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U.S. House Committee on the Judiciary

"Silencing Dissent: The First Amendment Under Attack"

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Rep. Raskin, Rep. Scanlon, and members of the Committee:

My name is Gabe Rottman, and I am the vice president of policy at the Reporters Committee for Freedom of the Press. Founded in 1970, the Reporters Committee is a nonprofit organization that provides pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists.

Thank you, Rep. Raskin, Rep. Scanlon, and members of the Committee for inviting me to appear today at this spotlight hearing on the First Amendment.

I. Introduction

My understanding is that the impetus for this hearing is to review the emergent challenges to First Amendment freedoms, including press rights, in the approximately 13 months since the second Trump administration took office. While those challenges are severe — and continue to escalate — it's crucial to bear in mind that many of the free press controversies over the past year have echoes of past actions by past administrations of both parties.

Perhaps the starkest illustration of the threats to a free press today is the unprecedented raid on a Washington Post reporter's home last month in an Espionage Act "leak" investigation. That specific investigative step in a national security case — executing a search warrant in a reporter's residence and seizing many terabytes of electronic communications and data, effectively restraining the reporter from finishing stories in process — has not happened before.

But stepped-up enforcement of the Espionage Act against journalistic sources has its origins in the George W. Bush, Obama, and first Trump administrations, with the Obama administration charging more media leakers under the Espionage Act than all other past presidencies combined and with President Trump keeping pace with close to the same number of cases in just four years.[1] Each of the Bush, Obama, and first Trump administrations likewise seized sensitive newsgathering data and material from journalists, though through subpoenas or court orders, not, with one exception during the Obama years, through search warrants. And both the Bush and Obama administrations sought to force reporters to identify their confidential sources in court, again through subpoenas.[2]

Similarly, the Federal Communications Commission's recent attempts to investigate and possibly bring enforcement action to regulate content broadcast by radio and television licensees are all grounded in legal theories adopted by the U.S. Supreme Court permitting such regulation under the unduly malleable "public interest" standard, which again has had its boosters at all points on the ideological spectrum at one time or another.

We point this out not to excuse any of the second Trump administration's actions that threaten media freedom in the United States. Rather, we do so because it is crucial not to lose

[1] *See Federal Cases Involving Unauthorized Disclosures to the News Media, 1778 to the Present*, Reps. Comm. for Freedom of the Press (last updated Dec. 8, 2019), https://perma.cc/P482-CBT9.
[2] *Id.*

sight of the fact that journalists in the U.S. feel threatened because from one administration to the next over the last two decades, they have witnessed increasing encroachment on their newsgathering rights, with the one exception being the Biden administration, where Attorney General Merrick Garland established a bright-line rule barring the use of compulsory process for journalists acting within the scope of newsgathering, which was defined to include, among other things, the receipt, possession, or publication of classified information.[3] Those reforms were rescinded last year by Attorney General Pamela Bondi.[4]

Below, and with the caveat that these are only a subset of press freedom issues today, we briefly highlight four areas of concern, which we see as federal priorities.

First, we discuss the execution of a search warrant at Washington Post reporter Hannah Natanson's home in mid-January, in connection with an investigation into a defense contractor for the unauthorized disclosure of national defense information. To our knowledge, this is the first time the government has executed such a search, and it appears that the Justice Department may not have complied with a federal law meant to limit this type of investigative step when applying for the warrant.

Second, we emphasize our continuing concern that federal officers with component agencies of the Department of Homeland Security may not be receiving comprehensive training on how to interact with journalists, especially in the context of protests. We continue to monitor incidents involving the detention, arrest, or use of force against journalists by DHS, of which there have been several over the past year.

Third, we note numerous ongoing controversies at the FCC, where Chairman Brendan Carr has revived various rules and policies derived from the public interest standard that permit the FCC to investigate and potentially regulate First Amendment-protected content broadcast by FCC licensees. Those policies and rules can be deployed by regulators to police perceived "bias" by broadcasters, which poses an acute danger of the government attempting to put its thumb on the scale of public discourse.

