



Calls for National Police Guidelines After Ferguson

PEN America is using the alleged use of excessive force by the police in restraining crowds and journalists trying to cover the Michael Brown shooting in Ferguson, Missouri, last August to [call for federal guidelines](#) to be applied to every local police force in the country.



The group — part of the PEN American Center, whose motto is “Protecting Free Expression” — published its summary of 52 instances of Ferguson police allegedly overreacting to real and perceived threats to public safety in the aftermath of the shooting of Brown by Ferguson police officer Darren Wilson. Calling them “alleged” violations, PEN America said on Monday that they “contravene a right that is protected under the U.S. Constitution and international human rights law.”

PEN American Center “calls upon the U.S. Department of Justice to carry out investigations into violations of press freedom ... [and] to ensure that ... the rights of members of the press and of the public at large are upheld.”

PEN America concluded that:

The most serious human rights violations in Ferguson affected both protestors and the press, and were fueled by the police’s aggressive, militarized response to largely peaceful public protests.

Police wielded assault rifles and pointed them at people who were behaving in a lawful and orderly manner.

The use of tear gas, pepper spray, attack dogs, rubber bullets, snipers, flash-bang grenades and sound cannons (long-range acoustic devices) against protestors was seen by many observers as a disproportionately violent response to mostly peaceful assemblies of protestors.

The many infringements of the right to freedom of assembly seen in Ferguson deserve thorough investigation, and those responsible for human rights abuses should be held accountable.

Long-time observers of such incidents that spark protests which lead to a predictable police response will recognize the revolutionary strategy better known as “pressure from below/pressure from above” resulting in the synthesis desired: more federal government control over local police.

Those observers will note the reliance by PEN America on not only First Amendment rights guaranteed under the U.S. Constitution but also on those same rights supposedly guaranteed under “international law.” They will note the recurrent use of the wording “‘peaceful’ assemblies” of innocent protestors, when known revolutionaries were present at some of those protests, inciting innocent protestors into



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breaking the law. They also wouldn't be surprised to learn the legal background and training of the report's primary author, Katy Glenn Bass, PEN America's deputy director, included teaching stints at Fordham Law School and law degrees from Princeton and Harvard.

With that as background, the report expands its emphasis from protests over the shooting to concerns about racism evidenced by an overabundance of white police officers in the Ferguson police department — an invidious charge of racism — to wit:

Protesters were concerned not only with the killing of Michael Brown but also with years of tense relations between the community and law enforcement, underrepresentation of minorities in local government and on police forces, the aggressive and arbitrary enforcement of traffic laws and fines, and [inevitably — wait for it] the ongoing economic malaise affecting local communities.

The leadoff injustice was unhappily provided by overly-aggressive officers in their confrontation, treatment, and arrest of two liberal journalists on August 13 who were allegedly minding their own business in a nearby McDonald's during the riots: Wesley Lowery of the *Washington Post* and Ryan Reilly of the *Huffington Post*. They were using McDonald's as a "staging area" (their words) when officers arrived, along with an attitude. Wrote Lowery the next day in his column at *WaPo*:

Inside [the McDonald's] there's WiFi and outlets, so it's common for reporters to gather there.

My phone was about to die, so as I charged it ... many armed officers came in — some who were dressed as normal officers, others who were dressed with more gear.

Initially, both Ryan Reilly ... and I were asked for identification. I was wearing my lanyard but Ryan asked why he had to show his ID. They didn't press the point ... they walked away.

Moments later the police reemerged, telling us that we had to leave. I pulled my phone out and began recording video. An officer with a large weapon came up to me and said, "Stop recording."

I said, "Officer, do I not have the right to record you?"

He backed off but told me to hurry up. So I gathered my notebook and pens with one hand while recording him with the other hand.

As I exited, I saw Ryan to my left, having a similar argument with two officers. I recorded him, too, and that angered the officer....

As I turned [to leave], my backpack which was slung over one shoulder began to slip. I said, "Officers, let me just gather my bag." As I did, one of them said, "Okay, let's take him."

Multiple officers grabbed me. I tried to turn my back to them to assist them in arresting me. I dropped the things from my hands.

"My hands are behind my back," I said. "I'm not resisting. I'm not resisting." At which point one officer said: "You're resisting. Stop resisting."...

As they took me into custody, the officers slammed me into a soda machine, at one point setting off the Coke dispenser. They put plastic cuffs on me, then led me out the door....

Eventually a police car arrived ... during this time we asked the officers for [their] badge numbers. We asked to speak to a supervising officer. We asked why we were being detained. We were told: trespassing in a McDonald's.

"I hope you're happy with yourself," one officer told me. And I responded: "This story's going to get



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out there. It's going to be on the front page of the *Washington Post* tomorrow."

And he said, "Yeah, well, you're going to be in my jail cell tonight."

PEN America's 34-page report was equally detailed about the other 51 infringements, all designed to lead to the inevitable conclusion: Something must be done and, obviously it wasn't going to get done on the local level. In its "Conclusions and Recommendations" PEN got down to it:

To the Department of Justice:

Issue new guidelines for U.S. police departments on respect for media freedoms during public demonstrations, including the rights accorded to citizen journalists.

Even if every one of those 52 incidents can be cross-checked and validated by third-party disinterested observers, there is still no reason, under the Constitution, for the Department of Justice to get involved. The entire matter should be handled at the local and state levels. But that doesn't fit the agenda: The more government the better, and the more passed on to the federal government, even better.

PEN America is party to the crime of advocating for more federal control over local police.



Photo of police officers ordering protestors to move in Ferguson, Missouri: AP Images

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