



Media Law Presentation:
Press Law

[Note to Presenter: The notes that follow work as either a presentation script or as preparatory material for the presenter. If you're reading the notes as a script and allow for moderate discussion, the full presentation should last between 75-90 minutes.]

Common legal issues and resources for high school student journalists and their advisers

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possible by a generous grant from:



This presentation provides a brief and basic overview of the most common media law issues faced by high school student journalists. Allowing for a few questions or comments along the way, it should last just under 90 minutes and is designed to help students and their advisers identify and avoid some of the most common legal traps.

Student Press Law Center

Provides free legal help and information on media law issues
to student journalists and their advisers

Web site: www.splc.org

Phone: (703) 807-1904

Monday - Friday 9 a.m. - 6 p.m. Eastern Time

This presentation will not make you a media law expert. What it will do, we hope, is help you make more informed decisions and give you a better sense of when you might have a problem that requires outside help. For those cases, you may want to keep the contact information for the Student Press Law Center handy. The SPLC is a nonprofit organization based just outside Washington, D.C., that since 1974 has provided free legal help and information to student journalists and their advisers on a variety of media law issues. Much more information about the topics we'll address today is available on the SPLC Web site and in various publications produced by the Center. In addition, "live" help is generally available from the SPLC staff Monday through Friday.

Well, there is a lot to cover, so let's get started.

The Big Issues

- Censorship
- Copyright
- Libel
- Access to Information
- Invasion of Privacy
- Reporter's Privilege

Student journalists must regularly confront a variety of media law issues. In fact, student media have all of the same legal questions and concerns as their commercial counterparts, but with a couple extra thrown in because of the unique problems associated with reporting and publishing at school. The following topics — “The Big 6:” censorship, libel, invasion of privacy, copyright, access to information and the reporter’s privilege — are the most frequent issues faced by student media and we’ll cover each, in turn.

Censorship

What authority do school officials have to control the content of high school student media?

Unfortunately, censorship is the number one reason high school student journalists contact the Student Press Law Center for help, so we'll begin there.

The First Amendment

- A promise by the government to respect the individual rights of its people relating to:
 - Religion
 - Speech
 - Press
 - Assembly
 - Petition
- First Amendment rights are not unlimited

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

When America was founded, it was called by some “The Great Experiment.” The new American system — a government of the people, by the people and for the people — had never been tried before. It was intended to be a limited government controlled by the people governed instead of the other way around. As part of the founders’ plan to ensure that individual freedoms would be respected, they enacted the Bill of Rights, the first ten amendments to the U.S. Constitution. The very first of those amendments restricted the government’s right to enact laws that interfered with five specific individual freedoms: freedom of religion, speech, press, assembly and petition.

Though the First Amendment contains exceptionally strong language limiting government interference of these freedoms — “Congress shall make *no* law,” the amendment begins — we have come to accept that the rights protected are not absolute. At times, the freedoms guaranteed by the First Amendment can conflict with other important rights or obligations and a balance between the two must be reached. For example, because of the threat to public safety and the general welfare, it is has been famously noted that there is no free speech right to scream “Fire!” in a crowded theater. As we’ll talk about later, there is also no First Amendment right to publish libelous statements or material that invades another’s legal right to privacy or that infringes on a valid copyright.

Still, the First Amendment remains an ongoing promise by our government that, but for exceptional reasons, it will not interfere with the right of its people — including its youngest citizens — to engage in freedoms deemed so essential.

Public vs. Private Schools

- Because they are government agencies, public schools are limited by the First Amendment in their ability to censor
- The First Amendment does not regulate the behavior of private schools. However, state law or school policy could provide legal protections for press freedom

It is important to note, however, the distinction between the legal protections available to students attending public school and those enrolled at private schools.

The First Amendment only prohibits censorship by government officials, *not* private individuals. Because private school administrators are not classified as “government officials,” or “state actors,” they are not bound by the same constitutional limits as their public school counterparts. It may come as a shock to some to hear, then, that the First Amendment does not generally prohibit censorship of private school student media.

Even so, there may be other legal limits placed on the ability of private school officials to censor (such as a school policy they have agreed to abide by or a state constitutional provision protecting free speech). And certainly, there are plenty of reasons besides the law why censorship is generally a bad educational practice.

*Tinker v. Des Moines Independent
Community School District (1969)*

The U.S. Supreme Court recognizes that the
First Amendment protects on-campus
student speech

When talking about the First Amendment limitations on censorship available at public schools, however, any discussion must begin with the most important case on student speech rights to be handed down by Supreme Court: *Tinker v. Des Moines Independent Community School District*. Decided almost four decades ago, the *Tinker* decision — often known simply as the “armband case” — is still cited in almost every legal opinion involving student free speech rights.



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Mary Beth and John Tinker

The case began on December 16, 1965, when 13-year-old Mary Beth Tinker wore a small black armband to her eighth-grade classes at Warren Harding Junior High School in Des Moines, Iowa, to protest the war in Vietnam. Over half the school day passed quietly and without incident. Just before her afternoon algebra class, however, Mary Beth was called down to the principal's office and ordered to remove the armband. She did so. The principal then suspended her and sent her home for violating a quickly enacted school board policy prohibiting armbands. Eventually, the school suspended a total of five students — including Mary Beth's brother, John, and a friend, Chris Eckhardt, for wearing armbands to school.

After the school board refused to overturn the ban on armbands — and following heated debate on both sides — Mary Beth, Chris, John and some of the other students sued the school district. Four years and two courts later, in 1969, the United States Supreme Court handed down its decision.

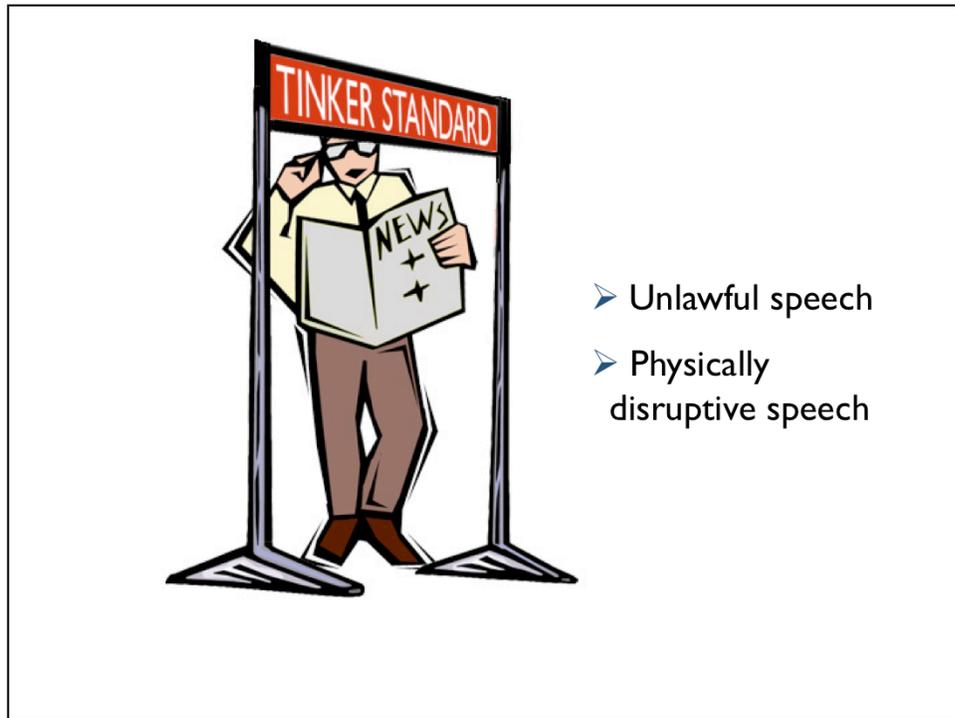
Neither students nor teachers
“shed their constitutional rights
to freedom of expression or
speech at the schoolhouse gate.”

