

Law v. Reality: What Are Journalists' Rights?

Presented By:

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INTRODUCTION



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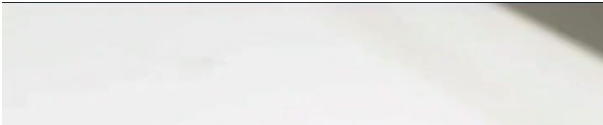
OPERATION
METRO
SURGE



Jana Shortal, KARE 11



Georgia Fort, Independent Journalist



John Abernathy, Independent Photographer

Agenda

WHAT WE'LL COVER:

- 1) Journalists' Rights**
- 2) Potential Legal Issues**
- 3) Practical Guidance on Staying Safe and Avoiding Arrest**

Agenda

WHAT WE WILL NOT COVER:

- 1) Reporting from the Border
- 2) Rights When Crossing Into the U.S.



Journalists' Rights

The Right to Publish

- » You cannot be punished or held liable for reporting truthful information that you lawfully obtained.
Fla. Star v. B.J.F., 491 U.S. 524 (1989).
- » *Quraishi v. St. Charles Cnty.*, 986 F.3d 831, 838 (8th Cir. 2021): “Reporting is a First Amendment activity.”

The Right to Gather the News

- » *Branzburg v. Hayes*, 408 U.S. 665, 707 (1972): “news gathering is not without its First Amendment protections.”
- » *Id.* at 681: “without some protection for seeking out the news, freedom of the press could be eviscerated.”
- » *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 586 (1980) (Brennan, J., concurring): recognizing “the special nature of a claim of a First Amendment right to gather information.”
- » But what does that actually mean? Is it without limits?
 - *Bartnicki v. Vopper*, 532 U.S. 514 (2001)
 - *Smith v. Daily Mail Co.*, 443 U.S. 97 (1979)

The Right to Report/Record in Public Spaces

- » If you are in a public space, you have the right to report/record what you see and hear.
 - 1st Cir., 3rd Cir., 4th Cir., 5th Cir., 7th Cir., 9th Cir., 10th Cir., 11th Cir.
- » That right is strongest in a traditional public forum: sidewalks, streets, the town square.

Reporting on Matters of Public Concern

- » Speech on matters of public concern is given “special protection” under law.
- » Public concern = anything fairly considered as relating to political, social, or other concern to the community and/or the subject of legitimate news interest
- » Courts look at the “form, content, and context” of the speech, and consider all of the circumstances (“what was said, where it was said, and how it was said”).

Reporting ≠ Conspiracy

» *Branzburg*

- Reporter watches Black Panthers stockpile weapons to transport across jurisdictions
- Reporter is tipped off to police raid of Black Panthers' headquarters, and waits inside with the Panthers
- Reporting visits the site of an illegal drug lab

» *Goyette v. City of Minneapolis*, 2021 WL 5003065, at *5 (D. Minn. Oct. 28, 2021): exempting journalists from lawfully issued dispersal orders because reporting on an unlawful assembly does not equate “to participating in an unlawful assembly”

The Right to Keep Reporting

- » Pentagon Papers: the primary purpose of the First Amendment is to put an end to government's attempts to stop the press from going to print in the first place, *i.e.*, “prior restraints”

- » Prior restraints can take a variety of forms:
 - Can look like locking you out of the newsroom or the printer so you have no means to get the news out
 - Can look like the threat of prosecution or actual prosecution to deter you/others from continuing to report
 - Can look like buying up every copy of a newspaper in the city to avoid the news from getting out
 - Can look like the seizure of a journalist's devices—computer, phones, smart watches, everything—essentially leaving them with no tools to get out the news and no contact information for their sources

