THE JOURNALIST’S PRIVILEGE **1**
What protection does the N.C. Shield Law provide? 2
Who is protected by the shield law? 3
What types of information does the shield law protect? 3
Does the shield law always protect a reporter? 3
When is the First Amendment-based privilege important? 4
What protection does the First Amendment provide? 5
What other protections exist? 7
What else does a reporter need to know? 7
Can the police search a newsroom with a search warrant? 8
Conclusions 9

How to handle confidential sources: A checklist **10**

THE JOURNALIST’S PRIVILEGE

By Jonathan E. Buchan

Because news reporters frequently cover events that result in criminal prosecutions or civil litigation, reporters often are subpoenaed to provide testimony or other evidence. Since 1972, when the U.S. Supreme Court ruled in *Branzburg v. Hayes*[1] that the First Amendment does not provide news reporters with an absolute privilege protecting them from revealing confidential sources and information, state and federal courts around the country have disagreed regarding the existence and scope of a qualified journalist’s privilege based on the First Amendment.[2]

North Carolina’s appellate courts have not provided full guidance about the First Amendment-based testimonial privilege. However, in 1999 the N.C. General Assembly enacted

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[1] 408 U.S. 665 (1972).
[2] British and American jurisprudence has long adhered to the principle that, absent a specific privilege (such as the attorney-client or doctor-patient privilege), litigants are entitled to “every man’s evidence.” *See* JEREMY BENTHAM, 4 THE WORKS OF JEREMY BENTHAM 321 (1843): “Were the Prince of Wales, the Archbishop of Canterbury, and the Lord High Chancellor, to be passing by in the same coach, while a chimney-sweeper and a barrow woman were in dispute about a halfpennyworth of apples, and the chimney-sweeper and the barrow woman were to think proper to call upon them for their evidence, could they refuse it? No, most certainly.” Many lawyers who subpoena news reporters are still surprised to learn of the journalist’s qualified privilege.

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a strong shield law providing a broad qualified privilege for news personnel subpoenaed to testify in court or in similar, quasi-judicial proceedings.[3]

This chapter begins with a review of the state's shield law. Then it discusses the law on the First Amendment-based privilege in North Carolina. The chapter concludes with some practical advice for dealing with subpoenas and an explanation of the law on the related topic of newsroom searches.

What protection does the N.C. Shield Law provide?

The state's shield law, which is found at N.C. Gen. Stat. § 8-53.11, provides journalists broad protection against subpoenas for testimony or the disclosure of notes or other documents that they have created or obtained in the course of their newsgathering. The statute gives journalists a qualified privilege, which means its protection is not absolute.

The shield law protects reporters in any "legal proceeding." The definition of legal proceeding includes grand jury proceedings or investigations, criminal prosecutions, civil suits and related proceedings in any state court. The shield law applies in all state courts and in some federal court cases. It also applies in judicial or "quasi-judicial" administrative, legislative and regulatory proceedings.

Unlike many states' shield laws, North Carolina's law applies in actions in which the journalist or media company is a party, such as libel actions.[4]

Journalists who assert the shield law's protections cannot be compelled to give testimony or produce material without first receiving notice and an opportunity to be heard in court. Any order compelling a journalist to testify or produce material must include "clear and specific findings" regarding the need for the information or material sought.

Although the N.C. appellate courts have not had occasion to apply or interpret the substantive provisions of the shield statute, numerous trial courts have done so. The first reported judicial application of the shield statute was in 2001 in the first-degree murder trial of Rae Carruth, a former Carolina Panthers football player.[5] The law protected a subpoenaed Charlotte Observer reporter from having to testify and produce documents about nonconfidential information from nonconfidential sources. The defense subpoena sought the reporter's correspondence with a prosecution witness. The court ruled that the defense failed to satisfy two of the three shield law requirements to compel testimony. The defense failed to demonstrate that the reporter's evidence was essential to his case and that the information could not be obtained

[3] Forty states and the District of Columbia have some form of statutory testimonial privilege for news reporters.
[4] James v. Bledsoe, 198 N.C. App. 339, 346, 679 S.E.2d 494, 498 (2009).
[5] State v. Wiggins, 29 Media L. Rep. (BNA) 1597 (N.C. Super. Ct. 2001).

from alternate sources, in particular the prosecution witness in question. Since then, other trial courts have issued orders addressing the journalist's qualified privilege under the statute.[6]

Who is protected by the shield law?