Fourth, we flag the administration's efforts to limit press access in ways that implicate the First Amendment, including the White House press pool and Pentagon credentialing matters, which are the subject of ongoing litigation by the Associated Press and the New York Times, respectively.

Bipartisan efforts are needed to counter these threats and ensure the press can fulfill its constitutionally recognized watchdog role without interference from any administration. Fortunately, we've seen that bipartisan consensus over the past decade with, for instance, a federal reporter's privilege bill, Rep. Raskin's PRESS Act, passing the House without objection in two consecutive Congresses.

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[3] *See* Bruce D. Brown & Gabe Rottman, *Opinion: A Major Milestone in the Fight for Press Freedom*, CNN (Oct. 28, 2022), https://bit.ly/4kJbE05.

[4] *See* Gabe Rottman, *US Justice Department Rescinds Biden-era Protections for Press*, Reps. Comm. for Freedom of the Press (Apr. 30, 2025), https://bit.ly/4aZ12XD.

II. The Washington Post/Hannah Natanson case

On January 14, 2026, the FBI executed a search warrant at the home of a Washington Post journalist, Hannah Natanson, reportedly as part of an investigation into alleged mishandling of classified government materials.[5] It is the first time that we are aware of where the government has raided a journalist's home in connection with an investigation into the unauthorized disclosure of government secrets to the press.[6]

The search involved the seizure of numerous devices, including Natanson's phone, a voice recorder, personal and work laptops, a smartwatch, and an external hard drive,[7] which collectively contain "essentially her entire professional universe," including communications with over 1,000 sources.[8] The Post received a subpoena the same day seeking communications between the contractor and others at the newspaper.[9]

Following the raid, Attorney General Pam Bondi said that the search warrant was executed at the request of the Pentagon to look for evidence at Natanson's home because she "was obtaining and reporting classified and illegally leaked information from a Pentagon contractor." Investigators reportedly told Natanson that she was "not the focus of the probe."

Rather, the focus appears to be on an individual named Aurelio Perez-Lugones, a Navy veteran and systems administrator and technology specialist in Maryland who has a top secret security clearance as a government contractor. Perez-Lugones has been indicted for alleged violations of the Espionage Act, the World War I-era law that criminalizes the communication, delivery, transmittal, or willful retention of "information related to the national defense" ("national defense information" or "NDI," for short).[10] Perez-Lugones was arrested and charged by a criminal complaint on Jan. 9, 2026. A grand jury returned the indictment on Jan. 22, 2026.[11]

Perez-Lugones faces five counts of unlawful transmission and one count of unlawful retention of NDI. The five transmittal counts are all connected with Perez-Lugones allegedly

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[5] *See In the Matter of the Search of the Real Prop. & Premises of Hannah Natanson*, Reps. Comm. for Freedom of the Press (Jan. 21, 2026) (case page), https://perma.cc/GG4Q-A8UR.
[6] *See* Chris Young & Emily Vespa, *The FBI Search of a Washington Post Reporter's Home: What We Know and Why It Matters*, Reps. Comm. for Freedom of the Press (Jan. 16, 2026), https://perma.cc/BX43-XDVJ.
[7] *See* Search and Seizure Warrant, *In re Search of the Real Prop. & Premises of Hannah Natanson*, No. 26-sw-54, ECF No. 5 (E.D. Va. Jan. 15, 2026), https://perma.cc/ML55-W6TC.
[8] Dec. of Hannah Natanson, *In re Search of the Real Prop. of Hannah Natanson*, No. 26-sw-54, ECF No. 9-1 (E.D. Va. Jan. 21, 2026), https://perma.cc/RQJ9-TK7K.
[9] Perry Stein & Jeremy Roebuck, *FBI Executes Search Warrant at Washington Post Reporter's Home*, Wash. Post (Jan. 14, 2026), https://perma.cc/H8CQ-8WXM.
[10] Indictment, *United States v. Perez-Lugones*, No. 26-cr-30, ECF No. 25 (D. Md. Jan. 22, 2026), https://perma.cc/RPE9-LH2J.
[11] Josh Gerstein & Kyle Cheney, *Contractor Indicted Over Alleged Leaks to Washington Post*, Politico (Jan. 22, 2026), https://bit.ly/4rrdg11.

sharing classified documents with a journalist identified as "Reporter-1." The indictment also lists the datelines of the articles that Reporter-1 allegedly wrote or contributed to containing information derived from the leaked documents. Those all correspond to articles with Natanson on the byline.