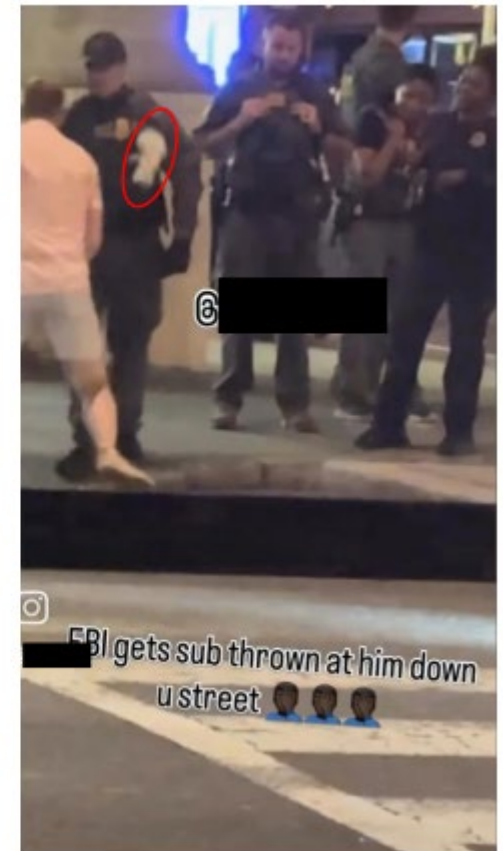
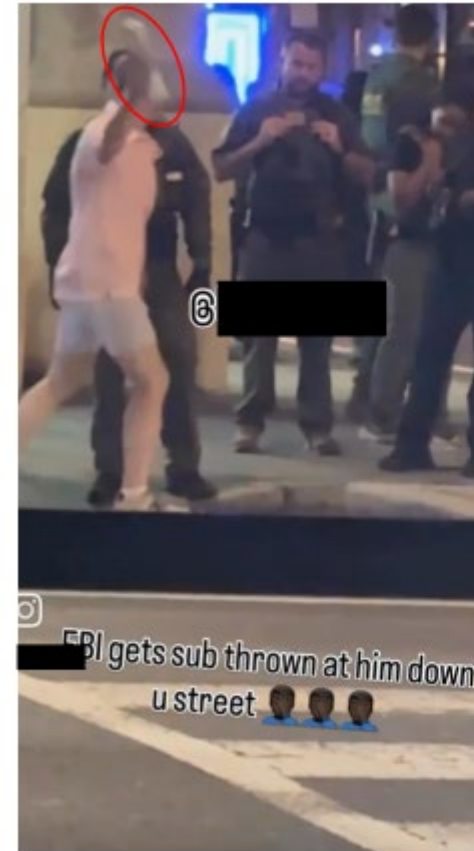
Questions?

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Potential Legal Issues

18 U.S.C. § 111 and 18 U.S.C. § 372

- » Crime to “forcibly” assault, resist, impede, intimidate, or interfere with a federal agent engaged in the performance of their official duties. 18 U.S.C. § 111(a)(1).
 - Avoid physical confrontations.
- » Crime to conspire with another to prevent any person from accepting or holding a federal position, or from discharging their duties, or to induce any officer of the United States to leave the place, where his duties as an officer are required to be performed, or to injure him in on account of his lawful discharge of the duties of his office, or while engaged in his duties, or to injure his property to interrupt, hinder, or impede him in the discharge of his official duties. 18 U.S.C. § 372.
- » Requires force, intimidation, or threat.



18 U.S.C. § 248 AND 18 U.S.C. § 241

NEWS & POLITICS

Feds arrest activists involved in St. Paul church disruption

The three arrests comes after the Trump administration's pledge for an investigation.

By Sarah Nelson
The Minnesota Star Tribune

JANUARY 22, 2026 AT 6:55PM

A federal magistrate judge rejected the Justice Department's attempt to bring charges against former CNN host Don Lemon, who said he was there as a journalist covering the event, according to Levy Armstrong's attorney.

- » **FACE Act, 18 U.S.C. § 248:** intentional or attempted injury, intimidation, or interference with someone obtaining/providing reproductive health services or exercising First Amendment right of religious freedom at place of worship
 - Requires force, threat of force, or physical obstruction

- » **18 U.S.C. § 241:** conspiring to injure, oppress, threaten, or intimidate someone in the free exercise or enjoyment of any constitutional or legal right or privilege

18 U.S.C. § 119

- » Crime to “knowingly” disclose certain information about government employees and their family members with the “intent to threaten, intimidate, or incite the commission of a crime of violence” against them OR “with the intent and knowledge” that the information will be used for such purposes.
- » Restricted information includes SSN, home address, home phone number, mobile phone number, personal email, or home fax number of, and identifiable to, that individual.

