



National Press Photographers Association, Inc.

The Society of Professional Photojournalists

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VIA EMAIL & FACSIMILE (305.673.7065)

June 7, 2011

Chief Carlos Noriega
Miami Beach Police Department
1700 Convention Center Drive
Miami Beach, Florida 33139

Re: Illegal Search and Seizure and Interference with Public Photography

Dear Chief Noriega,

As general counsel for the National Press Photographers Association (NPPA) I have been made aware of an incident that occurred in Miami on Memorial Day where your police officers confiscated and/or destroyed cameras belonging to the public and news organizations in violation of their First and Fourth Amendment rights.

While it may be understandable that your officers had a heightened sense of tension after the shooting of Raymond Herisse that is still no excuse for them to allegedly harass, intimidate, threaten or attack those taking photographs/video on a public street. Recently in Egypt, Syria and Libya citizens and photojournalists have risked, and in some cases given, their lives to provide visual proof of repressive governmental activities. It is truly a shame that what is viewed abroad as heroic is considered as suspect at home.

Law enforcement agencies are established to uphold and enforce existing laws not to act in a lawless manner. Public photography is a free speech/free press right protected by the First Amendment. The Fourth Amendment protects citizens against unreasonable searches and seizures. Photography may not be restricted in a public place by officers wishing to avoid the documentation of their actions. The seizure and/or destruction of cameras to accomplish that same end is also unlawful.

As our organization, founded in 1946 with over 7,000 members, has pointed out to numerous groups and law enforcement agencies, photography by itself is not a suspicious activity. Unfortunately the reliance by your officers to question, detain, interfere with and seize property of those engaged in lawful activities under color of law is reprehensible. At best behavior that chills free speech and unreasonably seizes property is extremely unprofessional, at worst it is criminal.

Your officers should be well aware that they may only seize the property of another pursuant to a lawful arrest or by court order. Their alleged actions with regard to the seizure of a WPLG camera from a working photojournalist cannot be tolerated. Video showing another officer pointing his weapon at an unarmed citizen, who was then allegedly pulled from his car, placed face down on the pavement, handcuffed and threatened at gunpoint is an affront to the public. For officers to do so and then smash his cell phone in hopes of destroying any recordings should make them liable for both criminal and departmental prosecution.

NPPA stands ready to work with the law enforcement agencies to help develop reasonable and workable policies and practices in order to avoid similar situations. In the meantime we would respectfully request that any and all cameras, cellphones and recorded media be returned to their rightful owners immediately in the same condition that they were in when illegally seized. Should law enforcement believe they have a need for such images they should seek a proper court order. We further request that your department immediately issue orders directing officers to cease such activity and also that your department implement revised training for all officers regarding these matters.

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

Very truly yours,

Mickey H. Osterreicher

Mickey H. Osterreicher
General Counsel

cc: Mayor Matti Herrera Bower (via email)
Sean Elliot, NPPA President (via email)