

Gateway Journalism R E V I E W

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First
Amendment
Speech
Protections

First Amendment Issue

Free Speech is under assault as the U.S. turns 250

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As the United States turns 250, the First Amendment faces an onslaught of censorship

By William H. Freivogel

This magazine collects stories about the state of the First Amendment at this moment when the nation stands at the doorstep of the 250th anniversary of the founding — a founding built on America's Enlightenment values — freedom, equality and a government of the people. No nation in history had entrusted power to "We the people" by making the people sovereign instead of a king. And the task was laid out plainly: To create a "more perfect Union" and "secure the Blessings of Liberty." The First Amendment became a part of this founding idea of liberty. It protects no ideology or creed, but all ideologies and creeds. It could be a starting point for a divided nation to talk to one another because it belongs to us all and is intended to facilitate community conversations — to serve as a bridge between differences, helping a democracy find its way.

This project is funded by the Pulitzer Center on Crisis Reporting and contains the work of young and veteran journalists and lawyers in Missouri, Illinois and other parts of the Midwest.

Paul Wagman, a frequent contributor and former Post-Dispatch colleague, has written more about the Gateway Pundit than any other journalist; here he follows the Pundit to the Pentagon Press room.

Alan Greenblatt, a Webster Groves resident, retells the story of how he quit on the spot this summer as editor of Governing Magazine when his boss killed a story for fear of upsetting the Trump White House; he also offers us the story that was killed. Ironically it's about the First Amendment.

Carly Gist, a student editor at SIU, reports from Bloomington, Ind. about the Indiana

University newspaper censorship story that brought the university unwanted national attention and resulted in the firing of the paper's long-time adviser. The episode is a reminder of the long-term negative impact of *Hazelwood v. Kuhlmeier*, the St. Louis Supreme Court case that denied editorial independence to student journalists.

Gist also writes about the free speech issues surrounding abortion, featuring an abortion clinic in Carbondale, Ill., a college town where three clinics provided 11,000 abortions last year to women from surrounding states that ban abortions.

Molly Parker, an SIU colleague and reporter for Capitol News Illinois, joined me for a podcast on the community reaction in Breese, Ill. to a Proud Boys billboard, a controversy that harkens back to the way counter-speech in Skokie, Ill. in 1977 effectively shut down a Nazi march and instead led to a museum about the Holocaust.

Felicity Barringer, former New York Times correspondent, writes about the police search of the Marion Record in rural Kansas in 2023 and the 55 year-old memories of the Palo Alto police raiding the Stanford Daily, an event that led to a law barring newsroom searches.

Kallie Cox, a young reporter and SIU grad, describes the First Amendment playing out at a wild constituent meeting for Rep. Wesley Bell where pro-Palestinian protesters loudly criticized his acceptance of pro-Israeli money permitted by the Citizens United Supreme Court decision.

Cox also reported how the librarian in Bourbon, Mo. was fired after erecting a Pride display and the free speech strictures that

Texas A&M imposed on the faculty where AI bots will help identify unacceptable advocacy in professors' syllabi.

Glennis Woosley, editor of the high school news magazine in Nixa, Mo., describes pushing back against efforts to ban books in the library. The right of students to read remains uncertain, particularly in Midwest and Southern states such as Tennessee, Arkansas, Iowa, Missouri, Texas and Florida.

Jon Sawyer, founder of the Pulitzer Center on Crisis reporting, writes about the rewards of teaching The 1619 Project in schools that once taught egregious misrepresentations of slavery and the Civil War.

Jackie Spinner, GJR editor, reports on ICE agents targeting people of color and journalists in Chicago immigration raids.

Caroline Steidley, a Missouri University journalism student, reports that critics say Washington University Chancellor Andrew Martin talks a big game on free speech but doesn't live up to it.

Mark Sableman, a top St. Louis media lawyer, offers twin columns explaining how government actions that chill free speech or retaliate against unfavored speakers or ideas can violate the First Amendment.

Marty Baron, the outstanding American journalist, says in a St. Louis talk that he no longer takes for granted that the "rule of law will prevail" or that "a free press will endure." But he remains optimistic because the press has survived past attacks and "there are promising signs of some rebellion against encroachments on free expression."

Almost 250 years after the Declaration of Independence, the United States still is striving to meet the promises of its founding — liberty and equality. The path to a "more perfect union" stretches behind us, past landmarks of a bloody Civil War, the 19th Amendment, the Civil Rights Movement, the women's rights movement, the legal fight for same-sex marriage and many more. The path to a better union stretches out in front of us to the horizon. Today's differences about how to protect liberty and equality show how much work remains.

250 years ago, the battles of Lexington and Concord and Bunker Hill had already occurred. The Second Continental Congress was meeting in the lead up to the Declaration of Independence. Yet today, the Declaration's promises are under attack and the debate about what they mean is sharp and divisive.

President Donald Trump, who made free speech a leading issue in his election campaign has ended up generating an unprecedented wave of government actions to punish the free expression of universities, law

firms, media organizations and libraries and has slammed the brakes on important scientific research.

Greg Lukianoff, president and CEO of The Foundation for Individual Rights and Expression, a libertarian free speech group, had actively opposed "cancel culture" on campus that punished conservative speech that offended liberal sensibilities. He warned there would be a backlash and it has arrived.

He put it this way on a recent Zoom call: "I've been warning that if you don't fix the speech issue on campus, there will be a right-wing backlash." Part of the backlash was the election of Trump and his executive actions over the past 11 months.

Trump's second term attack on free speech has combined the hammer of federal funding, Trump's transactional method of governance and his unapologetic modus operandi of ignoring ethical standards while accumulating power.

The weak-kneed willingness of top media, law firms and university

Congress of the United States

FIRST AMENDMENT

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

officials to cave into Trump's pressure — even when Trump's legal claims are extraordinarily weak — also contributed to Trump's success.

Big media and social media companies have paid Trump and his organizations about \$90 million and nine big law firms have made deals with him for \$940 million in pro bono work for a man who doesn't need a free lawyer.

By making multi-million dollar deals with Trump, they have surrendered First Amendment rights that they could have vindicated in court.

Liberals and conservatives alike are astounded at how rapidly Trump has exerted powers that many people thought were beyond the control of the president.

A spike of attacks on speech after Kirk assassination

That onslaught on free speech has accelerated since the September assassination of conservative influencer and free speech advocate Charlie Kirk.

FIRE's Lukianoff said, "The opportunistic backlash to Charlie Kirk led to an enormous spike in people on campus" who were canceled for liberal speech. "There was a massive national backlash but it is an ugly sign of free speech nationally."

FIRE found that the government acts to publish scholars, universities and students had grown rapidly this fall. FIRE:

"Documented 80 campaigns to sanction scholars — 40 of which resulted in penalties, including 18 terminations. Many of these cancellation campaigns were led by prominent conservative influencers on social media and/or by elected officials at the state and federal levels.

"Recorded 25 campaigns targeting individual students or student groups for speech regarding Kirk and/or his assassination, and an additional five against campus chapters of Turning Point USA, the organization Kirk founded."

Found that University of Florida system Chancellor Ray Rodrigues ordered punishments for faculty and students who celebrate or excuse Charlie Kirk's assassination.

Lukianoff also reported this month on the 37 days in jail spent by Larry Bushart, a 61-year-old retired police officer living in Lexington, Tenn. Bushart had posted a meme on Facebook after Kirk's assassination showing a picture of Trump along with Trump's comment in response to a school shooting at Perry High School in Iowa in 2024: "We have to get over it." The meme was headed by the caption, "This seems relevant today."

After Bushart shared the meme on a Facebook thread about a vigil

for Kirk in nearby Perry County, Tenn., the Perry County Sheriff's Office obtained a warrant for Bushart's arrest, claiming the post was a threat of "mass violence" at a school. Bushart couldn't make the extraordinary \$2 million bail and spent 37 days in jail before prosecutors dropped the charge.

Said FIRE's Lukianoff, "In my 25 years working as a lawyer on free-speech cases, I have seen a lot of overreach. I have never seen anything quite like this."

Trump won on free speech

Trump won the 2024 election partly because he championed free speech, opposed "Woke" sensibilities, wanted to end "cancel culture," and blasted tech executives for "censoring" conservative speech online — including his own false claims about having won the 2020 election.

A poll by FIRE found in the days leading up to the 2024 election the second most important issue to voters was free speech, right behind inflation and ahead of health care.

In one of his first acts as president, Trump issued an executive order, "RESTORING FREEDOM OF SPEECH AND ENDING FEDERAL CENSORSHIP." The order maintained that the Biden administration had 'trampled free speech rights by censoring Americans' speech on online platforms, often by exerting substantial coercive pressure on third parties, such as social media companies, to moderate, deplatform, or otherwise suppress speech that the Federal Government did not approve. Under the guise of combatting 'misinformation,' 'disinformation,' and 'malinformation,' the Federal Government infringed on the constitutionally protected speech rights of American citizens across the United States in a manner that advanced the Government's preferred narrative about significant matters of public debate. Government censorship of speech is intolerable in a free society."

In a speech a few days later in January, Trump said: "No longer will our government label the speech of our own citizens as misinformation or disinformation, which are the favorite words of censors and those who wish to stop the free exchange of ideas and, frankly, progress."

One legal problem with Trump's executive order is that the U.S. Supreme had ruled in 2024, in a case brought by then Missouri Attorney General Andrew Bailey, that there was no evidence that the Biden administration did anything more than jawbone social media to take down false and dangerous posts. There is nothing wrong with jawboning, the justices said. There is only a violation of free speech if the government coerces a social media platform to take down a post and

Continued on next page

there was no evidence of coercion. Social media companies are private and for that reason are not covered by the First Amendment unless the government coerces them to act.

In fact, the Trump executive order "restoring free speech" violated the free speech of social media companies to edit their sites, legal experts say.

Even though the social media companies had won the argument in the Supreme Court, they agreed to pay Trump millions after he was elected in what FIRE and other free speech organizations called "capitulation".

In September, YouTube/Google agreed to pay \$24.5 million to Trump and several others, to settle a lawsuit over YouTube's suspension of their accounts after the Jan. 6 riot at the Capitol. In June, Meta settled for \$25 million, followed by X, which agreed to a \$10 million settlement.

"This is straight influence-peddling," said Eric Goldman, a law professor at Santa Clara University and an expert on internet speech. "This YouTube settlement is not a sign of any legal merit."

FIRE had a harsher criticism, putting the internet deals in the broader context of earlier media settlements. "Unfortunately, this is in addition to media companies like Paramount Global, who bent the knee to Trump for \$16 million this past July, and ABC News, who settled for \$15 million late last year... If you care about free speech, this should really piss you off. These companies and institutions traded principle – and, most importantly, the opportunity to stand on their First Amendment rights – for profit and short-term peace of mind."

A kicker to the YouTube deal is that the settlement documents direct that "\$22 million paid to Trump will be contributed, on his behalf, to the Trust for the National Mall, a 501(c)(3) tax-exempt entity dedicated to restoring, preserving, and elevating the National Mall, to support the construction of the White House State Ballroom" to replace the now demolished East Wing.

Meanwhile, Jeff Bezos, Amazon CEO and publisher of the Washington Post, not only blocked the Post's endorsement of Kamala Harris, altered the Post's editorial policy and contributed to the Trump inauguration, but also paid \$40 million for Melania Trump's documentary and has paid for the rights to stream Trump's old Apprentice shows, even though there doesn't appear to have been much bidding for them.

Not all media cave

Some Media have fought back in court against some of Trump's direct attacks on media organizations.

The Associated Press won a partial victory when Trump banned AP reporters from presidential press pools for refusing to call the Gulf of Mexico the Gulf of America.

Trump and Congress defunded public media for being too "biased," but those efforts are tied up in court because of arguments that the government can't censor organizations because of their viewpoint.

Trump is trying to end the Voice of America, but a federal judge ordered earlier this year that its operations resume. At the end of November Kari Lake, the election denier from Arizona who was Trump's pick as director, closed overseas marketing offices in Jakarta, Indonesia; Islamabad, Pakistan; Nairobi, Kenya; and Prague, Czech Republic. This came at a time when Democratic and some Republican members of Congress are expressing concern that the loss of VOA means surrendering the information war with Russia over Ukraine.

The New York Times accused the Pentagon in a lawsuit in December of infringing on the constitutional rights of journalists by imposing a set of new restrictions on reporting about the military.

The suit says the new press policy at the Pentagon violates the First Amendment because it "seeks to restrict journalists' ability to do what journalists have always done – ask questions of government employees and gather information to report stories that take the public beyond official pronouncements." Reporters lose their press pass if they publish a story without Pentagon approval.

Veteran Pentagon reporters refused to sign the agreement and were replaced more conservative influencers, including Laura Loomer, who has claimed 9/11 was an inside job by the U.S., the former House member Matt Gaetz and the Gateway Pundit, the St. Louis based originator of false stories about the 2020 election being stolen by Atlanta poll workers stuffing ballot boxes.

Will Creeley, legal director of FIRE, said this month, "What happened with the Pentagon Press rules is ridiculous. Those rules really require the press to self-censor, to serve as patsies."

Department of Education investigations on diversity and antisemitism

Two of the most powerful federal levers of power are civil rights investigations into claims that universities have failed to protect Jewish students from pro-Palestinian protesters and that university programs and documents using the word "diversity" are signs of illegal educational programs favoring minorities over whites.

Washington University in St. Louis is one of the colleges that scrubbed the word "diversity" from websites. Chancellor Andrew Martin said he didn't know what the word meant.

There is nothing wrong or unconstitutional about a university or other organization using diversity or equity as a goal as long as it does not discriminate against any students.

But many universities have reacted defensively to avoid Trump administration ire and threatened budget cuts.

This month at the University of Alabama Vice President for Student Life met with staff of student-run outlets Alice Magazine and Nineteen Fifty-Six, and told them the magazines were permanently suspended. The university claimed it was basing its decision on a July 29, 2025, non-binding legal memo from U.S. Attorney General Pam Bondi, which warned against the use of "unlawful proxies" of race, such as diversity. FIRE wrote back, "As a public university bound by the First Amendment, UA may not retaliate against an editorially independent student publication based on its content or viewpoint... There is no proof Alice Magazine or Nineteen Fifty-Six used any unlawful proxies in their recruitment efforts. The only "problems" to which UA has pointed is the content and viewpoints of these publications, which are safeguarded by the First Amendment. Simply put, no federal antidiscrimination law authorizes the university to silence student media it dislikes... UA's suspension of these magazines is a brazen attack on the student press."

The University of Virginia forced out its president Jim Ryan under pressure from the Justice Department. Ryan wrote this fall that he was "stunned and angry" over the university board's lack of honesty in the face of pressure from the federal government to force him out for not dismantling DEI initiatives.

In California, UC Berkeley, facing a Trump administration demand for a \$1 billion payment, complied with a demand by the Department of Education's Office of Civil Rights and turned over the names of 160 students, faculty, and staff for "potential connection to reports of alleged antisemitism." Feminist philosopher Judith Butler, one of the professors named in the file, compared the situation to the 1950s McCarthy era and said the university's compliance "represents a breathtaking breach of trust, ethics, and justice."

U.S. District Judge Rita F. Lin ruled in November that the administration was forbidden "from seeking payments" from the University of California university system in connection with civil rights investigations. In particular, she said the administration could not "restrict its curriculum, scholarship or research based on the defendants' preferred viewpoints," nor could it connect funding to a requirement to "screen international students based on 'anti-Western' or 'anti-American' views." These actions, she said, would violate the First Amendment.

The pro-Palestinian rallies on many college campuses that began in 2023 after the Oct. 7 terrorist attack by Hamas on Israelis have led to numerous free speech controversies that pit the First Amendment right to speech against anti-discrimination protections in civil rights laws designed to protect equality. In other words, there can be a direct conflict between liberty and equality, the nation's two central founding values.

The Supreme Court's interpretation of the First Amendment protects hate speech, even if some of our politicians seem not to know that. Both Minnesota Gov. Tim Walz and Attorney General Pam Bondi claimed incorrectly this fall that the Constitution does not protect hate speech. Actually, the court found in a case involving Clarence Brandenburg's KKK rally with a Nazi goosestepper in an Ohio farm field that hate speech is protected unless violence is imminent.

Title VI of the Civil Rights Act of 1964 bars discrimination based on race, color or national origin, which includes "shared ethnic ancestry." Both Muslims and Jews can claim this shared ancestry protection and the legal right to be protected from a hostile educational environment that prevents them from receiving an education.

FIRE's Creeley said the speech must be "objectively offensive and

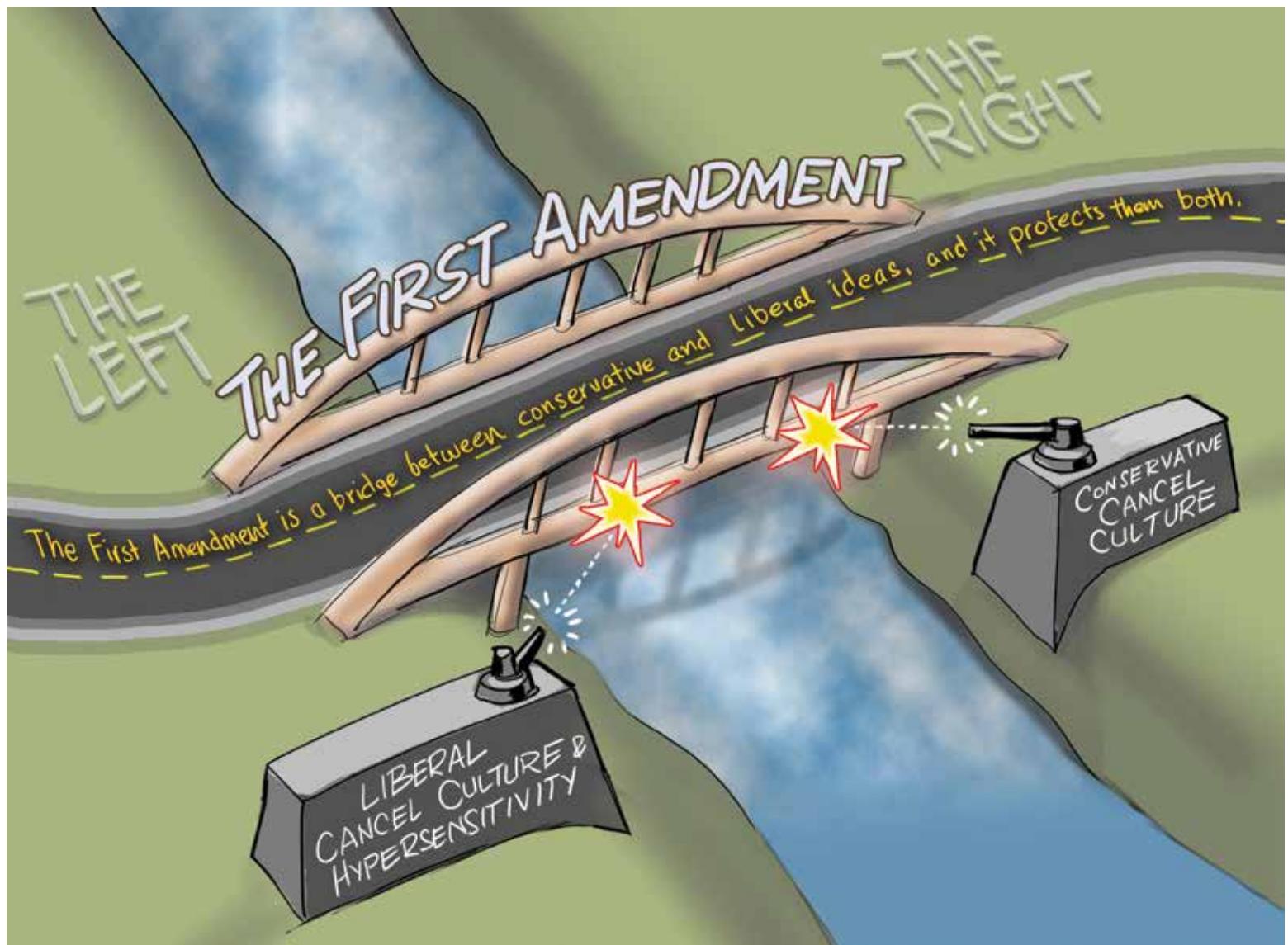


Illustration by Steve Edwards

must demonstratively prevent a student from getting education or make a student fear for his safety. Criticism of Israel war policy in Gaza is not enough. Nor is the 'river to the sea' rhetoric or calls to "globalize the intifada."

Creeley said speech alone is not enough. There has to be more such as "cornering someone, refusing to let them leave or taking over a building where it is not just expression but conduct. Those are things the university must protect."

Adds Lukianoff, the First Amendment "has the widest tolerance for opinions and least tolerance for violence. Our Constitution stands against Oceania's Ministry of Truth." – a reference to George Orwell's ministry in "1984" that peddled lies as truth.

Freest on earth

We don't live in Oceania, although some days it may seem like it.

We have lived through times that were much more divided than now, times when the First Amendment was little more than nice words on parchment.

There was Nixon's enemies list of journalist enemies. The culture war between Hippies and Hardhats and the Chicago police and protesters at the 1968 Democratic National Convention. Radical bombings of the 60s and 70s, including a bombing of the Capitol. Sen. Joseph McCarthy's Red Scare of the 1950s when it was a crime to be an officer of the Communist Party. FDR's internment of American citizens of Japanese descent during World War II. Justice Oliver Wendell Holmes' approval of forced sterilization laws with the pithy remark, "Three generations of imbeciles are enough." The Palmer raids of leftists, union leaders and anarchists

after someone bombed the attorney general's house in Chevy Chase.

244 years of slavery were followed by almost 90 years of segregation by law. A Missouri couple, Dred and Harriet Scott, was told by the Supreme Court that Black people had "no rights which the white man was bound to respect." The House of Representatives passed a gag rule in 1836 barring virtually any mention of abolition or limiting slavery. The following year, Missouri banned abolitionist speech altogether, followed by most of the Southern states. Also in 1837 a mob murdered editor Elijah Lovejoy in Alton destroying his press on the banks of the Mississippi. More than 100 mobs attacked presses in the run-up to the Civil War. Lincoln and Douglas criss-crossed Illinois in 1858 debating Dred Scott and slavery, but even Lincoln wouldn't go so far as to advocate abolition.

After half a million men died in the Civil War, the 14th Amendment finally added equality to the Constitution in 1868 – 92 years after Jefferson had electrified the world with "all men are created equal." But the 14th Amendment didn't protect women. The Supreme Court made that clear to Virgina Minor of Missouri when she wanted to vote and to Myra Bradwell when she wanted to be a lawyer in Illinois. The Declaration of Independence was 144 years old before women got the right to vote and almost two centuries old before women got equal protection of the law.

All of these battles for freedom and equality were way stations on the road to a more perfect union. We the people can say they have made this the freest nation on earth.

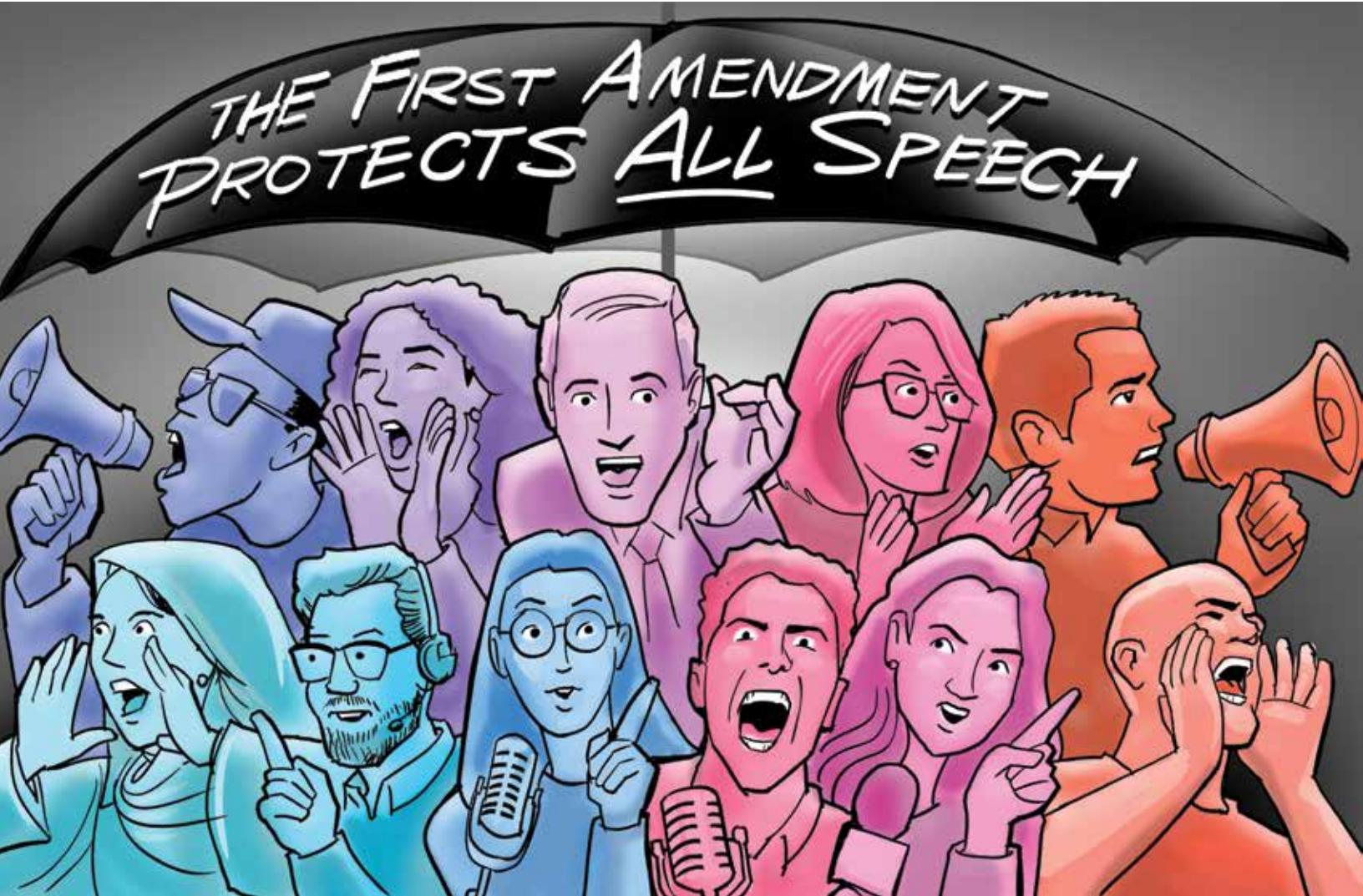


Illustration by Steve Edwards

The First Amendment is for everyone and protects the speech we hate

By William H. Freivogel

The First Amendment protects everyone's freedom — Nazis, Klansmen, Proud Boys, communists, Christians, flag burners, cross burners, Bible and Koran burners, Jehovah's Witnesses who won't salute the American flag, revolutionaries, fat cat campaign funders, Christian student groups, a Jewish high school graduate objecting to a graduation prayer, science teachers, public school students wearing arm bands to protest the war and even an angry 14-year-old who was so mad about being cut from the varsity cheer squad that she posted "F-cheer" on social media.

The First Amendment is nonpartisan. It protects Republicans every bit as much as Democrats, conservatives as much as liberals, "Woke" as well as politically "incorrect" speech.

There is no partisan objection to free speech — although there are plenty of reasons to object to a lot of the hateful speech protected by the First Amendment.

Take this month in Breese, Illinois, when the Proud Boys, a

designated hate group tied to the Jan. 6 insurrection at the U.S. Capitol, put up a billboard near the high school. The Clinton County Board would have been violating the First Amendment to take it down, but about 70 people who showed up at their board meeting to exercise their free speech rights, quickly persuaded the company that owned the billboard to remove the Proud Boys' message — as Molly Parker of Capitol News Illinois reported last week. The United Methodist Church followed up with a \$2,100 billboard purchase for a "Hate divides, Love unites" message.

The idea of the First Amendment is to protect the expression people hate. There is no need for a First Amendment to protect popular ideas. The majority won't outlaw speech it likes. This is why the First Amendment protects all sorts of distasteful speech that makes the majority mad. This includes hate speech, flag burning, cross-burning, Nazi parades, profanity, pornography, violent video games, politicians' lies, multi-million dollar contributions to political campaigns, slurs

calling police pigs and Christian protests at soldiers' funerals with worshipers carrying signs saying "God Hates Fags" and "Thank God for Dead Soldiers."

Nazis can parade through south St. Louis or through Skokie in front of Holocaust survivors. The Ku Klux Klan can wear hoods and robes, burn a cross and promise "vengeance" against "n....." and "Jews" in a farm field near Cincinnati. A Vietnam protester can walk through a courthouse with a jacket that says, "F- the draft." Protesters can burn the flag outside George H.W. Bush's nominating convention. Pornographer Larry Flynt can publish a parody of the Rev. Jerry Falwell having sex with his mother in an outhouse in order to spoof the Christian majority. The alt-right – and the left for that matter – can post fake news on the Internet to tilt an election – although they may pay the price if they recklessly disregard the truth, as Fox News, Rudy Giuliani and Newsmax discovered after 2020.

Enlightenment values

This moment in our history is an especially appropriate one to celebrate. We're on the doorstep of the 250th anniversary of the Declaration of Independence in which the nation's founders declared their allegiance to the core principles of the Enlightenment that the nation still cherishes – liberty, equality and consent of the governed.

It read: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed."

Sure, Jefferson owned hundreds of slaves, the Founding Fathers were all rich men, women weren't mentioned and had few rights and slavery besmirched the Founding – no matter how badly President Trump would like the Smithsonian to rewrite history so slavery doesn't look so bad.

The founders even left democracy, equality and free speech out of the Constitution.

But liberty, equality and the consent of "We the people" have survived past the four score and seven years that Lincoln spoke about on the Gettysburg battlefield and have expanded over our history. The United States is the freest country on earth, equality has expanded with almost every passing decade as has the power of the people to give their consent.

The First Amendment rests on the Enlightenment premise, unfolding after the Middle Ages, that truth wins over falsity on the battlefield of ideas. As John Milton put it in the 17th century, "who ever knew Truth put to the worse in a free and open encounter?"

Oliver Wendell Holmes, one of the great Supreme Court justices of the 20th century, put the same idea in the libertarian lexicon of free markets.

"When men have realized that time has upset many fighting faiths," he wrote in a 1919 dissent, "they may come to believe, even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas – that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out."

One question today is whether the clattering voices of millions of people and trillions of electronic bytes can be sorted into the truth. Does that screen in front of you give you time to think through the Enlightenment values that our Founding Fathers had plenty of time to ponder while holding their quill pens? Are we even reading the words of people or of robots?

Mark Sableman, a media lawyer at Thompson Coburn, has his doubts after litigating First Amendment issues for decades. He remembers how he and others welcomed the birth of the internet and cell phones that democratized speech by putting a printing press in everyone's pocket or purse. His enthusiasm has evaporated with the avalanche of false news and information flashing across those little screens in bursts of a few seconds that shatter the Enlightenment ideal of contemplative thought.

Rebel to fat cat

About 100 years ago, a news reporter named Frank I. Cobb wrote that, "The Bill of Rights is a born rebel. It reeks with sedition. In every clause it shakes its fist in the face of constituted authority... It is the one guarantee of human freedom to the American people."

It is a charter to say no: No, I don't agree with the president. No, I won't bow to any orthodoxy, religious or political, woke or not.

No, I won't worship someone else's god and I don't want the government to tell me whether or how to worship. No, the government can't tell me what to think or what to say or view or draw or photograph or read.

For the nation's first 130 years, the First Amendment was weak. It didn't even apply to the states at first.

When the Supreme Court began reading power into the First Amendment about 100 years ago, it began by defending those shaking their fist at the government.

At first, it protected outsiders. Now it increasingly protects establishment insiders.

By its 200th birthday in 1991, the First Amendment had developed into a powerful shield against government abuse of leftists, anarchists, communists, labor unions, Jehovah's Witnesses, atheists and non-Christians. It protected the press from government censorship and debilitating libel suits. It protected leftist flag burners and a dissident wearing a "Fuck the draft" jacket into a California courthouse. And it protected little Mary Beth Tinker wearing an armband to school protesting the Vietnam War.

Today's First Amendment winners are increasingly well-heeled. Corporations won the right to spend an unlimited amount of corporate money – millions, billions – to help their favored candidate win an election. Elon Musk – the wealthiest man on the planet, whose SpaceX company owns two-thirds of all satellites whirling around the earth and whose social media account gives him 200 million followers – spent a quarter of a billion dollars to get Trump elected. That included the highly misleading \$20 million "RBG" fund likening Trump's abortion views to Ruth Bader Ginsburg's, even though it was Trump's Supreme Court nominee replacing Ginsburg who provided the decisive vote overturning Roe v. Wade.

Hobby Lobby won a decision based on religious liberty allowing it to refuse to provide contraceptive health coverage for its female workers. Conservative policy groups won an Illinois case blocking government unions from imposing mandatory union fees on non-members. The court has lent a sympathetic ear to bakers and florists who say they won't serve same-sex couples whose marriages violated their religious beliefs. And human rights lawyers lost their right to counsel foreign clients connected to terrorism about nonviolent conflict resolution.

Gregory P. Magarian, the Thomas and Karole Greene Professor of Law at Washington University and a former Supreme Court clerk, has put it this way: "The court has put much more energy into expanding the free speech rights of politically or economically powerful speakers, while largely disdaining the First Amendment concerns of politically and economically disempowered speakers."

Justice Samuel Alito is a leader of the shift. Alito wrote the Hobby Lobby decision protecting corporate religious scruples. In addition, his replacement of Sandra Day O'Connor led to Citizens United opening the door to unlimited corporate political spending.

"Justice Alito is passionately committed to protecting rights and interests of people exactly like Justice Alito," Magarian has said.

'Woke' excesses

"Woke" sensibilities about speech offensive to minorities, women, gays and transgendered people resulted in the censorship of students and academics at some of America's elite universities over the past decade and played no small role in the outcome of the 2024 election. Trigger warnings singled out speech that might offend or trigger hurtful responses.

