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Who Gets a Press Pass?

Media Credentialing Practices in the United States

By Jeffrey Hermes, John Wihbey, Reynol Junco and Osman Tolga Aricak

http://www.dmlp.org/credentials

June 2014

A Report of the Media Credentialing Working Group:

DIGITAL MEDIA LAW PROJECT

JOURNALIST'S RESOURCE
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THE VOICE OF VISUAL JOURNALISTS

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Who Gets a Press Pass?

Media Credentialing Practices in the United States

Executive Summary:

The journalism market in the United States is more diverse than ever before, with a wide array of independent newsgatherers complementing the work of institutional news organizations. But regardless of where journalists practice, it is essential to their mission that they have access to information about the activities of government and private organizations. In many cases, laws that grant the public rights of access to government (such as open meetings laws, freedom of information acts, and constitutional rights of access to judicial proceedings) also guarantee that members of the media can obtain information they need.

But when journalists need access to government or private spaces beyond what is allowed to the public at large, they must obtain special permission. This frequently takes the form of a media credential, an official document or statement from an organization that the journalist is permitted to be somewhere or engage in particular activity, regardless of rules applicable to the rest of the public. The issuance of credentials is, however, far less uniformly regulated than other interactions between press and government. Diverse standards imposed by federal, state, local, and private organizations have led to confusion over who should receive media credentials in different contexts, and raised questions about the definitions of journalism used by these organizations.

This study, the first of its kind to perform a quantitative examination of media credentialing in the United States, surveys the experience of journalists throughout the country in their efforts to obtain media credentials from different types of credentialing organizations from 2008 to 2013. The survey results show that one out of every five respondents who applied for a credential was denied by a credentialing organization at least once. Moreover, certain categories of applicants are more likely to be denied than others: freelance journalists were significantly less likely to receive media credentials than employed journalists; photographers were more likely to be denied than non-photographers; and respondents who identified themselves as activists were more likely to be denied than those respondents who did not.

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THE MEDIA CREDENTIALING WORKING GROUP

Digital Media Law Project:

The Digital Media Law Project ("DMLP") was created to ensure that individuals and organizations involved in online journalism and digital media have access to the legal resources, education, tools, and representation that they need to thrive. The DMLP has served a wide variety of independent journalists, including citizen media as well as professional journalists and content creators operating outside of the traditional news industry. The DMLP was founded at the Berkman Center for Internet & Society at Harvard University.

Free Press:

Free Press is building a powerful nationwide movement to change media and technology policies, promote the public interest and strengthen democracy. Free Press advocates for universal and affordable Internet access, diverse media ownership, vibrant public media and quality journalism.

Investigative News Network:

An association of more than 80 nonprofit newsrooms, the mission of the Investigative News Network is to help nonprofit news organizations produce and distribute stories with impact; to achieve cost efficiencies by pooling resources and services; and to develop new revenue streams that will help member organizations become sustainable, mission-driven, nonprofit businesses.

Journalist's Resource:

Based at the Shorenstein Center at Harvard, the Journalist's Resource project examines news topics through a research lens. Journalist's Resource focuses on surfacing scholarly materials that may be relevant to other media practitioners, bloggers, educators, students and general readers.

National Press Photographers Association:

The National Press Photographers Association ("NPPA") is non-profit organization dedicated to the advancement of visual journalism in its creation, editing and distribution. NPPA's almost 7,000 members include television and still photographers, editors, students and representatives of businesses that serve the visual journalism industry. Since its founding in 1946, the NPPA has been the "Voice of Visual Journalists," by vigorously promoting and defending the rights of photographers and journalists as well as freedom of the press in all its forms, especially as it relates to visual journalism.

Nieman Journalism Lab:

A project of the Nieman Foundation at Harvard University, the Nieman Journalism Lab is an attempt to help journalism figure out its future in an Internet age: to highlight attempts at innovation and figure out what makes them succeed or fail; to find good ideas for others to steal; to help reporters and editors adjust to their online labors; to help traditional news organizations find a way to survive; and to help the new crop of startups that will complement - or supplant - them.

About the Authors:

Jeffrey Hermes has served as the Director of the Digital Media Law Project at Harvard University's Berkman Center for Internet & Society since 2011, where he has led efforts to provide legal resources, training, and representation to independent journalists, and has studied systemic legal issues affecting online speech and networked communication. Prior to joining the Berkman Center, he assisted a wide array of clients in First Amendment, media, intellectual property and Internet law issues over fourteen years as an attorney in private practice, representing an international media network and its subsidiaries, major metropolitan newspapers, local broadcasters on television and radio, Internet-based publishers, and social media networks. He received his J.D. degree from Harvard Law School, and received his undergraduate degree, summa cum laude, from Princeton University.

John Wihbey is the Managing Editor of Journalist's Resource at the Harvard Kennedy School's Shorenstein Center on Media, Politics and Public Policy and a lecturer in journalism at Boston University. He has reported for news outlets large and small. Most recently, he was a producer and digital editor for the NPR show "On Point," based at WBUR-Boston. He is a contributor to the Nieman Journalism Lab and the Yale Forum on Climate Change and the Media. He received his undergraduate degree from Bowdoin College and holds master's degrees from Middlebury College and the Columbia University Graduate School of Journalism.

Reynol Junco is an associate professor of education and human computer interaction at Iowa State University and a fellow at Harvard University's Berkman Center for Internet & Society where he is part of the Youth and Media team. Rey is a methodologist who studies how social technologies affect youth development and learning. He has published two books and frequently publishes articles on how new technologies influence student learning. His third book, Engaging Students Through Social Media: Evidence-Based Practices for Use in Student Affairs, will be published this summer.

Osman Tolga Aricak is an associate professor of Educational Psychology. He received his B.A. degree in Counseling and Guidance Programs from Istanbul University in 1993, his M.A. degree in Psychological Services in Education from Marmara University, Istanbul, in 1995, and his Ph.D. in Educational Sciences from Marmara University in 1999. He has worked at Trakya University, Indiana University - Bloomington, Tulane University, and Fatih University. He is currently a research fellow in the Berkman Center for Internet & Society at Harvard University, where his research is focused on cyberbullying and cybervictimization. He is also interested in statistical and methodological issues in psychology and education.

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- The many press organizations and media outlets that supported this survey by encouraging their members to participate.

Who Gets a Press Pass?

Media Credentialing Practices in the United States

I. Introduction

While institutional journalism remains a critical element of the news landscape, economic challenges have led many professional journalists to operate outside of traditional newsrooms in recent years. Even as the newspaper and magazine industry have cut tens of thousands of positions, hundreds of new digital media organizations have sprung up over the past decade, creating many thousands of new jobs.[1]

These changes have given rise to difficult questions about how sources of information will interact with and accommodate new media. Some of the most important questions relate to the governmental and private organizations that control access to places and information through the issuance of media credentials. These institutions make important determinations about who will be allowed to engage in newsgathering, often with little consistency or formal guidance. As a result, there has been substantial confusion among journalists about credentialing standards.

This report examines the actual experiences of journalists in the field and identifies patterns in credentialing behaviors and practices. Section II of the report reviews the role of media credentials generally. Section III provides a general overview of the laws that regulate credentialing practices, and why the law is an inadequate indicator of credentialing behavior. Sections IV through VII review the results of a comprehensive survey of newsgatherers in the United States, and the factors that affect decisions made by credentialing organizations at the federal, state, local, and private levels with respect to whether applicants will receive media credentials.

II. The Role of Media Credentials

While journalists routinely intersect with other organizations in the course of their work, not all access is handled through media credentialing. Government newsgathering is often facilitated by public rights of access under public records or open meetings laws, or through recognition of rights of access to certain government functions under the First Amendment. In these contexts all of the public is afforded access, and journalists (as representatives of the public and as members of the public themselves) routinely rely upon these rights. Private organizations frequently open themselves up to the public inquiry voluntarily, as part of their business strategies.

But there are also many circumstances where journalists need a level of access beyond that allowed to the rest of the public. A wide array of government and private gatekeepers grant special permission to journalists to access places and events, use cameras or other special equipment, ask questions of officials, or otherwise gather news. This permission often takes the form of a media credential.

For decades, journalists at established news organizations have routinely applied for and been granted credentials by government bodies at the federal, state and local levels, from the White House all the way down to local police and fire departments. Private organizations also often control access to other events, such as concerts, sporting events and political conventions. Despite some unease and tensions, many reporters have maintained working relationships with these agencies and their officials. Some media organizations have obtained a standing, generic set of credentials that are used interchangeably by their reporters; in other cases, a press badge from a recognized news organization may prompt an

informal "wave through" by officials, allowing special access at accident scenes, government events, and other restricted areas.

These relationships have been complicated by recent changes in the media industry. In its "State of the News Media 2014" report, the Pew Research Center's Journalism Project stated that more than 50,000 newspaper and magazine jobs have been lost since 2003, in contrast to explosive growth at news organizations native to the Internet.[2] Many journalists who have left (or been forced out of) traditional news organizations have joined new digital ventures.[3] A dazzling array of new journalism outlets complement the institutional players, and journalists (both professional and amateur) find themselves working side-by-side in every context.

In response to this shift in the journalism economy, some organizations have reconsidered their credentialing practices, and others have ceased issuing credentials altogether. For example, in respect to its decision to cease issuing credentials in December 2012, the Sheriff's Department of Orange County, California, stated: "With the advancements in digital media and the proliferation of bloggers, podcasters and freelancers, it has become challenging to determine who should receive a press pass."[4]

But the need for journalists to have access to important places and events has not diminished. Because of the real-time, high-stakes nature of the work involved, even a temporary denial or delay of access can lead to irreparable loss of opportunities: the inability to witness an event that is vital to the public's understanding of how society functions, to ask a key question in a major news conference, or to photograph a historic moment. There is often no recourse from the erroneous denial of a credential, and the mistake can have consequences for the citizenry at large. Moreover, as discussed below, it is unlikely that the law as it exists will provide solutions.

III. Legal Background

Media credentialing is one of a few discrete areas of law where distinctions between "journalists" and "non-journalists" have any substantive significance. Most of the rights associated with news media flow from the First Amendment, which, with little exception, treats all speakers equally.[5] The First Amendment mandates that no specialized approval be required before a person publishes news,[6] gathers information from publicly available sources,[7] or (under an emerging trend in case law) records government activities in public spaces.[8] But the First Amendment does not cover the full spectrum of newsgathering activity, and, as presently understood, does not confer a right to gather news in particular places or circumstances to which the public is not otherwise admitted.[9] This includes access to private events, as well as access to non-public spaces owned by the government (such as government offices and prisons).

Recognizing that effective newsgathering requires greater levels of access than what the First Amendment provides, legislators and regulators at various levels of government have adopted policies granting to a subset of the public identified as the "press" certain privileges to do things that ordinary citizens may not. These may include: waivers of fees in public records laws; the ability to refuse to identify a source in a court proceeding (so-called reporter "shield laws");[10] and, most pertinent to this discussion, the privilege to be present in an area where the public is not allowed, or to photograph, record, or engage in other newsgathering activity in an area where the public is not permitted to do so.

