

JOURNALISM PROTECTION INITIATIVE

Board Engagement

For Nonprofit Media

Carroll Bogert • April 28, 2025

US Press Freedom Series

The Journalism Protection Initiative at the Craig Newmark Graduate School of Journalism is commissioning a series of briefing papers from top experts to address emerging threats to press freedom in the United States and fill gaps in knowledge and understanding.

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Talking with your board about potential threats

Leaders of nonprofit newsrooms are understandably concerned about growing threats to their operations and to their staff. **This memo offers guidance on how to talk with your board of directors.** In the event of a lawsuit or other existential threat, they will play a pivotal role. They bear fiduciary responsibility for the organization and carry legal obligations that may come into play.

Discussing potential threats in advance and preparing your board for an array of possibilities will make them better able to deal with any crisis, should it come.

In your conversations with your board, be sure to project your own authority, knowledge, and preparedness. Many people are feeling emotional these days and may overreact to a briefing that really frightens them. Reaffirm your operational leadership, and their strategic role – as well as their need to take decisions collectively. No individual board member should act on their own.

Only you can judge the personalities on your board. Study up on the elements below and go into the board meeting better informed than anyone else in the room.

Let your board know that you've got their back. Lay out the resources available to them if they are personally attacked, some of which are described below.

Some board members may find the crisis beyond their capacity or willingness to handle, and resign. You'll need to ensure that the minimum number of board members stay to make necessary decisions, and may want to have additional board members available to appoint if you see a risk that too many will resign.

You know your board better than anyone; calibrate your briefing accordingly. But remember: you can't pull any punches. Your board has to be informed. It's a moral imperative, and a legal one.

Many nonprofits are still getting off the ground and have not had time to pull together professionalized boards. Some may be relatively informal groups of fellow journalists and friends. Whoever is on your board, this current climate may give you a chance to professionalize its operations. Never waste a crisis. **Your board should come out of this process stronger, more united, and more devoted than ever to your mission.**

You'll want to discuss a range of potential threats, including

- lawsuits and the insurance policies that protect you from them;
- possibly investigations by regulatory agencies;
- DEI vulnerabilities; and
- doxxing and harassment

This memo offers some suggestions for how to frame those threats with your board, and the key elements to consider. But first: let's get ready for that board meeting.

Elements of the Board Conversation

1. **Put a discussion of potential threats on the agenda of your next board meeting.** Be sure to allot enough time. Talk with your board chair in advance and agree on how to present each item. See the summary of key threats below.
2. **Start an audit of your board materials to make sure you're in compliance.** An outside lawyer or tax specialist should review things like your 501c3 founding documents; your audits; your tax documents including 990's; your employment policies; the minutes of your board meetings. Board minutes should include any decisions actually taken by the board, but otherwise be brief. Audits may go back seven years.
3. **Call an insurance broker.** Insurance policies are notoriously difficult to understand. Consider having the insurance broker give a briefing to your board about what your policies cover. Make sure your broker briefs you first so you can answer any questions. Directors & Officers insurance will be of special interest to your board because it protects their personal assets from any lawsuits involving your newsroom. See the summary of the key insurance issues below.
4. **Get a lawyer, and make sure your board knows who they are.** You might want the lawyer to attend your board meeting on preparedness. That will ensure that their advice to you remains “privileged and confidential” – in other words, protected from discovery in a lawsuit. You may be consulting different lawyers for different things, like pre-publication libel review; tax issues and compliance; employment issues; contract review. Be clear on which lawyer you're going to call in an emergency. This memo, by the way, does not constitute legal advice.
5. **Establish parameters for board communications.** Your board should be careful what they put in writing. They should not be on your Slack or newsroom email listservs. Consider using Signal for board communications – it's much better protected than Zoom and will not leave a record. If you do use Zoom or a similar service, do not let it make recordings or AI transcriptions of your board meetings.
6. **Lay out a comms plan for different kinds of threats.** Make sure everyone understands that only you and the board chair are allowed to speak publicly in any crisis. No side chatter. Board unity is critical in a crisis, and you may have to spend time talking with “dissidents” and bringing them on board. Take an inventory: do board members know anyone who could be useful in a crisis: PR consultants; prominent columnists or media personalities; important politicians of both parties; other critical decision-makers?

7. **Discuss when you would sign a joint statement in defense of another news outlet under threat.** This may come up quickly and you want them to be ready to make a decision. Your policy on defending colleague organizations should be transparent and consistent. To take one example: your board might articulate a policy that you do not make public statements, but you do sign on to legal briefs – and that the decision to do so is made by the executive director at the recommendation of outside counsel and in consultation with the board chair. Or perhaps your board might want to be proactive, for example if outlets with whom you co-publish come under attack. Other elements to consider: whether you have sufficient information about the case and understand the risk you'd be taking; whether your voice will matter; and whether the media outlet actually wants the help of outsiders.

Key Threats for Board Discussion

Lawsuits are more numerous now

Major news outlets find themselves defending against a larger number of lawsuits than in the past. Even smaller nonprofits need to prepare for the greater possibility now of being sued. You may think you're too small to attract the attention of the U.S. government. But some parties may seek to prove to the White House that they have anti-media bona fides. You could be a target.

This is why your insurance policies are so important. There's some concern that plaintiffs may try tricky new maneuvers like consumer fraud statutes. They would try to argue that you peddled false information in an attempt to drum up traffic and revenue, and therefore defrauded the consumer. Most judges would recognize this as a defamation suit dressed up in other garb, and you'd have a good chance at dismissal. But such lawsuits are a nuisance, and it still takes time and money to get a dismissal. Check whether your media liability insurance covers you for such suits.

