

The White House Says “Access is a Privilege,” News Outlets Banned

The ongoing legal battle between three news outlets and the Trump Administration uncovers complex Constitutional questions regarding the First Amendment and due process, two crucial protections you have against the federal government.

By GradyFletcher Clark | September 29, 2026



A lone reporter sits in the White House briefing room, on September 19, 2026, a day after President Trump barred MS NOW, CNN, and Politico from the property. (Graeme Sloan via Getty Images)

On September 18, 2026, journalists from CNN, MS NOW, and Politico were stripped of their White House press credentials and blocked from entering the grounds. The news outlets sued three days later, claiming their constitutional rights to free speech and due process were violated; the Department of Justice countered, stating national security fueled the ban. On September 23, U.S. District Judge Timothy Kelly granted a 14-day block on the ban on the grounds of due process but not free speech; *why is that?*

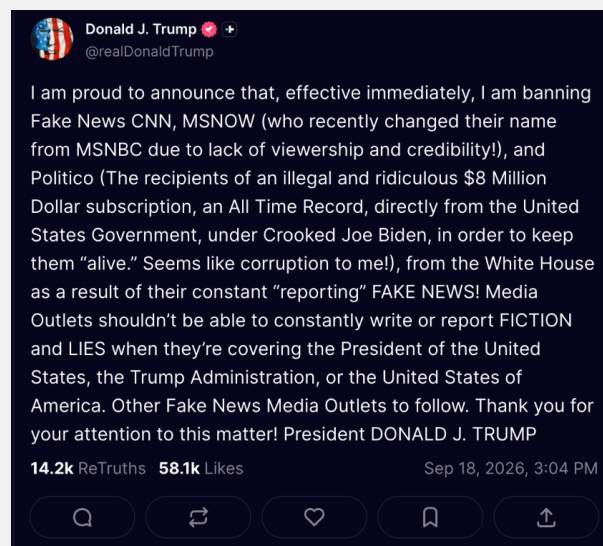
During the Constitutional **Convention**, our founding fathers created the Constitution, establishing an executive, a bicameral legislature, and a judiciary. While not a constitutionally created branch, media organizations and news outlets are an essential part of reporting actions of the government and holding politicians accountable. The Bill of Rights, an extension of the Constitution, enables journalists and reporters to report freely. Similarly, ordinary citizens like you and your neighbor are afforded these same rights. The United States of America, 250 years in the making, has experienced instances in which constitutional rights were expanded and

limited in a court of law. Every decision affects the daily lives of every person in this country, both directly and indirectly. This battle of free speech and due process will shape the interpretation of those rights for a whole generation.

The Timeline of Events

September 18, 2026

President Trump announces in a Truth Social post that CNN, MS NOW, and Politico would be stripped of their press credentials “as a result of their constant ‘reporting’ FAKE NEWS!” The president continues by stating “Other Fake News Media Outlets to follow.”



President Trump’s Truth Social post on September 18, 2026 (Screenshot via Truth Social)

September 21, 2026

Attorneys on behalf of CNN, MS NOW, and Politico announced a lawsuit against President Trump and several White House administration officials, stating in the filed court documents the president banned the plaintiffs “in disregard of the most basic guarantees of the First Amendment and the Due Process Clause.” The attorneys continued by stating the ban was a “blatant violation of our most fundamental constitutional principles.”

The Fox News Channel released a joint statement alongside ABC News, CBS News, NBC News, and CNN stating “the public has a vital interest in receiving accurate, independent organization” and that “No administration should restrict a news organization because it objects to its reporting.”

September 22, 2026

Attorney Michael Velchik, on behalf of the Department of Justice, filed a court document urging a federal judge to deny the **plaintiffs’** request for a temporary restraining order. In the document, DOJ attorney Velchik wrote that the three news outlets published “sensitive or

classified information.” Additionally, the DOJ cited a “non-exhaustive list of reporting incidents” to back the statement.

CNN reports that First Lady Melania Trump approved the press credentials for CNN and Politico a day following her husband’s announcement, allowing them access to the United Nations General Assembly to report on her “Fostering the Future Together” coalition.

September 23, 2026

U.S. District Judge Timothy Kelly granted the three news organizations a 14-day temporary restraining order, which forced the White House to temporarily reinstate the credentials.