PRESS RELEASE

Federal Grand Jury Charges Three Women with Following ICE Agent Home from Work and Livestreaming His Home Address on Instagram

Friday, September 26, 2025

Share



For Immediate Release

U.S. Attorney's Office, Central District of California

LOS ANGELES – A federal grand jury has returned a two-count indictment charging three women – two from Southern California and one from Colorado – with following a United States Immigration and Customs Enforcement (ICE) agent home, livestreaming their pursuit and then posting the victim's home address on Instagram, the Justice Department announced today.

WIRETAPPING

- » Federal wiretap law: requires one-party consent. See 18 U.S.C. § 2510 *et seq.*
 - If you are a party to the conversation, you can record it even without the other participant(s) knowing.
 - If you are not a party to the conversation, you need the consent of at least one of the participants.
- » Minnesota is a one-party consent jurisdiction. See Minn. Stat. § 626A.02.
- » Pennsylvania is an all-party consent state. See 18 Pa. C.S. § 5701 *et seq.*
 - Meaning, even if you are a participant to the conversation, you need everyone
- » Remember, regardless of jurisdiction, that FCC rules require you to have consent from all parties before you broadcast the recording.

DRONES

- » Recent Temporary Flight Restriction prohibits all drone activity within 3,000 feet of certain government activities, including DHS activities.
 - Includes all “mobile assets” meaning DHS, CBP and ICE vehicles and ground operations.
- » Carries potential for both criminal and civil penalties.
- » The enforceability is questionable, but be aware of surroundings.
 - Back up newsgathering material frequently and/or switch to a new memory card per use, in case of confiscation of the drone.
- » In the event of a drone seizure, let counsel know.

CURFEWS

NEWS

WOIO challenges City of Cleveland inclusion of news media in curfew orders



ERIC GARCETTI
MAYOR

**ORDER SETTING CURFEW
DURING EXISTENCE OF A LOCAL EMERGENCY
(REVISED MAY 31, 2020 12:00 p.m.)**

TRESPASS

» Criminal trespass:

- Minnesota: among other things, intentionally trespassing and refusing to depart; crossing into public/private area cordoned off by peace officer. See Minn. Stat. § 609.605.
- Pennsylvania: going where you know you don't have license or permission to go. There are a lot of variations in this specific law. See 18 Pa. C.S. § 3503.

» Trespass charges against journalists are often not prosecuted, but when they are, they can be difficult to challenge because there are no newsgathering exceptions.

» There may also be civil trespass claims if on private property.

Requests for Footage, Search Warrants, Subpoenas

- » IMMEDIATELY reach out to counsel.
 - Provide copy of warrant papers.
- » Do not hide, destroy, or leave the newsroom with any records.
- » Do not unlock/open areas or devices.
- » Keep recording!
- » Privacy Protection Act, 42 U.S.C. § 2000aa, offers an affirmative claim in response to a search warrant.

FBI executes search warrant at Washington Post reporter's home

The search came as part of an investigation into a government contractor accused of illegally retaining classified government materials.

Updated January 14, 2026

8 min

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The Washington Post building. (John McDonnell/The Washington Post)

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Practical Guidance on Staying Safe and Avoiding Arrest

DEVICES

- » Turn off face ID, touch ID, or other methods that open device without a passcode.
 - Use an unpredictable passcode at least 6-8 characters long.

- » Add extra encryption and other protection to your newsgathering materials.
 - Use Signal or other encrypted communication methods.

- » Devices could be seized—back up your materials frequently.
 - Keep photos of your devices, and note make, model name, model number, serial number, etc.

PRESS CREDENTIALS

- » Always have your press credentials readily available.
- » Consider whether to wear visible press gear on a case-by-case-basis.
- » If wearing a Kevlar vest, consider an obvious “PRESS” vest instead of camo, so as not to be confused with ICE agents.

INTERACTING WITH FEDERAL OR LOCAL LAW ENFORCEMENT

» First question: Am I free to leave?

- If yes, then walk/drive away and create distance.
- If no, you can ask them why you are being detained.

» Say you are press and offer to show your credentials.

- When reaching for your credentials (i.e., in pockets or a bag), be clear about what you are doing and where the credential is.
- Best practice is to have someone else access your credentials for you.

