



Joint Committee on Transparent Policing and Use of Force Reform:

July 16, 2020

Co-Chair Manning, Co-Chair Bynum, Members of the Committee,

Thank you for the opportunity to testify today. I am the president of the Oregon Territory Chapter of the Society of Professional Journalists, which supports journalists around the state with trainings, programs and advocacy. Our members believe that democracy and society work better when the people — including elected leaders — are equipped with information about the world we all live in.

Since early June, we have heard a series of concerns from and about reporters covering protests in Portland, many supported by video footage. Some examples:

- On June 6, an officer pushed and bruised the lip of reporter Sergio Olmos while he was wearing press ID and explicitly trying to communicate and comply. <https://twitter.com/MrOlmos/status/1269226525020184577>
- Police officers reportedly drew weapons on a broadcaster's associate while she tried to see the license plate of a pickup that nearly ran into them: <https://twitter.com/lwriteOK/status/1269399061775306752?s=20>
- Police at times advanced on crowds that included journalists, while launching tear gas behind them, potentially exacerbating a dangerous situation: <https://twitter.com/MrOlmos/status/1269537745518526464>
- Donovan Farley said that after identifying himself as press, and recording an arrest, a Portland officer beat and pepper sprayed him while he walked away: <https://www.wweek.com/news/city/2020/06/07/portland-reporter-pens-first-person-account-of-being-pepper-sprayed-while-filming-an-arrest/>

- Early on Saturday June 13, an officer shoved photographer Beth Nakamura from behind with a baton after police declared a civil disturbance near the Multnomah County Justice Center. Nakamura had been holding her press ID and camera out above her head and had been following the police orders to leave. She identified herself as a journalist. The officer responded with an expletive and said he did not care:
<https://twitter.com/bethnakamura/status/1272551330184228864>
- That evening Portland Tribune reporter Zane Sparling was shoved into a wall by an officer. Video shows Sparling telling officers he was a reporter covering the demonstration. The officer replied: “I don’t give a shit.” <https://twitter.com/PDXzane/status/1272058454799028226>
- On June 30, Portland police arrested journalist Justin Yau who was filming as police cleared demonstrators from the area. Yau reported he was wearing visible press identification on his helmet and on a badge and had his camera out when he was tackled to the ground and charged with riot and interfering with an officer. Video of him being handcuffed is [here](#).

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On June 9 SPJ sent its concerns to Portland Mayor Ted Wheeler and Chief Chuck Lovell and noted that “Whether intended or not, these efforts appear to dissuade journalists and others from exercising their First Amendment rights.”

On June 16, following the incidents with Nakamura and Sparling, SPJ sent a joint letter with The Oregonian, Oregon Public Broadcasting, Pamplin Media Group, Willamette Week, Portland Mercury, KGW and FOX 12 News. It said “the trend is clear and disturbing. While using force on people engaging in journalism, some officers are explicitly telling those who identify as press that they do not care — or “give a shit,” as one officer told Sparling — that they are engaged in journalism.

We believe that this trend by Portland police sent a message that was both menacing and at odds with the U.S. Constitution: That people who engage in journalism and record police tactics during dispersals would be subjected to force. This use of force was occurring even while people engaged in journalism were clearly and explicitly complying with police orders.

In response to such concerns, the Portland Police Bureau has repeatedly pointed out that there is no exception in the criminal code for people engaged in journalism. That is true, but as we noted in the June 16 media coalition letter to

the city of Portland, it's also true that applications of the Oregon criminal code can conflict with the U.S. Constitution and 42 U.S. Code § 1983.

As the Washington, D.C.—based Reporter's Committee for the Freedom of the Press has pointed out, subjecting journalists to things like curfew orders raise significant constitutional questions because "Journalists engaged in legitimate newsgathering do not present public safety issues," and preventing them from reporting does not "serve a compelling government interest."

We've been consulting closely with lawyers for the Reporter's Committee on these issues, and would note that many of the concerns that organization has raised in the past about vague and overbroad riot statutes may also apply to Oregon's. You can download their 2017 press freedom [report](#) or see this:

https://www.washingtonpost.com/opinions/memo-to-dc-protesters-are-not-rioters/2018/02/04/449e51cc-0862-11e8-94e8-e8b8600ade23_story.html

On July 2, in the case of *Woodstock v. Portland*, U.S. District Judge Michael Simon issued a temporary restraining order that enjoined Portland police from using force on or arresting "any person whom they know or reasonably should know is a Journalist or Legal Observer unless the Police have probable cause to believe that such individual has committed a crime." The judge noted "serious questions regarding the police tactics directed toward journalists and other legal observers and whether restrictions placed upon them by the PPB are narrowly tailored."

https://aclu-or.org/sites/default/files/field_documents/7.2.2020_tro_-_woodstock_v_portland.pdf

Separately, on another issue that the committee is discussing, SPJ sent a letter to lawmakers on June 19 regarding some common-sense public records reforms that would promote transparency and accountability regarding police misconduct.

<https://www.spjoregon.com/news/si4z850l8psbshry7cy85f7k86xq>

We would be glad to discuss these narrow and targeted records reforms when you wish. Thank you for this opportunity. I'd be glad to answer any questions.

Rachel Alexander, President

Society of Professional Journalists, Oregon Territory Chapter