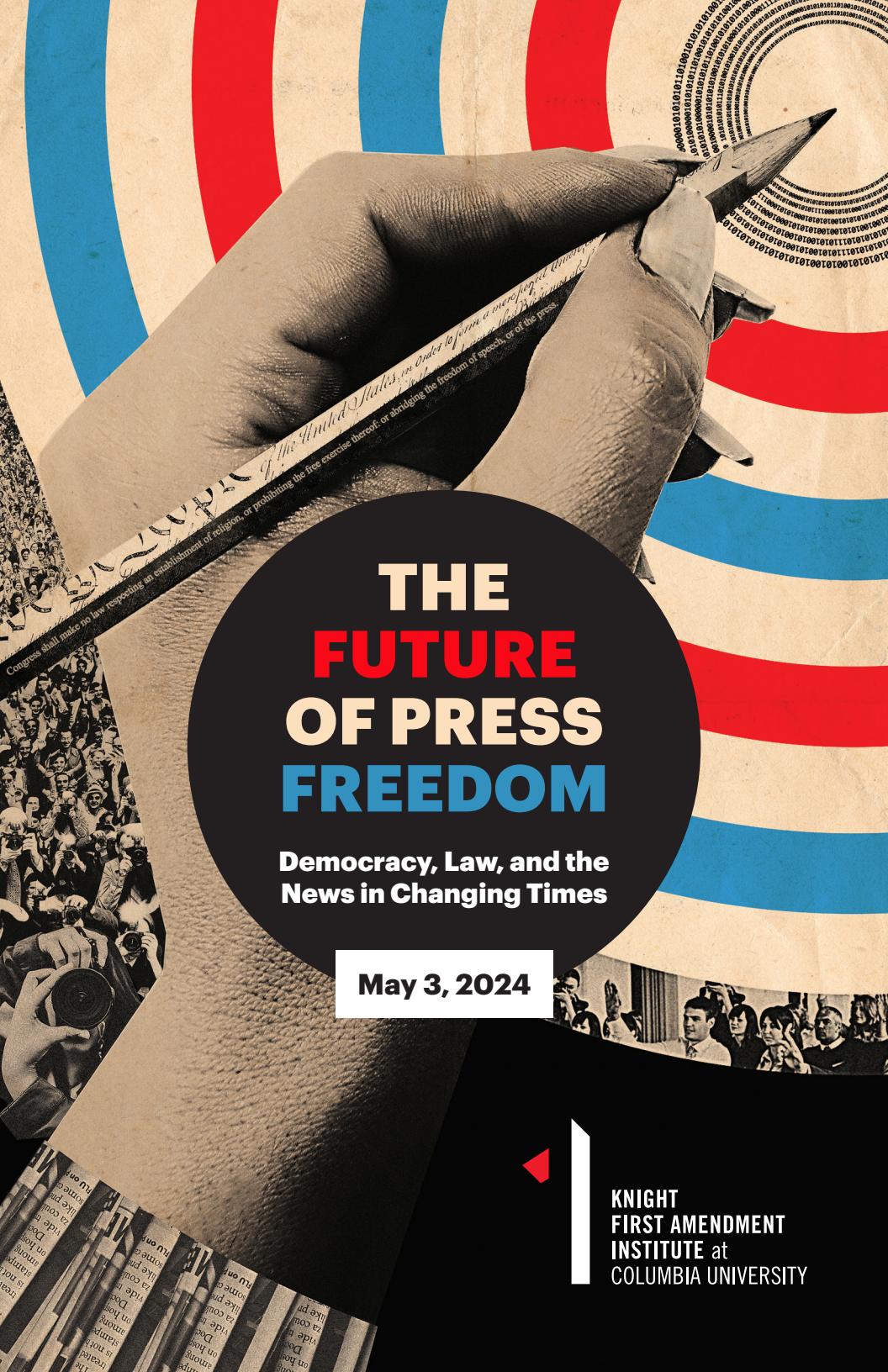

THE FUTURE OF PRESS FREEDOM

Democracy, Law, and the News in Changing Times

May 3, 2024

KNIGHT FIRST AMENDMENT INSTITUTE at COLUMBIA UNIVERSITY



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WELCOME

On behalf of the Knight First Amendment Institute at Columbia University, welcome to this symposium, "The Future of Press Freedom: Democracy, Law, and the News in Changing Times."

The Knight Institute was founded by Columbia University and the John S. and James L. Knight Foundation in 2016 to protect the freedoms of speech and the press in the digital age through strategic litigation, research, and public education. Today, the Institute is a vibrant community of litigators, scholars, technologists, journalists, and many others—including interns and externs from Columbia and beyond.

The protection of press freedom in the digital age is at the core of the Knight Institute's mission. We've fought for the rights of the press to report on public protests without interference from police, to access judicial proceedings, and to protect their confidential sources. Just a few weeks ago, one of our lawsuits compelled a Texas county to open its bail hearings to journalists and the public; in another ongoing project, we're representing Central American journalists in a suit against the spyware manufacturer whose technology was used to hack their phones. With other free speech groups, we've called for reform of the Espionage Act and opposed the government's use of the act against publishers and journalists' sources. This symposium is a natural extension of all of that work.

We look forward to today's conversations with this outstanding group of scholars and advocates, and hope that together we can identify other ways in which the Institute can promote press freedom, whether through litigation, policy advocacy, or research.

We are deeply grateful to RonNell Andersen Jones and Sonja R. West for their efforts to conceive and lead this year-long project. Professors Jones and West are among the country's most prominent scholars on the rights of the press, and we are very fortunate to have had them with us this year. We also thank Columbia Law School and Columbia Journalism School for their co-sponsorship and support of this event, the Knight Institute's funders (listed at the end of the program), and the Knight Institute's staff for all the work they've done to make today a success. And thank you, finally, to all of you for being here with us today.

Jameel Jaffer and Katy Glenn Bass



INTRODUCTION

The American free press is facing a perilous moment. Thanks to a confluence of economic, cultural, technological, and political forces, our prior understanding of how the news media operates has been abruptly upended. Suddenly, it seems, the relationship between democracy and press freedom has been realigned, raising new and difficult questions about what it means to safeguard and support the press function in the United States and who will perform that function.

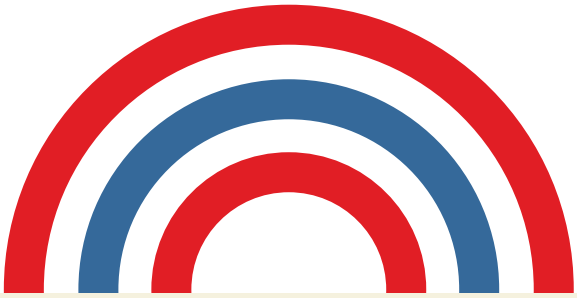
This project aims to explore what the Constitution, law, and policy can do about *identifying* and *protecting* core press functions. It examines the role of a free and protected press in preserving a healthy American democracy, debates the benefits and disadvantages of special doctrinal protection for performers of press functions, considers the place that protection for newsgatherers holds in evolving legal frameworks, and seeks to develop functional doctrines that can protect performers of these roles even as new methods for producing and consuming news emerge.

