

Acts of Journalism

Defining Press Freedom in the
Digital Age

By Josh Stearns

October 2013

Part One: Committing Acts of Journalism

The rise of professional journalism in the 20th century helped create a certain image of reporters. This image, which the industry itself reinforced, asserted that only “professional” journalists engaged in journalism. But that wasn’t always that case, and the rise of digital technology and the democratizing power of the Internet have fundamentally challenged that image.

Today, more people than ever are participating in journalism. People are breaking news on Twitter, covering their communities on Facebook, livestreaming, distributing news via email and writing in-depth blogs on issues of civic and community significance. Some of these people are what we’d consider “traditional” journalists working on new platforms, but many are not.

As more and more people commit acts of journalism, the lines between who is and who isn’t a journalist get blurrier — and the distinction becomes less useful:

Nineteen-year-old Karina Vargas was on her way home one night when she stepped off her train to see police arresting a group of young men at the Fruitvale station in Oakland, Calif. The police seemed to be using excessive force, so Vargas pulled out her cellphone and began recording. As the conflict escalated, Vargas walked closer. She was about 15 feet away when police shot Oscar Grant in the back. Officers tried to confiscate Vargas’ camera after the shooting but she refused. Her footage was used by the local CBS station and in the eventual court case against the officer.¹

Jersey Shore Hurricane News is a Facebook-only news site that has become a critical source for local journalism, with more followers on Facebook than WNYC and *ProPublica* combined. The site is run by Justin Auciello, an urban planner with no journalism background, but a deep commitment to his community. His work has been recognized by the White House and is relied on by journalists across the state and nation.²

Lee Roy Chapman is an amateur historian in Tulsa, Okla., whose research led him to a story no mainstream media outlet in the state would touch. After years of digging through public records, a search that took him from Oklahoma to New York City, he uncovered a terrible history of violence and racism that surrounded Tate Brady, the founder of Tulsa. A new journalism startup, *This Land Press*, published Chapman’s work and forever changed the way the people of Oklahoma viewed Brady.³

There are hundreds of stories like this. Around the country people are committing acts of journalism that are serving their communities, influencing national debates and changing the face of journalism. As barriers to entry erode, experiments in citizen-driven storytelling are expanding.

¹ Read more about Karina Vargas at Youth Radio (youthradio.org/news/article/oscar-grant-eyewitness-karina-vargas) and New America Media (newamericamedia.org/news/view_article.html?article_id=0a328d6a244268cf99a62d5a44668da1)

² “Journalists of the Jersey Shore: How a Novice Reporter Built a News Network from Scratch,” Nieman Journalism Lab, Sept. 12, 2013: niemanlab.org/2013/10/journalists-of-the-jersey-shore-how-a-novice-reporter-built-a-news-network-from-scratch/

³ “Who, What, When, Where, Why, and How: What Is Journalism For?” *Columbia Journalism Review*, Sept. 3, 2013: cjr.org/cover_story/who_what_when.php?page=all

ACTS OF JOURNALISM

We already see news organizations collaborating and crowdsourcing research and reporting projects with their audiences and communities. But what protections, if any, do we afford those citizen collaborators?

As our understanding of journalism changes, so too must our understanding of press freedom. At the same time that journalism is undergoing tremendous change, those who practice it are facing momentous attacks.

Vargas faced real and direct threats from police in the course of her efforts. Many other journalists have faced pressure from powerful government or corporate interests. Corporations like Koch Industries, for example, have mounted aggressive campaigns against journalists they disagree with.

More troubling, though, is the fact that the same tools that are democratizing media making have also expanded government surveillance. The past year has exposed a range of new threats to press freedom in the United States, from the NSA's massive surveillance program and the Justice Department's secret seizure of Associated Press phone records to restrictions on press credentials and laws that limit the First Amendment right to record.

These threats have inspired new calls to strengthen press freedom protections. President Obama ordered Attorney General Eric Holder to revise his department's guidelines for dealing with the press, and he called on Congress to pass a new shield law protecting journalists' sources.⁴

In response, members of Congress have introduced the Free Flow of Information Act, which just passed out of the Senate Judiciary Committee.⁵ The bill is awaiting a full vote in the Senate, and the House has yet to begin debate on its own version of the legislation. These efforts have sparked a renewed interest in questions about who is a journalist — and imbued them with a heightened sense of urgency.