— Supreme Court Justice Abe Fortas

Tinker v. Des Moines Independent Community School District(1969)

By a 7-2 vote, the Court ruled for the students. In a famous line from its decision, the Court said that neither students nor teachers “shed their constitutional rights to freedom of expression or speech at the schoolhouse gate.”

The Court, however, recognized the unique nature of schools and the legitimate concerns of school officials in maintaining a productive learning environment. To the extent that school officials interfered with the right of students to express themselves, the Court — as it usually does in such cases — created a balancing test to analyze and weigh the competing interests.



The balancing test the Court came up with — now widely referred to as the “*Tinker* standard” — is this: Students have the right to engage in free speech activities while at school as long as their speech is (1) does not invade the rights of others and (2) does not create a “material and substantial” disruption of normal school activities.

In other words, under *Tinker*, before school officials can censor student speech they must first show that the speech is unlawful — for example, that it is libelous, obscene or invades a person’s legal right to privacy, etc. — *or* that the speech would create a serious, physical disruption that would prevent regular school activities from going forward. For example, an article in a school newspaper that seriously encourages students to engage in a class walkout or a school day demonstration and that provides specific information regarding when, where or how such action should occur could be considered materially disruptive and not protected under *Tinker*. On the other hand, *Tinker*’s disruption standard does not prohibit speech that is merely controversial or that causes hurt feelings or heated debate.

The *Tinker* standard — which has been applied to other kinds of student expression on campus, including student media — provides significant, though

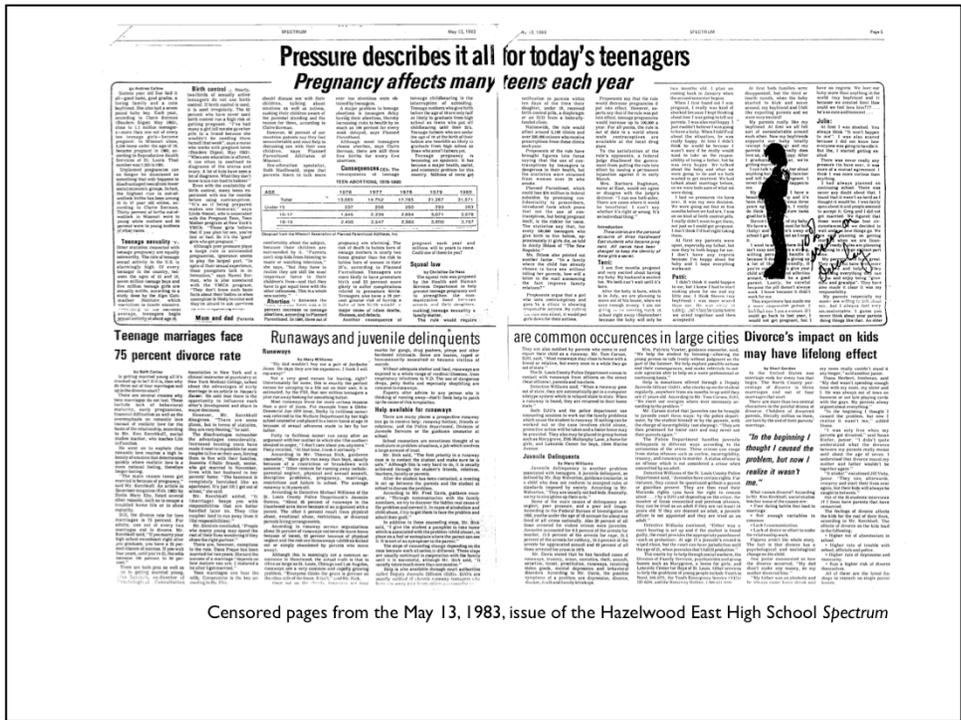
*Hazelwood School District v.
Kuhlmeier (1988)*

The U.S. Supreme Court significantly reduces the level of First Amendment protection provided to *most* school-sponsored student media at public high schools

Tinker remained the sole standard for analyzing student media censorship cases for about the next two decades. During that time, lower courts applied the *Tinker* standard to a number of situations specifically involving high school student newspapers and other student media. In most of those cases, the administrative censorship was struck down as unconstitutional.

In 1988, however, the Supreme Court addressed the question it had never specifically answered before: What First Amendment protection do high school students have when working on school-sponsored publications like a student newspaper?

In the spring of 1983, students working on the *Spectrum* student newspaper at Hazelwood East High School just outside St. Louis, Mo., decided to publish a special two-page section in their newspaper that would focus on some of the hot issues facing teens at that time.



Censored pages from the May 13, 1983, issue of the Hazelwood East High School Spectrum

The section included two articles — one on teenage pregnancy and the other on the impact of divorce on students — that resulted in the principal pulling the entire special section from the newspaper. The articles contained no unlawful speech. Nor did school officials claim that the articles would have caused a serious physical disruption to the school. Rather, the principal claimed he censored the articles because, among other things, he felt the topics were “inappropriate” for a high school audience.

When neither side backed down, the students sued. After about four years in the lower courts, the case made its way to the U.S. Supreme Court, which handed down a decision that surprised and disappointed many First Amendment advocates.

Tinker case “distinguished”

Mary Beth Tinker’s armband =
Non-school-sponsored speech (independent
student expression)

Hazelwood East *Spectrum* =
School-sponsored speech
(Curricular, school-funded, has a faculty adviser)

Rather than simply applying the *Tinker* standard to the case — which almost certainly would have meant a victory for the student journalists — a five person majority of the justices concluded that the facts of *Hazelwood* were significantly different from those it had considered in *Tinker*.

Mary Beth’s armband, the Court said, was private, or independent, speech. She made the armbands and wore them all on her own.

The Hazelwood *Spectrum* newspaper, on the other hand, was funded by the school, produced as part of a journalism class and overseen by a journalism teacher paid by the school. It was, the Court said, school-sponsored student speech, closely associated with the school itself, which the Court concluded fell into a different legal category — and required the application of different legal standard.



▪ “Reasonably related to legitimate pedagogical concerns”

Is there a reasonable educational justification?

Examples include material that is:

- “Biased or Prejudiced”
- “Unsuitable for immature audiences”
- “Ungrammatical”
- Material that would “associate the school with anything other than neutrality on matters of political controversy”

The standard announced by the Court was much different from *Tinker*. Instead of allowing school officials to censor speech only when it was unlawful or seriously disruptive, the Court said that high school officials could censor some school-sponsored student speech, including the *Spectrum*, when they had a reasonable educational justification for doing so. (The specific phrase the Court used was that censorship would be permitted where it was “reasonably related to legitimate pedagogical concerns.”) That’s obviously a much lower barrier to censorship than that established by *Tinker*.