When legislatures and courts have had occasion to identify press-specific rights, they have separated the eligible from the ineligible using a variety of factors, often in conjunction with one another.[11] These have included:

- **Medium:** Government bodies often limit privileges to publishers of specific types of

media, including newspapers, radio, television, and magazines.[12] Most courts read these as lists imposing substantive limitations in protection, but on rare occasion a court will opt to view such lists as illustrative instead of exclusive.[13]

- **Employment:** Other definitions look to whether a journalist is employed or regularly engaged by a media entity as a basis for extending protection.[14] This approach has a limiting mechanism on two levels: government bodies could deny the privilege based on whether the person is sufficiently "employed" or "engaged" by an entity, or on whether the entity in question is a "media entity," as opposed to another business.[15]

- **Acting to Inform the Public:** Definitions will sometimes look to the intent of a journalist, instead of their medium or employer. Such laws typically extend protection to anyone engaging in actions associated with journalism, i.e., gathering news or materials for the purpose of disseminating the information to the public.[16] Some definitions also require that the journalist have demonstrated a pattern of such activity.[17]

- **Coverage of Matters of Public Concern:** Closely related to examination of a candidate's actions, some statutes and regulations look to the content of the journalist's publication, and limit coverage to those covering "matters of public concern."[18] This is a term of art used in a few different areas of First Amendment and media law, and has long suffered from difficulties in definition.[19]

- **Appeals to Outside Authenticators:** Rather than engage with the difficult parsing themselves, some government bodies opt instead to look to other organizations that attempt to define the press; for example, by extending rights to entities already credentialed by trade associations or other government bodies.[20]

- **Abstract Appeals to Authority or Sole Discretion:** A number of regulations avoid the process altogether, stating only that "legitimate" or "bona fide" news entities receive credentials, but declining to specify what they actually mean.[21] On occasion, a regulation may simply state that it is up to the issuing party's sole discretion.[22]

Other proposed approaches have been to look to the entity's audience size, its social role as a watchdog or advocate for the public, its factual accuracy and other ethical considerations, its ability to generate revenue, the public's perception of the entity, or a case-by-case basis balancing against a desired limitation and the public's interest in a free flow of information.[23] When controlled by private organizations instead of governments, the rules around credentialing become even more unrestrained, occasionally even imposing exclusive rights requirements and editorial restrictions in exchange for privileged access.[24]

As varied and involved as these definitions can be, regulations on the books do not necessarily translate to issuance of a credential or respect for the rights a credential conveys. Several factors may account for this.

First and foremost, the sheer number of organizations in a position to issue credentials is likely to create inconsistency. For example, in the context of law enforcement, as of 2008 there were almost 18,000 state and local law enforcement agencies in the United States.[25] Even where there is a published rule across an entire state, one can expect some degree of inconsistent application among the many agencies within that state.

Moreover, the overwhelming majority of public bodies operate without any published statute or regulation governing specialized access to their events or spaces, and many private organizations issue credentials without

consideration of standards at all. Outside of jurisdictions where credentialing is governed by statute or regulation, both the decision of whether to issue credentials and the decision as to who receives them are left up to the discretion of individual decision-makers.

Even where regulations do exist, different credentialing regimes may exist within a single jurisdiction with respect to different aspects of newsgathering activity. For example, California separately regulates access to disaster scenes and access to prison inmates, with different standards for each.[26] This, too, can lead to confusion among applicants and inconsistency among credentialing organizations.

Credentialing decisions are also typically made by lower-level government or business agents. Such agents may not even be aware of their own regulations on point, or have occasion to consider whether their decision on an individual application is consistent with a broader policy. Because government-issued media credentials are often governed by administrative regulation and private credentials are not regulated except through general trade laws, an individual's right to challenge a decision may also be extremely limited.[27] And because the law plays such a small role in this area, the culture around credentialing tends to think of these decisions as being, in the words of Professors Erik Ugland and Jennifer Henderson, "more akin to housekeeping than policymaking."[28]

A review of the issuing criteria, therefore, is unlikely to accurately reflect the manner by which media credentials are actually issued, and who is or is not likely to receive them. Rather than attempt to gather statements from gatekeeping agencies as to their respective standards, this survey explores credentialing practices by asking journalists about their actual experiences in the field. It is the hope of the survey sponsors that the identification of patterns in credentialing practices across the nation will lead to better structure and predictability in the credentialing process.

IV. Survey Construction and Operation

The survey was developed based upon the experiences of the Media Credentialing Working Group with credentialing practices throughout the United States. The survey was conducted online over a period of two months, from September 12 to November 12, 2013.

Because predefining a category of journalists as respondents would compromise the purpose of the survey, no single group of journalists was targeted for the survey. Instead, participation in the survey was solicited through press releases and open to the public through a link on the Digital Media Law Project website.

Participation was also solicited by direct outreach via e-mail to press industry associations asking them to encourage their members or constituencies to participate, with subsequent follow-up and confirmation. For these reasons, it is difficult to be certain that the respondent group is representative of the broader range of journalists in the United States. Nevertheless, as discussed in Section V below, there is reason to believe that the respondent group does approximate the field in terms of age and geographic distribution.

The survey received a total of 1,339 responses, excluding instances recorded by the survey software where no questions were answered. Not all respondents answered every question in the survey; some questions were optional, and some questions were presented to respondents only if they answered prior questions in a particular fashion. The survey questions are reproduced in **Appendix A** to this report.

The following sections review the results of that survey. Section V reviews the demographic background of respondents. Section VI reviews which demographic factors were associated with the denial of a media credential. Section VII analyzes this result in light of existing literature and popular understanding of the nature of media credentialing.

V. Demographic Distributions of Survey Respondents

The survey asked for a range of demographic information from each respondent, including: (1) state of residence; (2) the length of time they had been writing or practicing as a journalist; (3) the manner in which their work was published; (4) the nature of their income from writing or publishing activity; and (5) descriptive terms that respondents applied to themselves.[29]

These criteria were selected based on the range of credentialing standards adopted in published regulations, as factors that might affect credentialing decisions (either explicitly in the text of a regulation or implicitly as part of an evaluation of whether an applicant was a "legitimate" member of the press).

State of Residence

All respondents answered this question (n=1339). As shown in **Appendix B**, 1,228 responses were received from residents of the District of Columbia, Puerto Rico, and forty-nine U.S. states (all except Wyoming); 111 respondents resided outside the United States.

The geographic distribution of responses is roughly consistent with U.S. Bureau of Labor Statistics ("BLS") data from May 2012 relating to employed journalists per state, as shown in Figure 1. Respondents in Maryland and Virginia likely include journalists employed in the District of Columbia, while higher response rates in some New England states possibly resulted from the survey being hosted at a New England institution. Interestingly, the distributions remain similar even though the BLS data, unlike the survey data, does not include self-employed journalists.

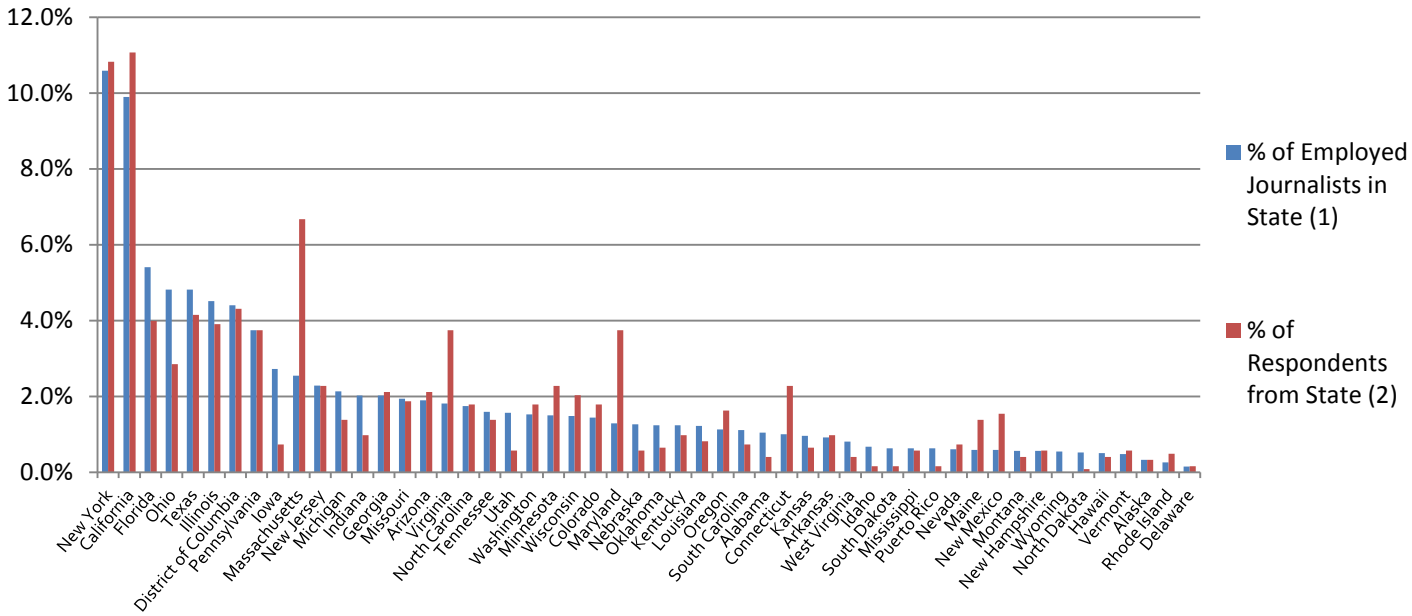


Figure 1. Employed Journalists per State vs. Respondent State of Residence

Notes:
(1) Percentages are out of a total of 45,860 employed reporters and correspondents tracked in Bureau of Labor Statistics data. Source: Bureau of Labor Statistics for Occupation: Reporters and Correspondents (SOC code 273022) for Period: May 2012. Estimates do not include self-employed workers. SOC code: Standard Occupational Classification code -- see http://www.bls.gov/soc/home.htm. Data extracted on February 4, 2014.

(2) Percentages are out of 1,228 respondents who reported residence in the fifty U.S. states, the District of Columbia, or Puerto Rico.

Years of Experience

Survey respondents were asked to identify their years of experience writing or publishing news content, or otherwise working as a journalist. Respondents who provided such data (n=1321) clustered toward the highest delineated bracket of experience (more than 20 years), with 41 percent of respondents in this category. (*See* Figure 2.)

Using job experience as a proxy for age, the survey respondents do not appear unduly skewed toward older individuals in comparison with national Census data. According to 5-year estimates from the American Community Survey (2006-2010), there were approximately 80,000 "news analysts, reporters and correspondents" in the United States; about half of these were over 40 years of age (39 and under: 52 percent, 40 or older: 48 percent).[30] The median age for journalists continues to climb, from 32 years old in 1982 to 47 in 2013, according to an Indiana University School of Journalism survey.[31] Assuming that journalists begin work at approximately 25 years of age, the survey data corresponds with these findings, with 51 percent of survey respondents working for 15 years or more.

There was also a drop-off amongst survey respondents across the middle categories of experience. This characteristic is consistent with research data from 2007 indicating high levels of exhaustion and intentions to leave journalism as a profession among journalists age 34 and younger, in contrast to a more stable cohort of older journalists.[32]

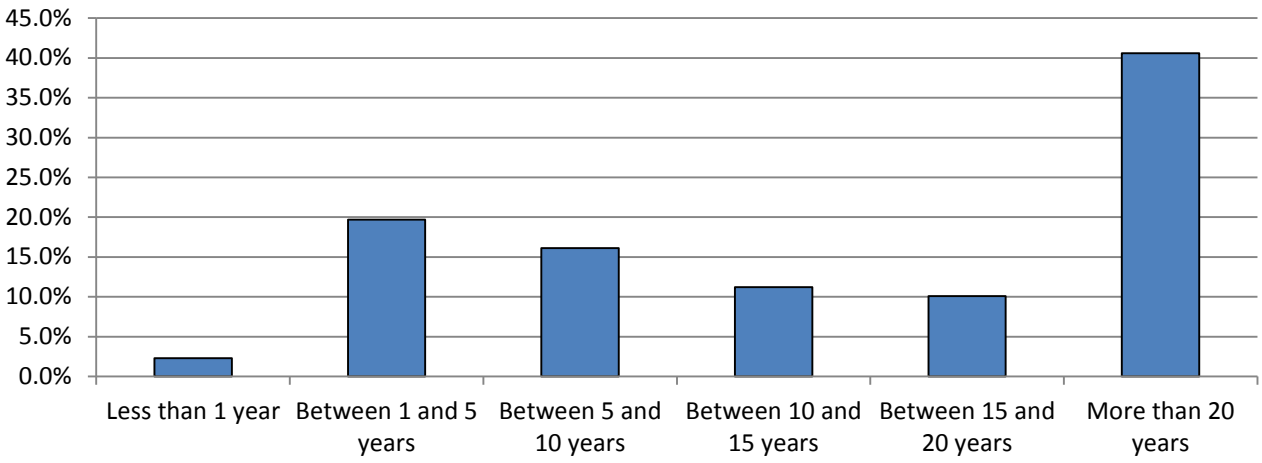


Figure 2. Years of Experience

Mode of Publication

The survey asked what modes of publication are used for respondents' work. All respondents answered this question (n=1339). Respondents were allowed to select multiple choices, and were also allowed to add choices via text entry.

