Student notes for Student Press Law Center’s Media Law Presentation: Reporter’s Privilege Law

SPLC’s phone number: *703 807-1904*

SPLC’s website: *splc.org*

4:

What’s the definition of Reporter’s Privilege?

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

6:

 Why should reporters have a privilege?

One good reason is because of the First *Amendment*.

7:

 Maintaining *editorial* independence is vital. Often, journalists can go places where the *public* may be unwelcome. If the press if viewed as an extension of the government, then journalists lost status as *independent/neutral* observers.

8:

Why should reporters have a privilege?

Ensures good sources of *sources* for important stories remain available. Without *promise of confidentiality* some would be unwilling to share.

9:

Some sources want to stay out of the spotlight because of possible *retribution* or job security.

10:

Students often don’t want to go on the record about matters of illegality or highly sensitive *personal* issues.

11:

When journalists make a promise to a source, the journalist has an *obligation* to keep that *promise*. You also may be held responsible if you break this *promise*.

12:

Poynter confidential checklist:

• *is the story of overwhelming public concern?*

• *is there any other way to get the information on the record?*

• *is the information from the confidential source verifiable?*

• *are you willing to reveal to the public why the source cannot be named?*

• *how would your audience evaluate the same information if they knew the source’s identity?*

21-23:

Different types of subpoenas exist:

• *subpoena to reveal confidential sources*

• *subpoena to testify*

• *subpoena to produce unpublished notes, photos, outtakes and other newsgathering materials*

24:

TRUE or FALSE

If you are given a subpoena, you should just ignore it.

*false*

25:

You should also *seek legal assistance* immediately.

26:

Do *not* destroy newsgathering material after receiving subpoena. It’s against the law!

27:

True or False:

You have the right to challenge the subpoena in court before you comply with it.

*true*

28:

Some protection exists, such as:

• *answers could include: shield laws*

• *court-recognized qualified privilege*

30:

Name three differences between Shield Laws and Qualified Privilege:

• *see slide 30 for the answer range*

31:

A number of resources may help if you are in need of finding out if you have legal protection including *SPLC’s* *Student Media Guide to Protecting Sources and Information* and Reporters Privilege, published by the Reporters Committee for Freedom of the Press.

32:

True or False

Public school officials may just show up and take or confiscate unpublished work.

*false*

33:

Although rare, sometimes *newsroom* searches occur. These are often done through search warrants.

34:

More common is the *confiscation* of journalists’ notes, photos.

35:

Sometimes, they might *wiretap* a reporter’s phone, trace phone calls, or hack into the news organization’s computer system.

36:

Journalists can be physically *detained* or questioned.

38:

The Federal Privacy Protection Act of 1980 provides protection from most *newsroom* searches.

39:

In addition to a First Amendment claim, journalists could pursue *criminal claims* if third parties take or destroy a journalist’s property without permission or justification.

41:

What’s the General Rule?

*You’re not obligated to respond to a demand to reveal information or provide newsgathering material absent a properly severed subpoena or other court order.*

42:

Public school officials do not have the legal authority to *compel* disclosure of newsgathering material from student journalists absent a *court order or emergency*. Unofficial demands from other third parties can also be politely ignored or refused.

43:

With that said, if you are in a face-to-face confrontation with officials, it is usually best to *comply* -- even if they believe the demands are unlawful. Immediately following the confrontation, the journalist should formally challenge the actions taken against the him or her.

44:

A student media adviser should never be *privy* to confidential information nor should they know a confidential source’s identity.

45:

What does “off the record” mean?

*don’t use the information given at any time under any circumstances*

46:

If you promise confidentiality, you must be prepared to keep it. Promises should be *kept*.