The protection applies to any person or company engaged in "gathering, compiling, writing, editing, photographing, recording or processing information that is disseminated by any news medium." "News medium" is defined as any entity "regularly engaged in the business of publication or distribution of news via print, broadcast or other electronic means accessible to the general public." Neither the statute nor the N.C. case law has addressed whether an independent blogger is "engaged in the business of publication or distribution of news." By its terms, however, the privilege appears broad enough to cover information sought from the "business side" of a newspaper or other media company.

What types of information does the shield law protect?

North Carolina's broad shield statute covers nonconfidential as well as confidential information, as illustrated by the trial court decisions cited above and in endnote 5. It protects both published and unpublished information. It covers a reporter's notes, audio recordings, story drafts, videotape recordings, photographs, outtakes of audio recordings and videotapes, e-mails and other communications. One trial court has held that the shield statute protects a newspaper from having to disclose to a murder defendant the IP addresses or other identifying information of anonymous contributors to the newspaper's website.[7]

Does the shield law always protect a reporter?

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[6] *See* Higgins v. Young, 29 Media L. Rep. (BNA) 2528 (N.C. Super. Ct. 2001) (quashing subpoena to reporter in civil case); State v. Peterson, 31 Media L. Rep. (BNA) 2501 (N.C. Super. Ct. 2003) (quashing subpoenas to reporters for notes and testimony in murder case despite defendant's claim that the information sought was from "eyewitnesses" and not protected by the qualified privilege); State v. McLeod Oil Co., 34 Media L. Rep. (BNA) 1703 (N.C. Super. Ct. 2006) (quashing subpoena to television station for videotape of news interview program); State v. Spivey, 35 Media L. Rep. (BNA) 1137 (N.C. Super. Ct. 2006) (denying motion to compel and quashing prosecution's subpoena to reporter seeking to have her testify whether statements attributed to criminal defendant in news article accurately reflected his statements to the reporter); State v. Fitzgerald, 39 Media L. Rep. (BNA) 2251 (N.C. Super. Ct. 2011) (quashing subpoena from defendant in capital murder case to producer of television documentary to produce all raw video footage and reporter's notes from the television program *The First 48*) Town of Benson v. Blackmon, No. 10-CV-1379 (N.C. Super. Ct. Aug. 1, 2011) (finding party seeking information did not demonstrate absence of alternative sources and awarding attorney fees to newspaper).

[7] Mead v. Gaston Gazette, No. 10-crs-2160 (N.C. Super. Ct. Aug. 16, 2010).

No. Because the shield statute creates a qualified privilege, not an absolute one, a court can compel a reporter to testify or produce documents if the party seeking the testimony or documents can demonstrate that: (1) the information or material sought is "relevant and material" to the legal proceedings concerned; (2) the information or material sought cannot be obtained from alternate sources; and (3) the information or material sought is essential to the maintenance of the subpoenaing party's claim or defense.

Suppose, for example, that an accident or other event covered by a newspaper engenders a civil lawsuit and one of the parties subpoenas a reporter to testify about whether individuals quoted by name in a story actually made the published comments. The reporter's qualified privilege under the shield statute would apply, and the reporter would not be compelled to testify unless the attorney for the civil litigant demonstrated to the court: (1) that the information was relevant and material to the proceedings; (2) that there were no alternate sources for the information; and (3) that the information sought was essential to the subpoenaing party's case. In this case, the court should first determine whether the information sought is **essential** to the case, and if so, then require the subpoenaing party to attempt to obtain the information directly from the persons quoted in the story or witnesses to such statements – not from the reporter.[8]

A journalist does not, however, have a privilege against disclosure of any information, document or item obtained as a result of the journalist's eyewitness observations of criminal or tortious conduct. Tortious conduct is that which can result in civil liability and thus a civil lawsuit. A reporter who witnesses criminal or tortious activity, or a photographer who photographs or videotapes such activity, has no qualified privilege to withhold such information if subpoenaed to produce it.