In 2023 Scott Gerber, a professor at Ohio Northern University, was a victim of woke speech. He wrote an article for The Cincinnati Enquirer that criticized DEI and it led to his firing.

"Unfortunately," he wrote in the newspaper column, "because

racial preferences are the sacred cow of higher education, well-settled anti-discrimination law is frequently flouted on college and university campuses, including in Ohio. For example, jobs are frequently set aside for minorities and women, and conservative and libertarian white males need not apply, or so it seems. I have heard of faculty searches in which a member of the faculty or administration has stated that his or her school has an open position, but that the position must (not 'could') be filled by a minority or a woman. In fact, the faculty hiring process has gotten so out of hand that one law school did not immediately disqualify a minority candidate who recently had failed the bar examination."

On April 14, 2023, shortly after the article was published, school security – with armed police officers from Ada, Ohio – removed Gerber from his classroom in the presence of students and escorted him to Dean Charles H. Rose III. The dean told he had to either resign or face termination, even though he did not tell Gerber what he had done wrong.

In a 2024 lawsuit, Gerber said that the university was firing him "based on his unpopular views and his raising concerns about illegal conduct – including racially discriminatory hiring – at the University."

This year, the university settled with Gerber, reinstated him and allowed him to retire in good standing.

Free speech has especially been under assault since the Oct. 3, 2023 Hamas terrorist attack on Israelis.

The vignette in the introduction to Harvard's internal investigation of antisemitism on campus is powerful evidence of its prevalence at the nation's wealthiest and most powerful university.

The vignette recounts how during the 2023-4 school year an undergraduate recipient of a student fellowship was given the opportunity to make a short speech at a student forum. The Jewish student planned to describe how their experience as a grandchild of Holocaust survivors inspired their career ambitions.

He shared his prepared remarks with a student organizer of the forum. The Jewish student speaker described how their grandfather survived the Holocaust by migrating to the then-British Mandate of Palestine, and ultimately helped tens of thousands of others find refuge in territory that is now part of the modern State of Israel.

The Harvard report relates what happened next: "The [student] directors of the conference pulled me aside and said that I cannot mention my grandfather's rescue missions in my speech, because his rescue missions involve Israel. Nowhere does my speech mention the current war or Zionism. It is strictly about the Holocaust."

"[The two student organizers] told me that my family's Holocaust narrative is not 'tasteful' and ... I asked 'what is not tasteful?' [One of the students] laughed in my face and said, 'oh my God.' This response was incredibly hurtful and inappropriate. They told me that my family history is inherently one-sided because it does not acknowledge the displacements of Palestinian populations, and I believe this accusation is an antisemitic double standard."

The Harvard report adds, "According to the student speaker, while the forum organizers eventually allowed the speaker to mention their grandfather's rescue mission, they insisted that the speaker omit reference to the British Mandate of Palestine as their grandfather's destination."

The Harvard report said, "In many ways, this story epitomizes what we heard about the experiences of numerous Jewish and Israeli students at Harvard in the period after the October 7, 2023 attacks on Israel. Some Jewish students were informed by peers, teaching fellows, and in some cases, faculty, that they were associated with something offensive, and, in some cases, that their very presence was an offense."

The report notes that, "Our work was preceded by a letter from 33 Harvard student groups that held Israel 'entirely responsible' for the Oct. 7 Hamas attacks on Israel. The letter, which was made public as the Hamas invasion of Israel was still underway, caught Harvard's Jewish community in a moment of intense vulnerability and grief and created a horrifying split screen, as community members juxtaposed horrific videos of violence and assault on Israeli civilians, all while encountering media reports in which fellow Harvard community members appeared to be blaming the victims, whose blood was not yet dry, for their own deaths."

Harvard also investigated anti-Muslim/Palestinian/Arab feeling on campus. It found discrimination against those speakers as well. It concluded that these students felt "abandoned and silenced" and that they saw their speech as less protected than Jewish students' speech.

It said, "The Harvard Corporation's decision to withhold degrees

"Actual First Amendment violations have almost universally targeted pro-Palestinian speakers, and in fact I would argue that government attacks grounded in the desire to silence or punish pro-Palestinian speech amount to the gravest concerted attack on First Amendment rights in this century."

— Gregory P. Magarian

from 13 Harvard College graduating seniors, which precluded them from participating in the graduation ceremony – despite a vote of the Faculty of Arts and Sciences to award the degrees – was seen by many as a chilling reminder of the consequences Harvard students can face for exercising free speech and engaging in student activism." 11 of the 13 eventually received the degrees.

One of the leading organizations fighting against campus speech codes and liberal campus orthodoxy was FIRE, the Foundation for Individual Rights and Expression. It defended Gerber when he was fired at Northern Ohio and led criticism of Harvard's failure to protect unpopular speech.

Greg Lukianoff, FIRE's president, wrote an influential 2015 Atlantic story titled "The Coddling of the American Mind" in which he said young people were not prepared for life because of the culture of "safe spaces". He also happened on and publicized what became a viral incident at Yale when a student was recorded screaming at a professor about his comments relating to appropriate and inappropriate Halloween costumes.

Now, however, with President Trump threatening hundreds of millions of dollars in fund cutoffs for universities, Lukianoff finds that the tables have turned and he and FIRE have become defenders of Harvard against Trump's efforts to cut off federal money based on the content of the campus speech – a purpose that is clearly a violation of the First Amendment.

Lukianoff has received pushback from conservative supporters and funders, but says the principles come first. "People care about freedom of speech when it's their side under the gun," he told the New York Times. "They don't care as much when it's anyone else."

Put simply, after running a campaign that criticized the First Amendment violations of "Woke" institutions, Trump is now violating the First Amendment rights of lawyers, colleges and media, who often are surrendering their rights without a legal fight.

Magarian, the Washington University First Amendment expert, points out, that far more pro-Palestinian speech was affected than pro-Israeli speech. In fact, he says the attacks on pro-Palestinian speech are unprecedented this century.

"The scope of free speech violations against pro-Palestinian (broadly defined) speakers during the Gaza War dwarfs the scope of free speech violations against pro-Israel (broadly defined) speakers," he wrote in an email. "Actual First Amendment violations have almost universally targeted pro-Palestinian speakers, and in fact I would argue that government attacks grounded in the desire to silence or punish pro-Palestinian speech amount to the gravest concerted attack on First Amendment rights in this century."

Big institutions retreat from First Amendment fight

Media, universities and law groups forgo legal challenges as Trump reshapes Washington and curtails free-speech protections

By William H. Freivogel

Many powerful law firms, media conglomerates and elite universities have surrendered their First Amendment rights to President Donald Trump without going to court.

As a result, President Trump has been able to use the cudgel of federal power to quickly win far-reaching victories over intellectual and cultural elites. This is particularly true when seen in the larger context of the defunding of public media, the imposition of Trump-approved ideology at the Smithsonian Institution, Trump's takeover of the Kennedy Center and the loss of thousands of international students and hundreds of millions in cuts in the NIH funding at universities.

Taken together, Trump's exercise of raw power has prevailed over many institutions whose purpose is the acquisition and spread of knowledge.

The change he has wrought in the first months of his second term have been consequential and may be seen by historians to be as far-reaching as the changes of the Ronald Reagan, Lyndon Johnson and Franklin D. Roosevelt presidencies. The changes accomplished in the name of ending "Woke" abuses to free expression have ending up doing serious damage to free expression and the unfettered pursuit of knowledge.

The checks and balances of the Constitution have done little to slow the changes. The Republican controlled Congress has approved almost all of them, and the U.S. Supreme Court has not significantly pushed back. Instead, it has allowed the changes to go into effect before it could even consider the merits of legal challenges. The late August decision allowing massive, \$783 million cuts to NIH grants tied to diversity was almost entirely consumed by arguments over procedure. Justice Ketanji Brown Jackson wrote it was the latest in a line of "Calvinball jurisprudence" — a reference to a Calvin and Hobbes cartoon — "with a twist. Calvinball has only one rule: There are no fixed rules. We seem to have two: that one, and this Administration always wins."

The changes have come with an ironic twist in that the federal power and civil rights laws wielded by Democratic presidents in the 1960s to be equal rights to Blacks have been used by Trump to undo programs favoring diversity.

Big media caves

CBS, ABC, Columbia University and some of Washington D.C.'s most well-connected law firms have paid the Trump administration hundreds of millions of dollars instead of defending fundamental First Amendment rights that have been hard won over the past century and that courts would almost certainly uphold, say First Amendment experts of different political stripes.

CBS's editing of the 60 Minutes 2024 interview with Kamala Harris and George Stephanopoulos' characterization of the \$5 million jury judgment against Trump for sexually abusing E. Jean Carroll were entirely defensible in court, media lawyers agree. But the corporate owners of those storied news organizations chose to pay tens of millions in settlements and attorneys fees rather than to contest Trump's extremely weak claims in court.

Trump's executive orders against big national law firms who had sued him and employed his critics were also meritless, as numerous federal courts have found when firms have taken them to court.

The executive orders removed legal opponents' security clearances, denied them access to federal court buildings and threatened to cut off federal contracts. Some of the big firms — first Skadden and Paul Weiss and then Willkie Farr, Milbank, Kirkland & Ellis, Latham & Watkins, A & O Shearman and Simpson, Thacher & Bartlett — capitulated and agreed to

provide \$100-\$120 million in pro bono legal services to the White House. Pro bono legal services are supposed to be for people who are poor.

Paul Weiss said publicly that its work for the Trump administration would be limited "to assist our nation's veterans, to combat anti-Semitism, and to promote the fairness of the justice system." Now it turns out the firm and Kirkland & Ellis are defending the Commerce Department for free.

Meanwhile, Ivy League universities such as Columbia University, Brown College and the University of Pennsylvania have bargained away important elements of their academic autonomy, Columbia paid \$200 million, eliminated DEI programs, agreed to review curricula and personnel in Middle Eastern studies department, among other concessions that included no masks for demonstrators and a definition of anti-Semitism much broader than set in law.

Brown University is paying \$50 million for Rhode Island state workforce initiatives and agreed to abide by Trump policies against trans athletes. The University of Pennsylvania reversed policies on trans athletes. The University of Virginia showed President James E. Ryan the door because the Justice Department criticized him for not making significant enough changes in DEI programs.

Harvard University is fighting in court, but is reported to be in talks with the Trump administration on a possible settlement to pay \$500 million. Harvard wants to money to go to workforce training, but Trump has insisted that money go to the federal government, The New York Times reported in early December. Harvard reportedly took down websites for its Foundation for Intercultural and Race relations and websites for gay and female students, merging them into one. It has removed two leaders for the Center for Middle Eastern Studies after Jewish alums complained of antisemitic programming. Harvard also suspended the relationship with a top Palestinian university after Trump administration complaints and set up new partnerships with institutions in Israel.

WashU Chancellor Martin splits from most universities

In an effort led by Chancellor Andrew Martin of Washington University, a new group of universities formed in the spring to take a compromise approach, maintaining that higher education has lost the confidence of the American people and needs reforms that ensure neutrality.

Washington University has scrubbed DEI from websites, cracked down on pro-Palestinian demonstrations and closed the transgender clinic at Barnes Hospital after political pressure.

WashU Chancellor Martin joined with Vanderbilt's president Daniel Diermeier in taking out a full-page ad in the Wall Street Journal calling for universities to reform themselves. The ad said, "Ideological forces in and outside of campuses have pulled too many universities away from the core purpose, principles and values that made them America's great engines of learning, innovation and discovery, and the envy of the world."

The two chancellors formed an invitation only group called the Universities for America's Future.

Martin explained this way in an interview this month with the Chronicle on Higher Education: "The reason why we're doing this is because we believe that the future of American higher education is at risk and that it is important for us to engage across the political spectrum, to listen and to understand what the criticisms are, to internalize those criticisms, and then work to improve so we can ultimately regain the trust of the American people."

As for the university retreat on DEI, Martin said after his State of the

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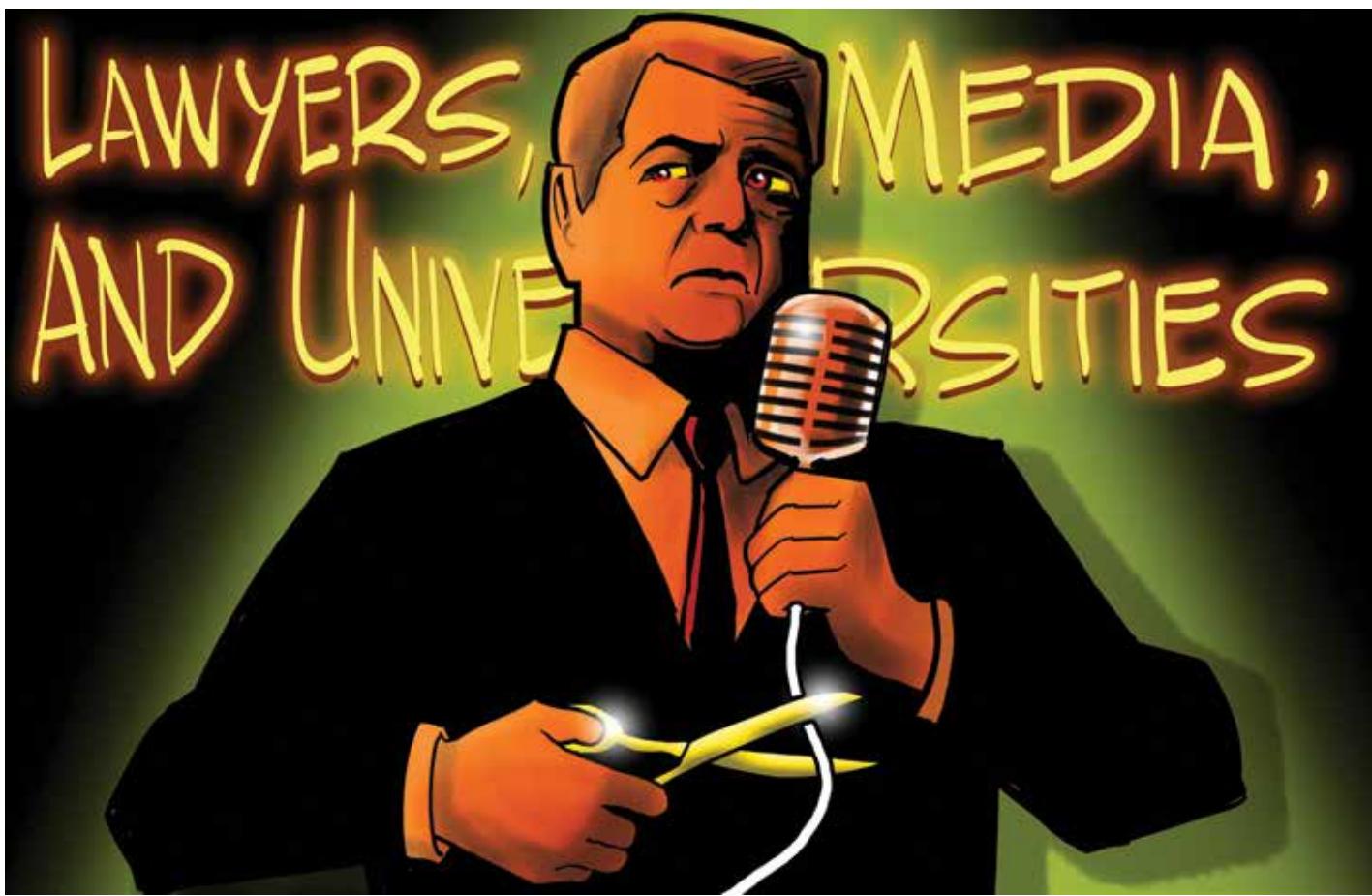


Illustration by Steve Edwards

University speech in February, "I don't actually know what DEI is, and, in fact, I think that most people who are out in the world talking about 'DEI this, DEI that' don't have a precise definition of what DEI is." In May, the university appointed a committee to recommend changes in diversity education.

Princeton University president Christopher Eisgruber suggested at an April meeting of the Association of American Universities, which he chairs, that Martin and Diermeier were playing into Trump's hands.

As the Atlantic's Rose Horowitch put it: "(Princeton's) Eisgruber argued that higher education was facing a politically motivated attack, and that the two men were inadvertently making matters worse by agreeing with President Donald Trump, against the evidence, that the sector had grown illiberal and out of touch with mainstream America. The chancellors, taken aback by the public confrontation, countered that the struggles of a handful of Ivy League schools were dragging down the reputation of America's heavyweight research institutions. Perhaps, they suggested, it was time for the Ivies' leaders to step back and let new figures — such as themselves — represent the country's top universities."

Martin refused to sign an April letter, now endorsed by 666 university presidents and developed by the American Association of Colleges and Universities (AAC&U) and the American Academy of Arts & Sciences. The letter said, "As leaders of America's colleges, universities, and scholarly societies, we speak with one voice against the unprecedented government overreach and political interference now endangering American higher education. We are open to constructive reform and do not oppose legitimate government oversight. However, we must oppose undue government intrusion in the lives of those who learn, live, and work on our campuses. We will always seek effective and fair financial practices, but we must reject the coercive use of public research funding."

Washington University's student newspaper, Student Life, criticized Martin's failure to sign the letter, editorializing, "The Trump administration's attacks on both higher education and freedom of speech are part of a broader attempt to suppress knowledge, civil discourse, and the pursuit of truth. Universities have historically been key sites for activism and resistance — and WashU is no exception." Saint Louis University was one of the universities that signed.

In addition, almost 800 alums, faculty, staff, students and donors urged Martin to sign the strong letter.

Martin, in his responses to criticism, has said he has long supported university neutrality, which is required for free academic pursuits and adherence to First Amendment values.

Martin participated in talks with the Trump administration in October, stating in an email to faculty, "We have chosen to participate in this conversation because we have been invited and with the intention of promoting our mission, values, and independence by having our voice at the table for these potentially consequential conversations."

But the faculty and students pushed back. A number of student and faculty organizations came out publicly against signing the compact, including WashU's chapter of the American Association of University Professors (AAUP). Nineteen student organizations posted a letter opposing an agreement. In a letter to faculty, Martin said he would not sign any document that undermines our mission or our core values, perhaps highest among these our commitment to academic freedom, access, free expression, and research integrity."

Big media

Disney's ABC agreed to give \$15 million to Trump's library and apologize for George Stephanopoulos' use of the word "rape" to refer to what Trump did to E. Jean Carroll in a New York department store in the mid 1990s. During a 2024 interview with Rep. Nancy Mace (R-SC), the "This Week" host said that Trump was "liable for rape".

A jury had found in 2023 that Trump had "sexually abused" her, but she had failed to prove he raped her.

Carroll reiterated after the verdict that Trump had "raped" her, and Trump countersued for defamation. Federal Judge Lewis Kaplan threw out Trump's countersuit saying that Carroll's rape allegation was "substantially true."

By responding no to the question of whether Trump raped her, the jury indicated they weren't convinced Trump had penetrated her with his penis, as is required under New York criminal law, the judge said.

But Kaplan concluded that the jury was convinced that Trump penetrated her with his finger. "It accordingly is the 'truth,' as relevant here, that Mr. Trump digitally raped Ms. Carroll," Kaplan said. Trump denied any sexual encounter ever occurred.

Walt Disney CEO Bob Iger was reported in a leaked comment to be concerned that ABC could lose the case and weaken press protections by

allowing an opening for the Supreme Court to overturn the landmark 1964 decision of *New York Times v Sullivan*. But First Amendment experts say ABC/Disney would have won the case in the Supreme Court and that it was Iger's surrender that undermined the decision.

The *New York Times v. Sullivan* standard is that a public official has to prove "actual malice," meaning reckless disregard for the truth, in order to win a libel case. Kaplan's dismissal of Trump's countersuit against Carroll and the judge's use of the word "rape" to describe Trump's actions, shows the weakness of the Trump case, lawyers say.

The *New York Times* decision in 1964 at the height of the Civil Rights Movement is a cornerstone of media protection in that it blocked the legal attempts of segregationist southern politicians to use libel cases to bankrupt national media and keep their cameras away from the brutality unleashed against civil rights protesters by southern sheriffs.

Paramount's settlement of Trump's \$10 billion lawsuit against "60 Minutes" also resulted from bottom line corporate considerations.

Former *60 Minutes* Executive Producer Bill Owens said he wouldn't apologize for the editing of the Harris answer to a question about the Middle East from Bill Whitaker. Harris gave a long answer, part of which *60 Minutes* used during its show and a different part of which was aired the day before as a preview of the show — a standard editing procedure.

In one clip of the interview released by CBS, Harris responded: "Well, Bill, the work that we have done has resulted in a number of movements in that region by Israel that were very much prompted by, or a result of, many things, including our advocacy for what needs to happen in the region."

In the fuller version of the interview, Harris said: "We are not gonna stop pursuing what is necessary for the United States to be clear about where we stand on the need for this war to end."

"*Face the Nation*," broadcast an excerpt from Harris's interview "that used a longer section of her answer than that on *60 Minutes*," said the network. "Same question. Same answer. But a different portion of the response," it said, adding that it aired Harris's shorter answer because it "was more succinct."

The Center for American Rights filed a complaint with the FCC last fall saying this was a "deliberate news distortion." The FCC dismissed the complaint in early January, but Trump's new FCC chair, Brendan Carr, reopened the case and demanded CBS turn over the full transcript. CBS published the transcript of the interview earlier this year.

Trump — who refused to be interviewed by *60 Minutes* at the time it interviewed Harris — sued Paramount for \$10 billion for the "news distortion."

Shari Redstone, Paramount's controlling shareholder, approved a settlement because she could clear billions of dollars on the sale of Paramount in a deal with Skydance, backed by the billionaire Larry Ellison.

Redstone told *The New York Times* she was upset by CBS's coverage of Gaza, which she thought was too critical of Israel. To get the settlement, Paramount paid \$16 million toward Trump's eventual presidential library and covered his legal costs. Fox News reported later that there was also a "side deal" worth upward of \$20 million in free advertising, public service announcements or other programming friendly to Trump.

The New York Times editorialized as the settlement was taking shape: "A settlement would be an extraordinary concession by a major U.S. media company to a sitting president, especially in a case in which there is no evidence that the network got facts wrong or damaged the plaintiff's reputation."

Mark Sableman, a top media lawyer and partner at Thompson Coburn in St. Louis, explained how the media's refusal to settle meritless defamation cases — even at great cost — had shown journalists that worthy reporting would be supported. He wrote in an email:

"For many years, most major news organizations vigorously defended meritless cases, even when the costs of defense were greater than settlement costs. They did so believing that this was the best strategy in the long run. I believe this strategy worked well."

Ironically, even as Redstone was negotiating away CBS's legal defense, "Good Night and Good Luck" was playing on Broadway. It dramatizes Edward R. Murrow's courageous confrontation of Sen. Joseph McCarthy during the Red Scare of the 1950s.

Big law

This past spring Trump issued executive orders directed at New York and Washington law firms he considered unfriendly. Those employing people such as special counsels Jack Smith and Robert Mueller were targeted.

A March executive order, entitled "Preventing Abuses of the Legal System and the Federal Court", targeted lawyers and law firms who had filed "frivolous, unreasonable, and vexatious litigation" against the administration, as judged by the attorney general. The memo and executive orders against individual law firms included revocation of security clearances and preventing any company that uses such a firm from getting federal contracts.

Nine big law firms — mostly from New York — settled with Trump and are providing a total of almost \$1 billion in pro bono work. Above the Law, a legal publication, refers to them as the Surrendergate Nine. Four firms — including Perkins Jenner and Wilmer — have contested Trump's order and all four have won in court so far, although the White House is appealing.

Meanwhile, the American Bar Association urged everyone in the legal profession to stand up against the Trump's "efforts to undermine the courts and the legal profession" and deans of about 80 law schools signed a joint letter condemning Trump's actions. They said, "Punishing lawyers for their representation and advocacy violates the First Amendment and undermines the Sixth Amendment."

WilmerHale, one of the law firms that challenged the executive orders issued by Trump, hired a leading conservative lawyer, Paul Clement, to represent them. Clement said that this case was "absolutely critical to vindicating the First Amendment, our adversarial system of justice, and the rule of law."

In response to the lawsuit, U.S. District Judge Richard Leon issued a temporary restraining order blocking parts of the executive order stating in his opinion that "[t]here is no doubt this retaliatory action chills speech and legal advocacy, or that it qualifies as a constitutional harm."

Big education

Elite universities aren't arguing that WashU and Vanderbilt are guilty of surrender in their formation of the Universities for America's Future. But they do suggest they are giving comfort to the Trump administration's attack on universities where he has used the levers of presidential power to force the payment of huge fines, cut off federal funding and sharply reduce the flow of international students who make up a large part of graduate student bodies.

Gregory P. Magarian, a First Amendment expert and professor on the law faculty with which Martin still is affiliated, would like to see Martin clarify what he means by university neutrality. He thinks the term is empty.

"I understand that universities don't have the same missions as political parties or activist groups," he wrote in an email. "Universities generally avoid wading into partisan politics, among other controversies, and that's appropriate. But the mission of a university entails confronting all sorts of controversies."

Many universities, for example, divested from South African investments during Apartheid, for example. 155 universities had divested from South African companies by 1985 and by 1990, 200 American companies had stopped doing business there — actions that contributed to the fall of Apartheid.

Magarian also says that Martin has enforced a Palestine exception to free speech.

"What we've observed with these Palestine protests measured against any norm of free speech — in the case of public universities, the actual First Amendment — is something that I've rarely seen before," Magarian said last year during congressional hearings on pro-Palestinian protests.

"You've got congressional committees browbeating and driving out of their jobs university presidents for the sin of not punishing students who say things like 'from the river to the sea Palestine will be free.' The notion that that slogan is outside the First Amendment's protection, or outside ordinary norms of free speech, is a completely crazy notion that is textbook day one, free speech stuff. If someone is out on the street yelling 'Kill all the Jews,' that's a different conversation."

This exception is creating a new wave of McCarthyism as too many people are deliberately attempting to weaponize false connections between dissent and terrorism, he said. In addition to the term terrorist and instead of the label of communist, critics are calling pro-Palestine speech and criticism of Israel antisemitic.

"There's a lot of rhetoric from a certain segment of people who support Israel saying, 'If you're participating in these protests, you are a terrorist, or you are a supporter of terrorists,'" he said. "That is functionally identical to [...] being in the 1950s and saying [if you are] expressing commitments to any kind of social or economic egalitarianism, you're a communist."

'This is not normal': First Amendment faces extraordinary pressures in the wake of Kirk assassination

By William H. Freivogel

Charlie Kirk's assassination and the extraordinary week of threats, recriminations, firings, suspensions and lawsuits that followed tested the outer limits of free speech. The fallout still is testing those limits three months later.

What role does hate speech play in political violence? When is hate speech protected by the Constitution – as it is with flag-burning and cross-burning and even academic advocacy of overthrowing the government. And when is it not protected, as in incitement to a crime that is imminent or true threats or in your face fighting words.

If conservatives don't approve of "cancel culture" when "Woke" sensibilities force out conservative speakers, how can they support cancel culture where those criticizing Kirk's speech are forced out of jobs or silenced? The First Amendment can't favor one partisan political side over another.

Can the government take away the nonprofit status of the Soros foundation or the Ford Foundation for supporting liberal causes? Can the president declare Antifa a domestic terrorist group? Can the government investigate a "network" of liberal groups for contributing to Kirk's assassination if the shooter acted alone without direct incitement?

Was some of Kirk's own speech about Black women, gays and transgender people hate speech? Is criticizing Kirk's alleged hate speech a fireable offense?

Would Kirk himself approve of investigating hate speech, as Attorney General Pam Bondi threatened, considering that one of Kirk's most attractive features to young people was his fervent advocacy of free speech and open debate across the spectrum?

What about the speech of MSNBC's Matt Dowd who was removed by network executives after saying shortly after the shooting that Kirk was "one of the most divisive, especially divisive younger figures in this, who is constantly sort of pushing this sort of hate speech or sort of aimed at certain groups ... hateful thoughts lead to hateful words, which then lead to hateful actions."

Or how about those who suggested, apparently wrongly, that the shooter might have been a right-winger? ABC removed Jimmy Kimmel from the air for suggesting it, reacting to pressure from Trump's FCC chair. Trump applauded from London.

What about a professor suggesting that some of Kirk's speech was hate speech? The Chronicle for Higher Education rounded up university firings this week where Republicans pressed university officials to fire professors, from Clemson, to Florida Atlantic to the University of Tennessee and beyond.

Kirk becomes a martyr

The bullet that ended Kirk's life while he spoke from the stump at a Utah university instantly transformed him into a martyr for the First Amendment and for the conservative causes he championed. Kirk, who was 31, toured the country for years as part of his Turning Point USA campaign, challenging liberals to debates and bringing many Gen Z men and women into President Trump's MAGA campaign. Trump said Kirk might have won him the election. Young liberals, whom Kirk debated and often bested, joined in commemorating Kirk's devotion to free and open debate.

President Trump quickly blamed the "radical left" for "political violence (that) has hurt too many innocent people and taken too many lives." In the days since the shooting, he, Vice President Vance and much of their administration have threatened the nonprofit status of liberal groups like George Soros's Open Society Foundations and the Ford Foundation, threatened to revoke visas for people seen to be "celebrating" Mr. Kirk's death, threatened to initiate hate speech investigations and spoke of

designating liberal groups as domestic terrorists.

Vance took over the microphone of Kirk's popular daily radio show on Monday and threatened to crack down on the "radical left lunatics," while Deputy Chief of Staff Stephen Miller, point man for deportations, said he'd use the Departments of Justice and Homeland Security to disrupt "networks" responsible for violence. Miller claimed there were "organized doxing campaigns," "organized campaigns of dehumanization and vilification," and "actual organized cells that carry out this violence" as parts of the "vast domestic terror movement."

"This is not happening for free," Miller said. "And so under the president's direction, the attorney general is going to find out who is paying for it, and they will now be criminally liable for paying for violence."

Vance said, "We're going to go after the NGO network that foments, facilitates, and engages in violence."

Vance blamed Soros and Ford for funding the "disgusting article" in the Nation magazine that he said was used to justify Kirk's death. "Well-funded institutions of the left lied about what he said so as to justify his murder," said Vance. "This is soulless and evil."

There is no evidence of either foundation funding the Nation in recent years. Nor was Vance's claim about the Nation's article accurate: The article "lied about a dead man," Vance claimed. The "lie" was in quoting Kirk saying "Black women do not have brain processing power to be taken seriously."

In actuality, Kirk in criticizing affirmative action, listed Rep. Shirley Jackson Lee, D-Texas, TV host Joy Reid, Michelle Obama and Justice Ketanji Brown Jackson and added: "Yeah, we know. You do not have the brain processing power to otherwise be taken really seriously. You had to go steal a white person's slot to be taken somewhat seriously."

Trump was asked at the White House after the Vance radio show if he would designate organizations like Antifa as domestic terrorist organizations. "It's something I would do, yeah," Trump said.

The administration's denunciations of political violence are entirely directed at violence against conservatives. The president did not react to the Minnesota murders of leading Democrat state legislative leaders or a gunman's attack on the Centers for Disease Control and Prevention. Nor has Trump or Vance or any other administration official provided evidence linking any group to the Kirk shooting. Law enforcement has so far described the murder as the act of a single gunman.

One more question to the president this week was why he hadn't lowered the flag to half-mast after the June assassination of Melissa Hortman, Minnesota House Speaker, and her husband. Trump responded, "I'm not familiar. The who?"

As Trump boarded a plane to England, a reporter asked, "What do you make of Pam Bondi saying she's gonna go after hate speech? ... A lot of your allies say hate speech is free speech."

His answer was personal, directed at the questioner ABC News Chief Washington Correspondent Jonathan Karl. "[We'll] probably go after people like you, because you treat me so unfairly, it's hate. You have a lotta hate in your heart. Maybe they'll come after ABC. Well, ABC paid me \$16 million recently for a form of hate speech, right? Your company paid me \$16 million for a form of hate speech. So maybe they'll have to go after you."

Trump's reference was to ABC's agreement to settle a defamation case Trump filed against the network for George Stephanopoulos' use of the word "rape" to characterize a jury verdict finding that Trump had sexually assaulted E. Jean Carroll in a New York department store in the mid-1990s.

An unusual \$15 billion lawsuit

About the same time Monday that Vance and Miller were making their

CANCEL CULTURE

Illustration by Steve Edwards

enforcement threats on Kirk's radio broadcast, the president's lawyers were filing a \$15 billion defamation suit against the New York Times, complaining the Times had not given him the credit he deserved for the success of his businesses, *The Apprentice* or his unprecedented election victory.

In language one doesn't usually find in a lawsuit, the complaint said, "With the overwhelming victory, President Trump secured the greatest personal and political achievement in American history. All across our country, Americans from a wide array of backgrounds saw the truth about him and voted accordingly — the same truth that The New York Times refused to recognize as it continued spreading false and defamatory content about President Trump.

"...The subject matter of this action — a malicious, defamatory, and disparaging book written by two of its reporters and three false, malicious, defamatory, and disparaging articles, all carefully crafted by Defendants, with actual malice, calculated to inflict maximum damage upon President Trump, and all published during the height of a Presidential Election that became the most consequential in American history — represent a new journalistic low for the hopelessly compromised and tarnished 'Gray Lady.'

On social media, Trump trumpeted his suit: "The 'Times' has engaged in a decades long method of lying about your Favorite President (ME!), my family, business, the America First Movement, MAGA, and our Nation as a whole," Trump wrote. "I am PROUD to hold this once respected 'rag' responsible, as we are doing with the Fake News Networks such as our successful litigation against George Slopadopoulos/ABC/Disney, and 60 Minutes/CBS/Paramount."

Not normal

The Trump lawsuit was filed as a Media Law Resources Center brought together First Amendment lawyers, judges and journalists outside of Washington to discuss recent First Amendment developments.

A theme quickly emerged. The actions of the Trump administration are not normal and they threaten to harm the First Amendment, in contradiction to Trump's frequent campaign promises to expand free speech by ending cancel culture and deference to Woke sensibilities.

