

August 25, 2014

The Honorable Chris Koster
Attorney General for the State of Missouri
Supreme Court Building
207 W. High St.
P.O. Box 899
Jefferson City, MO 65102

Re: Arrest of Ryan Devereaux, of *The Intercept*, August 19, 2014 in Ferguson

Dear Attorney General Koster:

On behalf of First Look Media, publisher of *The Intercept*, I am writing to request that you launch an immediate investigation into the illegal and unconstitutional arrest and detention of our reporter, Ryan Devereaux. Mr. Devereaux was arrested and detained in the early morning of August 19, 2014 while covering the protests and unrest in Ferguson, Missouri.

Devereaux was with Lukas Hermsmeier, a reporter for the German newspaper *Bild*, and was interviewing some protesters on the sidewalk of West Florissant Avenue. The local police demanded that everyone leave the area and began firing tear gas. Devereaux and Hermsmeier were complying with the police directive and had left West Florissant Avenue. They were in a nearby residential area and were attempting to return to their car when they found themselves trapped on several sides by local police. With his hands up and while identifying himself as a member of the press, Devereaux was fired upon - despite his compliance with police directions - and shot in the back by what he believes to be rubber bullets. An image of the mark left on Devereaux's body by the projectile is enclosed. Devereaux was then arrested and taken to the St. Louis County Jail, apparently on charges of "refusing to disperse." He was held overnight before being released, with the threat of a grand jury being impaneled to consider criminal charges.

Despite a subsequent personal apology to Devereaux from Missouri Highway Patrol Captain Ron Johnson, neither the Missouri State Highway Patrol nor the St. Louis County Police Department have returned repeated calls by *The Intercept's* editor John Cook, who has been trying to learn Devereaux's status.

Photos taken at the time of the detention and arrest by David Carson, a photographer with the *St. Louis Post-Dispatch*, clearly show that Devereaux was not resisting and was otherwise respectful. While on the scene, Devereaux was also filing contemporaneous reports through his Twitter handle "@rdevro," informing the public precisely what he was seeing and experiencing at the time. Devereaux's account of his arrest can be found here:

<https://firstlook.org/theintercept/2014/08/19/ferguson/>

Devereaux and Hermsmeier were among several journalists arrested that evening – reports indicate that *Getty Images* photographer Scott Olson as well as reporters from *Die Welt* and *Der Standard* were also arrested. And this follows other well-publicized incidents of interference with the first amendment right to report in Ferguson, including the detentions of Wesley Lowery of *The Washington Post*, Robert Klemko of *Sports Illustrated*, Tom Walters of *CTV* and Ryan Reilly of the *Huffington Post*.

The right of journalists to report on police activities is well-established. As the Department of Justice has stated:

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.

Statement of Interest of the United States in *Sharp v. Baltimore City Police Department*, Civil No. 1:11-cv-02888-BEL (January 10, 2012). Our nation's courts have also upheld this right. See *Glik v. Cunniffe*, 655 F.3d 78 (1st Cir. 2011) (a private citizen has the right to record video and audio of public officials in a public place); *ACLU of Illinois v. Alvarez*, 679 F.3d 583 (7th Cir. 2012) (public may record police officers performing their duties in public places).

In response to the earlier incidents in Ferguson, United States Attorney General Eric Holder said on August 14, 2014 that journalists “must not be harassed or prevented from covering a story that needs to be told.” And on August 15, the Missouri ACLU brokered an agreement between the Missouri Highway Patrol, the City of Ferguson and the County of St. Louis, which states that:

Parties acknowledge and agree that the media and members of the public have a right to record public events without abridgment unless it obstructs the activity or threatens the safety of others, or physically interferes with the ability of law enforcement officers to perform their duties.

Agreement, *Hussein v. County of St. Louis*, No. 4:14-CV-1410, August 15, 2014 (attached).

But these recognitions of the constitutional rights at stake are nothing but lip service when officers on the ground do not respect the press corps. Arresting reporters while they are trying to report on the actions of both the police and the protesters is an abridgment of their rights and the public's right to learn about governmental activity.

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We call on the police to immediately cease harassing, detaining and arresting journalists like Ryan Devereaux who are acting in the service of the public's constitutional rights. The actions of the local police not only violated Mr. Devereaux's constitutional rights, but also the City's August 15th agreement. We also request that the State's Attorney General conduct a prompt and thorough investigation into the arrests. Those who are entrusted to enforce the law must not be treated as above the law.

We await a prompt response from all parties concerned. Thank you.

Sincerely,



Lynn Oberlander
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347-453-8111

Cc:

The Honorable Jay Nixon
Governor of Missouri
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The Honorable Richard Callahan
U.S. Attorney for the Eastern District of Missouri
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Chief Thomas Jackson
Ferguson Police Department
222 S. Florissant Road
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Chief Jon Belmar
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Eric Bates, Executive Editor, First Look Media
John Cook, Editor, *The Intercept*
Ryan Devereaux, Reporter, *The Intercept*
John Temple, President, Audience and Products, First Look Media



162 Fifth Avenue 8th Floor, New York, NY 10010

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

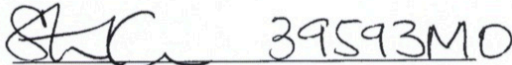
MUSTAFA HUSSEIN,)	
)	
Plaintiff,)	No. 4:14-CV-1410-JAR
)	
v.)	
)	
COUNTY OF ST. LOUIS, et al.,)	
)	
Defendants.)	

AGREEMENT

Parties acknowledge and agree that the media and members of the public have a right to record public events without abridgement unless it obstructs the activity or threatens the safety of others, or physically interferes with the ability of law enforcement officers to perform their duties.


Plaintiff


33143 MO
St. Louis County, Missouri


39593 MO
City of Ferguson, Missouri


3836 MO
Superintendent of the Missouri Highway Patrol

Dated this 15th day of August, 2014.