

that the function of the press is “performed by lecturers, political pollsters, novelists, academic researchers, and dramatists.” *Branzburg v. Hayes*, 408 U.S. 665, 705 (1972) (Powell, J., concurring); see also *Lovell v. Griffin*, 303 U.S. 444, 452 (1932) (“The liberty of the press is not confined to newspapers and periodicals. It necessarily embraces pamphlets and leaflets. These indeed have been historic weapons in the defense of liberty, as the pamphlets of Thomas Paine and others in our own history abundantly attest. The press in its connotation comprehends every sort of publication which affords a vehicle of information and opinion.”)

This amendment is consistent with the holdings of several federal appellate circuits which take a functional view of journalism, defining a reporter as an individual who engages in news-related activities to disseminate information to an audience. For example, the First Circuit Court of Appeals has held that reporters should be protected based on function, rather than credentials or status. *Glik v. Cunnille*, 655 F.3d 78, 84 (1st Cir. 2011) (“Changes in technology and society have made the lines between private citizen and journalist exceedingly difficult to draw [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.”); see also *Von Bulow v. Von Bulow*, 811 F.2d 136, 144 (2d Cir. 1987) (“The individual claiming the privilege must demonstrate, through competent evidence, the intent to use material—sought, gathered or received—to disseminate information to the public and [] such intent existed at the inception of the newsgathering process.”).

The Second Circuit’s standard, based on newsgathering function articulated in *Von Bulow*, was reiterated by the Ninth and D.C. Circuit Courts. See *Shoen v. Shoen*, 5 F.3d 1289, 1293 (9th Cir. 1993); *Alexander v. FBI*, 186 F.R.D. 21, 50 (D.D.C. 1998). A similar bar is set in the Tenth Circuit. *Silkwood v. Kerr-McGee Corp.*, 563 F.2d 433, 436–37 (10th Cir. 1977) (concluding that a documentary filmmaker was not precluded from the privilege because his mission was investigative reporting for use in preparing a documentary film, regardless of the fact that he was “not a salaried newspaper reporter”).

Finally, this amendment is consistent with the views of First Amendment scholars, who agree that a functional definition is most appropriate. See generally Sonja R. West, *Awakening the Press Clause*, 58 UCLA L. Rev. 1025, 1065–66 (2011) (“[The functional] approach avoids some of the pitfalls of the definition-by-affiliation approach.”); see also Linda L. Berger, *Shielding the Unmedia: Using the Process of Journalism to Protect the Journalist’s Privilege in an Infinite Universe of Publication*, 39 Houston L. Rev. 1371, 1407 (2003) (“[N]o patriot printer or colonial pamphleteer had a journalism degree. Certification by a government agency or by a professional group carries the possibility of de-certification based on value judgments or viewpoints.”).

This amendment was passed in an environment in which the Department of Justice has increased pressure upon journalists and their sources. Many of the nation’s most respected reporters have characterized this as an as-

sault on press freedom that chills investigative reporting and the public’s right to know.

Recent revelations that the Department of Justice secretly subpoenaed twenty phones lines at the Associated Press, and a legal brief filed by the Justice Department calling a Fox News journalist a “co-conspirator” for simply protecting a source, have provoked widespread, bipartisan criticism. Many are concerned that the Department of Justice is actively impeding newsgathering activities protected by the First Amendment. The House of Representatives intends, by passing this amendment, to reject this harassment of journalists by the Department of Justice.

Moreover, recently-disclosed digital surveillance activities by the United States government have had an inherent chilling effect on the act of journalism and the exercise of the First Amendment. This amendment is intended to ensure that the rights and newsgathering activities of reporters and journalists are not chilled when uncovering information involving or implicating the United States government or associated institutions. Furthermore, both Congress and the President have recognized the problem of ‘over-classification’ of documents by agencies across the Federal Government. If journalists are prevented from publishing classified information, and the government classifies enormous quantities of information that should rightfully be in the public domain, the public is prohibited from knowing the workings of its government. Using Federal Government resources to undermine legitimate news-related activities or chill journalism, particularly when those activities aim to disclose the workings of government because that information is classified, constitutes a threat to the self-government of the American public. Federal government attempts to undermine legitimate news-related activities and/or chill journalism, are prohibited by this amendment.

Finally, the act of journalism has been transformed by the internet. New methods for uncovering and publishing newsworthy information, and for financing such newsgathering and dissemination, are now available. This amendment protects the ability for those who may not have traditionally been considered journalists to engage in journalism. It is further intended to allow for experimentation in publication and dissemination of news without the threat of the Department of Justice using its resources to compel the revelation of journalistic sources through legal coercion.

This amendment is to be construed liberally and broadly, to effectuate its purpose of protecting journalists and their sources from any coercive action taken by the government and the legal system. Its spirit applies to other government agencies, and to litigation between private parties. The terms “information or sources” and “confidential” are to be given the widest possible construction. The limitation applies not only to the quashing of subpoenas, but also to every form of discovery, civil and criminal contempt, arrest and imprisonment, and any form of coercion within the legal system.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate of February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate com-

mittees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place and purpose of the meetings, when scheduled and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 10, 2014 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED

JUNE 11

10 a.m.

Committee on Appropriations
Subcommittee on Department of Defense
To hold hearings to examine proposed budget estimates for fiscal year 2015 for the Missile Defense Agency.

SD-192

Committee on Homeland Security and Governmental Affairs

To hold hearings to examine the nomination of Shaun L. S. Donovan, of New York, to be Director of the Office of Management and Budget.

SD-342

Committee on the Judiciary

To hold an oversight hearing to examine the Department of Homeland Security.

SD-226

Commission on Security and Cooperation in Europe

To hold hearings to examine the security, economic and human rights dimensions of United States-Azerbaijan relations.

