

Is White House Press Access a Constitutional Right?

On the evening of November 7, administration officials suspended CNN White House correspondent Jim Acosta's "hard pass." A hard pass allows its holder "access to areas designated for journalists in the West Wing, on Air Force One, and in other secured areas during presidential trips, which are routinely covered by the White House press corps."

The suspension followed a combative press conference during which US president Donald Trump repeatedly slammed reporters, referring to Acosta as "an enemy of the people," and during which Acosta refused to hand a White House mic back to the intern who came to collect it when his haranguing — er, questioning — time ran out and either (depending on who you ask) accidentally brushed, or intentionally struck, the intern.

On November 13, CNN sued Trump and several other White House officials, accusing them of violating Acosta's First Amendment (freedom of the press) and Fifth Amendment (due process) rights.

Insofar as the White House has specific and supposedly objective standards for granting hard passes to reporters, Acosta might indeed have a due process claim if yanking his pass didn't conform to those standards. The First Amendment claim, on the other hand, seems pretty sketchy.

The First Amendment protects not only a free press but freedom of speech, freedom of religion, and freedom of peaceable assembly to petition the government for redress of grievances.

Does this mean that anyone who wants to report, speak, pray or just have a non-violent political get-together must be allowed to do so at the White House, on demand?

Well, maybe so. In Thomas Jefferson's time, Americans could stroll the White House grounds at will and even visit with the president and first lady at lunchtime or after each day. Of course, things have changed since then, but I have no problem with the principle of the thing. The White House supposedly belongs to "the public." Why shouldn't we drop in any time we please?

That, however, is not what CNN contends. They're not upset that you and I can't plop ourselves down in White House press room chairs and start firing off questions at the president any time the spirit moves. Their lawsuit argues, rather, that because CNN is a popular cable channel and its White House correspondent is very special and important, Jim Acosta is entitled to a chair, a desk, and face time with Donald Trump.

I suspect a lawsuit on similar supposed First Amendment claims from, say, Caitlin

Johnstone, Alex Jones, Chris Hedges, or the “White House Correspondent” of a small-town Kentucky newspaper would get laughed right out of court (and out of the “mainstream press”), even if they all agreed to hand the microphones back over when their time ran out.