



GOVERNMENT
ACCOUNTABILITY
PROJECT

1612 K Street, NW, Suite #1100
Washington, DC 20006
(202) 457-0034 | info@whistleblower.org

By Email

Elizabeth L. Robbins
Deputy Director
Voice of America
330 Independence Ave., SW
Washington, DC 20237

January 15, 2021

Re: Notice of Second Illegal Personnel Practice Taken Against VOA Senior White House Correspondent Patsy Widakuswara

Ms. Robbins:

We represent Patsy Widakuswara. Until the late evening of Monday January 11, 2021, Ms. Widakuswara was the Senior White House Correspondent for Voice of America (VOA). Since then, Ms. Widakuswara has been reassigned twice in two days – first to the VOA News Center, then to the VOA Indonesia Service (hereafter referred to as “the reassignments”).

On January 14, 2021, you informed Ms. Widakuswara that she is the subject of “[a]n administrative investigation” related to the reassignments. That investigation, in and of itself, is retaliatory and may potentially be a prohibited personnel practice forbidden by the federal whistleblower laws. It is the second prohibited personnel practice for which we believe you and other members of political leadership of VOA and its parent agency, the U.S. Agency for Global Media (“USAGM”), may be responsible.

Background

As context, we provide a recap of events over the past ten days. On January 4, 2021, VOA Director Robert Riley announced that on January 11, 2021, Secretary of State Mike Pompeo would be making a live address to VOA employees at VOA headquarters. Mr. Riley said the address was to be broadcast live and worldwide -- to a potential audience numbering in the hundreds of millions -- through all available VOA channels on air at the time. Outside media was excluded. You organized the event.

On January 8, 2021, we advised Mr. Riley and USAGM Chief Executive Officer Michael Pack that the address: (i) endangered public health and safety due to COVID-19 risks (it was to be before a live audience of VOA employees in a seldom-used, windowless auditorium); (ii) violated law, rule and regulation (the directive to broadcast the speech through all VOA channels

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constituted illegal political meddling); and (iii) grossly wasted government resources. A copy of our January 8 letter is attached as Exhibit 1.

As expected, our concerns were ignored. The Secretary gave his address as planned on the afternoon of Monday January 11. After the address, Director Riley asked the Secretary six questions. None concerned the most pressing topic of public concern: the January 6, 2021 occupation of the Capitol in the midst of the certification of the election of the President of the United States by supporters of President Trump (who has since been impeached). The Secretary, fourth in the line of succession, made no public comments on the issue prior to his address; as of this writing he still has made no public comments.

The only journalists in attendance were VOA employees, including Ms. Widakuswara. As the Secretary was leaving the VOA building — after the event concluded — Ms. Widakuswara asked him questions on the January 6 Capitol occupation that he has not addressed in public since it happened.

He ignored them. Immediately after the Secretary departed, Mr. Riley berated Ms. Widakuswara, telling her, “You don’t know how to behave ... you are not authorized. ...” Ms. Widakuswara replied, “I know, but I am a journalist and I am paid to ask questions and none of those questions you asked.” You then cut off further discussion.

At 10:30 pm that night, the reassignments commenced. Ms. Widakuswara, who had been scheduled to be one of the White House pool reporters covering President Trump’s trip to Texas the next morning, was pulled from the roster. Hours before the start of the reassignments, we wrote to Mr. Riley and Mr. Pack to advise that Ms. Widakuswara is a whistleblower. A copy of our letter is attached as Exhibit 2.

On January 13, 2021, we notified you, Mr. Riley and Mr. Pack that the reassignments constituted prohibited personnel practices. We wrote that Ms. Widakuswara’s removal from the White House beat was another example of illegal political meddling, a clear violation of the statutory firewall intended to protect the editorial independence of VOA journalists and editors. A copy of our letter is attached as Exhibit 3.

On the same day, Ms. Widakuswara’s other counsel at the Gibson Dunn & Crutcher law firm informed you that, among other matters, your actions were unconstitutional violations of the First and Fifth Amendments and that they could well be a violation of the order entered in *Turner v. US Agency for Global Media*, No. 20-2885, ECF No. 45 (D.D.C. Nov. 20, 2020). The order enjoins Mr. Pack and all USAGM employees “from making or interfering with personnel decisions with respect to individual editorial or journalistic employees at Voice of America.” A copy of that letter is attached as Exhibit 4.

