

City of Boston pays \$170,000 to settle landmark case involving man arrested for recording police with cell phone

Simon Glik broke no law making video of police officers' use of force against another man on Boston Common.

FOR IMMEDIATE RELEASE

Tuesday, March 27, 2012

CONTACT:

Christopher Ott, Communications Director, 617-482-3170 x322, cott@aclum.org

BOSTON -- Simon Glik, a Boston attorney wrongly arrested and prosecuted for using his cell phone to record police officers forcefully arresting a man on the Boston Common, has reached a settlement with the City of Boston on his civil rights claims. The settlement requires the City to pay Glik \$170,000 for his damages and legal fees.

Mr. Glik was forced to defend himself against criminal charges of illegal wiretapping, aiding the escape of a prisoner, and disturbing the peace. After a judge threw out those charges, Glik filed a civil rights suit against the city and the arresting officers in federal court in Boston, aided by the American Civil Liberties Union of Massachusetts and Boston attorneys Howard Friedman and David Milton. This settlement resolves that case.

The settlement follows a landmark ruling last August by the U.S. Court of Appeals for the First Circuit, declaring that the First Amendment protects the right to record police carrying out their duties in a public place, *Glik v. Cunniffe* 655 F.3d 78 (2011). The First Circuit's ruling is binding only in Massachusetts, New Hampshire, Maine, Rhode Island, and Puerto Rico, but its persuasive reasoning has been cited by courts and lawyers nationwide facing the recurrent issue of police arresting people for filming them.

The Massachusetts wiretap statute prohibits only secret recording of audio. The First Circuit in Glik's case affirmed that an arrest under the statute for openly recording the police would violate not only the First Amendment right to gather information but also the Fourth Amendment's guarantee against false arrests.

"The law had been clear for years that openly recording a video is not a crime. It's sad that it takes so much for police to learn the laws they were supposed to know in the first place. I hope Boston police officers will never again arrest someone for openly recording their public actions," said Glik.

"The court's opinion made clear that people cannot be arrested simply for documenting the actions of police officers in public. With this issue squarely resolved against it, it made sense for the City to settle the case rather than continuing to waste taxpayer money defending it," said David Milton, one of the attorneys for Glik.

As part of the settlement, Glik agreed to withdraw his appeal to the Community Ombudsman Oversight Panel. He had complained about the Internal Affairs Division's investigation of his complaint and the way

they treated him. IAD officers made fun of Glik for filing the complaint, telling him his only remedy was filing a civil lawsuit. After the City spent years in court defending the officers' arrest of Glik as constitutional and reasonable, IAD reversed course after the First Circuit ruling and disciplined two of the officers for using "unreasonable judgment" in arresting Glik.

After Glik filed suit, the City of Boston appeared to change its policy of letting police officers arrest and charge people with illegal wiretapping for recording them with cameras or cellphones in plain sight. The City developed a training video based on facts similar to the Glik case, instructing police officers not to arrest people who openly record what they are doing in public.

"The First Amendment includes the freedom to observe and document the conduct of government officials, which is crucial to a democracy and a free society. We hope that police departments across the country will draw the right conclusions from this case," said Sarah Wunsch, ACLU of Massachusetts staff attorney.

For more information about the case, see: <http://aclum.org/glik>

-end-