"This is not normal," said U.S. Judge Paul Friedman, a senior district judge in D.C. "We've never seen anything like this before." Friedman was referring the 400 lawsuits that have been filed against Trump's actions. He also mentioned the threats federal judges have received recently, including unordered pizza deliveries in the name of Daniel Salas. Salas, the son of New Jersey federal judge Esther Salas, was murdered in 2020 by a disgruntled lawyer who came to the judge's house disguised as a pizza delivery man. John McConnell, a U.S. district judge from Rhode Island, and Robert Lasnik, who sits on the western district of Washington, say they recently received pizzas in Daniel's name.

Friedman said there has been a centuries' long adherence to the principle of a "presumption of regularity" in government actions. He said judges are now backing away from that presumption. "The presumption of regularity ... built up over generations has been lost in weeks."

No president had sued the media before Trump, the lawyers and judges said. The closest thing to it was that Theodore Roosevelt, after leaving the

White House, sued because of an article saying he was frequently getting drunk. Roosevelt won six cents in court.

Lee Levine, a veteran First Amendment lawyer, quipped that when former President Richard M. Nixon was threatening FCC licenses of the Washington Post around the time of Watergate, "even he wasn't trying to line his pockets with defamation suits."

Elisabeth Bumiller, who was formerly Washington Bureau Chief of the Times, said the Times has taken precautions to protect its reporters. In addition, it has greatly expanded the size of the Washington Bureau from 70 to 200. Given Trump's late night postings, the reporters are often busy into the wee hours, she said.

Bumiller said that before the president's trip to Alaska to meet with Vladimir Putin, there were no briefings on what to expect. That would never have happened in past presidencies, she said. Mike McCurry, the Clinton press secretary, agreed.

FCC Commissioner Ann Gomez, a Democratic holdover on the FCC, said she "never would have expected reinitiated investigations (of cases) that had been dismissed." She was referring to the Trump claim that CBS had distorted the news by its editing of the 60 Minutes interview with Kamala Harris last fall. The FCC had dismissed the complaint last year, but Trump's new chair, Brendan Carr, reopened the investigation, which had the effect of pressuring CBS's corporate owners to settle for \$16 million plus.

Carr also led the offensive against Kimmel. Kimmel said during his monologue Monday, "We hit some new lows over the weekend, with the MAGA gang desperately trying to characterize this kid who murdered Charlie Kirk as anything other than one of them, and doing everything they can to score political points from it." (Authorities released evidence Tuesday that the shooter targeted Kirk because of his conservative views.)

On Wednesday, the FCC's Carr responded to Kimmel in a podcast with conservative influencer Benny Johnson. "We can do this the easy way or the hard way," he said, adding, "These companies can find ways to change conduct and take action, frankly, on Kimmel, or there's going to be additional work for the FCC ahead." ABC quickly suspended Kimmel indefinitely. Carr said Thursday that the Kimmel suspension will "not be the last shoe to drop."

President Trump celebrated: "Great News for America: The ratings challenged Jimmy Kimmel Show is CANCELLED," he posted on Truth Social. "Congratulations to ABC for finally having the courage to do what had to be done. Kimmel has ZERO talent, and worse ratings than even Colbert, if that's possible. That leaves Jimmy and Seth, two total losers, on Fake News NBC. Their ratings are also horrible. Do it NBC!!! President DJT"

While returning from London, Trump escalated the threats, suggesting that the FCC should consider revoking the license of broadcasters that criticize him.

Aboard Air Force One, Trump told reporters that the networks are "an arm of the Democrat party" who are out to get him.

"I have read someplace that the networks were 97 percent against me, I get 97 percent negative, and yet I won and easily. I would think maybe their license should be taken away."

Jon Stewart ended the day Thursday by stepping in to guest host *The Daily Show*, introducing "the all new, government-approved 'Daily Show'" with its patriotically obedient host.

MAGA to the Max: Introducing the Gateway Pundit's new Pentagon bureau

By Paul Wagman

"Americans have largely abandoned digesting their news through the lens of activists who masquerade as journalists in the mainstream media. We look forward to beginning a fresh relationship with members of the new Pentagon press corps."

So wrote Sean Parnell, spokesman for the recently rechristened U.S. Department of War, when he announced in October the installation of a new Pentagon press corps, made up of reporters and outlets that had agreed to the Pentagon's new rules for coverage. The new rules represented such a drastic infringement on the ways journalists do their jobs that even conservative outlets like Fox News Channel and Newsmax refused to sign on and chose to quit the building instead. The New York Times, on Dec. 4, sued to halt their enforcement.

But many outlets from the far right were clearly unfazed. Some 60 reporters representing them signed on. And among them St. Louis's very own Gateway Pundit, the conspiracy-minded website owned and operated by Jim Hoft.

Only a little more than a year ago, it appeared that Hoft and his business might be on the ropes. He and his company, TGP LLC, which is now officially based in Jensen Beach, Fla., had been sued for defamation in St. Louis Circuit Court by two Georgia poll workers, Ruby Freeman and her daughter, Shaye Moss. The two women had already won a judgment of \$148 million from Rudy Giuliani, the former New York City mayor and a lawyer for the 2024 campaign of President Donald Trump, for his baseless accusations against them in connection with vote counting in the 2020 election. So it appeared they might be in line for another big payout in St. Louis; Gateway Pundit, after all, had made the same accusations as Giuliani, only more often.

But Giuliani declared bankruptcy and managed to evade any payment for more than a year. Not until January 2025 did he and the two women finally reach a settlement, the terms of which have been kept confidential.

Frustrated, perhaps, by this delay, the two women settled with the Gateway Pundit in St. Louis in October 2024. The terms of that settlement also have not been disclosed, but the Gateway Pundit ran a brief, dry statement noting that Freeman and Moss "did not engage in ballot fraud and criminal misconduct" and that "A legal matter" with the two women "has been resolved ...".

Today the Gateway Pundit appears to be hale and hearty. The visitors keep on coming — 26 million a month, according to Semrush, a Boston-based digital marketing platform that tracks this information. That's nearly six times the number visiting STLToday.com and more than three times the number visiting ChicagoTribune.com.

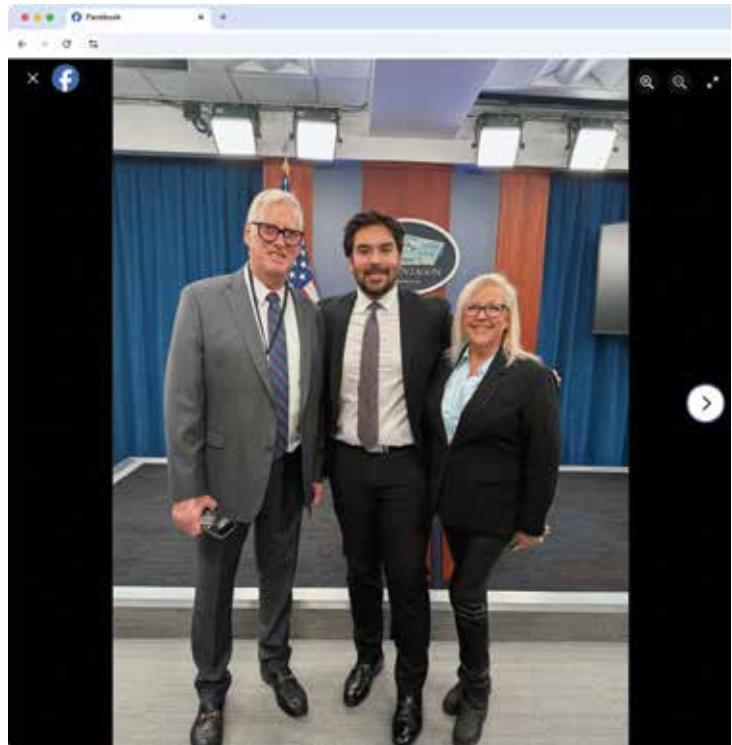
And although the Post-Dispatch has no Washington bureau, needless to say, the Gateway Pundit now has two Pentagon correspondents.

One is Jordan P. Conradson, whose personal and professional story bears a curious resemblance to that of his employer. He was down — way down. But he is resilient, and today he very much appears to be fortune's child.

The other is Jenn Baker, who has contributed numerous pieces to the Gateway Pundit over the last several years advocating for individuals who had been arrested in connection with the Jan. 6 insurrection.

Some background on both, gathered from Internet research, follows. Neither Conradson nor Baker nor the Gateway Pundit's lawyer, Jonathan C. Burns, responded to requests for interviews or specific questions.

Only a few years ago, Conradson, according to his very brief LinkedIn page, was a self-employed teenage residential real estate agent in Phoenix. He grew up in the industry, he has written elsewhere;



Facebook screenshot posted by the Gateway Pundit's new Pentagon Bureau

From left: Jim Hoft, Jordan Conradson, Jenn Baker

his parents were in it. His LinkedIn page shows no evidence of his having gone to college. He is now, it appears, 24 years old.

By 2020, Conradson was also reportedly working instead or in addition as a staffer in the campaign of Arizona legislator Merissa Hamilton for mayor of Phoenix. Hamilton campaigned primarily against what she called overly restrictive policies in response to Covid. She finished a distant second to the Democratic incumbent, but the job appears to have given Conradson his start in the world of politics.

Months later, in April 2021, Conradson jumped into that world with both feet by joining the Gateway Pundit. He immediately began covering a Republican-sponsored recount of the November 2020 presidential voting in Maricopa County, where Phoenix is the county seat. Supporters of President Trump had claimed there had been irregularities in favor of Biden, who had been declared the state's winner.

In September 2021 the auditors released a report that, far from overturning the vote count, showed that Biden had actually won by a slightly higher margin than previously recognized. But the Gateway Pundit covered that development in much the same way it had the finding by the state of Georgia that Ruby Freeman and Shaye Moss had actually not committed any voting irregularities — it only dug in deeper.

Just a few days after the results of the audit in Maricopa County were announced, Conradson referred to the immigration then taking place across the southern border as "another horrific result of this fraudulent election." And a few weeks after that he led another piece this way: "U.S. Congressman Paul Gosar understands there was fraud in Arizona's 2020 presidential election."

A few months later, on April 3, 2022, Conradson was making news himself.

Conradson was arrested on that date and briefly jailed after the police were called to the home of his girlfriend, multiple local

Gateway Pundit still faces defamation case in Denver

By Paul Wagman

Although the Gateway Pundit appears to have emerged largely unscathed from the defamation case two Georgia poll workers once brought against him in St. Louis, he is not yet entirely out of the defamation woods.

This past June, the U.S. District Court in Denver finally set an April 2026 trial date for another defamation case filed five years ago against both The Gateway Pundit (TGP Communications LLC) and its owner, Jim Hoft, a longtime St. Louisan who may now also keep a residence in Florida. The case also involves several other defendants, including Donald J. Trump for President Inc., the official name for the Trump 2020 presidential campaign, and Rudy Giuliani.

The plaintiff in the case is Eric Coomer, the former Director of Product Security and Strategy for Dominion Voting Systems. He has accused all the defendants of recklessly spreading false claims that he conspired with Antifa activists to rig the 2020 Presidential election by switching votes to Joe Biden. The result, he said, was "an onslaught of harassment and credible death threats issued against him," which forced him into hiding and to leave his job.

A federal court jury in Denver has already found one of the people Coomer sued separately in the matter guilty. Mike Lindell, the pillow salesman and aggressive election denier, was ordered this past June to pay Coomer \$2.3 million in damages for his role in defaming him.

Several other defendants have settled. They include Sidney Powell, a former Trump attorney; One America News Network and its White House correspondent, Chanel Rion; Newsmax Media, Inc., which also publicly apologized; and Salem Media of Colorado, a conservative Christian media company, and its former radio host, Randy Corporon.

Corporon is also representing Hoft in his

case in Colorado, along with St. Louis-based attorney Jonathan C. Burns.

Hoft has contended that his coverage relied on the sworn affidavits, statements, and evidence presented by others; that they were made without malice; and that they are protected free speech.

Attorneys for Coomer say Hoft relied on "false allegations" made by another defendant, Colorado podcaster Joseph Oltmann, without making any "efforts to verify or corroborate" them and even though there was "no credible evidence" to support them.

On his website, his attacks on Coomer remain. Some sample headlines of stories under his own by-line:

From Oct. 12, 2021: "F**k the USA!" – Dominion's Eric Coomer Admits Under Oath to Being former Skinhead, Heroin Addict – Lied in Denver Post Scree (VIDEO)"

Nov. 27, 2020: BALD-FACED LIES: Dominion Says Assertions of Vote Switching Are "Completely False" – But We Have Two Videos of Dominion Executive Eric Coomer Showing How to Switch Votes

However the case finally ends – in a trial or a settlement – it will be the last step in a tortuous process that began with an initial filing by Coomer in December 2020. Lawyers for Hoft and the other defendants filed motions to have the case dismissed, but in May 2022 Colorado District Court Judge Marie Aver Moses denied the motions and excoriated all the defendants, Hoft included. About him and The Gateway Pundit she wrote:

"... there is evidence that Hoft-TGP repeatedly, without evidence, falsely accused Coomer of overturning the presidential election. ... Further, there is evidence Hoft-TGP's allegations incited threats of real violence against Coomer, including posting

an article advertising a million-dollar bounty on Coomer. ... There is *prima facie* evidence that Hoft-TGP acted recklessly and with the intent to cause Coomer severe emotional distress. Coomer has put forward *prima facie* evidence establishing both falsity and Hoft-TGP's actual malice. ... Coomer has established a reasonable likelihood that he will prevail on his claims for intentional infliction of emotional distress against Hoft-TGP."

But the defendants went to the Colorado Court of Appeals, and there the case languished for nearly two years.

In April 2024, that court finally denied the appeal. In regard to Hoft and TGP, it agreed that they didn't incite violence against Coomer, but added:

"We do not agree that their conduct can be deemed not extreme and outrageous as a matter of law. ... Coomer presented evidence that would support a finding that the Hoft Defendants falsely accused him ... of saying he 'made sure' President Trump would not win reelection and implied, with no evidence, that he had rigged the presidential election ... The Hoft Defendants then repeated those claims several times to a nationwide audience ...

"These statements went beyond mere insults, annoyances, or trivialities. ... They struck at the core of American democracy and made Coomer a personification of claims that the presidential election had been stolen."

Seeking to overturn the Appeals Court's judgment, Hoft and the other defendants filed a writ of certiorari, but in March 2025 the Colorado Supreme Court rejected that petition and sent the case back to the District Court, which a few months later set the trial date for next April 6. Discovery has already begun.

media outlets reported. One reporter later posted a story containing a screenshot of a signed plea agreement, dated Oct. 24, 2022, in which Conradson pleaded guilty to two misdemeanor assault and criminal damage charges in exchange for a sentence of five days in jail suspended upon successful completion of domestic violence counseling. Conradson was also ordered to have no uninvited contact with the victim; and ordered to pay more than \$4,000 in restitution to her mother, whose property had been damaged. The story said that after completion of his domestic violence counseling, the public record of the complaints read "compl. dismissed by court."

Another apparent setback came later in the year. Maricopa County shut Conradson out of county press conferences in the run-up to the 2022 election by refusing him a press pass. The county said he was "not a bona fide correspondent of repute in your profession."

In response to both of these setbacks, however, Conradson pushed back. And both times, he prevailed.

After he was refused a press pass, Conradson and The Gateway Pundit sued, accusing Maricopa County of violating their First Amendment rights. The county said legal precedent gave it the authority to set limitations on journalists, and that Conradson's reporting had led to death threats against county employees. But after

a district court judge ruled in the county's favor, the Ninth Circuit Court of Appeals sided with the plaintiffs, contending that the county's action had violated the First Amendment because it had been based on the viewpoints expressed in Conradson's writing. In April 2023 Maricopa County settled with the Gateway Pundit for \$175,000.

As satisfying as that win must have been for the Gateway Pundit, however, it may pale against Conradson's recovery from his arrest. His Facebook page and Instagram accounts report that he and the young woman he pleaded guilty to assaulting are planning to marry.

Conradson made news again after lawyers for the two Georgia poll workers filed a brief in St. Louis in connection with the defamation case. The brief, part of the discovery process in that case, noted that one of the pieces the Gateway Pundit published "discussing the false allegations underlying this case" had been an interview conducted by Conradson with an election denier. (The interview has apparently since been deleted from the Gateway Pundit website, likely in compliance with the settlement.)

The filing then asked the court to compel the Gateway Pundit to produce "information about criticisms of TGP contributors. ...

Continued on next page

documents produced by third parties but not by Defendants show that TGP's staff had major concerns as to the professionalism, reliability, and honesty of several contributors, including Jordan Conradson, who wrote some of the defamatory Articles." The filing specifically cited "texts between TGP director of operations and associate editor expressing concerns that a contributor engaged in plagiarism and made claims without any sources."

The texts were never made public, however, and the discovery process ended with the settlement. None of the requested information about internal criticisms of Conradson's work has ever been made public.

The associate editor for the Gateway Pundit throughout Conradson's tenure at the publication has been Cristina Laila. In a 2021 interview with the GJR, Hoft said she shares pre-publication story review duties with Conradson.

Laila, who describes herself on her Instagram account as a "Defender of Christendom," did not respond to a GJR interview request.

In any event, Conradson appears to be running at full speed. On his X account he accuses the Democrats who noted that members of the armed forces should disobey illegal orders of "calling for a military coup." On X and elsewhere, he refers to Jasmine Crockett, a black Congresswoman, as "Ghetto, dumb and ignorant" and mockingly mimics her speech. On Rumble.com, he has a new interview program called "DC Dive," where he explains that the Democrats shut down the government because they "want to destroy Trump's main achievement; the economy." On Gateway Pundit, he cheerleads for the administration's policies of blowing up ships in international waters.

And he is excited, in his own words posted on X, to be at the Pentagon, where he can now "help restore honest journalism."

Jenn Baker, his Gateway Pundit co-worker at the Pentagon, is if anything more excited. In fact, she posted on Facebook and X, she is "overwhelmed with excitement to be able to represent @gatewaypundit in the Pentagon Press Corps."

The new rules instituted by Secretary of War Pete Hegseth are "common sense," she wrote. And her new assignment, she believes, has a divine dimension.

"Yesterday I was blessed to see the Pentagon tree lighting and share it with ... other members of the DoW Press Corps," she wrote Dec. 4 on X. "@SecWar has brought God back. Serving Him so he can serve the members of our military. Thank you @PressSecDOW."

On her Facebook page, Baker shares little information beyond the fact that she is from Yorba Linda, Cal. A biographical blurb posted on the Gateway Pundit site describes her as the "lead writer and outreach coordinator for the legal advocacy group called Condemned USA." The blurb mentions that she also has a podcast on Rumble called "Flip the Switch w/Jenn."

On its website, Condemned USA describes itself as "a legal advocacy dedicated to defending constitutional rights and ensuring fair treatment for those facing political persecution ... founded in response to the events of Jan. 6" and providing "legal support, public advocacy, and educational resources for individuals and families affected by government overreach and judicial bias." The organization is registered as a nonprofit but has not yet filed the IRS Form 990 that would give insight into its financials.

The founder of the organization is Treniss Evans III., a resident of Canyon Lake, Tex. who in 2022 was sentenced to three years' probation for his participation in the events of Jan. 6. In its sentencing memo, the U.S. Attorney's office said that after stepping through a broken window to enter the Capitol building Jan. 6, Evans had "someone record a video of him drinking a shot of whiskey" in what he believed was Speaker Nancy Pelosi's conference room.

The memo added: "Evans has made statements on social media demonstrating a lack of genuine remorse and has raised money off his participation in the January 6 attack; and ... has glorified political violence on social media, including by saying in February 2022 that he 'love[d]' a post threatening to 'stack bodies' if members of the 'deep state' did not 'surrender.'"

The AP included Evans in a story about Jan. 6 rioters who had tried to profit off their activities that day.

But Evans has said he founded Condemned USA to help other

Jan. 6 protesters with less money and access to legal and other help than he had. And the U.S. Attorney acknowledged in his sentencing statement that he used a megaphone outside the Capitol building to urge fellow-protesters to be peaceful.

Baker's interview show, "Flip the Switch with Jenn Baker," is carried on the Rumble.com platform that is host to many far-right outlets. She has used it almost exclusively for interviews — entirely sympathetic and supportive — with Jan. 6 protesters. Among them have been Barry Ramey, a Proud Boy who pleaded guilty to pepper-spraying a police officer; Enrique Tarrio, chairman of the Proud Boys; and Stewart Rhodes, founder of Oath Keepers and, by her description, "an accomplished, wonderful man."

Baker's writing also includes at least one piece in behalf of the nonprofit American Rights Alliance, which is funded, she reports, by Donald Trump Jr., and where Evans, she reports, is chief operating officer.

The piece focuses on the plight of Tina Peters, a former clerk of Mesa County, Col. who since October 2024 has been serving prison time in that state for tampering in connection with the 2020 presidential election. Specifically, Peters was found guilty of allowing an associate of MyPillow salesman and Trump loyalist Mike Lindell access to a secure room to copy a hard drive containing data from the state's 2020 presidential election results. The effort was in connection with a failed attempt at discovering voter fraud.

Peters, Baker wrote, is one of the "patriots" who has been "targeted by their own government." (In a bit of reversal, Baker was herself the guest on Peters' own podcast, "The Truth Matters with Tina Peters," in July 2024. That podcast was sponsored by Lindell's digital outlet, LindellTV, and like Baker's podcast, also carried on the Rumble platform. "I love you so much," Baker told Peters to start the interview.)

One of Baker's allies in supporting Peters is Ed Martin, the former St. Louisan who is now, among other jobs, U.S. pardon attorney. He expressed sympathy for her situation in a Nov. 10 interview with Steve Bannon in November.

Another of Baker's and Peters' allies is Peter Ticktin, a Trump friend since prep school and an attorney. During a recent appearance on Steve Bannon's War Room podcast, he agreed with Bannon that if other steps failed to accomplish it, federal troops should descend on the prison and effect Peters' release. Those troops, of course, would be under the ultimate direction of Hegseth and Trump. (On Dec. 11, Trump issued a pardon for Peters, but Colorado state officials immediately said she would remain in prison because presidential pardon powers do not extend to state crimes, like those for which she was convicted.)

A few months earlier, in August at a conference sponsored by the Gateway Pundit, Ticktin supported the declaration of an emergency to ensure "a fair election" next year.

"We've got problems in terms of the elections," he said, "and I wouldn't be very surprised if we find out before the next election that there's ... an emergency called. I don't have it on good authority that this is going to be done, but a number of people are urging it because it's necessary. And with that emergency, we're going to be able to turn the tide."

In 2009 the Florida Bar suspended Ticklin for 91 days after finding that he had shown a "blatant disregard for the rules governing conflicts of interest (that) reflects his poor professional judgment."

But if that record and his comments about the 2026 elections strike some Americans as disturbing, Jenn Baker — the woman who is half of the Gateway Pundit's team of correspondents at the Pentagon — has words of reassurance.

In her article last May about the American Rights Alliance, she wrote:

"Peter Ticktin is no ordinary attorney. A lifelong friend of President Donald J. Trump, Ticktin is one of America's most respected litigators. His legal acumen, combined with his national platform and moral clarity, make him an unstoppable force in the courtroom."



Photo by David Kidd

'I quit on the spot' says Governing editor after the magazine kills a free speech story to avoid angering Trump

By Alan Greenblatt

The day after Donald Trump returned to power, I gathered my staff to talk about how we would cover him. We were already seeing institutions and individuals with far more power and resources than we had kowtowing to him, I noted. We weren't going to do that. Instead, we'd cover him as journalists should: be fair, give him credit where due but also call him out when called for.

I was the editor of Governing, a small but well-regarded magazine with a four-decade history of covering state and local governments. One of my colleagues presciently asked: "Does upper management share this point of view?" It turned out that they did not.

Governing was founded by editors at Congressional Quarterly, a longtime policy publication in Washington, but was purchased in 2009 by e.Republic, a California-based company that links government officials and vendors largely through live and online events. Not long before Trump took office, e.Republic hired a new chief content officer who bluntly stated this year that we should not run any negative articles that could draw the attention of the White House and have them shut us down.

I told my staff, as long as I was the editor of Governing, our policy was to do journalism without worrying about such consequences.

Since our writ was states, cities and counties, Trump was primarily not our story. In fact, I spent much of the year turning down Trump-related stories, noting to my reporters

that while he was getting outsized attention, there was a whole country that needed ours.

Still, what the president does affects other governments. Given cuts to Medicaid and disaster assistance, arguments over food stamp distribution and Trump's use of military force in some of our major cities, this presidency has reshaped relations between Washington and other governments in key ways already.

Editorial director kills free speech story

Trump is the dominant political figure of our era, and his various efforts at silencing his critics could not be ignored. When his ally Charlie Kirk was assassinated, I wrote an article decrying political violence. But when Republicans used Kirk's death to muzzle criticism and dissent, that was wrong, too.

Back in September, things came to a head when ABC temporarily removed its late night host Jimmy Kimmel from the air after the chair of the Federal Communications Commission complained about a Charlie Kirk comment he'd made. That prompted a backlash, with Hollywood stars rushing to Kimmel's defense in concert with the American Civil Liberties Union and customers of Disney, ABC's parent companies, canceling subscriptions and theme park visits.

With the administration attacking free speech on campus, in the media and among the populace, I felt it was time for us to weigh in also. The First Amendment is called that for

a reason. It is primary and must be defended.

I'd gotten some blowback from stories we'd published this year, so I ran my free speech column by my boss, the company's editorial director. She said we should not run it, directly quoting the chief content officer's stated restriction against material that might run afoul of the administration.

I quit on the spot. I said we could not as journalists fear being critical of people in power. Our duty was to our readers, to convey information about the world that was in their interest. Self-censoring a piece about free speech ran counter to our whole purpose.

The company's top managers tried to talk me into staying, but they would not offer me the assurances about basic editorial independence that were essential for me to stay in the role.

I've written about all this, spoken to college classes and appeared on podcasts. I've received a lot of support for defending an important principle. And I haven't been alone, with other journalists resigning rather than knuckling into pressure to suppress articles critical of Trump and other figures. Just after my time at Governing ended, essentially the entire Pentagon press corps walked out of the building rather than agreeing to print or broadcast only material spoon-fed by the administration.

Many people have asked to see the free speech article that cost me my job. I'm grateful to *Gateway Journalism Review* for printing it here.

Are First Amendment protections under real threat?

The Trump administration has directed its power at people and institutions who criticize the president or oppose his policies. That's not how free speech works.

By Alan Greenblatt

The story that Governing refused to print for fear of angering Trump (submitted for publication in September, 2025)

Camryn Giselle Booker was a student at Texas Tech University when she came across a campus vigil honoring Charlie Kirk, the recently slain conservative activist. She did not treat the event with respect. "Y'all's homie's dead, he got shot in the head," she chanted.

Booker was expelled from the university and arrested on assault charges, video evidence suggesting she might have flicked the Make America Great Again ballcap of a man who argued with her (and who called her "evil").

Texas GOP Gov. Greg Abbott had no sympathy for her. "This is what happened to the person who was mocking Charlie Kirk's assassination at Texas Tech," Abbott posted on social media, along with video of Booker being handcuffed. He wrote, "FAFO" — the internet acronym for "fool" around and find out.

People have always reacted to tragedies with comments that were offensive or in dubious taste. There have been numerous instances of evangelicals blaming gay people for natural disasters, for example, while multiple mass shootings have inspired hateful rhetoric.

Such comments are typically condemned. But the response to negative remarks following Charlie Kirk's assassination on Sept. 10 has taken a different form. Across the country, dozens of workers — teachers, pilots, medical professionals — have been fired for making or posting comments offering no sympathy for Kirk or calling him a bigot — most prominently, of course, ABC late-night host Jimmy Kimmel, whose show has been indefinitely suspended.

Rather than defending free speech rights, Trump administration officials are targeting individuals for denigrating Kirk. Hosting Kirk's podcast, Vice President JD Vance called on people to alert employers to dismissive or hostile social media posts. Attorney General Pam Bondi threatened to prosecute Kirk critics for hate speech, although she partially walked back that comment. "If you are here on a visa and cheering on the public assassination of a political figure, prepare to be deported," Secretary of State Marco Rubio said.

"There's no reason to believe they're interested in enabling or protecting speech that they don't like," says David Meyer, a sociologist at the University of California, Irvine, who studies protest movements. "The entire administration has adopted the kind of thin-skinned posture that [President Donald] Trump himself embodies."

Trump, who believes in counter-punching against his opponents, has paid little lip service throughout his political career to the importance of free speech. Last month, he signed an executive order calling for prosecution of flag burning, even though a 1989 Supreme Court ruling found that such acts are political speech protected under the First Amendment.

In the wake of Kirk's murder, the administration is planning to use tools such as revoking tax-exempt status to target left-wing groups. Administration officials and Trump himself have suggested that individuals and institutions that are critical or "not fair" to him should pay a penalty or even be shut down. At Trump's urging, Congress rescinded funding for NPR and PBS, while the administration has gutted the Voice of America. (Disclosure: I was a reporter for NPR from 2010 to 2014 and wrote three articles for VOA's website several years ago as a freelancer.) The administration has also exacted penalties from universities that were staging grounds for pro-Palestinian protests.

All of this raises the question of whether First Amendment rights — often and perpetually under attack — are now seriously under siege.

Free speech on campus

Last week, thousands of pro-Palestinian protesters in Madrid forced a major bicycle race to shut down. Israel's war in Gaza was the leading campus cause of 2024 — but when was the last time you heard about a sizable pro-Palestinian protest in this country?

In July, Columbia University — which was a hotbed of protests related to Gaza last year — agreed to pay \$221 million in fines to the Trump administration, addressing its concerns about "anti-Semitic" protests and workplace conditions. The administration had held up about six times that amount in federal funding to the university.

The administration has used research grants and visas for international students to pressure universities to end policies regarding transgender rights and diversity, equity and inclusion (DEI). In addition, the administration has revoked visas and sought to deport international students who participated in protests. "We are not going to be importing activists into the United States," Rubio said.

Several years ago, free speech on campus was a leading conservative cause. Politicians on the right were deeply troubled by sometimes violent protests and demonstrations targeting speakers such as Milo Yiannopoulos and, indeed, Charlie Kirk.

"Most people complain when people they like are getting pilloried or silenced," Meyer says. "They don't care about free speech restrictions when they apply to people who are saying things they don't like."

There's been hypocrisy from both the left and the right in recent years regarding free speech on campus, says John Inazu, a First Amendment expert at the Washington University School of Law. People concerned with civil liberties, he suggests, should consistently defend the airing of dissenting views, regardless of their political direction.

"The Trump administration's pressure on colleges and universities is deeply worrisome," Inazu says. "It strikes me as a deliberate attempt to weaken longstanding and important institutions in our society."

Free speech in the media

Given the First Amendment's protection of freedom of the press, media organizations have won a number of landmark cases in recent decades protecting them against libel suits and government censorship. But that required media organizations with deep pockets to take cases all the way up to the Supreme Court.

In June, a federal appeals court stayed a lower court ruling that would have restored access for the Associated Press to Trump administration events. The White House had barred AP due to its decision not to recognize the president's renaming of the Gulf of Mexico as the Gulf of America.

Other big media organizations have been wary about challenging the administration. In July, Paramount Global, which owns CBS, agreed to pay Trump \$16 million to settle a lawsuit he'd brought charging that the editing of a "60 Minutes" interview with Vice President Kamala Harris during last year's campaign was deceptive. First Amendment experts said Trump's claim was baseless, but the company, which is seeking federal approval of an \$8 billion merger with another company, decided to settle.

That same month, CBS canceled its late-night show hosted by Stephen Colbert. Executives said the decision was purely financial,



"A roadblock reporters are facing is people's fear of speaking out.

'Tell me what's going on, and we'll let people know about it.'

Illustration by Steve Edwards

but many observers saw it as an effort to placate Trump — who publicly celebrated the decision.

Last week, Jimmy Kimmel suggested the administration was exploiting Charlie Kirk's death to "score political points." In his case, the decision from top officials at ABC's parent company Disney to axe his program came just hours after Brendan Carr, the chair of the Federal Communications Commission, said his agency could "do this the easy way or the hard way... These companies can find ways to change conduct and take action, frankly, on Kimmel, or there's going to be additional work for the FCC ahead."

Kimmel and Colbert have been among Trump's most prominent and consistent critics, certainly outside the Democratic caucuses on Capitol Hill. For many Americans, late-night hosts have become an important source for news.

"This is the federal government bullying a major, wealthy corporation into firing a critic of the president," wrote Seth Masket, a political scientist at the University of Denver. "It's a profound violation of the First Amendment, both in text and in spirit, and it's a substantial shift away from democratic traditions and toward authoritarian restrictions."

Past presidents including Richard Nixon, George H.W. Bush, Bill Clinton, George W. Bush and Barack Obama all made public appearances with comedians who had mocked them. Trump is calling for more late-night hosts to be fired.

"We were a little nervous this week. We called NPR and asked if they're going to make comedy illegal," Peter Sagal, the host of NPR's "Wait Wait... Don't Tell Me!" said at the taping of his show in St. Louis last week. "Luckily our audience apparently doesn't include anyone in the White House."

NPR, of course, has already been defunded.

Shutting down dissent?

The First Amendment guarantees that the government will not infringe on free speech right; it does not apply to other entities such as private companies. No comedian is entitled to a broadcast platform. Still, the government pressuring broadcasters to alter their programming could represent a violation of First Amendment rights, if anyone were willing to make a federal case about it.

Similarly, it's clear that Americans still have the right to complain about the government, including not just Trump's policies but his apparent role in silencing some of his critics. Protests against Trump remain a routine, almost daily feature of American life.

But this is an administration willing to use its power to muzzle dissent. Its complaints about anti-Semitism or "leftwing political violence" at least nod to the idea that opposition speech can't simply be stamped out. Even so, the persistent attacks on its critics — and its willingness to use financial threats, lawsuits and visa revocations — are likely to have a chilling effect. "There's a kind of testing going on to see how much they can get away with," says Meyer, the UC Irvine professor.

Popular speech needs no protection. It was conservative Supreme Court Justice Antonin Scalia who cast the deciding vote in the flag burning case, saying the test of free speech is protecting people who really offend you. "If it were up to me, I would put in jail every sandal-wearing, scruffy-bearded weirdo who burns the American flag," Scalia said in 2015.