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This Prohibited Personnel Practice

Yesterday, just after 6 p.m., you sent Ms. Widakuswara an email stating, in response to her query about her status given the reassignments, that “[a]n administrative investigation is underway and you will be apprised of the outcome in due course.”

Based on the foregoing, it is obvious that this investigation is retaliatory and potentially illegal. Retaliatory investigations may qualify as personnel actions if they result in a significant change in job duties, responsibilities, or working conditions, or contribute toward the creation of a hostile work environment. See *Sistek v. Department of Veterans Affairs*, No. 2019-1168, (Fed. Cir. April 8, 2020), available at https://scholar.google.com/scholar_case?case=16127333805242454111. The applicable federal statute, 5 U.S.C. § 2302(b)(8), prohibits supervisory employees like you from taking personnel actions against employees like Ms. Widakuswara who are whistleblowers. In other words, you face legal risk.

Given the actions taken by you and your colleagues, we are providing this letter to the Congressional oversight committees, the Department of State Office of Inspector General and the U.S. Office of Special Counsel.

Very truly yours,

/s/

DAVID Z. SEIDE
Government Accountability Project

Attachments

cc: House Foreign Affairs Committee
Senate Foreign Relations Committee
U.S. Department of State Office of Inspector General
U.S. Office of Special Counsel

EXHIBIT 1

EXHIBIT 1



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By Email

Michael Pack
Chief Executive Officer
U.S. Agency for Global Media
330 Independence Ave., SW
Washington, DC 20237

Robert R. Reilly
Director
Voice of America
330 Independence Ave., SW
Washington, DC 20237

January 8, 2021

Re: Protected Whistleblower Disclosures of Illegal Planned Activity on January 11, 20201 at the Voice of America Grossly Misusing Government Resources and Endangering Public Health and Safety

Dear Messrs. Pack and Reilly:

We, Government Accountability Project, represent employees of your agencies who are whistleblowers and who wish to remain anonymous. We are providing this notice to advise you that your plan to broadcast on January 11, 2021 – worldwide through Voice of America (VOA) channels – a live address by Secretary of State Mike Pompeo at VOA headquarters to VOA staff endangers public health and safety, violates law, rule and regulation and grossly wastes government resources.

On January 4, 2021, Mr. Reilly sent an email to VOA staff announcing the plan for the Secretary's January 11 speech. It states, in full, and with emphasis added:

I am pleased to announce that U.S. Secretary of State Michael Pompeo will come to VOA headquarters in the Cohen Building on Monday, January 11, 2021 to speak about the importance of VOA and the challenges facing the United States in the world today.

The program will begin at 3:00 p.m. Eastern Time in the auditorium and will last about half an hour. *It will be broadcast live by the services that are on the air at that time.* The video and transcript will be made available to the house for later use as well.

In accordance with COVID-19 protocols, *seating in the auditorium* will be limited. Information about how to attend virtually will be forthcoming.

VOA staff members interested in attending this event must RSVP to publicrelations@voanews.com by the close of business on Thursday, January 7.

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It is a tribute to all of your efforts that Secretary Pompeo is making this visit. We hope to see many of you in person and virtually for this event

Notwithstanding the shocking and tragic events of January 6, preparations for the speech continue. Yesterday, January 7, VOA posted a Media Advisory on its website publicly announcing the speech.¹ Notably, it states, with emphasis added:

Secretary Pompeo's remarks will be open for press coverage and available to VOA language services and affiliates worldwide. *Due to social distancing requirements, in person coverage is not available.*

Given the closure of the event to outside media – ostensibly “[d]ue to social distancing requirements” – your decision to stage the speech before a live audience of VOA employees is especially brazen. It is also disingenuous. You cannot use the COVID-19 pandemic's public health risks to outside reporters as an excuse for excluding them and then “invite” your employees to attend.

Plainly, the use of a live audience in the midst of the pandemic endangers that audience – regardless of precautions. That is especially true here because the chosen setting for the speech is the VOA auditorium – a rarely used, windowless space. In other words, the planned speech before a live audience of VOA staff is a specific danger to public health and safety.