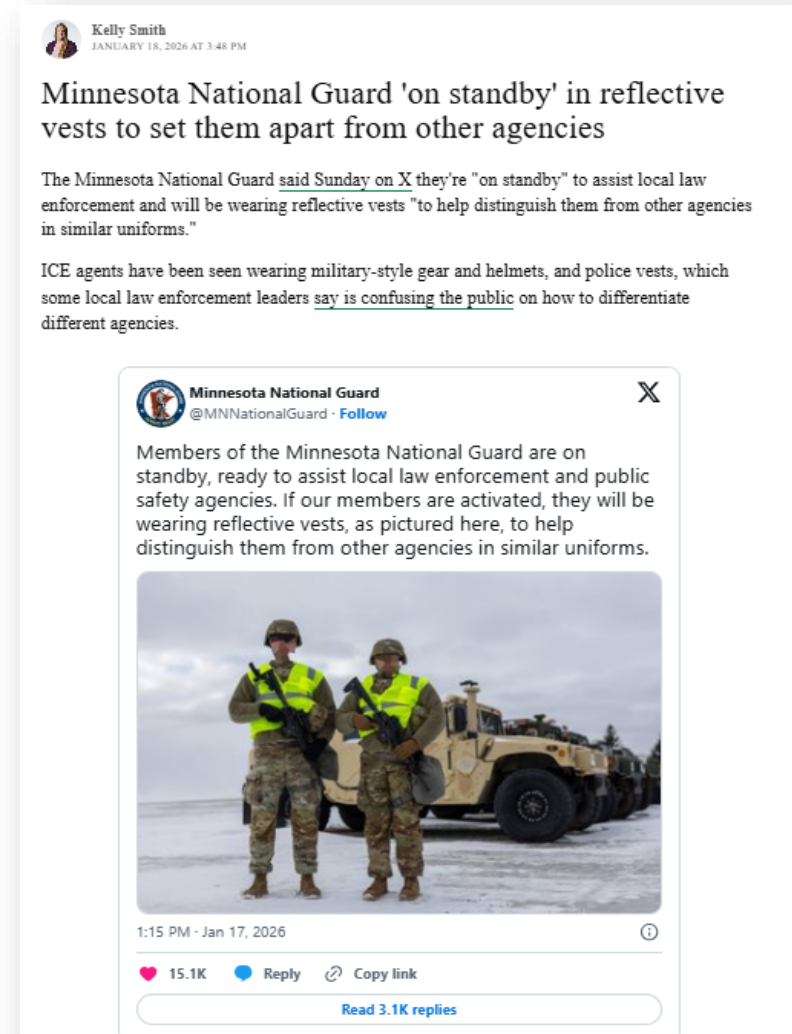
INTERACTING WITH FEDERAL OR LOCAL LAW ENFORCEMENT

» What agency are you talking to?

- What color is the uniform?
- Any words or insignia?
- Is there a name or badge number?
- Is the officer's face covered?

» Where are you located?

- Check for cross-streets or landmarks.
- If on phone with an attorney, state loudly where you are located.



IF YOU ARE DETAINED

- » **Invoke your right to remain silent. Say that you will not speak without your lawyer.**
 - Tell the officers you are a member of the press.

- » **Do not sign anything or read anything aloud.**

- » **Follow through: BE QUIET!!!**
 - Remember that any calls are more than likely being recorded, so don't discuss specifics on calls.

 - Don't discuss specifics with anyone while in custody.

KNOW THE DIFFERENCE

JUDICIAL SEARCH WARRANT

Case 9:22-mj-08332-BZ Document 1-7 Entered on FLSD Docket 06/11/2022 Page 2 of 1

U.S. District Court for the Southern District of Florida

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

To the Writ of the Search of
the Premises located at 1406 S. Green Street, Palm
Beach, FL 33408, as herein described in Attachment A.

Case No. 22-cv-00000-BZ

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officers.

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located at the location of the person or property as described in Attachment A.

Item Attached to

I find that the affidavit or sworn statement or other reliable information in support of this warrant is true and correct and that such search will undoubtedly disclose the person or property as described above.

Item Attached to

YOUR AGE COUNTERPART is to receive this warrant as it is being served to you. If you are not the person or property as described above, you are hereby notified that the search of the person or property as described above is not authorized.

Under Section 87(2)(b) of the Freedom of Information Act, you are hereby notified that the information contained herein is exempt from disclosure under the Act.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly submit this inventory to the court.