The responses showed that respondents published their work in many different ways, frequently publishing through multiple channels. (*See* Table 1.) The most prominent category was publication by a media outlet on an employment or freelance basis, with 79 percent of respondents indicating that at least some portion of their work was published under such an arrangement, and almost half (46 percent) indicating that they were published solely under such an arrangement. More than a third of those publishing as an employee or freelancer indicated that they also published through social media, a blog, or other alternative channels. More than 54 percent of respondents overall indicated that at least some portion of their work was published outside of traditional employment or freelance channels.

This echoes an emerging understanding of modes of media production in the digital age; namely, the perception that while traditional production and distribution models are still dominant, new forms of publication are diverse and widespread.[33]

Table 1. Cross-Tabulation of Channels of Publication, Showing Overlaps between Categories

	Published by media outlet(s) on employment or freelance basis	Published through a respondent-controlled blog, podcast, or website	Report on events through social media account	Published through a respondent-owned/operated print publication	Produces material for public access broadcasting	Other
Published by media outlet(s) on employment or freelance basis	79% (46%)	22%	27%	3%	4%	1%
Published through a respondent-controlled blog, podcast, or website		35% (5%)	22%	3%	4%	2%
Report on events through social media account			35% (1%)	2%	4%	2%
Published through a respondent-owned/operated print publication				5% (1%)	1%	1%
Produces material for public access broadcasting					6% (1%)	<1%
Other						8% (2%)

Notes: Percentages are of total respondents (n=1339). Percentages in red along the diagonal indicate the overall number of respondents who selected a particular category; the percentages in parentheses indicate respondents who selected that particular category and no others. For example, 79% of respondents selected "Published by media outlet(s) on an employment or freelance basis," while 46% percent selected *only* that category.

Income from Journalism or Publishing Activity

The survey asked whether journalists were paid for their work, and, if so, how they were paid (i.e., as an employee, as an independent contractor, through advertising revenue, or other). All respondents answered this question (n=1339). Respondents were allowed to select multiple choices, and add choices via text entry.

As shown in Table 2, while traditional payment arrangements were prevalent, there was a substantial amount of uncompensated activity among respondents. The majority of respondents were paid solely as employees (49 percent), solely as freelancers (23 percent), or both (9 percent).

Nevertheless, 14 percent of respondents indicated that they were uncompensated for some portion of their work, while 8 percent stated that they received no compensation for any of their work.

Table 2. Cross-Tabulation of Types of Income, Showing Overlaps between Categories

	Paid as employee	Paid as an independent contractor or freelancer	Receive advertising revenue	Do not receive payment or compensation for some portion of journalism or publishing activity	Other
Paid as employee	58% (49%)	9%	1%	1%	1%
Paid as an independent contractor or freelancer		38% (23%)	2%	4%	2%
Receive advertising revenue			4% (1%)	1%	1%
Do not receive payment or compensation for some portion of journalism or publishing activity				14% (8%)	1%
Other					4% (2%)

Notes: Percentages are of total respondents (n=1339). Percentages in red along the diagonal indicate the overall number of respondents who selected a particular category; the percentages in parentheses indicate respondents who selected that particular category and no others. For example, 58% of respondents selected "Paid as employee," while 49% percent selected *only* that category.

Sorting by Publication Method and Income

In order to better analyze the survey data, the two prior demographic factors (mode of publication and income) were used to sort respondents into mutually exclusive categories. First, the respondents were sorted into two groups based on mode of publication:

- **Group A**: Respondents who indicated that some portion of their work was published by third parties.
- **Group B**: Respondents who indicated that none of their work was published by third parties.[34]

These groups were then subdivided into five categories based on form of income:

- **Category A1 ("Employees")**: Respondents in Group A who indicated they were compensated for their journalistic work as employees or executives of a media organization (even if also compensated for portions of their work in other ways).
- **Category A2 ("Freelancers")**: Respondents in Group A who indicated that they were compensated for journalistic work as freelancers or independent contractors, but *not* as employees or executives.
- **Category A3 ("Contributors")**: Respondents in Group A falling into neither Category A1 nor Category A2.
- **Category B1 ("Paid Independents")**: Respondents in Group B who indicated that they received any form of compensation for their journalistic activity.
- **Category B2 ("Unpaid Independents")**: Respondents in Group B who indicated that they received no compensation at all for their journalistic activity.

Descriptive terms for particular categories ("Employees," etc.) are assigned for ease of reference and are related to the criteria used to create each category, but do not necessarily indicate that all respondents within each category are best described with that term.

In creating these categories, those respondents who answered "Other" with respect to either mode of publication or type of income were hand-coded into specific categories based on the nature of their text responses.

The distribution of respondents into these five categories is shown in Table 3.

Table 3. Sorting of Respondents Based upon Mode of Publication and Income

1339 Total Respondents				
Group A (Published by Third Parties) 1086 Respondents			**Group B (Self-Published Only)** 253 Respondents	
Category A1 (Employees) 694 Respondents	**Category A2 (Freelancers)** 348 Respondents	**Category A3 (Contributors)** 44 Respondents	**Category B1 (Paid Independents)** 171 Respondents	**Category B2 (Unpaid Independents)** 82 Respondents

Self-Identification by Descriptive Terms

The survey asked respondents to state whether they identified themselves with certain descriptive terms relating to their work, including "journalist," "photographer," "blogger," "social media user," and "activist." These options were presented in a different randomized order for each respondent in order to avoid emphasizing certain categories. Respondents were allowed to select multiple terms, and were also allowed to add terms via text entry.

All respondents answered this question (n=1339); the distribution of responses in each of the five publication/income categories is shown in Table 4 below. There were significant numbers of respondents who identified with each of the five terms, and substantial number of respondents who identified themselves with more than one term. A significant number of respondents (15 percent) also selected "Other." Text entries were recoded into the pre-defined self-identification categories where possible, but 14 percent of respondents remained in the "Other" category after recoding.[35]

As shown in Table 4, certain respondent categories identified with certain descriptive terms more frequently:

- 88 percent of Employees identified themselves as "journalists," a higher proportion than any other category.
- More than 51 percent of Freelancers identified themselves as photographers, almost double the percentage of Employees that did so. This could reflect a rise in freelance photojournalism, discussed further in Section VII, *infra*.
- Both Contributors and Unpaid Independents had a higher relative proportion of respondents identifying themselves by their use of Internet technology, as either bloggers or social media users.
- Almost a third of Unpaid Independents identified themselves as activists, suggesting that for a substantial number of these respondents dedication to a cause has replaced a profit motive as an incentive for journalistic activity.

Table 4. Self-Identification, by Respondent Category

Respondent Category	**Journalist**	**Photographer** (includes videographer)	**Blogger**	**Social Media User**	**Activist**	**Other**
A1 (Employees) n=694	611 88%	194 28%	103 15%	190 27%	8 1%	61 9%
A2 (Freelancers) n=348	243 70%	180 52%	96 28%	108 31%	17 5%	55 16%
A3 (Contributors) n=44	26 59%	14 32%	15 34%	18 41%	8 18%	12 27%
B1 (Paid Independents) n=171	110 64%	41 24%	43 25%	51 30%	18 11%	52 30%
B2 (Unpaid Independents) n=82	19 23%	31 38%	44 54%	44 54%	23 28%	12 15%
All Respondents (n=1339)	1009 75%	460 34%	301 22%	411 31%	74 6%	192 14%

Notes: Percentages represent the proportion of respondents in each respondent category (A1, A2, A3, B1, B2) who identified themselves with the listed term. Because respondents could select multiple terms, percentages do not sum to 100 percent.

VI. Factors Relating to Denial of Media Credentials

The survey asked about respondent experience with obtaining media credentials from seventeen types of federal, state, local, and private organizations.[36] **Out of the 676 respondents who reported that they applied for credentials from one or more organizations since January 2008, 145 respondents (21 percent) reported being denied a credential by at least one agency**.

Table 5 (p. 13, *infra*) compares the following survey data for each of type of credentialing organization:

- The number of respondents who reported applying for a credential from that type of organization at least once

with

- The number of respondents who reported being denied a credential from that type of organization at least once.

Table 5 also breaks down various credentialing organizations' decisions by the five respondent categories described in Section V, *supra*: A1 (Employees); A2 (Freelancers); A3 (Contributors); B1 (Paid Independents); and B2 (Unpaid Independents).

For certain types of credentialing organization, applications from the various respondent categories were too infrequent for meaningful conclusions to be drawn. Nevertheless, in many cases there was sufficient data to be noteworthy, as was the overall data for all credentialing organizations:

- **Some categories of respondents applied for credentials more frequently than others.** Roughly half of all respondents (676 out of 1339, 50 percent) applied for at least one credential, but this proportion was not consistent across Categories A1, A2, A3, B1, and B2:
    - Category A1 (Employees): **56 percent** (391 out of 694) applied for a credential.
    - Category A2 (Freelancers): **53 percent** (183 out of 348) applied for a credential.
    - Category A3 (Contributors): **32 percent** (14 out of 44) applied for a credential.
    - Category B1 (Paid Independents): **41 percent** (70 out of 171) applied for a credential.
    - Category B2 (Unpaid Independents): **22 percent** (18 out of 82) applied for a credential.

  An omnibus chi-square test revealed a significant relationship between category and application rate [$\chi^2(4) = 49.21$, $p = .001$], at a significance level of $p < .05$ (i.e., the observed results were less than 5% likely to have occurred by chance). Individual chi-square tests revealed no significant distinction between Employees and Freelancers, but the differences between Employees and Contributors [$\chi^2(1) = 10.05$, $p = .002$], Paid Independents [$\chi^2(1) = 13.08$, $p = .001$], and Unpaid Independents [$\chi^2(1) = 34.79$, $p = .001$] were all significant.

  These results suggest that there is a degree of self-selection occurring within certain groups. It is possible that some individuals in groups with lower application rates may have felt less entitled to a credential, and so decided not to apply at all. The survey data does not provide a basis, however, to conclude whether a respondent who decided not to apply was in fact less likely to receive a credential than others in that individual's category. Thus, it is not possible to know if this self-selection is skewing the data with respect to success of particular groups in obtaining credentials.

- **Denial of credentials by any specific category of credentialing organization was relatively rare.** With respect to most

types of credentialing organizations, less than 10 percent of respondents who applied for a credential reported being denied; no discrete category of credentialing organization had a denial rate over 20 percent. The fact that the overall rate of denial across all respondents was 21 percent reflects the fact that denials were not concentrated in the same individual respondents. The majority of respondents who were denied a credential (108 out of 145, 74 percent) were denied by only one type of credentialing organization.

- **Overall, Employees were denied a credential less often than other categories.** Approximately 14 percent of Employees who applied for a credential reported that one or more of their applications had been denied, compared to: 21 percent across all respondents; 32 percent of Freelancers; 36 percent of Contributors, 27 percent of Paid Independents and 39 percent of Unpaid Independents.

  An omnibus chi-square test indicated that these categories were significantly related to denial of credentials [$\chi^2(4) = 29.47$, $p = .001$], and individual chi-square tests indicated that the differences between Employees' rate of denial and that of the other categories were significant [Freelancers: $\chi^2(1) = 23.64$, $p = .001$; Contributors: $\chi^2(1) = 4.83$, $p = .03$; Paid Independents: $\chi^2(1) = 7.16$, $p = .007$; Unpaid Independents: $\chi^2(1) = 7.97$, $p = .005$].

- **Freelancers were denied more often than Employees in several specific categories.** It was possible to identify statistically significant differences between the treatment of Employees and Freelancers by specific categories of credentialing organizations in several cases. These included the following:

  - **U.S. Congress**: 20 percent of Freelancers denied vs. 4 percent of Employees denied [$\chi^2(1) = 7.49$, $p = .006$];

  - **Governors' Offices/State Executive Branches**: 25 percent of Freelancers denied vs. 2 percent of Employees denied [$\chi^2(1) = 12.83$, $p = .001$];

  - **Municipal Government**: 29 percent of Freelancers denied vs. 4 percent of Employees denied [$\chi^2(1) = 10.17$, $p = .001$];

  - **Fire Departments/Other Emergency Services**: 45 percent of Freelancers denied vs. zero Employees denied [$\chi^2(1) = 16.00$, $p = .001$];

  - **Private venues**: 23 percent of Freelancers denied vs. 11 percent of Employees denied [$\chi^2(1) = 7.46$, $p = .006$]; and

  - **Political parties**: 18 percent of Freelancers denied vs. 6 percent of Employees denied [$\chi^2(1) = 4.13$, $p = .04$].

