



Photography Is Not a Crime
Guest: Carlos Miller
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Carlos Miller is the creator of PhotographyIsNotACrime.com.

WOODS: I'm so thrilled to be able to do this show Monday through Friday; it gives me an opportunity to get to know all kinds of things that for some reason I was not aware of. I get to talk to all kinds of people whose work I didn't know about. You are one of those people. I'm sorry to say that I was not familiar with what you were doing. But I'm happy to say that I was leaving the house this morning to come do the interview, I said: I'm interviewing a guy named Carlos Miller; he's got a website called PhotographyIsNotACrime.com. And my wife said, oh yeah, that's a great site. I thought, that's awesome: she's more plugged in than I am.

MILLER: Well you married well; congratulations.

WOODS: Apparently so—I keep getting reminded of that every day. All right, let's give the overview not of how you got the site started—I do want to get to that—but of what PhotographyIsNotaCrime.com does, what people can expect to find there.

MILLER: Okay, PhotographyIsNotaCrime, or PINAC, as we call it, is basically a site where I report on instances of people who are getting their First Amendment rights violated for recording police in public, for the most part. We also report on cops who get caught on camera abusing citizens or not abiding by the law, or contradicting their reports. You know, they write their version of the truth and suddenly a video pops up and it shows the other version of the truth.

We are growing. It started off as a one-man blog; now we're growing into a full-fledged news site.

WOODS: How did you get started doing this? This is an interesting story. It wasn't just that one day you said, this will be an interesting public service; I'll open up this website. It had to do with something that happened to you.

MILLER: Yes, I'm a journalist. I've been a journalist for a long time. I'm 46 years old. I spent years working for newspapers. I used to cover the cop beat. I would take pictures; I would write stories. And in 2007, I was living in Miami and I was freelancing, because I'd gotten away from the newspaper business. I didn't see a future in newspapers, and I was freelancing; I was trying to do my own thing.

I came across a group of cops while I was working on a story, and these cops were making an arrest. The story I was working on was about this neighborhood that was up and coming, supposedly. It was always very gritty; there was always prostitution, drugs. And it was still like that. But at this point there were businesses moving into the neighborhood, so that was the story. I was walking around interviewing people, taking pictures, and naturally crime is part of the story, so when I saw these cops making an arrest, I started taking pictures. My intention was to take some pictures with a telephoto lens and move on. I didn't think that arrest was particularly interesting: it was just another guy getting arrested. But then they told me: you have to move on, this is a private matter, you can't be taking pictures. I told them, this is a public road; I'm a reporter, please let me do my job. Then they came after me. They actually left that guy and they came after me—five city of Miami police officers. And they told me keep moving, and I continued taking pictures. And then they pounced on me and arrested me. They beat me up; they pounded my head into the pavement. They busted a camera lens and they threw me in jail for 16 hours on nine misdemeanor charges.

While I was sitting in jail, I read the arrest report, because here in Miami they give you the arrest report while you're in jail. And in the arrest report I read that I was standing in the middle of the road blocking traffic. This is a busy street where you wouldn't actually want to stand and block traffic, because traffic won't stop for you here. So I thought, wow, I can't wait to get out of jail, because I know I took some pictures and if they deleted photos, I know I'll be able to recover them. When I got out of jail, the photos were not deleted, and the last photo I took—which is the photo you'll see at the top of my website—was the officers approaching and the street, Biscayne Boulevard, was behind them. So it clearly showed that I was not in the middle of the road when they arrested me. I was very naïve at the time that this happened, and I thought, well, okay, the state attorney's office will drop this and we'll move on. But they did not. They insisted on pursuing this, and taking me to court. They wanted me to accept one of two things: either time served in jail, which would be a conviction, or plead down to a deal where I would still have to admit to standing in the middle of the street. I didn't want to do that. I didn't want to accept any plea deal; I just wanted to get cleared of all these charges, so I started the blog.

Initially it got some media and it was all over the blogosphere at that time. This was when I discovered the medium, the blogosphere, because I was a newspaper reporter. My views at the time were: if it's not in a newspaper, if it's not in a traditional news site, then it's not worthy of reading. But then I discovered something different; I realized there was a lot of good content out there, a lot of good bloggers out there getting

attention, so I started my blog PINAC with the intention of documenting my trial, to raise awareness of my trial, and to raise awareness of this issue.