The decision to broadcast the speech worldwide through VOA channels is also a violation of law, rule and policy. We all know that Secretary Pompeo is no stranger to the media. On January 5, 2020, the State Department posted verbatim transcripts of two sympathetic interviews he gave to the Epoch Times and on the Bloomberg News David Rubenstein Show on the challenges the nation faces – the topic of his VOA address.² Both Epoch Times and Bloomberg News published stories based on the interviews.³

¹ *Live Address by Secretary of State Pompeo at VOA on January 11* (Jan. 7, 2017), available at <https://www.insidevoa.com/a/pompeo-voa-address-1-11/5727187.html>.

² *Secretary Michael R. Pompeo With Jan Jekielek of The Epoch Times' American Thought Leaders Program* (Jan. 5, 2021), available at <https://www.state.gov/secretary-michael-r-pompeo-with-jan-jekielek-of-the-epoch-times-american-thought-leaders-program>; *Secretary Michael R. Pompeo With David Rubenstein of Bloomberg News* (Jan. 5, 2021), available at <https://www.state.gov/secretary-michael-r-pompeo-with-david-rubenstein-of-bloomberg-news>.

³ Epoch Times, *EXCLUSIVE Video: Sec. Mike Pompeo: China's Communist Party Is 'Inside the Gates'* (Jan. 5, 2021), available at <https://www.theepochtimes.com/c-american-thought-leaders>;

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The planned broadcast event by VOA is different. The statutory firewall protects VOA journalists and editors from outside political meddling. A broadcast speech by the outgoing Secretary of State on topics on which he has been widely covered should be seen for what it is: the use of VOA to disseminate political propaganda in the waning days of the Trump administration. As proposed, the planned coverage by language services will be one-sided and lacking the necessary objectivity protected by the firewall. It is political meddling.

The event is also a gross misuse of government resources. We understand that, currently, 18 employees are working on event preparations. But for that assignment, they would not be producing editorial content for VOA services. On the day of the event, we further understand that eight employees have been assigned to work in the VOA auditorium and 10 elsewhere around VOA headquarters. Additionally, we understand \$4,000 in taxpayer funds have been spent to date. The event is plainly a publicity stunt devoid of public interest and thus constitutes a gross misuse of government resources.

For these reasons, we request that the Secretary's speech not be broadcast live through VOA services and that no live VOA audience be used. Based on past experience, we expect you to disregard and thus reject this request. Accordingly, we are providing this notice to the federal agencies responsible for oversight and investigations and the protection of whistleblowers.

Very truly yours,

/s/

DAVID Z. SEIDE
Government Accountability Project

cc: House Foreign Affairs Committee
Senate Foreign Relations Committee
U.S. Department of State Office of Inspector General
U.S. Office of Special Counsel

Bloomberg News, *Pompeo Cites China, North Korea as Trump's Unfinished Business* (Jan. 4, 2021), available at <https://www.bloomberg.com/news/articles/2021-01-04/pompeo-cites-china-north-korea-as-trump-s-unfinished-business>.

EXHIBIT 2

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By Email

Michael Pack
Chief Executive Officer
U.S. Agency for Global Media
330 Independence Ave., SW
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Robert R. Reilly
Director
Voice of America
330 Independence Ave., SW
Washington, DC 20237

January 11, 2021

Re: Notice of Whistleblower Disclosures by Patsy Widakuswara

Dear Messrs. Pack and Reilly:

We represent Patsy Widakuswara, Senior White House Correspondent for Voice of America (VOA) and a federal employee.

Ms. Widakuswara has made multiple disclosures of wrongdoing by the political leadership of the U.S. Agency for Global Management (USAGM) and their appointees to senior management of USAGM and VOA, among others. These disclosures are protected under the federal whistleblower statute applicable to federal employees (5 U.S.C. § 2302(b)(8)). It prohibits adverse personnel actions against individuals who make protected disclosures. Management risks violating the law when they cannot show – by clear and convincing evidence – that protected disclosures did not contribute to adverse personnel actions.

Very truly yours,

/s/

DAVID Z. SEIDE

Government Accountability Project
davids@whistleblower.org

EXHIBIT 3

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Elizabeth Robbins
Deputy Director
Voice of America
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January 13, 2021

Re: Illegal Removal of Patsy Widakuswara from Covering the White House

Dear Messrs. Pack and Reilly and Ms. Robbins:

We represent employees of your agencies who are whistleblowers who wish to remain anonymous.

