Shield Laws Commenting on Journalism  
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Circuit courts will only uphold journalistic shield laws for those who fall within the state of publication’s legal definition of a journalist.

The rise in social media has created a growing concern for a state’s definition of a journalist. If a state considers independent bloggers as journalists, then they would be protected from disclosing their sources under the shield law pertaining to the state of publication.

2nd Circuit Court of Appeals
• In New York Times v. Gonzales (2006), a subpoena that ordered a journalist to relinquish his phone records was voided when the circuit court ruled that telephones are an integral part of modern journalism and should be treated like a third-party source.

• In James Holmes v. Lana Winter (2013), the New York state court ruled that it could not compel a reporter to disclose his source, even though the article was published online. The reporter met the criteria for a journalist in the state of New York and was protected under the state’s shield law.

9th Circuit Court of Appeals
• In Doty v. Molnar (2008), the judge ruled the Montana shield law was broad enough that the commenter on The Billings Gazette website fits in the category of journalists.

• In Vinogradov v. Montana State University-Bozeman (2007), Vinogradov filed a motion to the university’s newspaper, seeking the identities of the commenters who defamed her. The court did not reach the reporter’s privilege issue, because her motion was insufficient.

7th Circuit Court of Appeals
• In Ind. Newspapers, Inc. v. Miller (2012), the court ruled the commenter did not qualify as a source and, therefore, The Indianapolis Star could not enact the shield law to prevent exposing his/her identity.

• In Alton Telegraph v. Illinois (2009), the court decided the commenter was qualified for the reporter’s privilege because the commenter mentioned information that is of public concern.