Natanson, formerly on the education beat, now covers the second Trump administration's reshaping of the federal government and its effects, including the administration's efforts to fire federal workers and redirect the workforce to enforce President Trump's agenda.

In a first-person account published three weeks before the raid, Natanson detailed conversations she had with current and former federal employees about Trump's transformation of the federal government. In this article, she described herself as The Post's "federal government whisperer," and quoted Signal messages she received from government sources.[12]

Natanson has also contributed to reporting on recent developments in Venezuela leading to and following the U.S.'s Jan. 3, 2026, military and law enforcement operation to extract President Nicholas Maduro. That includes an article referencing government documents and interviews with 20 people, many of whom spoke on the condition of anonymity to discuss sensitive talks and intelligence.[13] The dateline matches that of a piece listed in the Perez-Lugones indictment with Reporter-1 on the byline. And President Trump made comments to the press on Jan. 14 indicating that Perez-Lugones is being accused of leaking sensitive information regarding the U.S.'s military operation in Venezuela.[14]

On Jan. 21, the Post and Natanson filed a motion with the magistrate judge who signed the initial warrant, seeking the return of all seized materials (technically a motion under Federal Rule of Criminal Procedure 41(g) arguing that the search was "unlawful").

The Post and Natanson explained that "the government seized this proverbial haystack in an attempt to locate a needle."[15] The Reporters Committee filed a friend-of-the-court brief in support, arguing that Natanson's devices should be returned and any information seized should be expunged. We cited the First and Fourth Amendments, as well as the Privacy Protection Act, as sources of authority for such relief. The U.S. magistrate judge, William B. Porter, then issued a "standstill" order on the same day requiring that the government not access Natanson's seized materials until he reviewed the matter.[16]

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[12] Hannah Natanson, *I Am The Post's 'Federal Government Whisperer.' It's Been Brutal*, Wash. Post (Dec. 24, 2025), https://perma.cc/SUT2-5CP5.
[13] Anthony Faiola et al., *Inside the Frantic Global Race to Find an Escape Route for Maduro*, Wash. Post (Jan. 9, 2026), https://perma.cc/VHP6-NAHD.
[14] *Trump: Venezuela 'Leaker' is in Jail*, Wash. Post (Jan. 14, 2026), https://perma.cc/7XYC-Y77C.
[15] Mem. in Supp. of the Wash. Post's & Hannah Natanson's Mot. to Intervene & for Return of Property, *In re Matter of the Search of the Real Prop. & Premises of Hannah Natanson,* No. 1:26-sw-54, ECF No. 9 (E.D. Va. Jan. 21, 2026), https://perma.cc/M4TR-9S8U.
[16] Perry Stein, *Judge Blocks Government from Searching Data Seized from Post Reporter*, Wash. Post (Jan. 21, 2026), https://perma.cc/HF56-JBG5.

Given that Perez-Lugones had already been charged with a violation of the Espionage Act and taken into custody when the raid took place, and that the government issued a grand jury subpoena to The Post seeking communications with Perez-Lugones, it is unclear why the FBI took the unprecedented step of obtaining a search warrant to enter a reporter's home and seize virtually her entire electronic newsgathering and reporting toolkit.[17]

The closest analogy to the Natanson case is the 2010 use of a search warrant to seize emails from James Rosen, then a Fox News national security correspondent, to gather evidence against a suspected government leaker of NDI. That case was so controversial that it was one of the catalysts for Attorney General Eric Holder initiating several reforms to the DOJ policy governing the use of compulsory legal process targeted at journalists and their communications records. Even there, however, investigators seized only two days' worth of emails, in contrast to the vast amount of material at issue in the Natanson search.