In today's climate, it makes no sense for press freedom protections to apply only to a narrow class of professionals. Everyday Americans are central to the future of journalism as news consumers, distributors and creators. We need to push for policies that protect these new participants. It's not enough to protect traditional journalists; we must protect *all* acts of journalism.

Debates about press freedom are already happening in courtrooms and on Capitol Hill, but for true change we need to engage communities and culture. Cultural critic Jeff Chang has argued that culture

⁴ Charlie Savage, "Criticized on Seizure of Records, White House Pushes News Media Shield Law," the *New York Times*, May 15, 2013: nytimes.com/2013/05/16/us/politics/under-fire-white-house-pushes-to-revive-media-shield-bill.html?_r=0

⁵ A small group of senators pushed to dramatically limit who the bill would cover. The definition of a journalist in the bill now overly emphasizes employment status as a defining factor, but also extends eligibility to all acts of journalism as defined by a judge. The bill as currently written is an improvement over earlier versions but is still far from ideal. It sets up a two-tiered system for this important press safeguard and includes a broad exception that leaves many national security journalists unprotected. "There's not a national security reporter that I can find who supports the shield law, because it won't protect us," said longtime investigative journalist Scott Armstrong. "We're going to get exempted out of it one way or another."

ACTS OF JOURNALISM

change is the dress rehearsal for political change. He points to civil rights and gay rights as examples where we saw cultural shifts precede political shifts.⁶ This is no different for press rights.

Harvard legal scholar Yochai Benkler has argued that “A country's constitutional culture is made up of the stories we tell each other about the kind of nation we are.”⁷ If we want to protect all acts of journalism, we need to change the stories we tell about press freedom.

Press freedom today is not just about Daniel Ellsberg and Deep Throat; it's also about Karina Vargas and Justin Auciello. Press freedom today must be conceived as a broad set of rights applicable to all Americans.

Part Two: A Growing Consensus

Across the journalism landscape, there is a growing awareness that any attempt to define who counts as a journalist could have troubling consequences. A sign of this emerging consensus came at this year's annual meeting of the Society of Professional Journalists.

At the meeting, the 100-year-old organization debated a proposal to change the organization's name to the Society for Professional *Journalism*.⁸ The resolution to change SPJ's name didn't pass, but the organization voted to support a resolution that “rejects any attempts to define a journalist in any way other than someone who commits acts of journalism.” The resolution called the efforts to restrict who counts as a journalist as “an affront to journalism and to First Amendment rights of a free press.”⁹

The Society of Professional Journalists' action follows a long line of influential journalism organizations, professors, editors and reporters who have made the case for protecting all acts of journalism. Earlier this year, 23 scholars from America's top journalism and law schools released a paper that explored the shifting roles and identities of journalists. In the end, the professors, who were affiliated with the Association of Educators for Journalism and Mass Communications (AEJMC), called to define journalists in terms of “function, not affiliation.”

“Those whose goal is to facilitate the free flow of information,” they concluded, “are deserving of whatever privileges are necessary to fulfill that role.”¹⁰

⁶ Jamilah King, “Jeff Chang: It's Bigger Than Politics; the Real Shift is Cultural,” *Colorlines.com*, Nov. 4, 2010: colorlines.com/archives/2010/11/jeff_chang_interview.html

⁷ Yochai Benkler, “The Dangerous Logic of the Bradley Manning Case,” *The New Republic*, March 1, 2013: newrepublic.com/article/112554

⁸ Jim Romenesko, “Society for Professional Journalists Considers Changing its name to Society for Professional Journalism,” *JimRomenesko.com*: jimromenesko.com/2013/08/30/society-of-professional-journalists-considers-changing-its-name-to-society-of-professional-journalism/

⁹ Society of Professional Journalists, “SPJ Resolutions from EIJ13,” SPJ's Excellence in Journalism Conference: eijnews.org/2013/08/26/spj-resolutions-from-eij13/

¹⁰ Theodore Glasser and Timothy Gleason, “Freedom of the Press in the Twenty-First Century: An Agenda for Thought and Action,” Association for Education in Journalism and Mass Communication, August 2013: aejmc.org/home/wp-content/uploads/2013/08/AEJMC_Summit_Report.pdf

ACTS OF JOURNALISM

The *Columbia Journalism Review* (CJR) recently surveyed nearly 40 leading thinkers in journalism, and the vast majority agreed that we should focus on protecting acts of journalism. This idea finds favor across the political spectrum. In *CJR*, Chris Hayes of MSNBC argued that “journalism is much more a thing that someone does, than journalist is a thing that someone is.” *Reason* Editor-in-Chief Matt Welch put it this way: “Journalism is an activity, not a profession.”¹¹

Finally, in its new report on the Obama administration’s treatment of the press, the Committee to Protect Journalists (CPJ) recommended “the broadest possible definition of ‘journalist’ or ‘journalism’ in any federal shield law.”