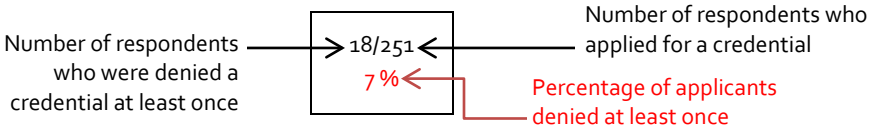
Note that each category of credentialing organization may include many individual agencies or organizations (e.g., the category of "municipal government" includes thousands of individual cities and towns). Accordingly, overall numbers of denials within a category do not necessarily speak to the credentialing decisions of each individual organization within that category.

Therefore, even if the data suggests that a particular group of respondents is having an easier or harder time obtaining credentials from a particular type of organization, an individual applicant's experiences with specific organizations may vary.

Table 5. Denial of Credentials by Types of Credentialing Organization and Categories of Respondents

	ALL RESPONDENTS	A1 - Employees	A2 - Freelancers	A3 - Contributors	B1 - Paid Independents	B2 - Unpaid Independents
White House/ Executive Branch	18/251 7%	10/175 6%	4/38 11%	0/5 0%	3/28 11%	1/5 20%
U.S. Congress (Senate or House)	11/156 7%	5/114 4%	5/25 20%	0/1 0%	1/16 6%	0/0 n/a
Particular Federal Agencies or Departments	6/102 6%	4/65 6%	1/24 4%	0/1 0%	1/11 9%	0/1 0%
Federal Courts	3/68 4%	3/52 6%	0/11 0%	0/0 n/a	0/5 0%	0/0 n/a
Federal Law Enforcement	2/39 5%	2/28 7%	0/7 0%	0/0 n/a	0/4 0%	0/0 n/a
U.S. Military Branches	4/92 4%	2/58 3%	2/21 10%	0/0 n/a	0/13 0%	0/0 n/a
Governor's Office/State Executive Branch	8/97 8%	1/65 2%	5/20 25%	0/1 0%	2/11 18%	0/0 n/a
State Legislature	8/136 6%	4/94 4%	0/21 0%	1/3 33%	2/16 13%	1/2 50%
Particular State Agencies or Departments	7/58 12%	3/28 11%	2/18 11%	0/3 0%	2/8 25%	0/1 0%
State Courts	3/58 5%	3/43 7%	0/6 0%	0/2 0%	0/7 0%	0/0 n/a
State-level Law Enforcement	6/73 8%	3/52 6%	1/11 9%	0/1 0%	2/9 22%	0/0 n/a
Public Universities	9/139 6%	5/87 6%	2/26 8%	0/5 0%	1/20 5%	1/1 100%
Municipal Government	13/97 13%	2/52 4%	8/28 29%	0/3 0%	2/11 18%	1/3 33%
County/Municipal Law Enforcement	14/141 10%	7/93 8%	5/34 15%	1/5 20%	1/8 13%	0/1 0%
Fire Dept./Other Emerg. Services	5/52 10%	0/31 0%	5/11 45%	0/3 0%	0/7 0%	0/0 n/a
Private Venues (e.g., convention halls, stadiums)	62/365 17%	24/212 11%	23/99 23%	2/7 29%	10/38 26%	3/9 33%
Political Parties	16/153 10%	6/101 6%	6/34 18%	0/1 0%	3/15 20%	1/2 50%
Other	17/100 17%	5/50 10%	8/29 28%	2/5 40%	1/11 9%	1/5 20%
ALL CREDENTIALING ORGANIZATIONS	145/676 21%	56/391 14%	58/183 32%	5/14 36%	19/70 27%	7/18 39%

KEY:



Factors Relating to Denial of Media Credentials, continued

In order to explore further the relationships between the demographic factors explored in the survey and credentialing decisions, a logistic regression analysis was performed to determine whether the various demographic factors could predict variation in the likelihood of an applicant being denied a credential by at least one credentialing organization.

The independent variables included in the analysis were as follows:

- **Mode of Publication/Income**: The analysis tested whether being a Freelancer, Contributor, Paid Independent, or Unpaid Independent made an applicant more or less likely to be denied a credential than an Employee. (Employees were treated as a reference category, i.e., the group of respondents to whom other respondents' experience in obtaining a credential was compared.)

- **Self-Identification**: The analysis tested self-identification as a journalist, photographer, blogger, social media user, or activist as factors in whether a credential was denied. Because a respondent could select multiple self-identification terms, each term was treated as an independent binary variable rather than selecting one term as a reference category to be compared to the others.

- **Number of Journalists in State of Residence**: The analysis tested whether respondents residing in states with more employed journalists were more or less likely to be denied a credential than those in states with fewer employed journalists. The various states (plus the District of Columbia and Puerto Rico) were divided into three groups: High Employment Rate; Moderate Employment Rate; and Low Employment Rate (used as the reference category). Sorting between these groups was based on the number of journalists employed within each state according to May 2012 U.S. Bureau of Labor Statistics data. (*See* Figure 1, *supra*). The division of states and respondents into each group is shown in **Appendix B**.

- **Years of Experience**: The analysis examined whether respondents with more experience were more or less likely to be denied a credential than those with less experience, treating the least experienced respondents (less than one year engaging in writing or publishing) as a reference category.

The dependent variable in the analysis was whether the respondent had been denied a credential at least once from any credentialing organization at any level during the survey period (2008-2013).

The results of the logistic regression analysis are shown in Table 6 (next page). Relationships between a demographic factor and the denial of a credential were considered significant if the observed relationship was less than 5 percent likely to have arisen by chance ($p < .05$).

As with the data in Table 5, *supra*, the fact that a relationship was found between a demographic factor and denial of media credentials does not mean that every individual credentialing organization relies upon that factor. It does, however, mean that reliance on a particular factor is prevalent enough to be statistically significant irrespective of other factors.

Conversely, the fact that particular demographic factors were not predictive does not mean that those factors are universally irrelevant. It may mean that decisions across the spectrum of credentialing organizations may be too inconsistent for a particular factor to have predictive value. Alternatively, agencies may have established credentialing policies

that do not focus on these particular demographic criteria. These could include criteria that rely on other factors discussed in Section III, *supra*, or neutral approaches to issuance of credentials such as lotteries, pool arrangements, or first-come/first-served systems.

As shown below, three separate factors predicted that a respondent would be denied a credential: status as a Freelancer; self-identification as a photographer; and self-identification as an activist.[37] Specifically:

- **Freelancers were over twice as likely as Employees to be denied a credential at least once.**
- **Those identifying as photographers were almost twice as likely as others to be denied a credential at least once.**
- **Those identifying as activists were more than twice as likely as others to be denied a credential at least once.**

Table 6. Logistic Regression Analysis of Demographic Factors and Denial of Credentials (n = 676)

		B	S.E.	Wald	df	Sig. (p)	Exp(B)
Step 1[a]	Q6_2_A2 (Freelancer)	.729	.230	10.056	1	.002	2.073
	Q6_X_A3 (Contributor)	.632	.635	.990	1	.320	1.881
	Q6_4_B1 (Paid Independent)	.544	.338	2.588	1	.108	1.723
	Q6_4_B2 (Unpaid Independent)	.789	.578	1.863	1	.172	2.201
	Q5_1 (Self-Identification as Journalist)	-.078	.263	.088	1	.767	.925
	Q5_2 (Self-Identification as Photographer)	.692	.229	9.170	1	.002	1.998
	Q5_3 (Self-Identification as Blogger)	.238	.286	.689	1	.407	1.268
	Q5_4 (Self-Identification as Social Media User)	-.156	.268	.340	1	.560	.855
	Q5_5 (Self-Identification as Activist)	.905	.445	4.136	1	.042	2.471
	Q5_6 (Other Self-Identification)	.520	.288	3.254	1	.071	1.682
	Q4_2 (State with Moderate # of Journalists)	.238	.343	.481	1	.488	1.268
	Q4_3 (State with High # of Journalists)	.188	.330	.326	1	.568	1.207
	Q8_2 (Between 1 and 5 Years of Experience)	-1.262	1.296	.948	1	.330	.283
	Q8_3 (Between 5 and 10 Years of Experience)	-1.341	1.300	1.065	1	.302	.262
	Q8_4 (Between 10 and 15 Years of Experience)	-1.443	1.322	1.191	1	.275	.236
	Q8_5 (Between 15 and 20 Years of Experience)	-1.808	1.324	1.865	1	.172	.164
	Q8_6 (More than 20 Years of Experience)	-1.286	1.292	.990	1	.320	.276
	Constant	-.847	1.284	.436	1	.509	.429

Model statistics: n = 676, $\chi^2(17) = 54.88$, $p < 0.01$, Nagelkerke $R^2 = .121$. The model explains 12% of the variance in the dependent variable.

a. Variable(s) entered on step 1: Q6_2_A2, Q6_X_A3, Q6_4_B1, Q6_4_B2, Q5_1, Q5_2, Q5_3, Q5_4, Q5_5, Q5_6, Q4_2, Q4_3, Q8_2, Q8_3, Q8_4, Q8_5, Q8_6.

VII. Commentary

Preference for Employees over Freelance Journalists

Although the current media environment is quite diverse and a range of different actors carry out functions once concentrated in institutional newsrooms, the survey results suggest that federal, state, and local agencies give preference to formal employment relationships over other types of working arrangements. In some cases, this is a reflection of explicit policy. For example, The Senate Press Gallery, which handles credentials for both the U.S. Senate and the House of Representatives (and whose decisions are often respected by other branches of government including the White House and U.S. Supreme Court), states that: "Membership in the press galleries is limited by Senate Rules to 'to bona fide correspondents of repute in their profession' who are full-time, paid correspondents of recognized news organizations."[38]

But while focusing on employment might be effective as a limiting factor to help credentialing organizations cope with greater numbers of requests from an expanding information ecosystem, this approach draws a distinction that might have little to do with the quality of a particular applicant's work or their ability to effectively communicate information to the public. In challenging definitions of journalism in other contexts that focus on employment status, Jonathan Peters and Edson Tandoc wrote:

"By referring to *employment*, … the definition delivers a fatal blow to the people engaging in many new forms of journalism. … To the extent the definition is used to decide who may claim the legal privileges of journalists, it puts a large number of actors in the journalism ecosystem in the position of fulfilling community needs for news, however well the actors do so, without the assurances that keep traditional journalists safe when their work provokes a backlash. That is unwise."[39]

What Peters and Tandoc have stated about legal protections for journalists is equally applicable to media credentials. When employed journalists are not available to cover important events (particularly at a local level), denying credentials to freelancers and other independent newsgatherers can significantly limit public access to information.

This is particularly troubling given an apparent trend among institutional newsrooms to turn to freelance journalism to help meet economic challenges. For example, in May 2013, the Chicago Sun-Times laid off its entire staff of employed photographers, with plans to rely upon its freelancer staff for professional photography.[40] The Society of Environmental Journalists has reported more freelance members, while the Committee to Protect Journalists has said it has seen more cases involving freelancers.[41] If the pattern of denying access to freelancers continues, the greater use of freelancers by media organizations could affect newsgathering ability.

Bias against Photojournalism

As discussed above, identifying oneself as a photographer predicts greater difficulty in obtaining a media credential. Indeed, even when photographers were granted a media credential, the survey revealed a significant relationship between identifying oneself as a photographer and encountering difficulty with the exercise of credentials or press identification in the field.

The survey asked respondents whether media credentials or press identification in their possession granted newsgathering rights denied to the general public. If the respondent answered yes, they were asked if they were ever denied such rights despite possessing such credentials or identification. 46 percent of respondents who identified themselves as photographers reported that they encountered interference with their newsgathering activities on at least one occasion, compared to 22 percent of non-photographers. These results

were statistically significant [$\chi^2(1) = 37.48$, $p = .001$, $n = 621$].[42]

Photographers might encounter particular difficulty because officials believe that visual media pose greater concerns about privacy or safety. It might also be the case that photographers encounter difficulty because they need to be closer to events than other journalists and therefore exercise their credentials more fully and frequently. The rights granted by some credentials might be conditioned on an unspoken expectation of self-restraint in their use, in turn leading to circumstances where credentials are not respected when a holder is perceived to be exercising her rights too freely or too often.

