

PRESS FREEDOMS

in the United States **2017**



A Review of the U.S. Press Freedom Tracker

MARCH 2018

**REPORTERS
COMMITTEE**
FOR FREEDOM OF THE PRESS

Press Freedoms in the United States 2017

A Review of the U.S. Press Freedom Tracker

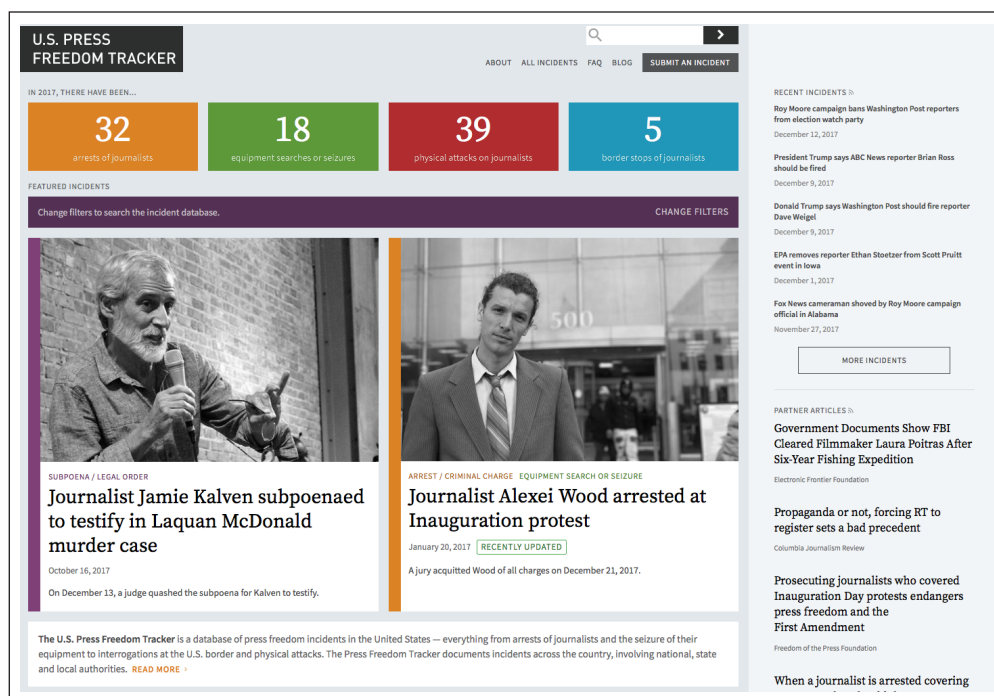
BY SARAH MATTHEWS

*staff attorney for the Reporters Committee for Freedom of the Press and
member of the Steering Committee for the U.S. Press Freedom Tracker*

This report was made possible with funding from the Gannett Foundation.
References to the tracker are hyperlinked throughout this report;
additional sources are cited in endnotes. The tracker data referenced
herein is current as of March 27, 2018, the date of publication.

INDEX

About the U.S. Press Freedom Tracker	3	Border Stops	12
Overview	4	DOJ “Leak” Investigation	12
2017 At a Glance	4	Subpoenas	12
Arrests of Journalists	5	Chilling Statements	13
How to Protect Yourself When Covering a Protest ..	8	Denials of Access	17
Physical Attacks on Journalists	9	Conclusion	18
Searches or Seizures of Equipment	11	Endnotes	19



The U.S. Press Freedom Tracker website as seen on Dec. 27, 2017. Via Wayback Machine

About the U.S. Press Freedom Tracker

Launched in 2017, the [U.S. Press Freedom Tracker](#) documents incidents in the United States that threaten press freedom. While the First Amendment has served as a powerful model for free speech and free press protections abroad, the U.S. news media has experienced increasing hostility in recent years, stoked by virulent attacks from politicians. In January 2017, more than [two dozen press freedom groups](#) recognized the need for “constant vigilance and an honest accounting of the country’s record on press freedoms” and subsequently created the tracker. It is founded on the principle that when journalists are obstructed, so is the public’s right to be informed and hold power to account.

In its inaugural year, the tracker has quickly become a valuable tool, shedding light on the treatment of journalists across the country. While it does not capture every press freedom incident that has occurred, the tracker strives to document the number of times journalists in the United States were arrested, assaulted, subjected to equipment searches or seizures, or detained at the border. It also highlights particularly serious denials of access and chilling statements by public officials. Other tools in this area have emerged as well, such as a project archiving the president’s tweets that are critical of the press.¹

The Committee to Protect Journalists heads the tracker’s steering committee, which includes the Knight First Amendment Institute at Columbia University, the Reporters Committee for Freedom of the Press, Reporters Without Borders, Index on Censorship, and the Freedom of the Press Foundation, which also manages the day-to-day operation of the site. The Reporters Committee will annually survey the data on the tracker to assess what it means for our work in the courts and in furtherance of legal protections for journalists.

Overview

2017 was a year of civil unrest in the United States. The tracker reflected that climate, with nearly half of all press freedom incidents occurring at protests ([58 cases](#) out of a total of [122](#)). Police arrested journalists at least [thirty-four times](#), and 85 percent of those arrests occurred at protests, where police often used a controversial “kettling” technique to arrest people en masse, including bystanders and journalists. Ninety percent of these arrests at protests occurred in one of three places: at the [Inauguration Day protest](#) in Washington, D.C., at the [Standing Rock Indian Reservation](#) in North Dakota, or in [St. Louis](#), Missouri. Reflecting broader trends in the industry, most of the journalists arrested were freelancers, while only a handful of them came from established news organizations.

The rising tide of hostility toward the press coincided with [45 physical attacks](#) on journalists. Most prominently, Montana congressional candidate [Greg Gianforte](#) “body slammed” a reporter who tried to interview him but was nevertheless elected the next day, and an [Alaska state senator](#) slapped a reporter in the state capitol building. The majority of the assaults on journalists this year (nearly [70 percent](#)) occurred at protests. Of those, police officers were implicated in nearly 30 percent of the assaults (the majority of which occurred in St. Louis), with protesters responsible for the remainder. As protesters no longer rely on journalists to spread their message and, at the same time, fear law enforcement will use the media’s video footage against them, journalists have become targets. These assaults demonstrate the need for training law enforcement on how to protect journalists and for training journalists on how they can reduce their risk of harm.

There were at least [15 cases](#) where law enforcement seized and in some cases even searched a journalist’s equipment, such as cellphones and cameras. Eighty percent of these cases occurred when journalists were arrested while covering protests. Such searches also frequently overlapped with border stops of journalists, which is consistent with the government’s reportedly fast-growing practice of searching travelers’ electronic devices at the U.S. border without a warrant. The tracker recorded [five](#) such border stops.