The effort brings together top scholars from both law and journalism to answer critically important questions about how to achieve these goals: How, if at all, can we shape doctrine and legal policies that grant rights to those acting as proxies for the public without privileging the powerful over the weak? How can we distinguish performers of the press function from performers of other communicative functions? And what protections might be constitutional necessities for fulfilling the wider purpose of the First Amendment guarantee of freedom of the press?

Our project includes three major academic efforts: Our cross-disciplinary scholarly working group, a New Voices in Press Freedom call for papers, and a Future of Press Freedom Scholars Series. These initiatives will produce a total of more than two dozen articles, essays, and commentaries on the project's themes, all of which will appear in an edited volume from Cambridge University Press forthcoming in 2025. Work from each initiative is represented at this symposium.

We are grateful to all the writers for their thoughtful and illuminating contributions. Many thanks to all of today's participants for joining us at this critical moment for what we are sure will be a productive set of discussions.

RonNell Andersen Jones and Sonja R. West



PROGRAM AT A GLANCE

May 3, 2024

9:15 am – 9:30 am — **Welcome**

Jameel Jaffer
RonNell Andersen Jones

9:30 am – 10:45 am — **Panel 1: Democracy and the Press Function**

Panelists
Erwin Chemerinsky
Lyrissa Lidsky
Robert C. Post

Discussant
Michael Schudson

Moderator
RonNell Andersen Jones

10:45 am – 11:00 am — **Break**

11:00 am – 12:15 pm — **Panel 2: Identifying Performers of the Press Function**

Panelists
Hannah Bloch-Wehba
Meredith D. Clark
Richard L. Hasen

Discussant
Seth Stern

Moderator
Sonja R. West

12:15 pm – 1:15 pm — **Lunch & Keynote: Saving the News—A Conversation with Martha Minow**

Lunch will be provided

1:15 pm – 2:30 pm — **Panel 3: Sustaining the Press Function**

Panelists
Heidi Kitrosser
Wesley Lowery
Victor Pickard

Discussant
Courtney C. Radsch

Moderator
Katie Fallow

2:30 pm – 2:45 pm **Break**

2:45 pm – 4:00 pm **Panel 4: New Frontiers for Protecting the Press Function**

Panelists
Mike Ananny
Christina Koningisor
Jacob Noti-Victor

Discussant
Nora Benavidez

Moderator
Katy Glenn Bass

4:00 pm – 4:15 pm **Closing Remarks**

RonNell Andersen Jones
Sonja R. West



PANEL 1

Democracy and the Press Function

9:30 am - 10:45 am

This panel explores the relationship between newsgathering and the stability of American democracy. Traditional news outlets are disappearing, leaving an information vacuum that other communicators are rushing to fill. Political threats against performers of the press function are on the rise. At this critical moment, which roles that have traditionally been played by legacy media are most crucial to self-government? What press functions does a democracy need in order to sustain itself, and why do these press functions matter? Given deep public divisions, how can we foster the newsgathering that is vital to public discourse, and what is the proper role of constitutionalism, law, and policy in this space?

Panelists
Erwin Chemerinsky, *UC Berkeley School of Law*
Lyrissa Lidsky, *University of Florida Levin College of Law*
Robert C. Post, *Yale Law School*

Discussant
Michael Schudson, *Columbia Journalism School*

Moderator
RonNell Andersen Jones, *University of Utah and the Knight First Amendment Institute*

PAPER ABSTRACTS

Erwin Chemerinsky

Title forthcoming, for the Knight Institute's "The Future of Press Freedom Scholars Series" (see page 28 for more details)

Lyrissa Lidsky

Pressing Necessity: Restoring Trust in Fact-Based News, for the Knight Institute's "The Future of Press Freedom Scholars Series" (see page 28 for more details)

Robert C. Post

The Press and American Democracy, for the Knight Institute's "The Future of Press Freedom Scholars Series" (see page 28 for more details)

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PANEL 2

Identifying Performers of the Press Function

11:00 am - 12:15 pm

This panel examines how we can best identify performers of the press function for protection in a changing media and political landscape. What benefits and what complexities result if law and constitutionalism give journalists special privileges? How can we guarantee access for some parties to perform government oversight on behalf of others when access is limited? If press exceptionalism line-drawing is needed, what are the best tools for distinguishing performers of the press function from performers of other functions? How can we shape this doctrine in ways that reflect the voices of groups that have historically been marginalized? How do we build press-protective doctrine that is fair, helpful, and lasting, even as media models change?

Panelists
Hannah Bloch-Wehba, *Texas A&M University School of Law*
Meredith D. Clark, *Northeastern University*
Richard L. Hasen, *UCLA School of Law*

Discussant
Seth Stern, *Freedom of the Press Foundation*

Moderator
Sonja R. West, *University of Georgia and the Knight First Amendment Institute*

PAPER ABSTRACTS

Policing Press Freedom
Hannah Bloch-Wehba

In recent years, scholars and advocates have called for particular statutory and constitutional protections for the press to ensure that it continues to play its traditional democratic role. The conventional wisdom holds that affording special legal protections to journalists, beyond those enjoyed by the public, effectively limits law enforcement's power to interfere with the press function. This paper takes aim at this assumption on both descriptive and analytical grounds. First, it describes how law enforcement often evades, violates, or simply ignores existing protections, raising questions about their effectiveness. Supporters of special protections from law enforcement might argue that the underinclusiveness of existing rules simply illustrates the need to update and expand these protections. I argue, however, that expanding procedural safeguards is unlikely to adequately protect the press function. Indeed, heightened press-specific rules might actually encourage law enforcement to use other substantive approaches to criminalize journalism and reporting and thus evade procedural protections. As William Stuntz observed in the context of constitutional criminal procedure, the creation of especially protective rules can have the "perverse" consequence of creating incentives to "generate *bad* substantive rules" and thereby evade procedural restrictions. Amid broadening efforts to criminalize protest, trespass, and newsgathering, the substantive criminal law increasingly offers many possible avenues for law enforcement to crack down on critical reporting, threatening the checking function. This dynamic suggests that the press's long-standing strategy of seeking procedural protections against law enforcement is misguided and ineffective. Instead, to ensure its autonomy and independence in the long run, the press should be a more active participant in seeking to limit law enforcement power and authority.