CPJ wrote that any federal shield law “should protect the newsgathering process, rather than professional credentials, experience, or status, so that it cannot be used as a means of de facto government licensing.”¹² And we need more than just a shield law. CPJ President Joel Simon has argued that journalists should work to defend freedom of expression for all people, not just journalists.¹³

Part Two: The Legal Foundation for Acts of Journalism

When our founders drafted the Bill of Rights, the U.S. did not have a professional press. The publishers it did have— mostly pamphleteers — had more in common with today’s bloggers than with journalists at the *New York Times*.

“The idea that press freedom is about protecting journalists,” Rebecca Rosen writes in the *Atlantic*, “is anachronistic, something we have pasted onto an older idea.” She notes that when Thomas Jefferson wrote about press freedom, “his ideas were motivated by the dual legacies of licensing and censorship.”¹⁴

Indeed, in 1972, the Supreme Court referenced the vision of a “lonely pamphleteer” in *Branzburg v. Hayes*,¹⁵ acknowledging “the traditional doctrine [of] liberty of the press is the right of the lonely pamphleteer who uses carbon paper or a mimeograph just as much as of the large metropolitan publisher.”¹⁶

¹¹ “Who, What, When, Where, Why, and How: What Is Journalism For?” *Columbia Journalism Review*, Sept. 3, 2013: cjr.org/cover_story/who_what_when.php?page=all

¹² Leonard Downie, “The Obama Administration and the Press,” the Committee to Protect Journalists, October 2013: cpj.org/reports/2013/10/obama-and-the-press-us-leaks-surveillance-post-911.php

¹³ Joel Simon, “Identity Crisis,” *Columbia Journalism Review*, Sept. 3, 2013: cjr.org/cover_story/identity_crisis.php

¹⁴ Rebecca Rosen, “Why We Should Stop Asking Whether Bloggers Are Journalists,” *The Atlantic*, Dec. 13, 2011: theatlantic.com/technology/archive/2011/12/why-we-should-stop-asking-whether-bloggers-are-journalists/249864/

¹⁵ 408 U.S. 665 (1972).

¹⁶ *Id.* at 704.

ACTS OF JOURNALISM

Today's pamphleteers use iPhones and blogs instead of carbon paper, but their acts of journalism still deserve protection. An expanding body of case law backs up this idea. This case law is important in part because if the Senate version of the Free Flow of Information Act becomes law, the judicial-discretion portion of the bill will rely on these prior decisions.

And these cases are where many of the debates over who is a journalist have occurred. The debates and decisions represented in these cases examine the intentions of our founders in light of current shifts in media and culture. And they contain some of the most compelling and important arguments about the nature of press freedom today.

Yochai Benkler has examined what the trade-off from paper to pixels means for press freedom in the digital age. Benkler's analysis of federal appellate decisions shows that courts have been reluctant to draw a line between who qualifies as a journalist for the purposes of invoking the reporter's privilege or shield-law protections.¹⁷

As an example, Benkler cites the U.S. Court of Appeals for the 2nd Circuit's decision in *von Bulow v. von Bulow*.¹⁸ The case centered on a paralegal who was not allowed to withhold her source because the court decided a person who gathered information for private use, without intent to publish it, wasn't eligible for shield protections.

However, in coming to this decision, the 2nd Circuit noted that "an individual successfully may assert the journalist's privilege if he is involved in activities traditionally associated with the gathering and dissemination of news, even though he may not ordinarily be a member of the institutionalized press."¹⁹

In addition, the court declined to limit the journalist's privilege to any specific type of publication: "The intended manner of dissemination may be by newspaper, magazine, book, public or private broadcast medium, handbill or the like, for 'the press in its historic connotation comprehends every sort of publication which affords a vehicle of information and opinion.'"²⁰ The 3rd and 9th Circuits followed this reasoning in subsequent cases.²¹ In each case, the defining characteristic of journalism turns on the intent to gather and disseminate information for the public, not on the platform or model of publication.