2017 AT A GLANCE

34

arrests of
journalists



29 arrests
occurred
at protests



at least
18 were
freelancers

15

searches
or seizures
of equipment

5

border stops
of journalists

45

 physical attacks
on journalists

31 attacks
occurred
at protests



of those at
protests, 9
involved police

The news media also faced an unprecedented number of verbal attacks from public officials in 2017, including at the highest levels of government. President Donald J. Trump responded to critical coverage of his administration by repeatedly calling the news media the “[enemy of the people](#),” “[truly dishonest people](#),” and “fake news.” Trump also encouraged direct government interference with the press, repeatedly calling for changes to libel laws, suggesting the Federal Communications Commission should challenge the broadcast licenses of TV news networks whose coverage he disliked, urging the Senate Intelligence Committee to investigate these networks, calling for news organizations to fire reporters, and reportedly urging the FBI to jail reporters for publishing classified information. AT&T also called into

question whether the Trump Justice Department's opposition to its merger with Time Warner (CNN's parent company) on antitrust grounds is politically motivated.²

The Trump Justice Department has thus far only brought charges in one case involving unauthorized

disclosures, that of [Reality Winner](#), who allegedly gave The Intercept a top-secret document detailing Russian hacking attempts on election software vendors in the United States. Given that the Justice Department is reportedly investigating 27 "leak" cases as of November 2017,³ there may be more prosecutions in the future.

34 Arrests of Journalists

Who counts as a "journalist" in an era of smartphone reporting and activism?

The tracker recorded [34 arrests of journalists](#) in 2017, mostly at protests. But in an era of smartphone reporting, Twitter, and livestream video, it can be hard to tell who is a journalist these days, and who is not.⁴ Recognizing that the line between journalist and activist can at times be blurry, the tracker aims to include only people who were [performing an act of journalism](#) when arrested, self-identified as a journalist, and had some track record of journalistic work, not people who went to a protest in order to protest. In close cases, if a person represents that she was performing an act of journalism at the time of the arrest, the tracker credits that assertion and counts the person as a journalist. This approach struggles with a challenging issue facing the industry but strikes a balance between the need to document arrests of people engaged in journalism, even if they have limited training and do not work in traditional media, and concerns about over-counting activists who are not true journalists.

Who is being arrested: Freelancers

More than half of those arrested (at least 18 of 34) were freelancers: independent reporters, photojournalists, a handful of photographers and documentary filmmakers, and at least one "[citizen journalist](#)," who reported on local news through her Facebook page. This is consistent with a broader trend of media companies relying on freelance reporters, particularly to cover more dangerous and violent situations.⁵ While this practice reduces costs



Freelance journalist Alexei Wood, left, was arrested while covering Inauguration Day protests January 20, 2017, in Washington, D.C. Freelance reporter Jenni Monet was arrested while covering protests against the proposed Dakota Access Pipeline near the Standing Rock Indian Reservation in North Dakota. Photos by Ryan J. Reilly/HuffPost; Jenni Monet

for financially strapped news organizations, it often means less institutional support to help a journalist prepare for covering a protest, get out of jail, or defend herself against criminal charges.⁶ Less experienced freelancers may have limited training on how to interact with police and avoid arrest. To help fill this void, we have provided guidance for journalists covering protests. The Reporters Committee also offers a [hotline](#) to reporters with legal issues.

Consistent with the recent explosion of digital news media, the remaining, non-freelance journalists arrested worked for a variety of news organizations, many of them progressive or alternative news sites such as [Shareblue](#), [Young Turks](#), [People's World](#), [Mic](#), and [Vocativ](#). Only a handful of those arrested worked at traditional news outlets, such as the [St. Louis Post-Dispatch](#) and a [local TV station](#) in Las Vegas.

Arrests occurred mostly at protests, where police “kettled” crowds and made mass arrests

As demonstrations broke out across the country related to the president’s inauguration, police shootings, white supremacy, and anti-fascism, most arrests of journalists—85 percent of them—occurred [during protests](#). Three-quarters of these arrests occurred at protests where police used a controversial technique known as “kettling,” in which the police corral protesters into a confined space, keep them trapped for a period of time without food, water, or toilet facilities, and then arrest everyone en masse.⁷ Law enforcement favors kettling as a way to control large crowds and wear down rowdy protesters, but it results in the indiscriminate detention of innocent bystanders and journalists, and it may even pose constitutional problems.⁸ The high number of journalists arrested due to this technique demonstrates a need for law enforcement training on the dangers of kettling.

Ninety percent of those arrested at protests were covering demonstrations in either Washington, D.C. (during Inauguration Day), Standing Rock, or St. Louis. This may be due to the size and length

of these protests (the Standing Rock and St. Louis protests went on for months), as well as the police’s use of kettling in D.C. and St. Louis.

Washington, D.C.

At the [Inauguration Day](#) protest on January 20, 2017, the police kettled and then arrested more than 230 people, including legal observers, medics, and reporters, after some individuals set fire to a car and broke windows of downtown businesses. Among those arrested were nine journalists, who were all charged with felony rioting for being present during the demonstration, based on a controversial legal theory that some have described as “guilt by association.”⁹ This was the largest number of reporters arrested on a single day throughout the entire year. The D.C. chapter of the American Civil Liberties Union subsequently sued the D.C. police chief and officers for various civil rights violations, such as making unconstitutional arrests and using excessive force.¹⁰

Prosecutors ultimately dropped the charges against all but two of the journalists: photojournalist [Alexei Wood](#) and freelance reporter [Aaron Cantú](#). Wood was in the first group of defendants to stand trial; a jury acquitted everyone in that group of all charges on December 21, 2017. Cantú is the last remaining journalist still facing trial, which is scheduled for

TOP LOCATIONS FOR ARRESTS OF JOURNALISTS IN 2017



October 2018. If convicted, he could face up to 75 years in prison, according to the tracker. On January 19, 2018, his attorneys moved to dismiss the charges against him as a violation of his First Amendment rights, and the Reporters Committee subsequently moved to submit an amicus brief in support (which, at the time of publishing, the court had not yet decided).¹¹

Standing Rock

Police arrested six journalists in January and February 2017, while they were covering ongoing protests against plans to build the Dakota Access Pipeline near the [Standing Rock](#) Indian Reservation in North Dakota. Police also seized most of these reporters' equipment, such as cellphones, cameras, and laptops, though in at least half of these cases, they eventually returned this equipment. Four journalists were arrested and charged with physical obstruction of government function, a misdemeanor, while the remaining two journalists were charged with criminal trespassing and engaging in a riot, both of which are misdemeanors. One of those arrested was freelance journalist [Jenni Monet](#), who has written for the Center for Investigative Reporting, *Indian Country Today*, and *Yes! Magazine*. Although arrested and charged with trespassing and rioting, she reportedly complied with all police directives including showing her press credentials, falling back behind police lines, and even leaving when ordered.¹² According to the tracker, she won Columbia University's 2017 Paul Tobenkin Memorial Award and the Hugh M. Hefner Foundation's 2017 First Amendment Award for her coverage, but still faces criminal charges.

In fact, all of the journalists arrested at Standing Rock appear to still have charges pending against them, except [Jack Smith IV](#) from Mic, an online news site for millennials, who notably is the only one in the group who was not a freelancer. His attorney successfully moved to dismiss the charges. The better outcome for Smith raises questions about the risks faced by freelancers, as discussed above.