What happened was, my blog started in April 2007. YouTube had started in 2006; that's when it started getting popular. And in 2007, they released the iPhone, so people for the first time in history had the ability to record video on a very simple device and upload it to the Internet within minutes. That's something we'd never had before and it was very revolutionary. People were walking around and they would see cops abusing the citizens, and they would shoot video. A lot of times the cops would go after them, or the cops would chase them away or threaten them. A lot of times they'd come back and say, well, gosh I'm not sure this was correct; I believe I had the right to record but I'm not sure. So they'd go online and they'd Google, and at the time there was not a whole lot of information about this issue, so they'd come across my blog.

And I'd be like, I'm here just writing about my trial, but sure, I'll write about your story. And that's how it happened. I started writing everybody's stories, because people would just reach out to me, and the news was not reporting these issues, so I became that source for these stories. And the issue kept growing. People started getting more familiar with their rights. YouTube became more popular; Lively became more popular, which is another internet video platform. People were just more familiar with cameras and videos than before. Before, to shoot videos was very complicated. You would have to be very dedicated to learn how to shoot with a video camera and edit it and all that stuff. But, you know, with the iPhone and devices like the Flip, all you have to do is point and shoot, basically, and upload.

Society started changing, and people started getting a different impression of police. Police, for the most part, people gave them respect; they gave them the benefit of the doubt. As I mentioned before, real people took it as the truth, you go to court and the judge and the jury said, the cops said this is what happened, and the defendant says this is what happened, and the defendant, the court system basically believes the cops. But then you introduce video and you realize these cops are not always telling the truth and it really is a regular thing. What we discovered through video is that cops, on a regular basis, stretch the truth. And these are not isolated incidents. These are not a few bad apples. This is part of the culture of police, where they do this on a regular basis, and people's eyes are open right now. So a lot of people are basically taking their cameras and they're going out there and making a stand. They're saying, I'm going to do my part. We want cops; I include myself, I include most of my readers. We might criticize police, but we want police to be good. We want cops to respect the law, to respect our rights. We have no respect for bad cops, and the problem is there's just a lot of bad cops out there, and the leadership of police is not doing anything about it. And that's where we stand right now.

WOODS: Tell me, Carlos, these views that you just described right now, were they the views that you had all during the years that you were a reporter or did they change dramatically after that terrible incident that occurred?

MILLER: Yes, and they continue to change. I used to be a police reporter for the newspaper, so I would go out there and I would write a lot about cops who'd done bad. I would expose a lot of cops. But at the same time I had a lot of friends who were cops—people who would talk to me, people who would give me information. But I was that newspaper guy, so they knew who I was; they respected who I was, so they wouldn't do anything that crazy in front of me. But then when I became just a regular reporter with no press badge or anything—you know, that night when I was arrested, if I had been working for *Arizona Republic*, which is where I used to work before, which is a very large newspaper, if I had my credentials, then I would have been left alone. Or say I had been working at the *Miami Herald* down here. But I was just a guy with no press credentials. But, you know, it really doesn't make a difference: the First Amendment is our press credentials by law. But if cops see the press credentials, they'll treat you different. So I'm seeing a different side of it, I'm seeing all these videos, and my opinions continue to get very cynical. I get very jaded, and sometimes I have to step back and try to look at the big picture. The big picture is what I'm telling you: the culture is rotten. People always tell me, you don't write about the good cops; there are a lot of good cops out there. And yes, it's true, there are a lot of good cops out there. There are cops who would respect our rights, who would not lie on their reports and would actually help you like they're supposed to. But those cops can't do anything about the bad cops. If they do, they get retaliated against. So they have to just basically turn their heads, which makes them accessories to whatever crime the cop is committing. So it's a very rotten culture I've discovered. And people tell me all the time: you have to tone it down to reach a larger audience. But it's hard to, because when you see this all the time—every single day people are sending me videos—somebody has to go out there and just call it for what it is.

WOODS: Yeah, exactly. There are so many areas of life in which I know that if I just pretended that we're dealing with a minor problem of a few bad apples, I'd get a larger audience. But my sense of injustice makes it impossible for me to spin it that way. I've got to tell people that I perceive this as a systemic issue that will not be resolved by picking out one or two individuals as fall guys.

Are there any laws related to the recording of police encounters? So if people try to do what you're doing, are they going to be thrown in jail? By the way, those are two different questions, aren't they? Maybe there aren't any laws but they'll throw you in jail anyway on some trumped up charge. But strictly speaking, do they have any grounds for telling you to put that camera away?