September 29, 2026

An attorney on behalf of the plaintiffs filed a motion for a preliminary injunction, asking a federal court to block the ban for the duration of the legal battle, stating “The White House’s words and actions leave little doubt that it will reinstitute a complete ban...if allowed.”

In Defense of President Trump

In the days following the announcement on Truth Social, several politicians voiced support for President Trump’s decision to revoke the three organizations’ credentials.

In a televised interview on September 20, 2026, with NBC News journalist Kristen Welker, Senator John Barrasso (R-WY), the majority whip, stated that “the press has an obligation to report fairly” and that the “president doesn’t see it happening that way.”

“I can’t blame [the president].” Secretary of State Marco Rubio (R-FL) said this to Today co-anchor Craig Melvin on September 22, 2026. He continued by stating he watches American news coverage and “it sounds in some cases, for example, like they’re rooting for Iran,” and that they “downplay every American officials say as wrong.”

Attorney General Todd Blanche told ABC News on September 27, 2026, that being in the White House is a privilege, not a right. AG Blanche claimed the three news outlets posed a national security risk by refusing to report accurate information. When Judge Kelly granted the temporary restraining order and CNN got their credentials back, reporters were denied access to Air Force One. AG Blanche says it is not unusual for any news outlet to be denied access to the president’s plane.

President Obama v. Fox News

In October of 2009, the Obama Administration attempted to exclude the Fox News Network from a pooled interview with executive-pay czar Kenneth R. Feinberg. In an official statement released by former White House Press Secretary Robert Gibbs, the Obama administration did not consider Fox News to be a legitimate news organization. When asked by NBC’s Savannah Guthrie about this decision, President Barack Obama said, “If media is operating basically as a talk radio format, then that’s one thing, and it’s operating as a news outlet, then that’s another.”

Michael Clemente, former Senior Vice President for Fox News, replied to the comment in an official statement saying it was “disappointing that the White House would be so dismissive” to the “hundreds of journalists...deeply committed to their craft.”

In support of Fox News, other news networks including CNN, ABC, CBS, and NBC voiced concern. Ultimately, the White House decided not to exclude Fox News from the pooled interview.



Jen Psaki (Photo by Tony Powell)

Claim: President Biden Revoked Over 400 Press Passes in 2023

U.S. News fact checked this claim against the facts, and found it to be false. There are two types of White House press passes: Hard passes (extended periods of time) and Temporary passes (specific events, or day-to-day basis). In 2023, the White House revised the steps to obtaining a hard pass, which led to a decrease from 1417 hard pass holders to only 975.

Jen Psaki, White House Press Secretary (2021-2022), said in a TikTok video that the claims were a “completely fabricated talking point.”

In Defense of CNN, MS NOW, and Politico

After the news organizations filed suit against President Trump and White House administration, scholars **and politicians chimed into** the matter.

Several legal experts note that the judicial system has long held the government under strict scrutiny. “There has to be a non-arbitrary and compelling reason to restrict access,” Douglas Mirell, a First Amendment lawyer, said on September 22, 2026. He says the government is permitted to restrict reporters but “disagree[ing] with someone’s opinion has never been a compelling reason.”

Lucy Dalglish, a journalism professor at the University of Maryland, states the White House “cannot decide who gets in based on viewpoint or content.”

On September 21, 2026, just days after the president banned the news outlets, Mayor of New York City Zohran Mamdani met with President Trump at Gracie Mansion. At this event, Mayor Mamdani invited all members of the media to cover the joint meeting, saying “I told the president that we’re going to have all of the members of the press here on the lawn.”

The Associated Press v. Budowich

Executive Order 14172—titled Restoring Names That Honor American Greatness—signed on January 20, 2025 by President Trump declared a variety of things. In the document transcribed

by The American Presidency Project, the president declares: “The area formerly known as the Gulf of Mexico has long been an integral asset...I am directing that it officially be renamed the Gulf of America.”

According to the Reporters Committee for Freedom of the Press (RCFP), many companies chose to ignore the executive order; they would continue referring to the body of water off the coast of Mexico and North America as The Gulf of Mexico, including the Associated Press (AP). Less than a month later on February 11, 2025, AP lost access to the Oval Office, Air Force One, and other spaces.