St. Louis

In [St. Louis](#), there were 11 arrests of journalists during mass protests in September and October 2017, following the acquittal of Jason Stockley, a



St. Louis Post-Dispatch reporter Mike Faulk is arrested September 17, 2017, while covering demonstrations in St. Louis. Photo by David Carson/Post-Dispatch

white former St. Louis police officer who in 2011 fatally shot Anthony Lamar Smith, an African American man. The St. Louis protests were marked by police violence toward protesters and journalists in particular, and the FBI and Justice Department are now investigating law enforcement conduct.¹³ [Mike Faulk](#), for example, a reporter at the *St. Louis Post-Dispatch*, was covering a protest in September when he was caught in a police kettle while standing on a sidewalk. According to the *Post-Dispatch*, he was not impeding traffic, was clearly identified and credentialed as a reporter, and repeatedly advised several officers of his press status. But police officers nevertheless knocked Faulk down, pinned his limbs to the ground, stepped on his head, and pepper sprayed his face, after he was subdued. Faulk and the other journalists covering the September protest were charged with “failure to disperse,” although it is unclear whether protesters were ordered to disperse before being corralled into a kettle and unable to leave. Faulk filed a civil rights suit against the city of St. Louis in February 2018.¹⁴ The Missouri chapter of the ACLU also sued the city for civil rights violations related to police handling of the fall protests, and in November 2017, obtained a preliminary injunction requiring the St. Louis police department to “immediately adopt protocols to protect the constitutional rights of those observing, recording, or participating in protest activity.”¹⁵

How to Protect Yourself When Covering a Protest

Before the protest:

- 1. Do your homework ahead of time.** Identify potential threats and prepare for them.
- 2. Find a lawyer who will be available while you are reporting.** Keep the phone number for a local criminal lawyer and bail bondsman handy (e.g., on a business card or written on your arm so you do not have to unlock your phone in the presence of police) and make sure the lawyer will be available to take your call. Contact the Reporters Committee's hotline for assistance in finding an attorney.
- 3. Research the location of the protest and nearby police precincts.** Give the phone numbers for those precincts to your attorney, who can call there to find you if you become unresponsive to phone calls or texts, in the event you are arrested.
- 4. Identify who may be adversarial to the press.** If it may be protesters, stand apart from the crowd and closer to police, clearly identifying yourself as press. If you are concerned about police, stay closer to the crowd.
- 5. Research riot control tactics in the area and bring personal protective equipment as appropriate.** Check with local police to make sure your equipment is permitted, at least for journalists (e.g., if you expect pepper spray or tear gas, bring a full-face gas mask; if you expect rubber bullets, bring body armor, helmets, and a trauma kit).
- 6. Plan for kettling.** If you anticipate kettling, bring your attorney's phone number so you can report it and so your attorney can contact the police to try to get you out of the kettle. Bring water, snacks, a medical kit, and additional layers of clothing in case the weather changes.
- 7. Team up with another reporter.** Reporting alone is dangerous, particularly if you are operating a camera or video camera and are observing your surroundings from behind a viewfinder.

At the protest:

- 1. Bring a government-issued ID and cash.** This can speed up processing if you are arrested and will enable you to pay for a bail bond.
- 2. Wear press credentials prominently.** Although not required, this can help you avoid arrest, though in certain rare cases, police have targeted journalists, as they did in St. Louis (see above).
- 3. Be aware of the situation and avoid breaking the law.** Set the timer on your phone to go off every 15 minutes to remind you to look around, identify exits, assess police interactions with protesters, determine whether the situation is escalating, and whether you may be doing something illegal, such as trespassing on private property. This is especially important for photographers and videographers whose view is often limited.
- 4. If police issue a dispersal order or give any other directives, promptly comply** and prominently display your press credentials. If you encounter a problem, contact your attorney.
- 5. If police stop you, explain that you are covering the protest as a journalist** and show your press credentials. If you are arrested, contact your attorney and, if possible, give your notes or film to another journalist for safekeeping.
- 6. If police ask to search or seize your equipment, you do not have to consent.** The Fourth Amendment protects you from unreasonable searches and seizures, and the Privacy Protection Act of 1980¹⁷ restricts law enforcement from searching for and seizing a journalist's work product and documentary materials. Rehearse your response in advance (e.g., explain that your equipment and its contents belong to your company and that if the police want to access it, they must first contact the company's attorney).¹⁸

Journalists' legal rights at protests

Journalists are not above the law and have no right to incite a riot or trespass. However, simply being near a newsworthy event, such as a protest, is not a crime. Reporters have the same rights as other citizens to observe, photograph, and record in public places. Authorities may not prevent journalists from covering a protest if they are doing so in a place where the public is allowed and are not disrupting or interfering with law enforcement. Several courts have also recognized a First Amendment right to photograph police in the public performance of their jobs.¹⁶ However, police may arrest a journalist who breaks the law while covering a protest (such as by trespassing or disobeying a police order to disperse), even if the reporter was only there to cover the allegedly law-breaking activities of the protesters. But police may not arrest a reporter simply to retaliate for negative news coverage or to prevent reporting on a public demonstration; the officer must have probable cause to believe the reporter was actually breaking the law.

The chilling effect of arresting journalists

While police arrested the majority of journalists for low-level misdemeanors, like trespassing, 10 journalists were arrested and charged with felonies, which in every case except one involved serious “rioting” charges related to the D.C. protest. When reporters face threats of arrest and criminal prosecution like this for merely covering a protest, it can have a chilling effect on future coverage of demonstrations. Seeing, for example, Aaron Cantú face the possibility of spending decades behind bars for covering the Inauguration Day protest in D.C. will surely deter at least some journalists from covering the next protest, and ultimately the public loses out. News coverage of protests is particularly important because protests communicate the concerns or grievances of those demonstrating to the rest of the public and to the government, and they also shed light on law enforcement’s relationship with demonstrators.

45 Physical Attacks on Journalists

Acrimony toward the press shifted to violence, with public officials leading the way

While it is never easy to show a direct correlation, a relentless stream of anti-press rhetoric by government officials coincided with an alarming number of physical attacks on journalists in 2017: [45 total](#). People apparently felt emboldened to assault members of the news media, mostly during protests.

Most troubling, however, were two attacks by government officials. On May 24, 2017, Montana Republican congressional candidate [Greg Gianforte](#) “body slammed” *Guardian* reporter Ben Jacobs, breaking his glasses, as he tried to interview the candidate. According to a crew of Fox News journalists, who witnessed the attack, it was “brutal and unprovoked.” Yet Gianforte was elected to the U.S. House of Representatives

the next day. He later pled guilty to misdemeanor assault, publicly apologized, and as part of a civil settlement agreed to donate \$50,000 to the Committee to Protect Journalists (which CPJ used to help fund the tracker). Just a few months later, Montana Republican Party official [Karen Marshall](#) said in a radio program that she “would have shot” Jacobs. Marshall resigned from her position four days later.

On May 2, 2017, just a few weeks before the Gianforte incident, Alaska state senator [David Wilson](#) slapped *Alaska Dispatch News* reporter Nathaniel Herz at the Alaska State Capitol in Juneau after Herz asked for Wilson’s reaction to his recent reporting on a bill Wilson had introduced. Another incident occurred in November when a campaign official for Alabama Republican congressional candidate Roy Moore shoved a [Fox News cameraman](#) waiting for Moore’s arrival outside a campaign event in Henagar, Alabama.