When is the First Amendment-based privilege important?

Journalists subpoenaed in federal court in civil cases are protected by the state shield law only in cases where N.C. substantive law applies (such as civil cases in which the federal court's diversity jurisdiction has been invoked because the parties to the case are from different states). In other civil cases and in criminal cases in federal court, journalists must rely on the First Amendment-based qualified privilege.

Although the shield law has made the First Amendment-based privilege less important in state court cases than it once was, it should not be overlooked altogether. While it appears to be strong, the shield law has only begun to be tested in court, and journalists might still need the First Amendment-based privilege.

[8] State v. Spivey. 35 Media L. Rep. (BNA) 1137 (N.C. Super. Ct. 2006) (quashing subpoena to reporter because prosecution had failed to demonstrate that information sought from reporter could not be obtained from other available sources).

What protection does the First Amendment provide?

Federal judges in all three districts in North Carolina – the Western, Middle and Eastern districts – have recognized and applied a qualified privilege for news reporters.[9] The Fourth Circuit Court of Appeals also has recognized the privilege. Journalists subpoenaed to testify do not have to testify or produce notes or records unless the party seeking the information can demonstrate: (1) that the information sought was relevant and material to the litigation; (2) that the information sought was necessary for the maintenance of the claim; and (3) that there were no alternative means of obtaining the requ ired information.[10]

In state courts, however, the picture is considerably less clear. No case involving the First Amendment-based privilege reached the state's appellate courts until the late 1990s. As a result of the N.C. Supreme Court's opinion in that case – *In re Owens*,[11] affirming the N.C. Court of Appeals' 1998 decision[12] – there is no constitutional privilege in North Carolina for reporters subpoenaed in criminal cases to provide nonconfidential information obtained from nonconfidential sources. Those decisions did not expressly reach the issue of whether a constitutional privilege exists in civil cases, or in cases in which a confidential source or confidential information is implicated. A short history of reporter's privilege in North Carolina will help to clarify the situation.

Since the first reported state trial court opinion concerning the reporter's privilege in 1983, most N.C. trial courts had found that a news reporter subpoenaed to give testimony about confidential or nonconfidential information has a qualified privilege not to testify. That meant that the reporter did not have to testify unless the party seeking the information could

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[9] In the much-publicized criminal prosecution of Demario Atwater for the murder of UNC Student Body President Eve Carson, defense counsel sent subpoenas to more than 15 media organizations seeking thousands of pages of materials to support a motion for change of venue. Finding "the Defendants have not shown that the material is not otherwise procurable by exercise of due diligence," Court found "it is unreasonable and oppressive to require the media organizations themselves to bear the burden of copying and providing the publicly available information; and the motion to quash will be granted." United States v. Atwater, No. 1:08CR384-1 (M.D.N.C. March 10, 2010).See also Penland v. Long, 922 F. Supp. 1080 (W.D.N.C. 1995); Miller v. Mecklenburg Cnty., 602 F. Supp. 675 (W.D.N.C. 1985); Miller v. Mecklenburg Cnty., 606 F. Supp. 488 (W.D.N.C. 1985); Food Lion, Inc. v. Capital Cities/ABC, Inc., 951 F. Supp. 1211 (M.D.N.C. 1996); Ashcraft v. Conoco, Inc., 1998 WL 404491, 26 Media L. Rep. (BNA) 1620 (E.D.N.C. 1998) *aff'd in part, rev'd in part,* 218 F.3d 288 (4th Cir. 2000).

[10] LaRouche v. NBC, 780 F.2d 1134 (4th Cir.), *cert. denied,* 479 U.S. 818 (1986); Church of Scientology Int'l v. Daniels, 992 F.2d 1329 (4th Cir.), *cert. denied,* 510 U.S. 869 (1993); Ashcraft v. Conoco, Inc., 218 F.3d 288 (4th Cir. 2000). The scope of the qualified privilege in the Fourth Circuit is, however, unclear. In *In re* Shain, 978 F. 2d 850 (4th Cir. 1992), the court upheld a finding of contempt for the refusal of a reporter to testify about nonconfidential information, finding that in the absence of confidentiality or evidence of "vindictiveness" by the subpoenaing party the reporter had no privilege. Moreover, there is legitimate concern over the recent erosion of the First Amendment privilege in the federal courts generally. *See In re* Grand Jury Subpoena, Judith Miller, 397 F.3d 964 (D.C. Cir. 2005) (finding no First Amendment privilege for reporters called to testify before grand juries).

