

Arizona governor signs law limiting ability of media and public to video police actions

D. Lencho
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Last week, Arizona's Republican-controlled state legislature approved a law limiting the ability of reporters, protesters and bystanders to record police interactions with citizens. Although couched in terms of prohibiting a person "from obstructing governmental operations," its real purpose is to intimidate people from making videos of police violence and malfeasance.

Republican Governor Doug Ducey signed House Bill 2319 into law on July 6, and it is scheduled to take effect in September. Its main provision states that "it is unlawful for a person to knowingly make a recording within eight feet of an activity and without the permission of a law enforcement officer (LEO)." It defines "law enforcement activity" as any of the following:

- Questioning a suspicious person,
- Conducting an arrest, issuing a summons or enforcing the law;
- Handling an emotionally disturbed or disorderly person who is exhibiting abnormal behavior.

The original bill, sponsored by Republican state representative and former policeman John Kavanagh, had set a limit of 15 feet, but that was reduced to eight feet in the final version after strongly worded opposition voiced by civil liberties, police transparency and press organizations.

On February 18, the National Press Photographers Association (NPPA) sent a letter, endorsed by over two dozen organizations, to the House Appropriations Committee chairwoman Regina Cobb and vice-chairman Kavanaugh, in opposition to the bill.

In the letter, the NPPA et al. said, "We are extremely concerned that this language violates not only the free speech and press clauses of the First Amendment, but also runs counter to the 'clearly established right' to

photograph and record police officers performing their official duties in a public place, cited by all the odd-numbered U.S. Circuit Courts of Appeal including the Ninth Circuit," under whose jurisdiction Arizona falls.

It also noted that the requirement of permission of a law enforcement officer "would not survive a constitutional challenge and is completely unworkable in situations (such as demonstrations and protests) where there are multiple officers and people recording." Moreover, it quoted the US Court of Appeals for the First Circuit opinion that "[a] police officer is not a law unto himself; he cannot give an order that has no colorable legal basis and then arrest a person who defies it."

The letter concluded, "Given our concerns and legal citations in opposition to HB 2319, we respectfully request that the bill not be voted out of committee and that the legislature consider withdrawing it entirely from consideration."

Kavanaugh maintained that the law is necessary because "there are groups hostile to the police that follow them around to videotape police incidents, and they get dangerously close to potentially violent encounters." He also claimed that the law "now only applies to filming during police-citizen encounters where there is a potential for violence, such as arresting or summonsing people, questioning suspicious persons, and handling emotionally disturbed people."

He also claimed that the distraction of being filmed at close range could put cops in harm's way and inhibit their ability to collect evidence.

Critics of the law, and some editorials, have punctured Kavanaugh's rationalizations, pointing out that there are already disorderly conduct and harassment laws on the books, that it would have a chilling effect on First Amendment rights, would be

unworkable and would give the cops the power, especially in fluid situations like protest demonstrations, to invoke the law whether a person is outside the eight-foot perimeter or not.

However, the law has to be seen both in the regards to policing in Arizona and across the United States and in view of the developing world capitalist crisis.

Arizona police are among the trigger-happiest in the nation. A June 2019 article by the *Arizona Republic* reported that Phoenix, Arizona police officers shot more people per year than any other city in the US. Statewide, Arizona cops shoot somebody every five days. Per capita, Arizona ranked fourth after Oklahoma, Alaska and New Mexico in the number of fatal police shootings from 2015 to 2018.

While the police violence shows disproportionate treatment of Hispanic, African-American and Native people, the largest number of victims nationwide are white, and the overwhelming majority of victims are working class and poor. A significant number of those brutalized and killed have mental health issues.

Recent revelations of police violence in Phoenix have included video of police repeatedly striking a person at a homeless encampment and making a joke of a protester being shot in the groin during an anti-Trump protest.

With animosity toward and protests against police violence growing, the US Department of Justice (DOJ) announced on August 5, 2021 that its Civil Rights Division would conduct an investigation into the City of Phoenix and the Phoenix Police Department (PhxPD). The DOJ statement said that it would “assess all types of use of force by PhxPD officers including deadly force. The investigation will also seek to determine whether PhxPD engages in retaliatory activity against people for conduct protected by the First Amendment; whether PhxPD engages in discriminatory policing; and whether PhxPD unlawfully disposes of the belongings of individuals experiencing homelessness. In addition, the investigation will assess the City and PhxPD policies, training, supervision, and force investigations, as well as PhxPD’s systems of accountability, including misconduct complaint intake, investigation, review, disposition, and discipline.”

Police Chief Jeri Williams responded in a news conference, “Any police department has room for

improvement; mine is no different.” Democratic mayor Kate Gallego declared, “Comprehensive reform of policing in the City of Phoenix has been my priority since the first day I took office.”

Governor Ducey, meanwhile, stated in his January 11 State of the State address that the DOJ, “instead of attacking Police Chief Jeri Williams and her officers for risking their lives and keeping Arizona streets safe during civil unrest, your time would be better spent protecting the federal courthouses in Portland, Seattle and San Francisco.”

Regardless of the lip service of Democrats and the denunciations of Republicans, the result will be at best cosmetic changes that will whitewash the worst abuses and not bring about any fundamental improvements for the workers who are the targets of harrassment and worse. The crisis-ridden capitalist system demands more, not less repression, to stifle any dissent to its warmongering, austerity and attacks on the working class’s democratic rights. HB 2319 is but one more item on this agenda.



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