Additionally, in the Rosen case, the government took pains to reference in the application for the warrant the Privacy Protection Act,[18] a federal law passed in the wake of the U.S. Supreme Court's decision in *Zurcher v. Stanford Daily*, 436 U.S. 547 (1978), where the Court held that a newsroom search for evidence of the criminal activity of third parties does not per se violate the First or Fourth Amendments. Among other things, the PPA prohibits the use of a search warrant for journalists' unpublished materials that contain their mental impressions, unless the government has probable cause that the person possessing the material "has committed or is committing the criminal offense to which the materials relate."[19] The offense, however, cannot consist of the receipt, possession, communication, or withholding of the work product, save in a few narrow contexts, including Espionage Act violations.[20]

In Rosen, therefore, the government had to invoke this "suspect exception" in the warrant affidavit by characterizing Rosen's efforts to convince the source to disclose NDI as conspiracy to violate the Espionage Act or as aiding and abetting the same. In Natanson, however, the government did not do this, leading the Reporters Committee to comment that the "government appears to have ignored a crucial press freedom guardrail in searching a journalist's home."[21]

III. DHS must comprehensively train its officers on press interactions.

Last October, the Reporters Committee sent a letter to Homeland Security Secretary Kristi Noem expressing concern with several incidents in which federal agents with components of DHS have detained, arrested, or used force against journalists covering that activity.[22] The

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[17] *See* Mem. in Support, *supra* note 15 at Exhibit D, https://perma.cc/GQ9Q-8J4S.
[18] *See* 42 U.S.C. §§ 2000aa, 2000aa-5 – 2000aa-7.
[19] 42 U.S.C. § 2000aa(a)(1).
[20] *Id.*
[21] *RCFP Statement on FBI's Newly Unsealed Justification for Seizing Reporter's Electronic Devices*, Reps. Comm. for Freedom of the Press (Feb. 2, 2026), https://perma.cc/S3ES-J6LE.
[22] *RCFP Calls DHS Actions Against Journalists 'Disturbing,' Seeks Meeting with Federal Officials*, Reps. Comm. For Freedom of the Press (Oct. 3, 2025), https://perma.cc/5EQ2-CQ6H.

letter requested a meeting with senior officials to ensure that DHS agents receive comprehensive training on best practices on interacting with journalists in the field. (The Reporters Committee has played a coordinating role for more than a decade at the Justice Department to ensure input from the news media on the DOJ policy governing the use of compulsory process against journalists, as well as decisions concerning questioning, arresting, or charging journalists.)

As of this writing, we have not received a response. Outgoing Assistant Secretary of Homeland Security for Public Affairs Tricia McLaughlin was, however, asked about both the Reporters Committee's letter, as well as another from New York-based outlets and groups with a similar request, and responded with this statement: "We remind members of the media to exercise caution as they cover these violent riots and remind journalists that covering unlawful activities in the field does come with risks — though our officers take every reasonable precaution to mitigate those dangers to those exercising protected first amendment rights."[23]

We continue to have significant concern that officers with DHS components — most notably, Immigration and Customs Enforcement and Customs and Border Protection (including Border Patrol) — may not be receiving comprehensive training on best practices for interacting with journalists, including "arrest avoidance" protocols where detained journalists are released and allowed to continue to report once they establish that they were engaged in journalistic activity. We also continue to be troubled by masking and the failure to prominently display clear identifying information. These practices make it much more difficult for journalists to report on DHS activity, as well as to seek redress when First Amendment, Fourth Amendment, or other constitutional or statutory violations occur.