Intersectional Approaches to Teaching the First Amendment

Meredith D. Clark

Taken together, the first three standards listed by the Accrediting Council on Education in Journalism and Mass Communication signal an emphasis on the First Amendment and the importance of diversity and cultural contexts in journalism education. Yet the revival of debates over "journalistic objectivity" that have taken shape around issues of Black protest, editorial witnessing, and journalistic authority put these principles in conflict with one another, a misstep attributable to the way the First Amendment and the responsibility of the journalist are taught. In reflecting on the assumption of equal access to the freedoms enumerated in the First Amendment—spanning the time between its ratification in 1791 and the enfranchisement of Black Americans via the ratification of the 13th, 14th, and 15th amendments in 1865, 1868, and 1870, respectively—that characterize most studies of the press as a tool of democracy, this project challenges the colorblind interpretation of the First Amendment as a means of grounding and legitimizing the role of the advocacy press. This essay applies the Du Boisian theory of double consciousness to argue that journalism education in the United States falls short of its mission when it fails to consider questions of race in applications of the First Amendment. I position the classroom as a space for radical possibility to reconsider the function of the press as a commercial project developed through racial capitalism. I argue that the First Amendment, including the press clause, must be interrogated at multiple levels in order to escape the trappings of the democratic swindle and fulfill the elusive promise of First Amendment freedoms to be enjoyed by all.

PAPER ABSTRACTS

From Bloggers in Pajamas to The Gateway Pundit: How Government Entities Do and Should Identify Professional Journalists for Access and Protection

Richard L. Hasen

This paper examines how government entities determine who is a journalist to allocate resources under conditions of scarcity and to assure that the press can conduct their functions without undue government regulation and interference. Using a new dataset of 172 laws, rules, and procedures that different government entities have used to define the press, it describes the most common tests government entities use for identifying journalists and compares them to each other. Most of the definitions appear aimed at identifying the class of professionals who regularly gather, report, and disseminate news. The paper then describes the relatively rare, reported litigation around these journalist-defining rules, teasing out the potential dangers of relying on particular definitions of journalists. Much of the litigation easily distinguishes between professional and nonprofessional journalists, and a few have dealt with the exclusion of journalists for permissible reasons, such as disruptive behavior. But not every issue is easy. Using the example of litigation over Maricopa County, Arizona's decision to exclude a faux journalist for The Gateway Pundit from an area where ballots were being tabulated following the 2022 elections, it focuses particularly on the line between unconstitutional viewpoint discrimination and permissible extension of the press exemption only to those who engage in legitimate professional journalism. The paper then makes four normative recommendations about the tests government entities should use to define journalists. First, government entities should have explicit and meaningful standards for press exceptionalism. Second, most press exceptionalism should be limited to professional journalists who regularly produce news stories or commentary. Third, press exceptionalism should not turn on the type of technology used to communicate. Fourth, government entities should continue to have the power to grant press exceptionalism to "bona fide correspondents of repute in their profession" so long as they do not engage in viewpoint discrimination.









Saving the News—A Conversation with Martha Minow

12:15 pm - 1:15 pm

Martha Minow will offer brief keynote remarks followed by a Q&A led by Sonja R. West. Lunch will be provided.

Martha Minow

Martha Minow has taught at Harvard Law School since 1981, where her courses include civil procedure, constitutional law, fairness and privacy, family law, international criminal justice, jurisprudence, law and education, nonprofit organizations, and the public law workshop. An expert in human rights and advocacy for members of racial and religious minorities and for women, children, and persons with disabilities, she also writes and teaches about digital communications, democracy, privatization, military justice, and ethnic and religious conflict. She is currently the co-chair of the access to justice project of the American Academy of Arts and Sciences and co-chairs the National Academies of Sciences, Medicine and Engineering Committee on Law, Science, and Technology. Minow has served on the Center for Strategic and International Studies Commission on Countering Violent Extremism and on the Independent International Commission Kosovo. She helped to launch Imagine Coexistence, a program of the U.N. High Commissioner for Refugees, to promote peaceful development in post-conflict societies. Her five-year partnership with the federal Department of Education and the Center for Applied Special Technology worked to increase access to the curriculum for students with disabilities and resulted in both legislative initiatives and a voluntary national standard opening access to curricular materials for individuals with disabilities. She received the Freedom of the Press Career Achievement Award, Reporters Committee for Freedom of the Press in 2023. Minow served as dean of Harvard Law School between 2009 and 2017 and as the inaugural Morgan and Helen Chu Dean and Professor.



PANEL 3

Sustaining the Press Function

1:15 pm - 2:30 pm

This panel imagines wider possibilities for law and policy to more affirmatively sustain the democracy-enhancing press functions. Are government interventions that actively promote journalism practically workable and politically possible? Are they constitutionally sound? What are the theoretical and doctrinal barriers to press subsidies, more vibrant public media, or direct government funding of news and communication infrastructures? Can government sustain the press function without distorting the content of news? What are the most important possibilities for guaranteeing meaningful access to news and information for everyone?

Panelists

Heidi Kitrosser, *Northwestern University Pritzker School of Law*
Wesley Lowery, *American University*
Victor Pickard, *University of Pennsylvania*

Discussant

Courtney C. Radsch, *Center for Journalism and Liberty, Open Markets Institute*

Moderator

Katie Fallow, *Knight First Amendment Institute*

PAPER ABSTRACTS

Anti-Distortion and State-Subsidized Journalism

Heidi Kitrosser

Press subsidies and "public stations" such as NPR and PBS already play important roles in informing the American public, and public funding of the news is more crucial now than ever. Given these facts, it is important to explore the First Amendment limits that do or should apply to content-based funding conditions on news reporting. Elsewhere, I have argued that an anti-distortion principle can be discerned in parts of the First Amendment case law involving government subsidies and forums. This principle constrains the government from restricting speech in a manner that would distort the nature of a communicative good that it purports to provide. The principle, however, is underdeveloped. Judicial precedent says little about why anti-distortion matters from a free speech perspective, and it also fails to provide much guidance as to how to determine the nature of a forum or institution. These shortcomings make the anti-distortion principle vulnerable to disuse and especially to being overtaken by an expanding government speech doctrine. I seek to make headway toward filling these gaps in this paper, focusing on the example of state-subsidized journalism.

