



# nefac

annual review 2015

New England **First Amendment** Coalition

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## OUR MISSION

The goal of the New England First Amendment Coalition is to defend, promote and expand public access to government and the work it does. The coalition is a broad-based organization of people who believe in the power of transparency in a democratic society. Its members include lawyers, journalists, historians, librarians and academics, as well as private citizens and organizations whose core beliefs include the principles of the First Amendment. The coalition aspires to advance and protect the five freedoms of the First Amendment and the principle of the public's right to know, in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. In collaboration with other like-minded advocacy organizations, NEFAC also seeks to advance understanding of the First Amendment across the nation and freedom of speech and press issues around the world.

Government accountability requires an informed citizenry and a vigorous free press. Since its founding, NEFAC has been providing the tools needed to keep the public informed and our First Amendment strong. We need your help sustaining the effort. Thank you for your support.



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**01.06.15** | Maine Judge Bars Reporting of Court Testimony, NEFAC Denounces Pre-Publication Censorship

“This pre-publication censorship is a strike to the First Amendment and the public’s right to know about its court system and those accused of crimes. It is extremely concerning that a judge of this stature would disregard such fundamental First Amendment protections in issuing this order.”

**01.23.15** NEFAC, Media Organizations Argue For Release of Mugshots Taken By U.S. Marshals Service

**03.11.15** NEFAC Calls for Correctional System Transparency, Reintroduction of Private Prison Information Act

**03.11.15** NEFAC Concerned About Criminal Record Access, Mass. Decisions to Allow Withholding of Arrest Info

“This is information that should be public, particularly when it involves a police officer. Our public records law exists so citizens can better monitor their government, including their law enforcement. Decisions about releasing records shouldn’t be made solely by those who have a strong interest in withholding those records.”

**03.12.15** NEFAC, Alliance Urge Passage of Mass. Public Records Modernization Bill

**03.15.15** NEFAC Joins National Sunshine Week Celebration, Calls for FOIA Reform and State-Based Advocacy

**04.13.15** Coalition Sponsors Egyptian Comedian Bassem Youssef Discussion on Role of Satire in Changing International Landscape

**04.20.15** NEFAC Announces Additions to Leadership; Journalism, Communication Experts Join Board

**04.22.15** NEFAC Files Amicus in Mass. Political Speech Case: Statute Presents ‘Grave Concerns’ to Press Freedoms

This potentially ascribes liability to publishers of third-party information, even when the public well understands that they are not the originators of that speech. Newspapers routinely carry letters to the editor, advertisements and other forms of third-party media. Under one reading of Section 42, a newspaper could be responsible for any and all falsehoods in those pieces.”

**05.15.15** NEFAC Urges Conn. Legislators to Support HB 6750; Original Arrest Records Bill ‘Strikes Right Balance’

“For two decades, Connecticut citizens relied on § 1-210(b)(3) of the state’s FOI statute to govern the public’s access to criminal records. . . . The Supreme Court last year, unfortunately, tipped the scale in favor of secrecy by ruling that a different section of the FOI statute governed requests for criminal records.”

**05.06.15** New Mass. E-Filing, Online Court Record Policies Require Public Oversight and Improved Press Access

“These records are essential to the public’s understanding of the judicial system. While changes in technology can make it easier for citizens to access public records, innovation may also unintentionally inhibit that access. We want to make sure the long-standing tradition of public access to court records is maintained.”

**05.26.15** NEFAC Testifies in Support of Public Records Bills; Director Cites Lack of Access and Need for Reform

“The ability to gather news and inform communities, to understand government and engage with elected leaders, is essential to the democratic process.”

## 2015 NEW ENGLAND FIRST AMENDMENT AWARDS

NEFAC hosted its fifth annual New England First Amendment Awards luncheon on Feb. 20 in Boston, honoring former federal judge Nancy Gertner with its 2015 Stephen Hamblett First Amendment Award. The award is named after the former publisher of the Providence Journal and given to an individual who has promoted, defended or advocated for the First Amendment. During the luncheon, we also honored slain journalist James Foley with our annual Freedom of Information Award and announced the James W. Foley Scholarship, which would allow a local journalist to attend our New England First Amendment Institute each year at no cost. Harriet Cady, a long-time open government advocate from New Hampshire, received our Antonia Orfield Citizenship Award.