Predictably, *Hazelwood* has led to a sharp increase in the censorship of high school student media. Calls to the Student Press Law Center from student journalists seeking legal help have skyrocketed — up about 350 percent — since the decision was handed down. Those numbers continue to rise almost every year.

Hazelwood does not create an unlimited license to censor!

- Applies only to school-sponsored speech
- Does not apply to “public forum” student media
- *Hazelwood* standard has some teeth

While *Hazelwood* was, undeniably, bad news for high school student expression there are some important exceptions to its limitations.

First, *Hazelwood* only applies to school-sponsored speech. Independent student speech — such as a political armband like Mary Beth Tinker’s or an independent, or “underground” student publication produced by students with their own resources outside of school — continue to be protected by the higher *Tinker* standard.

Second, *Hazelwood* does not apply to student media where students have been given the authority to make their own content decisions, either by a written school policy or by an established practice. Such student media organizations are considered “public forums” and are also protected by *Tinker*.

Third, even under *Hazelwood* school officials must demonstrate that they have a reasonable educational justification for their censorship. They cannot censor something for no reason or simply because they disagree with the viewpoint it expresses. There are cases where courts have found that school officials failed to meet the *Hazelwood* standard.

State and Local *Anti-Hazelwood* Protection

Hazelwood does not trump free
speech protection provided by state
law or local policies

Finally, following *Hazelwood*, some state lawmakers concluded that the Supreme Court had gone too far in restricting the free speech of students. While states can never pass a law that provides *less* free speech protection than the federal First Amendment, they can always pass a law that provides *more*. So far, six states — Arkansas, California, Colorado, Iowa, Kansas and Massachusetts — have passed so-called anti-*Hazelwood* laws that give back to their students much of the same protection they had under *Tinker*. Students in Pennsylvania and Washington may also have additional protection in the form of state regulations. And local school boards across the country — often prompted by student demands — have passed district policies limiting administrative censorship. For more information — including sample policies and legislation — visit the SPLC Web site.

Libel

“Sticks and stones can break your bones, but words can never hurt you.”

Ah, if only....

Next up on the list of most commonly asked legal questions is libel. It is a topic that many journalists — be they student or commercial journalists — find complicated. While the law *can* get complicated for lawyers and judges trying to sort out the details after a libel lawsuit is filed, the basic idea of libel — which is enough for journalists to protect themselves from most lawsuits — is fairly straightforward.

Libel:
An Oversimplified Definition

**Publication of a false statement of
fact that seriously harms
someone's reputation**

So what is libel?

Here is a definition: Libel is the publication of false statement of fact that seriously harms someone's reputation.

An example: If you publish a story that says, "Principal Jones stole a school bus and used it for a family vacation this summer," you'd better be right. If you're wrong, you have probably seriously harmed — libeled — Principal Jones' reputation. Not too hard to understand, right? But we need to dig a bit deeper.

Within this one-line definition are five things that the person suing — in this example, Principal Jones — must show before he can successfully sue for libel. And the Supreme Court added one more.

Let's take a quick look at each of them.

Libel: Publication of a false statement of fact that seriously harms someone's reputation

The first thing the person suing must show is that the libelous statement has been published.

That's usually pretty straightforward.

Publication: broadly defined

- Articles
- Headlines
- Photo captions
- Ads
- Cartoons
- Senior wills and epitaphs, guest columns, letters to the editor, quotes
- Promotional material

It is important to understand, however, that a published statement can occur almost anywhere. News articles are common sources of libel. But libelous statements can also appear in headlines, photo captions, restaurant reviews and cartoons.

It's also important to note that — at least in a print-based publication — you can be held responsible for republishing libelous statements made by others. Letters to the editor, senior wills in yearbooks or ads created and submitted by others that contain serious and false claims can all be sources of libel lawsuits.

Libel: Publication of a false statement of fact that seriously harms **someone's** reputation

In addition to showing that the statement was published, a person suing must also show that he or she has been individually identified. In many cases, this is also pretty easy to determine. If a person is named, he or she will almost certainly meet the “identification” requirement.

In other cases, however, it may not be so simple.

For example, even if a person isn't named, he or she might be identified by other details included in the story. In our bus example, for instance, a story that says, “The top official at Central High School is being investigated for stealing a school bus,” still pretty clearly identifies the principal. On the other hand, the much more vague statement, “School district officials are investigating a claim that a district employee stole a school bus,” would probably not identify Principal Jones. While publications can successfully use pseudonyms or disguised identities to avoid a libel claim, they must use extra caution.

The bottom line, however: If there is no “identification,” a person cannot successfully sue for libel even if he or she believe that they are the one being targeted by a false accusation.

Libel: Publication of a **false** statement of fact that seriously harms someone's reputation

Back to the third part of the definition of libel — and it's very clear. Only false statements of fact can be libelous.

Truth:

An Absolute Defense

There aren't too many black and white rules in the law, but this is one of them:
Truth is an absolute defense to a charge of libel.

The Catch:

Knowing something is true and proving it's true can be two different things

Ahh... but it can never be that simple, right?

Even though you might *know* that Principal Jones took a bus without permission and used it for a family vacation, do you have sufficient, reliable evidence — for example, verifiable documents, police reports, photographs, trustworthy, unbiased witnesses, etc. — to back your claim if Principal Jones denies it?

If you don't, you may not be able to rely on the truth to get you out of a libel jam.

On the other hand, if you know something is true — and you *can* prove it — you can never be successfully sued for libel no matter how much it might damage a person's reputation or how angry they might be. As the saying goes: a person is entitled to no greater reputation than they have earned.

Libel: Publication of a false **statement of fact** that seriously harms someone's reputation

Next, the person suing must show that the libelous statement is an assertion of fact, not opinion.

If a statement contains only opinion, it cannot be libelous. Unfortunately, it is sometimes difficult to tell one from the other.

In our example involving Principal Jones, it is easy to tell that the statement is an assertion of fact. For one thing, facts are objective; they are either true or false. Either he unlawfully took the bus or he didn't.

If, instead, you had simply said, "Principal Jones is awful," the statement — which can't really be proven true or false — would be pure opinion and protected in a libel lawsuit.

Some statements can contain both opinion and fact. For example, "I think Principal Jones is awful because he misused school property this summer," is a mixed statement that might support a libel claim.

And be careful, simply publishing a story on the "Editorial" page or labeling it an "Opinion" will not protect you from a libel claim if it contains untrue factual assertions.

Libel: Publication of a false statement of fact that **seriously harms** someone' s **reputation**

Next up: In order to successfully sue for libel, the person suing must also show that the false statement about them caused serious harm to their reputation. Being mildly offended or embarrassed is not enough.

Red Flag Statements

- Accusations of illegal conduct or involvement with criminal justice system
- Sexual misconduct
- Associated with “loathsome diseases”
- Lying
- Unfit for business
- Academic problems
- Racial/religious/ethnic bigotry
- Financial instability; lack of creditworthiness

Some statements about a person — if false — will almost always be sufficiently harmful to a person’s reputation to support a libel claim.

For example, if you publish a statement that accuses a person of having committed a crime — such as stealing a school bus — your facts must be accurate because such accusations will almost always seriously harm a person’s reputation.