Separately, we submitted testimony this past November in a Senate Judiciary Committee Subcommittee on Border Security and Immigration hearing titled "ICE Under Fire: The Radical Left's Crusade Against Immigration Enforcement" pushing back on statements by Secretary Noem and other DHS officials equating First Amendment-protected activity, such as recording DHS officers in public, as "violence," or threatening to prosecute those who "dox" agents.[24] We are also concerned with repeated instances of DHS officers citing 18 U.S.C. § 111 — the federal law prohibiting physically impeding federal officers — for activity like safely following DHS officers and recording DHS activity, which is indisputably protected by the First Amendment.[25]

We very much appreciate oversight efforts in Congress regarding DHS and we urge members to push the department to ensure that its officers receive appropriate training on interacting with journalists. We further ask Congress to prioritize both improving transparency

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[23] Eric Berger, *Trump Officials Urged to Halt Violence Against Journalists Amid ICE Protests*, The Guardian (Jan. 12, 2026), https://perma.cc/XBD2-HX57.

[24] *RCFP: DHS Must Adopt Policies to Help Protect Journalists Covering Immigration Enforcement*, Reps. Comm. for Freedom of the Press (Nov. 25, 2025), https://perma.cc/GBB2-MBPE.

[25] *See* Isabelle Chapman, *How Immigration Agents Are Using a Once-Obscure Law to Detain US Citizens*, CNN (Feb. 19, 2026), https://perma.cc/4SG9-BE57; *see also Federal Officers Push AP Reporters Back to Their Car as They Document Operation*, A.P. (Jan. 28, 2026), https://perma.cc/38XK-9BAB.

at the agency and ensuring that constitutional or statutory violations — including violations of press rights — are met with appropriate discipline.

IV. FCC interference with news organizations' editorial independence.

The history of the now-defunct fairness doctrine at the Federal Communications Commission offers an important case study in how the FCC's authorities to regulate broadcast licensees have been used, by administrations of both parties, to suppress viewpoints perceived as unfavorable to government officials. The fairness doctrine required licensees to cover controversial issues, to air multiple perspectives on those issues, and, under the "personal attack" rule, to permit individuals or entities criticized in a broadcast an opportunity to respond.[26]

The Supreme Court upheld the constitutionality of the doctrine in 1969.[27] But, unbeknownst to the justices, the *Red Lion* case originated in a "politically motivated campaign to use the fairness doctrine to harass stations airing right-wing commentary, an effort inspired and managed by the White House and the Democratic National Committee and financed in large measure with political contributions."[28] The Nixon administration and its allies then used the same playbook by targeting complaints against news coverage perceived as unfavorable.[29] The danger to a free press posed by such harassment campaigns was one reason the FCC abandoned the doctrine during the Reagan administration.[30]

We cite this history in light of recent actions at the FCC that raise similar concerns. Arguably the most notable is the decision in 2025 to reopen the complaint against CBS under the fairness doctrine's cousin, the news distortion policy, in connection with a "60 Minutes" interview in 2024 with former Vice President Kamala Harris.[31]

Because the FCC is "not the national arbiter of the truth," the news distortion policy requires that a complainant meet a high evidentiary bar before any enforcement action would be appropriate.[32] Specifically, a complainant must present evidence beyond the broadcast — such as a directive from station management — of *deliberate* distortion.[33] In the CBS complaint,

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[26] *See Red Lion Broad. Co. v. FCC*, 395 U.S. 367, 370–71 (1969).
[27] *Id.*
[28] Fred W. Friendly, *What's Fair on the Air?*, N.Y. Times (Mar. 30, 1975), https://perma.cc/V6EE-E3R4.
[29] *Id.* ("[*Red Lion*] would later embolden the Nixon Administration in its attempts to lean on broadcasters unfriendly to the President.").
[30] *See generally* Reagan Library Topic Guide – Fairness Doctrine (last visited Mar. 23, 2025), https://bit.ly/4rqOkH0.
[31] *See* Comments of Reps. Comm. for Freedom of the Press in MB Docket No. 25-73 (Mar. 7, 2025), https://bit.ly/4au2amc (hereinafter "RCFP Comments").
[32] *See In re Complaints Covering CBS Program 'Hunger in America'*, 20 F.C.C. 2d 143, 151 (1969).
[33] *See In re Complaint Concerning the CBS Program 'The Selling of the Pentagon'*, 30 F.C.C. 2d 150, 152–53 (1971) ("[I]n the absence of extrinsic evidence . . . that a licensee has engaged in deliberate distortion, for the Commission to review [the] editing process would be to enter an

however, the only "evidence" presented is that CBS edited an interview to use certain footage in a promotional spot and other footage in the ultimate broadcast, an entirely routine and unexceptional news reporting technique.[34]

