4-9-2016

Reporter's Privilege in the 21st Century

Patrick R. Mcadams  
*University of Dayton, stander@udayton.edu*

Ebony A. Munday  
*University of Dayton, stander@udayton.edu*

Annette M. Taylor  
*University of Dayton, stander@udayton.edu*

Follow this and additional works at: [http://ecommons.udayton.edu/stander_posters](http://ecommons.udayton.edu/stander_posters)

Recommended Citation  
[http://ecommons.udayton.edu/stander_posters/828](http://ecommons.udayton.edu/stander_posters/828)

This Book is brought to you for free and open access by the Stander Symposium at eCommons. It has been accepted for inclusion in Stander Symposium Posters by an authorized administrator of eCommons. For more information, please contact frice1@udayton.edu, mschlangen1@udayton.edu.
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)