In the same way, accusing a person of sexual misconduct, lying, professional misconduct or incompetence, bigotry or having serious money problems are a few other categories that should always raise a red flag. Journalists can and should cover these topics, but should also do everything they can to ensure the information is reported fairly and accurately.

Libel: Publication of a false statement of fact that seriously harms someone's reputation

Once it's shown that a statement: (1) has been published, (2) identifies a specific individual, (3) is false, (4) asserts a fact and (5) causes serious harm to a reputation, the person claiming libel must still show one more thing when suing in an American court.

Fault Required

The First Amendment requires that in order for media defendants to be held responsible for libel, the person suing must show — at a minimum — that the reporter/editor acted unreasonably

The Supreme Court has said that in order to successfully sue for libel, the First Amendment requires that the person suing must also show — at a minimum — that a journalist messed up, that he or she was somehow at fault. In other words, before you can be successfully sued you must have done something a reasonable reporter or editor would not have done *or* failed to do something a reasonable reporter or editor should have done.

The Lesson:

If you always do what a reasonable reporter should do (and don't do what a reasonable reporter wouldn't do), you will never be *successfully* sued for libel

This means that if you always do what a reasonable reporter should do (and don't do what a reasonable reporter wouldn't do) you will never be *successfully* sued for libel.

Acting Reasonably

- Use trustworthy sources — in quality and number
 - Evaluate your sources
 - Do not overstate their credibility
- Take accurate notes
- Documents, documents, documents
- Report — don't "sell"
- Talk to all sides — including the subject
- Be open-minded
- Do the work required — or don't do the story
- Be rigorous in your choice of language
- Never publish a story if **you** doubt its truth

So what does a reasonable reporter or editor do? None of these suggestions should be surprising.

Use good sources. Take accurate notes. Obtain documentation. Be fair, open-minded and report all sides. The law is not kind to lazy reporters.

A golden rule of journalism — and one that will generally keep you out of legal hot water — is to report only what you know and explain to your readers how you know it.

Invasion of Privacy

How far is too far when covering the “news”?

Next up is Invasion of Privacy.

The law recognizes that everyone has — under certain circumstances — a legal right to simply be left alone. It provides that there are certain subjects, certain places, and certain actions that are nobody else’s business.

On the other side, however, the law also recognizes that at some point a person’s right to privacy gives way. For example, many things that people do significantly affect others; and the public — often by way of the press — has a right or a need to know about them. In the parlance of journalism, such information is said to be, “newsworthy.”

Invasion of privacy law is all about balancing these two sometimes competing interests

Four kinds of invasion of privacy claims recognized

- Public Disclosure of Private and Embarrassing Facts
- Intrusion
- False Light
- Misappropriation

While the law can vary by state, courts have generally recognized four different types of invasion of privacy.

Public disclosure of private and embarrassing facts, intrusion, false light and misappropriation.

We'll cover each briefly.

Public Disclosure of Private and Embarrassing Facts

- Certain details about people, even though true, may be "off limits" to the press and public
- Truth is **not** a defense

The first — and for student media probably most important and common — category of invasion of privacy is the Public Disclosure of Private and Embarrassing Facts. The title actually describes the problem accurately. This type of invasion of privacy occurs when you publish information about someone that is so private, so embarrassing and so intimate that a reasonable person would be shocked that you actually published it. The danger here is that — unlike libel — it is no defense that the information is true. Rather, it is simply that you crossed the line in publishing it.

Public Disclosure of Private and Embarrassing Facts

- Examples: Publishing detailed information about a private person's sexual conduct, medical/mental condition, educational records
- Look for facts that are:
 - Sufficiently Private
 - Sufficiently Intimate
 - Disclosure would be highly offensive to reasonable person (shocking!)
- Defense: Newsworthiness; consent

The good news is that this is *usually* the type of information that should set off some alarm bells prior to publication. For example, providing graphic details about a person's private sex life, disclosing that an otherwise private person has a medical condition that they've not publicly revealed before or publishing detailed information about a person's grades when there is no good or "newsworthy" reason for doing so would be examples of this type of invasion of privacy. On the other hand, information that is just mildly embarrassing or that is already fairly well known is insufficient to support a private facts claim.

The primary defense to this kind of an invasion of privacy claim is "newsworthiness." If information is truly "newsworthy," it will not be considered unlawful. Also, if a person consents to your publishing otherwise private information about them, they generally cannot later claim you have invaded their privacy.

Intrusion

- Generally based on the act of newsgathering
- Publication not required
- Three most common types of intrusion:
 - Trespass: Going onto private property without the owner's consent
 - Secret Surveillance: Using bugging equipment, hidden cameras, other electronic aids
 - Misrepresentation: Invalid or exceeded consent (often in the context of undercover reporting)
- Defenses: Newsworthiness; consent

Intrusion is the next type of invasion of privacy claim.

Unlike the other categories, intrusion claims are not based on *what* you publish, but rather on *how* you obtained or gathered the information in the first place.

Again, the idea is that there are certain “private places” that should be off-limits to others, including reporters, unless a person has given you permission to be there. Bedrooms, bathrooms, locker rooms or a private office would all be common examples of a private space where a reporter could be found to have invaded someone’s privacy if they went in without permission or used a secret listening device or camera to peek inside. On the other hand, other places are clearly public — a public sidewalk or street, a public park, a courtroom — and reporters generally have the right to report on or photograph anything that happens in such spaces. Other places fall somewhere in the middle and it is sometimes left to a court to decide how public or private the space is. The key question in such cases: Does the person in such a place have a “reasonable expectation of privacy?” If not, there can be no successful claim.

“Newsworthiness” and consent are also the primary defenses to an intrusion claim, though in obtaining consent to enter an otherwise private space it is important to make sure the person giving consent has the authority to do so. It’s also important not to lie or misrepresent oneself in order to obtain consent.

False Light

- The unflattering, highly offensive portrayal –in words or pictures– of a person as something that he or she is not
- Examples: Misleading caption published with a photo, inaccurate attribution of letter to the editor; careless use of photo morgue
- Not recognized in all states

The third category of invasion of privacy claims is known as “False Light.” Not all states recognize a false light claim because, in many ways, it simply duplicates a libel claim in that the harm occurs when you publish words or images about an individual that portrays him as something he is not.

A common example would be publishing an extremely misleading photo caption. For instance, a photo caption that states or clearly implies that an onlooker at a Ku Klux Klan rally is a participant would certainly put them in a false light.

Other common mistakes include: carelessly using an old file photo to illustrate a story in a way that falsely suggests a person is currently engaged in unflattering conduct or publishing a “fake” letter to the editor that attributes opinions to an individual that he does not hold.

Misappropriation

- Unauthorized use of a person's name, photograph, likeness, voice or endorsement to promote the sale of a commercial product or service
- Defense: Consent
- Publications should routinely have subjects sign a model release form when using their name or likeness in a commercial context

The final category of invasion of privacy claims is also the easiest to identify and avoid. You can get in trouble for misappropriation when you use another person's name, image, voice or other likeness to help sell something without their permission.

The main hot spot here is, of course, advertising and commercial endorsements. If you want to use a picture of someone — or their name, voice or anything else that is identified with them — in an ad to help sell something, you first have to get their permission. It's as simple as that.

