

Law Paper topic submission

COM 416 | for Dr. Brian Carroll

Tentative Title: Hands off! First Amendment protections for reporters sworn not to reveal their sources

Key Cases: *Miller v. U.S.*, 04-1507; *Cooper and Time Inc. v. U.S.*, 04-1508; *Branzburg v. Hayes*, (1972) 408 U.S. 665

Background: During the period of January through May 2004, the grand jury conducted an extensive investigation into whether federal law had been violated in connection with the unauthorized disclosure by government employees of a CIA employees' identity. In May 2004, the grand jury deemed it necessary to obtain testimony and documents from a reporters Matthew Cooper of Time Inc. and Judith Miller of the *New York Times*, who refused to hand over the information requested. Cooper and Miller were both subpoenaed. Cooper eventually cooperated with the grand jury while Miller did not. The United States Court of Appeals was unanimous in ruling out the existence of an absolute reporter's privilege rooted in common law. Miller was in turn jailed for not divulging sources from an article she never wrote.

Argument: A federal shield law is needed to protect journalists from being forced to divulge their sources, thus enforcing their First Amendment rights. Currently, shield laws protect journalists in 49 states and the District of Columbia, but there is no protection in federal courts. If journalists fear punishment for using anonymous sources, they may choose to abandon a story. Anonymous sources are sometimes necessary to get information about government abuses or corporate scandal, among other topics. A federal shield law must be enacted in order to prevent the government from taking liberties with journalists' First Amendment rights.