



## Durbin under First Amendment fire

Kathryn Watson / October 30, 2013

Thanks to his unpopular efforts to limit reporters' rights and interrogation of private organizations, Sen. Dick Durbin is getting blasted in some unusual places.

Sen. Ted Cruz, R-Texas, during a Senate judiciary committee meeting on "stand-your-ground" laws Tuesday scolded the Illinois Democrat for supposedly suppressing free speech by sending letters to scores of private organizations and demanding information about their involvement with the American Legislative Exchange Council.

The scolding came just weeks after Durbin was criticized, in an unrelated matter, for narrowly defining journalists in a proposed media shield law. To be protected under the proposed law, a person must be a paid journalist for at least a minimum number of months, automatically excluding anyone who isn't producing journalism for a living, and even some professional journalists.

In other words, the politicians being held accountable by the Fourth Estate are also the ones deciding who comprises the Fourth Estate.

"It's a tough definition," Durbin said when Watchdog.org asked him after Tuesday's hearing why he thought the narrow definition was appropriate. "It's really hard. And we understand freedom of speech, there's no question about that."

"The question is about whether or not you need to disclose your sources, and whether you fit into the definition of a journalist," Durbin said. "And that has changed so dramatically because of the way people get their news today and how news is reported. So we tried to come up with a definition. And I think it's good. I could raise a lot of questions about it, but I think we reached a good compromise."

But that "compromise" isn't rubbing everyone the right way.

"It rubs me the wrong way that the government thinks it should be in the business of determining who should be considered a journalist," Ken Bunting, executive director of the National Freedom of Information Coalition at the Missouri School of Journalism, told Watchdog.org in August.

But in Tuesday's hearing, Durbin was targeted for supposedly intimidating private organizations.

This summer, Durbin sent letters to scores of organizations he believed were affiliated with the American Legislative Exchange Council, a think tank that, with the help of some lawmakers, helps craft model legislation. ALEC and other organizations have come under attack ever since “stand-your-ground” laws were tied to the Trayvon Martin case — even though the law had little bearing on George Zimmerman’s Florida trial.

Ilya Shapiro, an expert with the libertarian-leaning Cato Institute who testified before the Senate subcommittee in defense of “stand your ground” laws, pointed out that his own organization was targeted.

“Finally, I should mention one episode that’s been attributed to the sensationalism surrounding this debate — the attempt to intimidate organizations with any ties to the American Legislative Exchange Council,” Shapiro said, submitting Durbin’s letter to Cato and the response from Cato’s president and CEO John Allison, along with his testimony.

Durbin also sent a letter to Watchdog.org’s media parent, the Franklin Center for Government and Public Integrity.

Ranking subcommittee member Cruz jumped at the chance to bolster Shapiro’s comments, saying multiple organizations have submitted letters to him, concerned about the “targeting of ALEC in conjunction with this hearing.”

“It gets downright cumbersome when senators have you on their enemies’ lists,” Cruz said. “And it would be wrong for a U.S. senator to use the power of his high federal law office as a cudgel against his enemies, and I certainly hope that this Senate hearing has not become an avenue to suppress free speech.”

Durbin said he never intended to “establish any chilling effect on political participation.”

“There are many victims of stand-your-ground laws,” Durbin said. “ALEC isn’t one of them. I asked those who were publicly identified as supporters of this organization if they supported this “stand-your-ground” law. Only one out of 140 that responded said they supported it. I’m not going to enter the names of these organizations into the record for the very point that was made by the senator from Texas.”

The question left unanswered: Did organizations fail to respond because they don’t support “stand your ground laws” or because they felt intimidated?