The RCFP summarizes that the White House ensured AP would be reinstated to those spaces once it followed the directive. After it became apparent AP would respect the editorial decisions over the Executive Order, officials revoked AP’s press access to the White House press corps and pool.

On February 21, 2025, AP sued three White House officials citing that the ban was unconstitutional; that the “indefinite denial” was based on “the content and perceived viewpoint of the AP’s reporting and editorial decisions.”

U.S. Judge Trevor N. McFadden—someone President Trump appointed—ruled against the government on April 08, 2025. “Under the First Amendment,” he reasons, “if the Government opens its doors to some journalists...it cannot then shut those doors to other journalists because of their viewpoints.”

What is an Executive Order?

According to Legislative Attorney Abigail Graber, the “U.S. Constitution does not address executive orders and no statute grants the President the general power to issue them.” So what are they?

The American Bar Association summarizes what an executive order is, and what it is not. An executive order is a “signed, written, and published directive from the President of the United States that manages operations of the federal government.” **Executive orders are not legislation, but a later president can revoke them, courts can strike them down, and Congress can override them by passing a law.**

CNN v. President Trump

According to NPR, in November of 2018, the White House suspended CNN Chief White House Correspondent Jim Acosta’s hard pass following a contentious news conference in which Trump called Acosta a “rude, terrible person.” The White House additionally provided a video where Acosta touches a White House intern as evidence for the suspension, but this video was found to be doctored after several media reviews.

CNN filed suit against President Trump, senior White House officials, and the Secret Service soon after, stating the suspension was “an unabashed attempt to censor the press;” that it violated Acosta’s First Amendment right to free speech and his right to due process under the Fifth Amendment.

In court documents, Acosta testifies that having a hard pass is “essential” to his job. He states, “The White House is my workplace.”



Jim Acosta (REUTERS/Photo by Kevin Lamarque)

U.S. District Judge Timothy Kelly—appointed by President Trump—was randomly selected to preside over the hearing regarding the temporary restraining order mentioned earlier in the article, Politico finds. Coincidentally, Judge Kelly presided over the hearing for this lawsuit. After hearing about the issues, he immediately ordered the White House to reinstate Acosta’s credentials, citing a lack of due process. Jim Acosta received his hard pass, so CNN dropped the lawsuit only six days after filing.

The Heart of the Case

The legal battle between President Trump and CNN, MS NOW, and Politico is ongoing and mainly deals with two significant Constitutional concepts, mentioned throughout the article. The first is free speech, derived from the First Amendment. The second is due process, derived from the Fifth Amendment.

Not to be confused with the Due Process Clause of the Fourteenth Amendment, which incorporates due process to state governments (along with other concepts). The Fifth Amendment is applicable to this case because it deals with the federal government.

What Does the Constitution Say?

Amendment I

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

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

What is Free Speech?

The First Amendment protects the following rights from government, federal or state, impediments: 1) Freedom of Speech; 2) Freedom of the Press; 3) Freedom of Religion, the practice and establishment; 4) Freedom to Assembly; and 5) Freedom to Petition.

Since the installment of the Bill of Rights to the Constitution, the very notion of free speech has been widely contested. The following Supreme Court cases, summarized by the American Library Association (ALA) have shaped how attorneys could use free speech violations, and have defined what exactly is protected and what is not.

- **Schenck v. United States (1919)** | The “Clear and Present Danger Test” was created to decide whether speech is protected by the First Amendment.
- **Brandenburg v. Ohio (1969)** | The “Clear and Present Danger Test” got a revision, holding that states could only restrict speech that directed others to participate in “imminent lawless action.”
- **Tinker v. Des Moines Independent Community School District (1969)** | Students did not “shed their constitutional rights at the schoolhouse gate.”
- **Texas v. Johnson (1989)** | The Supreme Court upheld that the burning of the U.S. flag was a form of protected symbolic political speech.
- **United States, et al. v. American Library Association, Inc. et al. (2003)** | Upheld the Children’s Internet Protection Act, requiring libraries receiving certain federal funding to install filters that block access to material considered obscene or child pornography.

