



## National Press Photographers Association

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July 27, 2017

### **Via Facsimile & Email**

Frank J. Larkin  
Sergeant at Arms and Doorkeeper  
United States Senate  
Room S-151  
Washington, DC 20510

Chief Matthew R. Verderosa  
United States Capitol Police  
119 D Street, NE  
Washington, DC 20510

### **Re: Interference with News Coverage**

Sergeant at Arms Larkin and Chief Verderosa:

I write to you on behalf of the National Press Photographers Association (NPPA) and the organizations listed below to express our strong objections to your alleged actions along with those of U.S. Capitol Police officers who were reported to have interfered with and threatened journalists reporting on matters of public concern at the Capitol on July 25, 2017.

If, as reported, officers ordered journalists to “delete images” of this incident, this action raises significant legal concerns both under the Fourth Amendment’s protection against unreasonable searches and seizures and the Fourteenth Amendment’s due process guarantees. It would also be inconsistent with the Privacy Protection Act of 1980, which forbids an officer to seize a reporter’s material; clearly, destruction of work product would even be more problematic. In addition, it would also be contrary to a U.S. Department of Justice directive stating, “under the First Amendment, there are no circumstances under which the contents of a camera or recording device should be deleted or destroyed.” As members and representatives of the news media, we feel it is imperative to stress that your officers should be instructed that orders to destroy a journalist’s work product are contrary to all of these provisions and must not be tolerated.

Other aspects of the confrontations were also troubling. According to published reports “as reporters attempted to document protesters who interrupted the Senate’s vote . . . and their subsequent arrest for doing so, Capitol Police barred them from recording and taking pictures, telling them it’s ‘a ‘crime scene.’” It is our understanding that this was done at the directive of the Senate Sergeant at Arms.

While there may be “no photography” signs posted in some hallways, those signs must be related to some properly promulgated rule or regulation prohibiting such activity in a public place. Whereas the only tangentially related rule states “The taking of pictures of any kind is prohibited in the Senate Chamber . . . ,” which was not relevant in this situation as it occurred in the hallway.

Regardless of whether such an enforceable hallway prohibition exists, we still assert that it is an abridgment of the free speech and freedom of the press clauses of the First Amendment protecting the rights of both citizens and journalists to photograph and record police performing their official duties in a public place. The pretextual claim that something is a “crime scene” when it is in plain view of those standing where they otherwise have a legal right to be present does not negate those rights.

We believed we had properly resolved this issue after last month’s incident where journalists were erroneously told that they were not allowed to record interviews in these same hallways. While it is understandable that your officers may have had a heightened sense of security during this incident, that is still no excuse for them to not recognize a person’s (citizen or journalist) First, Fourth and Fourteenth Amendment rights. We respectfully request that the substantive issues we have raised will be reviewed with those involved in this matter so that these concerns may be properly and immediately addressed. To that end, we offer our assistance in working with you and other law enforcement agencies to help develop reasonable and workable policies, practices and especially training in order to avoid these situations, as well as to foster better relations between the police, the public and the press.

Thank you for your attention in this matter. We look forward to your timely response.

Very truly yours,

*Mickey H. Osterreicher*

Mickey H. Osterreicher  
NPPA General Counsel

cc: Jeff Kent, U.S. Senate Press Photographers Gallery (via email)  
Assistant Chief Steven Sund, U.S. Capitol Police (via email)

*On Behalf of:*

American Society of Media Photographers  
The National Press Club  
The National Press Club Journalism Institute  
PEN America  
Radio and Television Digital News Association  
Reporters Committee for Freedom of the Press  
Society of Environmental Journalists  
Society of Professional Journalists