Defending hateful people and speech is difficult, but the point of the First Amendment is to allow people to say what they think without fear of punishment, so that the best ideas win out — and the government doesn't squelch dissent.

The Trump administration seems determined to put this bedrock principle to the test.



Illustration by Steve Edwards

'Chilling effects': Do we need heroes?

By Mark Sableman

American legal analysis is filled with colorful metaphors: "fruit of the poisonous tree"; "slippery slope"; "opening the door"; the "penumbra" of the Bill of Rights. Some of these images require a bit of mental gymnastics.

But one legal metaphor perfectly describes public expression in the year 2025: "chilling effect." The verb "to chill" means "to affect as if with cold; dispirit"; "to check (enthusiasm, etc.); to depress". The noun "chill" refers to "a checking or dampening of enthusiasm, spirit or joy"; "a sudden numbing fear or dread."

"Chilling effects" are effects of government action to chill, dampen or depress protected free expression. Such actions are First Amendment violations, in part because, to use a related legal metaphor, free expression always needs some "breathing space" to survive.

Trump's threats

This year, as the Trump administration, by threats, regulations,

lawsuits and other actions, has tried to dispirit or numb its adversaries, and silence or weaken expression it hasn't liked, we have seen many attempts to create "chilling effects":

- Threats to universities and businesses of adverse government action if they do not abandon their diversity, equality and inclusion programs;
- Lawsuits against news media organizations over standard reporting, sending the message that only pro-administration news coverage will be tolerated;
- Regulatory threats to television networks that carry jokes targeting Trump or his administration (even though the FCC, for example, is expressly forbidden to censor, and has no direct power over TV networks);
- Regulatory actions that demand compliance with the administration's politics, not the relevant legal standards (e.g., corporate mergers allowed for entertainment and media companies only when the companies make their media subsidiaries compromise on news

reporting issues);

- Threats to law firms, based on their representation of administration-disfavored clients, including denials of entry to government buildings and ability to communicate with government officials;
- Threats, investigations and sometimes even prosecutions, of officials who didn't hew to the administration line, even if they merely (as with Senator Mark Kelly) recite basic principles of law;
- Arrests, imprisonment and even deportation, without due process, and sometimes without any valid legal basis. Such actions create ripple effects, chilling others from doing anything, including legal protests and expression that might bring them to the government's attention.
- Disparagement and threats of impeachment against judges who follow existing law and deliver rulings the administration doesn't like; and
- Encouragement of violence against news personnel and other opinion leaders.

Notably, these efforts to curb expression are directed most often at universities, the judicial system and the media – the three sectors of society which historically have been most resistant to authoritarian government, and most supportive of democracy, tolerance and the rule of law.

They are also, together with government research agencies, the sectors of society that make up what Jonathan Rauch, in his book "The Constitution of Knowledge", called "the reality-based community," where all propositions are subjected to fair, open and robust testing, and never adopted based on authority or orthodoxy. Put simply, the Trump administration is seeking to chill those who engage in open-minded thinking.

Are things worse than in the past?

It is not enough to note that a government has tried to chill opponents' expression. Unfortunately, that has occurred often in America. Richard Nixon tried it. Woodrow Wilson and his attorney general Newton Baker tried it, extensively. Senator Joseph McCarthy was a master of intimidation and attempts to chill expression in many fields of endeavor, including the entertainment world. Even administrations often viewed as tolerant and enlightened have tried it, too.

But in recent times, concerns about chilling effects were often raised about threats in their incipency, or threats made but successfully resisted. The phrase "chilling effect" was used essentially as a rallying cry by the media or other speakers, along the lines, "We must not let our expression be chilled!" Despite Nixon's threats to broadcasters, for example, the industry (still then mostly owned and governed by people committed to journalistic ethics) largely stood firm. Indeed, many past "chilling effects" situations presented media advocates with a conundrum. Government officials were trying to intimidate journalists, but the journalists stood firm, meaning there was no proof of an actual effect.

Things are different now.

Threats are greater

On the threat side, we face a different, and significantly greater, campaign of threats and actual retribution. It is not focused on a single reporter, a single media company or even a single profession. It is a broad campaign to chill expressed opposition across multiple areas of society, focused most intensely on the expression-protective institutions of the media, universities and courts. And it has indeed intimidated many people and institutions.

Additionally, at this point, the normal checks and balances of our government only weakly constrain the administration. Congress's Republican majority is largely compliant, many regulatory agencies have lost their independence, and the Supreme Court seems largely acquiescent, even to the extent of overruling longtime precedents that would have restrained Trump. Even the ultimate democratic check – elections – is at risk because of gerrymandering, voter intimidation tactics and refusals to accept results.

Looking at the effects on the targets of threats, experience this year suggests that our institutions may be weaker, and less resistant to threats, than in the past. The proof is in multi-million-dollar checks written to the government, the president, or their favored recipients; in institutions stepping back from controversy; in research no longer being conducted; in long-standing DEI policies revoked; and in the boxes of belongings being carried out of offices by those who refuse to submit.

Will the threats succeed?

If the administration will not change its actions, and internal government checks and balances won't stop them, the outcome of the administration's expression suppression efforts will come down to the target side of the equation: Can the media and other targeted speakers effectively resist the chilling of their expression?

Here it may come down to norms, laws, ethics, public opinion and maybe even heroes.

Norms. Social norms are society's unwritten rules, like basic expectations concerning dress, etiquette and the tone of public discourse. They also include critical political expectations like bipartisan cooperation, respect for adversaries, toleration of diverse viewpoints and the bedrock norm of respect for the rule of law. All these norms are under attack. But norms can spring back if they are supported. As recent American Bar Association President William Bay has stressed, "The rule of law doesn't defend itself. Lawyers do." If key political norms are defended and revitalized, particularly by bipartisan leaders (as occurred at the time of the Nixon impeachment inquiry), they will provide an important bulwark against government retaliation and intimidation.

Public opinion and opinion leadership. Public opinion greatly influences events in America. The No Kings and other protests, and Trump's currently slumping approval ratings, show that the Trump Administration is vulnerable. Because of the opinion dominance of the political right, through Fox News, social media and confirmation-bias-focused information sources, it isn't easy to move public opinion today. Public opinion might shift, however, because of dramatic highly publicized case studies, which bring the threats home to ordinary people. A shift in public opinion killed McCarthyism in the 1950s, and it could do the same to Trump's chilling effects initiatives.

Laws. As noted in the preceding article on retaliation, many laws and precedents prohibit government censorship, intimidation and retaliation. When litigants have challenged the Trump administration's chilling effects actions this year, many trial courts have enjoined them. But the Supreme Court has, at least in preliminary rulings, so far set aside many of these orders and given a green light to the administration. So the jury is out on whether judicial action will be effective to stop the intimidation campaign.

Ethics. Professional ethics can significantly influence events. In multiple recent cases, lawyers, administrators and law enforcement and military personnel have resigned rather than take actions that they considered illegal or breaching professional responsibility. Timothy Snyder, in his "20 Lessons from the 20th Century", noted the complicity of physicians, lawyers and judges under the Nazi regime, and pointed out that if they had followed the norms and rules of their professions, many atrocities would have been prevented.

In his recent speech at the Gateway Journalism Review's First Amendment celebration, legendary editor Marty Baron urged a redoubled focus on bedrock journalism ethics, including "true independence and a reverence for evidence over our preconceptions." And he also suggested strengthening media transparency and credibility, for example, by publishing source documentation in full. Journalists must help the public to better distinguish truth from falsity.

Heroes. In the past, courageous individuals helped turn the tide against repressive officials. Journalist reporter Edward R. Murrow and lawyer Joseph Welch courageously reported on, and directly challenged, McCarthy. More recently, Georgia Secretary of State Brad Raffensperger and Arizona Republican leader Rusty Bowers stood fast against pressure to subvert the 2020 election.

People continue to stand up in courage today, as other reports in this magazine show: Alan Greenblatt, a St. Louis based professional editor who resigned rather than self-censor by ignoring an important story; Jim Rodenbush, an Indiana University journalism professor who refused to censor the university's student newspaper. They are free expression heroes.

It is telling and troublesome, however, that we may need heroes. In Bertolt Brecht's play, "The Life of Galileo", the scientist's disciple, Andrea Sarti, after hearing his mentor's forced recantation, declares: "Unhappy the land that has no heroes!" But Galileo responds, slowly and in sadness: "No. Unhappy the land that needs heroes."



Illustrations by Steve Edwards

First Amendment and Rule of Law prohibit retaliatory censorship

By Mark Sableman

Americans believe in freedom and oppose government censorship, in theory. But in practice, this year many American institutions have acquiesced in censorship. Censorship is the use of government power to silence a point of view. It occurs through many means, including the Trump administration's campaign of retaliation against its perceived domestic enemies.

In a series of recent actions challenging the Trump administration actions, such as a complaint filed by the Stanford Daily student newspaper, claiming that the administration is unconstitutionally retaliating against student writers based on their writings, the Foundation for Individual Rights and Expression (FIRE) has begun its legal complaints with this compelling sentence: "In the United States of America, no one should fear a midnight knock on the door for voicing the wrong opinion."

Americans need not acquiesce to bullying censorship. Our Constitution requires the government to treat us fairly, and a long line of First Amendment precedents bar government retaliation against citizens' lawful expressions and beliefs. Government officials who have attempted to bully their adversaries into silence or forced obsequiousness have usually failed.

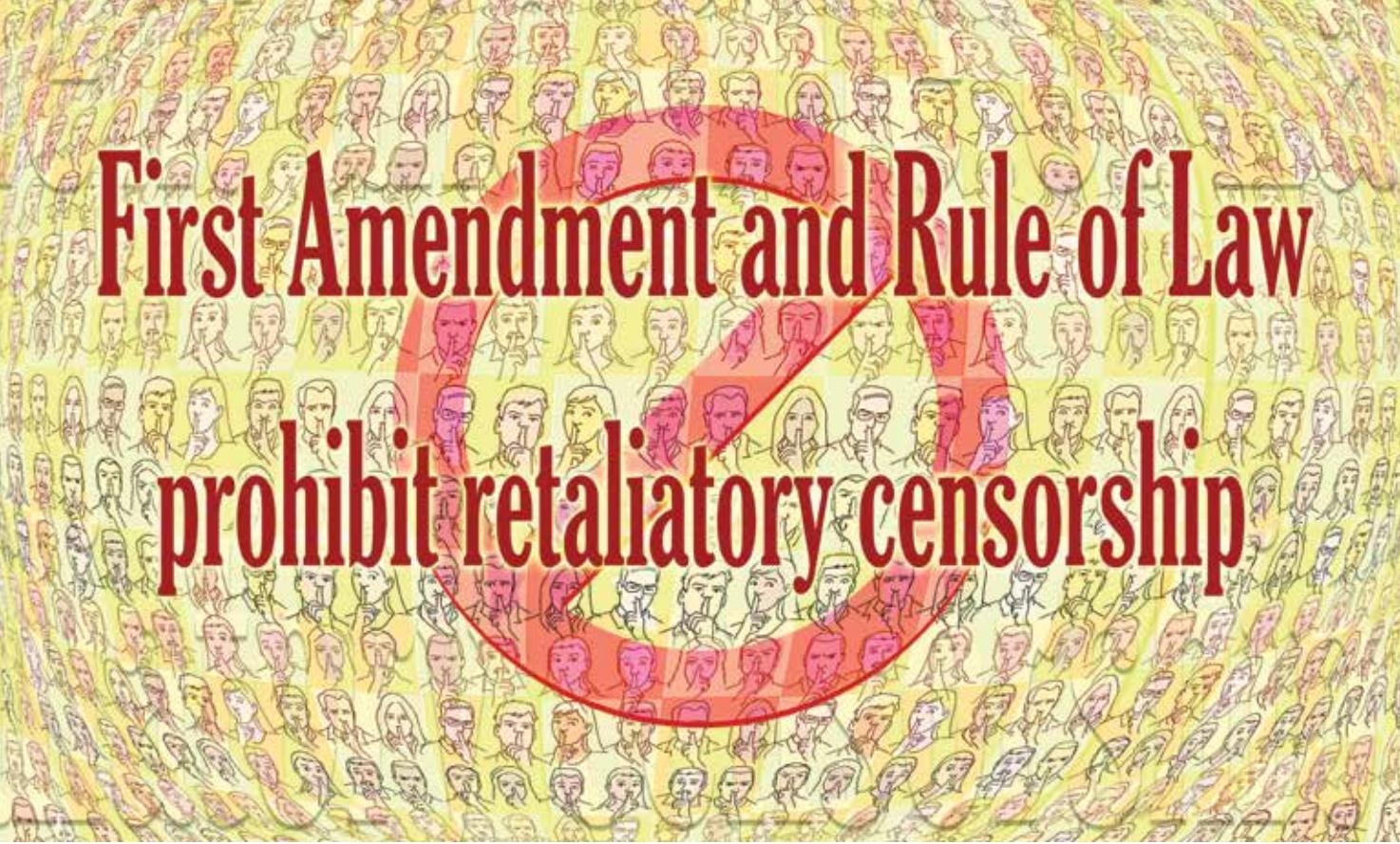
Consider an official who disliked an art museum exhibition, claiming that it "desecrated" his and others' religious beliefs. He was entitled to those personal views. But could he use his official position to punish the institution? The answer was no in 1999, when then-New York Mayor

Rudolph Giuliani objected to a modern art exhibition at the Brooklyn Museum, and then tried to cut off future funding for the museum.

A federal court found that the subsidy cut was a clear "effort to suppress expression," and prohibited it, because it had been based on disfavored viewpoints and retaliatory motives. Among other things, the court cited the Supreme Court on the "bedrock principle" that the government may not prohibit expression simply because it finds an idea offensive or disagreeable.

What about taxes — can a vengeful official use the government's power of taxation to punish (and thereby silence) enemies? Not according to the Supreme Court. When the state of Minnesota imposed special taxes on newspapers, the court held the taxes unconstitutional. Some newspaper tax cases included evidence of retaliatory purposes — the officials behind the tax didn't like the newspapers' editorializing — but the Supreme Court didn't require proof of retaliatory purposes. The inherent threat of censorship made such taxes constitutionally suspect, thereby requiring justification under a "strict scrutiny" standard that is almost impossible to meet.

Next, consider a mayor who didn't like the way a local newspaper covered him. Could he ban that newspaper from City Hall, and his press conferences and events? The answer was no in 1974 when Honolulu Mayor Frank Fasi barred a Honolulu Star-Bulletin reporter from access to city hall news.



First Amendment and Rule of Law

prohibit retaliatory censorship

A federal district court similarly enjoined the White House from barring the Associated Press from events because the Trump administration disagreed with its continued use of the name "Gulf of Mexico." An appeals court panel reversed most of the injunction, but it distinguished between different kinds of press admissions, and noted that the administration changed its practices, and no longer totally excluded AP from press pools.

The right to legal advocacy

Then, there is the right of legal advocacy. It is an essential right for all of us, because all other rights depend upon having a lawyer who can assert them. Lawyers cannot be coerced, intimidated or punished for taking unpopular positions or clients. Some years ago, former U.S. Attorney General Griffin Bell, then with the law firm of King & Spaulding, spoke out in St. Louis about a nearby court's reputation as a plaintiff-friendly "judicial hellhole." The next day, Madison County Circuit Judge Nicholas G. Byron announced to the assembled lawyers in his courtroom: "Is there anyone here from King & Spaulding? I'm banning them from practicing in the county." Judge Byron, however, had no such powers, and his comments were quickly dismissed as improvident and wrong. Indeed, the judicial code of ethics recognizes the right of every party to be heard.

Multiple courts have ruled this year that the Trump administration cannot bar lawyers from courthouses and federal buildings, or otherwise punish them for their past advocacy and protected civic activities, like pro bono work, or work for a prior administration.

No government imposed orthodoxy

Finally, can the government compel its opponents to adopt new government-imposed views (a new government-set "orthodoxy")? This is the ultimate censorship, combining silencing and submission. It arises in the Trump administration's efforts to impose particular views on universities, corporations and citizens.

This was the issue in a landmark constitutional law case, in which Jehovah's Witnesses had been forced, against their core religious beliefs, to salute the American flag. In that 1943 ruling, Justice Robert Jackson, writing for the Supreme Court, explained: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, may prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion, or force others to confess by word or act their faith therein."

In short, no, under this time-honored precedent and principle, the government cannot censor you, punish you, or require you to submit to its thinking, because you do not agree with it or with its favored beliefs and positions.

To the argument that decisions like this would make government weaker, Justice Jackson noted that protecting rights diminishes fears of strong government, "and by making us feel safe to live under it, makes for its better support."

Officials have many policy options, but they must make choices based on legitimate legal and policy grounds, not hatred for their enemies or dislike of particular people, ideas, or viewpoints. Even in areas where officials exercise considerable discretion, the Supreme Court has forbidden public school library policies being set based on officials' disapproval of certain political ideas, and has suggested that criteria for arts grants that preclude or compel results based on viewpoint discriminatory criteria would be unconstitutional.

Rule of law protects us from whims of kings

How do we know when an action constitutes retaliatory censorship, rather than ordinary government policy choices? Sometimes officials make their motive explicit. But even when censorship and retaliatory motives aren't expressed, a rule of evidence allows courts to examine patterns of conduct, which help explain a litigant's actions (and even motives) in particular cases.

The rule of law – insulation from the whims of a king – is essential for security in our daily lives, commerce and educational and cultural activities. Businesses can't function without reliable enforceable contracts, and people can't prosper if they are subject to arbitrary retribution for who they are, who they associate with, or what they believe.

As recent American Bar Association President William R. Bay has stressed, "The rule of law doesn't defend itself. Lawyers do." Indeed, every citizen can and should defend the rule of law, and there is no better first step than standing firm on freedom of expression.

Citizens and organizations threatened by retaliatory censorship can fight back, based on long-established rule-of-law principles. By fighting back, they will uphold constitutional freedoms, including First Amendment freedoms of expression and belief. As Justice Jackson noted, those fights will make us stronger, because adherence to the rule of law, and judicial enforcement of our rights to fairness and impartiality, strengthen public support for our constitutional government.



Photos by Miguel Guerrero

Federal tactics in Chicago ignite fears over First Amendment, due process rights

By Jackie Spinner

A 15-year-old U.S. citizen was detained by Immigration and Customs Enforcement agents on the East Side of Chicago in October. He was never booked, read his rights or allowed to contact his mother for five hours. He was taken for allegedly throwing an egg at a Border Control agent as neighbors gathered to protest the military-style tactics being used outside their homes. He was eventually released without charges.

I was in a "Know Your Rights" training when I heard what happened. The irony wasn't lost on me. I had logged on to learn what protections my own Moroccan-born sons who are naturalized U.S. citizens have if they are stopped by agents. I never imagined that understanding how to talk to immigration authorities would be something I'd have to teach my American children.

But this is Chicago in 2025. For two months, ICE and Border Patrol conducted sweeping operations that federal officials insist are targeting people with serious criminal records. Yet reporting by Reuters, The Washington Post, and the Associated Press tells a different, more troubling story of agents aggressively targeting communities and people based on how they look, of using chemical munitions and rubber bullets against anyone who disagrees or is watching.

Journalists have been indiscriminately targeted and tear-gassed while covering demonstrations at an ICE facility in suburban Broadview. A WGN employee was detained after reportedly asking agents if they had a warrant when she saw a man grabbed in her North Side neighborhood. As they did with the 15-year-old, the government accused the producer of throwing objects at them, which she disputes.

A group of media organizations filed suit in October accusing federal officers of targeting reporters and peaceful protesters, alleging "a pattern of extreme brutality" that violates the First Amendment. A federal judge agreed



there was sufficient cause to intervene and issued a 14-day restraining order that barred federal agents from using riot-control weapons on journalists or protesters. An appellate court subsequently ruled in favor of the government, and in early December, the media groups dropped the lawsuit.

The fact that courts are imposing restraining orders and injunctive relief indicates there is at least a plausible showing that constitutional rights may be at risk, which a Human Rights Watch report found. The group called



on congressional Department of Homeland Security oversight committees to hold public hearings to examine agents' excessive use of force and to consider legislative remedies to strengthen oversight and accountability of immigration enforcement operations.

The scale of the operation in Chicago and its effects on ordinary families is impossible to miss. The day after the 15-year-old was taken, I received an automated phone call saying my 11-year-old son hadn't arrived at school. I ran there in a panic. I had watched my son leave that morning, walking out the door in his signature penguin hat. No one had answered the phone at the school when I called.

My son doesn't carry identification in a city that is being terrorized by masked federal agents. My first thought was not that it was a mistake. Or that he had skipped school to hang out with his friends. My first thought was that ICE got him.

He was fine. A substitute teacher had marked him absent by mistake. But my fear was grounded in the scenes playing out across the city our family calls home. I've reported from half a dozen authoritarian regimes. I know what it looks like when masked agents act without accountability, and I know that Chicago is feeling that same weight of fear.

Although the Border Patrol has since moved on, ICE remains in Chicago, and people are still getting detained.

The Associated Press has documented federal agents in camouflage moving through neighborhoods, helicopters circling protests, people detained for questioning before being released without charges. Chicago Mayor Brandon Johnson has pledged that Chicago police will not aid federal agents or allow them to use city property as staging grounds. But for many of us, that promise is little comfort when federal agents in SUVs, some without plates, roar down our streets in pursuit of people who "look" like immigrants, when bystanders and journalists are targeted for trying to document what is happening.

Under Illinois law, it is legal to record law enforcement officers performing their duties in public as long as doing so does not interfere with their work, a recognition that such recordings serve a vital role in public accountability.

That right — to observe and to speak — is at the heart of what's being tested here. The First Amendment guarantees freedom of speech, of the press and the right to assemble. The Fifth promises due process. In Chicago today, both feel under siege. When journalists are gassed, when protesters are silenced and when a 15-year-old U.S. citizen disappears into federal custody, those aren't abstractions. They are warnings.

Police search of the Marion Record brought back half a century of memories from a 1971 raid on The Stanford Daily

By Felicity Barringer

Editors at The Stanford Daily, the student newspaper, had many problematic encounters in the tumultuous spring of 1971. Angry demonstrators hoping to control what was published. Worried administrators concerned about what was published. What wasn't familiar was finding police at the door one April afternoon, search warrant in hand.

The Palo Alto officers started picking through the desks, file drawers and darkroom. What they sought – in vain – were photographs of a recent, violent clash between Palo Alto police officers and student demonstrators. The demonstrators, wielding nail-studded chair legs, had seriously injured some officers breaking up their sit-in.

The shock of the search was palpable. Then came the hard work and long years of challenging the raid all the way to the U.S. Supreme Court, and, after losing, persuading Congress to pass a 1980 law to end police intrusions into newsrooms and press freedom.

The half-century-old memories of the Daily police raid and the legal fight came tumbling back in 2023, when the Police Chief in the small Kansas town of Marion led an even more intrusive search to the newspaper office and the homes of the editor and reporters.

Officers in the small town of Marion raided the news offices of the Marion Record and the home of its editor and co-owner, Eric Meyer. They seized computers and other electronic equipment, including reporters' cell phones; one officer jerked a cell phone out of a reporter's hand. The editor's mother, Joan, died the day after the raid.

Why do police searches of newsrooms matter? Police searches undermine the foundation of a robust free press – the trust between journalists and confidential sources, whose identities may be revealed when law enforcement searches or seizes unpublished material. This is the case even when law enforcement eventually returns seized equipment and records to the reporters, as the Marion County attorney instructed the local police force to do.

As Senator Edward Kennedy said at a 1980 Judiciary Committee hearing, "By exposing the work product of reporters to the roving eye of any policeman who has obtained a search warrant... it threatens to dry up the confidential sources of information which form the backbone of investigative journalism."

The situation facing Eric Meyer and the Marion Record hit close to home for me. I served as editor-in-chief of the Stanford Daily. In 1971, with the support of my colleagues, spearheaded the move to file a lawsuit that reached the Supreme Court and led to passage of the Privacy Protection Act.

The Stanford Daily's lawsuit against the Palo Alto police department and its chief, James Zurcher, became the template on which the modern legal framework covering newspaper searches is based. The Daily's claim that the search violated its First and Fourth Amendment rights was upheld at two levels of the federal judiciary, but in 1978 the Supreme Court overturned these rulings.

In the wake of that decision, Congress passed the Privacy Protection Act of 1980, which explicitly recognized the critical role that the press plays in holding the powerful – from a local police chief to a legislator to a president – publicly accountable. To fulfill this role, the media must be able to guarantee confidentiality to sources who can provide crucial information, and who have a lot to lose if their role becomes known.

The federal law's rule of thumb: government actors, including the

“By exposing the work product of reporters to the roving eye of any policeman who has obtained a search warrant... it threatens to dry up the confidential sources of information which form the backbone of investigative journalism.”

— Senator Edward Kennedy

Marion Police Department, must use a subpoena before obtaining a search warrant when seeking information from a media organization. A subpoena instead of a search warrant may not sound like much of a difference, but it prevents police arriving unannounced and forcing their way into newsrooms to rummage through photos, outtakes, video, audio and notes.

The intent underlying the law's subpoena-first rule: it affords journalists the chance to go to court and fight the government's request for their unpublished work and documents. Often, the news organization and the law enforcement officials can work things out in the time between the subpoena and the court hearing.

The subpoena requirement also helps avoid two catastrophic consequences. The first is the irreversible chilling effect that arises in the aftermath of a newsroom search and undermines the public's right to know. Aware of the possibility of an unlawful search, prospective confidential sources inclined to share newsworthy information may hesitate to trust a promise of confidentiality.

The second consequence: searchers gain access to materials that have nothing to do with what they claim to seek. Once law enforcement officials seize a journalist's computers, notes, cell phone, correspondence, or audio and video recordings, they can find out about anything that reporters are working on.

Marion's police chief, Gideon Cody, searched the paper just as its journalists were looking into tips about the circumstances of his recent departure from the Kansas City police department, according to Eric Meyer. The tipsters' identities were in one of the computers police seized. Cody had left a six-figure job as a captain with the Kansas City Police Department in Missouri to take a \$60,000 year job as sheriff in Marion. He was under investigation for sexist remarks before leaving Kansas City and, as the Kansas City Star reported, had been told he would be demoted to sergeant before he left for the Marion job.

The accusation that prompted the search in Marion was unrelated to this Kansas City inquiry. The accusation came after the drunk-driving record of a local restaurant owner was leaked to The Record,

which confirmed the document's accuracy but published nothing about it. Instead, Meyer alerted the police about the information; he said he feared that his newspaper was being set up by its source.

But the search warrant cited the accusation of the restaurant owner, Kari Newell, that the newspaper used her personal information to search public records and confirm the conviction — a laughable charge, since the reporters are free to search public records on their own. As Bernie Rhodes, the paper's lawyer, wrote in a letter to the police chief, Newell's information "was examined by newspaper staff on a website maintained by the Kansas Department of Revenue."

Because of the warrant's spurious claim of illegal acts by the journalists — identity theft and illegal use of a computer — police contend their actions were allowed under the Privacy Protection Act's exception that allow searches if the paper or its employees are suspected of crimes.

As the Reporters Committee for Freedom of the Press explained in a letter to Chief Cody, this exception does not apply if journalists merely receive, possess, or withhold information from law enforcement, even if it was unlawfully obtained. That newsgathering practice is protected under the First Amendment.

If unsupported claims of lawbreaking by journalists allow law enforcement to bypass the federal subpoena requirements, the wall that Congress built in 1980 to assure journalists confidentiality crumbles away. As Rhodes, the paper's lawyer, wrote to Cody, "your personal decision to treat the local newspaper as a drug cartel or a street gang offends the constitutional protections the founding fathers gave a free press."

There are other legal mechanisms to deter press searches by local police forces and federal agents alike. The Kansas media shield law, which covers the Marion County Record, forbids any government entity from forcing a journalist to disclose unpublished information or reveal a source's identity, unless the information the journalist possesses is of a "compelling interest," relevant to the legal proceeding at issue, and is inaccessible through other means. Rhodes informed the police chief that this law requires a court hearing before law enforcement can review seized information.

New federal regulations announced by Attorney General Merrick Garland prohibit Justice Department officials from searching, seizing, or issuing subpoenas for the unpublished work product of journalists, with very limited exceptions. These regulations show a serious regard for the wall between the government's investigatory powers and press independence, even in the context of high-stakes national security reporting.

The Marion County case, troubling as it is, is not unique. Despite efforts to deter these unlawful raids, the Stanford Daily case was a harbinger of future efforts to kneecap journalistic autonomy. Since 2014, the U.S. Press Freedom Tracker has logged 120 incidents where police searched or seized a journalist's equipment; 16 were formal

searches with warrants.

It is no surprise that many of the reporters targeted were independent journalists or worked for small, local outlets. These are the people who hold local officials accountable when no one else will, despite insufficient pay, limited resources, and the often-unfinished promise of public records laws. They are also less likely to have a direct line to an in-house attorney or the resources to hire a law firm.

Some officials who target journalists have paid a price. Bryan Carmody, the California journalist whose home and office were raided by local and federal officials in 2019, after he obtained a confidential document related to the death of a public defender, obtained a six-figure settlement from the City of San Francisco. In 2012, the Oakland-based photojournalist David Morse settled for \$162,500 with the University of California after campus police in Berkeley arrested him and seized his unpublished photographs.

Marion County has returned the unlawfully seized materials to the Record and paid hefty fines to the paper and its staff.

Last month Marion County agreed to pay \$1.2 million to Eric Meyer, editor of the Record, and the estate of his mother, Joan, a former editor and associate publisher of the paper who died a day after the raid on her home. The county agreed to pay \$300,000 to the company that publishes the paper. An additional \$650,000 will be paid to Ruth Herbel, the city's former vice mayor, and her husband, whose home was raided, and \$900,000 will be divided among two reporters and another member of the staff.

The county also apologized. It said: "The Sheriff's Office wishes to express its sincere regrets to Eric and Joan Meyer and Ruth and Ronald Herbel for its participation in the drafting and execution of the Marion Police Department's search warrants on their homes and the Marion County Record. This likely would not have happened if established law had been reviewed and applied prior to the execution of the warrants."

However welcome these outcomes were, they failed to restore the veil of privacy that should shield reporter-source communication.

Sheriff Cody, who lost his job in the aftermath of the raid, faces a criminal charge for interference with a judicial proceeding — "inducing a witness to withhold or delay information in a felony case" — for encouraging the deletion of text messages sent to a witness who knew of the chief's plans for the action. A jury trial is set to begin Feb. 2, 2026.

The determination to protect the press from searches spurred the Stanford Daily suit 54 years ago. It cannot waver now. Monetary damages and the return of the journalists' materials are not enough. We need to stop media searches from happening in the first place. As Montana Sen. Max Baucus said during a 1980 hearing on the Privacy Protection Act, "The freedom of the press and individual privacy are fundamental to our democratic system." In Marion County, that promise of individual privacy disintegrated the moment that police officers entered the Record's offices.

“The Sheriff's Office wishes to express its sincere regrets to Eric and Joan Meyer and Ruth and Ronald Herbel for its participation in the drafting and execution of the Marion Police Department's search warrants on their homes and the Marion County Record. This likely would not have happened if established law had been reviewed and applied prior to the execution of the warrants.”

— Marion County



Photos by Carly Gist

Staff members of the Indiana Daily Student work on assignments in the newsroom Oct. 20, 2025 at Indiana University in Bloomington, Indiana.

CENSORSHIP DEBATE: Indiana University reinstates print edition of student newspaper as fired adviser files First Amendment suit.

By Carly Gist

A dispute between Indiana University and its student newspaper this fall over editorial independence became the face of a national debate about censorship and a reminder that the First Amendment doesn't protect the freedom of expression of student journalists.

On Oct. 14, 2025, after weeks of tension over what type of coverage could be printed in the 158-year-old newspaper, the university fired the Indiana Daily Student's longtime adviser, Jim Rodenbush, and discontinued all print editions. While the university framed the move as a larger part of restructuring student media, the student editors, who refused to comply with the university's order to stop printing hard news in the paper, said they believed it was an act of retaliation.

The university's decisions caused IU alumni to pull over \$1 million in donations, according to reporting by the *IndyStar*. The university's directive to the students became front-page news all across the country.

After the national reaction, the university pulled back. In a letter to the IDS editors published on Oct. 30, IU Chancellor David Reingold said the IDS would be allowed to continue using its budget to print editions through June 30, 2026. While he stood by his claim that the decision to cut print "had nothing to do with editorial content," he recognized that the university's actions did prompt concern.

"But perception, even when it is not grounded in fact, can carry

the weight of reality," he wrote. "I recognize and accept that the campus has not handled recent decisions as well as we should have. Communication was uneven and timing imperfect."

Following Reingold's letter, Mia Hilkowitz and Andrew Miller, co-editors-in-chief of the IDS, published their own letter, writing that they believe the decision was the "correct call" and that they're now "on a solid trajectory toward real solutions for student media." But they reported that they had yet to be engaged by IU administrators face-to-face, and requested for greater involvement of student leaders in The Media School's plan to improve sustainability.

"This is a win for student journalism, for editorial independence and our fight to bring quality journalism to our community — but more is needed," the editors wrote. "We look forward to being at the table and taking more steps in the right direction."

The editors also called for more clarity on the university's initial decisions.

Rodenbush filed a lawsuit against Indiana University on Oct. 30, maintaining his termination was a violation of his First and 14th Amendment rights.

"This case presents the Court with an opportunity to serve its originally intended purpose: as a check on the executive and legislative branches, and to show the people of Indiana that it will not bend to the



Andrew Miller and Mia Hilkowitz, co-editors-in-chief of the Indiana Daily Student, pose for a portrait near Dunn's Woods at Indiana University Oct. 20, 2025 in Bloomington, Indiana.

will of a government that suppresses the speech of its citizens and silences the press," the statement of the case reads.

In Reingold's letter, the chancellor said that the university cannot speak about the details of Rodenbush's firing.

In a Dec. 4 email to the Gateway Journalism Review, the student editors said IU changing course "proved how vital journalism is" to their staff. "If our work wasn't important, we wouldn't garner such pushback from the university or support from our community," they wrote.

