

REPORTERS COMMITTEE

FOR FREEDOM OF THE PRESS

1156 15th St. NW, Suite 1020
Washington, D.C. 20005
(202) 795-9300 • www.rcfp.org

Bruce D. Brown, Executive Director
bruce.brown@rcfp.org

STEERING COMMITTEE CHAIR

STEPHEN J. ADLER

VICE CHAIR

MARGARET LOW
WBUR

SECRETARY-TREASURER

MASSIMO CALABRESI
TIME

EXECUTIVE COMMITTEE MEMBERS

DAVID BOARDMAN
Temple University

THEODORE J. BOUTROUS, JR.
Gibson, Dunn & Crutcher LLP

GAIL GOVE
NBCUniversal

LAURA HANDMAN
Davis Wright Tremaine

DIEGO IBARGÜEN
Hearst

THOMAS C. RUBIN
OpenAI

STEERING COMMITTEE MEMBERS

WOLF BLITZER
CNN

SEWELL CHAN
Columbia Journalism Review

LYNETTE CLEMETSON
University of Michigan

JASON CONTI
Dow Jones

NIKHIL DEOGUN
Brunswick Group

MANNY GARCIA
Houston Landing

EMILIO GARCIA-RUIZ
The San Francisco Chronicle

JOSH GERSTEIN
POLITICO

ALEX GIBNEY
Jigsaw Productions

JAMES GRIMALDI
National Catholic Reporter

KAREN KAISER
The Associated Press

KIMBRIELL KELLY

DAVID LAUTER
Los Angeles Times, Ret.

COLLEEN MCCAIN NELSON
The McClatchy Company

JAMES NEFF
Philadelphia Inquirer

NORMAN PEARLSTINE
New York, New York

CHARLIE SAVAGE
The New York Times

JENNIFER SONDAG
Bloomberg News

NABIHA SYED
Mozilla

ADAM SYMSON
The E.W. Scripps Company

MATT THOMPSON
The New York Times

VICKIE WALTON-JAMES
NPR

Affiliations appear only for purposes of identification.

By email

October 8, 2024

United States Senate
Washington, D.C. 20510

Re: Support the PRESS Act (S. 2074/H.R. 4250).

Dear Senator:

The Reporters Committee for Freedom of the Press and the 107 undersigned news media and press rights organizations write in strong support of the Protect Reporters from Exploitative State Spying, or PRESS, Act. The PRESS Act would provide essential protections for the public's right to know.

The bill passed unanimously in the House of Representatives earlier this Congress. We urge Senate leadership to advance the bill this term and similarly urge Senators to support the measure if it does advance.

The PRESS Act is timely and critical. Absent a federal law, journalists' protections in federal courts against the compelled disclosure by federal officials of confidential source information or sensitive newsgathering materials vary considerably by jurisdiction.¹ And, in recent years, under administrations of both parties, the Justice Department and other federal agencies have sought sensitive records from or of journalists on multiple occasions. While the Department of Justice adopted new internal guidance in 2021 sharply limiting that practice at DOJ, the policy remains subject to change at the department's discretion and other federal agencies are not bound by it.²

Only Congress can provide the press the certainty of a federal statute and, in doing so, vindicate the core principle that, when our Constitution was adopted, "[t]he press was protected so that it could bare the secrets of government and inform the people." *N.Y. Times Co. v. United States*, 403 U.S. 713, 717 (1981) (Black, J., concurring).

The PRESS Act, which passed in the House of Representatives on January 18, 2024, would shield reporters from having to disclose information identifying confidential sources as well as records, communications content, documents, or information that the journalist

¹ For a thorough accounting of the law on reporter's privileges in every federal and state jurisdiction, see *Reporters Privilege Compendium*, Reporters Comm. for Freedom of the Press, <https://www.rcfp.org/reporters-privilege/> (last visited September 27, 2024).

² See 28 C.F.R. § 50.10 (2022); Bruce D. Brown & Gabe Rottman, *A Major Milestone in the Fight for Press Freedom*, CNN (Oct. 28, 2022), <https://perma.cc/7EL5-737X>.

obtained or created as part of their journalism. The bill also bars government demands for that data to third parties like phone or email providers unless a court finds a reasonable threat of imminent violence absent disclosure. And it helpfully uses a functional definition of journalist that focuses on the gathering and reporting of news to the public.