On Pursuant to U.S.C. § 14181(a), I find that reasonable suspicion may have an adverse effect on the public safety and the health, safety, and welfare of the community and the officers executing this warrant. I find that the person or property as described above is a threat to the public safety and the health, safety, and welfare of the community.

Item and time found: 6/15/22 12:12 pm

City and state: Palm Beach, FL

John Bruce Hartman, U.S. Magistrate Judge

ADMINISTRATIVE WARRANT

U.S. Department of Justice
Immigration and Naturalization Service

Warrant of Removal/Deportation

File No: _____
Date: _____

To any officer of the United States Immigration and Naturalization Service:

_____ (Full name of alien)

who entered the United States at _____ on _____ (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

☐ an immigration judge in exclusion, deportation, or removal proceedings
☐ a district director or a district director's designated official
☐ the Board of Immigration Appeals
☐ a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act (Act), as amended:
Section 241(a)(5) of the Immigration and Nationality Act (Act), as amended.

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of the appropriation. "Salaries and Expenses Immigration and Naturalization Service 2002," including the expense of an attendant if necessary.

(Signature of INS official)

(Date and office location)

Form 1-22 (Rev. 4-1-97)

KNOW THE DIFFERENCE

UNITED STATES DISTRICT COURT	
for the District of Minnesota	
UNITED STATES OF AMERICA	FILED UNDER SEAL PURSUANT TO ORDER
v.	
CHAUNTYLL LOUISA ALLEN	Case No. 26-mj-40 DLM
ARREST WARRANT	
To: Any authorized law enforcement officer	
YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay	
CHAUNTYLL LOUISA ALLEN	
who is accused of an offense or violation based on the following document filed with the court:	
☐ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☒ Complaint	
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court	
Conspiracy Against Rights to Free Exercise of Religion Secured by FACE Act, in violation of 18 U.S.C. § 241, 248(a)(2) & 248(a)(3)	
Date: 1/20/26	 Issuing officer's signature
City and State: St. Paul, MN	Douglas L. Micko United States Magistrate Judge Printed Name and Title
Return	
This warrant was received on (date) _____, and the person was arrested on (date) _____	
at (city and state) _____.	
Date: _____	Arresting officer's signature
	Printed name and title

UNITED STATES DISTRICT COURT	
for the District of Minnesota	
United States of America	) Case No. CR 26-25 LMP/DLM))))
v.	
Georgia Ellyse Fort (8)	
Defendant	
ARREST WARRANT	
To: Any authorized law enforcement officer	
YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay	
(name of person to be arrested) Georgia Ellyse Fort	
who is accused of an offense or violation based on the following document filed with the court:	
☒ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☐ Complaint	
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court	
This offense is briefly described as follows:	
Count 1: Conspiracy Against Right of Religious Freedom at Place of Worship 18:241	
Count 2: Injure, Intimidate, and Interfere with Exercise of Right of Religious Freedom at Place of Worship 18:248(a)(2), (b), and 2(a)	
Date: 01/29/2026	 Issuing officer's signature
City and state: Minneapolis, MN	Kate M. Fogarty, Clerk of Court Printed name and title
Return	
This warrant was received on (date) _____, and the person was arrested on (date) _____	
at (city and state) _____.	
Date: _____	Arresting officer's signature
	Printed name and title

“Have My Rights Been Violated” Checklist

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“HAVE MY RIGHTS BEEN VIOLATED?”

- ☐ **Where were you when everything happened?**
- ☐ Public property? ☐ Private property?
- ☐ Was there any police tape or other similar official barrier in place? ☐ Were you there with permission?
- ☐ Were you asked to leave by the property owner at any point?
- ☐ **Were you on the job or otherwise there in your capacity as a member of the media?**
- ☐ **Were you excluded from or directed to leave the area?**
- ☐ Who told you to leave? ☐ Were you singled out?
- ☐ What was the instruction you were given? ☐ Was anyone else asked to leave? Was anyone or any entity not asked to leave?
- ☐ What did the official actually say? ☐ Who?
- ☐ How were the instructions given / delivered? ☐ Could you still do your job from this new location?
- ☐ Where were you told to go? ☐ Could you still see what was going on?
- ☐ Did you comply? ☐ Could you still hear what was going on?
- ☐ Did the official say what would happen if you didn't comply? ☐ Could you still record / photograph / tape what was going on?
- ☐ Did you ask why you had to leave? ☐ What was the primary obstacle to you being able to do your job? (Distance, physical barrier, something else?)
- ☐ What did the official say was the reason you had to leave?
- ☐ **Were you told to stop reporting / recording / filming / photographing?**
- ☐ **Were you told to destroy your notes / recording / film?**
- ☐ Did you? ☐ Did you ask why?
- ☐ Did the official say what would happen if you didn't comply? ☐ What was the official's response?
- ☐ **Did any government official physically touch you?**
- ☐ Where? ☐ How? ☐ Describe the circumstances.

