

September 17, 2025

VIA EMAIL

Stacy Tapke
County Attorney
1840 Simon Kenton Way
Suites 4100 & 4200
Covington, KY 41011

Re: Request to drop charges against journalists Madeline Fening and Lucas Griffith

Dear Ms. Tapke,

We write on behalf of the undersigned press freedom and First Amendment organizations and individual journalism professors to urge you to drop all remaining charges against journalists Madeline Fening and Lucas Griffith arising from their arrests on July 17, 2025, while covering a protest on the Roebling Bridge. Fening and Griffith's cases are currently set for trial on September 30 and October 2, respectively.

Fening and Griffith work for CityBeat, a news outlet based in Cincinnati. [Fening](#) is an investigative news reporter, and [Griffith](#) is a photojournalism intern. They were arrested while documenting a demonstration opposing the immigration detention of Imam Ayman Soliman – himself a former journalist who [reportedly](#) fled persecution for his reporting in his native Egypt and now works at a local children's hospital.

We are glad that initial felony rioting charges against the CityBeat journalists have been dropped, but reporting the news is not a misdemeanor either. Prosecuting Fening and Griffith would undermine the First Amendment and set a chilling precedent at a time when local journalism is already facing dire [financial](#) and [other](#) threats.

Trials of journalists arrested while gathering news are exceedingly rare in the United States, and create unnecessary expenses for local tax payers. Fening and Griffith's trials, if they go forward, would be the ninth and tenth such jury trials in the United States in the history of the non-partisan [U.S. Press Freedom Tracker](#), which maintains data on press freedom violations across the country.

A rare 2021 jury trial of a journalist arrested while gathering news in Iowa ended in acquittal after less than two hours of deliberation and made [national headlines](#). Other cases of journalists facing reporting-related charges did not make it to trial because charges were dismissed beforehand. These cases often result in civil [lawsuits](#).

Ohio Gov. Mike DeWine vocally [opposed](#) the prosecution of a journalist at his press conference in [East Palestine, Ohio](#), in 2023. That case ended in a monetary [settlement](#) paid to the reporter.

DeWine has also expressed his [concern](#) about the prosecution of the CityBeat reporters, stating that “We never want to see anybody in the news media who is arrested. They’re there to cover people protesting, or they’re there to cover whatever the event.”

Last year the City of New York paid a monetary [settlement](#) and agreed to stop arresting journalists while they were covering protests — even after dispersal orders were issued — to resolve litigation with photojournalists arrested during the unrest of 2020. There are various other [examples](#) of civil [liability](#) for improper arrests of journalists. Failure to promptly correct errors by dropping charges only increases that liability.

On the other hand, authorities in cities including [Atlanta](#), [Phoenix](#), [Los Angeles](#), [Chicago](#), [Albuquerque](#), [Gary, Indiana](#), and other jurisdictions have recognized that pursuing cases against journalists arrested for First Amendment protected newsgathering is an unwise use of prosecutorial discretion while dismissing charges against journalists allows your office to focus on real crimes.

As Los Angeles’s City Attorney [explained](#) following his 2021 dismissal of charges against journalists and protesters, free speech is “fundamental to our democracy,” and those arrested “did not threaten public safety and it would not be in the interest of justice to prosecute them.” The conduct of the CityBeat reporters appears no different from that of the reporters involved in these rightly dismissed cases.

[A video of Fening’s arrest](#), captured by WVXU journalist Nick Swartsell, shows Fening standing back from the protesters and police and filming as an officer arrests a person and walks them toward police vehicles. Another officer then approached Fening, forcefully grabbed her by the arm, and pulled both her hands behind her back, preventing her from continuing to film. A second officer then joined the first officer next to Fening. Swartsell can be heard informing the officers multiple times that Fening is a member of the press. In response, one of the officers demands that Swartsell move back, while the other walks Fening toward the police vehicles. The video ends with Fening standing with her arms behind her back, held by an officer, next to a police vehicle.

Protests and the police response to them are highly newsworthy matters of public concern. Arresting journalists attempting to cover this news deprives the public of the information it needs to understand and assess the actions of protestors and police and to hold the government accountable. These prosecutions make journalists less likely to cover these newsworthy events in the future, for fear that it may cost them their freedom.