Compounding the concern with the FCC's pursuit of the CBS complaint is the FCC's demand from CBS of the raw footage and transcript of the interview pursuant to its merger review authority.[35] The FCC then publicly released this material and opened a comment cycle, again without any extrinsic evidence of deliberate distortion.[36] Both actions raise concerns about the FCC improperly interfering in protected editorial choices by CBS.

While the "60 Minutes" complaint is the most high-profile instance of FCC enforcement activity raising concerns of content and viewpoint discrimination, there are several others. At around the same time it reopened the CBS complaint, the FCC reopened inquiries in connection with a news distortion complaint against ABC for its moderation of the 2024 presidential debate, as well as an equal time complaint against NBC over an appearance by former Vice President Kamala Harris on "Saturday Night Live."[37] Reportedly, the FCC also launched an investigation into San Francisco radio station KCBS over its coverage of immigration enforcement actions.[38] And FCC Chairman Brendan Carr ordered an inquiry into National Public Radio and the Public Broadcasting Service over sponsorship acknowledgments.[39] Chairman Carr also demanded information from and threatened to block mergers involving media companies with "invidious" diversity policies, without articulating what constitutes invidiousness, whether such policies are unlawful, and how these policies implicate licensees' public interest obligations.[40]

More recently, Chairman Carr referenced possible enforcement action following comments by late-night talk show host Jimmy Kimmel regarding the killing of Charlie Kirk. Carr specifically referred to the news distortion policy and the broadcast hoax rule — neither of which could remotely apply to the Kimmel comments. In comments to a podcast host, he said: "Frankly, when you see stuff like this — I mean, we can do it the easy way or the hard way.

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impenetrable thicket."); *Galloway v. FCC*, 778 F.2d 16, 23 (D.C. Cir. 1985) (explaining that the news distortion policy "requir[es] a substantial prima facie case before proceeding against a broadcaster").

[34] RCFP Comments, *supra* note 31.

[35] *See* Jessica Toonkel & Joe Flint, *FCC Requests '60 Minutes' Harris Interview Material as It Reviews Paramount-Skydance Merger*, Wall St. J. (Jan. 31, 2025), https://bit.ly/4rVgkCr.

[36] Public Notice, Fed. Commc'ns Comm'n, *FCC Includes Additional Video Material in its Request for Comment on News Distortion Complaint Involving CBS Broadcasting Inc., Licensee of WCBS, New York, NY*, MB Docket No. 25-73 (Feb. 7, 2025), https://bit.ly/4rpK5vg.

[37] David Shepardson, *FCC Reinstates Complaints Over ABC Presidential Debate, Harris TV Appearances*, Reuters (Jan. 23, 2025), https://bit.ly/3MnmNHr.

[38] Aja Seldon, *KCBS Under Investigation for Alleged Broadcast of ICE Agent Locations in San Jose*, KTVU Fox 2 (Feb. 7, 2025), https://perma.cc/GD74-U2XU.

[39] Benjamin Mullin & David McCabe, *F.C.C. Chair Orders Investigation Into NPR and PBS Sponsorships*, N.Y. Times (Jan. 30, 2025), https://perma.cc/PWU4-5PQZ.

[40] Taylor Telford, *FCC Chair Threatens to Block Mergers of Media Companies Engaged in DEI*, Wash. Post (Mar. 21, 2025), https://perma.cc/494Z-ZPQT.

