



National Press Photographers Association, Inc.

The Society of Visual Journalists

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VIA EMAIL (sdpdpolicechief@pd.sandiego.gov)

January 16, 2012

Chief William M. Lansdowne
San Diego Police Department
401 Broadway
San Diego, CA 92101

Re: Arrest of Edward R. Baier and Seizure of Camera Equipment

Dear Chief Lansdowne,

As the general counsel for the National Press Photographers Association (NPPA) I strongly object to the treatment and arrest of NPPA member and freelance photojournalist Edward R. Baier on January 14, 2012 as he was attempting to cover an incident near the San Diego River involving your officers and a suspect who had become a drowning victim.

According to reports Mr. Baier was on public property while filming and moved back in compliance with officers' requests as they established a perimeter although it also appears that members of the public were allowed to remain closer to the scene without interference by police. Despite those facts he was arrested under the "catch-all" charge under CA Penal Code Section 148(a) (Resisting Arrest/Misdemeanor).

In addition to the arrest, which is in direct contravention of California Penal Code Section 409.5(d), the fact that Mr. Baier's camera was unlawfully seized is also extremely troubling. We believe that his video of the incident will show that officers acted in an arbitrary, capricious and unprofessional manner and appeared to have no concept of the First and Fourth Amendment rights granted under the United States Constitutions as well as similar protections provided by California law.

While in some situations the press may have no greater rights than those of the general public, they certainly have no less right of access on a public street. The reliance by your officer to question, detain, interfere with, arrest and seize the property of someone engaged in a lawful activity 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.

While it may be understandable that your officer had a heightened sense of awareness during this incident, that is still no excuse for them to not recognize a journalist's right to record an event occurring in a public place. Law enforcement agencies are established to uphold and enforce existing laws not to use them as a pretext to prevent someone exercising their free speech/press right to take photographs/videotape in public.

NPPA stands ready to work with your department to help develop proper police-press guidelines and implement improved training in order to avoid similar situations. In the meantime please accept this letter as a formal complaint. Additionally, we respectfully request that the charges against Mr. Baier be immediately dropped; that his equipment and any recordings made by him be immediately returned; and that this incident be fully investigated. 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: Mr. Edward Baier (via email edbaier@hotmail.com)
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