It doesn't make any difference whether the person is famous or not. Everyone has the right to control how their image is used when it comes to advertising and endorsements. It should be a standard practice to obtain a signed model release form before creating and publishing any ad that pictures identifiable people. If the subject is a minor and money is involved, you should also obtain permission from the minor's parent or guardian. If you publish an ad created and submitted by a third-party, you may want to first have them sign an agreement stating that valid permission has been obtained and that they will be responsible for reimbursing you for any claims that might result if a problem arises.

Copyright Infringement

Using someone else's original work without obtaining the copyright owner's permission

Next on our list of the “Big 6” legal issues — and one that has become especially “hot” with the coming of the Internet Age — is Copyright. What can I use? What can't I use? What can I prevent others from using?

The truth is, copyright law *can* get a bit complicated. Lawmakers and courts have tinkered with — and muddied — the rules a number of times over the years, and many of the rules weren't so clear to begin with.

Still, the ideas behind copyright law are pretty easy to understand and can help a great deal in recognizing where today's legal lines are drawn.

Purpose of Copyright

- Progress/Advancement of Arts & Sciences
 - Recognized by framers of Constitution
 - Reward creative efforts
 - Encourage societal knowledge

Creating a system of copyright protection was actually deemed so important to the development of a strong, healthy society that it was specifically included in the U.S. Constitution more than two centuries ago. At its core, copyright law is about encouraging progress. The framers believed that a society can only flourish where there is a steady advancement in its arts and sciences. To bring about such advancement, copyright law — in its most ideal form — tries to balance two sometimes competing interests:

First, copyright law recognizes that it is important that artists, authors and other “creators” be recognized and fairly compensated for their efforts. Most writers would be unwilling — and financially unable — to spend two years working on the next Great American Novel if, once they were done, anyone could run down to a copy shop, print off or scan 5,000 copies and sell their bootlegged version to others on the Internet at 75 percent off the regular price.

Second, copyright law recognizes that encouraging people to create new works will do little to benefit society if others are not permitted to discuss and learn from them. Progress requires a system that allows others to share information and build on the work of others.

Copyright can protect:

- Photos
- Stories
- Illustrations
- Cartoons
- Logos
- ...even Wallpaper

Copyright does *not* generally protect:

- Facts/Ideas
- Most federal government records
- Works in public domain (e.g., copyright expired)
- Odds & Ends (titles, slogans, short phrases, familiar symbols, etc.)

So what *can* be copyrighted? The list is long, but not unlimited. In order to qualify for copyright protection, a work must be (1) original, (2) fixed in a tangible form and (3) show at least a minimal amount of creativity. These hurdles are not especially high and allow for the copyright of most things that people create, such as photos, articles, paintings, cartoons, music and videos. In fact, there are even special shelves in the U.S. Copyright Office in Washington, D.C., that hold samples of copyrighted wallpaper.

There are, however, certain things or categories of material that cannot be copyrighted. For example, facts and ideas — on their own — cannot be copyrighted. *The Wall Street Journal*, for example, does not own the “fact” that the stock market went up or down yesterday. Anyone can write a story about that fact, they just can’t use *The Wall Street Journal*’s exact words to do so. Also, most records created by federal government employees cannot be copyrighted. You can, for example, go to the Pentagon’s Web site to download and use Department of Defense photos to illustrate your story on military recruiting. Unlike most images on the Internet, you don’t need the Pentagon’s permission, though you should still give DoD photographers credit. Older works whose copyrights have expired and that have fallen into the public domain can also be used without permission. Finally, the Copyright Office has said that certain categories of works — usually because they lack sufficient creativity — cannot be copyrighted. Titles, slogans, short phrases, lists of ingredients and alphabetical lists of names are among the things that you can usually use

Copyright law protects
material on the Internet!

Got it?

Just because it is now possible to find and download almost any image, text passage or song that exists with one click of the mouse button does not mean it's legal to do so.

You should presume that the same rules apply to the use of online material as govern your use of print-based works.

The General Rule

If you didn't create it and/or you don't own the copyright to it, you must get permission to use it

Except...

So what are the rules?

Well, for most student journalists, here is the most important one to remember: If you didn't create the material that you want to use or you don't own the copyright to it yourself, you must obtain permission from the copyright owner before you do.

Pretty simple.

But there is an important exception that journalists in particular need to know about.

Remember the balance we talked about at the beginning between protecting copyright owners' rights and recognizing society's need for readily accessible information?

Fair Use: An Exception to the Rule

- Using a limited amount of a copyrighted work for news, educational or informational purposes without consent may be permissible as a “fair use”
- Not every use by a student media organization is a fair use

An exception to the general copyright rule known as “Fair Use” is where that balancing act really comes into play.

The Fair Use Doctrine is, in effect, a compromise and allows for the use of limited amounts of copyrighted works for important purposes like news reporting, commentary, critiques and education so long as the use does not significantly cut into the commercial value of the original copyrighted work.

For example, a student newspaper can generally reprint a short passage from a new book to accompany a book review and a student TV show is usually safe to run a short clip from a movie to illustrate its discussion or review of the motion picture. Other fair uses probably include: the use of a single frame from a comic strip to illustrate a news article reporting the retirement or death of the strip's creator, reprinting a tobacco advertisement taken from a national magazine to illustrate a story on the effect of cigarette advertising on minors or reprinting in a news article two lines from a song that has sparked an international controversy.

Keep in mind that student media cannot always claim a Fair Use. Unless their use meets the Fair Use criteria — which is not always easy to determine — they must first obtain permission. Still, it is essential that student journalists

Other things to remember about copyright law

- Law requires **permission** from copyright owner, not just attribution
- Protects the works you **create** as well as those you may want to use
- Ignorance of the law is not a defense

A few other things to keep in mind:

First, it's not enough to simply credit a copyright owner's work in order to use it. For example, including the phrase "Courtesy of *People Magazine*" or "Source: *The New York Times*" is no substitute for getting copyright permission. Where permission is required, you must actually contact the copyright owner — or their appointed agent — and obtain it.

Second, while the law can be an obstacle — and admittedly, a bit of a pain — to student journalists who want to use copyrighted material, it's important to remember that your work is protected by copyright law as well. Unless they can make a Fair Use argument, others who want to use your news stories, pictures, graphic designs or other creative works must first contact you for permission.

Finally, while we've hit the important points of copyright law, we've only scratched the surface. It's worth taking the time to learn the rules.

U.S. Copyright Office Web site:

www.copyright.gov

Much more information about copyright law is available through the SPLC or at the unusually user-friendly Web site of the U.S. Copyright Office.

Freedom of Information Law

Ensuring your right of access to
public records and meetings

We' ll move on next to freedom of information law.

In America, the government is supposed to belong to the people. Freedom of information laws, also referred to as FOI, open records/open meetings or sunshine laws, are simply one means — a tool — by which the citizens/owners have given themselves the ability to keep tabs on — or shed some sunshine on — what their government and its officials are doing.

Although these laws are available for use by all, journalists find them especially useful for informing the public. Even so, far too few journalists — both student and non-student — take advantage of the rights these laws provide.

3 Main Types of FOI Law

- Open Records Laws
 - State open records laws
 - Federal Freedom of Information Act
- Open Meetings Laws
 - State open meetings laws
 - Federal Government in the Sunshine Act
- “Pocket” FOI Laws
 - Federal Clery Act
 - Federal Student Right-to-Know Act
 - IRS Form 990 disclosure regulations, etc.

