

BakerHostetler

Baker & Hostetler LLP

1801 California Street
Suite 4400
Denver, Colorado 80202-2662

T 303.861.0600
F 303.861.7805
www.bakerlaw.com

Marc D. Flink
direct dial: 303.764.4030
Mflink@bakerlaw.com

JULY 9, 2018

VIA EMAIL

PAUL.PAZEN@DENVERGOV.ORG

Chief Paul Pazen
Denver Police Department
1331 Cherokee Street
Denver, CO 80204-4507

TROY.RIGGS@DENVERGOV.ORG

Troy Riggs
Denver Manager of Public Safety
1331 Cherokee Street, Room 302
Denver, CO 80204

KRISTIN.BRONSON@DENVERGOV.ORG

Kristin M. Bronson, Esq.
Denver City Attorney
201 W. Colfax Avenue
Denver, CO 80202

Re: The Public's First Amendment and Statutory Right to Photograph/Video Police

Dear Chief Pazen, Manager Riggs and Ms. Bronson:

I write on behalf of the Colorado Broadcasters Association (“CBA”), the Colorado Press Association (“CPA”), and the Colorado Freedom of Information Coalition (“CFOIC”) concerning a perceived disturbing pattern of Denver police officer interference with citizens exercising rights to photograph and video police or other public officials in public spaces. The right of a citizen to photograph and video police action and other public officials in public spaces clearly is protected under the First Amendment of the United States Constitution, Article II Section 10 of the Colorado Constitution, and Colorado Revised Statutes §13-21-128 and §16-3-311(1) (“A person has a right to lawfully record any incident involving a peace officer and to maintain custody and control of that recording and the device used to record the recording.”); *see also Higginbotham v. City of New York*, 105 F. Supp. 3d 369, 379-80 (S.D.N.Y. 2015) (holding that the right to photograph or record police officers in a public place is “clearly established”); “All of the circuit courts that have [addressed this issue] have concluded that the First

Chief Paul Pazen
Troy Riggs
Kristin M. Bronson, Esq.
Page 2

Amendment protects the right to record police officers performing their duties in a public space, subject to reasonable time, place and manner restrictions.”)

A recent incident highlights the problem. On July 5, 2018, Susan Greene, the Editor of, and reporter/columnist for *The Colorado Independent*, began to photograph police officers dealing with a man on the public sidewalk on Colfax Avenue across from the State Capitol. A police officer approached Ms. Greene, blocked her line of sight, and ordered her to stop taking photographs. The officer told Ms. Greene that she did not have a right to take photographs. Ms. Greene told the officer that the First Amendment gave her that right and she attempted to continue to exercise her rights as a citizen. At that point Ms. Greene was forcibly grabbed, had her arm twisted, was tightly handcuffed, and was taken to the back seat of a police vehicle. Apparently after a telephone call with a person unknown, the officer released Ms. Greene who had been detained for approximately 10 minutes. This incident is recounted by Ms. Greene at <https://www.coloradoindependent.com/171068>. Ms. Greene’s rights as a reporter are no less than her rights as a citizen. It is unknown whether Ms. Greene has lodged a formal complaint.

The CBA, CPA, and CFOIC, are all deeply concerned, dismayed and disappointed that despite the Colorado General Assembly and courts clearly speaking to these issues, certain Denver police officers continue to ignore, disregard and interfere with a citizen’s right to photograph and video from public spaces the conduct and actions of police officers at work. The right of Colorado citizens to photograph or video police officers in public spaces is so well established that the CBA, CPA, and CFOIC can only conclude that educating police officers as to citizens’ rights is not, and has not been a priority, with the City and County of Denver. With cameras in cell phones and tablets being ubiquitous, these three organizations urge the City and County of Denver immediately to institute intensive training and education of all Department of Safety employees on these rights so that an incident such as that experienced by Ms. Greene yesterday is not repeated. A citizen should be free from interference from police officers in the lawful exercise of his or her First Amendment and statutory rights to record in a public space the conduct of a public official.

The CBA, CPA, and CFOIC request that the City and County of Denver and its Department of Safety advise the public through a press release of the immediate steps that will be taken to ensure that all Department of Safety employees are educated and trained on the right of Colorado citizens to photograph or video police officers in public spaces.

Thank you for your attention to this important matter of public interest and concern

Sincerely,



Marc D. Flink

Chief Paul Pazen
Troy Riggs
Kristin M. Bronson, Esq.
Page 3

cc: Colorado Broadcasters Association
Colorado Freedom of Information Coalition
Colorado Press Association