A masked demonstrator strikes photographer Dave Minsky with a pipe August 27, 2017, in Berkeley, California. Photo by Stephen Lam/Reuters



Most assaults on journalists occurred at protests

Nearly 70 percent of the physical attacks on journalists last year ([31 of the 45 cases](#)) occurred during protests. Police officers were reportedly responsible nearly 30 percent of the time ([9 of 31 cases](#)), and all but two of these cases occurred during protests in St. Louis. One [documentary filmmaker](#) claims that after he identified himself as a member of the media who was not a protester nor resisting arrest, the St. Louis police beat and pepper sprayed him in front of his wife until he was unconscious. He and his wife sued the city for First Amendment violations. A [student journalist](#) reported being shot with pepper balls, choked, handcuffed, and detained by police before eventually being released. He criticized police for ignoring people who were smashing windows and destroying property and instead focusing on handcuffing and berating journalists, who were wearing press badges and covering the protest march. The Missouri chapter of the ACLU filed a civil rights suit related to police conduct during these protests and subsequently won a preliminary injunction requiring the police to adopt certain

protocols, as described above.¹⁹

The remaining 22 attacks that occurred at protests, however, were perpetrated by [private individuals](#), including pro-Trump, white nationalist, alt-right, and [anti-fascist](#) protesters. In March, three assaults occurred at a pro-Trump rally in Huntington Beach, California, after one demonstrator, yelling “fake news,” approached a [photographer for OC Weekly](#) and repeatedly hit her with an American flag. The photographer’s colleague and an intern from *OC Weekly* attempted to help her, but they were repeatedly shoved and punched by other protesters, and when they reported the attack to a nearby police officer, according to the tracker, he refused to write a report. In August, three reporters were injured at the Unite the Right protest in Charlottesville, Virginia, including [Taylor Lorenz](#), a journalist for *The Hill*, who was punched in the side of the head while live-streaming the aftermath of a fatal attack on anti-fascist protesters. Later that month, anti-fascist protesters in Berkeley, California, beat [an independent journalist](#) and photographer and attacked him with a pipe, while other protesters knocked phones out of reporters’ hands and smashed one reporter’s camera.

These attacks have a chilling effect on journalists who may reasonably decide to stay home rather than cover a protest and risk assault. As discussed above, this means the public could lose out on valuable information about events of national significance, such as protests, political dissent, and the response of law enforcement. Alpha News reporter [Preya Samsundar](#), for example, was attacked in Minnesota in June by anti-fascist protesters who also damaged her recording device. She subsequently left journalism, citing her bosses' fear for her safety and the inability to do her job.



A protester swings Mike Kessler's camera before smashing it on the ground August 27, 2017, in Berkeley, California. Photo by Thomas Hawk via Flickr/CC 2.0

These assaults and their chilling effect demonstrate the need to train law enforcement about the dangers journalists face at protests and

the ways police can protect them. Journalists can also take the steps identified above to help protect themselves while covering protests.

15 Searches or Seizures of Equipment

The tracker documented [15 instances](#) where law enforcement searched or seized journalists' equipment, such as cameras, battery packs, and cellphones. Twelve of these cases occurred when journalists were arrested while covering protests. While police eventually returned the equipment in most cases, the fact that law enforcement seized these devices at all (and in some cases searched them and delayed their return) poses a grave harm to journalists, who depend on these devices to do their jobs. Cellphones are critical to modern-day newsgathering, serving as a journalist's notebook, camera, video player, rolodex, calendar, tape recorder, library, journal, album, television, map, watch, and newspaper. Many of these journalists were freelancers, who likely did

Cellphones are critical to modern-day newsgathering, serving as a journalist's notebook, camera, video player, rolodex, calendar, tape recorder, library, journal, album, television, map, watch, and newspaper.

not have ready access to replacement devices.

Such seizures are particularly problematic when accompanied by searches, which can reveal confidential sources and a reporter's sensitive work product. This occurred in at least one case in St. Louis; a police officer, after arresting a [journalist from the St. Louis Post-Dispatch](#), reportedly reviewed the contents of the cellphone the reporter had been using to communicate and photograph the events of the evening. Such searches have a chilling effect on newsgathering, creating an incentive for reporters to stay home and not risk the disclosure of confidential sources and work product. If the reporter does not consent to the search, this could violate the Fourth Amendment and the Privacy Protection Act, discussed above.

5 Border Stops

Equipment searches also occurred at border stops. The tracker highlighted [five cases](#) of journalists stopped at the U.S. border, and in at least [three](#) of them, authorities asked for access to the journalist's cellphone or other device. According to the ACLU, this practice of searching a traveler's electronic devices at the border without

a warrant is growing quickly.²⁰ In September 2017, the ACLU and others sued the Department of Homeland Security on behalf of 11 travelers, including two journalists, who were subjected to such searches.²¹ The Reporters Committee and Knight First Amendment Institute filed an [amicus brief](#) in support.²²

1 DOJ "Leak" Investigation

Since taking office, Attorney General Jeff Sessions has made clear that the Justice Department will aggressively investigate the disclosure of government information to the news media. In November, Sessions said the Justice Department had increased the number of leak investigations to 27, up from nine, when he became attorney general.²³ By the end of 2017, however, the Justice Department had only brought charges in one such case, against [Reality Winner](#), a 25-year-old Air Force veteran and federal contractor. She was indicted under the Espionage Act in June 2017 for allegedly giving a top-secret document to *The Intercept*, detailing Russian hacking attempts on election software

vendors in the United States. She is currently in jail, awaiting trial.

Troublingly, Sessions has [repeatedly refused to rule out prosecuting or jailing journalists](#). In August, he announced a review of Justice Department guidelines regarding subpoenas of journalists' records. The current guidelines, amended in 2015 with input from a media coalition organized by the Reporters Committee, require that most such requests be approved by the attorney general and that "the government should have made all reasonable attempts to obtain the information from alternative, non-media sources."²⁴

Subpoenas

The tracker highlighted [five instances](#) of reporters being subpoenaed. In all of these cases, the court either quashed the subpoena or the subpoenaing party withdrew it. In one of the most high-profile of these cases, the tracker reported that radio journalist [John Sepulvado](#) was subpoenaed to testify at trial about an interview he conducted with Ryan Bundy, one of the leaders of the group that forcibly occupied the Malheur National Wildlife Refuge in 2016. Federal prosecutors originally asked him to voluntarily testify, but he refused, and the Justice Department declined to subpoena his testimony. Shortly after being sworn in, however, Attorney General Sessions approved the subpoena. Sepulvado moved to quash the subpoena, the Reporters Committee filed an [amicus brief](#) in support, and the court subsequently quashed it.²⁵

In another high-profile case, independent journalist [Jamie Kalven](#) was subpoenaed to testify in



Jamie Kalven testifies December 6, 2017, about his career as a journalist. The court quashed the subpoena seeking to force Kalven to testify about his confidential sources. Photo by Antonio Perez / Chicago Tribune

the murder trial of a Chicago police officer accused of fatally shooting an African American teenager in 2014. The officer sought information about Kalven's

confidential sources. Kalven moved to quash the subpoena, citing the Illinois reporter's privilege among other arguments. A coalition of 19 media

organizations, led by the Reporters Committee, filed an [amicus brief](#) in support of Kalven's motion. The court subsequently quashed the subpoena.²⁶