At about 10:30 p.m. on Monday, January 11, 2021, you summarily removed Voice of America (VOA) White House Correspondent Patsy Widakuswara from her post. Hours earlier, we informed you that Ms. Widakuswara is a whistleblower who has made disclosures of wrongdoing protected under the applicable federal whistleblower statute (5 U.S.C. § 2302(b)(8)).

You acted after Ms. Widakuswara attempted to question Secretary of State Mike Pompeo at the end of his speech to VOA staff at VOA headquarters on Monday afternoon. Ms. Widakuswara's questions touched on current events – the January 6, 2021, takeover of the U.S. Capitol – to which the Secretary has yet to take a public position. He did not address this vital topic in his address or in the answers to the questions posed by Mr. Reilly after the speech (Mr. Reilly's six questions also omitted that topic). Secretary Pompeo ignored Ms. Widakuswara's subsequent questions.

Seconds after Secretary Pompeo departed from VOA headquarters, Mr. Reilly publicly berated Ms. Widakuswara. First, Ms. Widakuswara asked Mr. Reilly, "Mr. Director, why didn't you ask

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any of the questions we wanted to know about?” Mr. Reilly and Ms. Robbins, the organizer of the event, asked Ms. Widakuswara to identify herself – she said she was the White House Correspondent for VOA. Then, Mr. Reilly told Ms. Widakuswara, “You don’t know how to behave ... you are not authorized. ...” In response, Ms. Widakuswara said, “I know, but I am a journalist and I am paid to ask questions and none of those questions you asked.” Ms. Robbins, then cut off further discussion. Approximately seven hours later, Ms. Widakuswara was informed of her “reassignment.”

Ms. Widakuswara had been scheduled to be one of the White House pool reporters covering President Trump’s trip on Air Force One to Alamo, Texas, on the morning of Tuesday, January 12. She did not cover the event. The White House Correspondents’ Association called your action “an assault on the First Amendment. ... VOA’s reassignment of Patsy Widakuswara for doing her job, asking questions, is an affront to the very ideals Secretary of State Pompeo discussed in his speech on Monday.”¹

The bipartisan leadership of the House Foreign Affairs Committee has been equally critical. The joint statement issued by the Chair and Ranking Member states in full:

We were incredibly frustrated to hear the Voice of America White House senior correspondent Patsy Widakuswara was demoted from her position after questioning Secretary Pompeo about last week’s attack on the Capitol. Absent a legitimate reason for this move, which has not been provided, we believe she should be reinstated. This is the United States of America – we do not punish our journalists for seeking answers to their questions. A free and fair press is at the core of our Constitution and our democracy.²

In the two days since you acted, Ms. Widakuswara has been reassigned twice. On the evening of January 11, she was told that she has been removed from the White House beat and had been reassigned to a "general assignment" position within the VOA News Center. On January 13 she learned, by way of being copied on an email addressed to the VOA Indonesia Service chief, that she has been assigned to the Indonesian Service. Neither Ms. Widakuswara nor her Union

¹ White House Correspondents’ Association Press Release, *An Assault on the First Amendment* (Jan. 12, 2021), available at <https://whca.press/2021/01/12/an-assault-on-the-first-amendment/>; CNN, *Voice of America Reassigns White House Reporter Who Tried to Ask Mike Pompeo a Question* (Jan. 12, 2021), available at <https://www.cnn.com/2021/01/12/media/voa-reassigns-reporter/index.html>.

² House Foreign Affairs Committee Press Release, *McCaul, Meeks Ask for Answers on Demotion of VOA Reporter Patsy Widakuswara* (Jan. 12, 2021), available at <https://gop-foreignaffairs.house.gov/press-release/mccaul-meeks-ask-for-answers-on-demotion-of-voa-reporter-patsy-widakuswara/>.

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representative were consulted and no reason has been given for these reassignments. The shuffling of Ms. Widakuswara is further evidence of your animus. It is also gross mismanagement.

In our January 8, 2021, letter to you, we advised that your mandate to broadcast the Secretary's speech live to VOA's worldwide audience – a speech we expected would be a regurgitation of the Secretary's many widely covered public statements – constituted illegal, political meddling prohibited by the VOA statutory firewall. Secretary Pompeo did not disappoint: his speech was filled with the predicted propaganda.³ In other words, our concerns were realized.