It is disturbing to see particular challenges for photographers as a class in obtaining (and using) credentials. Direct visual access to events is often the only way the public can understand the reality of an important situation; foreclosing photographers from events that take place behind police lines or closed doors harms the public. As Alex Garcia of the Chicago Tribune commented with respect to the value of photojournalism at the Boston Marathon bombing in April 2013, "It serves no purpose to have a witness pointing a video camera at the sky or from all the way down the street, leaving viewers with a vague sense of the human toll. … [W]here one positions oneself with a camera makes all the difference in communicating the tragic reality to a watching world."[43]

Bias against Activists

In a news environment in which many communities remain underserved by institutional journalism, independent journalistic activity is critical. Adam Cohen writes, "As the Fourth Estate has fewer resources available to cover the federal government, state capitals, city halls, private enterprises, and other centers of power and influence, the Fifth Estate is increasingly stepping in to fill the gaps. This 'replacement journalism' is an important and growing part of the overall news ecology."[44]

Many of those who undertake independent journalistic activity (and especially those who are not substantially compensated for their work) are likely to be motivated by personal concerns over particular issues, whether social, political, environmental, or otherwise. But this same motivation to engage in newsgathering may raise questions about the objectivity of their reporting. Credentialing organizations might be concerned that these individuals would either report on events in a biased fashion or (less likely) use their access to restricted locations as an opportunity for protest. Similarly, activist groups for which these respondents work might not be recognized as "bona fide" news organizations.

The practice of denying credentials based upon perceptions of bias can all too easily lead to viewpoint-based decisions made to protect the credentialing organization itself rather than the public. Among government organizations in particular, this possibility raises serious First Amendment concerns.[45] Balance in reporting is better served by providing access to multiple outlets with different viewpoints than by demanding that individual journalists adopt an artificially neutral point of view.

Bloggers, New Media, and Unpaid Independent Journalism

Given the public consternation that some credentialing agencies have expressed over the "proliferation of bloggers [and] podcasters" and applications for press passes from those who "blog in [their] fuzzy slippers out of [their] bedroom[s]," [46] it is somewhat surprising that the survey data did not reveal a stronger relationship between status as a blogger or social media user and the denial of press credentials.

There could be various reasons for this. The ubiquitous use of online platforms by journalists of all types might have dulled the

sensitivity of credentialing organizations to the mere use of technology. Similarly, concerns voiced about "bloggers" might actually relate less to the technology at issue and more to the growing number of independent journalists who, using the taxonomy of this report, would fall into the Unpaid Independent category.

In fact, as discussed above the survey data did suggest a disproportionate number of denials among respondents in the Unpaid Independent category in comparison to Employees. However, the data were insufficient to show that status as an Unpaid Independent could predict denial of a credential in the logistic regression analysis.

Any conclusions drawn from this data are limited by the fact that only a few Unpaid Independents who responded to the survey actually sought credentials. As noted above, only 22 percent of respondents in this category (a total of 18 individuals) reported requesting a credential, compared to an average rate of 50 percent across all respondents. A chi-square test reveals a significant relationship between status as an Unpaid Independent and not applying for a credential [$\chi^2(1) = 28.45$, $p = .001$, $n = 1339$].

As discussed more generally above, the fact that low numbers of Unpaid Independents sought credentials suggests that these respondents were deterred from seeking credentials in the first place. This could be due to a belief among members of the category that they were not entitled to receive credentials. Alternatively, the low application rate might be the result of a lack of general knowledge among this group about what credentials are and how to apply for them. Further study could illuminate this issue.

VIII. Conclusion

This report focuses on one section of the data gathered in this survey. Respondents were also asked about other issues that could provide ground for further analysis, including: specific obstacles encountered in seeking credentials; interference from government and private organizations in exercising credentials; denial of requests to be included on press release lists maintained by state and local agencies; and respondent preferences as to how to determine who receives a credential when the number of available credentials is limited.

In addition, the survey results suggest a need for deeper inquiry into the results discussed above, perhaps through a survey of particular credentialing organizations or interviews with journalists who have been granted or denied credentials by these gatekeepers.

Further understanding of the points of tension between the journalists who need access and the organizations that control access will allow for more effective attempts to resolve such tension through negotiation, policy making, or legislation.

Endnotes

[1] Mark Jurkowitz, *The Growth in Digital Reporting: What it Means for Journalism and News Consumers*, PEW RESEARCH CTR. (Mar. 26, 2014), http://www.journalism.org/2014/03/26/the-growth-in-digital-reporting/.

[2] *Id.*

[3] *Id.*; *see also* Leonard Downie, Jr., & Michael Schudson, *The Reconstruction of American Journalism*, COLUM. JOURNALISM REV., (Oct. 19, 2009), http://www.cjr.org/reconstruction/the_ reconstruction_of_american.php; David Carr, *Ezra Klein is Joining Vox Media as Web Journalism Asserts Itself*, N.Y. TIMES (Jan. 26, 2014), http://www.nytimes.com/2014/01/27/business/media/ezra-klein-joining-vox-media-as-web-journalism-asserts-itself.html.

[4] Elliot Spagat, *'New Media' Challenge Press-Pass Standards*, ORANGE CTY. REGISTER (Aug. 21, 2013), http://www.ocregister.com/articles/police-499011-credentials-diego.html. Increasing concerns about safety have also complicated the process of obtaining credentials. The Reporters Committee for Freedom of the Press has reported that several state and municipal government bodies have instituted criminal background checks and other security procedures as a prerequisite for receiving a press credential, and has voiced a concern that such procedures might disproportionately impact new journalists. *See* Michael Rooney, *Filling in the Background*, THE NEWS MEDIA AND THE LAW, Winter 2014, at 11, *available at* http://www.rcfp.org/browse-media-law-resources/news-media-law/news-media-and-law-winter-2014/filling-background.

[5] *See* Branzburg v. Hayes, 408 U.S. 665, 704 (1972) ("Liberty of the press is the right of the lonely pamphleteer who uses carbon paper or a mimeograph just as much as of the large metropolitan publisher who utilizes the latest photocomposition methods."); *see also* Citizens United v. FEC, 130 S. Ct. 876, 906 (2010) ("[D]ifferential treatment [between media and non-media corporations] cannot be squared with the First Amendment."). For an extensive review of the Supreme Court's reluctance to find special rights for an identified class of journalists under the First Amendment, *see* First Nat'l Bank of Boston v. Bellotti, 435 U.S. 765, 797-802 (1978) (Burger, C.J., concurring); Eugene Volokh, *Freedom for the Press as an Industry or For the Press as a Technology? From the Framing to Today*, 160 U. PENN. L. REV. 459, 505-521 (extensively reviewing Supreme Court precedent on this point). One case that may count to the contrary is *Minneapolis Star & Tribune Co. v. Minnesota Commissioner of Revenue*, which prohibited signaling out the press for specialized tax treatment through a tax on paper and ink. 460 U.S. 575 (1983). There also are a handful of Supreme Court opinions that announce First Amendment limitations on defamation lawsuits when brought against "media defendants." *See, e.g.*, Philadelphia Newspapers, Inc. v. Hepps, 475 U.S. 767, 777 (1986) ("[W]e believe that a private-figure plaintiff must bear the burden of showing that the speech at issue is false before recovering damages for defamation from a media defendant."). Very few courts, however, have read this to mean such protections do not apply to other defendants. *See* Volokh, *supra*, at 520-32.

[6] Such a rule would strike at the very heart of the First Amendment, which, at the very least, has always meant the public is free to print news without a license. *See* David Anderson, *Freedom of the Press*, 80 TEX. L. REV. 429, 520-21 (2002).

[7] *See* Houchins v. KQED, Inc., 438 U.S. 1, 11 (1978) (plurality opinion) ("There is an undoubted right to gather news 'from any source by means within the law[.]'" (quoting *Branzburg*, 408 U.S. at 681-82)). In the context of criminal trials, which may be closed under some circumstances but when open must be open to all of the public, *see* Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555, 573 (1980).

[8] *See* ACLU of Ill. v. Alvarez, 679 F.3d 583, 586 (7th Cir. 2012), *cert. denied*, 133 S. Ct. 651 (2012); Glik v. Cunniffe, 655 F.3d 78, 85 (1st Cir. 2011); Smith v. City of Cumming, 212 F.3d 1332, 1333 (11th Cir. 2000); Fordyce v. City of Seattle, 55 F.3d 436, 439 (9th Cir. 1995).

[9] The Supreme Court has considered arguments for specialized access for the press through the First Amendment, and has rejected such arguments on each occasion. Cohen v. Cowles Media Co., 501 U.S. 663, 669 (1991) ("[G]enerally applicable laws do not offend the First Amendment simply because their enforcement against the press has incidental effects on its ability to gather and report the news. . . . The press may not with impunity break and enter an office or dwelling to gather news."); *Richmond Newspapers*, 448 U.S. at 586 n.2 (1980) (Brennan, J., concurring in judgment) (noting that the case does not present occasion to differentiate between press and non-press for access to courts and citing prior decisions to suggest it should not matter); Nixon v. Warner Comm'cns, Inc., 435 U.S. 589, 609 (1978) (a reporter's rights "are no greater than those of any other member of the public" when accessing courtrooms and court

records) (*citing* Estes v. Texas, 381 U.S. 532, 589 (1965) (Harlan, J., concurring)); *Houchins*, 438 U.S. at 16 ("[U]ntil the political branches decree otherwise … the media have no special right of access to [a jail] different from or greater than that accorded to the public generally."); Pell v. Procunier, 417 U.S. 817, 834 (1974) ("The Constitution does not . . . require government to accord the press special access to information not shared by members of the public generally."); Saxbe v. Washington Post Co., 417 U.S. 843, 856-57 (1974); *Branzburg*, 408 U.S. 665, 684 (1972) ("[T]he First Amendment does not guarantee the press a constitutional right of special access to information not available to the public generally.").

[10] With shield laws, courts have been reluctant to engage in a definitional analysis to the extent the right is found to emanate from the First Amendment. *See, e.g.*, von Bulow v. von Bulow, 811 F.2d 136, 144 (2d Cir. 1987) (extending protection to the authors of "every sort of publication which affords a vehicle of information and opinion"); Cusumano v. Microsoft Corp., 162 F.3d 708, 714 (1st Cir. 1998) (adopting an intent definition instead of an institutional definition); In re Madden, 151 F.3d 125, 129-30 (3d Cir. 1998) (extending privilege to "all publications that contribute to the free flow of information," but declining to extend it to an "author of entertaining fiction").

[11] This framework benefited greatly from the work of prior authors. *See* Jonathan Peters & Edson C. Tandoc, Jr., *"People Who Aren't Really Reporters at All, Who Have No Professional Qualifications": Defining a Journalist and Deciding Who May Claim the Privileges*, 2013 N.Y.U. LEGIS. & PUB. POL'Y QUORUM 34 (2013); Mary-Rose Papandrea, *Citizen Journalism and the Reporter's Privilege*, 91 MINN. L. REV. 515 (2007); Erik Ugland & Jennifer Henderson, *Who Is a Journalist and Why Does It Matter? Disentangling the Legal and Ethical Arguments*, 22 J. MASS MEDIA ETHICS 241 (2007); Clay Calvert, *And You Call Yourself a Journalist?: Wrestling with a Definition of "Journalist" in the Law*, 103 DICK. L. REV. 411 (1999).

[12] *See* Papandrea, *supra* note 11, at 564; Peters & Tandoc, *supra* note 11, at 40-42, 52-3 (reviewing use of medium in academic and legal definitions of journalism). For examples of this in media credentialing environments, *see* 13 PA. CODE § 93.3(j) (affording inmate visiting privileges for media representatives if they are "representatives of general circulation newspapers; magazines of general circulation sold through newsstands or mail subscriptions to the general public; and National/ international news services or radio/television stations holding a Federal Communications Commission license"); 15 CAL. CODE. REGS. § 3261.5(a) (allowing access to prisons for "news media representative[s]," defined as those working with "a newspaper, magazine, wire service, book publisher, or radio or television program or station").