These companies can find ways to change conduct and take action, frankly, on Kimmel, or there's going to be additional work for the FCC ahead."[41]

Additionally, the FCC issued guidance in January suggesting that it would narrow the "bona fide news" exception to the equal time rule, which permits candidates whose opponents are afforded access to a licensee's facilities to demand an equal opportunity for airtime.[42] Precisely because of concerns regarding the possibility of viewpoint discrimination under the equal time rule — boosting one's political allies or disadvantaging one's enemies — the FCC has historically taken an expansive approach to the news exception.[43]

While these actions implicate an array of First Amendment questions, what lurks behind all is the possibility — illustrated in the misuse of the fairness doctrine during the Kennedy, Johnson, and Nixon administrations — that the FCC's authority to engage in content-based regulation of licensees can be used to suppress editorial viewpoints perceived as unfavorable. As the FCC put it in a case articulating the news distortion policy, the commission must "eschew the censor's role."[44] It should take great care to do so.

V. The White House press pool and Pentagon access restrictions.

Finally, two other lawsuits regarding press access to government facilities are worth flagging: the Associated Press's challenge to the White House's decision to exclude AP journalists from press pool events because of its editorial decision to continue using "Gulf of Mexico" while referencing President Trump's executive order changing the name in the United States to "Gulf of America," and the New York Times's case against the Pentagon challenging recent changes to its credentialing system that prompted virtually the entire Pentagon press corps to hand in their press passes rather than agree to restrictions on their reporting.

In the AP case, the White House has been explicit in its desire to punish the AP for its editorial choices. For instance, in an email to the AP, Chief of Staff Susie Wiles expressly stated that the access restrictions were imposed in response to the AP's guidance vis-à-vis the gulf and that Wiles "remain[ed] hopeful that the name of the [gulf] will be appropriately reflected in the Stylebook where American audiences are concerned."[45] The Associated Press has explained that, due to its significant international audience, it would be confusing for readers were it to change

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[41] Cecilia Kang, *Who Is Brendan Carr of the F.C.C.?*, N.Y. Times (Sept. 18, 2025), https://perma.cc/D58P-E9EV.
[42] FCC Media Bureau Provides Guidance on Political Equal Opportunities Requirement for Broadcast Television Stations (Jan. 21, 2026), https://perma.cc/FN95-DGTZ.
[43] *See* Brian Stelter, *How an FCC 'Equal Time' Letter to ABC Pressured CBS Into Intervening With Colbert*, CNN (Feb. 18, 2026), https://perma.cc/KY5H-TP4G.
[44] *Hunger in America*, 20 F.C.C.2d at 151. The FCC emphasized that it would avoid "efforts to establish news distortion in situations where Government intervention would constitute a worse danger than the possible rigging itself." *Id.*
[45] Am. Compl., *Associated Press v. Budowich*, No. 25-cv-00532 (D.D.C. Mar. 3, 2025), ECF No. 26 at 4.

the name of the body of water, as the gulf continues to be known as the Gulf of Mexico overseas.[46] In other words, this is a classic dispute over editorial viewpoint.

Given the threat such retaliation poses to all news organizations, even outlets that disagree with the AP's editorial choice on this front have uniformly warned that the White House's actions broadly threaten the freedom of any outlet to report the news as it sees it. For instance, a Newsmax spokesperson said, "We can understand President Trump's frustration because the media has often been unfair to him, but Newsmax still supports the AP's right, as a private organization, to use the language it wants to use in its reporting."[47] And the spokesperson hit the nail on the head in terms of why this is — "a future administration may not like something Newsmax writes and seek to ban us."[48]

To be sure, certain legal and constitutional issues in the AP case are complicated. Key to the case is that the White House has opened its facilities up to press access and that, once it has done so, it may not restrict access based on the viewpoint of the restricted outlet.[49] What is not complicated, however, is the danger of permitting the state to retaliate against news organizations for making an editorial choice the government disagrees with.