SR-432

11 a.m.

Committee on Foreign Relations

To hold hearings to examine the nominations of Stuart E. Jones, of Virginia, to be Ambassador to the Republic of Iraq, Robert Stephen Beecroft, of California, to be Ambassador to the Arab Republic of Egypt, Dana Shell Smith, of Virginia, to be Ambassador to the State of Qatar, James D. Nealon, of New Hampshire, to be Ambassador to the Republic of Honduras, and Gentry O. Smith, of North Carolina, to be Director of the Office of Foreign Missions, and to have the rank of Ambassador during his tenure of service, all of the Department of State.

SD-419

2 p.m.

Committee on the Budget

To hold hearings to examine the nomination of Shaun L. S. Donovan, of New York, to be Director of the Office of Management and Budget.

SD-608

2:30 p.m.

Committee on Commerce, Science, and Transportation

To hold hearings to examine the nominations of Victor M. Mendez, of Arizona, to be Deputy Secretary, and Peter M. Rogoff, of Virginia, to be Under Secretary for Policy, both of the Department of Transportation, Bruce H. Andrews, of New York, to be Deputy Secretary, and Marcus Dwayne Jadotte, of

Florida, to be Assistant Secretary for Industry and Analysis, International Trade Administration, both of the Department of Commerce, and Robert S. Adler, of the District of Columbia, to be a Commissioner of the Consumer Product Safety Commission.

SR-253

Committee on Indian Affairs

Business meeting to consider S. 919, to amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian tribes, S. 1447, to make technical corrections to certain Native American water rights settlements in the State of New Mexico, S. 1574, to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to facilitate the ability of Indian tribes to integrate the employment, training, and related services from diverse Federal sources, S. 2041, to repeal the Act of May 31, 1918, and S. 2188, to amend the Act of June 18, 1934, to reaffirm the authority of the Secretary of the Interior to take land into trust for Indian tribes; to be immediately followed by an oversight hearing to examine Indian education, focusing on higher education for American Indian students.

SD-628

4 p.m.

Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights

Business meeting to consider S.J. Res. 19, proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

SD-226

5:15 p.m.

Committee on Foreign Relations

To receive a closed briefing on the situation in Ukraine.

SVC-217

JUNE 12

9:30 a.m.

Committee on the Judiciary

Business meeting to consider pending calendar business, S. 1799, to reauthorize subtitle A of the Victims of Child Abuse Act of 1990, and the nominations of Andre Birotte, Jr., to be United States District Judge for the Central District of California, Geoffrey W. Crawford, to be United States District Judge for the District of Vermont, John W. deGravelles, to be United States District Judge for the Middle

District of Louisiana, Randolph D. Moss, to be United States District Judge for the District of Columbia, Robin L. Rosenberg, to be United States District Judge for the Southern District of Florida, Ronnie L. White, to be United States District Judge for the Eastern District of Missouri, and Nancy B. Firestone, of Virginia, Lydia Kay Griggsby, of Maryland, and Thomas L. Halkowski, of Pennsylvania, all to be a Judge of the United States Court of Federal Claims.

SD-226

10 a.m.

Committee on Agriculture, Nutrition, and Forestry

To hold hearings to examine the importance of child nutrition programs to our nation's health, economy and national security.

SR-328A

Committee on Foreign Relations

To hold hearings to examine regional implications of a nuclear deal with Iran.

SD-419

10:30 a.m.

Committee on Homeland Security and Governmental Affairs

To hold hearings to examine securing radiological materials.

SD-342

2:30 p.m.

Select Committee on Intelligence

Closed business meeting to consider pending calendar business.

SH-219

3 p.m.

Committee on Foreign Relations

To receive a closed briefing on politics in Thailand.

SVC-217

JUNE 17

9:30 a.m.

Committee on Homeland Security and Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings to examine conflicts of interest, investor loss of confidence, and high speed trading in the United States stock markets.

SH-216

JUNE 18

2:15 p.m.

Special Committee on Aging

To hold hearings to examine the reduction in face-to-face services at the Social Security Administration.

SD-562

2:30 p.m.

Committee on Indian Affairs

To hold hearings to examine S. 1948, to promote the academic achievement of American Indian, Alaska Native, and Native Hawaiian children with the establishment of a Native American language grant program, S. 1998, to amend the Adult Education and Family Literacy Act to reserve funds for American Indian, Alaska Native, Native Hawaiian, and Tribal College or University adult education and literacy, and S. 2299, to amend the Native American Programs Act of 1974 to reauthorize a provision to ensure the survival and continuing vitality of Native American languages.

SD-628

3 p.m.

Committee on Small Business and Entrepreneurship

To hold hearings to examine growing small business exports, growing United States Jobs.

SR-428A

JUNE 19

9:30 a.m.

Committee on Armed Services

To hold hearings to examine the nominations of Laura Junor, of Virginia, to be a Principal Deputy Under Secretary for Personnel and Readiness, Gordon O. Tanner, of Alabama, to be General Counsel of the Department of the Air Force, Debra S. Wada, of Hawaii, to be Assistant Secretary of the Army for Manpower and Reserve Affairs, and Miranda A. A. Ballentine, of the District of Columbia, to be Assistant Secretary of the Air Force for Installations, Environment, and Energy, all of the Department of Defense, and Monica C. Regalbutto, of Illinois, to be an Assistant Secretary of Energy for Environmental Management.

SH-216

JUNE 25

2:15 p.m.

Special Committee on Aging

To hold hearings to examine brain injuries and diseases of aging.

SD-562

2:30 p.m.

Committee on Indian Affairs

To hold an oversight hearing to examine economic development, focusing on encouraging investment in Indian country.

SD-628