There are three main types of freedom of information law.

The first are open records laws. Every state, the District of Columbia and Puerto Rico, has its own state open records requirement. In addition the federal government has an open records law known as the Freedom of Information Act.

Similarly, all states and the federal government also have an open meetings law.

Finally, there are a number of miscellaneous provisions that show up in various state and federal laws that require the public disclosure of information. These “pocket” FOI laws generally focus on requiring the disclosure of a specific type of information and, in some cases, only apply to a specific body or institution. For example, at the college level, there are some very helpful provisions tucked within a huge federal education law that requires most schools to provide information about campus crime, student graduation rates and their athletic programs. In addition, federal IRS rules require that all nonprofit organizations — which includes most private schools — make available a copy of their annual tax return upon request, something we’ ll talk about a bit more in a moment.

Public/Private “Bodies”

- Only “public bodies” or “agencies” are covered by open record and open meeting laws
- Some “private bodies” perform public functions and may be covered by FOI laws (for example, charter schools, private campus police, etc.)
- Look for alternative “public” sources for information about private bodies (for example, city health department)
- “Pocket FOI Laws” often apply to private bodies through receipt of funding provisions

It is important to note that, as a general rule, only “public governmental bodies” or “public agencies” must comply with FOI laws. Such bodies are usually funded by taxpayers and have some authority to make or enforce rules that the general public must follow. Purely private individuals or organizations such as a private school or private company are generally not covered. However, if an otherwise private body engages in public business, a court might find that they must also comply with an FOI law. A charter school that contracts with a public school district might be one example.

Keep in mind, also, that almost all private bodies have some interaction with a public agency, so it may be possible to obtain the information you seek through a “back door.” For example, while a private school probably doesn’t have to give you the results of its most recent cafeteria inspection, the city health department that conducted the inspection — a public body — clearly would have to provide the report.

Finally, many of the “Pocket” FOI laws apply equally to public and private bodies and are frequently tied to the receipt of government funding.

State/Federal FOI Laws

- State laws are used to obtain access to records or meetings of state, county or local “government agencies” or “public bodies” (for example, city/campus police, school district, health department, etc.)
- Federal laws are used to obtain access to federal government agency records or meetings (for example, Environmental Protection Agency, FBI, U.S. Dept. of Agriculture, etc.)

As mentioned, both the federal government and state governments have freedom of information laws on the books.

Generally, if you want to obtain access to the records or meetings of a state or local government agency, such as a public school district, a local or state police department, a state college or university or the city dog catcher, you’ ll look to your state law.

If you need information about or would like to attend the meeting of a federal agency, such as the Environmental Protection Agency, the FBI or the U.S. Department of Education, you will use federal law.

Using Open Records Laws

- General Law: A public body must make its records available upon request unless the records are *explicitly* exempted by statute.
- Commonly found exemptions:
 - Records involving an “ongoing criminal investigation,” disclosure of police techniques
 - Educational records re: individual, identifiable students
 - Documents whose release would constitute an invasion of privacy (medical, adoption, personal financial information)
 - Some personnel records
 - Records re: ongoing or contemplated legal proceedings

Understanding the basics of FOI law is pretty simple.

Open record laws — both at the state and federal level — say pretty much the same thing: A public body must make its records available upon request unless the records are explicitly exempted by the open records statute.

Of course, the exemptions — which vary from law to law — do complicate things, but they also generally fall into some common categories, most of which conform to common sense. For example, most laws contain an exemption that either allows or requires schools to withhold the “educational records” of specific, identifiable students. Law enforcement agencies can also generally withhold records that might interfere with an ongoing investigation or that might jeopardize national security. And government agencies can often refuse to disclose medical, financial or other personal documents that would constitute an illegal invasion of a person’s privacy. Other common exemptions can include some government personnel records, records involving pending real estate deals and documents that are part of an ongoing legal battle in which the government agency is involved. Again, because the exemptions vary, you’ll need to check the specifics of the law you’re using. However, it’s important to keep in mind that the law presumes that all government records are open. In other words, *you* don’t have to point to the provision that requires disclosure. Rather, the *government* has to point to the exemption that allows it to keep the record

Requesting Public Records

- Ask nicely! Verbal requests sometimes recognized by law
- Submit written request where required or when “paper trail” needed
- Officials must — in a timely manner — either: (1) provide records or (2) point to applicable exemption
- Administrative appeal or judicial review available

Making a public records request is also pretty much a no-brainer.

Simply ask the government official that you think keeps the record for a copy. Ask nicely and politely. A friendly verbal request is often all that is required. Sometimes the government agency or the law will insist that the request be in writing. A written request might also be required where you know the agency you’re dealing with does not want to provide the information. In such cases, your written request will be the start of a paper trail of evidence that you might later have to point to should the agency deny your request in violation of the law.

Once you make your request, most laws require that the agency official respond in a timely manner and either give you the record you’ve asked for or point out the exemption in the law that they believes allows them to deny your request.

If, after reviewing their denial, you still believe that the law requires disclosure, most laws spell out the procedure for having the agency’s decision reviewed.

www.splc.org/foiletter

Legal Assistance
Online Legal Request Form
FOI Letter Generator
Responding to Censorship

FOI LETTER GENERATOR

FULLY AUTOMATED, FILL-IN-THE-BLANKS STATE OPEN RECORDS LAW REQUEST LETTER GENERATOR

Welcome to the Student Press Law Center's nationally recognized, automated open records law letter generator! Since its launch in 1997, our unique letter generator has been used more than 100,000 times to assist journalists and other citizens obtain access to public records maintained by state or local government officials. The Student Press Law Center is happy to provide our letter generator free of charge as a public service. (If you would like to support our ability to continue and expand this service, [click here](#)).

In most cases, making a verbal request for records is a good first step. A professional but informal request in person may give you the information you need. But in some cases, especially when a verbal request has been denied, a written request letter is the best way to get the information you are seeking.

Submitting an open records law request letter is not difficult. A complete, well-written request may help you avoid delays and further correspondence with a government agency.

The form below is designed to help you create a simple letter. It asks you for all pertinent information and guides you through the options available.

You can use this letter generator to request access to records held by a state or local government agency or body (e.g., public school district, city or campus police, state board of health, etc.). If you want to obtain records held by the federal government [click here](#).

In order to complete this form you must be able to provide: (1) a reasonable description of the public records you are seeking and (2) the name and address of the government official who you believe is responsible for keeping those records.

Once you have entered the information requested, a letter will be generated that includes: (1) the specific citation for your state's open records law and (2) how much time the law allows for an agency to respond. Where no time is specified by law, you will see the words "I would request your written response within to working days." You may wish to change this. (Where no time is specified by law, most courts have required that government officials respond within a "reasonable time."). Finally, the letter will note (3) any specific penalties provided for by the law should government officials fail to comply with your request. (All generated data was accurate as of January 2010.) You may choose not to include all of this information in every request you make or you may wish to modify the tone of the letter. Use your best judgment about what will best persuade the government record keeper in question to provide you the information you seek.

And if you think that filing a written request is too complicated or too much work, think again. Filing a written request is a simple matter of writing a letter. The Student Press Law Center's Web site has a one-of-a-kind, automated letter generator for requesting public records that can help. To produce a letter ready for mailing, all you need to do is have a reasonable description of the record you're looking for (you don't need a specific document number or exact date, but the more precise your description the better) and the name and contact information of the government official you believe keeps the record you're looking for.