MILLER: No, no, they don't. We've gone through this issue over the years. A few years ago they were using the wiretap laws in some states. These are laws that were meant to

prevent the recording of telephone conversations without the other person knowing. I can't record a personal conversation unless I tell the other person. But then they were twisting that law to say you're not allowed to record me in public even though there's a guy holding a camera; it's very obvious he's recording. The courts have decided on the side of the citizens to record. It's very open now. The only state that has a wiretapping law that's a little strict is Massachusetts, and that law says you are not allowed to secretly record people in public who have no expectation of privacy. So you have to basically hold up the camera. All you have to do is hold up the camera—you don't even have to tell them; you just have to make it visible. You just can't make a deliberate attempt to secretly record them. But even in other states like Florida and Illinois or any other state that do have what's called an all-party consent state, what that says is if people do not have an expectation of privacy, which you don't have in public, especially during a traffic stop or any police interaction, then you can record them secretly if you want to.

WOODS: One of the themes of this program is that from the time people are in elementary school, we're trained to think a certain way about a lot of government institutions, that these institutions are populated by crusaders for justice who are innocently pursuing the common good, and they represent you and they want to make sure that your rights are protected. We're taught to have what I think is a superstitious reverence for institutions like the police. Now as you say, it's not metaphysically impossible that you could have a good police officer. But the attitude should not be one of reverence and waving incense in front of them. It should be skepticism, especially given the power they have, the authority they have. But yet we're taught to give them the benefit of the doubt. The knee-jerk public response is that the police are probably in the right because you're probably dealing with the dregs of society and you can't ever give them the benefit of the doubt. That's the attitude people have, and one of the things that you're up against.

MILLER: Well, that attitude is changing. I've had a lot of people reach out to me and say, you've opened my eyes. The videos don't lie. You put the videos up day after day after day, people see a trend. They say, this is not good. And I believe the police have changed, too.

Now, it's in the news ever since Ferguson, they've become a lot more militarized. The training has changed. I talked to long-time officers who'd been on the force for 20 years or more, and they tell me we used to be trained to be able to solve a situation without resorting to physical force. They used to be trained to kind of talk people down, to deescalate a situation. But now they're just trained to view everybody as the enemy. So the cops have created this us vs. them mentality, where they think they're at war. They've got all these war machines. They're walking around with these tanks, they've got all this camouflage—and they're on city streets; I don't know why you have to wear camouflage on city streets. It makes them stick out more. But that's the mentality; they want us to be afraid of them. It used to be *serve and protect*, and now it's *comply or die*.

And if we don't comply, it doesn't matter, they will tase us, they will beat us, they will arrest us and then we'll have to deal with it later. That's the attitude they have. People are waking up. People are slowly seeing it for what it is. They've lost respect for the police, and the cops have lost credibility. They have to take it upon themselves to change this. Because if they continue this force and people don't respect them, they might have all this power to throw us in jail but then people are not going to care when they get hurt, people are not going to care when they need help. People are not going to give them tips to help them solve crimes. I mean, they need the community to help them do their jobs, but now the community is turning against them because of the way they're treated us.

WOODS: I agree with you that attitudes are changing in the public. I think that part of the reason that people are willing to give the police the benefit of the doubt, I think the police [in previous decades] didn't have the attitudes that they have today, they didn't have some of the approaches, some of the training that they have today, and people are acting as if the police of today are the same police that they grew up with, and they're not. And secondly, you're talking to somebody who grew up a traditional law-and-order conservative. If you were opposed to the police or you had some kind of suspicions about the police, that probably meant you were some kind of troublemaking pinko commie who hated America. That was just about where I was. It's so funny that I go around telling people you can't trust the government—however, with the police, everything they say is like sacred scripture. There's a disconnect there, and there are a lot of people like me, who grew up the way I did, and who look back on it now and say, boy, was I snowed!

MILLER: What's interesting is that this issue of skepticism towards police and the right to record basically crosses all partisan lines. Where before we were so divided between partisan lines, this is what's bringing us together. Now it's really not the right versus left; now it's state vs. the people, and specifically the police. These are the extensions of the state that they use as force to try to control the people. So that's where we're at now, and it's going to get worse. It's going to get worse because the cops, they don't really see the big picture. They don't know what we're going through; they don't know how tough our jobs are. They don't really see that we're just exercising our First Amendment rights and we're thrown in jail: We don't like that.

