

ACLU to challenge ruling regarding filming police

By Jeremy Roebuck, Philadelphia Inquirer

Civil rights lawyers said Wednesday that they intend to appeal a federal court ruling in Philadelphia that citizens do not necessarily have a right protected by the First Amendment to record police activity.

In an opinion issued last week, U.S. District Judge Mark A. Kearney wrote that unless a videographer announces the recording as an act of protest or a challenge to officers, police are free to stop it.

“While we instinctively understand the citizens’ argument, particularly with rapidly developing instant image sharing technology, we find no basis to craft a new First Amendment right based solely on ‘observing and recording’ without expressive conduct,” Kearney wrote.

But in an age of expanding surveillance – from instant cellphone photo sharing to increased use of police body cameras – the American Civil Liberties Union and its partners in the case were not alone in raising an eyebrow at Kearney’s conclusions.

Civil rights lawyers say the public’s right to record images has been established in other courts, including U.S. appellate courts based in Boston, Chicago, and Atlanta. Kearney’s ruling also landed in a city with a tumultuous history of conflict over public recording of police activity.

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