“For the most part, state courts all across the country have been dealing with cameras for almost 40 years and the republic still stands.” Nancy Gertner



“We need to protect each other. Otherwise, there is no freedom of the press. We can talk about it, but if we don’t protect it, then it’s not going to be there.” John Foley

## WHAT WE'RE DOING

**06.12.15** NEFAC Calls Mass. AG's Enforcement of Public Records Law Important First Step But Reform Still Needed

**06.16.15** NEFAC Testifies at Mass. Court Records Hearing; Calls on State Committee to Improve Public Access

"Public access to court records is not just a public benefit to the here and now, it is part of this Commonwealth's proud legal heritage. The law has been pretty clear, for a long time, that strictly speaking there is no privacy interest in court records and information that is publicly available in our courtrooms."

**07.20.15** NEFAC Calls for Action to Help Mass. Public Records Reform; Legislation to Improve Access to Information at Risk

**08.03.15** NEFAC Renews Call for Mass. Public Records Law Reform in Wake of Governor's Administrative Guidance

**08.05.15** Statement of NEFAC, Open Government Alliance On Galvin's Public Records Initiative in Massachusetts

**08.10.15** Victory for First Amendment in Mass. Political Speech Case; NEFAC Filed Amicus Defending Press Rights

"Had this criminal statute been upheld, there could have been disastrous consequences for publishers and reporters throughout the Commonwealth."

**08.17.15** NEFAC, Media Organizations Urge President Obama to Stop Excessive Controls on Public Information

**08.18.15** NEFAC Announces Additions to Leadership; Editor, Publisher and University Dean Join Board

**10.08.15** After Recent Inadequate Public Records Responses, NEFAC and Open Government Advocates Call on R.I. Gov. Raimondo to Promote Transparency

**10.19.15** NEFAC Statement on Oct. 19 Meeting with Staff of R.I. Gov. Gina Raimondo About APRA Concerns

"We are encouraged by the dialogue that took place and the pledge to reexamine previous denials of records and to spread the word among state agencies about the importance of transparency."

**11.18.15** MassFOIA Encouraged by House Public Records Legislation

## 2015 NEW ENGLAND FIRST AMENDMENT INSTITUTE

Our institute is an annual, three-day, intensive training program on freedom of information law and investigative reporting techniques for 25 working New England journalists. It provides editors and reporters with the support and training necessary to become accomplished investigative journalists, well versed in the access laws that govern today's difficult reporting landscape. Many exceptional, award-winning journalists and outstanding First Amendment attorneys give their time to make the institute an extraordinary learning experience. Presenters and institute fellows span print, broadcast and online media. A goal of the institute is to change the culture of journalism in New England by way of the ripple effect — our institute fellows are required to share what they have learned with colleagues at their media outlets. During our fifth annual institute, members of the 2002 Pulitzer Winning Spotlight Team from The Boston Globe — Walter V. Robinson, Sacha Pfeiffer and Michael Rezendes (pictured) — discussed their work and the Academy Award winning movie it inspired. More than 30 other reporters, editors and media attorneys donated their time to teach our class of fellows (pictured, below).



"There exist many other injustices, many of them undetected, that await your good reporting."

Walter V. Robinson



## WHAT WE'RE SAYING

*A Selection of Blog Posts and Press Quotes*

**01.06.15** Maine Judge Draws Flak From 1st Amendment Advocates After Issuing Gag Order | Bangor Daily News

“This order is a major strike to the First Amendment and the public’s right to know about its court system and those accused of crimes. It is pre-publication censorship and almost certainly an unconstitutional prior restraint. It is disappointing that a judge of this stature would disregard such fundamental First Amendment protections.” — NEFAC’s Justin Silverman

**02.02.15** Too Few Sign Connecticut FOI Pledge | James H. Smith

**02.02.15** R.I. State Police ID Checks at Barracks Thwart Open-Records Law | Providence Journal

“Requiring public record requesters to identify themselves violates the law. State agencies should not be able to unilaterally decide which parts of the law they are going to follow. They are obligated to follow APRA and that means disclosing requested information without requiring identification first.” — NEFAC’s Justin Silverman

**03.05.15** Changes to Vt. Open Meeting Law Would Be a ‘Giant Step Backward’ | Tom Kearney

“The Legislature has been making real progress in clarifying and simplifying Vermont’s laws on public meetings and public records. The League’s proposal would be a giant step backward.”

