

## Methodology: Journalists and The Press – Definitions

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### Project Summary

A sampling of definitions of “journalists” and “the press,” and related synonyms, by federal, state, and local government entities were identified, reviewed, and coded in an Excel spreadsheet.

Research Assistants Grace Cannell, Joseph Druckman, Whitney Forbis, Sam Hall, Kyler Mcvoy, and Catherine Valloso assisted with identifying and reviewing definitions.

Research Assistant Sam Hall reviewed definitions, created the codebook, database, and coding criteria, linked to the examples, and coded the examples.

### Identifying Definitions

Examples of how the government defines journalists and the press were identified from websites and sources of primary authority.

#### Government websites

The websites of federal, state, and local government entities that interact with journalists and the press were a source of information. These examples typically took the form of policies and procedures, general website information, credential application forms, and general guidelines.

Websites of government entities conducting business that journalists and the press often cover, like press conferences, court proceedings, and public safety updates were searched directly for information. For example, at the federal level, websites of the White House, the Supreme Court, the Congress, and the State Department were searched. At the local level, a handful of large cities (for example, Chicago, Seattle, and Los Angeles) were searched.

Additional examples were discovered using Google searches. Sample searches included:

- “press credential” site:.gov
- “media credential” site:.gov
- “press pass” site:.gov.
- “media pass” site:.gov

Because of the large volume of government websites, the scope of coverage of the retrieved samples is not comprehensive and includes only a small number of examples.

#### Statutory Authority

Federal and state annotated codes were consulted using Westlaw.

Methodological appendix to Richard L. Hasen, *From Bloggers in Pajamas to The Gateway Pundit: How Government Entities Do and Should Identify Professional Journalists for Access and Protection*

The methods of identification included consulting annotated code indexes, full text searching in annotated codes, and collecting references from judicial opinions:

- Indexed entries to the statutory codes included “journalists” “press” “press associations” “newspapers” “news media” and “reporters.” Typically, these led to statutory sections (including some court rules) relating to subjects such as evidence, privilege, and public records
- Sample full text query: journalist! OR "news organization" OR "press association" /s means OR define! OR definition

The scope of coverage of state statutory authority examples is substantial but not complete.

The scope of coverage of federal statutory authority examples is not comprehensive.

Selected city and county municipal codes were searched using terms: journalist, reporter, and news media. As only a few examples are included, this category is not comprehensive.

### Regulatory Authority

Federal regulatory authority was consulted using Westlaw. The methods of identification included consulting the C.F.R. Index on Westlaw, full text searches, and references from judicial opinions.

- Indexed entries included “journalism” “media” “newspapers” and “press”
- Sample full text query: journalist! OR "news organization" OR “media” OR "press association" /s means OR define! OR definition

Many C.F.R. sections relating to public records and the Freedom of Information Act used substantially similar language, and thus were excluded from the examples. The scope of coverage of examples appearing in the C.F.R. is not comprehensive.

State regulatory authority was consulted using Westlaw.

- Sample full text query: journalist! OR "news organization" OR "press association" /s means OR define! OR definition. “Media” /s means was typically excluded from the search, as it generated too many unrelated results

The scope of coverage of state regulatory authority is limited and not comprehensive.

### Judicial Opinions

Federal and state judicial opinions were identified on Westlaw using three methods: Topic and Key Number, citing references, and full text searches. Cases reviewed were largely limited to those that raised questions about, or applied or interpreted, a definition about journalists or the press. The opinions also were used to identify statutory and regulatory authority.

- Topic and Key Number: 311Hk404: Topic 311H (Privileged Communications and Confidentiality) > k404: Journalists
- Citing References: for each identified statutory or regulatory authority, citing references to cases were reviewed, largely limited to those that raised questions about, or applied or interpreted, a definition about journalists or the press
- Sample full text query: journalist! OR "news organization" OR "news media" OR "press association" /s means OR define! OR definition

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For 5 U.S.C. § 552(a)(4)(A)(ii) (the Freedom of Information Act), which has many citing cases, the citing references case review method of retrieval was thorough, but did not necessarily capture all cases of interest.

Opinion citations added to the database spreadsheet are a representative sample only and do not represent comprehensive coverage.

### Identifying Categories and Coding Criteria

Excerpts from identified sources of descriptions or definitions of journalists (and synonyms) and the press (and synonyms) were reviewed and organized into general categories (for example, “Media Credentials,” “Student Journalists,” “Public Records”).

A set of criteria was developed and refined focusing on similar or dissimilar characteristics of journalists and the press within the definitions or descriptions. For example, characteristics such as a journalist’s employer, whether their work as a journalist was full-time or part-time employment, or whether the journalist was compensated.

The numerical value “1” for “Yes” or “0” for “No” was assigned to most categories to indicate whether that category was explicitly present in the definition (i.e. “1” was selected if a definition of “Press” (or synonyms) was explicitly defined, and “0” was selected if there was no explicit definition). Other categories were given a nonbinary value as appropriate (i.e. if the rule was from California it was coded as “CA” under the “State Name” category).

Each category was selected based on whether it would be intuitively accurate for someone who had never interacted with the data before. This resulted in most categories being defined in a literal sense wherever possible.

Categories and descriptions are included in the database codebook spreadsheet.

### Finding Aids Consulted and Recommended for Researchers

- [Reporter’s Privilege Compendium](#), Reporters Committee for Freedom of the Press
- Media Libel Law 2023-24 MLRC 50-State Survey (Media Law Resource Center, Inc. ed. (2023))