A Positive Rights Paradigm for Guaranteeing a Universal Press System

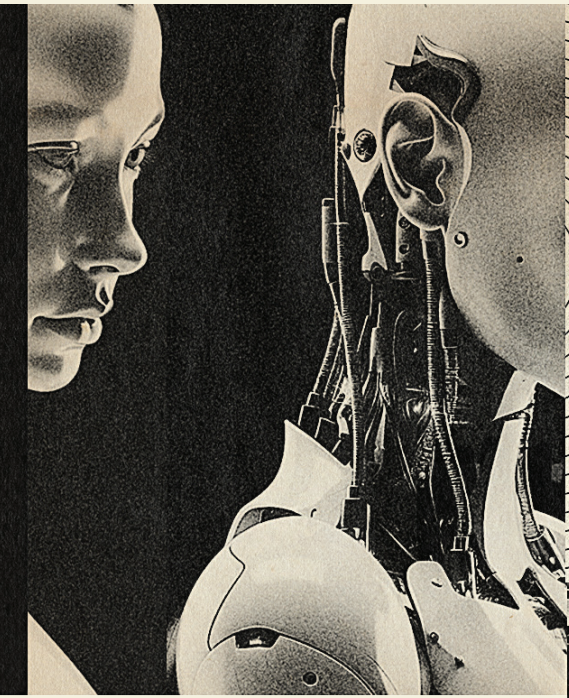
Victor Pickard

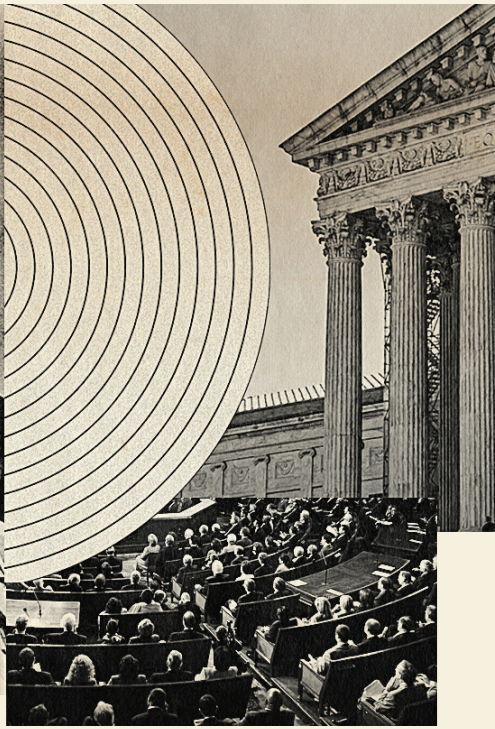
It is a matter of elementary democratic theory that self-governance requires a free—and, by implication, a functional—press. However, today the U.S. press system is being actively dismantled by systemic market failure, with little hope for self-correction. While significant democratic deficits have always existed in American journalism, it is becoming glaringly obvious that a purely commercial media system cannot provide for a multiracial democratic society's basic information and communication needs. If democracy requires a press system regardless of its profitability, we must develop a rationale for why government must guarantee a baseline level of news and information for all members of society, not just the privileged few who live in affluent neighborhoods. With this objective in mind, this paper aims to articulate a positive-rights paradigm that marshals contemporary, historical, and international policy and legal

frameworks that assume government should have an affirmative duty to guarantee meaningful access to news and information for everyone. Drawing from democratic and economic theories, the essay will build on a long lineage of legal arguments for why the First Amendment does not forbid government interventions that promote journalism. Ultimately, such a policy agenda does not aim to shore up existing models, but rather endeavors to transform information and communication infrastructures to better serve human needs. This long-term project will require a program of "non-reformist media reforms," as well as expanding upon the social imaginary for what is politically possible. It will necessitate building nonmarket alternatives by either creating entirely new infrastructures or by restructuring already-existing systems such as public broadcasting and the postal system. Arguably, working towards such ambitious visions for journalism's future is not only the most ethical, but also the most practical course of action.

Wesley Lowery

Title forthcoming, for the Knight Institute's "The Future of Press Freedom Scholars Series" (see page 28 for more details)





PANEL 4

New Frontiers for Protecting the Press Function

2:45 pm - 4:00 pm

This panel considers new lenses through which we might view the goal of protecting the press function. As Generative AI and other technologies change the ways news can be produced and disseminated, and the harms it can impose, what lessons can be drawn from the past to protect the press function in the future? If traditional constitutional and statutory protections for performers of the press function fall short, what other avenues might fill the gaps? How can law and policy work alongside other tools to encourage and sustain valuable newsgathering?

Panelists
Mike Ananny, *University of Southern California*
Christina Koningisor, *UC Law San Francisco*
Jacob Noti-Victor, *Cardozo School of Law*

Discussant
Nora Benavidez, *Free Press*

Moderator
Katy Glenn Bass, *Knight First Amendment Institute*

PAPER ABSTRACTS

The Freedom to Learn from Mistakes
Mike Ananny

How is the capacity to learn from mistakes a vital but poorly understood part of contemporary press freedom? If an autonomous press has the power to continually create and recreate the institutional arrangements that *it* thinks best enable public life, then this press must be able to manage its changes with knowledge and intention. It must be able to see, understand, revise, reject, and invent the relationships and systems that influence its reporting, writing, editorial judgments, publishing, and public missions. It must be able to know how and why its arrangements succeed or fail.

Today, though, many of the press's successes and failures intertwine with sociotechnical systems—platforms, algorithms, datasets, machine learning—that originate outside of newsrooms, have little appreciation or care for editorial nuance, and are simply hard to understand. How can a press be free if it lacks the full capacity to know these systems and, specifically, to know why these systems fail and when their failures matter to the press's public function?

This paper aims to answer this question in three parts: first, tracing scholarship on how the press has historically defined and learned from its mistakes; second, analyzing cases when journalistic uses of Generative Artificial Intelligence failed; and third, sketching a new press freedom framework that shows publishers and technologists alike the power of equipping journalists with the capacity to learn from sociotechnical mistakes.

The Other Press Clauses
Christina Koningisor

The Supreme Court has consistently declined to interpret the First Amendment to extend exclusive protections for the press. Across areas like newsgathering, rights of access, and the shielding of confidential sources, the Court has rejected the press's claims to constitutional protection. Yet many states have pursued a different approach. Each state constitution contains independent press and speech provisions. These provisions diverge from the First Amendment in their texts, drafting

processes, and interpretive histories in ways that can be rights-expanding for the press. This paper argues that these provisions have been underutilized by the press. These state constitutional protections hold promise as a powerful source of independent protection for journalists. They can be used to fill in gaps left by the Supreme Court's often flimsy and scattershot First Amendment approach. They can be more easily amended to respond to new and growing threats to the press. And they can operate as a safety net to catch the press if the Roberts Court decides to claw back critical First Amendment press protections. Moreover, the lessons of the state constitutional experience can be used to support expanded press protections under the First Amendment.

Innovation Policy and the Press
Christina Koningisor and Jacob Noti-Victor

Local news is in crisis. Too few subscribers are willing to pay the costs required to create sustained and high-quality local news products, and the advertisers that previously subsidized local news have fled to new sites, especially social media platforms. Press organizations and policymakers have begun experimenting with possible fixes. Media institutions have looked to new private funding models, especially nonprofit institutions supported by philanthropic foundations. And state legislators have begun testing different public financing vehicles for local media. Yet these efforts represent only a small set of possible solutions to the crisis in local news. And they have proven insufficient to save news organizations from financial devastation. This essay argues that the local news crisis should be understood as an innovation failure, one that calls for solutions from areas of the law that have long grappled with similar problems. In markets like pharmaceuticals and technology, policymakers often employ "innovation policy pluralism," or combinations of intellectual property protections with non-IP tools such as prizes, grants, and tax credits. Such combinations harness both free-market forces and government regulation to foster socially valuable services in productive ways. This paper surveys these different innovation policy levers and maps them onto both existing and proposed local press interventions.