Here's how the administrators of Indiana University created a national First Amendment controversy and ended up on the receiving end of a First Amendment suit filed by their veteran newspaper adviser.

Timeline of events

When The Media School at Indiana University announced its Action Plan for Student Media in October 2024, IDS was printing weekly, distributing copies on campus and in Monroe County. Beginning with the Spring 2025 semester, the plan, which aimed to eliminate budget deficits and preserve student media outlets, reduced the paper to seven special editions per semester, which it identified as "high-revenue issues."

In addition to publishing online, the student journalists continued to print news coverage, and included the special editions as inserts in the paper. In an Oct. 20 interview with the Gateway Journalism Review, Rodenbush said the reduction saved the program around \$20,000 during the spring semester, while continuing to generate revenue. Everything was working out great, he said, until IU leadership started pushing for the paper to focus solely on the themed content.

"When the fall was coming, when things were about to crank up, is



Jim Rodenbush sits for a portrait near Dunn's Woods at Indiana University Oct. 20, 2025 in Bloomington, Indiana.

when I started to hear that the provost was concerned that he was still seeing newspapers in the newsstands," Rodenbush said. "I believe that he likely thought that he was going to see 'Homecoming Guide.' But instead, he's looking down and seeing the front page of the IDS with 'Homecoming Guide inserted."

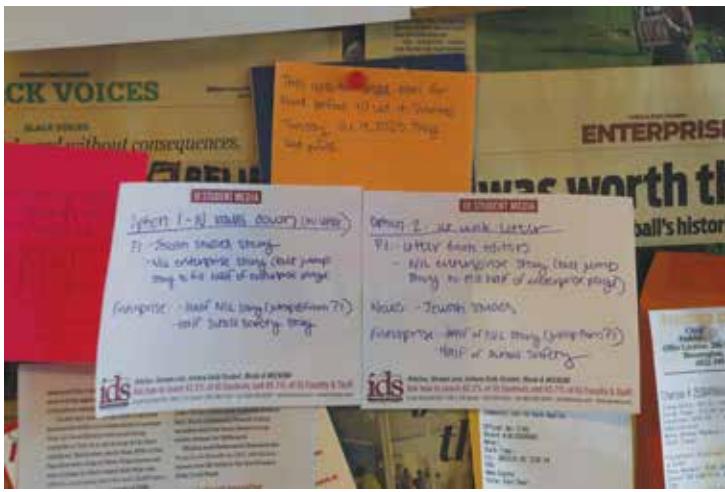
Following the second edition of the semester, which printed on Sept. 11, Rodenbush said the request became a topic of many meetings with administrators at the media school. He said he would relay the requests to the editors, but left the final decision to their discretion. As student media director since 2018, Rodenbush believed it was his duty to not interfere with content. Student media should be left alone, he said, because "it's the perfect setup for training reporters for the real world."

On Sept. 25, the IDS printed the edition that would be their last. Rodenbush was called into another meeting, which he described as "animated" and says he was yelled at.

"That was really when I first pushed back about what I was being asked to do," he said. "I mean, I was basically being asked to ensure that the wishes of the provost were executed. And I began to push back about what that meant and censorship and editorial independence, and it's not my decision – it's a student's decision."

Rodenbush said he persisted in his beliefs through two more meetings after that. On the evening of Oct. 7, he sent an email to student editors Hilkowitz and Miller explaining what had been discussed: their next edition was to contain solely information about Homecoming; "no other news at all, and particularly no traditional front page news coverage." He told the students that as an alternative, news

Continued on next page



Sticky notes with the final plan for IDS's Oct. 16 Homecoming Edition hang on a bulletin board in the editor-in-chief office at the Indiana Daily Student newsroom Oct. 20, 2025 in Bloomington, Indiana.

could be distributed in the city of Bloomington, but not on campus.

"It's my understanding that this is an expectation, not a suggestion," he wrote.

Longtime adviser fired

As the publication date for the print issue approached, co-editors Hilkowitz and Miller pulled out two sticky notes and drafted a plan for their next edition. If administrators rescinded their order, as the student journalists had requested, staff would print what they wanted, as they always had. If the restriction stayed in place, they'd ignore it and run an editorial on the front page condemning the attempt to control their coverage.

On Oct. 14, two days before print, Rodenbush was fired in a short meeting with an HR representative and dean of Media Arts David Tolchinsky. The dean wrote in a termination letter that Rodenbush's "lack of leadership and ability to work in alignment with the University's direction for the Student Media Plan is unacceptable."

But the student editors say they believe it was a scare tactic — one that's created a "chilling effect."

"We have other professional members, a lot of journalists and faculty, who swore to protect our First Amendment rights and support journalists," Hilkowitz said, "and we just had a faculty member who had been doing this for years who was fired for doing just that."

The termination meeting took place at 4:30 p.m. Later that day, at 7:19 p.m., just before publishing an editorial on Rodenbush's firing, Hilkowitz and Miller learned through email that IDS print was being discontinued.

"As you may recall, the Action Plan, which was endorsed by IU Bloomington campus leadership, outlines a shift from print to digital platforms," Tolchinsky wrote in an email to the editors. "In support of the Action Plan, the campus has decided to make this shift effective this week, aligning IU with industry trends and offering experiential opportunities more consistent with digital-first media careers of the future."

Tolchinsky's message left no room for negotiation. The editors asked for clarification, but did not receive a response.

"I think they canceled print as a way to try to cover their tracks," Hilkowitz said. "And I just hope that people realize that this is retaliatory."

On Thursday, Oct. 16, the day the print issue was originally scheduled to be out, the IDS published online only. Big red letters on the front page of the e-edition read "CENSORED." Instead of ads, which they'd typically sell for print, the staff ran black boxes with messages about lost sales.

"This is not about print itself. This is about the breach of editorial independence that the university is detecting," Miller said. "We're not going nuclear over print being cut. We're going nuclear because the university cut print after deciding to censor our paper."

Making national news

IU Chancellor David Reingold said in a statement that the decision "concerns the medium of distribution, not editorial content," according to an Oct. 15 IDS letter from the editors.

"We uphold the right of student journalists to pursue stories freely and without interference," Reingold said.

But as the situation reached national news, the backlash mounted. Ursula Stickelmaier, an arts editor at the IDS, was disheartened by the university's response, and said the administration "doesn't value student journalism in a way that is substantial." A Seattle native, Stickelmaier said she came to IU specifically for the newspaper. High-profile alum Mark Cuban, who donated \$250,000 to the IDS months before print was cut, according to reporting by the *IndyStar*, took to X to express his disappointment, writing "censorship isn't the way." The Indiana University Bloomington Association of University Professors released a statement on Oct. 16 asking the university to reconsider its actions, which the organization described as "a clear violation of First Amendment protections of freedom of the press."

While the university said its decision to cut print was driven by business considerations and a shift to digital media, Hilkowitz and Miller say the move was unnecessary. They reported that the first three editions of the semester generated \$11,000 from advertising, which they've now had to cut ties with, and that they've already largely focused on digital content.

"We're getting hundreds of thousands of page views every single month," Hilkowitz said. "We have a very successful podcast. We just won a pacemaker for our multimedia... They're going to say it's a business decision. That is a completely illogical argument."

Rodenbush said that IU's action plan made sense initially, when the paper was reduced to seven special editions, because it was content neutral. "The minute they made it about content is the minute that it crossed the line," he said.

The censorship debate

In 1988, the United States Supreme Court ruled in *Hazelwood v. Kuhlmeier* that it was not a violation of student journalists' First Amendment right to free speech when school officials at St. Louis' Hazelwood East High School prevented the publication of controversial articles on student pregnancy and parental divorce in their student newspaper. Because it was a public high school, and the newspaper was sponsored by the school, the court ruled that the articles were state-sponsored speech and not public forums.

IDS receives some funding from the university's Media School; it is not funded by state tax dollars. In its fundraising disclosure, the IDS notes that it may accept funding directed at covering certain topics, but "remains completely independent of such funds in order to produce the highest quality journalism that best serves our audience."

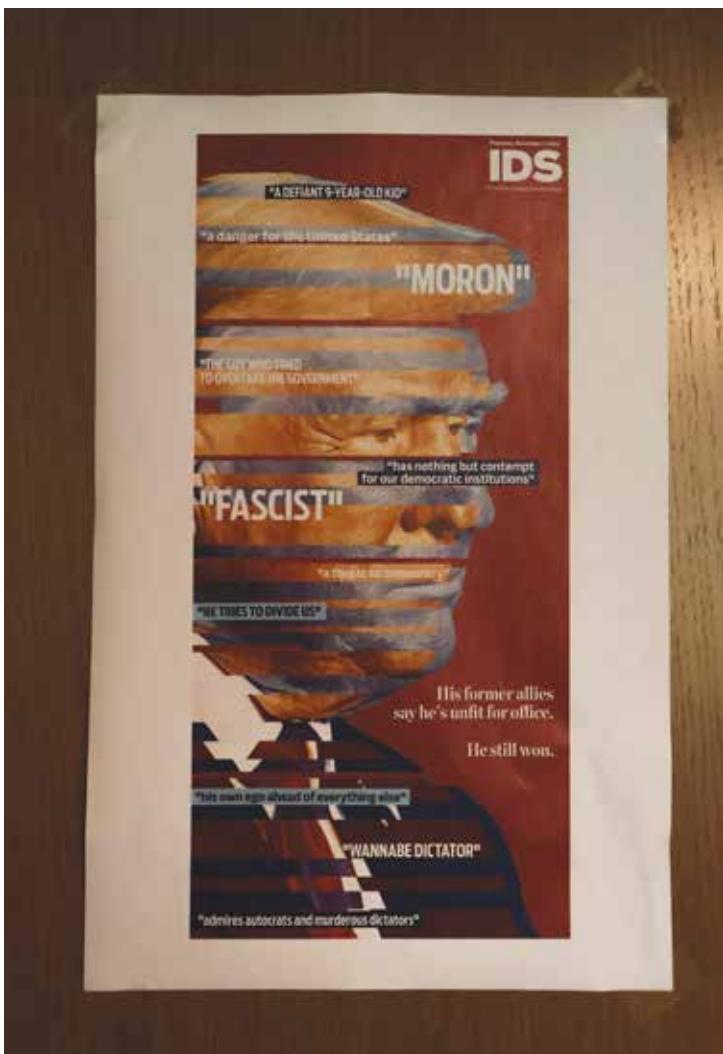
Whether the *Hazelwood* decision applies to college publications has long been debated.

"If there is some sort of decision like cutting print, then that alone, in a vacuum by itself, is not onerous to the First Amendment," said Jonathan Gaston-Falk, an education law attorney at the Student Press Law Center. "It's when we have these connections where that is a retaliatory effort to stifle that voice, then we have a First Amendment problem."

Rodenbush said that he has served as an adviser for four university newspapers, including Penn State University, during the time that *The Daily Collegian* reported on Jerry Sandusky's child sexual abuse. He said IU was the first time he's experienced "attempted influence" from a university.

But IU's recent decisions are not the first time the IDS has been at the center of controversy. Hilkowitz said they've dealt with threats online and in person: angry emails, reporters being doxxed and readers visiting the office to confront staff.

On Nov. 7, 2024, after Donald Trump was elected president for a second term, the IDS' front cover featured an illustration of Trump accompanied by negative quotes from his former political allies. In a post on X, then Indiana Lt. Governor-elect Micah Beckwith incorrectly claimed that state tax dollars were funding the student newspaper, and wrote, "This type of elitist leftist propaganda needs to stop or we will be happy to stop it for them."



On Nov. 7, 2024, former editors-in-chief of the IDS printed an illustration of Trump accompanied by negative quotes from his former political allies on their front cover. In a post on X, then Indiana Lt. Governor-elect Micah Beckwith criticized the publication, writing "This type of elitist leftist propaganda needs to stop or we will be happy to stop it for them." The illustration can be seen in the newsroom.

"We're very used to receiving threats from outside, from people outside of IU, from other students outside the media school institution," Hilkowitz said. "This is the first time where I feel like it's a call coming from inside the house."

What now?

Josh Moore, assistant director of the Student Press Law Center, said it's too early to tell whether the events at IU have spiked similar cases around the country. But requests to their legal hotline, which allows student journalists to speak directly with attorneys, has increased by 42% over the last two academic years due to many different threats.

"This should be something that every single collegiate publication across the country is worried about. IDS, we've been around for 158 years. That's a long time and we have a lot of resources, we have a lot of history behind us," Hilkowitz said, adding, "If IU was allowed to do this, I worry that administrators at different schools who are looking to censor their student publications and their students will look at this almost as a blueprint for what to do there."

On Oct. 20, Tolchinsky, the media school dean, announced a formation of a student media task force at IU. In a press release, Tolchinsky said the task force, which will consist of faculty, staff, students and alumni, is to be appointed in the coming weeks. The goal of the initiative is to "develop recommendations ensuring both the editorial independence and financial sustainability of student media at IU."



Purdue University's special edition hangs next to a letter from the editors on an IDS newsroom window Oct. 20, 2025 in Bloomington, Indiana.

In their December email to the Gateway Journalism review, Miller and Hilkowitz said they're "cautiously optimistic" about the initiative.

"We're encouraged that we have seats at the table and that the first meeting is coming up on Dec. 12," they wrote. "Ultimately, though, we need to make sure the task forces' recommendations have teeth, and we'll be doing everything we can to make sure they do."

Hilkowitz and Miller have been in talks with legal counsel.

Despite his firing, Rodenbush said he never wavered in his decision.

"I understood that there were possible severe consequences," he said. "But I had to do what was going to help me sleep. So I'm comfortable in that."

For now, Hilkowitz and Miller say they're seeing support. Staff at Purdue University's The Exponent published special edition newspapers in solidarity and drove two hours to deliver them on IU's campus. Hilkowitz said she didn't realize the workers at a nearby coffee shop knew her name until they offered her a free drink shortly after news broke that print had been cut. While preparing for a portrait on Oct. 20, a campus tutor stopped to tell them to keep up the good work.

"We're going to keep producing really great journalism," Hilkowitz said. "We've been really lucky that this has really sparked a fire under so many of our staffers, and they're ready to keep doing this important reporting. So as much as IU is going to try to stop the reporting from getting out there, they're not gonna let that happen. We're not going to let that happen."

Hazelwood censorship case looms over student journalists

By William H. Freivogel

Thirty-seven years ago, on Jan. 13, 1988, the U.S. Supreme Court announced a devastating blow to student speech and the student press when it ruled that the principal of Hazelwood East High School could remove controversial stories about teen pregnancy and divorce from the school newspaper over student objections.

The court's decision in *Hazelwood v. Kuhlmeier* was one of the most far-reaching decisions restricting free speech in the past half century. Even as the Supreme Court has recognized expanded free speech rights for corporations, makers of violent video games and fundamentalist picketers at veterans' funerals, it has continued to limit the free speech rights of students in the public schools.

With today's social media, Hazelwood's restrictions on student speech can follow students back to their homes. Some courts have ruled that principals can punish students who write ribald comments or parodies on a home computer, if the comments disrupt the school.

Indiana University's recent attempt to bar news from the storied Indiana Daily Student was a reminder that the decision still hangs over student journalists.

Will Creeley, legal director of The Foundation for Individual Rights and Expression FIRE, said recently that Hazelwood remains one of most troublesome and restrictive Supreme Court free speech decisions and that some courts have tried to extend it to college media.

Gregory P. Magarian, the Thomas and Karole Green Professor of Law at Washington University law school, says Hazelwood "remains a very important speech-restrictive decision."

"The court has put much more energy into expanding the free speech rights of politically or economically powerful speakers while largely disdaining the First Amendment concerns of politically and economically disempowered speakers," Magarian said. "Through this lens, Hazelwood represents perhaps the most important instance of the court's steady retreat from protecting students' free speech rights."

Mitch Eden, former adviser to Kirkwood High School's Call newspaper, says "advisers all know of the damage done 25 years ago with the Hazelwood decision. There are too many schools today in which scholastic journalism is simply a public relations tool for the administration or, worse, being cut because journalism is not part of the 'common core,' the latest educational buzzword. Well, journalism is a field where the goal always has been ... focused on excellence, on independent thinking and on leading, not following the crowd."

Eighteen states have passed New Voices laws to restore and protect the rights of student journalists. Those states include all of those surrounding Missouri - Illinois,



Arkansas, Kansas and Iowa. Illinois has two separate laws, one protecting high schools and one colleges. The Missouri Legislature has considered the New Voices bill many times, but it has not passed.

Last-minute decision

The Hazelwood East case began at the end of the school year in 1983, when the Journalism II class, which produced the Spectrum, compiled two full pages of stories under the headline: "Pressure describes it all for today's teen-agers. Pregnancy affects many teens each year."

Principal Robert Reynolds objected to two of the six articles. One was an account of three Hazelwood East students who had become pregnant. The article made references to birth control and sexual activity and reflected the positive attitude of the girls toward their pregnancies. The other article was an account of a student whose parents were divorced. The student complained that her father often was absent, "out late playing cards with the guys."

The names of the pregnant girls had been changed, but Reynolds was concerned that they could be identified from other information in the articles. The Spectrum planned to delete the name of the student in the divorce article, but the real name was on the proof read by Reynolds. Reynolds thought it unfair that the father did not have a chance to respond. The principal ordered the two pages removed from the Spectrum, excising four unobjectionable articles along with the two controversial ones.

Three students on the staff, led by Cathy Kuhlmeier, challenged Reynolds' action. With the help of the American Civil Liberties Union of Eastern Missouri, the students won in the federal appeals court in St. Louis. But the lawyers handling the case botched the argument in the U.S. Supreme Court, according to the recollections of former ACLU leaders.

The late Fred Epstein, past president of the ACLU, said in an interview a decade ago: "As I recall, Hazelwood was argued by a couple of incompetent lawyers who would accept no advice from the ACLU or other lawyers who had Supreme Court experience. Worst of all, the two ACLU lawyers handling the case would not even let friendly lawyers conduct a mock court to prep the two lawyers handling the case."

Justice Byron White, who wrote a number of decisions hostile to the press, wrote the 5-3 majority opinion in which he said high school newspapers were part of the school curriculum, not public forums for the exercise of free speech.

"Educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns," White said.

In dissent, Justice William J. Brennan Jr. said, "The mere fact of school sponsorship does not ... license ... thought control in the high school."

Brennan added: "The young men and women of Hazelwood East expected a civics lesson, but not the one the court teaches them today."

Weaker protection of the press

The Supreme Court's weaker protection of free student expression is consistent with weak support on the court for the press in general, Magarian says.

"The idea of press rights, as a specific, separate category of free speech rights, has all but died on the vine," he wrote. "That has more than anything else to do with changes in media economics and technology. But even before the Internet, the court had largely embraced an attitude toward press rights that was indifferent at best. Hazelwood is part of that."

So are decisions where the court refused to extend constitutional protection for journalists to protect confidential sources and held newspapers responsible for abiding by reporters' promises of confidentiality to sources.

Adds Magarian: "It is striking that the limitations on student rights and press freedom have come over a time when the court has expanded other First Amendment rights."

But, he adds, "First Amendment speech rights haven't simply expanded over the past 25 years. Instead, First Amendment speech rights have changed shape. The court has put much more energy into expanding the free speech rights of politically or economically powerful speakers while largely disdaining the First Amendment concerns of politically and economically disempowered speakers. On the other side of the ledger, we can see the court's expansion of commercial speech rights – and, especially, its conversion of campaign finance regulation into a First Amendment preserve."

In an interview with the Freedom Forum a decade ago, Kuhlmeier recalled a girl coming up to her at a symposium on the case and calling her a "freedom fighter" while asking for her autograph.

"I never thought of myself as a freedom fighter," she said. "But I guess I did at least try to make a difference. Students don't have enough First Amendment freedoms. There are a lot of very intelligent kids out there, and we should listen to them more. Maybe, if we did, the world would be a better place."

Freedom to read is in peril

Missouri, Arkansas, Iowa, Tennessee, Wyoming, Texas and Florida remove hundreds of books despite the First Amendment

By William H. Freivogel

NIXA, Mo. — When Glennis Woosley entered Nixa High School, she found herself at the center of a book banning controversy that attracted national and international attention. Woosley joined Nixa's Students Against Book Restrictions SABR, attending a June 2023 school board meeting to resist a campaign by adults to remove books from the library shelves.

The Nixa students found themselves talking to reporters from around the world who were reporting on the controversy in this small town in Christian County in southwest Missouri. Reporters from The New Yorker, the Christian Science Monitor, the Washington Post, the Jerusalem Post and local Springfield media interviewed the students.

"I was like 'Oh my gosh, this is actually happening in the world and it is happening to us,' Woosley said in one media interview.

"We are in high school," she said. "We can put context to those books because we have been taught how to do that by those people around us who are acting like we can't."

Thomasina Brown, then a senior and a member of SABR, told the Christian Science Monitor, "We felt that we weren't being heard."

Nixa had become a focus of national debate when the Missouri Legislature passed SB 775 making it a crime to provide "explicit sexual material to a student."

States in the Midwest and South have been passing similar broad laws that apply the same broad sexual standard to high school students as kindergarteners. That causes high school students to rebel and civil liberties lawyers to litigate.

Some of the most important of those school cases are ending up in the federal appeals court in St. Louis — the 8th U.S. Circuit Court of Appeals. Broad book ban laws from Arkansas, Iowa and Missouri will be governed by that court's decisions.

Just last week, lawyers challenging Arkansas' law told the court in a written brief that the First Amendment means, in the words of attorney Rebecca Hughes Parker, that "A state cannot criminalize making books available to a 17-year-old because they might be obscene for the youngest minors... it cannot impede access to books because it dislikes their viewpoint."

A Jackson County Circuit Court judge struck down a 2022 law passed in Missouri - SB 775 - that made it a crime for school

employees to supply "sexually explicit material" to students. Circuit Court Judge J. Dale Youngs ruled the law was unconstitutionally vague and overbroad.

"This is a real victory for all library professionals who are trained to select age-appropriate, developmentally appropriate material for students in both public and private schools," Gillian Wilcox, the ACLU of Missouri's director of litigation, told The Missouri Independent. "It is a real insult to their training and professionalism for the government to think that it knows better what books belong in those schools, and it's an insult to parents as well."

Whatever the 8th Circuit decides in the Arkansas case and another one from Iowa will likely govern what happens in Missouri.

'Normalization of book banning'

PEN America, which tracks book bans nationwide, concluded this year that the nation has undergone a "normalization of book banning."

It wrote: "Never before in the life of any living American have so many books been systematically removed from school libraries across the country. Never before have so many states passed laws or regulations to facilitate the banning of books, including bans on specific titles statewide. Never before have so many politicians sought to bully school leaders into censoring according to their ideological preferences, even threatening public funding to exact compliance. Never before has access to so many stories been stolen from so many children."

PEN America found that during the 2024-2025 school year, 6,870 instances of book bans across 23 states and 87 public school districts.

Altogether, since the book bans became common in 2021, there have been 22,810 book bans across 45 states and 451 public school districts.

A 2024 law in Tennessee resulted in that state shooting up to third place in the number of banned books — 1622, right after Texas with 1781 and Florida with 2304, PEN found.

The Tennessee state legislature decided last year to amend the "Age-Appropriate Materials Act of 2022" to specify that any materials that "in whole or in part" contain any "nudity, or descriptions or depictions of sexual excitement, sexual conduct..." are inappropriate for students of all ages.

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“Never before in the life of any living American have so many books been systematically removed from school libraries across the country. Never before have so many states passed laws or regulations to facilitate the banning of books, including bans on specific titles statewide. Never before have so many politicians sought to bully school leaders into censoring according to their ideological preferences, even threatening public funding to exact compliance. Never before has access to so many stories been stolen from so many children.”

— PEN America

The books removed include classics — Magic Tree House author Mary Pope Osborne, children's poet Shel Silverstein and Calvin and Hobbes cartoonist Bill Watterson. They joined previous exclusions of works by Judy Blume, Sarah J. Maas, Eric Carle and Kurt Vonnegut.

Osborne's Magic Tree House series sends siblings, Jack and Annie, time traveling to historical destinations for adventures. A book she wrote with her sister, Natalie Pope Broyce, "Ancient Greece and the Olympics, a Magic Tree House Fact Tracker," meant to be a learning companion to "Magic Tree House #16: Hour of the Olympics," was one of 574 books removed from Monroe County school libraries. The book's cover features a nude Greek statue of an Olympian throwing a discus.

Tennessee Secretary of State Tre Hargett further complicated matters this fall by sending a letter to 211 libraries stating that their funding was dependent on complying with President Trump's executive order on gender identity and a state law against DEI. As a result, some libraries closed for several days to conduct an emergency audit of every title. The Rutherford County library sign read, "Library closed Nov. 10 to 15 for Emergency Inventory." PEN America and 33 major publishers and national library and literary advocacy groups denounced the directives.

Most of the lawsuits against state book bans target the overly general and vague language that calls for removal of books that are sexually suggestive. Also, almost any reference to LGBTQ activities is a rationale for removal.

Woosley, the Nixa student, put it this way in a Nixa Eagles' podcast: "A lot of times, people claim that these books are sexually explicit or too inappropriate for children. But we've also noticed that a lot of these books tend to have queer characters and people of color. And we've connected the pieces a little bit there. But overall, it's just — book banners claim is that they're too sexually explicit for us, even though we're high schoolers and we can put context to these books... I personally think that it's unfair to leave students out of what they're reading and what they're allowed to read."

On May 12, 2022 hundreds of Nixa residents crammed into the community room and into an overflow room to call for removal of objectionable books. Before the meeting, students from the high school presented the board with a petition signed by 345 students opposing removal.

"Some of the speakers called the school librarians pedophiles and groomers who should be arrested and put on a national sex-offenders registry," The New Yorker reported.

At a June 20, 2023 meeting, the board decided not to ban Art Spiegelman's Pulitzer Prize-winning Holocaust memoir "Maus," in a win for students. But after a long meeting where some students felt intimidated by shouts and comments from adults, the board banned "The Handmaid's Tale" and "Blankets." The board also banned the young adult novel "Unpregnant," which is about pregnancy and abortion, and the children's book "Something Happened in Our Town," which is about police brutality.

Woosley explained during an interview after the meeting: "The conversation on 'Unpregnant' was long. It's the story of a girl, coming from a Christian conservative family, finding out that she is pregnant, and she's a teenager. And so she and her friend try to get an abortion for her, and it takes place in Missouri in a very similar town as Nixa... a lot of school board members were saying that they were taking the subject of abortion and making it light-hearted and normalized in ways they didn't agree with. That was the main thing they talked about. Some of them also said that it was encouraging abortion, and they didn't want students to be encouraged to have abortions."

Are book bans state speech?

A key question for the courts is whether a school board decision to ban books is itself protected speech — government speech. The argument goes like this: Curating library books amounts to "government speech" akin to raising a monument in a town square. If it is, then the students wouldn't have a First Amendment right to read. The government's speech would trump the student's right to read and obtain information.

Seventeen state attorneys general have argued that when the government creates a library, that is government speech and the end of the issue.

That view received support from the conservative 5th Circuit U.S. Court of Appeals recently in a case from Texas. A majority of the court refused to recognize the First Amendment right of a student to receive information and to challenge a library's removal of books as abridging that right. A

minority of seven judges of the full court went further to say "a public library's collection decisions are government speech".

In December, the U.S. Supreme Court declined to hear an appeal of the 5th Circuit ruling. A group of parents from rural Llano challenged the removal of 17 books involving transgender issues, race and slavery in the United States, puberty and flatulence. One of the books removed was "In the Night Kitchen" by Maurice Sendak. The 1970 book included a depiction of its main character, a boy named Mickey, as nude as he visits a surreal kitchen in a dream.

5th Circuit Judge Stuart Kyle Duncan upheld the removal, writing that "no one is banning" books by removing them from libraries. If a disappointed patron can't find a book in the library, he can order it online, buy it from a bookstore or borrow it from a friend."

The 8th Circuit Court of Appeals in St. Louis has so far contradicted that view. Last year, in an Iowa book case, it said "public school libraries do not share the characteristics of monuments in a park... [I]t is doubtful that the public would view the placement and removal of books in public school libraries as the government speaking.

"Take routine examples of historic tomes on political science. A well-appointed school library could include copies of Plato's "The Republic", Machiavelli's "The Prince", Thomas Hobbes' "Leviathan", Karl Marx and Friedrich Engels' "Das Kapital", Adolph Hitler's "Mein Kampf", and Alexis de Tocqueville's "Democracy in America"... if placing these books on the shelf of public school libraries constitutes government speech, the State 'is babbling prodigiously and incoherently."

Another important legal issue in the book ban cases is whether the 1982 Supreme Court precedent of *Island Trees School District v. Pico* is still good law.

The school board had removed books from the junior high and senior high libraries that it thought were "anti-American, anti-Christian, anti-Semitic, and just plain filthy."

The Supreme Court found that school officials cannot remove books solely because they disagree with the views expressed in the books, but that they can make content-based removal decisions based on legitimate pedagogical concerns such as pornographic or sexual content, vulgar or offensive language, gross factual inaccuracies, and educational unsuitability for certain grade levels.

School boards "rightly possess significant discretion to determine the content of their school libraries," the court wrote, "But that discretion may not be exercised in a narrowly partisan or political manner. If a Democratic school board, motivated by party affiliation, ordered the removal of all books written by or in favor of Republicans, few would doubt that the order violated the constitutional rights of the students denied access to those books. The same conclusion would surely apply if an all-white school board, motivated by racial animus, decided to remove all books authored by blacks or advocating racial equality and integration. Our Constitution does not permit the official suppression of ideas."

To the contrary, Pico recognized a constitutional right to receive information, without which the right of free speech would be meaningless.

"The dissemination of ideas can accomplish nothing if otherwise willing addressees are not free to receive and consider them. It would be a barren marketplace of ideas that had only sellers, and no buyers," it reiterated.

Pico generally supports those challenging book bans, but is a weak precedent because there were not five votes for a single legal rationale. That said, seven of the justice agreed books couldn't be removed for ideological reasons.

Daniel Novack, whose Penguin Random House company has led the effort against book bans, recently told a gathering of media lawyers that 80 percent of Americans support allowing their libraries to curate their collection. And he noted it was a pervasive issue across the country, which has even more libraries than McDonald's.

Novack wondered if the backlash to Disney taking Jimmy Kimmel off the air last month might spur the anti-censorship sentiment. He added, "It's time to step up."

As for Woosley, last school year she organized an observance of banned book week. And she's planning a career as a journalist. This year she wrote, "While the 24-hour news cycle can invoke fear and paranoia, a world without news is not all rainbows and sunshine. Instead, we would live in ignorance. The knowledge of events happening on the other side of the world or even in your local community is a privilege."

CENSORSHIP

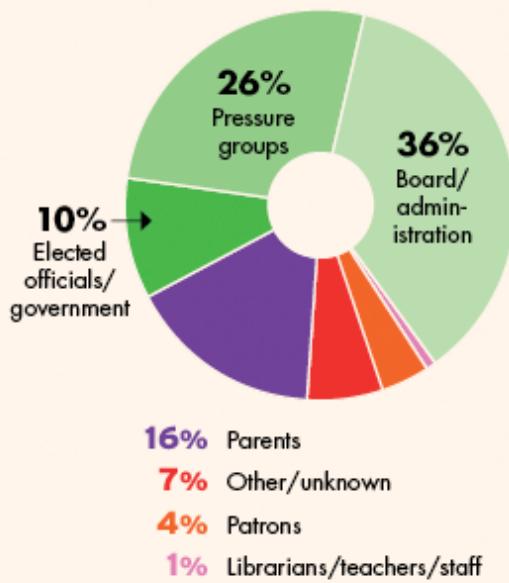
BY THE NUMBERS



The American Library Association documented another year in an unabating deluge of efforts to censor library materials in 2024, continuing an extremist campaign to suppress access to books that began in 2021. Last year, **2,452 unique titles** were challenged, the third highest number ever documented by ALA and significantly exceeding the annual average of 273 unique titles over the period from 2001–2020. [Learn more at ala.org/bbooks](http://ala.org/bbooks)

WHO CHALLENGES BOOKS?

Nearly 72% of censorship attempts in 2024 were initiated by pressure groups and decision makers who have been swayed by them.



Statistics based on 5,813 book challenges.

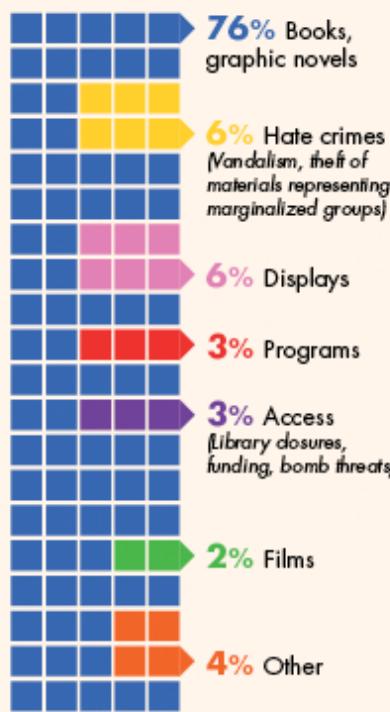
WHERE DO CHALLENGES TAKE PLACE?



Statistics based on 804 cases with known locations.

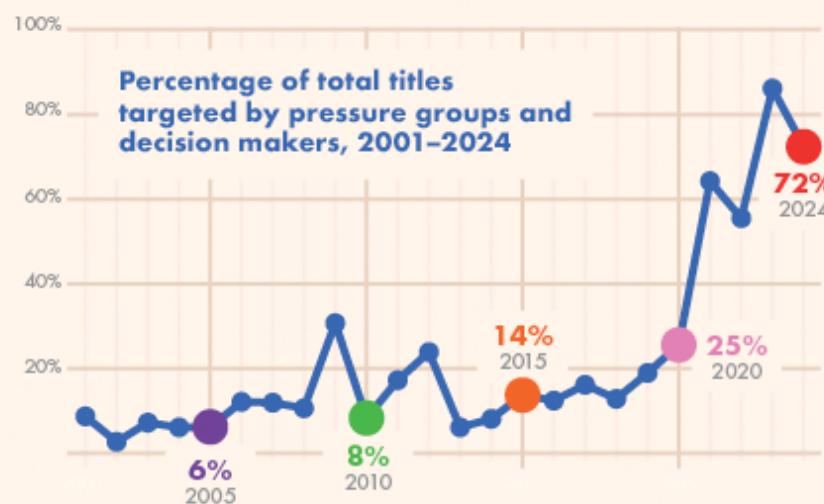
BOOKS AND BEYOND

ALA's Office for Intellectual Freedom tracked **821 censorship attempts** in 2024. Here's the breakdown:



CENSORSHIP TRENDS

The majority of library censorship can be tied to organized campaigns. Pressure groups and the administrators, board members, and elected officials they influenced targeted 4,190 total titles in 2024. From 2001–2020, this constituency attempted to remove an average of 46 titles per year.