- ☐ **Were you kettled?** ☐ **Otherwise unable to leave?** ☐ **Told to stay on scene?**
- ☐ **Were you arrested?**
- ☐ Did they restrain you? ☐ Using what?
- ☐ **Were you taken anywhere?**
- ☐ Jail? ☐ Bus or wagon?
- ☐ Another holding facility? ☐ A separate room?
- ☐ Squad car?
- ☐ **Were you booked?** ☐ **Or otherwise photographed?**
- ☐ **Approximately how long was it before you were released?**
- ☐ **Were you searched?**
- ☐ Who searched you? ☐ Did they find anything on you?
- ☐ Did they say why they were searching you or what they were looking for? ☐ What?
- ☐ Did they reach into your pockets or other clothing items? ☐ Did they take it from you?
- ☐ **Were you harmed or injured?**
- ☐ How? ☐ Where? ☐ Did you require medical attention? ☐ Photos?
- ☐ Did the government official(s) provide assistance or call for aid for you?
- ☐ **If the officials were law enforcement, did they use any munitions or chemical agents on you?**
- ☐ Mace? ☐ Tear gas? ☐ Flash bangs? ☐ Stun grenade?
- ☐ Bullet? ☐ Rubber bullet? ☐ Other type of ammunition or projectile?
- ☐ Did you pick up or keep any of the discarded rounds? ☐ Photos?
- ☐ **Were you struck by anything else?**
- ☐ Taser? ☐ Baton? ☐ Flash light? ☐ Gun? ☐ Canister?
- ☐ **Before using any of the above, did you hear law enforcement give any warning they were about to use them?**
- ☐ How much time between the warning and when they were deployed?
- ☐ **Was law enforcement using any other equipment?**
- ☐ Full riot gear? ☐ Drones? ☐ Armored vehicles?
- ☐ **Were any of your belongings or equipment taken from you?**
- ☐ **Were any of your belongings or equipment damaged or destroyed?**
- ☐ What? ☐ Was it work-issued? ☐ Who did it? ☐ What did they do?
- ☐ Can it be fixed? ☐ How much did it cost? ☐ Do you still have a receipt for it?

- ☐ **Approximately how long did your entire encounter last?**
- ☐ **Were you wearing anything that would identify you as a member of the media?**
- ☐ What? ☐ Do you still have it or any photos of it?
- ☐ Did you otherwise identify yourself as a member of the media? ☐ How?
- ☐ **Did an official make any remarks to you about the media or you as a member of the media?**
- ☐ **Did an official make any remarks to you about or related to your race / ethnicity / gender / any other fact about you?**
- ☐ **Do you still have any notes / photographs / recordings (audio or video) of your encounter?**
- ☐ **Were you given any paperwork?** ☐ **Do you still have it?**
- ☐ Ticket? ☐ Summons? ☐ Citation?
- ☐ **Do you know which government entity / agency / department it was?**
- ☐ Were they wearing uniforms or employer-issued apparel?
- ☐ What color(s) were the uniforms?
- ☐ Did it have any distinctive emblems or logos on it?
- ☐ Was the official wearing any sort of identification?
- ☐ Badge? ☐ Government-issued vehicle?
- ☐ Badge number? ☐ License plate information?
- ☐ Name tag? ☐ Squad car number?
- ☐ Was the official wearing a body camera or have some other recording device?
- ☐ Was it more than one official?
- ☐ Was more than one government entity / agency / department involved?
- ☐ **Did the official identify themselves?** ☐ **How?**
- ☐ **Did you ask for the official's identification?** ☐ **Did they provide it when asked?**
- ☐ **How did the encounter make you feel?** ☐ **Did you change any of your behavior because of it?**
- ☐ **Do you remember anything else that you think is important for us to know?**

CONTACTS

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Questions?