**03.13.15** Pass HB 6750 and Rescue Connecticut’s Reputation for Transparency | Mitchell Pearlman

**03.16.15** In Vermont, Small Government Requires More Public Vigilance | Dan Barrett

**03.18.15** Bring Sunshine Back to Connecticut Law Enforcement | James H. Smith

“The sun isn’t shining brightly on law enforcement action in Connecticut. The sun did shine one day last month on the State Legislature with testimony on a bill that would open up criminal investigations more to the public. But now the legislation is stalled in committee. It may or may not see the light of day.”

**03.19.15** Let the Sun Shine on N.H. Government | Gregory V. Sullivan

**03.21.15** Sunshine Week Concludes, But Efforts in Massachusetts Must Continue | Justin Silverman

**04.15.15** Be Careful on Information Compromise | James H. Smith

“When as a society, we move into things like body cameras on police and on the hoods of police cars — tell me, will that all be secret?”

**05.13.15** Citizens Need More Information, Not Less | Mitchell Pearlman

**06.15.15** Court Access Debate Persists | The Boston Globe

“Technological progress should enhance public access to court files, not reduce it.” — NEFAC’s Robert Bertsche

**06.23.15** Open Government Advocates Call for Expanded Access to Mass. Court Documents | Amanda Palmeira

**07.06.15** In New Hampshire, Are Unfounded Privacy Concerns Preventing Access to Voter Ballots? | Amanda Palmeira

“Privacy rights of voters is not something to be disregarded — but the limited instances in which such privacy may be in danger can easily be mitigated.”

**07.23.15** State of the First Amendment Report a Source of Concern, Guidance for Journalists | Amanda Palmeira

**08.12.15** With Police Body Camera Legislation, States Need to Remember Importance of Public Access | Amanda Palmeira

“As they develop laws, or before legislation is even proposed, the New England states should look to the goals Connecticut legislators seem to have in mind: broad public access to footage with practical and predetermined limitations on what is to be recorded.”

**08.17.15** LePage’s Handwritten Notes Show Failings in Maine’s Record Retention Law | Press Herald

“These handwritten notes are on the governor’s stationery and they are dealing with public business. As a general matter, if they’re not real personal — a birthday card, something like that — and they’re responding to constituent inquiries or communications, they’re public records.” — NEFAC’s Sigmund Schutz

**09.23.15** The ‘First Amendment Bubble’ and Why Courts are Protecting Privacy Over the Press | Amanda Palmeira

**10.13.15** Forty Years of Freedom of Information in Connecticut | Mitchell W. Pearlman

“The concept of an open and accountable government is essential in any democracy. Unfortunately the trend over much of the past 40 years has been to close down critical government information that had been open to public scrutiny with the passage of freedom of information laws. Unless this trend is reversed, I fear that our democracy will continue to wither, if not die.”

**10.27.15** Mass. Legislature Considers Needed Shield Law to Help Bring Sensitive Issues to Light | Amanda Palmeira

**11.07.15** Central Mass. Towns Inconsistent on Releasing Meeting Minutes | Worcester Telegram & Gazette

“We have to remember that this is a government of the people, by the people and for the people. Public officials are our servants working for us and we need to know what they’re doing so we can properly oversee what they’re doing on our behalf.” — NEFAC’s Robert Bertsche

**11.24.15** No Secret Trials | James H. Smith

**11.26.15** Bob McGovern: Ruling Reaffirms First Amendment Freedoms | Boston Herald

“It’s an important principle in all jurisdictions. All news organizations realize that this kind of commentary is quite common. If it became actionable, it would be a big change in the law and in how people communicate with each other in print, online and even face to face.” — NEFAC’s Jonathan Albano

**12.02.15** Mass. Public Records Reform is in Everyone’s Interest | Amanda Palmeira

**12.21.15** R.I. Needs Less Spin, More Transparency | The Providence Journal

“We are outnumbered. The rise of PR and the decline of watchdog journalism should be a serious concern for the public. The goals of the news media and the PR industry are often at odds. We need to support a healthy Fourth Estate.” — NEFAC’s Justin Silverman



New England  
**First Amendment** Coalition

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The New England First Amendment Coalition defends, promotes and expands freedom of information and public access to the government and the work it does. NEFAC is a 501(c)(3) non-profit corporation. Learn more about NEFAC at [www.nefirstamendment.org](http://www.nefirstamendment.org).  
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