Chilling Statements: Threats & Verbal Attacks on the Press

The tracker highlighted [19 of the most egregious public threats](#) made to reporters and media organizations in 2017 by U.S. politicians and other public figures that could have a chilling effect on journalism. All but two of these were made by either President Trump or a member of his administration. After attacking the press throughout his campaign, President Trump continued his verbal assault on the news media while in office. A recent report revealed a "perpetual campaign against the press," as Trump posted 990 tweets critical of the media from the start of his presidential candidacy in 2015 through December 21, 2017.²⁷

Throughout the year, the Trump administration faced an ongoing criminal probe into its ties to Russia, a series of scandals, and negative news coverage. The president responded by attacking the credibility of this coverage as biased against him, repeatedly calling prominent news organizations like CNN, NBC News, and *The New York Times* "failing" and "[fake news](#)"—a term previously used to refer to deliberately false, invented stories.²⁸ One month into his presidency, Trump gave a speech to the Conservative Political Action Conference, in which he referred to the media as the "[enemy of the people](#)." In July, he tweeted a [video](#) of himself beating up a figure whose head had been replaced with the CNN logo. And in a speech in August in Arizona, he blamed journalists for fomenting division in the country, calling them "[truly dishonest people](#)" who "don't like our country." In early 2018, Trump announced 11 winners of his "[Fake News Awards](#)," most of which concerned routine inaccuracies that

had already been corrected and which were hardly purposeful.²⁹

Floyd Abrams, a leading First Amendment lawyer and scholar, described how the current administration has departed from historic practice: "Unhappiness with and criticism of the press by American presidents has been the norm, not the exception. But daily denigration of the press as the enemy of the American people and statements that the use of confidential sources by journalists 'shouldn't be allowed' is both novel and dangerous."³⁰

Efforts to interfere with the free press

Throughout 2017, the president also encouraged direct government interference with the free press: calling for a change in libel laws to disfavor the press (even attempting to stop publication of a book critical of his administration in early 2018), suggesting the FCC should challenge the broadcast licenses of the TV news networks whose coverage he did not like, urging the Senate Intelligence Committee to investigate these networks, calling for news organizations to fire certain reporters, and reportedly urging the FBI to put journalists in prison for publishing classified information. None of these threats (discussed below) has yet materialized into any government action, although questions surround the Justice Department's decision to sue to block the merger of CNN's parent company, Time Warner, with AT&T.

“

[D]aily denigration of the press as the enemy of the American people and statements that the use of confidential sources by journalists 'shouldn't be allowed' is both novel and dangerous.'

— Floyd Abrams,
First Amendment attorney



Donald J. Trump
@realDonaldTrump

The FAKE NEWS media (failing @nytimes, @NBCNews, @ABC, @CBS, @CNN) is not my enemy, it is the enemy of the American People!

Donald J. Trump
@realDonaldTrump

With all of the Fake News coming out of NBC and the Networks, at what point is it appropriate to challenge their License? Bad for country!



All but two of the 19 most egregious public threats to reporters and media organizations were made by the president or a member of his administration.

Libel

As he did on the campaign trail, President Trump has repeatedly called for [changing libel laws](#) to make them less favorable to free speech interests, despite the fact that the U.S. Supreme Court has long recognized strong First Amendment protections for the press in defamation cases.³¹ In early 2018, Trump even tried to use libel law [to stop the release](#) of journalist Michael Wolff’s book, *Fire and Fury: Inside the White House*, which offered “a close-up account of the chaos of the Trump Administration.” Trump’s attorney, Charles Harder, sent a cease-and-desist letter to Wolff and his publisher, Henry Holt & Co., claiming they could be liable for defamation. First Amendment scholars viewed the move as an intimidation tactic, not a serious litigation threat, given how “unthinkably difficult” it would be legally for the president to suppress publication of a book criticizing him.³² The publisher instead moved up the release of the book, which was an instant bestseller.

FCC

In October, Trump [threatened](#) to use the regulatory power of the government to “challenge” the “license” of NBC News for publishing a report he claimed was false, which detailed his interest in drastically increasing the nation’s nuclear arsenal. Federal Communications Commissioner Jessica Rosenworcel immediately responded on Twitter, that’s “not how it works”; the national broadcast networks do not have licenses, and the FCC does not

have authority to regulate the content, especially the news coverage, of their local broadcast affiliates.³³ Acknowledging this, FCC Chairman Ajit Pai responded six days later by promising that under his leadership, the FCC would “stand for the First Amendment.”³⁴ That same month, Trump called on the Senate Intelligence Committee to investigate the “Fake News Networks.”³⁵ That committee is investigating the Trump campaign’s ties to Russia, and the committee chair denied that the investigation would include any news organizations.³⁶

Antitrust

In July, *The New York Times* reported that [White House advisors](#) discussed possibly using the multibillion-dollar merger between AT&T and Time Warner as leverage over cable news network CNN.³⁷ CNN is owned by Time Warner and is one of Trump’s most frequent targets as a purveyor of “fake news” and “garbage journalism.” In an unexpected move, the Department of Justice subsequently announced it would sue to block the merger, even though AT&T and Time Warner do not directly compete, and the DOJ has previously approved similar deals, like Comcast’s acquisition of NBC Universal in 2011.³⁸ However, Makan Delrahim, head of the DOJ’s antitrust division, made a case for the lawsuit last fall. He criticized the Obama Justice Department’s decision to approve the Comcast/NBCU combination but subject the company to strict regulatory oversight, forcing the DOJ to “babysit” Comcast to ensure it did not make decisions that were in its own profit-

maximizing interest. He felt if the DOJ had simply blocked such vertical mergers in the first place, that would have eliminated the need for regulation, while allowing companies to seek profit without government interference.³⁹

AT&T has publicly questioned DOJ's motives, given Trump's repeated criticism of CNN and his campaign pledge to block the merger.⁴⁰ Although AT&T received privilege logs showing all written communications between the White House and DOJ's antitrust division regarding the merger (which according to the court, apparently did not show anything "untoward"), the district court denied AT&T's request for additional information about communications between the White House, Attorney General's office, and antitrust division, citing "substantial concerns" about allowing discovery into the exercise of prosecutorial discretion.⁴¹ Nevertheless, AT&T has said it may call Delrahim as a witness at trial if evidence comes out showing that the DOJ's decision to challenge the merger was politically motivated (at the time this report was published, the trial was under way, but this had not happened).⁴²

This is not the first time a media company has defended itself in an antitrust suit by arguing that the DOJ's motives are improper. In the early 1970s, Nixon's Justice Department sued the then-Big Three television networks for monopolizing prime-time entertainment programming.⁴³ The networks responded by claiming "improper motives" on behalf of the government, in violation of their First Amendment rights.⁴⁴ In fact, Oval Office tape recordings from that time showed that President Richard M. Nixon hoped the threat of an antitrust suit by his Justice Department against the networks would sway their coverage of him.⁴⁵ When the government refused to turn over information about President Nixon's communications in violation of court orders, the trial court dismissed the case, though the government was allowed to refile the lawsuit after Nixon resigned, which it did, before ultimately settling the case.⁴⁶

News organizations urged to fire journalists

Trump tweeted in December that [ABC News](#) should fire Brian Ross, who incorrectly reported that Trump directed then-campaign advisor Michael Flynn to reach out to the Russian government while Trump was a candidate, when this actually occurred after Trump had been elected. ABC News corrected



White House Press Secretary Sarah Huckabee Sanders. Photo by Voice of America via Wikimedia Commons

the story, suspended Ross for four weeks, and announced he would no longer cover stories related to Trump. Trump also called for [The Washington Post](#) to fire reporter Dave Weigel, who tweeted a misleading photo of a Trump rally showing many empty seats, even though Weigel deleted the tweet once he learned that the venue had not yet filled up and apologized for the mistake. In September, White House Press Secretary [Sarah Huckabee Sanders](#) advocated that sports network ESPN fire *SportsCenter* co-host Jemele Hill after she called the president a "white supremacist" on Twitter.

