

Reporter's Privilege at the State and Federal Level

By Ebony Munday and Patrick McAdams

Advised by Dr. Annette Taylor

In *Branzburg v. Hayes* (1972), the Supreme Court established that the privilege protecting reporters from testifying sensitive newsgathering information before a grand jury was

not a constitutional right. Many states have enacted their own reporter's privilege statutes. Four decades later, the national landscape has changed and an effort to pass a federal shield law is in progress.

State Shield laws

- Ohio protects only identity of sources
 - *Fawley v. Quirk* (1985), Privilege not absolute due to information sought as being relevant news to public
- New Jersey protects sources and newsgathering materials
 - *Gastman v. New Jersey Newspaper* (1992), protection shown to reporter, uninvolved editor and contributing author
- Appellate courts observe who is classified as journalists (not self-described)
- Types of privilege

Branzburg's Precedent

- 5-4 ruling against constitutional protection
- Powell's opinion
- Stewart's test of privilege
 1. Probable cause that the reporter's info is relevant to probable law violation
 2. Info cannot be obtained alternatively
 3. Compelling and overriding interest in info

Federal Shield Law

- Post 9/11 Presidential administrations
- Current bill was amended onto multiagency spending bill in June, proposed by Allen Grayson (R-Fla)

