Who is a Journalist?

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JOURNALISTS’ PRIVILEGE
Journalists have long enjoyed a variety of legal protections to ensure a free press as guaranteed by the U.S. Constitution. Those protections include:

- **shield laws**, which protect journalists from being compelled by courts and prosecutors to identify their confidential sources, and
- **actual malice**, which is an element in media libel cases and requires public figures to show that the journalist knew the information was false but published anyway.

With the Internet allowing just about anyone to become a “publisher,” are bloggers journalists, too?

SHIELD LAWS

**Ohio’s shield law** specifies that a person must be working for a traditional news organization and “for the purpose of gathering, procuring, compiling, editing, disseminating, publishing, or broadcasting news” to be exempt from being subject to a subpoena to reveal confidential sources.

**Oregon’s shield law** is broader, offering protection for people engaged in “any medium of communication to the public.” That language appears to cover new technology including the Internet.

CASES

Court cases in the past decade have begun to set precedent for who qualifies as a journalist.

**Wolk v. Olson**, 730 F. Supp. 2d 376 (2010): The Pennsylvania court ruled that blogs are a form of mass media thus the plaintiff would have to prove actual malice in the defamation case instead of negligence.

**Obsidian Finance Group v. Crystal Cox**, No. CV-11-57-HZ (2011): The Oregon court held that Cox could not use the shield law in her defense of defamation claims because she was a blogger, not part of an “official” newsgathering organization, and so was not considered a journalist.

PROPOSED DEFINITION

Given the range of interpretations across the country, state legislators should update their laws and grant consistent protection to include “citizen journalists.”

Congress also needs to enact a federal shield law that would define journalism based on the Society of Professional Journalists’ code of ethics instead of a person’s association with an “official” news organization.