FBI urged to imprison journalists

While publicly claiming that negative coverage of him was false, President Trump has privately expressed frustration with government officials leaking information to the press. During a meeting in February, he [reportedly](#) urged then-FBI director James Comey to consider putting journalists in prison for publishing classified information. This has not happened, though the Justice Department under Attorney General Jeff Sessions has reportedly ramped up "leak" investigations, as detailed above.

Intimidation tactics

In February 2017, [April Ryan](#), a White House correspondent and Washington bureau chief for American Urban Radio Networks, claims she was "physically intimidated" by Omarosa Manigault, then the White House director of communication for the Office of Public Liaison. Ryan claims that Manigault accosted her and threatened her with a dossier of negative information, noting that she also had dossiers on several other African American journalists.

Some politicians followed Trump's lead, while others defended press freedom

Although not detailed in the tracker, politicians throughout the United States have taken note of Trump's tactics and adopted them as their own. Most recently, Missouri Governor Eric Greitens, when faced with allegations that he blackmailed a woman in an effort to keep her quiet about an extramarital affair, attempted to discredit the story by reportedly calling it "fake news" and blaming the "liberal media."⁴⁷ Texas Governor Greg Abbott and Tampa Mayor Bob Buckhorn both joked about shooting members of the media in 2017.⁴⁸ Kentucky Governor Matt Bevin has also used the "fake news" label to discredit the news media⁴⁹ and claimed the state's two major newspapers "don't actually seem to care about Kentucky."⁵⁰ Just a few days after his comment, someone shot out office windows at one of those newspapers. While no one was hurt and no direct connection to Bevin's statements was established, the publisher of the newspaper expressed concern at the rhetoric being leveled against journalists in Kentucky.⁵¹

On the other hand, Sens. Jeff Flake (R-Ariz.) and John McCain (R-Ariz.) are among those who have defended the press and criticized Trump for his attacks on the news media and truth, more generally. On the same day in January 2018 that Trump announced his "Fake News Awards," Flake gave a speech on the Senate floor, blasting the president for an "unrelenting daily assault on the constitutionally protected free press," calling it "as unprecedented as it is unwarranted."⁵² He condemned Trump's practice of calling the press "the enemy of the people," noting that it is a term Joseph Stalin infamously used to



Sens. Jeff Flake, left, and John McCain are among those who have defended the press. Photo by Gage Skidmore via Flickr/CC 2.0

“

[T]o employ even idle threats to use laws or regulations to stifle criticism is corrosive to our democratic institutions. Simply put: it is the press' obligation to uncover the truth about power. It is the people's right to criticize their government. And it is our job to take it.

— Sen. Jeff Flake

describe his enemies for the purpose of annihilating them, and that even Nikita Khrushchev forbade its use. Flake warned that "to employ even idle threats to use laws or regulations to stifle criticism is corrosive to our democratic institutions. Simply put: it is the press' obligation to uncover the truth about power. It is the people's right to criticize their government. And it is our job to take it."⁵³

The day before, in an op-ed in *The Washington Post*, McCain denounced the president's "unrelenting attacks on the integrity of American journalists and news outlets," noting that this has "provided cover for repressive regimes," who now use the phrase "fake news" to "silence reporters, undermine political opponents, stave off media scrutiny and mislead citizens."⁵⁴ McCain cited a report by the Committee to Protect Journalists that found the number of journalists jailed on "fake news" charges worldwide doubled in 2017 to 21 cases.

Other members of Congress, such as Senator Amy Klobuchar (D-Minn.), expressed concern about the heightened anti-press rhetoric as well, during meetings with an international delegation of U.S. and Latin American journalists hosted by the Reporters Committee and Inter American Press Association in February 2018. This delegation met with legislators, academics, and journalists to assess the state of press freedoms in the United States in light of recent attacks on the press.⁵⁵ Sharing these concerns, the Committee to Protect Journalists and the International Freedom of Expression Exchange hosted a delegation of global press freedom groups on an unprecedented mission to the United States in January 2018. This mission included meetings with high-level policymakers and fact-finding visits to Texas and Missouri.⁵⁶

Safety concerns for the press

While journalists “mostly shrug off” insults from politicians, the hostility toward them takes a toll and sometimes raises safety concerns.⁵⁷ The level of threats against CNN employees spiked last year.⁵⁸ As one reporter explained, Trump’s “rhetoric and his tweets matter. They can expose journalists

to harassment and physical attacks, or threats thereof.”⁵⁹ In fact, in January 2018, a man was arrested after making 22 [threatening calls](#) to CNN’s headquarters, in which he called CNN “fake news” and threatened to murder its employees.

White House correspondent April Ryan reported that she and other journalists received death threats merely for asking questions of the administration and mentioned having the FBI and police on speed dial.⁶⁰ Kathleen Parker, a columnist for *The Washington Post*, also reported receiving death threats when she wrote critically of Trump.⁶¹ And NBC News host Megyn Kelly saw a clear connection between Trump’s tweets and hate mail, as the most frequent individual journalist targeted by Trump on Twitter (some 60 times).⁶² She wrote in her book, *Settle for More*, that she received rape and death threats whenever Trump targeted her: “Every time, he wrote about me, it was like he flipped a switch, instantly causing a flood of intense nastiness.”

The Reporters Committee has seen an uptick in hotline calls by reporters requesting help in dealing with online threats and harassment and is developing written resources to address this issue.

Denials of Access

The tracker also highlighted [11 instances](#) of the government denying access to reporters. The most high-profile of these denials of access occurred in February 2017, when the White House excluded journalists from 11 news organizations from an informal [press gaggle](#), allowing only the press pool and several handpicked outlets to attend. This led to discussions about the constitutionality of this practice and whether it constituted viewpoint discrimination.⁶³

While the circumstances vary in the remaining cases, there were three instances where government officials prevented reporters from covering protests. Two of these occurred inside the U.S. Capitol: in January, a [congressman](#) blocked a journalist from photographing a protest, and in July, a [U.S. Capitol police officer](#) ordered a journalist to delete photos and video of protesters that he had filmed in the Senate hallways, implicating the journalist’s Fourth Amendment right to be free from unreasonable



The White House press briefing room. Photo by sjmatta via Flickr/CC 2.0

searches and seizures, as well as his rights under the Privacy Protection Act, described above.

Conclusion

Journalists came under fire from all sides in 2017. The White House and other politicians led the charge with verbal attacks and accusations of “fake news,” even threatening unlawful legal and regulatory action in retaliation for critical media coverage. Fortunately, these threats have not materialized, although concerns exist about whether the Justice Department will target journalists in future “leak” investigations and whether the Justice Department’s lawsuit to block the merger of AT&T and Time Warner is politically motivated.