[13] Ugland & Henderson, *supra* note 11, at 249. For an example of the latter, *see* Williams v. ABC, 96 F.R.D. 658, 665 (W.D. Ark. 1983).

[14] *See* Papandrea, *supra* note 11, at 566; Peters & Tandoc, *supra* note 11, at 42-43, 52 (noting the acceptance and rejection of an "employment" or "hierarchy" definition in academic framings and state statutes); Ugland & Henderson, *supra* note 11, at 248-49. Senator Diane Feinstein's proposed amendment to the federal shield law would impose a similar limitation. *See* Peters & Tandoc, *supra* note 11, at 37. For examples of this in media credentialing environments, *see* FLA. ADMIN. CODE r. 33-104.101 (limiting press access to prisons to "persons whose principal employment is gathering and reporting news" for specific media); 13 CAL. CODE REGS. tit. 13, § 172.00 (allowing speciality licenses plates for press photographers, when the photographer is "regularly employed" or "regularly engaged" as a newspaper or television cameraman).

[15] *See, e.g.*, Northside Sanitary Landfill, Inc. v. Bradley, 462 N.E.2d 1321, 1325 (Ind. Ct. App. 1984) (individual was not eligible for protection as she was not employed by the media organization in question); Too Much Media, LLC v. Hale, 20 A.3d 364, 376, 379 (N.J. 2011) (not disputing that the individual had a nexus with an organization, but finding the organization was not a "news media" organization).

[16] Papandrea, *supra* note 11, at 567; Calvert, *supra* note 11, at 419-22 (finding such a standard in the Second Circuit, Ninth Circuit, and, in a more narrow form, Third Circuit tests for a reporters' shield law). For examples of this in media credentialing environments, *see* MASS. SJC RULE 1:19(2) (allowing cameras in courtroom to "organizations that regularly gather, prepare, photograph, record, write, edit, report or publish news or information about matters of public interest for dissemination to the public in any medium, whether print or electronic, and to individuals who regularly perform a similar function"); CAL R. CT. 1.150(b)(2) (allowing a "media agency" to photograph or record in California state courts, defined as "any person or organization engaging in news gathering or reporting"). Some circuit courts, when constructing a First Amendment-based shield law, have opted to adopt a version of this as a narrowing factor, requiring the claimant be engaged in some form of

"investigative" journalism to qualify for the privilege. *See* Peters & Tandoc, *supra* note 12, at 49-50. A similar definition can be found in the fee waiver provisions of the Freedom of Information Act, with the added requirement that the requester "uses its editorial skills to turn the raw materials into a distinct work." 5 U.S.C. § 552(a)(4)(A)(ii).

[17] *See* Geoffrey Stone, *The Merits of the Proposed Journalist-Source Privilege*, AMERICAN CONSTITUTION SOCIETY (2005), *available at* http://www.acslaw.org/pdf/stone9-23-05.pdf (requiring that a journalist "regularly" disseminate information to the public in order to take advantage of a shield law). A similar requirement exists in the current federal shield law legislation. Peters & Tandoc, *supra* note 11, at 37-38, 50-52; *see also* Ugland & Henderson, *supra* note 11, at 245-46 (noting that much of the rhetoric around Supreme Court rulings and the press defend their position by referencing the press's role as a vehicle of organized scrutiny of government).

[18] Papandrea, *supra* note 11, at 578; Calvert, *supra* note 11, at 431 (noting a "news content" requirement in the Third Circuit's reporter's privilege test); Peters & Tandoc, *supra* note 11, at 43-44. In the media-credentialing context, such statutes usually overlap with statutes that include abstract appeals to authority. *See infra* note 21. For an argument in favor of this approach, *see* Laurence B. Alexander, *Looking Out for the Watchdogs: A Legislative Proposal Limiting the Newsgathering Privilege to Journalists in the Greatest Need of Protection for Sources and Information*, 20 YALE L. & POL'Y REV. 97 (2002).

[19] *See generally* Mark Strasser, *What's It to You: The First Amendment and Matters of Public Concern*, 77 MO. L. REV. 1083 (2012).

[20] *See, e.g.*, 37 TEX. ADMIN. CODE § 1.55 (allowing press access to emergency scenes in Texas when "properly identified" by "press cards," noting that "[p]ress cards of this sort are issued by many local law enforcement agencies, by some federal agencies, and by news media organizations and associations"); *Supreme Court Guidelines for Still and Television Camera and Audio Coverage of Proceedings in the Courts of New Jersey*, *available at* http://www.judiciary.state.nj.us/rules/appcamera.htm (allowing cameras when applicant has a press credential with, *inter alia*, the New Jersey Press Association).

[21] Ugland & Henderson, *supra* note 11, at 242, 249 (noting the frequent presence of "I-know-it-when-I-see-it" arguments in journalism definitions, including abstract uses of terms like "bona fide," "legitimate," and "accredited," without any specificity). For examples of this in media credentialing, *see* D.C. MUN. REGS. tit. 24 § 2103 (authorizing the D.C. police to issue press passes to "bona fide" media representatives); AK. CT. RULES 50(e)(4), Bulletin 45(12) (allowing special access to Alaska courts "only by members of the working press and other media representatives," without defining this term); W. VA. CODE R. § 153-8-8 ("Legitimate news media personnel with proper credentials may remain within the three hundred foot (300') area [of a polling place] while conducting their official and legitimate news-gathering business[.]").

[22] *See, e.g.*, ILL. 11TH JUDICIAL CIR. CT. Rule 311(C)(2) (allowing sheriff's office to issue media identification "at their discretion").

[23] Papandrea, *supra* note 11, at 575-84; Peters & Tandoc, *supra* note 11, at 44-46 (noting "social role" and "ethics" definitions in academic literature); Ugland & Henderson, *supra* note 11, at 243-44 (providing an overview of ethical considerations and how they overlap and contrast legal definitions); *see also* IND. CODE § 2-1733 (1968) (repealed 1971) (Indiana's since-replaced shield law, which at the time looked to audience size as a percentage of overall population). At the most extreme end of ethical definitions, some argue that a person's attaining of a press pass does not, alone, qualify them as a "journalist." Gina Barton, *What is a Journalist?*, QUILL, May 2002, at 4, *available at* https://www.spj.org/quill_issue.asp?ref=306 (subscription required) (quoting Tom Rosenstiel as saying "You can't say, 'I'm a journalist, here's my press pass.' You have to say, 'I'm a journalist. Here's my work.' Some people with press passes don't make the cut.").

[24] Michelle Newman, *Foul Territory: Identifying Media Restrictions in High School Athletics Outside the Bounds of First Amendment Values*, 14 TEXAS REV. OF ENT. & SPORTS L. 59, 62-65 (2012). An attempt to do this by a government body would almost certainly be unconstitutional, especially if done after the fact. *See, e.g.*, Commonwealth v. Barnes, 963 N.E.2d 1156 (Mass. 2012).

[25] U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS; CENSUS OF STATE AND LOCAL LAW ENFORCEMENT AGENCIES (2008), *available at* http://www.bjs.gov/content/pub/pdf/cslleao8.pdf.

[26] *Compare* CAL. PENAL CODE § 409.5(d) (media access to disaster scenes in California), *with* 15 CAL. CODE. REGS. §§ 3261.1, 3261.5 (media access to inmates in California).

[27] A few litigants have successfully challenged the denial of media credentials, though usually under special circumstances. *See, e.g.*, Sherrill v. Knight, 569 F.2d 124, 129 (D.C. Cir. 1977) (denial of White House press credential violated the First and Fifth Amendments when done without any indicated standards or an opportunity to respond); United Teachers of Dade v. Stierheim, 213 F. Supp. 2d 1368 (S.D. Fla. 2002) (school's exclusion of teacher union publication from press room violated First Amendment as a viewpoint-based discrimination); Quad-City Cmty. News Serv., Inc. v. Jebens, 334 F. Supp. 8, 17 (S.D. Iowa 1971) (denying press credentials for reasons that were "either vague or completely unknown" violated Fourteenth Amendment due process); Weinberg v. Chicago Blackhawk Hockey Team, Inc., 653 N.E.2d 1322, 1325 (Ill. App. Ct. 1995) (hockey magazine stated cause of action under Illinois antitrust law when the Chicago Blackhawks refused the magazine access while simultaneously publishing their own competing magazine); *but see* Wisc. Interscholastic Athletic Ass'n v. Gannett Co., Inc., 658 F.3d 614 (7th Cir. 2011) (restricting coverage of sporting events and other substantive coverage as condition of press access did not violate First Amendment).

[28] Ugland & Henderson, *supra* note 11, at 253.

[29] If survey respondents stated that they were paid as an employee in response to the question about income, they were further asked about the length of time that their employer had been in existence. As a result, this data was gathered for a limited number of respondents and was not used in the analysis that follows.

[30] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, http://factfinder2.census.gov (select "Advanced Search;" then enter "EEO-ALL12W - EEO 12w" in the "topic or table name field;" then select "Go;" then in the "Refine your search results" field select "occupations" and enter "2810" in the "occupation code or name" field; then select "Go;" then click on the "EEO 12w. Detailed Census Occupation by Older Age Groups" link). As with data from the Bureau of Labor Statistics regarding numbers of employed journalists, the definition of "News analysts, reporters and correspondents" for the purposes of Census data might not precisely align with the survey respondents.

[31] Lars Willnat & David H. Weaver, *The American Journalist in the Digital Age: Key Findings* (2014), http://news.indiana.edu/releases/iu/2014/05/2013-american-journalist-key-findings.pdf.

[32] Scott Reinardy, *Newspaper Journalism in Crisis: Burnout on the Rise, Eroding Young Journalists' Career Commitment*, 12 JOURNALISM 33, 33-50 (2011).

[33] *See*, *e.g.*, Yochai Benkler, *Giving the Networked Public Sphere Time to Develop*, WILL THE LAST REPORTER PLEASE TURN OUT THE LIGHTS: THE COLLAPSE OF JOURNALISM AND WHAT CAN BE DONE TO FIX IT 225, 228 (Robert McChesney & Victor Pickard, eds. 2011) ("[W]hat we are seeing is a networked public sphere developing. It combines several different elements, which represent diverse approaches along the axes of commercial and noncommercial, and professional and amateur.").

[34] For the purposes of creating these groups, those who indicated that they published through public access media were treated as self-publishers. Although the staff of public access media can provide substantial support and assistance to those who use these channels to reach the public, the limited ability of public access media to censor the content of their users renders these organizations more akin to self-publishing platforms for the purposes of this report.

[35] Terms added using the text entry function related to the following roles (among others): editor or producer; publisher, manager, or owner; educator, academic researcher, or student; public relations or corporate communications representative; author, essayist, or columnist; broadcast talent; and filmmaker or new media creator.

[36] Respondents were also allowed to report that they had applied for a credential from other types of organizations by selecting "Other" and describing the organization using a text field. Respondents used the "Other" category to report attempts to obtain credentials from a range of credentialing organizations. These were recoded into the pre-defined categories were possible, but there remained 100 respondents who stated that they sought credentials from organizations that did not clearly fall within the categories covered in the survey. Examples of these organizations included elementary and high-school athletic teams at public schools, private universities, corporate places of business, and professional journalism support organizations. Observations of credentialing decisions by these organizations were too limited to report separately, but are likely worthy of further study.

[37] Because the frequency analysis of self-identification terms by respondent group (*see supra* Table 4) suggested that there might be a relationship between status as a freelancer and self-identification as a photographer, a multicollinearity diagnostic analysis

was performed using linear regression to see if the results of the logistic regression analysis were affected by relationships between the independent variables. All VIF values were less than 10, and all tolerance values were greater than 0.1, indicating that multicollinearity was not an issue.

[38] The survey data relating to the U.S. Congress provides a useful instance to compare the results of this survey against a particular organization's written credentialing standards. The Senate Press Gallery, which handles credentials for both the U.S. Senate and the House of Representatives, states that: "Membership in the press galleries is limited by Senate Rules to 'to bona fide correspondents of repute in their profession' who are full-time, paid correspondents of recognized news organizations." *Credentials*, U.S. SEN. PRESS GALLERY, www.dailypress.senate.gov/?page_id=143 (last visited April 17, 2014).The preference for employees over freelancers at the U.S. Congress is thus both written in policy and reflected in experience.

