

# Lawyers' Rights Watch Canada

*NGO in Special Consultative Status with the Economic and Social Council of the United Nations*  
Promoting human rights by protecting those who defend them

[www.lrwc.org](http://www.lrwc.org) – [lrwc@portal.ca](mailto:lrwc@portal.ca) – Tel: +1 604 736 1175 – Fax: +1 604 736 1170  
3220 West 13<sup>th</sup> Avenue, Vancouver, B.C. CANADA V6K 2V5

**TO:** Loretta Lynch , United States Attorney General  
U.S. Department of Justice, 950 Pennsylvania Avenue NW  
Washington, DC 20530-0001

Wayne Stenehjem Attorney General for North Dakota  
State Capitol, 600 E. Boulevard Ave. Dept. 125, Bismarck, ND 58505  
email: [ndag@nd.gov](mailto:ndag@nd.gov)

Allen Koppy, Morton County State's Attorney  
210 2nd Ave NW Mandan ND 58554  
email: [allen.koppy@mortonnd.org](mailto:allen.koppy@mortonnd.org)

Gabrielle J. Goter, Assistant State's Attorney for Morton County  
210 2nd Ave. NW, Mandan, ND 58554  
email: [gabrielle.goter@mortonnd.org](mailto:gabrielle.goter@mortonnd.org)

Kyle Kirchmeier, Morton County Sheriff  
205 1st Ave NW, Mandan, ND 58554

Dear Attorney General, Morton County State Attorney and Assistant Attorney and County Sheriff;

**RE: Arrest Warrant for Amy Goodman**

I write you on behalf of Lawyers' Rights Watch Canada (LRWC), a committee of lawyers and other human rights defenders who promote international human rights and the rule of law through advocacy, education and legal research. LRWC is a volunteer-run NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

The issuance by the Morton County Sheriff's Office of a warrant for the arrest of Amy Goodman, an internationally respected journalist working with Democracy Now and recently covering native American protests against an oil pipeline, is a shocking assault on internationally protected rights to freedom of expression and First Amendment rights of freedom of speech and freedom of the press. LRWC calls on the office of the States Attorney-General to immediately vacate the warrant.

We understand that the warrant relies on an 8 September 2016 criminal complaint based on the affidavit of a special agent with the North Dakota Bureau of Criminal Investigation, alleging that Goodman was with a large group of protesters who on 3 September blocked a highway and then broke through a fence

and occupied private property.<sup>1</sup> Not only was Ms. Goodman clearly identified as a member of the press, but much of the evidence for the warrant was taken from her team's footage, shot while covering the protests.<sup>2</sup>

In carrying out her role as a journalist covering the protests, Ms. Goodman was protected by the free speech and free press clauses of the First Amendment of the United States Constitution. Free expression is a fundamental human right under both US and international law: it is recognized at Article 19 of the *Universal Declaration of Human Rights*,<sup>3</sup> to which the United States is an original signatory and whose principles form part of binding customary international law, as well as Article 19 of the *International Covenant on Civil and Political Rights*,<sup>4</sup> which the United States has ratified. As a Member of Organization of American States the United States is also bound by the *Inter-American Democratic Charter*,<sup>5</sup> which protects freedom of expression and freedom of the press at Art. 4.

Enforcement of the warrant through arrest would constitute an arbitrary detention or deprivation of liberty contrary to international human rights law. The United Nations Working Group on Arbitrary Detention has stated that detention is arbitrary where, *inter alia*, the deprivation of liberty results from the exercise of freedom of expression rights protected by Articles 19 of the UDHR and the ICCPR.<sup>6</sup>

**LRWC therefore calls on the States Attorney General to immediately vacate the warrant for Amy Goodman's arrest.**

While the threat of arrest of journalists for carrying out work in the public interest and protected by both international human rights law and the U.S. Constitution is an egregious assault on basic civil liberties, the circumstances of the issuance of the arrest warrant and the content of Ms. Goodman's footage leave no doubt that the gross breach of her rights was carried out for the specific purpose of intimidating or silencing Ms. Goodman and other journalists seeking to report on a protest and potentially exposing expose state officials violating the rights of protesters. Ms. Goodman's footage – which has been viewed more than 13 million times on the Democracy Now Facebook page<sup>7</sup> – shows authorities assaulting protesters and private security staff attacking protesters with dogs and with pepper spray. The security guards were not in uniform but their dogs wore "Police K9" harnesses. While numerous state authorities

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1 Sam Levin "North Dakota arrest warrant for Amy Goodman raises fears for press freedom" *The Guardian*, 12 Sep 2016, Online: <https://www.theguardian.com/us-news/2016/sep/12/amy-goodman-arrest-warrant-north-dakota-oil-pipeline-protest>

2 Democracy Now! Statement on arrest Warrant, online:  
[http://www.democracynow.org/2016/9/12/north\\_dakota\\_v\\_amy\\_goodman\\_arrest](http://www.democracynow.org/2016/9/12/north_dakota_v_amy_goodman_arrest)

3 UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), available at: <http://www.refworld.org/docid/3ae6b3712c.html> (UDHR).

4 UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <http://www.refworld.org/docid/3ae6b3aa0.html> (ICCPR).

5 OAS General Assembly, *Inter-American Democratic Charter*, Lima, 11 September 2001.

6 <http://www.ohchr.org/EN/Issues/Detention/Pages/Complaints.aspx>

7 <https://www.facebook.com/democracynow/videos/10154446432358279/>

and security staff were easily identifiable on the footage, no charges have been laid or warrants issued in respect of those clearly documented crimes.

**LRWC requires that the United States Attorney's office immediately opens an investigation into the assault, battery, and excessive force used by security staff that is documented in the footage.**

We ask for your promptest reply to confirm that the arrest warrant has been vacated and that appropriate investigations into the unlawful and dangerous conduct of police and security staff on 3 September 2016 and the unconstitutional attack on Ms. Goodman's first amendment rights by your office on 8 September 2016 are underway.

Sincerely,

A handwritten signature in dark ink, appearing to read 'G. Magrath', with a stylized flourish at the end.

**Gavin Magrath**, Barrister and Solicitor  
Director, Lawyer's Rights Watch (Legal Research) Canada