

Journalism Shield Laws in the Digital Age

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As the law that involves the Internet continues to develop, New Jersey has addressed the question of whether bloggers are protected by the same shield laws that are applicable to journalists.

Under [journalism shield laws](#), mainstream media is afforded certain protections. For example, in court proceedings, reporters are allowed to withhold the identity of their sources and other information. Because the majority of these laws pre-date the Internet, definitions of “journalist” are generally limited to traditional print, radio, and television media.

However, as more people turn to the Internet and to blogs for news and information, courts are increasingly being asked to determine whether new media should be granted the same statutory protections that apply to traditional journalists. Bloggers and other Internet news sources argue that, if they are engaged in journalism, they should be protected regardless of their official title or pedigree.

The cases are largely being decided at the state court level, as bloggers seek to test the limits of state journalism shield laws. In 2006, California first addressed whether an online news organization was protected from disclosing its sources. Like many state laws, California’s shield law protects a person “connected with or employed upon a newspaper, magazine, or other periodical publication.” Despite the narrow statutory definition, a California appellate court ruled that the law did extend to other entities engaged in gathering news for dissemination to the public. However, it was clear to point out that the law did have limits and would not necessarily protect “the deposit of information, opinion, or fabrication by a casual visitor to an open forum such as a newsgroup, chat room, bulletin board service, or discussion group.”

In 2011, the United States District Court for the District of Oregon found that a blogger did not qualify as a journalist under Oregon’s journalism shield law. The court held that to qualify as a journalist, a standard of professionalism must be met, which could include an association with a traditional print or television media outlet or a journalism degree. However, other courts have reached different decisions. In New Hampshire, the state’s highest court found that Internet news outlets should be afforded the same protections as mainstream media. It broadly concluded that “freedom of the press is a fundamental personal right which is not confined to newspapers and periodicals.”

The New Jersey Supreme Court recently addressed whether [bloggers can invoke the state’s shield law to protect the identity of their sources](#) when they post comments online. The court ultimately concluded that posting on message boards did not make the blogger a journalist, and therefore she was not protected under the state’s shield law. The [New Jersey shield decision](#) highlights that while courts are willing to consider new media protections, they will not allow

bloggers and online news media to manipulate journalism shield laws to thwart the judicial process.