[39] Peters & Tandoc, *supra* note 11, at 62.

[40] Robert Channick, *Chicago Sun-Times Lays Off All Photographers*, CHICAGO TRIBUNE (May 31, 2013), http://articles.chicagotribune.com/2013-05-31/business/ct-biz-0531-sun-times-photographer-layoffs-20130531_1_sun-times-media-group-chicago-sun-times-timothy-knight.

[41] Josh Stearns, *How Do We Make Freelance Journalism Sustainable?*, PBS MEDIASHIFT (Jun. 17, 2013), http://www.pbs.org/mediashift/2013/06/freelancing-the-future-of-journalism/.

[42] Further discussion of respondent experience with interference in the field is beyond the scope of this particular report and is left for future analysis.

[43] Alex Garcia, *Tragedy and the Role of Professional Photojournalists*, ASSIGNMENT CHICAGO BLOG (Apr. 16, 2013), http://newsblogs.chicagotribune.com/assignment-chicago/2013/04/tragedy-and-the-role-of-professional-photojournalists.html.

[44] Adam Cohen, *The Media That Needs Citizens: The First Amendment and the Fifth Estate*, 85 S. CAL. L. REV. 1, 4-5 (2011).

[45] *See supra* note 27.

[46] Spagat, *supra* note 4.

APPENDIX A: TEXT OF SURVEY

Question numbers are listed as assigned by Qualtrics software. No questions have been omitted or presented out of order.

INTRODUCTION:

Thank you for participating in the Media Credentialing Survey!

- This Survey is designed to gather information about the recent practices of both government and private organizations that issue media credentials to newsgatherers. You do not need to do any research to answer the questions in this Survey; please simply answer from your own memory and knowledge. It is all right if you do not remember or know the answers to certain questions.
- You may use the "<<" button at the bottom of any page to go back and change your answers to any question; however, your responses will be saved and you will be unable to change them after you answer the last question. The Survey will warn you when you are on the last question.
- Depending on your answers, the Survey might skip over certain questions; you should not be concerned if it seems that you have bypassed a section of the Survey.
- Your time is greatly appreciated; we anticipate that this Survey will take you approximately 10-15 minutes to complete.
- If you have any questions about the Survey, please contact Jeffrey Hermes, Director of the Digital Media Law Project at Harvard University's Berkman Center for Internet & Society, at staff [at] dmlp.org.

Please click below to begin the Survey.

I. BASIC INFORMATION

The first set of questions is intended to gather some general information about you. This information is important, because it allows us to compare data between different groups of respondents. However, we will not ask for your name or other personally identifiable information. Please click below to begin.

Q3. Please enter the five digit zip code in which you primarily work. (If there is no single location responsive to this question, please enter "ooooo") [RESPONSE ENTERED VIA TEXT FIELD]

Q4. In which state do you currently reside? (If you do not live in the U.S., please select "I do not reside in the United States") [RESPONSE ENTERED VIA DROP-DOWN MENU]

Q5. Which of the following terms do you believe properly describe you in connection with your writing or publishing activity? (Please check all that apply.)

- ☐ A journalist
- ☐ A photographer
- ☐ A blogger
- ☐ A social media user
- ☐ An activist
- ☐ Other media-related (please specify) _____

Q6. How, if at all, are you paid or compensated for your journalism or publishing activity? (Please check all that apply.)

- ☐ Paid as employee
- ☐ Paid as an independent contractor or freelancer
- ☐ Receive advertising revenue (for example, from ads carried on a website that you control)
- ☐ Do not receive any payment or compensation for journalism or publishing activity
- ☐ Other - please specify _____

Q7. How is your work published? (Please check all that apply.)

- ☐ My work is published by one or more media outlets, to which I supply my work on an employment or freelance basis
- ☐ I publish my work directly online through a blog, podcast, or website that I control
- ☐ I report on events through posts to a social media account (e.g., Twitter, Facebook, etc.)
- ☐ I publish my work through a print publication that I own or operate

- ☐ I produce audio or audiovisual material for public access broadcasting
- ☐ Other - please specify _____

Q8. How long have you been writing/publishing news content or otherwise working as a journalist?

- o Less than 1 year
- o Between 1 and 5 years
- o Between 5 and 10 years
- o Between 10 and 15 years
- o Between 15 and 20 years
- o More than 20 years

[Q9 PRESENTED IF RESPONDENT SELECTS "Paid as employee" IN Q6]

Q9. How long has your current employer been in existence? For the purposes of this question, please disregard changes in ownership or corporate form that did not interfere with your employer's continuous publication of content.

- o Less than 1 year
- o Between 1 and 5 years
- o Between 5 and 10 years
- o Between 10 and 25 years
- o Between 25 and 50 years
- o More than 50 years
- o Don't know/don't remember

II. WHO ISSUES MEDIA CREDENTIALS IN YOUR AREA

The next set of questions relates to organizations that currently issue media credentials to newsgatherers in your area. This section also asks for information about media credentials that you (or your employer) currently hold or have held at any time since December 2007. Please click below to continue.

Q11. To your knowledge, which, if any, types of government or private organizations (other than your own employer) currently issue media credentials to newsgatherers in your area? (Check all that apply.) Note: For the purposes of this survey, "media credentials" include any official recognition of you or your organization as a member of the media, regardless of whether such recognition is accompanied by a physical press card.

- ☐ White House/U.S. Executive Branch
- ☐ U.S. Congress (Senate or House)
- ☐ Federal agencies or departments
- ☐ Federal courts
- ☐ Federal law enforcement
- ☐ U.S. Military branches
- ☐ Governor's Office/State Executive Branch
- ☐ State legislature
- ☐ Particular state agencies or departments
- ☐ State courts
- ☐ State-level law enforcement
- ☐ Public universities
- ☐ Municipal government
- ☐ County or municipal law enforcement
- ☐ Fire department or other emergency services
- ☐ Privately-owned venues (convention halls, stadiums, etc.)
- ☐ Political parties
- ☐ Other (describe) _____
- ☐ None of the above
- ☐ Don't know/don't remember

Q12. Have any organizations issued you, or your organization, media credentials that either:

- are currently valid, or
- were valid for any period of time between December 2007 and the present?

Note: Please include any media credentials issued before December 2007 that remained valid after that date. Please do NOT include press identification issued to you by your own employer.

- o Yes
- o No
- o Don't know/don't remember

[Q13 PRESENTED IF RESPONDENT SELECTS "Yes" IN Q12]

Q13. Which types of organizations have issued you or your organization media credentials that either:

- are currently valid, or
- were valid at any time between December 2007 and the present?

Please check all that apply. Note: Please do NOT include press identification issued to you by your own employer.

- ☐ White House/U.S. Executive Branch
- ☐ U.S. Congress (Senate or House)
- ☐ Particular federal agencies or departments
- ☐ Federal courts
- ☐ Federal law enforcement
- ☐ U.S. Military branches
- ☐ Governor's Office/State Executive Branch
- ☐ State legislature
- ☐ Particular state agencies or departments
- ☐ State courts
- ☐ State-level law enforcement
- ☐ Public universities
- ☐ Municipal government
- ☐ County or municipal law enforcement
- ☐ Fire department or other emergency services
- ☐ Privately-owned venues (convention halls, stadiums, etc.)
- ☐ Political parties
- ☐ Other (describe) _____

[Q14 PRESENTED IF RESPONDENT SELECTS "Yes" IN Q13]

Q14. Were any of the credentials you identified in response to the last question originally issued on or before December 2007?

	Yes	No	Don't know
[ROW OPTIONS POPULATED BASED ON SELECTIONS IN Q13]	O	O	O

[Q15 PRESENTED IF RESPONDENT SELECTS "Yes" IN Q13]

Q15. With respect to the credentials issued to you/your organization by the entities listed below, please state whether the credentials were:

- issued to your organization generally,
- were issued to you personally but can be shared with colleagues, or
- were issued to you personally and are not transferable.

	Credentials issued to organization	Credentials issued to individual, but can be shared	Credentials issued to individual, non-transferable	Don't know
[ROW OPTIONS POPULATED BASED ON SELECTIONS IN Q13]	O	O	O	O

[Q16 PRESENTED IF RESPONDENT SELECTS "Yes" IN Q13]

Q16. For each of the following organizations, please state whether the organization issued a physical "press card" or other tangible form of identification.

	Yes - physical card/ID issued	No - no physical card/ID issued	Don't know/don't remember
[ROW OPTIONS POPULATED BASED ON SELECTIONS IN Q13]	O	O	O

[Q17 PRESENTED IF RESPONDENT SELECTS "Yes" FOR ANY ORGANIZATION IN Q16]

Q17. If the physical "press card" or ID issued by the following organizations contains explanatory text regarding the rights granted to the bearer (for example, "The bearer of this card is permitted to cross police lines"), please enter that text here. Note that this question is optional and can be skipped, but your responses are appreciated.

	Explanatory text on card/ID	No explanatory text on card/ID
[ROW OPTIONS POPULATED BASED ON SELECTIONS IN Q16]	[TEXT FIELD]	O

III. APPLYING FOR CREDENTIALS

The next set of questions relates to your experience (or the experience of your employer) in applying for media credentials from particular organizations since December 2007. Please click below to continue.

Q19. Since December 2007, have you or your organization applied for media credentials from any of the following types of organizations? (Check all that apply.)

You should select all organizations from which you or your organization requested credentials, even if:

- you already stated that you received credentials from that organization earlier in this survey, or
- your application for credentials is still pending or was denied.

You should NOT include a request that you made to your own employer for employer-issued ID.

- ☐ White House/U.S. Executive Branch
- ☐ U.S. Congress (Senate or House)
- ☐ Particular federal agencies or departments
- ☐ Federal courts
- ☐ Federal law enforcement
- ☐ U.S. Military branches
- ☐ Governor's Office/State Executive Branch
- ☐ State legislature
- ☐ Particular state agencies or departments
- ☐ State courts
- ☐ State-level law enforcement
- ☐ Public universities
- ☐ Municipal government
- ☐ County or municipal law enforcement
- ☐ Fire department or other emergency services
- ☐ Privately-owned venues (convention halls, stadiums, etc.)
- ☐ Political parties
- ☐ Other (describe) _____
- ☐ None of the above/not aware of any applications

[Q20 PRESENTED IF RESPONDENT DOES *NOT* SELECT "None of the above/not aware of any applications" IN Q19]
Q20. For each of the following, please identify any obstacles or burdens that you encountered in the credentialing process. (Check all that apply.) Note that this question is optional and can be skipped, but your responses are appreciated.

	Required to go to issuing office in person	Slow application processing	Bias against particular news outlet	Limited number of credentials issued	Specific documentation required	Unclear or arbitrary credentialing standards	Other (please specify)	No significant obstacles or burdens
[ROW OPTIONS POPULATED BASED ON SELECTIONS IN Q19]	☐	☐	☐	☐	☐	☐	[TEXT FIELD]	☐

[Q21 PRESENTED IF RESPONDENT DOES *NOT* SELECT "None of the above/not aware of any applications" IN Q19]
Q21. Did any of the following organizations at which you/your organization applied for media credentials deny your application? (Check all that apply.)

- ☐ All applications either were granted or are currently pending
- ☐ [Other options populated based on selections in Q19]

[Q22 PRESENTED IF RESPONDENT (1) DOES *NOT* SELECT "None of the above/not aware of any applications" IN Q19 AND (2) DOES *NOT* SELECT "All applications either were granted or are currently pending" IN Q21]
Q22. For any credentials for which your application was denied, please identify the reason(s) for the denial to the best of your knowledge. (Check all that apply.) Note that this question is optional and can be skipped, but your responses are appreciated.

	Not considered by issuer to be a "true" or qualified journalist	Media outlet not considered to be a "true" news organization	Journalist/media outlet perceived to be "unfriendly" to the issuing organization	Denied based upon alleged misconduct	Limited number of credentials available	Denied without explanation	Other (please specify)
[ROW OPTIONS POPULATED BASED ON SELECTIONS IN Q21]	☐	☐	☐	☐	☐	☐	[TEXT FIELD]

IV. EXPIRATION OR REVOCATION OF PRESS CREDENTIALS

The next questions relate to experiences that you, or your organization, might have had with media credentials expiring or being revoked by the issuing organization. Please click below to continue.

