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Jeffrey A. Mittman
Executive Director



September 7, 2017

The Honorable Eric Greitens
Office of the Governor
P.O. Box 720
Jefferson City, MO 65102

The Honorable Josh Hawley
Missouri Attorney General's Office
Supreme Court Building
207 W. High St.
P.O. Box 899
Jefferson City, MO 65102

Colonel Sandra K. Karsten
Department of Public Safety
Missouri State Highway Patrol
1510 East Elm Street
P.O. Box 568
Jefferson City, MO 65102

Director Charles A. Juden
Office of the Director
1101 Riverside Drive
Lewis and Clark Building, 4th Floor
West
P.O. Box 749
Jefferson City, MO 65102

Lt. Col. Lawrence M. O'Toole
Acting Police Commissioner
Metropolitan Police Department of
St. Louis
1915 Olive St.
Saint Louis, MO 63103

Sheriff Vernon Betts
Sheriff's Office, City of Saint Louis
10 N. Tucker Blvd - 8th Floor, Civil
Courts Building
St. Louis, Missouri 63101

Dear Governor Greitens, Attorney General Hawley, Colonel Karsten,
Director Juden, Lt. Col. O'Toole, and Sheriff Betts:

In the coming days and weeks, reaction to the case of former St. Louis Police Officer Jason Stockley will reverberate through our community. It is imperative that the free speech rights of the public and the press be protected and respected by all government officials.

Free Speech is a Right That Needs Breathing Room

Free speech often involves protest, raised voices, anger, and the airing of grievances. Members of the public must be free to protest publically without interference from government officials, including police.

We understand that there is a difference between exercising one's First Amendment right to assemble and breaking the law. However, the Constitution firmly protects nonviolent protests even when – and especially when – they stir anger, question preconceptions, challenge government policy, and induce dissatisfaction with the status quo.

There is a firm line dividing protected speech from unlawful behavior. It is the government's obligation not to stifle speech simply because it is perceived as loud, raucous, or frightening. America's robust commitment to free speech allows us all to effect change by speaking up and sharing information. Free speech is the best tool we have for ensuring that the government remains of the people and for the people.

The First Amendment must be carefully protected and vigorously defended. Each and every law enforcement agent has an affirmative duty to ensure that the rights of protesters and the press are protected.

Pretextual Arrests

The protection of free speech cannot be accomplished through pretextual arrests. Using pretextual reasons to arrest, or threaten with arrest, those individuals engaged in peaceful public protests, blocks speech and tramples on constitutional values.

The use of force against protesters absent a real and immediate threat of physical harm to others is never permissible.

Any law enforcement officer engaged in protest monitoring must ensure that the rights of protesters are respected.

To be specific, it is unlawful – absent consent or exigent circumstances – for police to:

- confiscate recorded footage;
- prevent recording by media or private citizens of police activity;
- disperse protesters or members of the media, or order them to leave a public space;
- search an individual; or
- enter, search, or raid private homes or sanctuary spaces without a warrant.

Should the ACLU of Missouri receive information or footage evidencing violations of protester civil liberties, we will take immediate action to prevent further abuses. Such legal action could result in court orders and/or attorneys' fees.

Our hope is that protesters and the media will be allowed to exercise their First Amendment rights while law enforcement officials monitor and observe for the sole purpose of public safety.

Instructing all officers in and around active protests on allowable actions and what constitutes unlawful behavior best serves all parties.

Sincerely,

A handwritten signature in black ink, appearing to read "J.A. Mittman", with a long horizontal flourish extending to the right.

Jeffrey A. Mittman
Executive Director