The bill includes narrow exceptions. A court can order the disclosure of protected information from a covered journalist when it determines that it is necessary to prevent or identify the perpetrator of an act of terrorism against the United States, or to prevent a threat of imminent violence, significant bodily harm, or death, including specified offenses against a minor. It also does not apply when the journalist is suspected of having committed a crime.

When one of these exceptions does apply and the government seeks records from a third-party, the bill provides for strong notice provisions to ensure news organizations can negotiate the scope of a request for records or challenge it in court. The government would be able to delay this notice when a judge determines that providing it would pose a “clear and substantial threat to the integrity of a criminal investigation, or would present an imminent risk of death or serious bodily harm.”

The PRESS Act is a reasonable, common-sense measure to preserve the free flow of information to the public, as evidenced by its broad bipartisan support and the fact that 49 states and the District of Columbia have similar protections. All reflect the reality that the press cannot fulfill its constitutionally recognized watchdog role without some safeguard for confidential source identities and sensitive newsgathering material. Congress must step in to provide a durable shield at the federal level.

Please do not hesitate to contact Bruce D. Brown, Reporters Committee Executive Director, or Gabe Rottman, Policy Director, with any questions. They can be reached by email at bruce.brown@rcfp.org and grottman@rcfp.org, respectively.

Sincerely,

Reporters Committee
for Freedom of the Press

Advance Publications, Inc.
Alabama Press Association
Allied Daily Newspapers of Washington
America’s Newspapers
American Broadcasting Companies, Inc.
Arizona Media Association
Arkansas Press Association
The Associated Press
The Atlantic Monthly Group LLC
Axios Media Inc.
Bloomberg L.P.

Boston Globe Media Partners, LLC
BuzzFeed
Cable News Network, Inc.
California News Publishers Association
CalMatters
CBS Broadcasting Inc.
The Center for Investigative Reporting
(d/b/a Reveal)
Colorado Press Association
Columbia Journalism Review
Committee to Protect Journalists

Cox Media Group
 The Daily Beast Company LLC
 Dow Jones & Company, Inc.
 The E.W. Scripps Company
 First Amendment Coalition
 Florida Press Association
 Forbes Media LLC
 Fox News Network, LLC
 Fox Television Stations, LLC
 Gannett Co., Inc.
 Georgia Press Association
 Gray Local Media, Inc.
 The Guardian U.S.
 Hoosier State Press Association
 Illinois Press Association
 Indiana Broadcasters Association
 The Intercept Media, Inc.
 International Society of Weekly
 Newspaper Editors
 Iowa Newspaper Association
 Kansas Press Association
 Kentucky Press Association
 Los Angeles Times Communications
 LLC
 Louisiana Press Association
 The Marshall Project
 Maryland-Delaware-D.C. Press
 Association
 Massachusetts Newspapers Publishers
 Association
 The McClatchy Company, LLC
 Media Law Resource Center
 Media of Nebraska
 MediaNews Group Inc.
 Michigan Press Association
 Minnesota Newspaper Association
 Mississippi Press Association
 Missouri Press Association
 Montana Newspaper Association
 Motion Picture Association
 National Association of Broadcasters
 National Newspaper Association
 National Press Club Journalism Institute
 The National Press Club
 National Press Photographers
 Association
 National Public Radio, Inc.
 NBCUniversal Media, LLC
 Nebraska Press Association
 Nevada Press Association
 New England Newspaper and Press
 Association, Inc.
 New Jersey Press Association
 New York News Publishers Association
 New York Press Association / New York
 Press Service
 The New York Times Company
 The New Yorker
 News/Media Alliance
 Newsday LLC
 Nexstar Media Inc.
 North Carolina Press Association
 North Dakota Newspaper Association
 Ohio News Media Association
 Oklahoma Press Association
 Oregon Newspaper Publishers
 Association
 Pennsylvania NewsMedia Association
 The Philadelphia Inquirer
 POLITICO LLC
 Pro Publica, Inc.
 Pulitzer Center on Crisis Reporting
 Radio Television Digital News
 Association
 Reuters News & Media Inc.
 The Seattle Times Company
 Slate
 Society of Professional Journalists
 South Carolina Press Association
 South Dakota NewsMedia Association
 TEGNA Inc.
 Tennessee Press Association
 Texas Press Association
 Texas Tribune
 TIME USA, LLC
 Univision Networks & Studios, Inc.
 Utah Press Association
 Vermont Press Association
 Virginia Press Association
 Vox Media, LLC
 Washington Newspaper Publishers
 Association

The Washington Post
Wisconsin Newspaper Association
WNET
Wyoming Press Association