CENSORSHIP
STATISTICS
COMPILED BY:



OFFICE FOR
Intellectual Freedom
American Library Association



Photos courtesy of Glennis Woosley

How students fought book bans in Nixa, Missouri

By Glennis Woosley

NIXA, MO. — In my suburban town, Nixa, Missouri, we have a population of roughly 25,000 and are primarily conservative. So, in 2021, when a surge of book bans took place across America, with an attempted 729 books banned that year alone according to the American Library Association, Nixa soon followed.

By May 2022, the books "Fun Home", "All Boys Aren't Blue" and "Homegoing" were taken off the shelves of my high school library. At this time, I was only in eighth grade. But I'd heard about the push for book bans in my school district because my sister was a senior. My first reaction was, "That's dumb, it's not gonna go anywhere." But I was mistaken.

The main people involved in these challenges were part of a

private Facebook group called "Concerned Parents of Nixa" and members of the national "Moms for Liberty" group. On the outside, they advocate for what they deem "parental rights" in education. However, most of their actions have contributed to the nationwide book ban movement.

Although the book challengers pointed to concerns about adult content, their attacks were focused on books that addressed issues of race, religion, and sexual orientation. It wasn't hard to connect the dots on why those books were targeted.

After those initial book bans, I got involved by becoming a leader in Nixa Students Against Book Restrictions (NixaSABR). Supporting the First Amendment has become a big part of my life.

“In June our Show me Resistance event at Bookmarx brought nearly 50 people and over 10 organizations that spoke about their cause and efforts. At this event, attendees were encouraged to speak to these organizations and connect with the efforts they are working towards. Additionally, attendees were encouraged to write letters, make phone calls, and design protest signs to direct towards Missouri officials to demand change and listen to their constituents.”

— Thomasina Brown

The first time I spoke at a school board meeting, I knew I wanted to make an impact, but speakers only got three minutes. I devised a plan. Along with my speech, I chose to wear a school-approved speech and debate shirt that said “Speak Up” on the back. Not only would everyone in the room see my message, but there might also be a journalist there to cover the story and our actions. I was right.

The next day, multiple news articles described the student speeches, accompanied by a photo of my back with “Speak Up” clearly visible.

One thing commonly stated at those broad meetings was that the books weren’t actually getting “banned” because students could still access them in other ways. The problem with this argument is that access and availability are different. I’m fortunate because I can get restricted books that other students cannot. Whether they can’t get them because of cost, transportation or 1000 more issues that we aren’t considering. That’s what makes public school libraries amazing. They’re designed to give equal access, especially for those who don’t have it.

In a world where social mobility is directly affected by education, libraries are a key resource. So, taking away the power to learn and understand others through free books is harmful to society.

Since then, NixaSABR has continued our efforts. Over the summer, the team hosted two Day of Action events. Unfortunately, I was travelling and couldn’t attend, so I reached out to Thomasina Brown, a senior at Arizona State University and leader of NixaSABR, to explain a little bit about these events.

“In June our Show me Resistance event at Bookmarx brought nearly 50 people and over 10 organizations that spoke about their cause and efforts,” Brown said. “At this event, attendees were encouraged to speak to these organizations and connect with the efforts they are working towards. Additionally, attendees were encouraged to write letters, make phone calls, and design protest signs to direct towards Missouri officials to demand change and listen to their constituents.”

The other event was a Freedom to Read event at Pagination Bookshop. They had similar activities to Show me Resistance, but this one was partnered with BookBag, an annual program that provides families with books, snacks, school supplies and hygiene products throughout the month of July. Attendees were encouraged to bring donations to this organization to help our local community.

NixaSABR also collaborates with the Golden State Readers, a student group in California that defends the freedom to read. Over the last two years, we’ve partaken in their protest Break The Tape, an event during Banned Books Week where NixaSABR leaders hand out caution tape to students who support the freedom to read.

The protest started small. But by the middle of the week, almost

every hallway had at least one bag with a strip of caution tape tied to it. While this was a big win for us, it quickly came crashing down when we started hearing gossip about an assistant principal telling students to take off the caution tape.

Hearing this, one of our leaders went to the admin to explain the situation. Initially, we were told that we could schedule a meeting with the principals. But the protest would end the Friday before the suggested meeting. So, the admin met with that leader and told that what NixaSABR was doing was for a noble cause, but the caution tape was too distracting in class. The rest of the week we toned down how much tape we passed out but still finished through with our goal in the beginning.

This year, we didn’t have a run-in with the admin, and Break the Tape went smoothly, with around 80 to 100 students participating.

On a personal level, I forget the impact that student groups have, like NixaSABR, until I’m in conversations that give me a new perspective. This tends to happen during Break the Tape week.

This year, I’m a part of a group of tutors, and during our free time, we talk about politics. One of the people in the group told me she doesn’t tend to follow the news. But on the first day of Banned Books Week, I came to school with caution tape, and she asked for a piece. She told me that even though she doesn’t follow the political world, she strongly believes in the freedom to read.

While I understand some book challengers think they’re doing the right thing, I wish they would speak to a diverse group of students. The students and educators are the ones being directly affected and need to be a part of the decision, and like my tutoring friend, students care about their freedom to read. Even though we’re kids, we’ve been taught to put context to books. But when those books are taken away, we don’t get a chance to learn and understand other walks of life.

I’m proud to say that NixaSABR’s efforts have been worth it for two reasons. One, our school board lacked transparency when this first started. Years later, in 2023, during another wave of book challenges, each board member talked about every book and why they voted the way they did. Two, our school still receives book challenges, but the school board hasn’t banned a book in over two years.

Overall, book bans go against American values. Banning books is a form of censorship that restricts open discussion, curiosity and free thought. As a journalist myself this scares me. Censorship in schools normalizes censorship elsewhere. If we allow book bans to become routine, it becomes easier for people in power to control what information gets out to the people.

The easiest way to fight this is by doing the little things. In your public libraries, request banned books, read them and talk about them.

Small town librarian fired for Pride exhibit despite policy of tolerance

By Kallie Cox

BOURBON, MO. — The Bourbon public library is small, with only one room housing a table with a puzzle, another with a few desktop computers, and three others for children's activities and browsing. There is no LGBTQ+ section, no women's studies, and a thin offering on racial studies. There is, however, a plethora of religious texts and Christian fiction.

The library doesn't overtly censor books, and when I first walked into the building, one of the first titles I saw was the frequently banned graphic novel "Maus." A Bible is propped up on display in the religion section, but so is the Quran.

Still, this library became the epicenter of a statewide scandal after a librarian was fired for refusing to remove a "Read with Pride" display featuring queer stories and authors.

Bourbon is a small town in Crawford County, Missouri, that spans 1.3 miles with a population of 1,694 people. Most of the town's businesses — including a bar/restaurant, a thrift store, a health food store, and a police station — lie along one main road. The library is just off this road, past the police department.

The library prides itself on being inclusive, with a diversity and inclusion policy in place from 2018. An excerpt from this policy reads: "Diversity and inclusion go beyond simple tolerance to embrace and celebrate individuality by developing practices that recognize and respect all people and their points of view."

Despite the picture of tolerance the library paints with this policy, the district fired Rachel Rodman for creating the pride-related book display.

Rodman worked for the library for nearly a year, during which time she was the primary librarian in charge of creating seasonal book displays for both children and adults. A few of these displays included one for Lunar New Year, Diwali, gardening, and a few recognizing local authors. Out of all the displays she created, this was the only one that faced any issues.

Rodman said the Pride display wasn't over the top and wasn't meant to call so much attention to itself. A photo of the display, which Rodman provided to the *Gateway Journalism Review*, shows a piece of printer paper on a bookshelf with the words "Color our world with Inclusion" in large letters, followed by "Read with Pride" in a smaller font. The display contained several works of fiction that don't appear overtly LGBTQ related on their covers but that feature queer plotlines and characters.

Among the books were "The House in the Cerulean Sea" by T.J. Klune, a fantasy novel tells the story of a magical orphanage with





found family tropes; Romance novel "Red, White & Royal Blue" by Casey McQuiston that follows the prince of Wales and son of the President of the United States as they fall in love; And "Fourteen Days", a collaborative novel of stories told between neighbors amid the pandemic lockdown, edited by Margaret Atwood.

"I didn't go 'Look at me! Look at me!' and put it in anyone's faces, because out here in rural areas, censorship is already really strong, and people have very strong opinions against a lot of things that are controversial all over our country right now," Rodman said. "But in areas like Sullivan or Bourbon, Missouri, there's a lot more that are anti- (things like) LGBTQ (rights), and it's really disheartening to be in a community like that because you love your community and your small towns but at the same time, you know, some of those people just don't value the same things that you do."

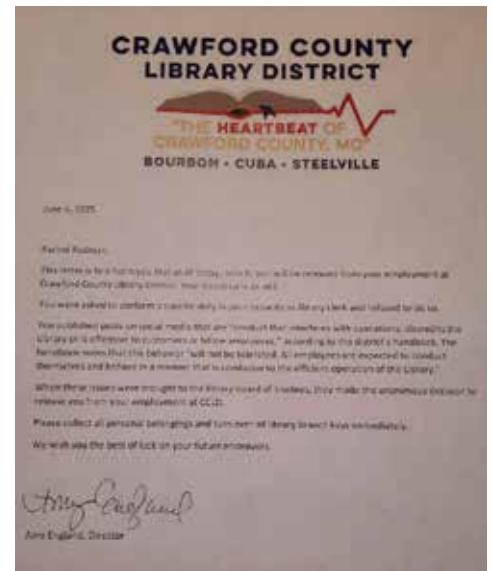
Rodman noted that the display was for

adults and not children, who had a completely separate and unrelated children's display located in a separate part of the library.

To her knowledge, Rodman said no complaints were made about the display by patrons of the library, and a few of the books flew off the shelves. A few days after she put it up, however, she was left a note by her branch manager telling her to take it down, writing in parentheses something to the effect of "one death threat per lifetime is enough for me," Rodman said.

This references an incident in the library's past — before Rodman's tenure — where the facility received threats over its content. Rodman was aware of this and said it was why she made the display understated and only for adults.

"I was trying to be inclusive to everyone, while also being respectful of the fact that there are strong opinions, and I knew that the library had problems in the past," she said. "Four years ago, they got death threats after



Photos courtesy of Rachel Rodman

having a children's story time reading a book promoting pride by way of, I believe it was about the parade itself, with two parents who were same sex parents."

Rodman refused to remove the display and said the request made her livid, considering it was against the library's own diversity and inclusion policies.

"I was hurt because I'm also an openly bisexual person, and I've been open about that in the entire year that I worked at this library; they were very aware that I was very pro LGBTQ. I was not quiet about how any censorship of this specific thing would make me feel, to my branch manager (or) to my program director," Rodman said. "I couldn't be complicit in something that meant so much to me and so much to so many other people in the community."

Rodman grew up in rural communities, having been raised in Saint Clair, Missouri, and now living in Sullivan, Missouri. Still, she was surprised at the political pushback she received for the display.

"Before working at the library, I didn't realize people really, truly tried to ban books," she said.

Her firing from the library has made finding work difficult, and to work at another library, she'd have to uproot her family, which includes six boys, five of whom are now teenagers. As she looks for her next opportunity, she is studying Social Work at Maryville University.

"I am not going to stop fighting for people's rights," Rodman said. "For every person this has impacted in a negative way, I'm so sorry, and I hope one day things change. But in the meantime, I want to keep fighting for it."

Facebook posts dug her grave

Rodman posted about the incident on Facebook, which she says likely dug her own grave. The next day, the Crawford County Library's new director walked in and demanded that Rodman remove the display and asked her to resign. Rodman refused, and

Continued on next page

the director told her the issue would go before the library's board.

Instead of the public meeting Rodman expected where the board would vote on whether or not to keep the display, the director showed up three hours later, asked her again to remove the display, and when Rodman refused, handed her a letter of termination.

"You were asked to perform a specific duty in your capacity as library clerk and refused to do so," an excerpt from the letter stated. "You published posts on social media that are 'conduct that interferes with operations, discredits the Library or is offensive to customers or fellow employees,' according to the district's handbook."

The letter said the Board of Trustees unanimously voted to fire her.

Amy England, the director of the Crawford County Library District, refused to comment on Rodman's termination and instead issued a brief statement to GJR saying:

"We can assure you that we remain devoted to our policy of creating an inclusive, welcoming, and respectful organizational culture that appreciates and supports individual differences," England said. "We will continue, within the constraints of the Library district budget, to select a diverse range of materials in a variety of formats to support the informational, educational, cultural and recreational needs of the population we serve. The Library provides a general collection of circulating materials embracing broad areas of knowledge, literature, and genres. Purchases are made to represent as many sides of current political, social, and cultural issues as possible. Included are works of enduring value and timely materials on contemporary issues. Collections are reviewed and revised on an ongoing basis to meet the needs of our community. We also will continue to embrace and celebrate individuality through our practices that recognize and respect all people and their points of view."

Rodman's firing brings to light the question of free speech rights for public employees, which has its roots in Illinois. While private employers have more freedom to fire employees for speech they disagree with, public employers are bound by the First Amendment.

In *Pickering v. Board of Education*, a Supreme Court case originating in Illinois, the court weighed whether a teacher was wrongly fired over his letter to a local newspaper criticizing the school board's allocation of funds.

In an 8-1 decision, the Supreme Court reversed a lower court's decision that had sided with the school, setting the precedent that public employees do not relinquish their free speech rights when accepting government-funded employment.

While the decision in *Pickering* helped establish the test courts use today to determine whether a public employee's speech is protected, it doesn't necessarily protect Rodman.

"The Supreme Court in *Garcetti v. Ceballos*, 547 U.S. 410 (2006), ruled that public

Missouri Book Ban Attempts

Below are the reported book ban attempts in Missouri since 2020 as tracked by the American Library Association. The ALA reported 821 attempts to censor library books and other materials in 2024 across all library types. It noted that this number is likely much lower than the reality as most book challenges go unreported to the organization.

Year	Incidents	Titles
2020	2	3
2021	24	145
2022	32	171
2023	18	127
2024	12	147

Table: Kallie Cox • Source: Data provided by the American Library Association • Created with Datawrapper

employees do not have a First Amendment protection for speech issued as part of their official duties," according to the Free Speech Center at Middle Tennessee State University.

While Pickering's case was decided in 1968, a wave of new free speech concerns has come into the limelight for public employees following the assassination of right-wing political pundit Charlie Kirk.

While influencers on the Right as well as public figures with more moderate or left politics mourned Kirk's death, others highlighted his problematic past, resulting in Vice President Vance encouraging an effort by right-wing influencers to dox and fire those critical of Kirk. One of the websites started for this purpose, "Expose Charlie's Murderers," has been taken offline after soliciting tens of thousands of dollars in Cryptocurrency, Reuters reported. Hundreds lost their jobs or faced other discipline from their employers for posting criticism of Kirk on social media and the U.S. State Department revoked the visas of at least six individuals who spoke up against Kirk.

In an interview with Fox News, Vance falsely stated that this criticism of Kirk should not be protected by the First Amendment, CNN reported after the interview.

"The First Amendment protects a lot of very ugly speech," Vance told Fox News. "But if you celebrate Charlie Kirk's death, you should not be protected from being fired for being a disgusting person."

When determining whether a public employee's speech is protected under the First Amendment, courts weigh whether the employee is speaking as a private citizen or in their official capacity.

Free-speech advocacy group FIRE said "Pickering and its balancing test applies when the employee speaks as a citizen on a matter of public concern."

"The Supreme Court instructed in *Connick v. Myers* that it is anything 'relating to any matter of political, social, or other concern to the community,'" according to FIRE.

"And courts will decide this issue based on 'the content, form, and context of a given statement.'"

Midwest the center of nationwide censorship

Over the past several years, a rise in book banning attempts in libraries and schools across the country has made headlines and fueled heated school board meetings in districts both large and small. Experts say the viral nature of this issue and increasing societal polarization has led to many schools and libraries pre-emptively censoring their shelves.

Although 2024 saw a slight decrease in reported censorship attempts, the number of challenges remains historically high.

Reports sent to the American Library Association documented 821 attempts to censor library books and other materials in 2024 across all library types, a decrease from 2023 when 1,247 attempts were reported, the organization stated. It noted that this number is likely much lower than the reality as most book challenges go unreported to the organization.

ALA President Sam Helmick said 2025 is on par to match 2024 in terms of censorship attempts as of the organization's latest data.

"We're really shocked to see that this number continues to be significant in consideration to all of the attempts that have been taking place in the last three to four years," Helmick said. "You would think that there would be a break or a crest in the wave, and the wave just sort of keeps coming."

Helmick said there seems to be a consistent pattern in the titles that are targeted for censorship.

"Authors of color, stories about queer characters and then topics that are sometimes divisive in our nation — so things such as climate action or social justice — are being targeted," Helmick said. "And the problem with that is that they're also by pattern, followed by attempts to dismantle

Illinois Book Ban Attempts

Below are the reported book ban attempts in Illinois since 2020 as tracked by the American Library Association. The ALA reported 821 attempts to censor library books and other materials in 2024 across all library types. It noted that this number is likely much lower than the reality as most book challenges go unreported to the organization.

Year	Incidents	Titles
2020	9	10
2021	45	146
2022	104	166
2023	69	210
2024	15	18

Table: Kallie Cox • Source: Data provided by the American Library Association • Created with Datawrapper

or defund libraries as publicly funded institutions."

This threat of funding cuts hangs especially heavy over the heads of small and rural libraries. One of these libraries in a small Missouri town recently came under scrutiny after it fired a librarian for refusing to remove LGBTQ books from display.

The chilling effect

The Crawford County Library District is just one of many institutions that is complicit in what experts call "obeying in advance," which means pre-emptively censoring books and displays before they can be challenged.

Helmick said this chilling effect is causing librarians to think twice about the titles they choose to order and display. The ALA calls this "censorship by exclusion," where librarians are prohibited from purchasing certain books. Censorship by exclusion, alongside underreporting and legislative restrictions, are three of the reasons the ALA suggests overall ban numbers may be down year over year, but the challenges to library materials remain prolific.

"With library workers increasingly harassed or castigated or characterized in very unattractive and cruel ways, you'll see that there's like this form of self censorship or chilling. You start to worry that if you purchase books that you would have purchased before, you may unwittingly cause a dispute or some chaos in your home community," Helmick said. "So it makes you think twice about the work that you were called to do, to amplify and uplift and champion all kinds of stories to give your community the most robust and wide variety of information possible."

PEN America, a writer's organization, said the impact of state-sanctioned school book bans are difficult to calculate because of a lack of reporting and different terms and restrictions used when removing books from a school shelf. Still in the 2024-2025 school year, PEN recorded 6,870 instances of book

bans across 23 states and 87 public school districts.

The states that led the nation in these bans were Florida (2,304), Texas (1,781), and Tennessee (1,622).

Although these numbers are higher than they would have been several years ago, some courts are protecting access to books. Recently, in Missouri, a Jackson County Circuit Court Judge struck down the state law "criminalizing school employees for supplying 'sexually explicit material' to students, ruling it unconstitutionally vague and overbroad, according to the Missouri Independent. Advocates challenged the law after hundreds of titles were removed from shelves.

Illinois protects books

As of 2023, Illinois Public Act 103 "bans book bans" and prohibits the banning or restriction of specific titles and resources from public libraries. The law was set to take effect in 2024 and Capitol News Illinois reported it as a "first-in-the-nation law," that tied state funding to the adoption of the ALA's Library Bill of Rights.

By contrast, as of 2023 when Illinois was adopting its landmark law, Missouri had the 3rd highest number of banned books nationwide, according to a report by free speech organization PEN America.

Christine Emeran, the Youth Free Expression Program Director for the National Coalition Against Censorship, said many of the books that are facing challenges across the country can be tied back to state laws and conversations surrounding Diversity Equity and Inclusion or Critical Race Theory. They are also tied to claims of appropriateness and obscenity, a conversation that often overlooks that parents have always had the right to opt out of specific reading material within their school's curriculum.

"It started (in) 2017 when Trump had an executive order against indoctrination, and from that point on, it trickled down into states creating laws that were combating (...) what we

call now DEI, or (...) CRT, and those basically were books from people of color talking about issues, political, social issues," Emeran said.

These stories ranged from discussions of policing to being part of the minority in a majority white school, she said.

"Those types of stories were being challenged for removal because it made the majority uncomfortable," Emeran said. "It made the adult majority uncomfortable, less so than probably the children."

Students are concerned about the bans because they feel ready to tackle the social issues that the books delve into, Emeran said.

"Not talking about it, it brings shame, embarrassment, especially if you are from those communities or the topics impact you," Emeran said. "It gives you the impression that there's something wrong with you."

In the beginning, Emeran said that challenged books would return to the shelves about fifty percent of the time. Now, coordinated attacks challenging hundreds of titles at a time are completely changing the censorship landscape.

"It really is a completely different phenomenon, because these are lists of books that people are receiving through the internet and they're using similar tactics to challenge these particular books," she said.

This is in line with what the ALA is observing and the organization reported 72% of reported censorship attempts are from pressure groups and government entities.

The viral nature of these bans that have exploded in coverage thanks to conservative organizations such as Moms for Liberty — who ignored several requests for comment on this story — is causing librarians to fear for their safety and mental health.

Librarians are being harassed and falsely called "groomers," and "pornographers," for working in libraries that contain books patrons feel are inappropriate, Emeran said.

"What's difficult is that libraries are increasingly being called to support the information gaps that exist in our society," Helmick said. "At the same time, the work that they've done to inform our society and to uplift our democratic republic is being attacked with a vitriol that is actually unmatched. I think this far exceeds the McCarthy era at this point."

Despite the increasingly polarizing world of book bans, Helmick and Emeran are seeing signs of hope in communities that choose to push back against censorship.

"When students and community members go to board meetings and talk about the value of these particular titles, the books, they are more likely to have success in overriding the challenger to the book," Emeran said.

Rodman also sees the value in creating a community free of censorship, even though with six kids to raise it cost her her job.

"The entire point is that we are supposed to create communities. We're supposed to support those people in those communities, and not just some of them, but all of them. And if it's a taxpayer's money paying for it, then I'm sorry, but all taxpayers count, regardless of what orientation they have, what religion they have, what race they have."

Texas A&M leads academia into new era of 'McCarthyism,' professors say – this time with AI assisting

By Kallie Cox

How can you teach the history of the Civil War without mentioning race? And how can you discuss the Holocaust without condemning Hitler, which could be seen as unacceptable "advocacy" by university administrators – or by the artificial intelligence bots that assist in reviewing curriculum.

These are just some of the questions professors are asking, especially those teaching history, in Texas following new academic policies censoring any discussions of race, gender or sexuality.

In November, Texas A&M's Board of Regents approved a policy silencing professors and requiring prior approval for course material and changes to syllabi.

The unanimous board decision "will require each campus president to sign off on any course that could be seen as advocating for 'race and gender ideology' or topics related to sexual orientation or gender identity."

In a 21st century twist, Texas A&M is tasking Artificial Intelligence to review the course materials to look for forbidden advocacy.

Origins of the policy

Some on campus pointed to a student's secretly recorded and now viral video of a Texas A&M professor discussing gender identity in a children's literature class. The professor, Melissa McCoul, assigned students readings from the book "Jude Saves the World", which features a non-binary, middle school protagonist, according to the Tribune. As part of the discussion, McCoul showed the class "The Gender Unicorn," a diagram popularly used in trainings, classes, and among nonprofit organizations showing the spectrum and differences between gender identity, sexuality and gender expression.

The recording shows the student taking the video accuse the professor of violating the law by suggesting that gender is a spectrum, when President Donald Trump issued an executive order claiming "there are only two biological sexes." McCoul calmly tells the student that this is a misunderstanding and the discussion and teaching are not illegal, she tells the student that if she is uncomfortable, she is welcome to leave. As the discussion continues with the student saying she would be showing documentation to the university president the next day, McCoul asks the student to leave so they could continue the class discussion.

Although the video was taken months ago, it resurfaced during the fall semester, gaining traction among right wing supporters and politicians and being featured on Fox News.

McCoul was fired shortly after the video went viral and University President Mark Welsh resigned.

But other professors on campus say this was in the works for quite some time and is largely political.

Dr. Leonard Bright, who is a professor at the university, but spoke as a citizen and president of the American Association of University Professors Texas A&M Chapter (AAUP-TAMU), said the video and others like it have been used as a pretext to open the door to these policies. And, he added, the videos themselves really just show professors having a reasonable discussion within the scope of their expertise.

"We are concerned about political interference," Bright said. "It is clear that, both implicitly and explicitly, that this is a political order, that this came from members of the Conservative Party of Texas who have been fighting even with themselves over their desire to now remake our institutions in their image."

Texas Governor Gregg Abbott is responsible for appointing regents to the system's board because it is a public university.

"Governor Abbott believes colleges and universities should focus on high-quality education – not political agendas," Abbott's press secretary

Andrew Mahaleris said in a statement to GJR. "Radical DEI and gender-ideology policies will not be forced on students by Texas higher education institutions. Governor Abbott expects his appointed Boards of Regents to ensure that our higher education campuses continue to focus on developing our students into the best and brightest in the world."

Texas A&M is not the only university in Texas introducing policies meant to censor what faculty can and cannot teach. Earlier this month and just weeks after A&M's policy, Texas Tech's University System Chancellor Brandon Creighton "imposed restrictions on how faculty discuss race, sex, gender identity and sexual orientation in classrooms and introduced a new course content approval process, underlining that instructors could face discipline for not complying," according to the Tribune.

Free speech advocacy groups and activists for academic freedom have denounced the policies and say that, especially considering both universities are public and therefore bound by the First Amendment, the universities will likely be taken to court in the near future.

Texas A&M and Texas Tech refused to comment for this story and would not say how these policies might impact academic freedom and free speech.

Free speech at the university gate

Free speech doesn't stop at the schoolhouse gate. That is the opinion of the U.S. Supreme Court from its 1969 decision in *Tinker v. Des Moines* when the court ruled on a case determining the free speech rights of students who were suspended for wearing black arm bands protesting the Vietnam War.

If free speech doesn't stop once a K-12 student steps onto public school property, the same should absolutely be true for public universities where the students are all, typically over the age of 18, experts say.

There is Supreme Court precedent from Missouri that backs that up. In 1969 the University of Missouri School of Journalism expelled Barbara Susan Papish for distributing a left-wing publication that showed police officers raping the Statue of Liberty and the Goddess of Justice. The Supreme Court ruled that content-based discipline could not be justified and the public universities couldn't punish students for offensive speech that didn't cause disruption.

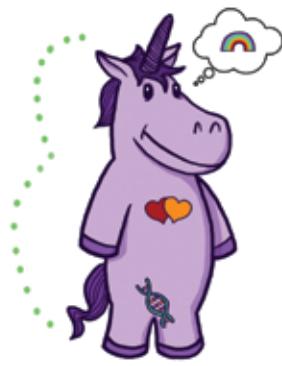
Experts point out, Texas A&M's policy censors professors from having open and free conversations with students if they hope to keep their jobs.

"Texas A&M assumes as its historic trust the maintenance of freedom of inquiry and an intellectual environment nurturing the human mind and spirit," the university states in its mission statement. "It welcomes and seeks to serve persons of all racial, ethnic and geographic groups as it addresses the needs of an increasingly diverse population and a global economy."

Faculty and AAUP-TAMU cited this mission in an open letter to university administration maintaining that the new policy violates this standard. They called the censorship "One of the most consequential moments in its modern history."

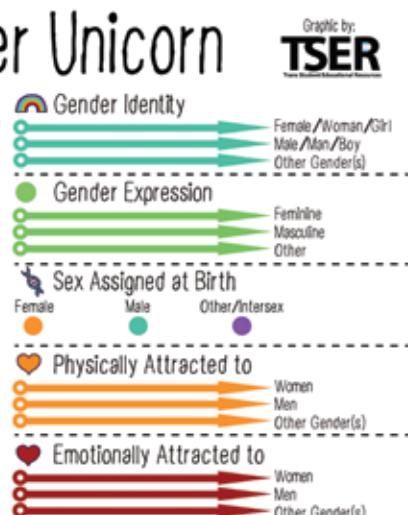
"When a public university adopts policies that limit what can be taught, how it can be taught, or which perspectives may be expressed, it steps into territory the United States Supreme Court has long warned educational institutions to avoid," the letter adds. "Indeed, for more than half a century – since *Keyishian v. Board of Regents* (1967) – the Court has recognized that academic freedom is "a special concern of the First Amendment," and that the university classroom is not merely a workplace, but a space where ideas are tested, challenged, and refined. It is a space where democracy itself is shaped. Perhaps the State of Texas and Texas A&M are on a brazen mission to challenge this precedent for all of America."

The Gender Unicorn



To learn more, go to:
www.transstudent.org/gender

Design by Landyn Pan and Anna Moore



The policy's requirement to submit syllabi for review and approval prior to teaching course material is a form of prior restraint, one of the most "disfavored instructions," on free expression, the letter stated.

"When such restraint is directed not at personal opinion, but at core disciplinary content on race, gender, and sexuality — subjects foundational to the social sciences, humanities, public health, law, and countless other fields — the violation becomes even more stark. It reconfigures the university from an institution of learning into an arm of ideological and political enforcement."

The American Civil Liberties Union of Texas has also been outspoken about the policy.

"Texas A&M's new policy — requiring government pre-approval for curricula about race, gender, and LGBTQ+ topics — is misguided, discriminatory and an insult to academic freedom," said Staff Attorney Chloe Kempf. "The freedom to learn, teach, and explore is what makes Texas universities strong and prepares our students for their futures. Texas A&M should immediately rescind its policy and instead allow for the uncensored exploration of all ideas on its campuses."

The faculty letter warned administrators that the legal ramifications of censoring speech on the basis of viewpoint are not hypothetical and political preferences are no excuse to censor these broad topics.

"A public university cannot tell faculty which scholarly frameworks are acceptable and which are forbidden without crossing the line into unconstitutional governance. Nor can it, as an employer, require its faculty to surrender constitutional protections in order to remain employed," the letter said. "This is known as imposing an unconstitutional condition, and courts have repeatedly struck it down."

Robert Shibley, special counsel for campus advocacy with the Foundation for Individual Rights and Expression (FIRE) said Texas A&M's policy opens the door to political pressure. Of particular concern is the veto power it provides the university's president or designees over what can and can't be taught.

"It provides a one stop shop to politically pressure the university to get rid of classes or subjects or (anything) that you might not like," Shibley said. "I think that is a very clear invitation to political interference and mischief having to do with university curriculum."

As soon as a university employee is censored on what they teach on the basis of politics, you've got a First Amendment violation, Shibley said. Legal challenges to the policy are inevitable and will possibly be quite frequent while it remains in place.

"Academic Freedom traditionally protects the ability of faculty to teach the material they think is appropriate for the subject (they are) teaching and also, when it comes to research, to follow their academic conscience, which means they're able to follow the results of their research or experiments the way they think is correct, and not be told that they have to come to conclusions that will satisfy either donors or politicians or anybody else at the university," he said. "People rely on universities to produce information that is true and that's accurate, and you can't do that if it's being warped by outside forces. And so academic freedom is a way of protecting, ultimately, the source of truth."

AI and intellectual property

At Texas A&M this one "designee" who will be reviewing course curriculum for its conformity to the policy is actually artificial intelligence, which raises a multiplicity of concerns, not only about bias, free speech and academic integrity, but also professors' intellectual property.

James R. Hallmark, the system's vice chancellor for academic affairs told regents during the subcommittee's meeting that each university "will now be required to feed syllabi and course details into a database, which will then be examined by artificial intelligence for content not aligned with approved syllabi," according to the Tribune.

"The AI analysis will consider things such as whether the course applies to the core curriculum or is a requirement for a major or elective," it reported. "It will also take into account the syllabus and details such as where it's taught and enrollment numbers."

The AI analysis is troublesome for researchers and instructors looking to protect their intellectual property.

"Our syllabus is our intellectual property, and even Texas A&M states in its policies, it does not own our intellectual property when it comes to our syllabus or anything like that," Bright said.

Though professors provide open access to their course materials, to some extent at the university, AI reviewing that intellectual property is uncharted territory, Bright said.

"What part of that is going to be lost when we give it to an AI that can essentially take what you have developed and just give it to someone else," Bright said. "(It's) another area of potential legal jeopardy for the university."

Teaching history when history repeats

Walter D. Kamphoefner is a history professor at Texas A&M and although he is "white, male, straight, married, tenured, on the glide path to retirement, and even a church member," he feels compelled to speak out against the university's policy. He said it is coming from the top down and is a result of President Donald Trump's anti-woke agenda.

"How are you going to teach the civil war without talking about race? I mean, the only way you can do it is not to take Confederates by their word," he said. "It's a bit Orwellian, really."

One of the best ways faculty may be able to protect their courses from interference or political scrutiny is by relying on primary sources, he said. But even still, the idea that anything outside of a neutral position could be considered advocacy is disturbing.

"How are you going to teach the Holocaust neutrally? It's just a bit absurd," he said.

It's also unclear how administrators will define "advocacy" in the classroom.

"(It's) a very new policy, so that is probably too soon to tell and that will be a very crucial issue deciding how much of a chilling effect these new policies are going to have," Kamphoefner said. "But it may be like what one Supreme Court Justice said about pornography, 'I can't define it, but I know it when I see it.' In other words, it's in the eye of the beholder. And if you have conservative administrators being the beholder, it's certainly dangerous."