Familiarize yourself with any anti-SLAPP laws in your state – and whether there are efforts underway to dismantle them. Remember that you can also be sued in another state without anti-SLAPP laws, if you report on that state.

Regulatory agencies may come after you

Opinions differ about the likelihood of the IRS trying to revoke 501c3 status from nonprofit media. If it happened, or if a state regulatory agency found you out of compliance with nonprofit status, you would presumably want to hire a lawyer to fight it. Be sure you know who that would be, and consider how you would frame any public statements about it. If you were to lose your nonprofit status, are there other forms your newsroom could take: an LLC (limited liability company)? A fiscally-sponsored organization under the umbrella of another entity, like a community foundation?

State agencies can also decide to launch an investigation into your operations, and compel you to produce an exhausting array of documents. This is why it's so important to begin an audit of your compliance right away – they'll be looking for anything amiss.

Being hauled before a local or federal investigating committee will take a huge amount of preparation and distract you from your journalism. Make sure your insurance covers all the work it will take to respond to any investigation (see the summary of key insurance issues below).

Attacks on diversity, equity, and inclusion policies seem to be working

Some universities, companies, and law firms have dropped their public DEI commitments under pressure, and media outlets could be next. You might consider rephrasing your organization's public commitment to DEI. Remember to check your union contracts, job descriptions, board materials, and 990's. Do it discreetly. All of them may contain language about DEI that would previously have been considered anodyne.

You may want to have conversations with the board and staff about how your commitment to the strongest possible workplace will continue regardless of the language you use publicly to describe it.

Beware of doxxing and harassment.

It's not just your own staff – your board could also be targeted. Make sure they are emotionally prepared for such a disturbing eventuality, and know what to do if that happens. Let them know about products such as DeleteMe that will scrub their contact details off the web.

You might want to weigh the desirability of taking personal information about them, such as photographs and addresses, off your website. That may help protect board members, but it's bad for transparency. Remember that their names must be listed on your 990's, which are public.

Legal Resources for Nonprofits

EXTERNAL SUPPORT

[Reporters Committee for Freedom of the Press](#): A nonprofit organization that provides legal assistance, resources, and advocacy to support the rights of journalists and news organizations and operates [a legal hotline 24/7](#).

[Lawyers for Reporters](#): A pro bono legal service that provides transactional and pre-publication legal assistance to local and nonprofit news organizations, helping them navigate media law challenges. It also operates [Reporters Shield](#), a membership-based insurance legal support program.

[Media Law Resource Center](#): A membership-based organization that offers legal resources, training, and support for media professionals, focusing on issues like libel, privacy, and freedom of the press.

[First Amendment Coalition \(FAC\)](#): Provides legal assistance, advocacy, and resources to protect press freedom, open government, and First Amendment rights.

[Legal Network for Journalists at Risk \(LNJAR\)](#): A global coalition that connects journalists facing legal threats with pro bono legal assistance, advocacy, and emergency support to protect press freedom.

[Student Press Law Center \(SPLC\)](#): Offers free legal advice and resources to student journalists and educators on media law and First Amendment issues.

Key insurance issues for board discussion

Insurance policies are often incredibly complicated and hard to understand. **Contact your insurance broker** and potentially have them join a board meeting to help explain your policies and how the market works. If you don't have insurance yet, [Reporters Shield](#) offers policies for smaller newsrooms that are not currently covered.

More coverage is not always better. Some newsrooms have recently looked into increasing their insurance coverage, and found that they wouldn't get much more benefit from the additional cost. Don't panic-buy.

Media liability coverage

Libel insurance covers the content of what you publish, including articles and social media feeds. It should cover your reporters and editors, as well as the organization itself.

Typically, board members are not named in a libel case where the plaintiff is arguing that they were harmed by something you published. That could change, since people are filing wilder suits these days. But you have other insurance for that (see below).

Check whether your insurance gives you the right to choose your own lawyer, and where they would cap the rate that any lawyer can charge. Language about the "duty to defend" is often a red flag signaling that the insurer has the right to choose your lawyer. You don't want that, if you can avoid it.

Be sure that your libel insurance also covers SLAPP suits (strategic lawsuit against public participation). Most states have anti-SLAPP legislation, but you may need a lawyer to represent you in court to get the suit dismissed under SLAPP. This should include lawsuits based on consumer fraud or tortious interference, which the court should understand as a defamation suit parading under another name. Check that your libel insurance will cover you from such suits.

Copyright infringement claims are generally covered by your media liability insurance.

Directors and Officers insurance

This is the insurance that covers your board, and protects their personal assets from risk of lawsuit for damages. Ask your broker or insurer exactly which officers of the organization, such as yourself, are personally covered in addition to your board members.

Check if your D&O insurance includes investigative coverage, which will cover your legal costs if you are called before a Congressional committee or other official hearing. Other terms to look for are “books and records coverage,” “production of documents,” and “pre-claim inquiry” coverage. If a regulatory agency wants seven years of records, you may need help just pulling all that material together. Check whether your coverage will only pay for a lawyer, or whether it includes “other expenses” that could cover document production.

While you’re at it, check your cyber insurance. Ideally it should cover both a ransomware attack (when your data is captured and ransom is demanded) and a denial of service attack (when someone brings down your website by overwhelming it with demands).

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