Sadly, Ms. Widakuswara's removal from the White House beat is another example of illegal political meddling. It is a clear violation of the firewall and sends a chilling message, journalists in authoritarian regimes are very familiar with: if you dare ask questions, you suffer the consequences.

It must stop.

Very truly yours,

/s/

DAVID Z. SEIDE
Government Accountability Project

cc: House Foreign Affairs Committee
Senate Foreign Relations Committee
U.S. Department of State Office of Inspector General
U.S. Office of Special Counsel

³ The only new item was the Secretary's comments on our January 8 letter to you. He called our clients' objections "morally wrong." He went on to say that their concerns constitute "[c]ensorship, wokeness, political correctness it all points in one direction -- authoritarianism cloaked as moral righteousness." *Reclaiming America's Voice for Freedom* (Jan. 11, 2021), available at <https://www.state.gov/reclaiming-americas-voice-for-freedom/>. We disagree.

EXHIBIT 4

January 13, 2021

VIA ELECTRONIC MAIL

Michael Pack
Chief Executive Officer
United States Agency for Global Media
Wilbur J. Cohen Federal Building
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Washington, DC 20407

Robert Reilly
Director
Voice of America
Wilbur J. Cohen Federal Building
330 Independence Avenue SW
Washington, DC 20407

Dear Mr. Pack and Mr. Reilly:

We write as counsel to Voice of America (“VOA”) Senior White House Correspondent, Patsy Widakuswara, regarding the purported removal of Ms. Widakuswara from her beat on January 11, 2021, in direct retaliation for the questions she asked Secretary of State Michael R. Pompeo after an event earlier that day.¹ You and Secretary Pompeo are making the First Amendment and the American tradition of freedom of the press a laughingstock around the world. You must stop before you inflict irreparable damage on this fundamental value.

The reassignment of Ms. Widakuswara is both unlawful and unconstitutional. We demand that Mr. O’Reilly reverse this decision and reinstate Ms. Widakuswara to her critical position as VOA’s Senior White House Correspondent on the eve of one of the most consequential transfers of presidential power in history. Failure to do so irreparably and unlawfully harms both Ms. Widakuswara and VOA itself.

The decision to punish Ms. Widakuswara for asking questions of a high-ranking administration official—core journalistic activity—is as shocking as it is disheartening. As the White House Correspondents’ Association rightly put it, the retaliatory removal of Ms. Widakuswara from her beat constitutes “an assault on the First Amendment.”² It violates the First Amendment’s free speech and free press protections, constitutes unconstitutional implied

¹ See, e.g., David Folkenflik, *Voice of America White House Reporter Reassigned After Questioning Pompeo*, NPR (Jan. 12, 2021 10:13 AM ET), <https://www.npr.org/2021/01/12/955976976/voice-of-america-white-house-reporter-reassigned-after-questioning-pompeo>.

² *Id.*

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viewpoint discrimination, and violates Ms. Widakuswara's due process rights. Moreover, the reassignment violates the International Broadcasting Act (the "IBA"), the VOA Charter, and your own obligations as fiduciaries to VOA. We demand that you reconsider your regrettable choice, which reflects all the more poorly on the United States' commitment to its core institutions, like the freedom of the press, at this critical time in our nation's history.

The absurdity of your decision to remove Ms. Widakuswara from her beat is highlighted by the context in which it played out. You retaliated against Ms. Widakuswara for asking questions of Secretary Pompeo as he left an event at which he "decried censorship and authoritarianism overseas."³ Indeed, during the event, Secretary Pompeo proclaimed that "censorial instinct is dangerous. It's morally wrong. Indeed, it's against your statutory mandate here at VOA. Censorship [is] authoritarianism, cloaked as moral righteousness."⁴ Going on, Secretary Pompeo pronounced that "the capacity to speak freely, [is a] core right[] that if a nation gets it wrong it will be less secure, it will be less prosperous, it[]s people will be less whole."⁵ That VOA's Director would seek to silence Ms. Widakuswara after this speech because she asked the Secretary a challenging question is an affront to the very values the Secretary just finished purporting to espouse.⁶ VOA journalists have the fundamental freedom to question government officials: It is both their right and their duty under the law to report credible, independent news, and to adhere to "the highest professional standards of broadcast journalism." 22 U.S.C. § 6202(a)(5), (b)(1). The irony that you have punished Ms. Widakuswara for doing her job immediately following Secretary Pompeo's invocation of First Amendment freedoms and lambasting of censorship is palpable and alarming. Open regimes allow questions; repressive regimes sanction them. As the House Foreign Affairs Committee Chairman and Ranking Member correctly noted: "We do not punish our journalists for seeking answers to their questions. A free and fair press is at the core of our Constitution and our democracy."⁷

