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# First Amendment FOUNDATION

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## LETTER OF NOTICE

### To:

Office of the Director, Florida Highway Patrol  
Miami-Dade Police Department, Office of the Director  
Miami-Dade County Attorney

**Re:** Unlawful Arrest of Photojournalist Dave Decker and  
Violation of First Amendment Rights

Dear Officials,

We write to express deep concern and indignation regarding the arrest of photojournalist Dave Decker outside the U.S. Immigration and Customs Enforcement's Krome North Service Processing Center in Miami on 11/22/25. The actions of the Florida Highway Patrol and Miami-Dade law enforcement officers involved in this incident represent a serious infringement of First Amendment freedoms, raising troubling questions about the treatment of journalists in Florida, in general, and Miami-Dade County, specifically.

According to contemporaneous accounts and Decker's own documentation, he was present at a public protest in a professional capacity, working on assignment for three separate news outlets, clearly identified by his National Press Photographers Association member ID, and standing off to the side of the road—precisely where protest liaisons had directed individuals to remain. Yet despite engaging in nothing more than protected, routine, non-disruptive newsgathering, he was arrested, zip-tied, detained for hours, and had his vehicle and equipment impounded.

The charge sheet — “trespassing after warning” and “resisting an officer without violence” — is inconsistent with Decker's conduct, and appears to mask what was, in fact, the criminalization of journalism. Disturbingly, when Decker identified himself as press, the Florida Highway Patrol sergeant responded: “I don't care about any of this. You're going to get arrested too.” Such a declaration is not merely inappropriate; it signals deliberate disregard for constitutional protections.

Moreover, according to Decker, about 30 minutes after being detained, he was held separately from other detainees, first in the back of an FHP vehicle and later was made to stand alone with his back to the protesters. It was then he heard another officer ask the FHP officer in charge: “Are we going to let this one go?” “No. He is

going to jail,” the FHP officer replied. The exchange and his separate treatment strongly suggest that Mr. Decker’s status as a journalist was understood by the officers who nonetheless made a deliberate, punitive decision to jail him.

The First Amendment is not optional, and its protections do not evaporate when law enforcement finds the presence of a camera inconvenient. As the United States Supreme Court has long acknowledged, the press plays a critical role in ensuring public oversight of governmental operations:

*“In a society in which each individual has but limited time and resources with which to observe at first hand the operations of his government, he relies necessarily upon the press to bring to him in convenient form the facts of those operations.”*  
— *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 495 (1975)

Moreover, the Eleventh Circuit Court of Appeals, whose jurisdiction includes Florida, has held that the right to photograph and record police activity is a clearly established constitutional right. See *Smith v. City of Cummings*, 212 F.3d 1332 (11th Cir. 2000).

And in *Index Newspapers LLC v. United States Marshals Serv.* (2020), the Ninth Circuit Court of appeals found that federal agents could not use general dispersal orders to target, assault, or arrest journalists lawfully covering protests.

In Decker’s case, his alleged “resistance” appears to have consisted of nothing more than asserting this right. To treat such assertion as criminal behavior is unconstitutional on its face and creates an impermissible chilling effect on the press. When a journalist is handcuffed, detained, and stripped of the tools of his profession merely for documenting a protest and police response, the message to the public is unmistakable: government actions will be shielded from scrutiny.

That is unacceptable in any free society, and wholly incompatible with the laws of the State of Florida and the Constitution of the United States.

The arrest of a credentialed journalist engaged in protected newsgathering threatens the transparency and accountability upon which democratic governance depends. It undermines public trust, exposes your agencies to legal liability, and violates the civil rights of a working member of the press. This conduct cannot stand without institutional correction.

Accordingly, we call upon your offices to:

1. Immediately move to dismiss all charges against Dave Decker, which the facts do not support, and which appear constitutionally infirm.
2. Conduct a full internal review of the officers’ conduct, including the decision-making process that led to the arrest of a clearly identified journalist.

3. Establish and publicly release clear, enforceable policies governing interactions with credentialed journalists at protests, demonstrations, and public spaces—policies that align with First Amendment law and Department of Justice guidance.
4. Provide mandatory training for all officers and supervisors on the rights of the press to document police activity in public.

Both the First Amendment Foundation and the National Press Photographers Association are willing to be a resource to help you, especially in a review and publication of policy as well as training officers how to deal with the media. Accountability is not merely appropriate in this instance; it is required. Florida cannot allow its law enforcement agencies to become instruments of suppression against those tasked with informing the public.

We urge you to take these matters seriously and ensure that no journalist in Miami-Dade—or anywhere in this state—is subject to retaliatory arrest for doing their job.

Sincerely,

Bobby Block, Executive Director, First Amendment Foundation

Lyrissa Lidsky, Board member, First Amendment Foundation, and Professor of First Amendment and Mass Media Law, University of Florida Levin College of Law

Mickey H. Osterreicher, General Counsel to the National Press Photographers Association (NPPA)

Seth Stern, Advocacy Director, Freedom of the Press Foundation