In the field, the most perilous place for a journalist was a protest, where demonstrators assaulted reporters, and police used a kettling technique to conduct mass arrests, giving little deference to press credentials. Reporters frequently received death threats from disgruntled civilians, possibly stoked by the president’s “war” on the media.

Nevertheless, freedom of speech and the press are enshrined in the First Amendment, deeply ingrained in our culture and courts, and widely recognized by policymakers. The judiciary, as well as press freedom allies in Congress and the executive branch, are poised to continue to serve as a powerful check on attempts to unlawfully regulate or punish the news media.

Endnotes

- 1 Jonathan Peters, *Trump Twitter spreadsheet tracks “a perpetual campaign against the press,”* COLUM. J. REV., Dec. 21, 2017, <https://perma.cc/RR3E-5EF3>.
- 2 Brent Kendall & Drew FitzGerald, *AT&T Targets DOJ Antitrust Chief in Time Warner Fight: Company lays the groundwork to challenge the legitimacy of government’s antitrust suit*, W.S.J., Feb. 14, 2018, <https://www.wsj.com/articles/at-t-lays-groundwork-to-challenge-antitrust-lawsuits-legitimacy-1518606832?>.
- 3 Brian Stelter, *Jeff Sessions: We’re investigating 27 leaks of classified information*, CNN, Nov. 14, 2017, <https://perma.cc/W54N-ATWB>.
- 4 Tasneem Raja, *Tracking Journalists Arrested at Occupy Protests*, MOTHER JONES, Nov. 18, 2011, <https://www.motherjones.com/politics/2011/11/tracking-journalists-arrested-occupy-protests/>.
- 5 Josh Stearns, *How Do We Make Freelance Journalism Sustainable?*, MEDIA-SHIFT, June 17, 2013, <http://mediashift.org/2013/06/freelancing-the-future-of-journalism/>; Allison Shelley, *The dangerous world of freelance journalism*, L.A. TIMES, Sept. 6, 2014, <http://www.latimes.com/opinion/op-ed/la-oe-shelley-freelance-journalists-foley-sotloff-20140907-story.html>.
- 6 *Id.*
- 7 Joe Sterling, *St. Louis protest police accused of controversial “kettling” tactics*, CNN, Sept. 19, 2017, <https://www.cnn.com/2017/09/19/us/missouri-st-louis-kettling/index.html>; Julian Joyce, *Police “kettle” tactic feels the heat*, BBC NEWS, Apr. 16, 2009, http://news.bbc.co.uk/2/hi/uk_news/8000641.stm; Jacqui Karn, *Being kettled was a shocking experience*, THE GUARDIAN, Dec. 10, 2010, <https://www.theguardian.com/commentisfree/2010/dec/10/kettled-shocking-experience>.
- 8 The American Civil Liberties Union of Missouri Foundation recently challenged the St. Louis police department’s use of kettling in a civil rights suit that is currently pending. Amended Complaint, *Ahmad v. City of St. Louis*, Civ. No. 17-2455 (E.D. Mo. Sept. 28, 2017).
- 9 Chip Gibbons, *The Prosecution of Inauguration-Day Protesters is a Threat to Dissent*, THE NATION, Oct. 20, 2017, <https://www.thenation.com/article/the-prosecution-of-inauguration-day-protesters-is-a-threat-to-dissent/>; see also Gabe Rottman, *Memo to D.C.: Protesters are not rioters*, WASH. POST, Feb. 4, 2018, <https://perma.cc/FX79-FTQ6> (“Dangerous ambiguities in our riot laws – most notably the D.C. riot act – threaten to tar peaceful protesters as criminals.”).
- 10 *ACLU of DC sues D.C. police for false arrests, free speech violations, police abuse at Inauguration Day protests*, ACLU, June 21, 2017, <https://www.aclu.org/news/aclu-dc-sues-dc-police-false-arrests-free-speech-violations-police-abuse-inauguration-day>.
- 11 Jose Ochoa, *Attorneys for Aaron Cantú File Motion to Dismiss Charges in Inauguration Day Arrests*, RCFP (Jan. 19, 2018), <https://www.rcfp.org/browse-media-law-resources/news/attorneys-aaron-cantu%C3%BA-file-motion-dismiss-charges-inauguration-day-a>; Motion of RCFP to File Memorandum of Points and Authorities as *Amicus Curiae*, *United States v. Cantú*, Crim. No. 2017-CF2-001304 (D.C. Super. Ct. Feb. 7, 2018).
- 12 Jenni Monet, *How I Got Arrested While Reporting on the Dakota Access Pipeline*, INDIAN COUNTRY TODAY, Feb. 8, 2017, <https://indiancountrymedianetwork.com/news/native-news/monet-arrested-reporting-dakota-access/>.
- 13 Robert Patrick, *FBI, Justice Dept. investigating St. Louis police conduct during protests*, ST. LOUIS POST-DISPATCH, Nov. 21, 2017, http://www.stltoday.com/news/local/crime-and-courts/fbi-justice-department-investigating-st-louis-police-conduct-during-protests/article_dd3b76fb-8215-5e6e-b811-3aa0ac054040.html.
- 14 Ryan J. Reilly, *Journalist Sues St. Louis Police For Assaulting Him During Unconstitutional Crackdown*, HUFFPOST, Feb. 23, 2018, https://www.huffingtonpost.com/entry/mike-faulk-st-louis-police-protest-crackdown_us_5a90784de4b03b55731c1f0.
- 15 *Judge Orders St. Louis Police to Immediately Change Tactics and Protect the Rights of People*, ACLU, Nov. 15, 2017, <https://www.aclu.org/news/judge-orders-st-louis-police-immediately-change-tactics-and-protect-rights-people>.
- 16 Kimberly Chow, *Ferguson and the right to photograph police*, 38 THE NEWS MEDIA & THE LAW 7 (Nov. 2014), <https://www.rcfp.org/browse-media-law-resources/news-media-law/news-media-and-law-fall-2014/ferguson-and-right-photo-graph>.
- 17 42 U.S.C. § 2000aa, et seq.
- 18 For additional guidance, see *Tips for covering protests*, 27 THE NEWS MEDIA & THE LAW 10 (Spring 2003), <https://www.rcfp.org/browse-media-law-resources/news-media-law/news-media-and-law-spring-2003/tips-covering-protests>.
- 19 See, *supra*, n.15.
- 20 *Lawsuit on behalf of 11 travelers challenges searches of electronic devices as unconstitutional*, ACLU, Sept. 13, 2017, <https://www.aclu.org/news/aclu-eff-sue-over-warrantless-phone-and-laptop-searches-us-border>.
- 21 *Id.*
- 22 Brief of RCFP as *Amicus Curiae*, *Alasaad v. Nielsen*, Civ. No. 17-11730 (D. Mass. Feb. 2, 2018), <https://www.rcfp.org/browse-media-law-resources/briefs-comments/alasaad-et-al-v-nielsen-et-al>.
- 23 Matt Apuzzo & Nicholas Fandos, *Jeff Sessions Denies Lying to Congress on Contacts with Russia*, N.Y. TIMES, Nov. 14, 2017, <https://www.nytimes.com/2017/11/14/us/politics/sessions-russia-trump-putin-judiciary-hearing.html>.
- 24 28 C.F.R. § 50.10(c)(4)(iii) (2016).
- 25 Ariel Glickman, *Reporters Committee files brief opposing journalist’s subpoena in Malheur stand-off prosecution*, RCFP, Feb. 23, 2017, <https://www.rcfp.org/browse-media-law-resources/news/reporters-committee-files-brief-opposing-journalists-subpoena-malheur>.
- 26 Megan Crepeau, *Laquan McDonald reporter won’t be forced to testify at Chicago cop’s hearing*, CHICAGO TRIBUNE, Dec. 13, 2017, <http://www.chicagotribune.com/news/laquanmcdonald/ct-met-laquan-mcdonald-jamie-kalven-sources-20171212-story.html>.
- 27 Peters, *supra*, n.1.
- 28 Mike Wendling, *BBC Trending: The (almost) complete history of “fake news”*, BBC NEWS, JAN. 22, 2018, <http://www.bbc.com/news/blogs-trending-42724320>.
- 29 Glenn Kessler, *Fact-checking President Trump’s “Fake News Awards”*, WASH. POST, Jan. 17, 2018, <https://perma.cc/F7NR-GBUL>.
- 30 Adam Liptak, *Barring Reporters From Briefings: Does It Cross a Legal Line?*, N.Y. TIMES, Feb. 28, 2017, <https://perma.cc/R7KT-7TET>.
- 31 *N.Y. Times Co. v. Sullivan*, 376 U.S. 254 (1964).
- 32 Robert Barnes, *Trump faces uphill battle in trying to block critical book, legal experts say*, WASH. POST, Jan. 4, 2018, <https://perma.cc/4HVN-P4VZ>.
- 33 Margaret Harding McGill, *Trump threat against NBC probably “empty”*, POLITICO,