And the nature of that danger is likewise simple. As Justice Byron White put it in *Miami Herald v. Tornillo*, a foundational case refusing to recognize a legally enforceable right of access to a newspaper's editorial pages, "We have learned, and continue to learn, from what we view as the unhappy experiences of other nations where government has been allowed to meddle in the internal editorial affairs of newspapers."[50] In America, by contrast to those countries, we protect a free press, "whether fair or unfair."[51] Retaliation under the law against news organizations for their editorial viewpoint is therefore repugnant to the Constitution.

The Associated Press's First Amendment challenge is currently pending before a three-judge merits panel at the U.S. Court of Appeals for the District of Columbia Circuit. While the district court enjoined the AP's exclusion from the pool based on viewpoint-discriminatory reasons, the D.C. Circuit stayed the injunction in June 2025.[52]

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[46] *Id.* at 3–4.
[47] Ted Johnson, *Fox News and Newsmax Among News Outlets Urging White House to Lift Ban on Associated Press Over Continued References to "Gulf of Mexico"*, Deadline (Feb. 20, 2025), https://perma.cc/8NTU-TXFK.
[48] *Id.*
[49] *See* Br. of the Reps. Comm. for Freedom of the Press as Amicus Curiae in Supp. of Pl.'s Mots. for a TRO & Prelim. Inj. at 11, *Associated Press v. Budowich*, No. 25-cv-00532 (D.D.C. Feb. 24, 2025) ECF No. 17-1, https://bit.ly/4s0ERpV ("For the Government to change the nature of a forum in order to deny access to a particular speaker or point of view surely would violate the First Amendment." (quoting *Am. Freedom Def. Initiative v. WMATA*, 901 F.3d 356, 365 (D.C. Cir. 2018)).
[50] 418 U.S. 241, 259 (1974) (White, J., concurring).
[51] *Id.* at 258.
[52] *See The Associated Press v. Budowich*, Reps. Comm. for Freedom of the Press (last accessed Feb. 24, 2025) (case page), https://perma.cc/99E7-2C2M.

Additionally, in the fall of 2025, the Pentagon promulgated a new credentialing policy that, initially, raised concerns that the Department of Defense would require journalists to submit their reporting for pre-authorization by the department or risk having their press passes denied, revoked, or not renewed.

Following negotiations between news organizations and the Pentagon, led by the Reporters Committee, the department released a revised version of the policy that confirmed that the pre-authorization requirement only applied to Pentagon personnel but still conferred standardless discretion on the Pentagon to deny, revoke, or not renew press credentials based on First Amendment-protected newsgathering, including asking sources questions.[53]

Following the release of the new policy, virtually the entire press corps turned in their credentials rather than sign the accompanying form.[54] And in December 2025, the New York Times sued the Pentagon alleging violations of the First Amendment, Fifth Amendment, and the Administrative Procedure Act.[55] All of the legal allegations are grounded in the unbridled discretion conferred by the new policy to pull one's press pass based on reporting that the Pentagon perceives as critical or otherwise unfavorable.

In a friend-of-the-court brief in support of the Times led by the Reporters Committee and joined by 23 media advocacy organizations, we argued that regular, in-person interactions between journalists and Pentagon personnel foster reporting in the public interest and that no credentialed Pentagon reporter could agree to the policy and maintain their autonomy.[56]

The Times case also remains pending in federal court in D.C.

V. Conclusion

As noted above, these are only a subset of the press freedom challenges that have arisen in the second Trump administration, but they are all representative of the significant escalation in the administration's efforts to impinge on the independence of the news media. Thank you again for inviting the Reporters Committee to testify today.

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[53] *See The New York Times v. U.S. Department of Defense*, Reps. Comm. for Freedom of the Press (Jan. 15, 2026) (case page), https://perma.cc/JE6R-V3NN.
[54] David Bauder, *Journalists Turn in Access Badges, Exit Pentagon, Rather Than Agree to New Reporting Rules*, A.P. (Oct. 15, 2025), https://perma.cc/9LG2-6MXB.
[55] *See New York Times v. Department of Defense, supra* note 53.
[56] *Id.*