



National Press Photographers Association, Inc.

The Society of Visual Journalists

1100 M&T Center • 3 Fountain Plaza
Buffalo, NY 14202
Phone: 716.566.1484 • Fax: 716.608.1509
lawyer@nppa.org

VIA EMAIL

August 6, 2012

Deputy Commissioner Paul J. Browne
Office of the Deputy Commissioner of Public Information
New York Police Department
1 Police Plaza
New York, NY 10007

Re: Arrest of Robert Stolarik

Dear Deputy Commissioner Browne,

As general counsel for the National Press Photographers Association (NPPA) I strongly object to the arrest and treatment of NY Times photographer, Robert Stolarik on Saturday night (8/4/12) while he was on assignment in the Bronx.

I met with you and Commissioner Kelly along with other news media representatives on November 23, 2011 after journalists were interfered with and arrested while covering matters of public concern in and around Zuccotti Park. After that meeting the Commissioner properly saw fit to issue a FINEST message “to remind members of the service of their obligations to cooperate with media representatives acting in a news-gathering capacity at the scene of police incidents.”

As you are well aware the very next day there were more incidents where NYPD officers once again interfered with photographers covering a tragic Thanksgiving Day fire in Brooklyn and during the Macy’s Day Parade in Manhattan.

In another recorded incident which was widely viewed on the Internet Mr. Stolarik was interfered with in December 2011 during an OWS protest and the department took disciplinary action against one of the officers involved after a letter of complaint was sent you your office by news media representatives.

Over the ensuing months there have been other incidents, which I have emailed you about in accordance with your request for such information. Unfortunately you have failed to respond to those messages.

It is clear from the reports of the most recent incident involving Mr. Stolarik that proper training and supervision of NYPD officers regarding the rights of the press and public to record and photograph on city streets is sorely inadequate and that the directives and spirit of the FINEST message are being disregarded.

It is a travesty that officers still do not understand or respect that “the public’s access to information regarding the official business of the Department is of critical importance to effective City government.” In the Commissioner’s own words – “because the public receives much of this access through the news media, members of the service must ensure that Department procedures which provide for cooperation and assistance with press personnel and which allow press personnel to access the scenes of incidents are carefully followed.” “Supervisors may restrict access to an incident scene only in those exceptional circumstances where it is absolutely necessary for law enforcement or public order purposes” (emphasis added).

In this most recent case officers not only allegedly interfered with Mr. Stolarik by illegally ordering him to stop taking pictures but after he identified himself as a journalist an officer is said to have “grabbed his camera and ‘slammed’ it into his face.” Mr. Stolarik’s reasonable request for that officer’s badge number resulted in other officers allegedly seizing his cameras while dragging him to the ground. He claims he was kicked in the back and was treated at the hospital for “scrapes and bruises to his arms, legs and face.”

If the FINEST message and other Patrol Guide directives are to mean more than just hollow words we respectfully request that the department commence a full and impartial investigation of those members of the service who allegedly violated department policy by unreasonably interfering with media access and by intentionally preventing or obstructing the “photographing or videotaping of news in public places.” We would also ask that the apparent use of excessive force and the seizure of Mr. Stolarik’s camera equipment also be investigated and that disciplinary action be taken where it is deemed to be appropriate. In the meantime Mr. Stolarik’s equipment and credentials must be returned immediately. We believe that the seizure and alleged destruction of his equipment not only violates his First, Fourth and Fourteenth Amendment rights but may be considered a form of prior restraint and a violation of the Privacy Protection Act of 1980, specifically enacted to protect against the search and seizure of a journalist’s work product.

As previously stated, NPPA stands ready to work with your department to help develop more effective training and supervision in order to avoid similar situations. Thank you for your attention in this matter. I look forward to your reply.

Very truly yours,

Mickey H. Osterreicher

Mickey H. Osterreicher
General Counsel

cc: Robert Stolarik (via email)
Sean D. Elliot, NPPA President (via email)