Using Open Meetings Laws

- General Law: A public body must provide notice of all gatherings and allow public attendance unless meeting is *explicitly* exempted by statute.
- Commonly found exemptions:
 - Discussion of personnel matters
 - Discussion of individual students
 - Matters involving highly personal information (e.g., medical, personal finance, test scores)
 - Discussion of ongoing or contemplated legal proceedings
 - Meetings to discuss the acquisition of real estate

Open meeting laws work pretty much the same way.

Again, all open meeting laws say much the same thing: a public body must provide notice of all official gatherings and allow the public to attend unless there is a specific exemption in the law that allows them to keep the doors closed.

Many of the exemptions in open meeting laws are the same as those in open record laws. And again, the exemptions vary from law to law, so you'll have to check the specifics of the law you're using.

Attending Public Meetings

- Show up
- Understand and be prepared to explain the law
- If told to leave, ask that the minutes of the meeting reflect your eviction — and then leave
- Administrative appeal or judicial review available

Taking advantage of an open meeting law is usually even easier than using an open records law: just show up at the meeting you want to attend.

If the agency is not used to having visitors sit in on its meetings, you may want to have a copy of the open meeting law available. Again, courtesy counts. Do your best to keep your discussion friendly.

If officials still tell you the meeting is closed, ask that your objection be recorded in the minutes of the meeting and leave. Immediately write down what happened and whom you spoke with. That may also be a good time to contact a media law attorney or the Student Press Law Center for help.

As with records, most open meeting laws have provisions for appealing agency decisions.

“Pocket” FOI Laws

- Federal “Clery Act” (campus crime)
- State campus crime reporting acts
- Federal “Student Right-to-Know Act” for colleges
 - Access to student graduation rates
 - Access to athletic program information
 - Access to accreditation reports
- Family Educational Rights and Privacy Act (FERPA)
- IRS Form 990

Finally, in addition to the general open record and open meeting statutes, the law includes a number of provisions scattered about that can accurately be described as FOI laws. We already mentioned the laws requiring access to campus crime information. We also touched upon some of the provisions in the federal “Student Right-to-Know Act,” which require most public and private colleges to provide information about how they operate. Of more interest to high school students, however, is the Family Educational Rights and Privacy Act, which, among other things, requires schools to provide students or their parents with a copy of their own education records — including transcripts, teacher recommendations and test scores — upon request. Also, federal rules require most private schools and other nonprofit organizations to provide a copy of their federal tax return, known as the IRS Form 990, which includes information about where money comes from and where it goes, including, for example, a list of the five highest paid employees at your school and their salaries. Unfortunately, a detailed discussion of the various “pocket” FOI laws is beyond the scope of this presentation. Much more information is available on the SPLC Web site.

Things to Remember about Freedom of Information Law

- There is a legal presumption that the records and meetings of a public body are open and available
- Ask nicely — but be persistent

Remember, using FOI law to obtain information about how your government works is neither rude or nosey. In America, we've decided that we want a government that is ruled by the people, not the other way around.

If that idea is going to work, we — the people — must know what our government and government officials are up to. Freedom of information law is one important means by which that happens.

Reporter's Privilege

Protecting the right of a free and independent press to gather and report the news

Our final topic today is what is collectively known as the reporter's privilege. It includes the right of the press not to be compelled to testify or disclose sources and information to the government or third parties. It also includes the right of journalists to be free from intrusive searches and seizures of their persons and property. Fortunately, it is a problem that comes up fairly infrequently for student media. Unfortunately, however, it's a problem that — when it does come up — often arises in a physically and emotionally charged setting that requires a quick and knowledgeable response.

A privilege in law is exactly what it sounds like: something that gives one person an advantage another does not have. Journalists argue that because of their unique and necessary role in providing the public with independent, accurate and complete information, the law should recognize a privilege that protects them from legal actions that threaten the integrity of their effort and their ability to gather and disseminate the news.

Journalists argue that where the government is allowed to confiscate reporters' materials or compel reporters to turn over information they have collected, the public is less likely to view the press as an independent "watchdog" and more likely to see it as an extension of the government itself.

Most Common Problems

- Protection of sources and information
 - Subpoena to reveal confidential sources
 - Subpoena to testify
 - Subpoena to produce notes, newsgathering material, outtakes
- Protection of newsroom and journalists “work product”
 - Newsroom searches
 - Confiscation of journalists’ notes, photos
 - Detention of journalists
 - Tracking journalist’s communication records

Reporter’s privilege cases can arise in a number of contexts. Most involve an attempt by those in authority to obtain a reporter’s notes or other newsgathering material or to force the reporter to change his role from that of a neutral observer to a witness that provides information for one side or another in a dispute.

One of the more common methods of forcing a reporter to provide information is through the use of a subpoena. A subpoena is a court order that requires a person to provide information. Sometimes the information is the name of a confidential source. Sometimes it is an order to answer questions under oath. At other times, a subpoena requires a person to provide material, such as notes or a photograph. Often, it is a combination of the above.

Another way to obtain information from a reporter is simply to take it by force. Newsroom searches, confiscation of a reporter’s notes or camera, wiretapping of a reporter’s phone, tracing his phone calls, tracking a news organization’s Internet usage and the outright detention of journalists are other cases where a reporter’s privilege claim might arise.

So what do you do if you find yourself in one of these situations?

Demands for Information/Material

- Generally, there is no obligation to respond or comply with a demand to reveal information or provide newsgathering material absent a properly served subpoena (court order)
 - Rare exception: Urgent threat to safety or welfare
- If law enforcement officials are unmoved by your objections, you should comply with their demand, but formally contest the order as soon as possible
- School officials do not have the legal authority to compel disclosure of newsgathering material from student journalists absent an emergency or court order

In the case of demands to turn over notes or photos or to reveal the identity of a secret source or some other information, it is important to remember that — other than in a few rare, “emergency-type” situations — law enforcement and other government officials have no legal authority to force reporters to disclose such information unless they follow the rules for obtaining and issuing a subpoena.

That said, however, if in a face-to-face confrontation with officials, it is *usually* best for journalists — while clearly voicing their objections — to comply with demands for materials even if they believe the demands are unlawful. Once the immediate confrontation is over, journalists should formally challenge the actions taken against them as soon as possible.

The same generally holds true for demands made by school officials. Absent a properly issued court order or bona fide emergency, school administrators generally have no legal authority to force student journalists to turn over their newsgathering material or to reveal information they have collected.

Unofficial demands made by other third parties, such as business owners, lawyers or disgruntled readers can be politely refused or ignored.

Newsroom Searches/Confiscation of Journalists' "Work Product"

- Federal Privacy Protection Act of 1980
- State newsroom search laws
- First Amendment claim
- Criminal theft

In addition to responding appropriately to verbal or written demands for material or information, it is also important to know that police, school officials and others are not permitted to simply show up and physically take a journalist's unpublished work on their own. The law can provide significant protection and recourse against unlawful searches and seizures of journalists' newsrooms and newsgathering materials.

A federal law, known as the Privacy Protection Act of 1980, and a number of state laws, prohibit most newsroom searches even where police or other government officials produce a search warrant.

