

Nevada Shield Law—Revised

Stephen Bates and Allen Lichtenstein 5/28/14

current:

NRS 49.275 News media. No reporter, former reporter or editorial employee of any newspaper, periodical or press association or employee of any radio or television station may be required to disclose any published or unpublished information obtained or prepared by such person in such person's professional capacity in gathering, receiving or processing information for communication to the public, or the source of any information procured or obtained by such person, in any legal proceedings, trial or investigation:

1. Before any court, grand jury, coroner's inquest, jury or any officer thereof.
2. Before the Legislature or any committee thereof.
3. Before any department, agency or commission of the State.
4. Before any local governing body or committee thereof, or any officer of a local government.

May 2014 draft:

1. "Journalism" means gathering, preparing, collecting, photographing, filming, recording, writing, editing, reporting, or publishing information concerning matters of potential interest for dissemination to a segment of the public, in any medium of expression that currently exists or shall exist in the future.

2. "Legal proceeding" means any hearing, trial, or investigation:

- (a) before any court, grand jury, coroner's inquest, jury, or any officer thereof;
- (b) before the Legislature or any committee thereof;
- (c) before any department, agency, or commission of the State; or
- (d) before any local governing body or committee thereof, or any officer of a local government.

3. In any legal proceeding, no person or entity engaged in activities of journalism may be required to disclose any published or unpublished information related in any way to activities of journalism engaged in by any person or entity.

4. A party issuing a subpoena in any legal proceeding to a third party that seeks the records of a person or entity engaged in activities of journalism shall provide notice of the subpoena to the person or entity at least five days before issuing the subpoena. The notice shall include, at a minimum, an explanation of why the requested records will be of material assistance to the party seeking them and why alternate sources of information are not sufficient to avoid the need for the subpoena.

5. In the case of a person or entity whose activities do not fall within the definition of "journalism" set forth in subsection (1), a judge may exercise discretion to apply the provisions of subsections (3) and (4) if the judge determines that doing so would serve the interest of justice by aiding or protecting activities related in any way to the dissemination of information.

April 2014 draft:

1. “News organization” means a newspaper, periodical, press association, radio station, television station, online source of information about current events, or book publisher.

2. “Journalist” means a reporter, editor, writer, researcher, photographer, videographer, or editorial worker, currently or formerly employed by or under contract to a news organization, or whose work appears in one or more news organizations.

3. “Legal proceeding” means any hearing, trial, or investigation:

(a) Before any court, grand jury, coroner’s inquest, jury, or any officer thereof.

(b) Before the Legislature or any committee thereof.

(c) Before any department, agency, or commission of the State.

(d) Before any local governing body or committee thereof, or any officer of a local government.

4. No journalist may be required to disclose any published or unpublished information obtained, related to, or prepared by such person in such person’s professional capacity in gathering, receiving, or processing information for communication to the public, or the source of any information procured or obtained by such person, in any legal proceeding.

5. A party issuing a subpoena in any legal proceeding to a third party that seeks the records of a journalist or a news organization shall provide notice of the subpoena to both the journalist and the news organization at least five days before issuing the subpoena. The notice shall include, at a minimum, an explanation of why the requested records will be of material assistance to the party seeking them and why alternate sources of information are not sufficient to avoid the need for the subpoena.

EFF recommends the functional definition in (1) and the safety net in (5), though the language may need tweaking.

I assume that we needn’t define “public,” i.e., audience.

Hal wonders if there’s a way to require payment of attorney’s fees or some such for harassing subpoenas. Helpful?

Is it feasible and worthwhile to include some sort of penalty for anyone who issues a third-party subpoena without the requisite five days’ notice?

I guess that might be possible for the third-party subpoenas

functional approach

1. The term ‘journalism’ means the gathering, preparing, collecting, photographing, recording, writing, editing, reporting, or publishing of news or information that concerns local, national, or international events or other matters of public interest for dissemination to the public.

(House shield law bill)

the term “a representative of the news media” means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.