THE FUTURE OF PRESS FREEDOM SCHOLARS SERIES

This series highlights short contributions from a select group of multi-disciplinary scholars who have long studied and written about matters related to freedom of the press. Pieces in this series draw together observations and theories from each author's body of work to illuminate how we might better define and protect the core democracy-enhancing press functions.

The Enduring Significance of *New York Times Co. v. Sullivan*
Samantha Barbas, *University of Buffalo School of Law*

"MURDER THE MEDIA": Press Freedom, Violence, and the Public Sphere
Joseph Blocher, *Duke University School of Law*

A Professional Wrestler, Privacy, and the Meaning of News
Amy Gajda, *Brooklyn Law School*

Political Tensions and the Democratic Press
Gregory Magarian, *Washington University School of Law in St. Louis*

Reinvigorating the Press Clause Through Negative Theory
Helen Norton, *University of Colorado School of Law*

The Press and American Democracy
Robert C. Post, *Yale Law School*

Forthcoming contributions to the series include pieces by:

Erin Carroll, *Georgetown Law School*
Erwin Chemerinsky, *UC Berkeley School of Law*
Alan Chen, *University of Denver Sturm College of Law*
Vicki Jackson, *Harvard Law School*
Margaret Kwoka, *Ohio State University Moritz College of Law*
Lili Levi, *University of Miami School of Law*
Lyrissa Lidsky, *University of Florida Levin College of Law*
Wesley Lowery, *American University*
Martha Minow, *Harvard Law School*
Rasmus Kleis Nielsen, *Oxford University*
Michael Schudson, *Columbia Journalism School*
Amanda Shanor, *University of Pennsylvania*
Kate Starbird, *University of Washington*
Nikki Usher, *University of San Diego*

Read the complete series on the Knight Institute's website here: **knightcolumbia.org/blog/channel/the-future-of-press-freedom-scholars-series**

PARTICIPANTS

Mike Ananny

Mike Ananny is an associate professor of communication and journalism and affiliated faculty of science, technology, and society at the University of Southern California's Annenberg School for Communication and Journalism. He studies how the cultures that create digital news, algorithmic systems, and artificial intelligence infrastructures structure public life. He co-directs the interdisciplinary USC collective MASTS (Media As SocioTechnical Systems), the Sloan Foundation project Knowing Machines (with Kate Crawford and Jason Schultz), and the USC Center on Generative AI and Society. He is the author of *Networked Press Freedom* (MIT Press, 2018), co-editor (with Laura Forlano and Molly Wright Steenson) of *Bauhaus Futures* (MIT Press, 2019), and publishes in various interdisciplinary venues including Journalism Studies, Science and Technology Studies, and Critical Internet Studies. He was a postdoctoral scholar at Microsoft Research, and holds a Ph.D. from Stanford University in Communication; a masters from the MIT Media Laboratory; and a bachelors in Computer Science and Human Biology from the University of Toronto. He regularly writes for popular press outlets including The Atlantic, WIRED, Harvard's Nieman Lab, and the Columbia Journalism Review.

RonNell Andersen Jones

RonNell Andersen Jones is a University Distinguished Professor and the Lee E. Teitelbaum Chair in Law at the University of Utah. She is an affiliated fellow at Yale Law School's Information Society Project. A former newspaper reporter and editor, Andersen Jones is a First Amendment scholar who researches and writes on legal issues affecting the press and on the intersection between media and the courts, with an emphasis on the U.S. Supreme Court. Her work is concerned with the role of the press in American democracy and the underdeveloped doctrines for identifying and safeguarding constitutionally protectable press functions in a changing media and political landscape. Andersen Jones has been widely recognized for her classroom innovations and personal mentoring. In 2021, her First Amendment seminar was the subject of a feature in The New Yorker. Prior to entering academia, she was an attorney in the Issues & Appeals section of Jones Day, where her work focused on Supreme Court litigation and included major constitutional cases. For the 2023-2024 academic year, she is a senior visiting research scholar at the Knight Institute. Her research project, in collaboration with Sonja R. West, explores how law and policy can better protect journalism and core press functions.

Nora Benavidez

Nora Benavidez is senior counsel and director of Digital Justice and Civil Rights at Free Press. She manages the organization's efforts around platform and media accountability to defend against digital threats to democracy. She previously served as the director of PEN America's U.S. Free Expression Programs, where she guided the organization's national advocacy agenda on First Amendment and free-expression issues, including press freedom, disinformation defense, and protest rights. Benavidez launched and led PEN America's media-literacy and disinformation-defense program. She also led the organization's groundbreaking First Amendment lawsuit, *PEN America v. Donald Trump*, to hold the former president accountable for his retaliation against and censorship of journalists he disliked. She has also authored policy reports on legislative attacks on fundamental rights. Benavidez is a civil-rights and constitutional lawyer who previously worked in private practice and at the ACLU of Georgia, litigating significant cases representing victims of voting-rights violations, unconstitutional police practices, First Amendment infringements, and more. In all aspects of her work, she seeks to defend the human dignity of all and overcome structural barriers to equity and justice. Benavidez graduated from Emory University School of Law and received her B.A. from New York University's Gallatin School.

Hannah Bloch-Wehba

Hannah Bloch-Wehba is an associate professor of law at Texas A&M University School of Law where she teaches and writes about law and technology. Her scholarship primarily focuses on free expression, privacy, and government accountability. Her interests include transparency and accountability for law enforcement, public access to information, and the use of new technologies in government decision-making. She is also an affiliated fellow at Yale Law School's Information Society Project, an affiliated scholar at New York University School of Law's Policing Project, and a fellow at the Center for Democracy & Technology.

Erwin Chemerinsky

Erwin Chemerinsky became the 13th dean of Berkeley Law after he joined the faculty as the Jesse H. Choper Distinguished Professor of Law. Prior to assuming this position, from 2008-2017, he was the founding dean and Distinguished Professor of Law, and Raymond Pryke Professor of First Amendment Law at University of California, Irvine School of Law. He is the author of 16 books, including leading casebooks and treatises about constitutional law, criminal procedure, and federal jurisdiction. He also is the author of more than 200 law review articles. He is a contributing writer for the opinion section of the Los

Angeles Times, and writes regular columns for the Sacramento Bee, the ABA Journal, and the Daily Journal, and frequent op-eds in newspapers across the country. He frequently argues appellate cases, including in the U.S. Supreme Court. In 2016, he was named a fellow of the American Academy of Arts and Sciences. In 2017, The National Jurist named Chemerinsky as the most influential person in legal education in the United States. In 2022, he was the President of the Association of American Law Schools.