Such laws, as well as the First Amendment itself, can also prohibit government officials from detaining reporters and demanding that they turn over or destroy their cameras, film, video cards, notes or other newsgathering material.

Additionally, where government officials or other third parties take or destroy a journalist's property without permission or justification, it may be possible to pursue a criminal claim.

So you' ve received a subpoena

- Do not ignore it!
- Seek legal assistance immediately
- Do not destroy newsgathering material after receiving subpoena
- You have the right to challenge the subpoena in court before complying with it

As already pointed out, until a reporter receives a properly delivered, court-approved subpoena, he or she is generally under no legal obligation to comply with a demand to turn over material or provide information to others.

Even if you receive a subpoena, however, you may still be able to avoid disclosure. But you must keep the following in mind:

First, a subpoena is an official court order. You cannot simply ignore it or hope that it will go away. Carefully note the deadlines for complying with the order and seek legal help from an experienced media law attorney as soon as possible. Failure to respond in a timely, appropriate manner often limits or eliminates your options — and could land you in legal hot water. Because subpoenas often have a fairly short response time, it is essential that you act quickly. Also keep in mind that after receiving a subpoena, it is against the law to destroy, hide or alter your notes, electronic data or any other newsgathering material that you believe may be targeted. Finally — and most importantly — know that you have a legal right to challenge the subpoena in court before complying with it. Understanding the risk subpoenas pose to a free and independent press, student media in particular have a long and proud tradition of fighting attempts to force their disclosure of confidential sources and

Shield Laws/Qualified Privilege

- Shield Laws
 - Created by lawmakers
 - Protection varies by statute
 - Can provide more specific, more certain protection
 - May contain very specific qualifications for its use (rare: student journalists *may* have a hard time qualifying for protection)
 - Protection may or may not be absolute
- Qualified Privilege
 - Created/recognized by courts
 - Protection varies by jurisdiction
 - Provides more general, but sometimes more “fuzzy” protection
 - Often less stringent qualifications for those seeking protection
 - Protection not absolute

If you receive a subpoena, there are two primary legal “shields” that you can use to avoid having to testify or provide other information or material. The first is called, simply enough, a “shield law.” A shield law is a statute enacted by lawmakers and written specifically to protect journalists from having to comply with a subpoena in certain cases. Currently, over 30 states and the District of Columbia have a shield law on the books. There is, at present, no federal shield law, though Congress continues to seriously debate the matter.

Even where lawmakers have not passed a shield law, courts in many states have recognized some kind of reporter’s privilege.

There are strengths and weaknesses to each type of protection (and they can vary by state). Most shield laws and privileges do not provide absolute protection to journalists in *every* situation where they might want to keep information or material to themselves. In most cases a balancing test is used to weigh the need to disclose the information against the public’s interest in ensuring a free and independent press. Most courts have found that student journalists have the same protections as their commercial counterparts, but there have been a few exceptions. Before making a promise of secrecy to a source, it is important to know and understand what legal protections may —

Newsroom “Must Have” Reporter’s Privilege Resources

- SPLC *Student Media Guide to Protecting Sources and Information* and *Student Media Guide to the Privacy Protection Act*
- RCFP *The Reporter’s Privilege* compendium

Because of the urgent nature of a newsroom search or the confiscation of newsgathering material — and to a somewhat lesser degree the receipt of a subpoena — it is important to know where to find information when you need it fast.

Three good online sources are the SPLC’s *Student Media Guide to Protecting Sources and Information*, the *Student Media Guide to the Privacy Protection Act* and *The Reporters Privilege* compendium, published by the Reporters Committee for Freedom of the Press. All are free and provide quick, comprehensive information for help in responding to challenges to your newsgathering independence.

Final things to remember about Reporter's Privilege

- Journalists have an ethical obligation to keep their promise to a confidential source
- Journalists *may* have a legal obligation to keep their promise to a confidential source
- Student media advisers: Ignorance is bliss!
- For many reasons, promises of confidentiality should be very rare

Finally, no matter what protection the law may or may not offer, always remember that if you make a promise to a source, you *must* be prepared to keep it.

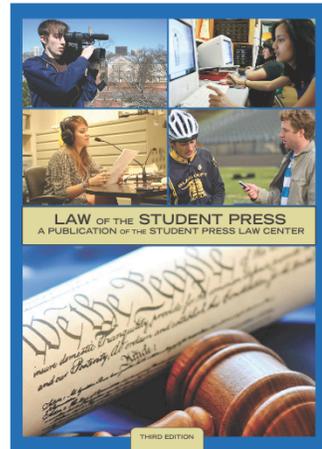
Breaking a promise to a source is a serious ethical breach that violates not only the trust your source has placed in you, but harms journalists everywhere by making it less likely that other sources will come forward with information the public may need to know. Breaking a promise may also constitute a legal violation, as some courts have found assurances of confidentiality to constitute binding legal agreements.

A problem unique to student media can arise when a student media adviser — usually a school employee — knows the identity of a confidential source that may be involved in dangerous or illegal activity, such as substance abuse. In such cases, the adviser may have a separate legal obligation to alert other school officials about what he has learned. To avoid the unpleasant conflict between honoring the student media organization's obligation to a source and his professional obligation to reveal information about harmful activity, it is generally best that advisers not know a source's identity.

With all of this in mind — and given the risks involved — it should be clear that promises of confidentiality should always be the exception rather than the rule.

Other Student Media Law Resources

Student media newsroom
“Must Have” resource



Well, that's it. The last of the Big 6.

Hopefully, you now feel a little more confident in being able to recognize and navigate some of the most common trouble zones for student media. Because if you can spot a potential problem, you can always seek additional help in avoiding or fixing it.

One of the most important resources for additional help is the Student Press Law Center's book, *Law of the Student Press*, which every student newsroom in the country should have on hand. The book includes much more information about each of the topics talked about today — and many, many others. It is the only media law book available geared specifically to student journalists and the unique problems they face.

Purchase information is available on the SPLC Web site.

Other Student Media Law Resources

- SPLC monthly podcast (splc.org/podcasts)
- SPLC Report: thrice-yearly magazine
- SPLC News Flashes: news stories about legal issues affecting student media
- News Media and the Law: RCFP's magazine

Other helpful resources — all of which are free and online — include SPLC News Flashes (which can be sent to your e-mail account or read on the Web site), the SPLC's magazine, the *SPLC Report*, and *News Media and the Law*, a magazine published by the Reporters Committee for Freedom of the Press. All of these can help you stay up to date on the very latest developments affecting America's student and professional news media.

Finally, as noted earlier, the SPLC Web site is packed full of resources and information on student press law issues. Of particular interest is the site's Virtual Lawyer, which is available at any time and ready to conduct a short, online interview to answer your questions and help get you pointed in the right direction.

On behalf of the Student Press Law Center and the Newspaper Association of America Foundation, thank you for taking the time to watch this presentation. We hope you have found it helpful. Enjoy your time as a student journalist — and good luck!

Seek help when you need it!

Student Press Law Center

www.splc.org

(703) 807-1904

Monday - Friday, 9 a.m. to 6 p.m. Eastern Time

A *Press Law Primer for High School Student Journalists* was written and produced by the Student Press Law Center with the support of a generous grant from the Newspaper Association of America Foundation.

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