Mr. Reilly's removal of Ms. Widakuswara from her beat flagrantly violates the First Amendment. As you are no doubt aware, the protections afforded by the First Amendment are

³ Peter Baker, Twitter (Jan. 12, 2021) (citing Paul Farhi, *Voice of America reassigns White House reporter after she sought to question Mike Pompeo*, The Washington Post (Jan. 12, 2021, 1:30 PM ET) https://www.washingtonpost.com/lifestyle/media/voice-of-america-reporter-demoted-pompeo/2021/01/12/caa1b22c-5496-11eb-a08b-f1381ef3d207_story.html).

⁴ Michael R. Pompeo, *Reclaiming America's Voice for Freedom*, U.S. Dep't of State (Jan. 11, 2021), <https://www.state.gov/reclaiming-americas-voice-for-freedom/>.

⁵ *Id.*

⁶ Jessica Jerreat, *Pompeo Defends Changes at USAGM Under Trump Appointee*, VOA (Jan. 11, 2021), <https://www.voanews.com/usa/us-politics/pompeo-defends-changes-usagm-under-trump-appointee>.

⁷ Press Release, Meeks, McCaul Ask for Answers on Demotion of VOA Reporter Patsy Widakuswara (Jan. 12, 2021), <https://foreignaffairs.house.gov/2021/1/meeks-mccaul-ask-for-answers-on-demotion-of-voa-reporter-patsy-widakuswara>.

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granted to all journalists, including journalists at VOA, like Ms. Widakuswara. *See* Mem. Op. at 33, 56–57, 76, *Turner v. US Agency for Global Media*, No. 20-2885, ECF No. 45 (D.D.C. Nov. 20, 2020). As Chief Judge Howell made clear in *Turner* in ruling against Mr. Pack and enjoining his flagrant violations of the First Amendment: “That U.S. foreign policy with respect to U.S.-funded international broadcasting is centered on the promotion and exportation of First Amendment values only bolsters the inevitable conclusion that enforcement of VOA and network editors’ and journalists’ First Amendment rights is in the public interest.” *Id.* at 76. The First Amendment right to freedom of the press includes, and indeed requires, the ability for all journalists to ask questions of the subjects they cover, especially public officials. “In the First Amendment the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press was to serve the governed, not the governors.” *N.Y. Times Co. v. United States*, 403 U.S. 713, 717 (1971) (Black, J., concurring). Mr. Reilly’s decision, as a government official, to retaliate against a journalist engaged in the act of reporting, is a flagrant violation of the First Amendment.

The First Amendment also “prohibits government officials from subjecting an individual to retaliatory actions . . . for speaking out,” *Hartman v. Moore*, 547 U.S. 250, 256 (2006), and bars discrimination “based upon the content of the journalist’s publications,” *Stevens v. N.Y. Racing Ass’n, Inc.*, 665 F. Supp. 164, 175 (E.D.N.Y. 1987) (citing *Sherrill v. Knight*, 569 F.2d 124, 129 (D.C. Cir. 1977), or the viewpoint expressed by a speaker, *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995). “Premised on mistrust of governmental power, the First Amendment stands against attempts to disfavor certain subjects or viewpoints.” *Citizens United v. FEC*, 558 U.S. 310, 340 (2010). Mr. Pack’s espoused mission to “drain the swamp” and purge the “left-leaning” “Deep State” in combination with Mr. Reilly’s decision to reassign Ms. Widakuswara after she asked challenging questions of a Trump Administration official makes clear that the reassignment of Ms. Widakuswara was plainly retaliatory and content-based—an effort to punish a diligent and professional reporter based on a faulty presumption that she harbors a liberal bias. That violates the First Amendment.

