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May 15, 2012

Secretary Janet Napolitano
Department of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Adele Fasano, Port Director
Customs and Border Protection –
Port of Entry – New York/ Newark
1100 Raymond Blvd.
Newark, NJ 07102

Dear Ms. Napolitano and Ms. Fasano:

As documentary filmmakers engaged with social justice issues, we at New Day Films are writing to express deep concerns regarding the ongoing treatment of our fellow documentary filmmaker, Laura Poitras, who was most recently detained and interrogated on April 5 at Newark International Airport by Customs and Border Protection (CBP) agents. An article by journalist Glenn Greenwald, published by Salon.com on April 8, describes this episode; it also describes the repeated harassment and seizure of professional and personal materials that Ms. Poitras has suffered at the hands of the CBP. (The article can be viewed at http://www.salon.com/2012/04/08/u_s_filmaker_repeatedly_detained_at_border/.)

CBP, “one of the Department of Homeland Security’s largest and most complex components” by its own description, asserts that it has “a priority mission of keeping terrorists and their weapons out of the United States.” Given that mission, can you please answer these questions?

1. Are pens among the “terrorist weapons” that concern you? Ms. Poitras was told by multiple CBP agents that she was prohibited from taking notes, on the grounds that her pen could be used as a weapon.
2. Is taking notes really prohibited at the border? CBP agent Wassum threatened to handcuff Ms. Poitras if she continued taking notes at this detainment. (Ms. Poitras had been advised by her attorney to do so, after facing repeated border detainments whenever she re-entered the United States from travel abroad.)
3. If the answers to these questions is no, has the CBP taken any disciplinary action against CBP agents Wassum and Lopez? (CBP Chief Deputy Lopez also told Ms. Poitras that she was prohibited from taking notes, and accused her of “refusing to cooperate with an investigation,” the CBP later “clarified” that there was no “investigation,” only “questioning.”)
4. Can you clarify any DHS or CBP policy vis-à-vis Ms. Poitras, and/or explain why she is being singled out for such scrutiny?

Ms. Poitras has the highest reputation as a documentary filmmaker and journalist. Her film “My Country, My Country” was nominated for a 2007 Academy Award. She was awarded the 2011 Cinema Eye Honor for Outstanding Achievement in Direction for her 2010 documentary, “The Oath.” Her subject matter includes, among other things, the complex politics and social implications of the 9/11 attacks and their

aftermath. By all appearances, the treatment of Ms. Poitras by DHS and CBP has nothing to do with protecting the nation from terrorists or terrorism, and everything to do with intimidating documentarians and journalists from exercising their rights to free speech and freedom of the press – particularly if their work might be perceived by those inside the government as in any way contrary to, or critical of, government policy.

Regardless of the rationale, CBP's actions toward Ms. Poitras appear to violate both the First Amendment and Fourth Amendment of the Constitution (protecting free speech, and protecting against unreasonable search and seizures). As such, they contradict what is proudly stated on the home page of the governmental CBP website:

"Service to Country is embodied in the work we do. We are dedicated to defending and upholding the Constitution of the United States. The American people have entrusted us to protect the homeland and defend liberty. Integrity is our cornerstone. We are guided by the highest ethical and moral principles. Our actions bring honor to ourselves and our agency."

We feel strongly that both the DHS and CBP need to account to the American people for their actions regarding Ms. Poitras and to state more clearly their policy regarding the matter at hand.

New Day Films, democratically run by its 150+ filmmaker /members, has been distributing films to educators since 1971. We are part of a larger documentary film community whose work provides valuable information, insight and grist for public debate on a host of social and political issues, all of which is critical for a healthy and vibrant democracy. Documentary filmmakers and journalists deserve to be allowed to operate without government censorship, suppression, harassment or intimidation.

We welcome and await your response to our concerns.

Sincerely,

Debra Chasnoff, Chair for the filmmakers of New Day Films, including:

Kelly Anderson, AndersonGold Films, Brooklyn, NY
Robert Arnold, Lateral Films, San Francisco, CA
Suzan Beraza, Reel Thing Films, Telluride, CO
Angad Bhalla, Time of Day Productions, Brooklyn, NY
Nila Bogue, San Francisco, CA
Liane Brandon, Boston, MA
Grania Brolin, Water Mill, NY
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Janet Cole, Berkeley, CA
Heather Courtney, Filmmaker, Austin, TX
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Paco de Onís, Filmmaker, Brooklyn NY
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Andrew Garrison, Kit Box Media, Austin, TX
Jen Gilomen, Director of Independent Media, Bay Area Video Coalition, San Francisco, CA
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Jim Klein, Yellow Springs, OH
Charlotte Lagarde, ED, Swell Cinema, New York, NY
Mark Lipman, Open Studio Productions, San Francisco, CA
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Jacki Ochs, New York, NY
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Marianne Teleki, Filmmaker, Tunnel Productions, Berkeley, CA
Shirley Thompson, Honolulu, HI
Dawn Valadez, Filmmaker, Vaquera Films, San Leandro, CA
Pam Walton, Pam Walton Productions, Mountain View, CA
Vanessa Warheit, Horse Opera Productions, Palo Alto, CA
Octavio Warnock-Graham, Filmmaker, New York, NY
Keith Wilson, Walleye Systems, San Francisco, CA

Cc: President Barack Obama
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Committee on Homeland Security, U.S. House of Representatives
Laura Poitras
Glenn Greenwald
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