Kamphoefner said the impact of the policy and the anti-woke agenda is reminiscent of the McCarthy Era.

In all of his years of teaching, Bright said he has never seen a state institution censor professors so explicitly, though he has read about the tactic in Nazi Germany.

"We give students the ability to understand the topics, understand the facts behind those topics, how to distinguish between misinformation, lies or information, to equip them to make their own decisions about these contested areas," Bright said. "I've never seen it where the state institution now is saying, 'no, they get to answer what these contested ideas should mean, what the truth of the matter is in their political opinions.' And then force the experts who understand the other perspectives here to be silent on what those perspectives are and then tell us that we are somehow indoctrinating and injuring students by giving people, giving our students the full truth, and not just their truth."

As part of AAUP-TAMU, Bright is informing faculty of their rights, but at the end of the day the policy may need to be reviewed by the courts.

"Given the political veracity and the brazenness of this, it's going to be something that we believe the courts are going to have to finally answer," he said.

On teaching 1619

By Jon Sawyer

(Jon Sawyer is founder and senior advisor at the Pulitzer Center, education partner to The New York Times on The 1619 Project.)

In the 20 years since I started the Pulitzer Center on Crisis Reporting, we have sought to facilitate great reporting on topics too often ignored. Over those years we have also built a network of schools, community colleges and universities, working with them to make strong journalism the basis for constructive debate on the big issues that affect us all.

The 1619 Project is a powerful example of what can be accomplished — as is demonstrated in the experiences in actual classrooms detailed below.

The project continues to be the topic of fierce debate, the focus of critiques by eminent historians, and attempts by politicians to make it a cultural wedge issue as to what can and should be taught in schools.

The 1619 Project wasn't perfect. Journalism rarely is. Lead author Nikole Hannah-Jones and The New York Times have both acknowledged that some of the arguments in the essay were overstated, especially about the extent to which defense of slavery was an impetus for the American Revolution. But the larger point, slavery's central role in the shaping of America and its continuing legacy today, is beyond dispute. So too the egregious misrepresentations of slavery, the Civil War, Reconstruction, and Jim Crow that were the stuff of standard history textbooks in this country for generations.

We assumed The 1619 Project would be controversial, that it would generate debate among historians and spark the kind of attacks we have seen. The surprise to us has been the overwhelmingly positive response to this initiative in K-12 classrooms, school districts, and college campuses.

Working with The New York Times and Hannah-Jones to engage students with the issues raised by The 1619 Project has led to unforgettable encounters with students across the country, many of them captured in the testimonials and examples of student art that follow.

1619 at R.J. Reynolds High School

One of the most moving experiences for me was the opportunity to interview Hannah-Jones in a school assembly at R.J. Reynolds High School in Winston-Salem, N.C. In preparation for that visit, in October 2019, students from history, art, dance and other classes had engaged in the lesson plans we had written; on the day of Hannah-Jones's visit they lined up to share their work.

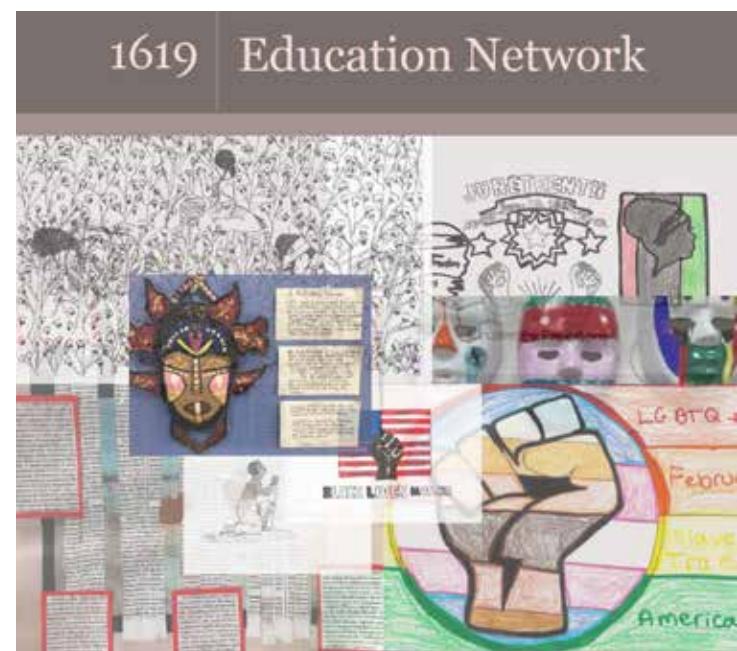
"To say that moment was powerful doesn't do it justice," said Pam Henderson, director of magnet programs for Winston-Salem/Forsyth County Schools. "Our silent students, our quiet artists, our outspoken activists — they flocked to her, as she was a voice that spoke loudly to them. They created art inspired by her work and by the work of others taking part. They had conversations with family and friends, broaching topics often glossed over. They were brave because they were witnessing bravery and unapologetic inquiry."

I was a student at Reynolds in the late 1960s, at a time when Black students numbered in the low dozens. My mother, as a member of the local school board in the 1970s, helped lead the fight to bring true integration to that school system, thanks to a mandatory busing program that at its peak included nearly 40,000 students.

Within a decade that initiative was dead, the victim of white backlash, conservative court rulings, and a federal government that turned its back. Today's Reynolds is a predominantly Black school and the Winston-Salem/Forsyth County schools are among the most segregated in North Carolina.

On the evening of her appearance at Reynolds, Hannah-Jones spoke to an overflow and diverse audience of nearly 1,000 people at Winston-Salem State University. She gave them an appalling litany of discrimination today, especially as to the yawning gap in advanced-placement and other educational programs between predominantly white schools in my hometown and those that are predominantly Black.

"Part of this conversation may make you feel uncomfortable," Hannah-Jones said that night. "I certainly hope it does."



Photos courtesy of Jon Sawyer

Work created by students whose educators developed and taught unit plans using resources from The 1619 Project as part of the first cohort of The 1619 Project Education Network in spring 2022.

Debate will go on

The 1619 Project and the curricular materials we've produced are not the final word in a debate that will no doubt go on. But against the backdrop of so much mis-teaching of American history they are a welcome corrective, and overdue.

We have seen this again and again. Students moved by the project to express themselves creatively in performance. Students applying themselves to historical inquiry. Students inspired by the centering of the Black experience as critical to the idea of America.

The grassroots demand among teachers for a better way to reckon with our nation's history of slavery is powerful. Thousands, from every state, used our curriculum. Since the project launched:

- Over 1 million people have engaged with the reading guides we published in 2019;
- 541 educator partners in over 30 states developed projects that connected Project themes and resources to over 25,000 students in pre-K-12th grade and over 2,500 adult learners through Network-building and professional development programs;
- Over 100 curricular resources developed by Center staff and educator partners have been published to the Webby award-winning website 1619education.org, which has been viewed over 400,000 times by people in all 50 states and Washington, DC;
- We have led over 200 trainings and workshops for some 15,300 teachers, in-person and online.

Historical scholarship, like journalism, is often fraught with controversy, as people of good faith can disagree over the interpretation of historical facts. That is certainly the case regarding the legacy of slavery for American democracy and our national identity. This is not a new controversy. Americans have been debating the effects of slavery for much of the nation's history. The Pulitzer Center's education work is intended to help students explore sensitive topics themselves, not to guide them to a specific point of view.

The testimonials and examples that follow will make you feel inspired,



Image taken by Hannah Berk. United States, 2023

A Roots and Wings mural made by students at Bruce Monroe Elementary School who utilized Born on the Water as a core text for an identity exploration unit.

I hope – by teachers and students across the country engaging honestly with real issues, and by the powerful work of journalism that helped bring those conversations about.

Engaging with 1619: Testimonials from teachers and students

Rebecca Coven, former teacher, Sullivan High School, Chicago; now director of school programs at Mikva Academy

After reading, analyzing, and learning from The 1619 Project in our 10th grade humanities class, students produced their own version of The 1619 Project in which they researched and analyzed how the legacy of slavery still impacts their communities – in Chicago, in their neighborhoods, and our school – today. The Sullivan 1619 Project (bit.ly/Sullivan1619Project) was researched, written, illustrated and produced (visuals, editing, layout, etc.) completely by students.

My students might have said it best in their introduction to The Sullivan 1619 Project: "In the process of creating [our] own magazine, [we] were able to see how many of the issues discussed [in The 1619 Project] could be seen in our own communities within the city, neighborhood, or school... Amongst all of these inequalities, [we] had the opportunity to see the resilience, determination and courageousness of people of color... The year 1619 was also one of the first times a marginalized group fought back on this land and resisted... Because of the resilience of enslaved Africans, other groups of people who are marginalized today and who have been marginalized throughout history have been given the opportunity to fight back, given hope by the success of others before them."

Anne-Michele Boyle, Global Citizenship Teacher, Whitney Young Magnet High School, Chicago

The 1619 Project and the accompanying Pulitzer Center educator resources have been instrumental in my ability to effectively teach the historical roots of racism and the too-often-undertold histories of the contributions of Black Americans. For the second school year in a row, my students and I have engaged in robust dialogue and spirited discussions on racism, history, activism, our flag and what it means to be an American because of The 1619 Project and the Pulitzer Center. I am hopeful about the future of America because these challenging, yet vitally important 1619-inspired conversations are happening in classrooms throughout our country.

CeCe Ogunshakin, 8th grade arts teacher at School Without Walls at Francis Stevens in Washington, DC

The 1619 Project was very eye-opening to myself and my students. It caused students to reflect and engage in meaningful dialogue. I presented the content and discussion to students through a Socratic Seminar, where a student moderator used questions by the Pulitzer Center to facilitate discussion in my classroom. Although some students might not have agreed with some of the essays, students were able to learn about and respect each other's perspectives, as well as the perspectives of the writers.



Photos courtesy of Jon Sawyer

Elementary visual art students in Chicago, IL apply their analysis of themes and resources from "The 1619 Project" to creating original art embedded in history books in spring 2023 as part of the 1619 Network unit, "Reconstructing American History: Creating Altered Books."

Stella, a Benjamin C. Banneker High School student at the 2020 symposium on 1619, with the Smithsonian Museum of African American History and Culture in Washington, DC

I will take what I learned from 1619 and pair with my advocacy and activism work. I don't feel that I can end how Black people are being degraded every single day, but I can join forces with other organizations and my community to demand our respect and get what we deserve.

Abigail Henry, Philadelphia charter school history teacher, was among a group of educators who worked with the Pulitzer Center to incorporate the expanded, book-length version of 1619 for classroom use. She divided the class into two groups, one group reading an essay from "The 1619 Project: A New Origin Story" and the other a set of essays on July 4 by the conservative journal National Review – and then debating the question as to which year was more important in American history, 1619 or 1776.

The beautiful part about this debate is the conversation that happened after. Many of the students truly felt that 1776 was more important AND they still believed 1619 should not be banned from teaching in schools.

One of my biggest frustrations regarding any criticism of The 1619 Project is the framing of it, [with a focus on issues like white guilt or privilege instead of] celebrating how The 1619 Project provides a means for Black students to investigate the struggles and achievements of their ancestors after the arrival of enslaved Africans.

My student [population is] 99.9 percent Black. Through the past three weeks they have been asking some of the best history questions I have ever experienced.

Shea Richardson, curriculum supervisor, East Orange (NJ) School District

The impact that The 1619 Project had on our scholars is one that will last beyond this school year. It gave our scholars a sense of identity and a closer connection to the history of the great cities of Newark and East Orange [New Jersey]. More specifically, it allowed our scholars to learn more about their own identities by understanding the power of local history.

A high-school English language arts student in Woodburn, Oregon, reflecting on a unit created as part of The 1619 Education Network

The 1619 Project was a sight into the truth. A lot of this history is hidden, banned, or erased, and that's exactly why it's so important that we learn this history. Students are learning the truer history of America. 1619 isn't a whitewashed or diluted book; it's the full detail with nothing hidden. Learning this history helped me connect the dots with a lot of things.

Jocelyn Aguilera, history teacher, John C. Fremont High School, Los Angeles, CA

The 1619 Teacher Resources have had a profoundly positive impact on my students here in South Central LA, fostering an environment where students feel comfortable discussing challenging topics related to race, slavery, and social justice. This has empowered them to develop empathy, think critically, and engage in conversations that extend far beyond the classroom. I've witnessed a remarkable transformation in their perspective on history and their own roles as active citizens.

Abortion rights foes and supporters chafe at limitations on their speech

By Carly Gist

A quarter century after the U.S. Supreme Court upheld a state statute creating a speech-free bubble zone around healthcare facilities, *Hill v. Colorado* remains at the forefront of free speech and abortion rights debates. Coalition Life, a St. Louis-based organization that participates in "sidewalk counseling," is a leader in seeking more First Amendment rights to approach women near abortion facilities to persuade them not to have abortions.

Meanwhile, in Indiana, faculty representatives claimed that Indiana University officials and state politicians tried to shut them down for their support for abortion rights and for an OB-GYN in the medical school who performed an abortion.

The Coalition Life anti-abortion group attracted nationwide attention to Carbondale, Illinois with their challenge to the 2000 *Hill* decision ruling that the First Amendment was not violated by a Colorado statute that prevented anti-abortion activists from approaching within eight feet of another individual without their consent within a 100-foot zone surrounding medical facilities. While clinic workers and abortion rights supporters consider these zones a protection of patient privacy and safety, abortion opponents consider it a violation of free speech.

In the wake of *Dobbs v. Jackson*, which overturned *Roe*, anti-abortion groups are arguing that *Hill* is now a constitutional outlier and that *Dobbs* puts the constitutionality of bubble zone laws into question.

Time, place and manner restrictions

When Colorado passed a bubble zone statute in 1993, the state maintained that the decision was content-neutral, but many saw it as a response to anti-abortion rhetoric.

Leila Jeanne Hill, alongside other "sidewalk counselors," a term for anti-abortion activists that attempt to speak to women before they enter clinics, challenged the statute as a violation of their First Amendment right to free speech. They asked for a court order to stop the law, but the district judge turned them down, stating that the restrictions met requirements for time, place, and manner regulations.

Neutral laws that regulate the time, place and manner of street demonstrations and street performances generally do not violate the First Amendment. The 1989 decision *Ward v. Rock against Racism* turned down a rock band's challenge to a New York City law that required quieter sound equipment for Central Park concerts after nearby residents complained.

The U.S. Supreme Court eventually agreed to take *Hill*'s case, ruling on June 28, 2000 that the statute was constitutional.

According to Cindy Buys, a professor of constitutional law at SIU's Simmons Law School, time, place and manner restrictions are a way to balance "competing rights." She said the government can regulate when, where and how demonstrations can take place "so that it protects patient safety and privacy, or that it doesn't impede the flow of traffic," but cannot regulate content.

In January 2023, a law similar to *Hill* passed in Carbondale, Illinois. The college town had previously never seen an abortion clinic, but after *Roe v. Wade* was overturned, three reproductive health clinics opened because Illinois was surrounded by states that banned abortions.

At a Carbondale City Council meeting, public commenters said they'd witnessed disruptive behavior from demonstrators outside of clinics. They claimed individuals had posed as clinic employees and directed patients to fake check-in stations and reported that some even used ladders to peek over security fences. Afterward, the council voted unanimously to amend its disorderly conduct ordinance.

The update defined the following acts as disorderly conduct: crossing the bubble zone without their consent "for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education or counseling," and intimidating, interfering with or injuring another person



Carly Gist

A sign advertising baby supplies sits on a mailbox outside of CHOICES Center for Reproductive Health Nov. 13, 2024, in Carbondale, Illinois.

"by force or threat of force or by physical obstruction." The update also mentioned that the overturning of *Roe* led to "frequent acts of intimidation, threats, and interference" at clinics in Carbondale.

Free speech debate

Coalition Life has a presence at the Carbondale clinics. Executive Director and Founder Brian Westbrook said that the City's ordinance was not content neutral.

"It completely ignored things like selling Girl Scout cookies or persuading people to have an abortion," Westbrook said, adding, "This becomes unconstitutional because it focuses specifically on the activity of pro-life individuals versus those people who would persuade them to have an abortion."

Coalition Life sued the City of Carbondale shortly after its ordinance was updated. Thomas More Society, a Chicago law firm that primarily takes up conservative causes, represented the organization. Two lower courts dismissed the challenge, citing *Hill v. Colorado*. Then, in July 2025,

just three days before Coalition Life would petition the Supreme Court to review the case, the Carbondale City Council rescinded the ordinance in a special meeting that lasted just four minutes.

The City said the law was never enforced. Steve Crampton, legal counsel of Thomas More Society, said that irreparable harm had occurred.

"It is an egregious violation of the First Amendment rights, not only of the (sidewalk) counselors, but of the folks that might have wanted to receive that information that will never be recaptured," he said. "It's a one shot only opportunity, and it's gone."

Coalition Life pressed forward with its petition. Their case, along with a similar one in Englewood, New Jersey, sat on the Supreme Court's docket for months before justices declined to take both up. If the cases had received the four votes necessary for review, the Supreme Court would have reconsidered the Hill decision.

Justice Clarence Thomas dissented from the Carbondale action, writing, "I would have taken this opportunity to explicitly overrule Hill. For now, we leave lower courts to sort out what, if anything, is left of Hill's reasoning, all while constitutional rights hang in the balance."

The City of Carbondale is currently facing another lawsuit over its ordinance regarding temporary signs, which states that signs cannot be "erected on, suspended over, or encroach upon the public right of way," but does not provide a definition for right of way.

Brandon Hamman, who participates in sidewalk counseling with the group Gospel for Life, said that he was demonstrating in Carbondale in April when a city official threatened to issue a citation and eventually called the police.

Hamman said there was another church demonstrating with signs that had messages such as "free baby supplies," and that the city official said they weren't classified as demonstration signs. According to Hamman, he went to retrieve different signs and told the official that he had a right to demonstrate, to which the official replied "No, you don't."

On behalf of Hamman, the American Center for Law and Justice, a conservative legal organization that opposes abortion, filed a lawsuit against the City, claiming that the ordinance is unconstitutionally vague and can invite arbitrary enforcement.

To Hamman, signs are a way to communicate a message to people when he can't have face-to-face conversations. He said that he was demonstrating at Planned Parenthood one day with a sign featuring a picture of a mother and her baby and the phrase "Choose life, your mother did." He said that there was a non-English speaking patient sitting low in a car who saw the sign and decided to keep the baby.

"If I'd have been out there that day by myself, she never would have been able to see that picture because the city won't let me put them out there," Hamman said.

Abortion rights supporters have First Amendment conflicts

Abortion rights supporters have faced their own First Amendment battles as well. In 2023, the American Civil Liberties Union spoke out against bills in Iowa and Texas that required internet providers to block websites that give information about abortion.

In 2022, faculty leaders at Indiana University were told they violated IU policy after they wrote a letter opposing a proposed state abortion law and defending Dr. Caitlin Bernard, an OB-GYN and professor at the School of Medicine, who provided an abortion to a 10-year-old rape victim.

In an email, Chief Compliance Officer Mike Jenson said the message led people to believe the letter represented IU's position, as it did not clarify that a personal opinion was being expressed. He said the message was not approved or reviewed by "any university official with the authority to authorize."

Steve Sanders, a law professor at IU, published an analysis about the situation in Medium, writing "IU policies currently create the possibility that faculty may be censored or punished for statements they make as participants in shared governance or as scholarly experts."

In Illinois, the Patient and Provider Protection Act solidifies access to abortion care and protects physicians who provide reproductive health services to out of state individuals. Andrea Gallegos, executive administrator of Alamo Women's Clinic, said that she sees many patients from states where abortion is banned, but few referrals. She speculates that this could be due to a fear of being reported if they told a doctor in their home state that they were considering terminating a pregnancy.

Safety concerns

As executive administrator of Alamo since 2020, Gallegos has encountered demonstrations against abortion in many states, including Texas and Oklahoma. Post-Roe, the organization remains open in Albuquerque, New Mexico and Carbondale, where she said she encounters demonstrations on a daily basis.

"The tactic here in Carbondale is you see protesters wearing what look like security vests. They have cameras on the front of them, and they're not holding signs or anything like that... They will kind of stand sometimes in the middle of the driveway and almost force patients to stop while they smile and wave," Gallegos said. "And their goal is to get patients to roll down the window and start talking so that they can start telling them all the reasons why they shouldn't be doing this."

Gallegos said the individuals often provide misinformation to patients, showing them inaccurate model babies and claim that there is a reversal to medication abortion, although scientific research into the practice is lacking.

"They're out there giving false information, and it's harmful," she said. "Patients come in scared, they come in confused, they come in angry, they come in, you know, maybe more emotional. A lot of times, because they're like 'those people at the corner, like, what was that about?' Some of them quickly understand... But some of them don't necessarily realize it when they're being stopped, and so they feel ashamed that they fell for it and stopped. They feel angry that some stranger is trying to tell them that they know better for them."

Buys, the SIU law professor, said the Supreme Court has identified false speech as protected speech, although it doesn't always work perfectly in practice. "The theory is that more speech is better than less speech, and that if someone does say something that is not true, then everyone has a right to counter that with better information," she said.

Still, Gallegos considers the demonstrations she's encountered to be aggressive. "People are literally blocking clinic entrances for patients who are just trying to get to a health care appointment," she said, adding, "I think that's incredibly intrusive for somebody who, again, is just trying to access health care – safe and legal health care."

While the term "privacy" is not explicitly mentioned in the U.S. Constitution, Buys said it is implied through other rights, such as the Fourth Amendment, which protects citizens from unreasonable searches.

A 1960s Supreme Court decision protecting contraception, *Griswold v. Connecticut*, said privacy is found in the "penumbra" of various parts of the Bill of Rights, including the Fourth Amendment.

Ultimately, Gallegos is a supporter of freedom of speech, but she said she believes there's a line to be crossed when it comes to privacy, safety and accessing health care.

"You want to stand on a corner and hold up a sign that says you don't agree with abortion, fine, but when they start pulling patients over and giving misinformation... I mean this, this is really damaging," she said. "I think that crosses the line of infringing patients' rights and our (clinic workers') rights too. I mean, I mostly worry about patients. I can drive by them every day, that's fine, and ignore them, but it's patients that get lied to and tricked, and I don't think that's right."

Abortion rights opposers persist in fights

McGee, the ACLJ lawyer, said the preliminary injunction in the sign case was argued back in August, and that they are still waiting on a ruling.

Westbrook said Coalition Life works to have peaceful conversations, and denies any claims that they've provided misinformation. He said the organization is continuing to look for other opportunities to overturn Hill.

Thomas More Society was involved in a similar case in Westchester, New York. In August 2025, a federal court ruled that the county's 2022 bubble zone ordinance had violated the First Amendment and awarded nominal damages. The case was not appealed all the way to the Supreme Court, which is what it would take for *Hill v. Colorado* to be overturned.

Crampton said he wants Hill to be overturned because he believes the First Amendment needs to be protected against all challenges. "Once it's lost for one side, it's pretty much lost for everybody," he said.

Gallegos said her clinic is going to work to continue to protect their patients.

As WashU restricts protest and expression, critics see an inconsistent standard

By Caroline Steidley

Max Schrieber, an art student at Washington University in St. Louis, placed a performative pro-Palestinian piece in Tisch Park, inviting passersby to add their own words and reflections. The installation, intended as a public expression of solidarity, was quickly removed under WashU's Facilities Access Policy.

For some on campus, the episode captured a larger dynamic. "Incidents like that, to me, are the clearest example of how antisemitism has become a tool to be weaponized, not an issue to be solved," said Penelope Thaman, an activist and protest organizer at WashU. "This artwork wasn't threatening."

Others see the removal as part of a broader pattern. Gregory Magarian, a professor at the Washington University School of Law and national First Amendment expert, said he worries about the university's approach to speech. Policies, he said, change without public discussion. "I am very critical of and concerned about the free speech environment at WashU," he said. "The administration has been known to sort of change policies without any sort of public deliberation or awareness."

Magarian attended a pro-Palestinian protest on April 27, 2024, where police were ultimately called. He left before law enforcement intervened but described the demonstration as peaceful and organized. The administration later said police were summoned because protesters began constructing a small encampment, a rationale the chancellor repeated at a faculty senate meeting. Magarian disputes the account. "None of that was accurate," he said. "The story that the administration told changed from statement to statement."

Twenty-three students were suspended, with the university citing trespassing and policy violations and saying protesters ignored repeated warnings. Some demonstrators, including non-students, were injured and required medical attention.

Magarian pointed to what he views as inconsistencies in how WashU evaluates expressive conduct. He recalled a 9/11 memorial in 2011 when a conservative student group planted thousands of small American flags on the main quad. After a Muslim student removed some of the flags, the chancellor denounced the student and expressed support for the conservative group.

"The administration is sort of saying, 'Okay, these are unauthorized. You can't have an encampment. You can't put up an art installation on university property without some kind of permission,'" Magarian said. "And yet, when a conservative group planted thousands of flags in the ground, the act the administration took issue with was when someone removed those flags. There seems to be some inconsistency."

For some faculty, the consequences have been severe. Steve Tamari, a Palestinian American and retired professor at Southern Illinois University Edwardsville, was arrested during the April protest at WashU and cracked nine ribs. Because of ongoing cases involving WashU and the suspended students, he declined to discuss that day. But he said he had experienced similar issues at SIUE, where he advised the Muslim Students Association, the Arabic Club and Students for Justice in Palestine. "[Universities] don't treat [speaking up about Palestine] well," he said. "I think everybody was shocked about how hard university administrations came down on students for expressing solidarity with Palestinians during what most people agree is a genocide taking place in Gaza."

(*Publisher's note: Not everyone agrees Israel's response to the terrorist attack of Oct. 7 was genocide. Israel and the United States deny it.*)

Tamari said the crackdown risks chilling future activism and could scare away international students. Universities "have had a real chilling effect," he said. "People do not want to get arrested or get sent to a detention center somewhere."

National trend

Concerns about uneven treatment are not limited to WashU. Graham Piro, a Faculty Legal Defense Fund Fellow at the Foundation for Individual Rights and Expression, said universities have complicated matters



Photo by Kallie Cox

by straying from viewpoint neutrality. "It was a little bit tough to take [universities] seriously when they said, 'We uphold the right to free speech,' but then punished speech that's protected by the First Amendment," he said.

Following the April protest, students and faculty held a teach-in to revisit the events and continue conversations about Palestine. Yet some Jewish students said pro-Palestinian activism has made them feel unsafe. In an interview with KSDK, campus rabbi Jordan Gerson described the April rally as "an anti-Israel, anti-Jewish hate rally," characterizing chants as calls for violence and noting violations of campus policy.

Others view the climate differently. Aaron Segal, president of the MU Student Jewish Organization at the University of Missouri, said his campus has supported his First Amendment rights and those of pro-Palestinian students. "Because the school is so open to letting everyone talk, sometimes it gets really hard to make sure everyone feels safe," he said. Still, he believes rallies at MU have largely focused on advocating for Palestinian statehood rather than targeting Jewish students. Phrases like "From the river to the sea," he said, carry different meanings depending on who is listening. "It can make students feel uncomfortable," he said, but remains protected speech. "I think every person has the right to that."

But the University of Missouri has also been accused of violating Palestinian student rights. This fall U.S. District Judge Steven Bough ruled that President Mun Choi violated the First Amendment rights of Mizzou Students for Justice in Palestine by barring the group from the homecoming parade. It has been the second year in a row the group was banned. The judge ruled there was more than a "fair chance" that Choi excluded the group "for its viewpoint on Palestine and Israel."

Meanwhile, WashU has begun removing diversity, equity and inclusion language from various school websites, including design, engineering, math and law. The university library also deleted a DEI statement and the biography of its DEI director, Rudolph Clay, head of Inclusion, Diversity, Equity and Access (IDEA) Engagement at WashU Libraries and subject librarian for African and African-American Studies, according to reporting from the St. Louis Post-Dispatch.

The tension has moved into the courts. Missouri resident Kaitlyn Killgo was arrested during the April 27 protest and later detained again in Eureka after, according to her attorney, Washington University Police issued a "wanted" notice instructing officers to detain her until she consented to questioning. Killgo is now suing WUPD. "The idea that an employee of a private institution can issue an arrest order...without getting a warrant or the judge's involvement raises serious constitutional concerns," said her attorney, Maureen Hanlon of ArchCity Defenders.

As protests continue and polarization deepens, questions about whether students and faculty can freely express themselves remain unresolved. "It's very concerning," Magarian said. "I think the administration here, the chancellor in particular, talks a good game about free speech, and does not live up to those purported commitments when it counts."

A fight over political influence roils a St. Louis town hall and tests First Amendment

By Kallie Cox

At his first in-person town hall as St. Louis' congressional representative, Rep. Wesley Bell faced angry constituents who demanded answers about his campaign financing. The event drew approximately 300 people.

Bell only made it through a few questions, and his answers were repeatedly interrupted by demonstrators who wanted to know why he accepted money from the American Israel Public Affairs Committee PAC and donors. AIPAC is a lobbying group that many thought had tipped the election in his favor after its affiliated PACs spent millions of dollars in the Democratic primary that unseated incumbent Cori Bush. Bush had strongly criticized Israel's military operations in the Gaza Strip.

The scene was a classic confrontation of First Amendment values — the freedom of the congressman to be heard without being shouted down, the freedom of protesters and voters to dissent and the impact of big money on political races after the 2010 Citizens United decision opened the door to unchecked campaign contributions from corporations, labor unions and outside groups.

But instead of unfolding as a textbook example of the First Amendment helping people understand one another, the meeting ended with police scuffling with and removing the protesters.

"Liar, liar pants on fire," the crowd chanted, drowning out Bell's answers to constituent questions. Outside, other protesters who couldn't make it into the packed town hall, were chanting too.

The demonstrators demanded St. Louis politicians stop taking from AIPAC and its PACs. Across the street from the town hall, two large banners were erected, one with the phrase "AIPAC Sell Outs Out of U.S. Government," and the other "Wesley Bell Corporate Sell Out," alongside a figure showing the money from the AIPAC-affiliated PACs. The protesters tie the campaign spending by groups supportive of Israel to what protesters and some human rights experts describe as genocide in Gaza.

Bell told the demonstrators that he supports the U.S.-Israeli relationship and said that Hamas is a "genocidal terrorist" group. He also said that AIPAC should be able to participate in American politics because they are a group active in Washington, where they are a powerful force.

This opinion aligns with the Supreme Court's decision in Citizens United which opened the door to unlimited spending by corporations, unions and outside groups, leading to the rise of super PACs.

A citizen video taken after Bell had left the stage shows police and a security guard confronting protesters. The footage captures police hitting protesters, shoving them and wrestling one to the ground. One security guard shoved approximately three women out the door.

From a First Amendment point of view, the protesters may have overstepped their protected speech rights in repeatedly shouting down Bell. The First Amendment does not give protesters the right to shout down officials at a meeting. Police can enforce reasonable time, place and manner restrictions to enable the meeting to go forward. The large political expenditures that fueled Bell's victory, are another facet of First Amendment protections of speech.

Among lobbyists and political donors in the U.S., AIPAC and its affiliated PACs is a big source of money. St. Louis citizens and political experts point to its influence on a 2024 congressional primary that led to the ousting of a progressive politician for a moderate one.

While AIPAC has been a top donor for decades after its founding in 1954, last year its Superpac contributed record breaking amounts to unseat two members of the Democratic "Squad." The Squad is a band of progressive politicians in Congress and AIPAC rallied against two of its members up for primary challenges — Cori Bush (D-St. Louis) and Jamaal Bowman (D-New York) — after they expressed their support for Palestine, criticizing Israel's military attack in the Gaza Strip which has now continued for more than two years following the initial Oct. 7 2023 Hamas attack. Bush lost to Bell and Bowman lost to moderate Democrat George Latimer in the most expensive House primary in U.S. history.

In 2024 alone, AIPAC and its affiliated superpacs spent \$51,848,113 ranking it among the top 20 U.S. political groups, according to nonprofit campaign funding tracker OpenSecrets.

AIPAC's super PAC, United Democracy Project, spent more than \$8.6 million on the Bush/Bell race, far more than any other outside group, concluded the Open Secrets group that tracks big campaign contributions. As a super PAC, UDP can spend unlimited amounts of money advocating for or against federal candidates — even though it doesn't give directly to candidate campaign committees.

In the 2023-24 election cycle AIPAC's PAC and UDP together spent about \$130 million, according to the FEC.

Bell, the Democratic congressional representative for Missouri's 1st congressional district, was the top individual beneficiary of these funds with \$2,555,095 spent on his behalf. While the organization itself cannot officially contribute to candidates, their affiliates and associated donors can pay for televised ads and field operations for a favored candidate.

The impact of Citizens United

Fifteen years after the Supreme Court's landmark decision in *Citizens United v. Federal Election Commission*, campaign finance is in the spotlight in a new way, supercharged by social media, for millions of young Americans who are concerned about the influence of lobbyists and big-money donors.

In addition to AIPAC, tech billionaire Elon Musk spent at least \$250 million backing President Donald Trump's re-election bid.

Before *Citizens United*, there were limits in place governing how much donors could spend on a political campaign, Southern Illinois University Carbondale Professor J. Tobin Grant said. But in the court's decision, it determined that spending is a form of free speech, dismantling some of these regulations.

"The end result is that you have a lot more people spending in campaigns," he said. "There's still limits on direct contributions to campaigns (...) so it doesn't look like you're buying favor, but if a group or person or an individual wants to spend their own money, spread their own message, that's really wide open and so the long story short is that it really opened up the amount of spending in campaigns, and allowed a lot more voices and people to be involved in campaigns."

Brendan Glavin, director of insights for OpenSecrets, said Political Action Committees are organizations that aggregate donations from groups and individuals to then donate to a specific cause or candidate. In addition to PACs, funding from "super ACs" can also influence U.S. elections.

"A super PAC is an independent group that is not allowed to make contributions directly to a candidate, but can raise and spend unlimited amounts of money to influence an election, as long as it's done independently of the candidate," Glavin said. "It can't coordinate that activity with a candidate."

Super PACs are a direct result of the court's *Citizens United* decision, Glavin said.