- Oct. 11, 2017, <https://www.politico.com/story/2017/10/11/trump-nbc-license-threat-243675>.
- 34 Margaret Harding McGill, *FCC chairman defends First Amendment after Trump broadcaster threats*, POLITICO, Oct. 17, 2017, <https://www.politico.com/story/2017/10/17/trump-nbc-license-fcc-ajit-pai-response-243865>.
- 35 Donald Trump (@realDonaldTrump), TWITTER (Oct. 5, 2017, 5:59 AM), <http://bit.ly/2yi49rn>.
- 36 Jenna Johnson, *Trump suggests Senate Intelligence Committee investigate media companies*, WASH. POST, Oct. 5, 2017, <https://perma.cc/VU25-7Z9W>.
- 37 Michael M. Grynbaum, *The Network Against the Leader of the Free World*, N.Y. TIMES, July 5, 2017, <https://www.nytimes.com/2017/07/05/business/media/jeffrey-zucker-cnn-trump.html>.
- 38 Cecilia Kang, *AT&T Is Said to Want Antitrust Official on Witness List for Trial*, N.Y. TIMES, Feb. 14, 2018, <https://www.nytimes.com/2018/02/14/business/antitrust-witness-delrahim.html>.
- 39 Derek Thompson, *Why the Trump Administration Is Suing to Block the AT&T-Time Warner Merger*, THE ATLANTIC, Nov. 20, 2017, <https://www.theatlantic.com/business/archive/2017/11/trump-att-time-warner/546443/>.
- 40 Kendall & FitzGerald, *supra*, n.2.
- 41 See *United States v. AT&T Inc.*, Civ. No. 17-2511, slip op. at 2-4 (D.D.C. Feb. 20, 2018), <https://www.nytimes.com/interactive/2018/02/20/technology/document-court-order-re-TWX-T-Motion-Re-Political.html>.
- 42 Cecilia Kang, *AT&T Loses Bid to Obtain White House Call Logs*, N.Y. TIMES, Feb. 20, 2018, <https://www.nytimes.com/2018/02/20/technology/att-loses-bid-to-obtain-white-house-call-logs.html>.
- 43 Kendall & FitzGerald, *supra*, n.2.
- 44 *United States v. Nat'l Broad. Co.*, 65 F.R.D. 415, 417 (1974).
- 45 Walter Pincus & George Lardner Jr., *Nixon Hoped Antitrust Threat Would Sway Network Coverage*, WASH. POST, Dec. 1, 1997, <http://www.washingtonpost.com/wp-srv/national/longterm/nixon/120197tapes.htm>.
- 46 Kendall & FitzGerald, *supra*, n.2.
- 47 Steve Kraske, *Here's the good news for Gov. Eric Greitens in the midst of this scandal*, KAN. CITY STAR, Jan. 18, 2018, <http://www.kansascity.com/opinion/opn-columns-blogs/steve-kraske/article195413984.html>.
- 48 Barbara Starr, *Media "jokes" not so funny*, CNN, May 26, 2017, <http://www.cnn.com/2017/05/21/politics/media-violence-new-normal/index.html>.
- 49 Julia Manchester, *Kentucky governor calls reporter "a sick man,"* THE HILL, May 28, 2017, <http://thehill.com/homenews/news/335487-kentucky-governor-calls-reporter-a-sick-man>.
- 50 Ed Pilkington, *Kentucky Newspapers Suffer Twin Threats Amid Rising Anti-Media Climate*, THE GUARDIAN, May 30, 2017, <http://bit.ly/2sjWbsa>.
- 51 *Id.*
- 52 Politico Staff, *Full text: Jeff Flake on Trump speech transcript*, POLITICO, Jan. 17, 2018, <https://www.politico.com/story/2018/01/17/full-text-jeff-flake-on-trump-speech-transcript-343246>.
- 53 *Id.*
- 54 John McCain, op-ed, *Mr. President, stop attacking the press*, WASH. POST, Jan. 16, 2018, https://www.washingtonpost.com/opinions/mr-president-stop-attacking-the-press/2018/01/16/9438c0ac-faf0-11e7-a46b-a3614530bd87_story.html.
- 55 Bruce Brown, *America Is No Longer the Standard Bearer for a Free Press*, TIME, Feb. 5, 2018, <http://time.com/5133507/press-freedom-united-states/>.
- 56 *International press freedom groups to visit U.S. on unprecedented mission: Trip comes amid concern about climate for media in US*, CPJ, Jan. 11, 2018, <https://cpj.org/2018/01/international-press-freedom-groups-to-visit-us-on-.php>.
- 57 Peters, *supra*, n.1.
- 58 Grynbaum, *supra*, n.37.
- 59 Peters, *supra*, n.1.
- 60 *Reliable Sources*, CNN, Jan. 21, 2018, <https://www.cnn.com/videos/politics/2018/01/21/april-ryan-death-threats-while-covering-white-house-rs.cnn>.
- 61 Kathleen Parker, *A caller threatened to shoot up CNN. Was it Trump's fault?*, WASH. POST, Jan. 23, 2018, https://www.washingtonpost.com/opinions/a-caller-threatened-to-shoot-up-cnn-was-it-trumps-fault/2018/01/23/b54ffc50-0082-11e8-bb03-722769454f82_story.html.
- 62 Peters, *supra*, n.1.
- 63 Liptak, *supra*, n.30.

**REPORTERS
COMMITTEE**
FOR FREEDOM OF THE PRESS

1156 15th St. NW, Suite 1250
Washington, D.C. 20005
(800) 336-4243