**“Let’s Be Careful Out There”: Lessons from Ferguson**

**Willamette Valley American Inns of Court**

**Team Partridge**

**April 16, 2015**

Oregon Law Regarding Videotaping

ORS 165.540 makes it a misdemeanor to videotape police in some circumstances is ORS 165.540. In relevant portion it states:

“(1) Except as otherwise provided in ORS 133.724 or 133.726 or subsections (2) to (7) of this section, a person may not:

\* \* \* \* \*

(c) Obtain or attempt to obtain the whole or any part of a conversation by means of any device, contrivance, machine or apparatus, whether electrical, mechanical, manual or otherwise, if not all participants in the conversation are specifically informed that their conversation is being obtained.

\* \* \* \* \*

(5) The prohibitions in subsection (1)(c) of this section do not apply to:

(a) A person who records a conversation during a felony that endangers human life;

(b) A person who, pursuant to ORS 133.400, records an interview conducted by a peace officer in a law enforcement facility;

(c) A law enforcement officer who is in uniform and displaying a badge and who is operating a vehicle-mounted video camera that records the scene in front of, within or surrounding a police vehicle, unless the officer has reasonable opportunity to inform participants in the conversation that the conversation is being obtained; or

(d) A law enforcement officer who, acting in the officer’s official capacity, deploys an Electro-Muscular Disruption Technology device that contains a built-in monitoring system capable of recording audio or video, for the duration of that deployment.

(6) The prohibitions in subsection (1)(c) of this section do not apply to persons who intercept or attempt to intercept with an unconcealed recording device the oral communications that are part of any of the following proceedings:

(a) Public or semipublic meetings such as hearings before governmental or quasi-governmental bodies, trials, press conferences, public speeches, rallies and sporting or other events;

\* \* \* \* \*

(8) Violation of subsection (1) or (2)(b) of this section is a Class A misdemeanor.

State v. Neff, 246 Or. App. 186, 265 P.3d 62 (2011)

The court held that the defendant--who recorded a conversation with a police officer after traffic stop--did not violate statute prohibiting recording of conversations without the participants being informed that the conversation is being recorded, where officer himself informed defendant that officer was recording the conversation and thus officer was also informed that the conversation was being recorded.

OTHER RELEVANT LINKS:

Article written by Matthew Blythe, Appellate Division of Oregon’s Office of Public Defense Services, regarding a citizen’s constitutional right to record law enforcement encounter



1994 Report from the Oregon Supreme Court Task Force on Racial and Ethnic Issues in the Judicial System. Former Chief Justice Edwin Peterson served as the chair of the task force

<http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovements/access/pages/racialfairness.aspx>

Salem Human Rights and Relations Advisory Commission

<http://www.cityofsalem.net/CityCouncil/humanrights/Pages/default.aspx>

Diversity Explosion: The cultural generation gap

<http://www.brookings.edu/research/interactives/2015/diversity-explosion>

Racial Gap in U.S. Arrest rates: “Staggering disparity”

<http://www.usatoday.com/story/news/nation/2014/11/18/ferguson-black-arrest-rates/19043207/>

Statistics Regarding Black Arrests in Salem Oregon from Chief Moore



Chief Jerry Moore remarks at Fourth Annual Breakfast with the Chief

<http://salempolicefoundation.org/uncategorized/chief-jerry-moore-salem-is-responding-differently/>

KGW News clip regarding “Driving While Black” app featuring Mariann Hyland

<http://www.kgw.com/story/news/local/2014/12/08/driving-while-black-app-portland-lawyers-kendra-james/20086045/>

**United States of America v. City of Portland Settlement Agreement Summary Prepared by COCL --Paul De Muniz and Tom Christoff (January 29, 2015)**





