



## Thought Police and Environmental Activism

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American history has been marked by passionate and sometimes even bitterly divisive debate that, remarkably enough, has actually made our nation stronger and more just, precisely because of our ability to express ourselves freely.

That is largely the reason that virtually all the journalism courses I teach begin with an exploration of the First Amendment and the central role it plays in our society. In my view, as a journalist and as a citizen, the freedoms it protects – to petition our government with grievances, to speak openly without fear of reprisal, to maintain a vibrant press and to worship according to our conscience – not only defines our unique democratic tradition, but allows us to hold a mirror up to ourselves when we have fallen short of our own ideals.

It is against this backdrop that a troubling campaign has been unfolding in the name of protecting the environment, a cause that I myself support. Led by activist groups like Bill McKibben's [350.org](http://350.org), this campaign is singled out for criticism think tanks and other organizations that have raised questions about climate change and its origins. But that, in and of itself, is not what troubles me.

What troubles me is that that these groups have convinced a handful of state attorneys general, including Eric Schneiderman of New York and Claude Walker of the U.S. Virgin Islands, to use the powers of their office to target these groups – precisely because of the views they expressed – as part of a broader effort to build a case against the energy industry for so-called climate crimes.

For anyone who values the First Amendment, perhaps the most distressing news came over a week ago when reports surfaced that Virgin Islands attorney general has demanded copies of communications between ExxonMobil, the target of his case, and 90 prominent non-profit groups regarding research or advocacy the groups had done on climate policy.

The organizations include conservative and libertarian think tanks that I generally do not agree with, including the Heritage Foundation, the Cato Institute, the Federalist Society, the Hoover Institution, the Reason Foundation and the Mercatus Institute. But I have grave reservations, given the chilling effect such a move has on free expression.

Consider a subpoena issued to the libertarian Competitive Enterprise Institute. It asks for nearly all the research and other documents the group has involving climate change and energy policy over 10 years beginning in 1997, as well as information on any donors who directly or indirectly supported that work.

Ostensibly, the aim of this subpoena and others like it is to find evidence of a climate hoax directed by ExxonMobil, a former CEI donor that stopped supporting the group after 2005. But this use of government power has been condemned as little more than an effort to silence political opponents.

Hans von Spakovsky, a senior legal fellow at Heritage who previously served on the Federal Election Commission, described the subpoenas as “truly outrageous abuse of [the attorney general’s] authority and a misuse of the law.”

“This investigation is intended to silence and chill any opposition,” von Spakovsky continued. “It is disgraceful and contemptible behavior by public officials who are willing to exploit their power to achieve ideological ends.”

I am not going to go argue that this effort is entirely motivated by politics, or that it is a fishing expedition in search of any evidence to prop up a legal case. But I will say that this effort does seem to run contrary to past court rulings that have tossed out overly broad subpoenas that stifled free expression, particularly in policy debates.

Closer to home, I have had to cover hundreds of stories and conduct many interviews involving people, including right-wing conservatives with whom I staunchly disagree. But as troubling as I found some of these views, I have always worked under the belief that my subjects has as much right to express their views as I had in contributing to a press that is free.

As this complicated and politically polarizing case plays out in the months to come, let us hope that the elected leaders involved remember an important — and slightly obvious — principle that may be easy to forget when passions run high: The First Amendment is there to protect unpopular speech; not popular speech. That way, our nation is better served.