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for purposes of identification*

VIA EMAIL AND U.S. MAIL

May 29, 2019

Jody R. Upton, Warden
FMC Carswell
Federal Medical Center
P.O. Box 27066
Fort Worth, TX 76127

Re: News Media Requests to Interview Reality Leigh Winner, Reg. No. 22056-021

Dear Warden Upton:

The Reporters Committee for Freedom of the Press (the “Reporters Committee”), an unincorporated nonprofit association dedicated to safeguarding the First Amendment rights and freedom of information interests of the news media and the public, writes to urge you to grant requests made by members of the news media to interview Reality Leigh Winner, inmate No. 22056-021, at Federal Medical Center Carswell. Given the strong public interest in permitting journalists to question Ms. Winner on-camera and by other means, and for the reasons stated below, we respectfully ask that you reconsider recent denials of requests by members of the news media to interview her for journalistic purposes.

It is our understanding that at least two teams of journalists—one working on behalf of CNN and one led by documentary filmmaker and investigative journalist Sonia Kennebeck—have had their requests to interview Ms. Winner denied. We understand that this is despite both the CNN team’s efforts to accommodate any concerns about the amount of equipment and/or number of people that an on-camera interview of Ms. Winner would entail, as well as to offer assurances that they do not intend to ask Ms. Winner about information that her plea agreement prevents her from discussing publicly, and the stated willingness of Ms. Kennebeck to likewise accommodate any similar concerns associated with an on-camera interview of Ms. Winner by her and her team. It is also our understanding that prison officials have permitted Ms. Kennebeck to communicate with Ms. Winner via email but have not allowed her to interview Ms. Winner for journalistic purposes.

Because Ms. Winner was the first person sentenced under the Espionage Act under the current administration for unauthorized disclosures of classified information to a news outlet, the government’s investigation and prosecution of Ms. Winner have been a subject of intense public interest and extensive media coverage. See, e.g., Charlie Savage et al., *Reality Winner, N.S.A. Contractor Accused of Leak, Was Undone by Trail of Clues*, N.Y. Times

(June 6, 2017), <https://perma.cc/F9KR-67RB>; Billy Perrigo, *President Trump Calls 5-Year Prison Sentence for NSA Whistleblower Reality Winner 'Unfair'*, Time (Aug. 24, 2018), <https://perma.cc/G936-JBXXV>. The public's interest in Ms. Winner's case has not abated since her sentencing. To the contrary, as other recent inmate interviews that have provided valuable insight to the public demonstrate, there is a particularly strong public interest in hearing from Ms. Winner now that she is incarcerated. See, e.g., *Maria Butina In An Interview From Prison: I Question The U.S. Justice System*, NPR (May 10, 2019), <https://n.pr/2JCPxJt> (transcript of a telephonic interview with Maria Butina, who pled guilty to conspiracy to act as a Russian agent and was sentenced to an 18-month prison term).

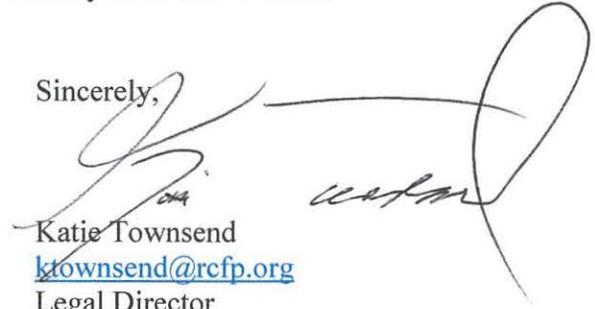
News media access to prisons and inmates for journalistic purposes serves a number of important societal goals. Because correctional institutions are funded by taxpayers, and are a key component of the criminal justice system as a whole, the public requires an accurate understanding of the role these institutions play in our system of justice, as well as the experiences of individual inmates. To this end, the importance of news media coverage cannot be overstated. The public learns about the criminal justice system through journalists' reporting on the cases of individual defendants—reporting that often continues, and sometimes begins, long after those defendants have been convicted and sentenced. Particularly in high-profile cases or matters of heightened public interest, like the prosecution of Ms. Winner, it is essential for the public to have an accurate, complete, and balanced narrative, which requires the public to hear directly from the inmate at issue. This is why the American Bar Association's Standards for Criminal Justice provide that prison officials should permit journalists to visit prisons and interview prisoners. ABA, Standards for Criminal Justice, Treatment of Prisoners Standard 23-11.5 (2018).

Further, a fundamental element of newsgathering is the ability to conduct on-the-record interviews with primary sources, and to do so with audio recording devices and cameras. When a journalist cannot report on an interview, the public is deprived of the subject's perspective. Additionally, audio and video recording of that interview provide the most accurate and credible material for a news story and can be vital to the public's understanding of something as complex and important as the criminal justice system or, in the specific case here, a prosecution under the Espionage Act.

In the same way that courts prefer live testimony to written statements—because of the inability to see the individual and ascertain his or her credibility when statements are made in writing—the public can more fully understand an inmate's account with an audio or video recording. Allowing the public to hear an inmate speak and gauge her reaction to questions presents a far fuller picture of the prisoner to the public. As the U.S. Supreme Court noted in *Pell v. Procunier*, 417 U.S. 817, 823 (1974), “there may be particular qualities inherent in sustained, face-to-face debate, discussion and questioning,” and “the existence of other alternatives does not extinguish altogether any constitutional interest . . . in this particular form of access” (citations omitted) (internal quotation marks omitted).

For all of these reasons, the Reporters Committee respectfully urges you to reconsider news media requests to conduct an on-camera interview of Ms. Winner. To the extent you have specific logistical or security concerns regarding how such an interview would be conducted, we are confident that the journalists that have requested access to Ms. Winner for journalistic purposes will be willing to work with you to address them in a way that assures the public an opportunity to hear directly from Ms. Winner.

Sincerely,

A handwritten signature in black ink, appearing to read 'Katie Townsend', is written over the word 'Sincerely,'. The signature is fluid and cursive, with a large loop at the end.

Katie Townsend

ktownsend@rcfp.org

Legal Director

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