorecord, and photograph BPD officers while they perform their official duties in public and other places where people have the right to be. The new policy will confirm individuals’ constitutional rights to make these recordings and photographs and provide specific procedures and directives to help ensure BPD officers’ non-interference with those First Amendment rights, as well as the rights to be free from wrongful search and seizure of individuals’ cameras, phones, and their contents.

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Practice Areas

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- BPD will institute training on the new policy and on recording and photographing in general. The settlement agreement requires BPD to notify all BPD personnel of the agreement and the substance of their obligations under the newly adopted training. The settlement agreement also requires several hours of training for all officers within a year and requires annual refresher training.
- BPD has formally apologized to Mr. Sharp, in writing, for the incident. In addition, BPD will compensate Mr. Sharp \$25,000 to resolve his claims and as further part of the settlement, reimburse Mr. Sharp's counsel \$225,000 for its costs and legal fees. Wiley Rein is donating its fees to the ACLU of Maryland.

"This settlement and the new Police Department procedures and training it requires will go far toward protecting the First Amendment rights of citizens to record police activity," Ms. Borja said. "Protecting those rights is particularly important at a time when so many people video record, blog, and tweet about events of their daily lives."

On May 15, 2010, Mr. Sharp was detained and harangued by police officers after he recorded the violent arrest, with the officers demanding that he surrender his cell phone as "evidence." Mr. Sharp politely declined, but police continued to demand that he give up his phone. Fearing arrest, he finally handed over the phone to an officer. The police then destroyed the beating videos and all other videos it contained—including videos of his young son at sporting events and birthday parties—before returning the phone to Mr. Sharp.

"It is really good when two different sides are able to come together and work towards something positive," Mr. Sharp said. "What happened to me was wrong. I knew that if the police would do this to me, they were doing it to others. But the police department was never my enemy. Now, the rules are clear and our First Amendment rights will be protected."

The case, *Sharp v. Baltimore City Police Department*, was pivotal in spurring the U.S. Department of Justice (DOJ) to issue an unprecedented legal statement in May 2012 on citizens' rights to record police actions. The DOJ guidance to law enforcement agencies across the country affirmed that citizens have a constitutional right to record police officers publicly performing their official duties. Following the DOJ release, the ACLU contacted Maryland law enforcement agencies to notify them, head off future problems, and promote the protection of the rights of citizens as well as public safety.

"We are proud to join with the Baltimore Police Department to announce a resolution to Christopher Sharp's case that upholds the First Amendment rights of all while supporting public safety," Ms. Jeon said. "The ACLU is grateful to Mr. Sharp for his courage in taking a stand for the fundamental, democratic right of citizens to use technology to hold government officials accountable for their actions in the public sphere. We also commend Police Commissioner Anthony Batts for his leadership in resolving this dispute and seeking to make the Baltimore Police Department a national model on this important civil rights issue."

To see legal documents and video of Christopher Sharp telling his story, [click here](#).