That is why courts have held that the First Amendment protects both journalists covering protests and the right of journalists and the public to record police in public during the performance of their duties. The Sixth Circuit Court of Appeals has “long and clearly held that newsgathering ‘qualif[ies] for First Amendment protection.’”¹ Eight [federal courts of appeals](#)

¹ *Enoch v. Hogan*, 728 F. App’x 448, 456 (6th Cir. 2018) (quoting *Boddie v. Amer. Broad. Cos.*, 881 F.2d 267, 271 (6th Cir. 1989)).

have explicitly held that the First Amendment protected right to record police is “clearly established.”

We understand that Covington Police Chief Brian Valenti [claimed](#) that Fening “did not leave the roadway after the officers’ commands.” But as [the U.S. Department of Justice](#) and the [Ninth Circuit Court of Appeals](#) have made clear, journalists are entitled to remain on the scene and continue reporting even after police have dispersed protesters, because how police respond to protests is as newsworthy as the protests themselves.

In fact, [guidance recently issued by the DOJ](#) following a convening of police leaders and journalists, spearheaded by the Police Executive Research Forum and the Reporters Committee for Freedom of the Press explains that, even in circumstances where officers disperse protesters who break the law, they may not also disperse journalists or arrest them for not following orders to disperse.

Valenti also [claimed](#) that Fening was not carrying press credentials when she was arrested. But as the First Circuit Court of Appeals noted, the First Amendment’s protections for freedom of the press [are not contingent on holding a press credential](#). While press credentials can help law enforcement quickly identify journalists, as the DOJ has [explained](#), “the lack of a credential does not mean an individual is not—or should not be considered—a member of the media, and constitutional protections for the press do not depend on the possession of a credential.”

As a result, it is irrelevant if Fening or Griffith were not displaying press credentials when they were arrested (and in any event it does not appear that local authorities have any regular process for issuing credentials). Even if there was a misunderstanding as to whether they were reporters, that misunderstanding has now been resolved and charges must be dropped.

The continued prosecution of Fening and Griffith sends a chilling message to the press and public. It’s also a misuse of taxpayers’ funds. There is no public benefit to prosecuting journalists who are not accused of causing any harm.

As protests continue around the country, the decision by your office to pursue or decline to prosecute the charges against Fening and Griffith is vitally important. If the public is to be informed, journalists must know that they will be able to do their jobs and cover these events without risking arrest and prosecution.

In the interest of justice, we urge you to decline to prosecute and dismiss all charges against Fening and Griffith and ensure that, in the event any other journalists are wrongly arrested at protests, your office promptly does the same. In addition, we respectfully request to meet with you to discuss both these cases and the need for journalists to be able to freely and safely perform their constitutionally protected duties.

Thank you for your time and we look forward to hearing back from you.

Sincerely,

American Society of Journalists & Authors (ASJA)
Association of Foreign Press Correspondents
Committee to Protect Journalists
Fight for the Future
Foundation for Individual Rights and Expression
Freedom of the Press Foundation
Greater Cincinnati Association of Black Journalists
Greater Cincinnati Pro Chapter of the Society of Professional Journalists
Investigative Reporters and Editors (IRE)
Los Angeles Press Club
The Media and Democracy Project
The National Press Club
National Press Photographers Association
PEN America
Radio Television Digital News Association
Reporters Without Borders (RSF)
Society of Environmental Journalists
Society of Professional Journalists
Student Press Law Center
The Tully Center for Free Speech
Woodhull Freedom Foundation

*Individual signatories**

Alfred J. Cotton III, Director of Undergraduate Studies, Associate Professor-Educator,
Journalism, University of Cincinnati
Sean Hughes, Professor-Educator, Department of Journalism, University of Cincinnati
Victoria LaPoe, Ph.D., Professor, Department of Journalism, University of Cincinnati
Ben LaPoe, Assistant Professor, Department of Journalism, University of Cincinnati
Jenny Wohlfarth, Professor-Educator, Department of Journalism, University of Cincinnati

**Individual signatories to this letter have signed in their individual capacities. Institutions are named for identification purposes only.*