I don't care how tough your job is, because they chose that job; no one forced them into that job. So they can easily get another job if they can't handle the stress of that job. So that's it. You know, I complain about my job, I can go days without sleeping because I have to write and edit and do all these other things, but this is a job I chose. And I can easily get another job. The same with cops. But they don't see it that way. They expect us to just bow down and give up our rights because they have a tough job. Maybe some aspects of their jobs may be tough, but they have a lot of power, they have a lot of benefits that other people don't have. They have pensions. They can commit crimes and still get paid. They can beat people up and still get paid. You can't do that in any other

job. And they protect themselves. I call them the blue mafia. That's how cynical I've become, where I see the whole culture as rotten, where it's like a blue mafia. If you get arrested by a cop and you brought a complaint, it's not going anywhere. They're going to protect themselves. If you want to file a complaint, you do it so you can get it in the record in case there's a pattern, but don't expect anything to happen to that cop, because it won't. And don't even expect the legal system to help you out unless you have it on camera. If you don't have it on camera, just forget about it. That's why it's important to record every interaction with cops. If a cop has nothing to hide, they're going to be like *fine, I stopped you for speeding, here's your ticket, let me have your license*, and just move on—I don't care if you're recording me. But then you have the cops that are like, *Stop recording me; it's against the law*. They still say that, when everybody knows the courts have ruled over and over and over and over that there is the right to record. There's no law that says you have the right to record, but there's no law that says we don't have the right to record.

WOODS: Right, and that's of course what matters. Now give me one example of a recent story that you've gone over on your site to give people a flavor of it.

MILLER: The one that sticks out is one from Washington, D.C., where a guy was riding a bicycle in the city. He came across some cops making an arrest, so he started recording. He was about 50 feet away. Then he gets this very arrogant bully of a cop who comes over to him and gives him the same old story, *Well, it's against the law to record. I can confiscate your camera as evidence because you're recording*—which is not true—or *you have to leave*. And then the cop proceeded to block off the area with this yellow crime tape, but then other people were just walking through. You have an old lady walking through, a skateboarder came through, while the guy with the camera is forced to be on the other side of the yellow crime tape. And it turns out that that guy was an editor of the *Washington Post*. And the police chief of the metropolitan police department, she came out with a policy a few years ago telling her officers that, yeah, citizens have the right to record, and do not arrest citizens—because they'd gotten sued a few times. And then you still have this cop doing that; it just falls on deaf ears. And even though you have the police chief come out and say, I was shocked at this video, she didn't say, I'm going to discipline this officer. She said, "It's under investigation," which means, just go away, we're not going to do anything about it. That's what that means. Because all you have to do is watch that video for five minutes to investigate, to see what really happened. We just have to be strong, exposing the hypocrisy and learning how to read through what I call the police PR spin machine. Because they'll spin everything. And this is why, again, it's important to record everything. There will be a video where it shows a cop beating somebody up and you can see the cops take three turns a side, and the guy wasn't resisting, and they'll spin it that the cop was in fear for his life so he had to defend himself. You're looking at it like, if this cop was in fear for his life, then maybe he needs another job! Because we don't need cops that scared to be on the beat. We need cops who have a sense of bravery and who are not afraid of a phone. This is what we're seeing now.

WOODS: Carlos, before I let you go, tell us about *The Citizen Journalist's Photography Handbook*.

MILLER: Yeah, that's a book I wrote that came out this year. I used a lot of my experiences, a lot of my expertise—because, you know, I went to school for journalism and I spent almost 10 years writing for newspapers and now seven years writing the blog. The rise of citizen journalism is a very important thing. Because the mainstream media, they've gone down. We're going through a big transition in the media; we're going from old media to new media. New media is all of us. All of us, we have that power to record. This is the first time in history that we have true freedom of the press. Before, freedom of the press was guaranteed to those with access to the press. But if you have a cell phone, a smartphone, and access to the Internet, you have the ability to publish your videos, your photos, or even your ideas, your thoughts, your stories on the Internet for the world to see. That's your platform. This is true freedom of the press. We definitely should take advantage of that.

What I've learned over the years is that a lot of people want to exercise this right and utilize this freedom of the press, but they don't really know how to do it. They don't know how to approach it. They're not really educated. You have to be trained to do it; you have to know what you're doing. So that's the book. I try to teach people how to approach situations, how to stand up to cops. I give them case studies and personal stories. I talk about public records; I talk about the laws, wiretapping laws, recording in courtrooms.

It's basically one of those dummies books, *Citizen Journalism for Dummies*, except it's not a dummy book; it's a different publisher. You can buy it on Amazon. And if you go on my site, it's on the left-hand side, you click on that, Carlos Miller is the author of course, and the title is *The Citizen Journalist's Photography Handbook*.