

Promoting the Free Flow of Information

Issue

Virtually all states provide protections, either by statute or by judicial decision, so that journalists are not routinely forced to reveal the identity of confidential sources. In federal courts, however, there is no uniform set of standards to govern when information about confidential sources can be sought from reporters. Broadcast journalists' ability to bring important matters to the American public has been put in jeopardy as numerous reporters have been questioned about their confidential sources or had their records subpoenaed in cases before federal courts. Sweeping subpoenas of phone records and emails of news organizations further highlight the importance of enacting bipartisan legislation that would set clear standards for protecting confidential sources, including whistleblowers and others with important information.

History

In 2009, the Free Flow of Information Act cleared the U.S House of Representatives by a voice vote, while its counterpart cleared the Senate Judiciary Committee. This legislation ensures the ability of journalists to protect confidential sources, also known as the reporter's shield.

In 2013, it was discovered that the Department of Justice had subpoenaed a broad range of phone records from the Associated Press, as well as the substance of correspondence involving Fox News reporter James Rosen. In response, NAB and other major media organizations expressed displeasure with how the incident was handled and called for a strong federal reporter shield. Shortly thereafter, the Free Flow of Information Act was reintroduced by Sens. Chuck Schumer (NY) and Lindsey Graham (SC) in the Senate, as well as Reps. John Conyers (MI-13) and Ted Poe (TX-2) in the House. This legislation has not yet been introduced in the 114th Congress.

A large coalition of more than 70 companies and trade associations supported these bills. As a result of those efforts, the Senate bill was reported favorably to the full Senate in September 2013 by the Judiciary Committee.

NAB Position

Federal legislation to protect journalists, and companies that employ journalists, from being forced to reveal the identities of confidential sources except in defined circumstances such as threats to national security, is widely supported by broadcast, electronic and print media. Compelling the disclosure of confidential sources has a chilling effect on the flow of information to the public, and discourages "whistleblowers" from coming forward with evidence of waste, fraud and abuse in government and the private sector. Legislation such as the Free Flow of Information Act protects the confidential relationship between reporters and their sources, promotes reporting important information to the public and accounts for legitimate government interests in law enforcement and security.

Action Needed

Congress should support efforts to ensure that protections for journalists' sources at the federal level reflect the protections already granted in nearly every state across the country.

Revised October 2015



ADVOCACY EDUCATION INNOVATION

1771 N Street NW
Washington, DC 20036 2800
202 429 5300 nab.org

@nabtweets

facebook.com/broadcasters

instagram.com/wearebroadcasters