Meredith D. Clark

Meredith D. Clark is an associate professor in the School of Journalism and the Department of Communication Studies at Northeastern University. She is also the founding director of the College of Arts, Media and Design's Center for Communication, Media Innovation, and Social Change. Her research focuses on the intersections of race, media, and power in digital, social, and news media, and is informed by the years she spent working in newsrooms as a reporter, editor, and columnist. Her manuscript, *We Tried to Tell Y'all: Black Twitter & the Rise of Black Digital Counternarratives* will be published in December 2024 by Oxford University Press. She is 2023-2024 visiting scholar in the Institute for Rebooting Social Media, a project of the Berkman Klein Center for Internet & Society at Harvard University. She also serves as academic lead for Documenting the Now II, a project supported by the Andrew W. Mellon Foundation that helps community-based activists create and maintain digital archives of their work.

Katie Fallow

Katie Fallow is senior counsel at the Knight First Amendment Institute, where she focuses on threats to free speech and a free press in the digital age, particularly in the area of social media. Fallow spearheads the Institute's litigation concerning the government's use of social media. She was one of the lead lawyers in the Institute's ground-breaking case challenging President Trump's blocking of people from his @realDonaldTrump Twitter account. Fallow also won the first federal appellate case holding that public officials who use social media accounts for official purposes have created a public forum and may not block people from those virtual forums based on viewpoint. Fallow is also litigating the Institute's challenges to regulations requiring individuals to provide their social media handles to the government for collection and surveillance.

Katy Glenn Bass

Katy Glenn Bass is the research director of the Knight First Amendment Institute. She is responsible for conceptualizing and executing all of the Institute's research

initiatives, including the production of scholarship and research materials, the organization of conferences and symposia, and the Institute's Visiting Research Scholars program. Glenn Bass has organized numerous major symposia in partnership with the Institute's visiting scholars. These include "Optimizing for What? Algorithmic Amplification and Society," "Lies, Free Speech, and the Law," and "Data and Democracy." Prior to joining the Institute, Glenn Bass worked at PEN America, where she supervised the production of reports analyzing free expression issues, including the lack of protections for national security whistleblowers, attacks on journalists covering the 2014 protests in Ferguson, Missouri, the impact of mass surveillance on online speech, and other topics. She has also taught at NYU Law's Center for Constitutional Transitions and at the Walter Leitner International Human Rights Clinic at Fordham Law School.

Richard L. Hasen

Richard L. Hasen is a professor of Law and Political Science and director of the Safeguarding Democracy Project at UCLA School of Law. He is an internationally recognized expert in election law, writing as well in the areas of legislation and statutory interpretation, remedies, and torts. Hasen served in 2020 as a CNN Election Law Analyst and as an NBC News/MSNBC Election Law Analyst in 2022. From 2001-2010, he served (with Dan Lowenstein) as founding co-editor of the quarterly peer-reviewed publication, Election Law Journal. He was elected to the American Law Institute (ALI) in 2009 and serves as reporter (with Douglas Laycock) on the ALI's law reform project, Restatement (Third) of Torts: Remedies. He is also an adviser on the Restatement (Third) of Torts: Concluding Provisions. His 2022 book, *Cheap Speech: How Disinformation Poisons Our Politics—and How to Cure It*, was named one of the four best books on disinformation by The New York Times. His most recent book is *A Real Right to Vote: How a Constitutional Amendment Can Safeguard American Democracy*.

Jameel Jaffer

Jameel Jaffer is the executive director of the Knight First Amendment Institute. Under his leadership, the Institute has filed precedent-setting litigation, undertaken major interdisciplinary research initiatives, and become an influential voice in debates about the freedoms of speech and the press in the digital age. He is an executive editor of Just Security, a national security blog, and his most recent book, *The Drone Memos*, was one of The Guardian's "Best Books of 2016." Until August 2016, Jaffer served as deputy legal director at the ACLU, where he oversaw the organization's work on free speech, privacy, technology, national security, and international human rights. He litigated many significant post-9/11

cases involving human rights and national security, including cases relating to surveillance, secrecy, censorship, interrogation, detention, and extrajudicial killing. He was a distinguished fellow at the University of Toronto's Munk School from 2016 to 2021 and a fellow at the Open Society Foundations in 2013.

Heidi Kitrosser

Heidi Kitrosser is a William W. Gurley Professor of Law at Northwestern University. Kitrosser is an expert on the constitutional law of federal government secrecy and on separation of powers and free speech law more broadly. She has written, spoken, and consulted widely on these topics. Her book, *Reclaiming Accountability: Transparency, Executive Power, and the U.S. Constitution*, was published in 2015 by the University of Chicago Press. It was awarded the 2014 IIT Chicago-Kent College of Law/Roy C. Palmer Civil Liberties Prize. In 2017, she was awarded a Guggenheim fellowship to begin work on a book project on U.S. government whistleblowers. Kitrosser is on the steering committee of a new initiative—the Free Expression Legal Network (FELN) spearheaded by Yale's Media Freedom and Information Access Clinic and the Reporter's Committee for Freedom of the Press. FELN is a network of law school clinics, academics, and practitioners (including nonprofits) across the country that seeks to promote and protect free speech, free press, and the flow of information. Following law school, she clerked for Judge William Rea on the District Court for the Central District of California and for Judge Judith Rogers on the U.S. Court of Appeals for the District of Columbia Circuit. She also worked as an associate at the Washington, D.C., office of Jenner & Block.

Christina Koningisor

Christina Koningisor is an associate professor of law at UC Law San Francisco (formerly UC Hastings). Her scholarship focuses on constitutional law, media law, and the law of information access and government transparency. Her articles have appeared or are forthcoming in the Columbia Law Review, Northwestern University Law Review, University of Pennsylvania Law Review, Virginia Law Review, and Yale Law Journal. She is a graduate of Yale Law School and Brown University.

Lyrissa Lidsky

Lyrissa Lidsky is the Raymond & Miriam Ehrlich Chair in U.S. Constitutional Law at the University of Florida Levin College of Law. She previously served as dean of the University of Missouri School of Law from 2017-2022. The focus of her research and teaching is the intersection of tort law and the First Amendment,

with an emphasis on defamation and free speech issues in social media. Missouri Lawyers Media named Lidsky its 2020 Woman of the Year. Before becoming dean at Missouri, Lidsky served in a variety of leadership roles at UF Law and held the Stephen C. O'Connell Chair in Law and received a number of teaching awards during her 23-year tenure at UF. Lidsky is co-reporter on the Restatement of Defamation and Privacy, which is now in progress. She is co-author of a leading media law casebook, a First Amendment casebook, and a reference book on press freedom and has published dozens of articles, culminating in a forthcoming article in the Virginia Law Review, co-authored with Christina Koningisor, called First Amendment Disequilibrium. Her work on anonymous speech has been cited by a number of state supreme courts and the highest courts of Canada and Hong Kong. Lidsky served as a clerk for the Hon. Joseph T. Sneed of the U.S. Court of Appeals for the Ninth Circuit and received her law degree from the University of Texas School of Law with high honors. Before law school, she was a Fulbright Scholar at Cambridge University, studying medieval legal history and early development of the Common Law. She received her bachelor's degree in English and political science from Texas A&M University.