This is particularly important today, as the means of publication and platforms used for newsgathering shift with the launch of every new social network. That's why, when Sen. Durbin argues that "not every

¹⁷ Yochai Benkler, "A Free Irresponsible Press: WikiLeaks and the Battle Over the Soul of the Networked Fourth Estate," working draft, benkler.org/Benkler_Wikileaks_current.pdf

¹⁸ 811 F.2d 136 (2d Cir. 1987).

¹⁹ *Id.* at 142.

²⁰ *Id.* at 144.

²¹ *Shoen v. Shoen*, 5 F.3d 1289, 1293 (9th Cir. 1993) (noting that the journalist's privilege was designed not to protect a particular journalist, but to protect "the activity of 'investigative reporting' more generally"); *see also In re Madden*, 151 F.3d 125, 130 (3d Cir. 1998).

ACTS OF JOURNALISM

blogger, tweeter or Facebook user is a ‘journalist,’” he misses the point that *all* of them have the potential to engage in journalism.²²

More recent legal opinions drive this home. In 2006, in *O’Grady v. Superior Court*,²³ Apple tried to force bloggers who had written about forthcoming products to disclose the source of those leaks. Apple argued that bloggers are not journalists, and thus were not protected by the state’s shield law. However, a California court ruled that the state’s shield law protected the bloggers in question because they were engaged in acts of journalism. The court wrote:

We decline the implicit invitation to embroil ourselves in questions of what constitutes “legitimate journalis[m].” The shield law is intended to protect the gathering and dissemination of *news*, and that is what petitioners did here. We can think of no workable test or principle that would distinguish “legitimate” from “illegitimate” news. Any attempt by courts to draw such a distinction would imperil a fundamental purpose of the First Amendment, which is to identify the best, most important, and most valuable ideas not by any sociological or economic formula, rule of law, or process of government, but through the rough-and-tumble competition of the . . . marketplace.²⁴

The federal U.S. Court of Appeals for the 1st Circuit recently reaffirmed the principle that the First Amendment right to gather news belongs to everyone. The case, *Glik v. Cunniffe*,²⁵ arose after Boston police arrested a law student, Simon Glik, while he was recording a violent arrest on Boston Common. Glik sued the City of Boston for violating his civil rights and the court ruled in his favor, concluding that U.S. residents have a First Amendment right to record the police in public.

In its opinion, the court explained why the changing digital landscape necessitates an expansive understanding of First Amendment protections for all individuals:

Changes in technology and society have made the lines between private citizen and journalist exceedingly difficult to draw. The proliferation of electronic devices with video-recording capability means that many of our images of current events come from bystanders [and] and news stories are now just as likely to be broken by a blogger at her computer as a reporter at a major newspaper. Such developments make clear why the news-gathering protections of the First Amendment cannot turn on professional credentials or status.²⁶

The shield law and citizens’ right to record are only two issues among many that make up the larger universe of press freedom. But they’ve helped highlight critical challenges about how we perceive the

²² Sen. Dick Durbin, “It’s Time to Say Who’s a Real Reporter,” *Chicago Sun Times*, June 26, 2013: suntimes.com/news/otherviews/20978789-452/sen-dick-durbin-its-time-to-say-whos-a-real-reporter.html

²³ 44 Cal. Rptr. 3d 72 (Cal. Ct. App. 2006).

²⁴ *Id.* at 97.

²⁵ 665 F.3d 78 (1st Cir. 2011).

²⁶ *Id.* at 84.

ACTS OF JOURNALISM

role of the press in our democracy. The decisions in the cases discussed above are not only important in and of themselves but also because of the precedent they will set on a range of issues.

Part Three: Defining Acts of Journalism

The debate over the shield law helps us understand the risks of limiting who counts as a journalist. And there's more at stake than just protecting sources. By narrowing the definition of who is a journalist, we risk undermining the fourth estate and the fundamental notion of an informed public.

Independent, freelance and citizen journalists and the new generation of government transparency and whistleblowing sites don't fit the old idea of what professional journalists look like.

"Journalists who work for big institutions will continue to have better protections — not because of laws that protect them but because of the legal power their companies can buy," Rebecca Rosen writes in the *Atlantic*. But, for everyone else, "we should hope that we haven't legislated non-journalists out of the protections the First Amendment seeks."²⁷

Indeed, at a time when well-known journalists at major institutions spend more time reporting on Miley Cyrus than on Syria, having specific protections turn on professional affiliations not only seems odd, but also excludes some of the most important reporting out there today. Journalism Professor Jeff Jarvis has written that any attempt to create a legal definition of a journalist is "tantamount to licensing the journalist, and that is a permission government should not grant, for that gives government the power to rescind it."²⁸

It's not enough to argue against defining who is a journalist. We need to engage journalists, policymakers and the public in a meaningful conversation about how to protect *acts* of journalism. The threats facing journalism today demand it.

