

Freedom of the Press Geared Towards Protecting Critics of Government Corruption, Not Government Apologists

The Founding Fathers Guaranteed Freedom of the Press ... Even For Bloggers

By [Washington's Blog](#)

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The First Amendment to the Constitution [provides](#):

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

The powers-that-be argue that freedom of the press only applies to large, well-heeled corporate media. For example, the Nation [noted](#) last year:

When the Department of Justice rolled out [new policies](#) intended to “strengthen protections for members of the news media” this summer, it wasn’t clear who belonged to the “news media.” Other DOJ documents suggest a narrow application to professional, traditional journalists. (The DOJ did not return a request to clarify the agency’s definition of “news media.”) The Federal Bureau of Investigation’s Domestic Investigations and Operations [Guide](#) excludes bloggers from the news media, along with “persons and entities that simply make information available,” like Wikileaks. These policies are guidelines, not directives, but as the Freedom of the Press Foundation [points out](#), they are “part of a broader legislative effort in Washington to simultaneously offer protection for the press while narrowing the scope of who is afforded it.”

Senator Dianne Feinstein argued for an amendment that would have restricted the shield to salaried journalists. “Should this privilege apply to anyone, to a seventeen year-old who drops out of high school, buys a website for five dollars and starts a blog? Or should it apply to journalists, to reporters, who have bona fide credentials?”

(This is a silly distinction, given that [many of the world’s top experts](#) have their own blogs. And as the non-partisan First Amendment Center [notes](#): “Traditional reporters now blog daily, and prominent bloggers show up in traditional media.”)

But the Free Speech and Free Press Clauses of the First Amendment *don’t distinguish* between media businesses and nonprofessional speakers (see [this](#), [this](#), [this](#) and [this](#)).

And the courts have ruled that the freedom of the press applies to *everyone* who disseminates information ... not just giant corporate media companies who can afford to pay “salaries”.

For example, the United States Supreme Court has *consistently* refused to accord greater First Amendment protection to the institutional media than to other speakers:

- In [Branzburg v. Hayes](#) (1972), the U.S. Supreme Court described freedom of the press as “a fundamental personal right” that is not confined to newspapers and periodicals
- In [Lovell v. City of Griffin](#) (1938), the Chief Justice of the Supreme court defined “press” as “every sort of publication which affords a vehicle of information and opinion”
- [First National Bank of Boston v. Bellotti](#) (1978) rejected the “suggestion that communication by corporate members of the institutional press is entitled to greater constitutional protection than the same communication by” non-institutional-press businesses
- In [Bartnicki v. Vopper](#) (2001), the court could “draw no distinction between the media respondents and” a non-institutional respondent

Earlier this year, the Ninth Circuit Court of Appeals held that [a blogger is entitled to the same free speech protections as a traditional journalist](#) and cannot be liable for defamation unless the blogger acted negligently. The Court [held](#):

The protections of the First Amendment do not turn on whether the defendant was a trained journalist.

And the First Circuit agrees. As Gigaom [reported](#) in 2011:

One recent appeals court decision specifically referred to the fact that the ability to take photos, video and audio recordings with mobile devices has effectively made everyone a journalist — in practice, if not in name — and therefore deserving of protection.

In the decision by the U.S. Court of Appeals for the First Circuit, released just a few weeks ago, the judges pointed out that the First Amendment’s protection for freedom of the press “encompasses a range of conduct related to the gathering and dissemination of information,” and that [citizens have the right to investigate government affairs and share what they learn with others](#). Judge Kermit Lipez also specifically noted that these protections don’t just apply to professional journalists. He said in his decision:

[C]hanges in technology and society have made the lines between private citizen and journalist exceedingly difficult to draw. The proliferation of electronic devices with video-recording capability means that many of our images of current events come from bystanders [and] and news stories are now just as likely to

be broken by a blogger at her computer as a reporter at a major newspaper. Such developments make clear why the news-gathering protections of the First Amendment cannot turn on professional credentials or status.

The First Amendment Center correctly [notes](#):

The purpose of the free press clause of the First Amendment was to keep an eye on people in power and maintain a check on corruption.

Indeed, the Founding Fathers made this clear even before the Revolutionary war *started*. Specifically, the Continental Congress – the legislative body of the Founding Fathers – [wrote](#) in 1774:

The last right we shall mention regards the freedom of the press. The importance of this consists, besides the advancement of truth, science, morality, and arts in general, in its diffusion of liberal sentiments on the administration of Government, its ready communication of thoughts between subjects, and its consequential promotion of union among them, whereby oppressive officers are shamed or intimidated into more honourable and just modes of conducting affairs.

These are the invaluable rights that form a considerable part of our mild system of government; that, sending its equitable energy through all ranks and classes of men, defends the poor from the rich, the weak from the powerful, the industrious from the rapacious, the peaceable from the violent, the tenants from the lords, and all from their superiors.

These are the rights without which a people cannot be free and happy, and under the protecting and encouraging influence of which these colonies have hitherto so amazingly flourished and increased. These are the rights a profligate Ministry are now striving by force of arms to ravish from us, and which we are with one mind resolved never to resign but with our lives.

In other words, the Founding Fathers understood that people who stand up to “oppressive” government officials are to be zealously protected ... because “shaming” corrupt, powerful people “into more honourable and just modes of conducting affairs” is the only way to preserve liberty, justice and prosperity, and to remain “free and happy”.

Indeed, the Freedom of the Press which the Founding Fathers enshrined in the First Amendment was the *opposite* of [prosecution of reporters critical of government](#) and protection of the [big lapdog press which is subservient to government](#).

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