Wesley Lowery

Wesley Lowery is a Pulitzer Prize winning journalist, and one of the nation's leading reporters on issues of race and justice. He is the executive editor of the Investigative Reporting Workshop, an innovative "training hospital" journalism non-profit based at American University in Washington, D.C., that trains a rising generation of journalists by partnering them with professional newsrooms to work on projects that fill crucial gaps in media coverage. He is also a Journalist-in-Residence at the CUNY Newmark Graduate School of Journalism and a contributing editor at The Marshall Project. He began his career covering politics but in 2014 was sent to Ferguson, Missouri, to cover the police killing of Michael Brown for The Washington Post. In the years that followed, he would chronicle the early years of the Black Lives Matter movement, writing a bestselling book and launching Fatal Force—a real-time national database of people shot and killed by the police. That database—which remains the most reliable public data on police shootings—won the Pulitzer Prize, the George Polk Award, and the Peabody Award and was named one of the decade's top 10 works of journalism. Lowery hosted "Unfinished: Ernie's Secret" an investigative podcast that explores the life of Ernest Withers, a legendary civil rights photographer who was also a paid FBI informant. He also served as co-host of "More Than A Vote: Our Voices, Our Vote." He was an executive producer of "In the Cold Dark Night," an Emmy-nominated documentary chronicling the effort to solve the 1983 lynching of Timothy Coggins.

PARTICIPANTS

Jacob Noti-Victor

Jacob Noti-Victor is an associate professor at the Benjamin N. Cardozo School of Law. His research focuses on how the law impacts innovation, culture, and the deployment of new technologies. His most recent articles have appeared or are forthcoming in the Virginia Law Review, the Washington University Law Review, the Minnesota Law Review, and the Stanford Law Review. Prior to entering academia, Noti-Victor was an intellectual property litigator at Kirkland & Ellis LLP and a law clerk for Second Circuit Judge Pierre N. Leval. He graduated from Yale Law School in 2014, where he was an essays editor of the Yale Law Journal, a Coker Fellow, a member of the Media Freedom and Information Access Clinic and an OutLaws board member. He received an A.B. in Social Studies magna cum laude from Harvard College in 2009.

Victor Pickard

Victor Pickard is the C. Edwin Baker Professor of Media Policy and Political Economy at the Annenberg School for Communication, where he co-directs the Media, Inequality & Change (MIC) Center. Previously he taught at New York University and the University of Virginia and held visiting appointments at Cornell, Goldsmiths, and the London School of Economics. Prior to his academic positions, he worked on media policy in Washington, D.C., as a senior research fellow at the think tank New America and as a policy fellow for Congresswoman Diane Watson. Pickard's research focuses on media history, journalism studies, and the normative foundations of media institutions. He has authored or edited six books, including the award-winning *America's Battle for Media Democracy: The Triumph of Corporate Libertarianism and the Future of Media Reform; After Net Neutrality: A New Deal for the Digital Age* (with David Berman); *Will the Last Reporter Please Turn out the Lights* (with Robert McChesney); and, most recently, *Democracy Without Journalism? Confronting the Misinformation Society*. He also has authored several major policy reports, including Essential Principles for Contemporary Media and Communications Policymaking (with Robert Picard). Pickard has published more than 150 articles, essays, and book chapters for a wide range of academic outlets as well as popular venues such as The Guardian, The Washington Post, Columbia Journalism Review, NiemanLab, Harvard Business Review, Jacobin, The Progressive, The Nation, and The Atlantic. He sits on the editorial boards of 12 academic journals and book series and serves as a judge for the annual Izzy Awards for independent journalism. Pickard chairs the board of directors for the media reform organization Free Press, and he co-directs the annual Consortium on Media Policy Studies (COMPASS) program in Washington, D.C.

He is frequently interviewed about his research in leading news outlets such as NPR, NBC, The Financial Times, and The New York Times.

Robert C. Post

Robert C. Post is Sterling Professor of Law at Yale Law School. He served as the school's 16th dean from 2009 until 2017. Post specializes in constitutional law, with a particular emphasis on the First Amendment. He is also a legal historian who has just published *The Taft Court, 1921-1930: Making Law for a Divided Nation*, which is Volume X of the Oliver Wendell Holmes Devise History of the Supreme Court of the United States. Post has written and edited numerous other books, including *Citizens Divided: A Constitutional Theory of Campaign Finance Reform* (2014), which was originally delivered as the Tanner Lectures at Harvard in 2013; *Democracy, Expertise, Academic Freedom: A First Amendment Jurisprudence for the Modern State* (2012), which was originally delivered as the Rosenthal Lectures at Northwestern University; *For the Common Good: Principles of American Academic Freedom* (with Matthew M. Finkin, 2009), which has become the standard reference for the meaning of academic freedom in the United States; and *Prejudicial Appearances: The Logic of American Antidiscrimination Law* (2001), which was originally delivered as the Brennan Lectures at UC Berkeley. Post is a member of the American Law Institute and a fellow of both the American Philosophical Society and the American Academy of Arts and Sciences.

Courtney C. Radsch

Courtney C. Radsch is the director of the Center for Journalism and Liberty at the Open Markets Institute where she produces and oversees cutting-edge research into news media market structures and helps design smart policy solutions to protect and bolster journalism's financial and editorial independence in the digital age. As a global thought leader she regularly publishes and provides commentary and analysis in top media outlets; provides testimony and keynotes; and participates in expert consultations with tech platforms and policymakers. Radsch is a non-resident fellow at the Brookings Institution, the Center for International Governance Innovation, the Center for Democracy and Technology and a postdoctoral fellow at UCLA's Institute for Technology, Law and Policy. She previously worked for the Committee to Protect Journalists and UNESCO following stints as a journalist in the U.S. and Middle East. She is involved in the responsible tech and platform accountability movement, and has worked on issues related to platform governance, freedom of expression, and digital rights as an advisor to the U.N., OECD, OSCE, World Economic Forum, the Christchurch

Call, and the Global Internet Forum to Counter Terrorism. Radsch serves on the International Science Council's Panel of Experts on the Public Value of Science, and the boards of Tech Policy Press and the Dangerous Speech Project. She is the author of *Cyberactivism and Citizen Journalism in Egypt: Digital Dissidence and Political Change* (Palgrave-Macmillan, 2016) and speaks Arabic, French and Spanish.