Q24. Since December 2007, have you or your organization had any media credential expire or revoked? A media credential has "expired" if it:

- was issued for a fixed time period and was not (or could not be) renewed, or
- was issued for a specific event that has now ended.

A media credential is "revoked" if the issuing organization:

- tells the recipient specifically that the media credential will no longer be recognized, or
- announces generally that it will no longer recognize any credentials previously issued.

o Yes
o No -- did not have any media credentials expire or revoked
o No -- have not held any media credentials since December 2007
o Don't know

[Q25 PRESENTED IF RESPONDENT SELECTS "Yes" IN Q24]
Q25. Which media credentials have you or your organization had expire or be revoked, as discussed in the prior question? (Check all that apply.)

- ☐ [Options populated based on selections in Q13]

[Q26 PRESENTED IF (1) RESPONDENT DOES *NOT* SELECT AN OPTION OTHER THAN "YES" IN Q24 AND (2) RESPONDENT SELECTS "Yes" IN Q12]
Q26. For each credential identified in the prior question that has expired or been revoked, please identify the reason(s) which best describe why the credentials in question are no longer valid (check all that apply). Note that this question is optional and can be skipped, but your responses are appreciated.

	Journalist/media outlet perceived to be unfriendly to the issuing organization	Chose not to renew credential	Credential was issued for specific event/time period and was not renewable	Issuer ceased issuing/ recognizing credentials generally	Revoked in response to alleged misconduct	Revoked without explanation	Other (please specify)
[ROW OPTIONS POPULATED BASED ON SELECTIONS IN Q25]	☐	☐	☐	☐	☐	☐	[TEXT FIELD]

V. WHAT MEDIA CREDENTIALS ALLOW YOU TO DO

The next questions ask about what media credentials allow you to do that members of the general public are not permitted to do. These questions ask about whether journalists are granted special access to restricted events, and/or the ability to engage in newsgathering activity otherwise prohibited to members of the public. Please click below to continue.

[Q28 PRESENTED IF RESPONDENT SELECTS "Yes" IN Q12]
Q28. Do the credentials that you hold (or held) from the following organizations allow a journalist to attend events or enter locations that are not open to the general public? Some examples of events and locations include police scenes, closed meetings or conventions, press conferences, press galleries, or backstage areas.

	Yes	No	Don't know/don't remember
[ROW OPTIONS POPULATED BASED ON SELECTIONS IN Q13]	O	O	O

[Q29 PRESENTED IF RESPONDENT SELECTS "Yes" IN Q12]
Q29. Do the credentials that you hold (or held) from the following organizations allow a journalist to engage in newsgathering activities, beyond mere attendance, that are prohibited to the general public? Some examples of newsgathering activities include asking questions at a press conference, or using recording equipment in courtrooms.

	Yes	No	Don't know/don't remember
[ROW OPTIONS POPULATED BASED ON SELECTIONS IN Q13]	O	O	O

VI. WHAT PRESS-ISSUED IDENTIFICATION ALLOWS YOU TO DO

It is not always necessary for a newsgatherer to hold a special media credential from another organization in order to gain access to a restricted location, or to engage in newsgathering activity prohibited to the general public. Instead, it is sometimes enough to present identification issued by the newsgatherer's own media outlet or press organization. The following questions ask about government and private organizations that recognize press-issued identification, without requiring a newsgatherer to obtain a separate credential. Please click below to continue.

Q31. Which, if any, of the following types of entities allow you to attend events or enter locations that are not open to the general public upon your presentation of press-issued identification, without requiring a separate credential? Some examples of events and locations include police scenes, closed meetings or conventions, press conferences, press galleries, or backstage areas.

- ☐ White House/U.S. Executive Branch
- ☐ Governor's Office/State Executive Branch
- ☐ U.S. Congress (Senate or House)
- ☐ State legislature
- ☐ Particular state agencies or departments
- ☐ Particular federal agencies or departments
- ☐ Municipal government
- ☐ Federal courts
- ☐ State courts
- ☐ Federal law enforcement
- ☐ State-level law enforcement
- ☐ County or municipal law enforcement
- ☐ Fire department or other emergency services
- ☐ Public universities
- ☐ Privately-owned venues (convention halls, stadiums, etc.)
- ☐ Political parties
- ☐ U.S. Military branches
- ☐ Other _____
- ☐ None of the above
- ☐ Don't know/don't remember

Q32. Which, if any, of the following types of entities allow you to engage in newsgathering activities that are prohibited to the general public, upon your presentation of press-issued identification, and without requiring a separate credential? Some examples of newsgathering activities include asking questions at a press conference, or using recording equipment in courtrooms.

- ☐ White House/U.S. Executive Branch
- ☐ Governor's Office/State Executive Branch
- ☐ U.S. Congress (Senate or House)
- ☐ State legislature
- ☐ Particular state agencies or departments
- ☐ Particular federal agencies or departments
- ☐ Municipal government
- ☐ Federal courts
- ☐ State courts
- ☐ Federal law enforcement
- ☐ State-level law enforcement
- ☐ County or municipal law enforcement
- ☐ Fire department or other emergency services
- ☐ Public universities
- ☐ Privately-owned venues (convention halls, stadiums, etc.)
- ☐ Political parties
- ☐ U.S. Military branches
- ☐ Other _____
- ☐ None of the above
- ☐ Don't know/don't remember

VII. FAILURE TO RECOGNIZE CREDENTIALS

The following questions ask about whether you have been denied access to events or locations, or otherwise forbidden to gather news, despite presenting credentials or identification that should have allowed you to engage in such activity. Please click below to continue.

[Q34 PRESENTED IF RESPONDENT (1) SELECTS "Yes" FOR ANY ROW IN EITHER Q28 OR Q29, OR (2) DOES *NOT* SELECT EITHER "None of the above" OR "Don't know/don't remember" IN Q31, OR (3) DOES *NOT* SELECT EITHER "None of the above" OR "Don't know/don't remember" IN Q32]

Q34. Since December 2007, have you been either:

- denied entry to a location or event, or
- denied the ability to engage in particular newsgathering activity,

despite presenting credentials or identification that should have allowed you to do so?

- o Yes
- o No
- o Don't know/don't remember

[Q35 PRESENTED IF RESPONDENT SELECTS "Yes" IN Q34]

Q35. Which entities or organizations have denied you entry or the ability to engage in newsgathering despite your credentials or identification, as discussed in the prior question? (Check all that apply.)

- ☐ [Options populated based on selections in Q28, Q29, Q31 and Q32]
- ☐ Other (describe) _____

[Q36 PRESENTED IF RESPONDENT SELECTS "Yes" IN Q34]

Q36. For each entity that denied you entry or the ability to engage in newsgathering despite your credentials or identification, please identify the reason(s), as you understand them, why your credentials or identification were not recognized. (Check all that apply.) Note that this question is optional and can be skipped, but your responses are appreciated.

	Safety concerns	Concerns about privacy or sensitive information related to event	Concerns about available space for media representatives	Preference given to other media organizations	Personal dislike of journalist or media outlet	Personnel at scene did not recognize ID/ credential	Confusion at scene prevented presentation of ID/ credential	Allegedly failed to follow procedures required by personnel at scene	No explanation given	Other (please specify)
[ROW OPTIONS POPULATED BASED ON SELECTIONS IN Q35]	☐	☐	☐	☐	☐	☐	☐	☐	☐	[TEXT FIELD]

VIII. PRESS DISTRIBUTION LISTS

The next set of questions in this survey relates to state, county and local government bodies that maintain press distribution lists for the sharing of information with members of the media. These questions ask about your experience with requesting to be placed on such lists. Please click below to continue.

Q38. At any time after December 2007, have any of the following state, county, or local government bodies in your area maintained a press distribution list? (Check all that apply.) For the purposes of this survey, a "press distribution list" is a list of newsgatherers or press organizations to which a government body provides information or press releases without requiring a formal request for public records.

- ☐ Governor's Office/State Executive Branch
- ☐ State legislature
- ☐ Particular state legislative or executive agencies
- ☐ Municipal government
- ☐ State courts
- ☐ State-level law enforcement
- ☐ County or municipal law enforcement
- ☐ Fire department or other emergency services
- ☐ Public universities
- ☐ Other (describe) _____
- ☐ Not aware of any state, county, or local government bodies that maintain a press list

[Q39 PRESENTED IF RESPONDENT DOES *NOT* SELECT "Not aware of any state, county, or local government bodies that maintain a press list" IN Q38]

Q39. Since December 2007, have you or your organization had a request to be on a press distribution list denied by any of these organizations?

	Request to be on list denied	Request granted	Have not requested to be on list	Don't know/ don't remember
[ROW OPTIONS POPULATED BASED ON SELECTIONS IN Q38]	O	O	O	O

[Q40 PRESENTED IF RESPONDENT SELECTS "Request to be on list denied" FOR ANY ROW IN Q39]

Q40. Please state why, to the best of your knowledge, your request to be on a press distribution list was denied by the following organizations. (Check all that apply.) Note that this question is optional and can be skipped, but your responses are appreciated.

	Not considered by issuer to be a "true" or qualified journalist	Media outlet not considered by issuer to be a "true" news organization	Journalist/media outlet perceived to be "unfriendly" to the issuing organization	Did not possess media credentials from the organization	Denied based upon alleged misconduct	Denied without explanation	Other (please specify)
[ROW OPTIONS POPULATED BASED ON SELECTIONS IN Q39]	O	O	O	O	O	O	[TEXT FIELD]

IX. POLICY QUESTIONS.

The final set of questions asks for your personal opinions on certain issues. Please click below to continue.

Q42. In circumstances where a limited number of media credentials are being issued for a particular event, how would you prefer that credentials be allocated?

- o By lottery
- o First come, first served
- o Preference for media outlets with larger circulation
- o Other _____
- o No opinion

Q43. How important are media credentials to your own newsgathering activity (0 is least important, 10 is most important)? [RESPONSES ENTERED BY USING DIAL TO SELECT NUMBER FROM 0 TO 10]

APPENDIX B: Division of States plus the District of Columbia and Puerto Rico by Employment Rate of Journalists, and Distribution of Respondents by State

Specific categorization of the employment rate for each state was determined by first examining the distribution of employed journalists as represented in U.S. Bureau of Labor Statistics data for May 2012 (*see* Figure 1). Because the distribution was positively skewed, the states were categorized using median and quartiles instead of arithmetic mean and standard deviation. The median was 575, 25th percentile (Q1) was 290 and 75th percentile (Q3) was 930. Therefore, states with between 0 and 289 employed journalists were considered to be low employment states, between 290 and 930 as moderate employment states, and 931 and higher as high employment states.

Numbers in parentheses represent survey respondents from each region.

LOW EMPLOYMENT RATE	MODERATE EMPLOYMENT RATE	HIGH EMPLOYMENT RATE
Alaska (4)	Alabama (5)	California (136)
Delaware (2)	Arizona (26)	District of Columbia (53)
Hawaii (5)	Arkansas (12)	Florida (49)
Maine (17)	Colorado (22)	Illinois (48)
Montana (5)	Connecticut (28)	Iowa (9)
Nevada (9)	Georgia (26)	Massachusetts (82)
New Hampshire (7)	Idaho (2)	Michigan (17)
New Mexico (19)	Indiana (12)	New Jersey (28)
North Dakota (1)	Kansas (8)	New York (133)
Rhode Island (6)	Kentucky (12)	Ohio (35)
Vermont (7)	Louisiana (10)	Pennsylvania (46)
Wyoming (0)	Maryland (46)	Texas (51)
	Minnesota (28)	
	Mississippi (7)	
	Missouri (23)	
	Nebraska (7)	
	North Carolina (22)	
	Oklahoma (8)	
	Oregon (20)	
	Puerto Rico (2)	
	South Carolina (9)	
	South Dakota (2)	
	Tennessee (17)	
	Utah (7)	
	Virginia (46)	
	Washington (22)	
	West Virginia (5)	
	Wisconsin (25)	
82 Survey Respondents	**459 Survey Respondents**	**687 Survey Respondents**