"There's no contribution limits associated with super PACs. So if you give money to a candidate, or you give money to a traditional PAC or even a party — although the party limits are very high now — (...) they do still have limits on all this," he said. "There is no limit on a super PAC, and that's what allowed Elon Musk to spend 270 some million dollars on the 2024 election. And he was the number one individual donor for the election."

Since the 2010 *Citizens United* decision, there has been an "explosion in spending" by these super PACs, Glavin said.

"The party leadership in each chamber have their own super PACs now," Glavin said. "So the rise of those groups and that spending has become an integral part of fundraising and spending in campaigns over

Continued on next page



Photo by Kallie Cox

time, to the point now where many competitive congressional races the money spent by outside groups can easily outpace the money that the candidates themselves are spending."

This has changed the dynamic of political fundraising to the point where a new term has emerged — Megadonors.

"Musk is not the only one who's out there pumping large amounts of money into these races," Glavin said. "There are at least 25 people who gave more than \$20 million during the 2024 election."

The influx of these megadonors and their ability to pour millions into each election cycle has completely altered how money is spent in political campaigns, he added. This is particularly apparent to Americans who watch cable news, where now, it's nearly impossible not to see a political ad during election season if you live in a contested area.

In 2016 Hillary Clinton benefited from more Citizens United money than Trump. But in 2024 Trump reaped far more benefit than Kamala Harris, thanks mostly to Musk.

The Brennan Center for Justice, which follows the impact of the decision, put it this way: "The Court's decision and others that followed shaped the 2024 election to a greater degree than any that came before it. Most notably, Donald Trump substantially trailed Kamala Harris in traditional campaign donations, which are subject to legal limits and must be disclosed. Yet he was able to compensate for this disadvantage by outsourcing much of his campaign to super PACs and other outside groups funded by a handful of wealthy donors."

"While such groups had spent hundreds of millions of dollars on ads in previous cycles, this was the first time they successfully took on many of the other core functions of a general election presidential campaign, such as door-to-door canvassing and get-out-the-vote efforts. Their activities unquestionably would have been illegal before Citizens United."

Impact of social media

Grant, from SIU, says social media has also changed the campaigning landscape.

In contested primaries, both social media and fundraising are key.

"If you're a challenger, or it's an open seat, particularly if you're not well known, that first several \$100,000 that you raise is critical. It gets your name out and makes sure that you're a strong candidate," Grant said.

Social media can act as a sort of equalizer in elections when one candidate has less funding or name recognition than another.

"Social media is one of these things that ends up democratizing this a little bit," Grant said. "You don't have to be buying TikTok advertising to have a presence, right? Or on Instagram to have a presence. And so it gives you these platforms outside of that."

One special interest group that leveraged its funding and influence, but is now being pushed back against on social media, is AIPAC.

In a spending spree, it poured millions into Bowman and Bush's primaries after the two declared their support for Palestine. This made the two progressives the only Democratic incumbents unseated in last year's election cycle, ABC News reported.

Super PACs can spend millions against a candidate while spending millions for their favored candidate in the same race. A Super PAC affiliated with AIPAC, United Democracy Project, spent millions against the two candidates they opposed — \$9,865,477 against Bowman and \$5,242,242 against Bush, according to OpenSecrets.

Most primaries are quiet, but can flare up and see large donations from outside interests when there are internal conflicts within a party, Glavin said.

In addition to AIPAC-affiliated PAC donations, in Bowman's New York primary, \$24.8 million was spent by various groups, "making it the most expensive House of Representatives primary in history," according to a BBC analysis.

After defeating Bush and Bowman, the two Democrats who took their congressional seats — Bell and Latimer respectively — went on a trip to Israel organized by an AIPAC-affiliated group

AIPAC did not respond to requests for comment on this story, but issued the following statement after Bell's win:

"AIPAC congratulates Wesley Bell for his consequential victory over an incumbent anti-Israel detractor. Once again, a progressive pro-Israel Democrat has prevailed over a candidate who represents the extremist fringe that is hostile to the Jewish state."

While AIPAC is non-partisan and supports both Democrats and Republicans, many progressive Democratic groups are pulling away from the group.

More than a dozen progressive organizations signed a letter addressed to House Democratic leader Hakeem Jeffries calling on the party to cut ties with AIPAC, according to The Guardian. These organizations included the Center for Popular Democracy Action, Jewish Voice for Peace Action, New York Communities for Change and New York City Democratic Socialists of America, it reported.

In addition, a mix of everyday St. Louisans, activists and advocacy groups took to social media to criticize AIPAC's involvement in Bush's primary.

Bell did not respond to multiple requests for comment for this story. AIPAC also did not comment.

Bush did not respond to multiple requests for comment for this story, but she recently announced her intent to run against Bell the next time he is up for election.

In a speech after losing the primary, Bush addressed AIPAC directly for its role in her defeat.

"AIPAC, I'm coming to tear your kingdom down."

Baron no longer is confident a free press can endure, but he won't declare war on Trump and clings to optimism

By William H. Freivogel

Martin Baron no longer takes for granted that the "rule of law will prevail" or that "a free press will endure." And that imperils democracy because there "never has there been a democracy without a media that is free and independent," he said in a St. Louis speech.

Nevertheless, journalists would make a mistake to declare war on President Trump or to abandon professional values. And, he says there are reasons for optimism because strong news coverage remains, the real world wreaks havoc on delusions and lies and the First Amendment has survived many attempts to shut off speech.

Baron made the remarks at the 14th Annual First Amendment Celebration of the Gateway Journalism Review, which celebrated the 100th birthday of its founder, Charles Klotzer.

Baron said that in his 50 years as a journalist he took for granted there would always be a free press.

Two events had given him that confidence. The publication of the Pentagon Papers revealed the government "cover up" of its failures in Vietnam. And with Watergate people learned the president had "weaponized the government against his political adversaries" and "sabotaged the Constitution and committed crimes."

Then came Baron's editorship at the *Boston Globe*, where the paper investigated the "decades-long cover-up of sexual abuse within the Archdiocese of Boston and... in the Catholic Church worldwide." The movie *Spotlight* dramatized Baron's role in disclosing the cover-up.

"Priests, bishops and cardinals had betrayed their parishioners. The Church had betrayed its principles. A religious hierarchy had exploited its political and legal power — and a claim to spiritual authority — to shield its own reputation at the expense of children in its care. Denial and deceit were both practice and policy."

As a result, Baron said, "Over the decades, I took for granted that we would always have a free press in this country."

A president's 'kingly authority'

But now, Baron said, "I no longer take any of that for granted. I can't be certain the rule of law will prevail. Can't be confident that a free press will endure — or that free expression for all Americans will either.

"I see a president behaving as if he were granted the kingly authority that Americans rebelled against 250 years ago," he said.

"A president who cynically invokes First Amendment rights for himself and his allies

while scheming to withhold them from others through baseless lawsuits, regulatory retribution, malicious investigations, sadistic vilification and unjust deportations. I watch as a servile majority in Congress and a deferential majority on the Supreme Court blithely give him permission and encouragement.

"Every day, I witness him hammering away at the institutional pillars of democracy, leaving them at risk of buckling under the assault. And seemingly every day, I learn that those institutions — including the press — are more fragile than seemed possible only a year ago."

In addition, he added, "We now live in a time when people are unable — or unwilling — to distinguish between what is true and what is false. Today we cannot even agree on how to determine a fact.

"Ever since the Age of Enlightenment, we have relied upon certain factors to establish facts: Education. Expertise. Experience. And, above all Evidence. Now, centuries later, every one of those elements is being devalued, if not outright denied."

Democracy and a free press 'inextricably linked'

"All of this puts democracy in peril. If democracy is in danger, so is a free press. And if a free press is at risk, so is democracy. They are inextricably linked. Never has there been a democracy without a media that is free and independent."

But Baron said that journalists should not turn around and declare war on Trump. Instead, they should adhere "to traditional journalistic principles. We do ourselves and our democracy no favors if we abandon what have long been our profession's bedrock standards.

"Too many journalists, largely in response to Trump, have repudiated the old standards: He has declared war on us, the thinking goes; so we must engage in war against him. Their stories and their performative behavior on social media reflect a warrior ethos. That is neither a good look nor good practice for any journalist who hopes to be, or expects to be considered, an honest broker of fact.

"At all times, we must practice our craft with true independence and a reverence for evidence over our preconceptions. Getting at the truth requires an open mind, rigorous method and a heavy dose of humility. We must be more impressed with what we don't know than with what we know or think we know.

We should not start our work by imagining we have the answers

"Honorable journalism calls for us to listen generously — with empathy and respect — to those we cover. There is no place for condescension, contempt or incivility."

Five reasons for optimism

Baron gave five reasons to feel optimistic that the press and democracy can survive.

"First, there is still an abundance of strong news coverage, revealing what Americans are entitled to know about their government ...

"Second, I believe we, as individuals and as a society, are capable of more than we imagine. ... What we can't see can be envisioned. What seems impossible can be achieved.

"Third, the real world has a habit of wreaking havoc with lies and delusions. You can deny facts for a long while — too long, tragically — but not forever ...

"Fourth ... As an industry, we've already survived a lot, overcoming travails that might have felled other industries. ... New, innovative media outlets have emerged and succeeded.

"Fifth reason: Today, there are promising signs of some rebellion against encroachments on free expression. Jimmy Kimmel's program was reinstated by Disney and ABC as millions of Americans made clear their fury, many canceling subscriptions to Disney's streaming services. Then Nexstar and Sinclair restored Kimmel to their stations. The whole episode propelled him to sky-high views on TV and YouTube.

"A final reason I'm optimistic is history. Efforts to silence the press date to the earliest days of American journalism."

The day after the first American paper published in 1690, the British tried to shut it down. The 1798 Sedition Act allowed the Adams administration to lock up Jeffersonian newspaper editors. And Woodrow Wilson's administration used the Sedition Act to punish war and draft critics during World War I.

Yet the press survived. Baron closed saying:

"Vigilance of public officials is, above all, the task democracy imposes on every journalist. However severe the pressures we face, holding our public officials to account is a mission we can never forsake.

"That is the mission envisioned for us by the nation's founders when they signed off on the First Amendment. That was the original assignment for the press in this country.

"We have no greater responsibility than to accept that assignment and execute it with the full measure of our energy, strength and courage."



Photos by Chuck Schmitt, Shiloh Documentary Films and Jessica Z. Brown-Billhymer, editing by Brown-Billhymer

From left - Fred Sweets, former Post-Dispatch, Washington Post and Associated Press photographer and editor, puts his arm around Klotzer. To the left of Klotzer is Marty Baron, the featured speaker and Rod Hicks, recently named executive director of the St. Louis American.

The case for worry – and for optimism

By Martin Baron

Thank you for inviting me to St. Louis. Thank you for this honor and for the *Gateway Journalism Review's* celebration of the First Amendment.

In arguing for that amendment, James Madison, its principal author, expressed the need for "freely examining public characters and measures." I always fixate on the word "examining" – and recommend reading its dictionary definition: "to inspect closely," "to inquire into carefully/investigate," to "test by questioning in order to determine progress, fitness, or knowledge."

I am proud that the newsrooms I've led have lived up to the meaning of that word – and met Madison's expectation for how the press, in service of a strong republic, should make use of the freedom it was given.

I've been a journalist for nearly half a century. And for every one of those years, I have known only a free and independent press in this country.

When I began my career in the 1970s, Americans could see clearly how the press served democracy:

With the publication of the *Pentagon Papers*, first by the *New York Times*, the public learned of the failures its government had covered up during a long war in Vietnam that cost so many lives.

And then there was *Watergate*, an investigation spearheaded by the *Washington Post*. The public learned how its president had weaponized the government against his political adversaries. How he had abused his powers, sabotaged the Constitution and committed crimes.

The press not only served democracy. The broader public interest was a beneficiary. When there was grave wrongdoing, often no one but journalists explored the facts.

That was true when we at *The Boston Globe* investigated a decades-long cover-up of sexual abuse within the Archdiocese of Boston and, as it turned out, in the Catholic Church worldwide.

Priests, bishops and cardinals had betrayed their parishioners. The Church had betrayed its principles. A religious hierarchy had exploited

its political and legal power – and a claim to spiritual authority – to shield its own reputation at the expense of children in its care. Denial and deceit were both practice and policy.

Over the years since, as that investigation's impact has unfolded from one country to the next, nothing in my career has meant more to me than conversations with survivors. To this day, they have shared their appreciation for the journalists who listened to their stories and delivered overdue justice.

Over the decades, I took for granted that we would always have a free press in this country. That the First Amendment would guarantee it. And that the media could – and would – fulfill its mission of holding our government to account.

I no longer take any of that for granted. I can't be certain the rule of law will prevail. Can't be confident that a free press will endure – or that free expression for all Americans will either.

I see a president behaving as if he were granted the kingly authority that Americans rebelled against 250 years ago. A president who cynically invokes First Amendment rights for himself and his allies while scheming to withhold them from others through baseless lawsuits, regulatory retribution, malicious investigations, sadistic vilification and unjust deportations. I watch as a servile majority in Congress and a deferential majority on the Supreme Court blithely give him permission and encouragement.

Every day, I witness him hammering away at the institutional pillars of democracy, leaving them at risk of buckling under the assault. And seemingly every day, I learn that those institutions – including the press – are more fragile than seemed possible only a year ago.

And then there is this: We now live in a time when people are unable – or unwilling – to distinguish between what is true and what is false. Today, we cannot even agree on how to determine a fact.

Ever since the Age of Enlightenment, we have relied upon certain factors to establish facts: Education. Expertise. Experience. And, above all, Evidence. Now, centuries later, every one of those elements is being



Richard K. Weil Jr., former managing editor of the Post-Dispatch

devalued, if not outright denied.

All of this puts democracy in peril. If democracy is in danger, so is a free press. And if a free press is at risk, so is democracy. They are inextricably linked. Never has there been a democracy without a media that is free and independent.

The stakes go beyond safeguarding a free press, however. The freedom to do our work falls under a bigger umbrella, the right of free expression. The antidemocratic storm bearing down upon us threatens to shred that umbrella and all that it protects:

The right of musicians, authors, artists, playwrights, screenwriters, comedians and late-night entertainers to express themselves as they wish. The right of the public to listen to, watch and read what they feel they should. The right of academics, activists, political leaders and even business executives to advocate for the policies they believe in. The right of every one of us to speak freely with family, friends, neighbors and colleagues without fear of surveillance and reprisal.

We should worry about the freedom to express opinions and feelings. But we should not lose sight of what aspiring authoritarians ultimately hope to achieve: They aim to extinguish all independent arbiters of fact. The press is among them. So are judges, scientists, scholars, government statisticians and many others.

None of them is perfect. All are fallible. Because all are human. But all are also necessary to navigate the winding, pothole-filled path toward knowledge.

The methods of authoritarians go beyond intimidation and retribution against independent arbiters of fact. They also interfere in the impartial collection of information. Data is manipulated, suppressed and even erased. In that way, the public is denied access to the indispensable building blocks of truth.

Authoritarians assert sole ownership of the truth. But those who arrogantly claim a monopoly on truth and an immunity to error forfeit any claim to credibility. That applies to anyone. But politicians of that sort rank as the greatest public menace.

A feeling of infallibility signals a detachment from reality. It is accompanied by an extreme allergy to criticism. Political leaders with these delusions conceive of every reason to grant themselves more authority — while plotting to limit the freedoms of others.

Challenging questions are seen as undeserving of response, or even respect. Dissenters are treated as heretics and subversives; enemies of the people or the enemy within (even worse than foreign enemies, in their way of thinking). In short order, critics are seen as appropriate targets of military force.

When leaders with that mentality destroy any meaningful check on the power they've usurped, history offers a lesson on the liberties lost by the rest of us: They are not easily recovered. They may never be.

I've seen what the loss of liberties looks like. Every year I spend 10 days in Bogotá, Colombia as an instructor in a training program for Latin American editors. Twenty percent or more of the attendees typically have been forced to work in exile.

They are among the more than 900 journalists who have fled Latin American countries since 2018.

Every year, the participants in that program have made presentations on the conditions in their countries — outlining how, step by step, a war on the press was waged in a grab by leaders for more power.

One attendee in January 2023 was Lucía Pineda Ubau, a prominent

television news director in Nicaragua who was arrested in 2018 after her station reported on the massacre of 355 citizens protesting the country's ruler, Daniel Ortega.

Police raided the station while she was on air, taking her and a fellow top executive into custody on charges of inciting terrorism and violence.

Lucía was imprisoned for six months, most of the time in solitary confinement. When finally released under international pressure, she was forced into exile in Costa Rica. A couple of weeks after I saw her in Bogotá in 2023, Ortega's government stripped her and 93 fellow Nicaraguans of their citizenship, also confiscating all of their property.

Today she — and all genuinely independent Nicaraguan journalists, numbering more than 270 — report on their country while compelled to live elsewhere.

This past May I had the opportunity to join Latin American and Spanish media leaders in visiting José Rubén Zamora, one of Guatemala's most respected journalists.

His newspaper reported aggressively over decades on what he calls the narco-klepto dictatorship that governed his country. He exposed corruption at the highest levels. For that he was targeted with bogus charges of money laundering, blackmail and influence peddling.

Zamora spent 812 days in prison before being released to home detention. After only four months, his prosecutor exploited a technicality to get him thrown in jail again. He has been in prison since March 10.

Five years ago, Zamora's publication shut down, unable to survive as he and nine colleagues were prosecuted, some merely for writing about Zamora's case, an activity the government defined as obstruction of justice.

I am friendly with another courageous journalist, András Petho. András does his work in Hungary where for many happy years he was employed by a popular news website. He only left when his work suddenly met with the disapproval of the corporate owner, a telecommunications company.

Until then, the owner had supported the outlet's investigative reporting. But Viktor Orbán's return as prime minister, after eight years out of power, brought drastic change. Orbán put pressure on the telecommunications company, and it capitulated — calling on its journalists to avoid stories that would anger Orbán or his allies.

Today, as András recounted in *The Atlantic* magazine, his previous employer is "unrecognizable" as "the flagship news site of the pro-government propaganda machine, publishing articles praising Orbán and viciously attacking his critics."

From all that I can tell, Orbán serves as our president's model for how to marginalize, delegitimize, demonize and economically debilitate an independent press.

Orbán set up a new media oversight agency, appointing loyalists to run it. The agency blocked mergers by independent media companies and favored those that were pro-government.

Although Trump didn't set up a new agency, he named a die-hard loyalist to lead the Federal Communications Commission, which previously operated with independence.

Almost immediately after becoming FCC chairman, Brendan Carr launched investigations of CBS, NBC, ABC, NPR and PBS over matters like supposed news distortion.

Separately, Carr held up the proposed merger of CBS owner Paramount with Skydance, a deal financed by Larry Ellison, a megadonor to the Republican party who has been a strong supporter of Trump's.

Trump had sued CBS under a Texas law normally applied to false advertising, seeking an absurd \$20 billion over how "60 Minutes" edited a campaign interview with Kamala Harris. At about the same time, a conservative group filed a complaint with the FCC alleging news distortion along the same lines as Trump. And Carr said he'd take that complaint into account in deciding whether to approve the Paramount-Skydance merger.

Fearful Paramount directors this summer decided to settle, agreeing to pay Trump \$16 million that would be earmarked for his presidential library. And there was a side deal between Trump and Skydance, the president himself confirmed:

Skydance — led by Ellison's son, David — promised that once the merger was completed, it would provide \$15-20 million in so-

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Photos by Chuck Schmitt, Shiloh Documentary Films and Jessica Z. Brown-Billhymer, editing by Brown-Billhymer

Charles Klotzer with his daughters, Ruth and Miriam.

called public service advertising on CBS for causes supported by the president. Within mere weeks of those concessions, the merger was approved — obviously not a coincidence.

The horror show has continued nonstop.

Disney-owned ABC in September cancelled Jimmy Kimmel only hours after the FCC chairman — reacting to a remark by the late-night host related to Charlie Kirk's assassination — threatened the licenses of its affiliate stations for carrying his show. Two big owners of affiliates, Nexstar and Sinclair — both under FCC jurisdiction — moved even faster than Disney in yanking his show off their stations.

The government-orchestrated silencing of Kimmel thankfully ended up being brief. But it fit into a pattern of brutish administration harassment. Only days before, Trump had filed a libel suit against The New York Times and its reporters for \$15 billion, litigation as silly as it was reprehensible. On page 10, Trump's lawyers asserted his "sui generis charisma," "singular brilliance" and "unique business acumen."

Anyone who marvels at himself that way would naturally view anything less flattering as defamation. Appropriately, a federal judge dismissed the suit as mostly "vituperation and invective." Trump's lawyers refiled a couple of weeks ago, after being scolded by the judge to comply with professional standards.

Now to public media — and back to Hungary's Orbán. As my friend András noted, the prime minister also "transformed public broadcasting — which had previously carried news programs challenging politicians from all parties — into a mouthpiece of the state." And what has Trump done? He cut public media off at the knees, ending all its federal funding. Expect public radio and TV stations to collapse, perhaps as many as 100. Trump has dismantled the historically independent Voice of America even as he set up a propaganda site called "White House Wire."

Hungary's Orbán has given a boost to pro-government influencers with a large social-media following. Trump has done the same here: MAGA influencers are now welcomed to White House press conferences, and even get private briefings. The questions (or statements) many of these folks pose are eye-rolling in their sycophancy.

Just as Orbán barred legitimate news outlets from briefings, Trump banned the Associated Press from the pool of journalists admitted to events in the Oval Office and that accompanies him on Air Force One.

He did this because the Associated Press wouldn't yield to Trump's insistence that the Gulf of Mexico be called only the Gulf of America. In July, the White House meted out the same punishment to the Wall Street Journal as reprisal for what it reported about Trump and Jeffrey Epstein. And then he sued the Journal, including its most senior executives, for \$10 billion.

The Department of Defense in September required press working from the Pentagon to sign a pledge not to disseminate any information — including unclassified information — that hasn't been officially released. The rules prohibited even asking questions about unauthorized subjects, at risk of being identified as a national security risk.

All but small, marginal or conspiracy-minded U.S. media outlets refused to sign. Good. Because any journalist who signs a pledge like that falls more neatly into the categories of stenographer or propagandist.

Orbán had a telling piece of advice for a conservative American political organization several years ago: "Have your own media," he said. That's exactly what Trump wants. And, in large part, that is what he is building piece by piece.

Here's something else you can anticipate: Trump will almost certainly try to incarcerate journalists. He has been salivating to do so for some time.

During rallies a few years ago, Trump promised to send journalists to prison so that he could ascertain their sources. As he put it, "When this person realizes that he is going to be the bride of another prisoner shortly, he will say, 'I'd very much like to tell you exactly who that was.'"

Reaction from the crowd to his loathsome vision of prison rape was laughter, applause and cheers.

The Trump administration has been laying the groundwork for prosecutions. In April, Attorney General Pam Bondi tossed out many of her department's previous constraints on the government's use of subpoenas and search warrants to obtain testimony and records of journalists relying on anonymous sources.

You can now expect the Justice Department to regularly pursue reporters' phone records and emails, and to petition courts to order reporters to divulge their sources. Since journalists are unlikely to do that, expect the DOJ to request that they be locked up.

The purpose of journalism in a democracy, in my estimation, is to provide the public with the information it needs and deserves to know so that people might govern themselves. Within that mission is what I consider our profession's highest calling: Holding powerful individuals and institutions to account.

Those with power have the capacity to do enormous good. When they do, and when ordinary individuals do, we in the press should make that known. Praiseworthy efforts to improve our towns, cities and country deserve to be shared with others. Strengthening the ties that bind us is a noble task.

At the same time, we know that some wrongs can be committed at extraordinary scale. Often the fault lies with those who possess disproportionate power, including the power to cover up their misdeeds. Immoral or unlawful conduct can go undetected for years, or decades. Ordinary people can suffer severe harm. The voices of victims are often ignored or muzzled.

If we as journalists do not hold the powerful to account — regardless of their political, ideological, theological or any other affiliation — often no one will. If we do not investigate when evidence demonstrates grave wrongdoing, we fail in our responsibilities to the public.

Our ability to pursue that mission today faces immense, even existential, challenges. Our vulnerabilities are many. Those who wish to harm our profession know that now is a perfect time to try.

One vulnerability that has stood out recently is ownership. Many of the biggest media outlets have corporate or individual owners who are ripe targets for intimidation. They may be subject to regulatory oversight. Or they may be heavily reliant on government contracts. Or they may hope for favors for their companies or themselves. One by one, they've cowered before Trump, capitulated to him or cozied up, neglecting to defend the rights that gave rise to their businesses and sustained our democracy.

Another huge vulnerability for an independent press is familiar to all of you: Economic insecurity.

The truth is that business strategies and tactics will have to be reassessed every few years, amid sudden, seismic shifts in technology, advertising and news consumption habits. Inertia is a decision, and a fatal one at that. Experimentation is imperative, with a clear-eyed focus on information the public values most.

News outlets must navigate away from a dependence on traffic from search engines and social media. That means cultivating a genuinely loyal, trusting base of readers, listeners and viewers who show support with subscriptions or memberships.

All who work in our business will have to get comfortable with discomfort. Instability will be with us forever. This will require everyone — from chief executives to union chiefs — to work collaboratively for long-term financial success. On that front, we have a very long way to go.

Compounding our problems is declining trust in mainstream media. Trust is at its lowest point in five decades. Seventy percent of American adults say they have little confidence in the media or none at all — the inverse of the 1970s when 70% expressed trust.

The press, by the way, isn't alone in scoring poorly. Trust in institutions overall has tumbled. But the decline for the press has been fastest.

This issue of trust is complex. You often hear the crisis of trust in media attributed to bias among journalists, and there may well be bias. But it's worth acknowledging that often one person sees bias where another sees truth. We are navigating a highly polarized political landscape.

That people can easily find a site that tells them what they want to hear undermines trust, too. And, of course, a president who day in and day out attacks the press has an impact.

In the 10 years since he became a presidential candidate, Trump has assailed the press more than 3,500 times.

Yet we in the press can't just shift blame to others. Low levels of trust in traditional media call for journalists to look inward, to reflect on whether we are going about our work as we should.

I believe journalists can best achieve our goals by adhering to traditional journalistic principles. We do ourselves and our democracy no favors if we abandon what have long been our profession's bedrock standards.

Too many journalists, largely in response to Trump, have repudiated the old standards: He has declared war on us, the thinking goes; so we must engage in war against him. Their stories and their performative behavior on social media reflect a warrior ethos. That is neither a good look nor good practice for any journalist who hopes to be, or expects to be considered, an honest broker of fact.

I am known for saying, "We are not at war. We are at work."

So, what do I mean by that? Early in my remarks, I mentioned James Madison's expectation that we in the press — and all citizens, for that matter — would examine "public characters and measures." That is our work. And when we're "at work," our behavior should be that of a professional, not a combatant.

At all times, we must practice our craft with true independence and a reverence for evidence over our preconceptions. Getting at the truth requires an open mind, rigorous method and a heavy dose of humility. We must be more impressed with what we don't know than with what we know or think we know.

We should not start our work by imagining we have the answers. We will better serve the public — and our professional reputations, for that matter — by making sure we ask the right questions.

Honorable journalism calls for us to listen generously — with empathy and respect — to those we cover. There is no place for condescension, contempt or incivility. People throughout our communities and country should see their struggles and aspirations reflected fully and fairly. We should assess what information they most need, and do our best to provide it. And when we commit errors of fact or judgment, we should acknowledge and correct them.

But honorable journalism also requires being fair to the public. That means being straight with them. We have a duty to tell readers, viewers and listeners directly, fearlessly and often courageously what we — through honest and conscientious reporting — find to be fact.

I'll mention a few other steps that might help earn the public's confidence: We need to be fully transparent about how we go about our reporting: If we refer to court documents, we should publish them in full. Same with a video or audio recording; publish it in full. The message to the public should be: You have the right to check our work. And we're giving you the opportunity.

Established communications companies also need to face up to this nasty fact: We are largely failing as communicators.

We will have to learn from influencers and podcasters about how to convey authenticity. The authority of our reporting matters most — verification is our first priority — but how we communicate with the public matters a lot as well.

Hovering over all of us is the threat of disinformation, which will accelerate with generative artificial intelligence.

Fabricated images and audio will be disseminated everywhere instantaneously. They will become harder to detect and refute.

The public may be unable to distinguish between what is true and what is false. And they may give up trying, concluding that it is impossible to ever really know.

Established media, working with experts in AI, must develop an infrastructure to counteract this threat. Not just because of what it portends for the press but rather because it imperils democracy and human progress.

The hazards can seem overwhelming. But I am no defeatist. I was reminded recently of what former secretary of state Madeleine Albright once said of herself. "I am often asked whether I am an optimist or a pessimist," she wrote. "My reply is, 'I am an optimist who worries a lot.'" Put me in the same category.

You heard plenty about my worries. Here's why I remain an optimist:

First, there is still an abundance of strong news coverage, revealing what Americans are entitled to know about their government. Each of those stories is a victory. A victory for the press but, more importantly, a victory for the public. A victory for anyone who believes in government of, by and for the people.

Second, I believe we, as individuals and as a society, are capable of more than we imagine. A favorite quote of mine is from Bernard Lown, a cardiologist who, along with colleagues, won the 1985 Nobel Peace Prize for efforts to prevent nuclear war. Upon accepting that award, he said: "Only those who see the invisible can do the impossible." In other words, what we can't see can be envisioned. What seems impossible can be achieved.

And I should add, I've never seen anyone succeed by expecting to fail.

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Optimism is a necessary ingredient for success. And we must succeed.

Third, the real world has a habit of wreaking havoc with lies and delusions. You can deny facts for a long while – too long, tragically – but not forever. As Jonathan Rauch, the author of an excellent book, "The Constitution of Knowledge," recently said, "If you stop vaccinating people for measles, guess what happens? You get measles. Then kids start to die. Then people look around and say, WTF. You can only suspend reality for so long before it hits you in the face."

Fourth reason I remain an optimist: As an industry, we've already survived a lot, overcoming travails that might have felled other industries. Some traditional news organizations have made dramatic turnarounds. New, innovative media outlets have emerged and succeeded. Many newsrooms now can boast of talented technologists on staff, and we are far more likely to accept changes in our work that disruptive new technologies demand.

Fifth reason: Today, there are promising signs of some rebellion against encroachments on free expression. Jimmy Kimmel's program was reinstated by Disney and ABC as millions of Americans made clear their fury, many canceling subscriptions to Disney's streaming services. Then Nexstar and Sinclair restored Kimmel to their stations. The whole episode propelled him to sky-high views on TV and YouTube.

Also, a recent New York Times poll showed that more than 60% of Americans felt Trump had gone too far in bringing pressure on the press, with the number rising to 70% among independents and voters under 45. Seventy percent of voters, and even 57% of Republicans, opposed revoking licenses for television stations that criticize Trump.

Of course, it's concerning that tens of millions of Americans either don't understand the First Amendment or would just as soon do without it. But it's heartening that a solid majority appreciates that free expression is an essential right that belongs not to any one party or group but to every one of us.

Ideally, over time, more Americans will recognize that the rights the press seeks to safeguard are no different from the simple, basic rights most people want and deserve for themselves: The freedom to inquire into facts. The freedom to share what they've learned. The freedom to communicate what they believe.

A final reason I'm optimistic is history. Efforts to silence the press date to the earliest days of American journalism.

The inaugural edition of the first American newspaper was published in Boston on September 25, 1690. The next day, it was shut down by the governor and council of Massachusetts.

In 1798, President John Adams signed the Sedition Act. Prosecutions ensued. Newspapers were shuttered, editors jailed. The American people themselves rose up in protest.

As the law expired at the end of John Adams's term, journalists were

freed. And upon assuming the presidency, Thomas Jefferson declared that "the essential principles of government" include "the diffusion of information" and "freedom of the press."

Those freedoms would be challenged again under President Woodrow Wilson, in 1917 as we entered World War I. The Espionage Act, amended the next year with a Sedition Act, brought extraordinary repression. The public and the press were subjected to vast prohibitions on criticism of government.

Wilson's predecessor Teddy Roosevelt was aghast. Though no stranger to executive power, he understood the boundaries. He condemned those who would "make it a crime to tell the truth," reminding President Wilson that the people of this country were his "fellow citizens," not "his subjects."

The Sedition Act was repealed within a couple of years. The Espionage Act, imprudently expansive and loosely written, remains on the shelf for our current government to weaponize, as it probably will.

Not until the presidency of Franklin Delano Roosevelt and war with Imperial Japan and Nazi Germany did this country begin to fully embrace the rights of free expression and an independent press. The horror of the Third Reich drove home what the alternative might look like.

FDR declared that "Representative democracy will never tolerate suppression of true news at the behest of government." Supreme Court Justice Robert H. Jackson wrote this in 1945 on behalf of the First Amendment: "Every person must be his own watchman for truth, because the forefathers did not trust any government to separate the true from the false for us."

That admonition has been repeatedly tested. Scrutinizing the lies emanating from the Nixon White House landed 50 journalists – and three newspapers – on an actual enemies list. The purpose, as the memo of Nixon counsel John Dean put it, was to "use the available Federal machinery to screw our political enemies."

As disturbingly familiar as such malevolence may be, the words of the Senate Select Committee that investigated Nixon should echo today as well:

"The American people," the committee's report declared in 1974, "have been re-awakened to the task democracy imposes upon them – steadfast vigilance of the conduct of the public officials they choose to lead them."

Vigilance of public officials is, above all, the task democracy imposes on every journalist. However severe the pressures we face, holding our public officials to account is a mission we can never forsake.

That is the mission envisioned for us by the nation's founders when they signed off on the First Amendment. That was the original assignment for the press in this country.

We have no greater responsibility than to accept that assignment and execute it with the full measure of our energy, strength and courage.

Thank you again for the honor of joining you here today.

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“Never before in the life of any living American have so many books been systematically removed from school libraries across the country.

Never before have so many states passed laws or regulations to facilitate the banning of books, including bans on specific titles statewide.

Never before have so many politicians sought to bully school leaders into censoring according to their ideological preferences, even threatening public funding to exact compliance.

Never before has access to so many stories been stolen from so many children.”

— PEN America