The reassignment of Ms. Widakuswara also violates the Due Process Clause of the Fifth Amendment. A governmental actor may not strip a reporter like Ms. Widakuswara of the right to cover the White House without affording her due process of law. *Karem v. Trump*, 960 F.3d 656 (D.C. Cir. 2020). Yet you have removed her from her beat without basis—at best because of your unstated, amorphous, and utterly flawed conceptions of what professional reporting looks like—a common problem in this Administration. *See id.* at 666 (quoting *Sherrill v. Knight*, 569 F.2d 124, 130–31 (D.C. Cir. 1977)). But the United States Court of Appeals for the D.C. Circuit has established that “aggressive conduct” by dedicated reporters attempting to do their jobs has long been accepted and cannot justify retaliation. *Karem*, 960 F.3d at 667.

Removing Ms. Widakuswara from her beat also flagrantly violates the IBA. Congress requires VOA to adhere to “the highest professional standards of broadcast journalism,” 22 U.S.C. § 6202(a)(5), and to produce “news which is consistently reliable and authoritative, accurate, objective, and comprehensive,” *id.* § 6202(b)(1). Those standards require that no

Michael Pack
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action be taken “that may undermine the journalistic credibility or independence of VOA journalists.” Voice of America Best Practices Guide, *Turner*, No. 20-2885, ECF No. 12-20 (D.D.C. Oct. 13, 2020). In order to maintain their credibility and independence, journalists must be allowed to ask questions of public officials and public figures and cannot be retaliated against or chilled merely for doing their job. It cannot be disputed that punishing a journalist for questioning high-ranking government officials is a flagrant violation of the “highest professional standards of broadcast journalism.” If anything, professional journalistic standards dictate the opposite. Editors must support vigilance in their reporters, not suppress it as you have today. Ms. Widakuswara was more than entitled to question Secretary Pompeo—the basic tenets of federal law and the VOA Charter required her to do so.

In addition to the untold damage you have done to VOA’s global reputation, which is critical to VOA’s ability to fulfil its mission to “win the attention and respect of its listeners,” 22 U.S.C. § 6202(c), your rash decision will hobble VOA as a news broadcaster for weeks, if not months, to come. VOA, like all outlets, has a limited number of White House credentialed reporters. To reassign one such White House reporter from the White House beat in the final days of a presidential administration, in the midst of an impeachment, and on the eve of an inauguration, directly undermines the ability of VOA to achieve its mission and accurately report the news as it occurs. In short: Removal of Ms. Widakuswara from her beat is indefensible. And on top of the damage you have done to VOA, your conduct has caused irreparable, actionable harm to Ms. Widakuswara. To remove Ms. Widakuswara from her post in the waning days of this administration for even one day—“an eon in today’s news business”—constitutes a sanction of the highest magnitude. *Karem*, 960 F.3d at 665. It must be rectified immediately.

Finally, we remind you that Judge Howell’s preliminary injunction in *Turner* remains in effect, and specifically enjoins Mr. Pack and all USAGM employees “from making or interfering with personnel decisions with respect to individual editorial or journalistic employees at Voice of America.” Order at 1, *Turner*, No. 20-2885, ECF No. 44 (D.D.C. Nov. 20, 2020). To the extent there is evidence that Mr. Pack or anyone at USAGM, played a role in Ms. Widakuswara’s reassignment, we will not hesitate to seek appropriate relief from the court.

We recognize that Mr. Pack’s decision to install Mr. Reilly as director of VOA was meant to end-run around the *Turner* injunction and that you both remain determined to damage freedom of the press in this country and around the world—even on the eve of your expected removal from your positions. We, however, will not waver in our efforts to protect diligent, faithful journalists and public servants like Ms. Widakuswara who have given their lives to serving our nation as members of its news media and a critical check on government power. As Secretary Pompeo explained, your “censorship” is nothing more than “authoritarianism cloaked in moral righteousness.” We will uncloak it and ensure you are held responsible for your unlawful acts.

Michael Pack
Robert Reilly
January 13, 2021

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We reserve all rights to seek relief for Ms. Widakuswara and reiterate our demand that you restore her to her beat immediately so that she may cover as planned the inauguration of President-Elect Joseph R. Biden, Jr. and the expected impeachment of his predecessor. Failure to do so exposes you to significant claims and will seriously damage VOA's ability to cover these historic events.

Sincerely,

A handwritten signature in blue ink, appearing to read "Theodore J. Boutros Jr.", written in a cursive style.

Theodore J. Boutros Jr.