"If the ultimate idea is to protect newsgathering activities," journalist Marcy Wheeler wrote earlier this year, "then why not establish what those activities are and then actually protect them, regardless of whether they are tied to a certain kind of institution?"²⁹

While there is an emerging consensus on protecting acts of journalism, how we define those acts is contested terrain. It raises questions about whether there is indeed an act of journalism we can differentiate from other acts. Given how much flux exists in the journalism world, how can we create boundaries around an idea while leaving enough flexibility to account for an unknown future?

²⁷ Rebecca Rosen, "Why We Should Stop Asking Whether Bloggers Are Journalists," *The Atlantic*, Dec. 13, 2011: theatlantic.com/technology/archive/2011/12/why-we-should-stop-asking-whether-bloggers-are-journalists/249864/

²⁸ Jeff Jarvis, "Who Is a Journalist? Manning Trial Poses Question of Vital Public Interest," the *Guardian*, July 11, 2013: theguardian.com/global/2013/jul/11/who-is-journalist-bradley-manning-trial?INTCMP=SRCH

²⁹ Marcy Wheeler, "Why 'Members of the News Media' Should Welcome a Shield for the Act of Journalism," Emptywheel, July 14, 2013: emptywheel.net/2013/07/14/why-members-of-the-news-media-should-welcome-a-shield-for-the-act-of-journalism/

ACTS OF JOURNALISM

While it's tempting to invoke former Supreme Court Justice Potter Stewart's obscenity test when defining journalism — "I know it when I see it" — there are a lot of proposals that are worth exploring. The debate breaks down around questions of whether the definition should be rooted in a person's ethics, behavior or intent.

Journalism Is Rooted in Ethics

In a forum the *New York Times* hosted on defining what a journalist is, Ellyn Angelotti of the Poynter Institute reminded readers that the First Amendment "affords all Americans the right to unfettered speech." But she said that those who seek press freedom protections should be "judged according to an evolving set of standards and practices."³⁰

Thomas Kent, deputy managing editor and standards editor at the Associated Press, has proposed a seven-point "ethical test" to assess acts of journalism.³¹ He suggests asking:

- Is the person's product intended for the general public?
- Is the work creative and analytical rather than a simple relay of raw information?
- Is the reporting based on facts rather than fabrications? Are statistics honest, images unmanipulated, quotations correct?
- Does the product convey multiple points of view?
- Does the person or his organization guard against conflicts of interest that could affect the product? If conflicts are unavoidable, are they publicly acknowledged?
- Does the person reveal his or her identity and contact information?
- Does the person publicly correct errors?

In her own attempt to define journalism, *New York Times* Public Editor Margaret Sullivan puts forward a simpler test: What is the author's relationship to government?

"A real journalist," she writes, "is one who understands, at a cellular level, and doesn't shy away from, the adversarial relationship between government and press."³²

But many commenters pointed out that journalists do much more than hold *government* accountable; they also hold corporate leaders, civic leaders and others to account. Journalists should be defined more by what they do than by who their adversaries are.

³⁰ Ellyn Angelotti, "A Broader Definition of 'Journalist,'" the *New York Times*, Dec. 12, 2011: nytimes.com/roomfordebate/2011/12/11/are-all-bloggers-journalists/we-need-a-broader-definition-of-journalist?gwh=855CB6E9CC2E9C3BFA34A06F1011ACB2

³¹ Thomas Kent, "Who's a Journalist? Closing in on a Definition," the *Huffington Post*, Oct. 3, 2013: huffingtonpost.com/thomas-kent/whos-a-journalist-closing_b_4033856.html

³² Margaret Sullivan, "Who's a Journalist? A Question With Many Facets and One Sure Answer," the *New York Times*, June 29, 2013: publiceditor.blogs.nytimes.com/2013/06/29/whos-a-journalist-a-question-with-many-facets-and-one-sure-answer/

ACTS OF JOURNALISM

Journalism Is How We Behave

If journalism is an act, then perhaps we should be judged on how we act. Making the case that the Pakistani man who live-tweeted the raid that killed Osama Bin-Laden is a citizen journalist, Steve Myers, writing at Poynter, outlines five qualities he sees as central to an act of journalism:

- He answered questions from others seeking information.
- He acted as a conduit for information, sharing what he knew as he learned it.
- He sought reports from news sources and shared them.
- He traded what he had heard with others to figure out what was going on.
- He analyzed what was happening.

