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Re: Arrest of Reporter Dan Heyman

Dear Mr. Foreman:

The Reporters Committee for Freedom of the Press and the news media associations listed below are deeply concerned with the West Virginia Capitol Police's arrest of Public News Service reporter Dan Heyman on Tuesday, May 9.

As we understand the situation, Mr. Heyman, who has been a journalist for about 30 years and with Public News Service since spring 2009, approached Health and Human Services Secretary Tom Price at the statehouse. Mr. Heyman, who had press credentials in plain view, had cleared security prior to meeting Secretary Price to ask him a question. In attempt to obtain a response from Secretary Price, Mr. Heyman posed his question repeatedly, with his phone placed near Secretary Price to serve as an audio recorder. After his inquiry persisted for almost a minute, the Capitol Police moved him to one side of the hallway and arrested him, charging him with willful disruption of governmental processes.

While the particular facts are often in dispute in situations like this one, it seems clear that, even assuming that the statements made by the arresting officer in the complaint are true, an arrest of Mr. Heyman was not warranted. There is no doubt that Mr. Heyman was a reporter and was asking questions of a public official. The complaint contains no indications that he was acting in a threatening or suspicious manner. Any actions he took were to cover a newsworthy event, not interfere with the workings of government.

The West Virginia statute under which he was charged imposes a penalty if a person "willfully interrupts or molests the orderly and peaceful process" of a government office; but at the same time, it acknowledges the importance of respecting First Amendment rights by adding that "any assembly in a peaceable, lawful and orderly manner for a redress of grievances shall not be a violation of this section." W.Va. Code § 61-6-19. Under this statute, protected activities should not lead to an arrest, particularly when

they do not even truly interrupt a government function. While the statute addresses an “assembly” for a “redress of grievances,” the same protections should be afforded to those who are trying to inform the public about important matters.

When it is clear that someone is engaged in newsgathering, Capitol Police officers must recognize the First Amendment rights at stake, as the West Virginia statute does, as well as the public interest in the important work that reporters like Mr. Heyman do. If a reporter is talking too loudly, an instruction to lower his voice may well be appropriate and reasonable. If someone who is clearly a reporter does breach a security line, she could be held off or moved from her location without interfering with her ability to cover a newsworthy situation. A more serious remedy like arrest would only be warranted if a journalist clearly threatens someone’s physical safety. And extending an audio recorder toward a subject is customary behavior among journalists that should not set off alarms.

We would welcome the opportunity to work with you on training programs to ensure that officers and reporters understand each other’s interests in these situations going forward.

Sincerely,

Reporters Committee for Freedom of the Press
Committee to Protect Journalists
Freedom of the Press Foundation
The NewsGuild-CWA
Online News Association
Reporters Without Borders
Society of Professional Journalists

cc: Lawrence C. Messina, Director of Communications
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