



Society of Environmental Journalists

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December 13, 2016

Hon. Jeh Charles Johnson
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528

R. Gil Kerlikowske
Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Ave. NW
Washington, DC 20229

Dear Secretary Johnson and Commissioner Kerlikowske:

The Society of Environmental Journalists writes to express grave concerns about the Oct. 1, 2016, detention in Vancouver of photojournalist Ed Ou, who was on his way to cover the pipeline protest at the Standing Rock Sioux reservation in North Dakota. Your agency's action appears to project indifference to the important American ideal of a free press.

As told in media accounts which included efforts to get CBP's side of the story, there did not seem to be any legitimate justification for detaining Mr. Ou, searching his cellphone, and denying him entry into the U.S. We do not contest that CBP has the legal authority to do these things when necessary to protect the nation's security. Mr. Ou has entered the U.S. many times in the past without incident. In this case, the detention seemed to be triggered by his travel to the Middle East and other troubled regions to cover conflicts, or possibly by his declaration that he sought entry to the US this time to cover the pipeline protest. We agree with the American Civil Liberties Union that this case "raises troubling questions about whether the decision to deny him entry to the United States was either in retaliation for his work as a journalist or intended to prevent him from reporting on protests over planned pipeline construction in North Dakota."

An active press is a key part of American democracy, and legitimate newsgathering is its foundation. The U.S. should do better than actively excluding members of the foreign press.

*Strengthening the quality, reach and viability of journalism across all media
to advance public understanding of environmental issues*

We also protest CBP's confiscation of Mr. Ou's mobile phones, tampering with their SIM cards, and confiscating and copying his personal notebook. Journalists have an ethical obligation to protect the identity of any confidential sources. By destroying the confidence sources have in a journalist, you seriously damage that journalist's ability to do his or her job. That could discourage coverage of current events in this country by international media. And as the ACLU also pointed out, "conditioning foreign journalists' admission to the United States on their willingness to agree to intrusive searches encourages similarly abusive treatment of American journalists in other countries."

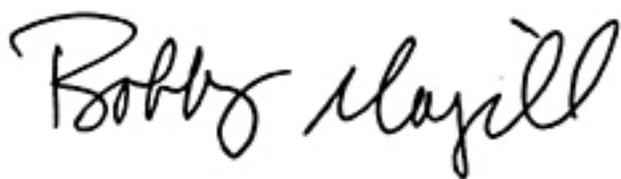
When contacted by various news media about this incident, CBP spokespeople took refuge in a threadbare excuse: that the agency does not comment on individual cases. The agency could, instead, easily disavow this arbitrary and intimidating conduct as a matter of general policy.

We urge U.S. Customs and Border Protection to reverse course, declare publicly that it will not engage henceforth in this kind of unjustified harassment of journalists, reveal to Mr. Ou what information it gleaned from his phones, expunge any information it may hold, and grant him admission to the U.S. when appropriate in the future.

While CBP has a legal duty to protect the US from harm, this was intrusive, inappropriate and troubling in that, whether they meant to or not, this hindered coverage by a legitimate news organization of a controversy in the United States. Foreign journalists may not enjoy First Amendment protections when not yet on US soil, but CBP's treatment of Mr. Ou clearly runs counter to the spirit of that protection.

Feel free to contact us at (215) 884-8174 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Bobby Magill". The signature is written in a cursive, flowing style.

Bobby Magill, President
Society of Environmental Journalists