

Activists claim police won't give back recording devices

◆ **New technologies:** House committee will re-examine RSA 570-A, especially as it relates to cell phone cameras.

By **DAN O'BRIEN**
Union Leader Correspondent

WEARE — Two civil liberty activists who were arrested on a felony wiretapping charge after they recorded a police traffic stop nearly seven months ago say their confiscated cameras still have not been returned.

Carla Gericke and William Rodriguez, members of the Free State Project, were arrested the night of March 24 when Weare police pulled over their friend who was driving another car on Route 114.

Gericke, 38, of West Lebanon, was driving behind Tyler Hanslin, 28, of Grantham, when Hanslin was pulled over by Sgt. Joseph Kelley for speeding in front of the Weare Middle School.

After Gericke was instructed by Kelley to pull into the school parking lot, she began recording the incident on her video camera, according to Gericke and a police report.

A mutual friend happened to drive by and called Rodriguez, who arrived moments later with his own camera.

The state's 40-year-old wiretapping law, RSA 570-A, says it's illegal to audio record someone without the person's knowledge. A conviction carries a possible 7-year prison term.

State Rep. Joel Winters, D-Manchester, has launched a State House committee to study the law to examine how it can be interpreted when people are recorded in public places, particu-

larly due to the rise of cell phone cameras.

"If someone is recording you without your knowledge or consent, that's the purpose of the wiretapping law, to protect you," Winter said. "The way it's been interpreted by some in law enforcement is that recording in public is a violation of the law. I don't think that's the right interpretation."

"Public officials are on the public pay roll, doing the public's duties in public," said Gericke's attorney, Seth Hipple, of The Law Offices of Martin and Hipple of Concord.

Sgt. Kelley called for back-up once he realized Gericke was recording him. After retreating to her car and rolling up the windows, Gericke was ordered out of the car by Officer Brandon Montplaisir, who arrested and charged her with disobeying a police officer.

According to Montplaisir's report, he was later ordered by Lt. James Carney to additionally charge her with felony wiretapping for recording the traffic stop.

"We're on the front lines trying to protect things we see changing in America," said Gericke, explaining why she wanted to record it.

"When you don't exercise your rights, you lose them," Rodriguez said.

During that stop, in which Gericke was standing about 50 feet away, Kelley wrote in a police report that he smelled marijuana inside Hanslin's vehicle and that the passenger, Ngoc Tran, 26, of Brockton, Mass., had a 9 millimeter handgun attached to the outside of his waistband.

After a K-9 indicated an odor of drugs, police towed Hanslin's car and later found, with a search

warrant, marijuana residue in an ash tray.

He and Tran were both charged with drug possession, but the charges were dropped weeks later by police prosecutor Katherine Baumann.

Gericke's charges were also dropped by the prosecutor, but not after her car was impounded.

Rodriguez, 38, of Grafton, who was arrested at the Weare police station while attempting to bail Gericke out of jail, had his felony wiretapping charges dismissed as well, along with trespassing and disorderly conduct.

Rodriguez was arrested for allegedly videotaping Carney inside the police station lobby — an area outfitted with surveillance cameras — but Rodriguez said his camera was turned off and inside his pants pocket. He had been recording the traffic stop minutes earlier, but court records show his wiretapping charge was based on his alleged recording inside the police station.

Rodriguez said he's recorded police activity in public many times, but has never been arrested for it.

"I've had plenty of officers simply come over and say ... 'Would you mind recording from the other side?'" he said. "That's a level of professionalism I can respect, even if I disagree."

When reached for comment on this case in July, Weare Police Chief Gregory Begin refused to release any reports outlining details of the arrests to the New Hampshire Union Leader. The newspaper obtained reports from either Goffstown District Court or Hipple.

However, Begin confirmed that Gericke's and Rodriguez's cameras had not been returned



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Carla Gericke and William Rodriguez, both 38, were arrested by Weare police for felony wiretapping after they video recorded a traffic stop.

to them, saying there was a possibility the Attorney General's Office would indict the pair in Superior Court. A phone message for Begin left Friday was not returned.

Hipple said last week he does not believe an indictment is possible, especially given that seven months have passed since the arrests.

"There is no chance of coming back," Hipple said. "They're not interested in these cases. That's why not a single one of them has been prosecuted."

Hipple requested police dashboard camera videos of the March incident, but Weare police said the cameras weren't working that night.

Police officials also said they don't keep maintenance records for the equipment when Hipple requested them.

The attorney is now fighting for the maintenance records in Hillsborough County Superior Court.

"The defendant is trying to make it public and the state is trying to hide it, so who do you believe?" Hipple said. "The tape doesn't lie."

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