



*Sharma v. NYPD et al.*  
(Defending right to photograph and film public property)

**NYCLU Sues NYPD For Harassing, Detaining Photographers**

August 10, 2006

New York, NY – Despite all the publicity, lawsuits, and media focus on the fact that taking photographs in public places is not illegal and is protected by the United States Constitution's First Amendment, it seems as if the police officer on the beat in New York City either hasn't heard about it, doesn't believe it's true, or just really doesn't care, because NYPD officers continue to harass, detain, and threaten filmmakers and photographers. So much so that the New York Civil Liberties Union has been forced to expand a federal lawsuit challenging NYPD's ongoing behavior toward photographers.

Meanwhile, police officials say the most common complaint they receive on the department's terrorism hotline involves photographers, and so they're doing their duty to investigate accordingly. And today's discovery of new terror threat against the United States isn't likely to make things easier for photographers on the streets.

"I've been called by members of the media and members of the public who have been getting arrested for 'taking pictures' and the charges are usually trumped up," NPPA Region 2 associate director Todd Maisel said today as he photographed New York's security measures from atop the Brooklyn Bridge in response to the news of a terror plot made against inbound U.S. airliners. Maisel is also a staff photographer for the *New York Daily News* and a veteran of dealing with NYPD cops at news scenes and within security situations.

"These arrests for 'taking pictures' usually come in the course of police officers doing their job, arresting someone else, and they don't want to be photographed arresting someone, so they charge the photographer with obstructing justice, or disorderly conduct, or they throw them to the ground and then charge them with resisting arrest. A Reuters photographer who was photographing police was charged with 'obstructing traffic.' It's getting ridiculous."

In a court filing August 7 that's an expanded re-write of their original suit, the NYCLU alleges that NYPD officers are threatening photographers with arrest if they won't destroy their images or show them to police, and in some cases are unlawfully detaining photographers who won't comply. The suit also claims that despite the frequency of complaints the NYPD says it receives, it has failed to develop and implement any

policies, procedures, or training for investigating such reports and – as a result – NYPD officers are repeatedly violating the First Amendment rights of photographers.

"It's people with press cards and people without them, the public," Maisel said. "I welcome the lawsuit. It's time for the NYPD to sit down with press organizations and with the NYCLU and decide how these things should work and stop acting in a capricious way. The situations with photographers being arrested for taking pictures usually don't have anything to do with 'security' measures. They've turned it into a 'security' issue but it's usually when people are taking pictures of a major structure or things that the public thinks are sensitive topics, like bridges or transportation. In most cases all a cop would have to do is go over and say, 'What are you doing?' and find out the photographer is taking a picture of something, or is tourist, and that should be more than enough."

People can't be arrested just for taking pictures and police officers can't force them to destroy images, the NYCLU says. "Photography is fully protected by the First Amendment, and police investigations into photographers must be sensitive to that," NYCLU associate legal director Christopher Dunn said after filing the more extensive claim. "While investigations may be appropriate in certain cases, people cannot be arrested for taking pictures, and police officers cannot coerce them into destroying images. The NYPD should assure it has reasonable policies and that officers are properly trained to handle these special investigations."

The original suit was filed by NYCLU in January 2006 on behalf of Rakesh Sharma, a well-known Indian documentary filmmaker who was detained for hours by NYPD officers last year after he filmed taxicabs from his position on a midtown sidewalk. After filing the original suit, the NYCLU learned that the NYPD was conducting a large number of photography investigations and had no policies, procedures, or training for such investigations. The expanded suit says that photographers are still being treated by NYPD officers today in the same way they treated Sharma in January, and that it was illegal then and it is illegal now. In the past in court papers, New York City lawyers have claimed that they are entitled to government immunity from liability because its employees, including NYPD officers, have acted reasonably and have not violated the Constitution.

Sam Munger and Elizabeth Owen, two NYU Law School students who have been working on photography issues for the NYCLU, are also serving on the case with Dunn.

NYCLU:

**Sharma v. NYPD et al. (Defending right to photograph and film public property)**

S.D.N.Y, Index No. 06-cv-0166 (direct)

This case involves an individual's right to photograph and film public property.

In May 2005, Rakesh Sharma was taken into custody by the New York City Police Department for filming with a handheld camera. While at the precinct, detectives, without a warrant, viewed the footage on Sharma's camera. In November 2005, when

Sharma returned to New York to film, he was told he needed a permit. However, when he applied for a permit, it was denied. On January 10, 2006, the NYCLU filed a complaint in District Court on behalf of Sharma, alleging that his First and Fourth Amendment rights were violated. The complaint asked the Court to grant declaratory and injunctive relief so that he could film freely. It also asks that damages be awarded for the NYPD's unlawful treatment of Sharma.

On April 19, 2007, the plaintiff reached a settlement with the Mayor's Office of Film, Theater and Broadcasting (MOFTB). MOFTB agreed to pay Sharma \$1,000 and his attorney fees. On May 15, 2007, the plaintiff reached a settlement with the NYPD. The NYPD agreed to pay Sharma \$14,000 plus attorney fees.

Attorneys involved in this case include Chris Dunn.