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FOR FREEDOM OF THE PRESS

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*Affiliations appear only
for purposes of identification.*

Re: Police detention of journalists in Ferguson, Missouri, and
public access to information

Dear Sirs,

As organizations that cover news and defend the rights of journalists to gather the news, we write to express our deep concern over the unwarranted detention of two journalists on Wednesday and with other reports of police intimidation and harassment of journalists in Ferguson. It is also extremely troubling that the police have not been more timely in releasing the records surrounding these incidents and the shooting of Michael Brown.

While we understand the responsibilities of your three law enforcement agencies differ substantially in these events, we write to all of you in the hope of assuring that these issues going forward are handled in a manner that protects the First Amendment interests of the press and the public in accurate news reports out of Ferguson.

First-hand accounts indicate that Wesley Lowery of *The Washington Post* and Ryan Reilly of *The Huffington Post* were doing nothing more than sitting in a McDonald's recharging their phones when they were questioned by police and detained. (Their respective news organizations are both signatories to this letter.) Their statements indicate they were physically mistreated, harassed, handcuffed, and denied answers to their repeated requests for information as to why they were taken into custody. In addition, Lowery was told to stop recording police in violation of his First Amendment rights.

This type of behavior is anathema to the First Amendment and to journalists everywhere. It must not continue and answers as to why it was allowed to happen in the first place must be forthcoming.

As United States Attorney General Eric Holder, Jr. said in a statement yesterday, “Journalists must not be harassed or prevented from covering a story that needs to be told.” Not only are the police in Ferguson violating the rights of journalists, but they are actively suppressing the flow of information to which the public is entitled – an issue of grave importance to many Americans across the country.

Officers on the ground must understand that gathering news and recording police activities are not crimes. The actions in Ferguson demonstrate a lack of training among local law enforcement in the protections required by the First Amendment as well as the absence of respect for the role of newsgatherers. We implore police leadership to rectify this failing to ensure that these incidents do not occur again.

As the United States Department of Justice wrote in 2012, “The right to record police officers while performing duties in a public place, as well as the right to be protected from the warrantless seizure and destruction of those recordings, are not only required by the Constitution. They are consistent with our fundamental notions of liberty, promote the accountability of our governmental officers, and instill public confidence in the police officers who serve us daily.” *See* Statement of Interest of the United States in *Sharp v. Baltimore City Police Dep’t*, Civil No. 1:11-cv-02888-BEL (Jan. 10, 2012), http://www.justice.gov/crt/about/spl/documents/Sharp_SOI_1-10-12.pdf.

This principle – that not just journalists, but members of the public generally – are free to observe and gather news about police actions has been repeatedly upheld in federal courts. The First Circuit ruled in *Glik v. Cunniffe*, 655 F.3d 78 (1st Cir. 2011), that the public’s right to record police in the performance of their public duties is a “basic, vital, and well-established liberty safeguarded by the First Amendment.” The Seventh Circuit in *ACLU of Illinois v. Alvarez*, 679 F.3d 583 (7th Cir. 2012), likewise recognized the longstanding right of the public to record police activities.

Also of concern to media organizations is the lack of information available about the original shooting and the arrests of the journalists. Officials took nearly a week to release the name of the officer involved in the shooting, and Lowery wrote that when he asked to see an incident report on his own arrest, he was told there was not one and that one might be available in a week or two. This lack of access to basic information on a timely basis reasonably stokes suspicions in the public mind that the police have something to hide. Managing any public emergency requires openness and accountability, and withholding the officer’s name and the incident reports compromises the community’s trust in their police.

The undersigned media organizations call on the Missouri State Highway Patrol and the police departments of the City of Ferguson and St. Louis County at a minimum to ensure that:

- police officers do not intimidate, harass, or impede journalists covering the news;

- state, county, and local officials are properly educated to understand the rights of journalists and the public to record police officers in the course of performing their duties;
- information about officers involved in future incidents, and about any investigations of these recent incidents, is promptly made available to the public; and,
- if other journalists are stopped or arrested – which is always an extraordinary step in any jurisdiction and must never be motivated by a desire to suppress news – all records of their arrests or detentions are promptly made public to evaluate the legitimacy of police actions.

Sincerely,

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Time Inc.
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Tully Center for Free Speech
VICE Media
The Washington Post

cc: United States Attorney General Eric Holder, Jr.
Missouri Governor Jay Nixon
Ferguson Mayor James Knowles