Poynter calls this kind of journalism a “fifth estate” made up of “people who aren’t trained as journalists, but undertake journalistic endeavors.”³³ Myers’ list is useful, but the separation inherent in the term “fifth estate” is problematic. It’s better to grapple with the way changes in journalism are reshaping the fourth estate than to define a separate kind of practice.

Journalism Is a Service

A number of the court cases discussed focus on the intent of the person who has gathered news and information. In these cases, the courts extended protections to anyone intending to gather and disseminate information to the public.

In her report on “Open Journalism,” longtime editor Melanie Sill argues that “we must reorder the fundamental processes of journalism toward the goal of serving communities [and] making quality journalism a collective endeavor.”

Sill also highlights the need to transform journalism “from a product driven by factory processes to a service driven by audience needs.”³⁴ In her model, journalism is rooted in collecting and organizing information in ways that empower citizens.

Jeff Jarvis echoes Sill, arguing that we should define journalism in terms of the service it provides. “Journalism helps communities organize their knowledge so they can better organize themselves,” he wrote recently in the *Guardian*. “So anything that reliably serves the end of an informed community is journalism.”

Jarvis notes that his definition is more an ideal than a working model for legislation. “That’s not a complicated definition,” he says, “but it raises no end of complications, especially in a set of laws that is built for institutions, not networks.”³⁵

³³ Steve Myers, “Why the Man Who Tweeted the Osama bin Laden Raid Is a Citizen Journalist,” Poynter, May 5, 2011: poynter.org/latest-news/making-sense-of-news/131135/why-the-man-who-tweeted-bin-laden-raid-is-a-citizen-journalist/

³⁴ Melanie Sill, “The Case for Open Journalism Now,” USC Annenberg School for Communication & Journalism: annenberginnovationlab.org/OpenJournalism/overview

ACTS OF JOURNALISM

The truth is that acts of journalism embody elements of each of these definitions in complex and inconsistent ways. This is why it's been so hard to turn the consensus on acts of journalism into concrete legislative language. Lawmaker concerns about leaks and national security and varying ideas about the appropriate balance between press freedom and security further complicate the legislative debate.

That tension animated the debates in the Senate, and will no doubt shape the way the House bill moves forward. However, the House version includes a fair and useful definition of journalism. The bill defines journalism as “the gathering, preparing, collecting, photographing, recording, writing, editing, reporting or publishing of news or information that concerns local, national or international events or other matters of public interest for dissemination to the public.”³⁶

This very functional definition may lack poetry, but it provides a flexible litmus test by which to judge acts of journalism and invokes many of the themes mentioned above. Journalism and First Amendment scholar Morgan Weiland has argued that lawmakers should simply drop the definition of “covered persons” in both the House and Senate bills and rely instead on the House definition of journalism.³⁷ That idea would align with the growing consensus in the journalism industry.

Much of policymaking hinges on finding compromise solutions to challenging political questions, but there are instances where we shouldn't compromise. As the shield law moves through the legislative process, we must ensure that any eventual law protects *all* acts of journalism. The Senate bill gets us close, but in a convoluted way.

So far, the debate over who qualifies as a journalist has taken place primarily among journalists and policymakers, with little or no public involvement. It's time to move this debate out of the pages of academic journals and into the public sphere. People everywhere have a deep stake in this debate, both as media makers and as news consumers, and we should engage them in these conversations more deeply. They are not just our audience, but also our allies in the fight ahead.

³⁵ Jeff Jarvis, “Who Is a Journalist? Manning Trial Poses Question of Vital Public Interest,” the *Guardian*, July 11, 2013: theguardian.com/global/2013/jul/11/who-is-journalist-bradley-manning-trial?INTCMP=SRCH

³⁶ “The Free Flow of Information Act,” opencongress.org/bill/113-h1962/text?version=ih&nid=t0:ih:51

³⁷ Morgan Weiland, “Congress and the Justice Department’s Dangerous Attempts to Define ‘Journalist’ Threaten to Exclude Bloggers,” Electronic Frontier Foundation, July 23, 2013: eff.org/deeplinks/2013/07/congress-and-justice-depts-dangerous-attempts-define-journalist-threaten-exclude

The author would like to thank Chis Palmer for his research assistance.