From the multitudes of Supreme Court cases, unprotected forms of speech include obscenity, child pornography, defamatory speech, false advertising, true threats, and fighting words.

Additionally, it must be noted that any claim of a First Amendment violation must be directed toward the government, not private individuals or business.

Originally, President Trump reasoned the ban was due to reporting “FAKE NEWS” surrounding his presidency. If this defense had to continue, it would most likely take on a defamation angle in which libel would be the center. Attorneys for Trump would have to prove CNN, MS NOW, and Politico knowingly published written statements that were inherently false.

However, when the DOJ filed documents in support of the ban, the defense switched to national security breaches. This leads to a complex argument surrounding censorship.

What is Censorship?

Censorship, according to the ALA, is the “suppression of ideas and information that some individuals, groups, or government officials find objectionable or dangerous.”

In this case, the DOJ is reporting that CNN, MS NOW, and Politico published information pertaining to national security. In letters sent to each news outlet, the DOJ flagged details relating to the construction of the White House ballroom, East Wing bunker, and munitions stockpiles affected by the Iran war as threats to national security.

This line of reasoning has been used before, infamously in the scandal that plagued President Richard Nixon’s political career.



The Times published the first installment of the Pentagon Papers, a top-secret history of the Vietnam War, on June 13, 1971. Credit: The New York Times Corporate Archive

The Pentagon Papers, originally titled “Report of the Office of the Secretary of Defense Vietnam Task Force,” was commissioned by former Secretary of Defense Robert McNamara in 1967.

According to Britannica, these papers contained sensitive information about the U.S. role in Indochina from World War II until May 1968. American political activist, economist, and U.S. military analyst Daniel Ellsberg leaked the papers to *The New York Times* who began publishing information related to the papers.

The Washington Post also had access to the papers. The Nixon Administration went to court in an effort to block the news outlets from publishing classified information.

In the proceeding Supreme Court case, **New York Times Co. v. United States (1971)**, reaffirmed the freedom of the press to criticize the government and check abuses of power. Justice Hugo Black argued that “only a free and unrestrained press can effectively expose deception in government.” He then rejects the idea of prior restraint.

What is Prior Restraint?

The First Amendment Clinic of the School of Law, a member school of the University of Georgia, defines prior restraint as “a type of censorship where speech or expression is stopped before it occurs.”

In this case, the Nixon Administration attempted to censor the news outlets when they went to a federal judge to stop publication before it happened.

What is Due Process?

The founders took time to establish that the government cannot take away a person’s unalienable rights—life, liberty, or property, **as the Fifth Amendment puts it**. Written in the Constitution, due process takes on two forms according to the American Civil Liberties Union: procedural due process and substantive due process.

Procedural due process explains how the government must follow a set procedure when attempting to take away someone’s unalienable rights. When a cop reads a suspect their Miranda Rights, they are following due process.

Substantive due process explains how the government must provide a compelling reason before taking away someone’s unalienable rights, regardless of the process that follows. The plaintiffs are most likely arguing that the **procedural** due process was not provided.

In the ongoing case against President Trump, the plaintiffs state the credential removals occurred “without notice or process” in a joint statement. The White House Press Office did send letters providing reasons for the ban a few days after the ban took effect.

This is also why Judge Kelly ruled on due process and not free speech. Courts have long required the White House to give reporters notice and a chance to respond before revoking a press pass, as Kelly himself did in the Acosta case, so he could block the ban on that narrower ground without deciding the First Amendment question.

There are not many court cases that deal with substantive due process violations; procedural due process is more commonly contested in appellate courts. However, the recent Supreme Court case **Dobbs, et. al. v. Jackson Women’s Health Organization et. al. (2022)** fundamentally was a substantive due process case. It was held in the Supreme Court Document that the people and their elected representatives had the authority to regulate abortion, overturning **Roe v. Wade (1973)**.

What's Next?

As of September 29, CNN, MS NOW, and Politico have been reinstated access to the White House grounds after Judge Kelly granted a 14-day block on the ban; this expires on October 08, 2026. The news organizations have officially filed a motion for a preliminary injunction to prevent the ban for the duration of the legal battle, and a decision is expected to be made before the expiration date. **THIS CASE IS ONGOING.**

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