Michael Schudson

Michael Schudson is a professor of journalism at Columbia Journalism School. He received a B.A. from Swarthmore College and M.A. and Ph.D. in sociology from Harvard. He taught at the University of Chicago from 1976 to 1980 and at UC San Diego, from 1980 to 2009. From 2005 on, he split his teaching between UCSD and Columbia, becoming a full-time member of the Columbia faculty in 2009. He is the author of 11 books and co-editor of four others concerning the history and sociology of the American news media, advertising, popular culture, Watergate, and cultural memory. He has been a Guggenheim fellow; a resident fellow at the Center for Advanced Study in the Behavioral Sciences, Palo Alto; and a MacArthur Foundation "genius" fellow. His most recent books include *The Rise of the Right to Know* (Harvard, 2015), *Why Journalism Still Matters* (Polity, 2018), and *Journalism: Why It Matters* (Polity, 2020). He has been awarded honorary degrees by the University of Groningen (The Netherlands) and Hong Kong Baptist University. Schudson's articles have appeared in the Columbia Journalism Review, Wilson Quarterly, and The American Prospect, and he has published op-eds in The New York Times, The Washington Post, the Los Angeles Times, Newsday, the Financial Times, and The San Diego Union.

Seth Stern

Seth Stern is the director of advocacy at Freedom of the Press Foundation. He oversees FPF's efforts to defend press freedoms and stand up for journalists and whistleblowers who have been denied their rights. Prior to joining FPF, Seth practiced media and First Amendment law in Chicago for over a decade. He served as co-chair of the Chicago Bar Association's Media and Entertainment Law Committee for several years and also chaired the American Bar Association TIPS Media, Privacy and Advertising Law Committee. Before that, he worked as a reporter and editor in the Chicago and Atlanta areas.

Sonja R. West

Sonja R. West holds the Otis Brumby Distinguished Professorship in First Amendment Law at the University of Georgia, a post shared by the School of Law and Grady College of Journalism and Mass Communication. She specializes in constitutional law, media law, and the U.S. Supreme Court. Prior to joining the School of Law faculty, West taught as the Hugo Black Faculty Fellow at the University of Alabama School of Law. She has also served as a judicial clerk for U.S. Supreme Court Justice John Paul Stevens and Judge Dorothy W. Nelson of the U.S. Court of Appeals for the Ninth Circuit. Her other professional experience includes several years as an associate attorney for the Los Angeles law firms Gibson, Dunn & Crutcher and Davis Wright Tremaine, where she represented media clients on a variety of First Amendment and intellectual property issues at the trial and appellate levels. For the 2023-2024 academic year, she is a senior visiting research scholar at the Knight Institute. Her research project, in collaboration with RonNell Andersen Jones, explores how law and policy can better protect journalism and core press functions.



The Knight First Amendment Institute at Columbia University defends the freedoms of speech and the press in the digital age through strategic litigation, research, policy, and public education. It promotes a system of free expression that is open and inclusive, that broadens and elevates public discourse, and that fosters creativity, accountability, and effective self-government.

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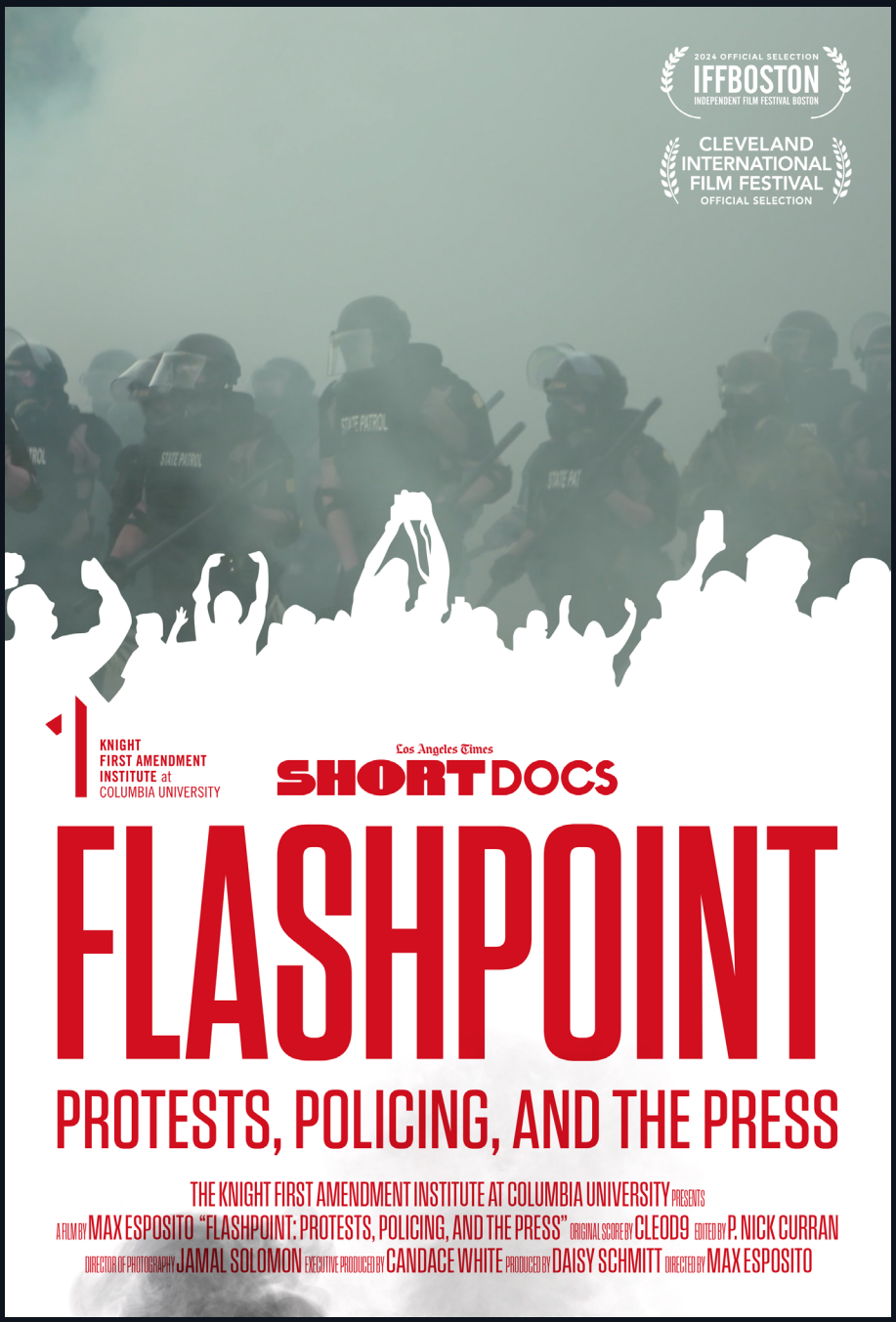

The Knight Institute's new documentary, "Flashpoint: Protests, Policing, and the Press," is featured as part of the Los Angeles Times Short Docs series and can be screened at: **www.latimes.com/shortdocs.**

Please use the QR code below to ask questions during the presentations.

If you plan on posting about the symposium on social media, please include the hashtag **#FutureofPressFreedom**




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