[11] *In re* Owens, 350 N.C. 656, 27 Media L. Rep. (BNA) 2340 (1999).

[12] *In re* Owens, 128 N.C. App. 577 (1998).

demonstrate: (1) that the information sought was relevant and material to the litigation; (2) that the information sought was necessary for the maintenance of the claim; and (3) that there were no alternative means of obtaining the required information.

Experienced trial court judges regularly applied the constitutional privilege in some of the state's toughest and most celebrated cases. For example, Mecklenburg County Superior Court Judge Robert Johnston applied the reporter's privilege and quashed subpoenas to reporters from accused multiple-murderer Henry Wallace in 1995.[13] Cumberland County Superior Court Judge Gregory Weeks applied the constitutional reporter's privilege to quash subpoenas in the trial of two men accused of killing Michael Jordan's father in 1995.[14] It has, in fact, been an exceedingly rare event for a N.C. news reporter to be required to provide testimony or produce records when subpoenaed to do so.

In early 1997, Wake County Superior Court Judge Robert Farmer held a Raleigh television reporter in contempt of court and sentenced her to 30 days in jail for refusing to testify in a criminal case regarding nonconfidential information obtained from a nonconfidential source. Judge Farmer refused to find the existence of the First Amendment-based reporter's privilege, and thus he ruled that the prosecutor seeking the information did not need to demonstrate that it was relevant and necessary to his case or that it was unobtainable from other sources. After spending two hours in jail, Owens was released and appealed her criminal contempt conviction to the N.C. Court of Appeals. The Court of Appeals rejected the reasoning of dozens of courts in other jurisdictions that had recognized a constitutional privilege. It held that – at least in criminal cases where only nonconfidential information and nonconfidential sources were involved – neither the First Amendment nor the N.C. Constitution provided a reporter's privilege.[15] Owens appealed that decision to the N.C. Supreme Court, which heard oral argument in that case on Sept. 30, 1998. In the meantime, in light of the Court of Appeals' strongly worded opinion, N.C. reporters faced considerable uncertainty when served with subpoenas. In the early spring of 1999, after months of waiting for a decision by the state Supreme Court, the North Carolina Press Association and the North Carolina Association of Broadcasters decided to support the enactment of a shield statute by the General Assembly. Despite the initial reluctance by some members of the media to seek a "special privilege" for journalists, at least until the N.C. Supreme Court had ruled, North Carolina Press Association lobbyist John Bussian led a savvy legislative effort. The proposed legislation moved quickly through the Senate and the House. Although it received some opposition from the state's association of district attorneys while in conference committee, the bill passed and was signed into law on July 21, 1999, by then-Gov. James B. Hunt.

The fact that the statute does not apply to information gathered before Oct. 1, 1999, left the door ajar for some remaining disputes over the existence and scope of a reporter's qualified privilege based on the First Amendment or the N.C. Constitution. For example, Elizabeth Chandler, a reporter for The Charlotte Observer who had covered highly publicized civil

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[13] State v. Wallace, 23 Media L. Rep. (BNA) 1473 (N.C. Super. Ct.1995).

[14] State v. Demery, 23 Media L. Rep. (BNA) 1958 (N.C. Super. Ct. 1995).

[15] *In re* Owens, 128 N.C. App. 577 (1998).

litigation involving Charlotte Hornets owner George Shinn, was subpoenaed by Shinn's attorney in April 1999 to testify at deposition and to produce her notes and all documents in her possession related to the state court case.[16] (Shinn's counsel was simultaneously demanding that the newspaper remove her from coverage of the dispute.) She moved to quash the subpoena, and Superior Court Judge Timothy C. Patti heard that motion on July 15, 1999. He had still not ruled on July 23, when the N.C. Supreme Court, on its first opinion day since the shield statute was signed into law, affirmed the Court of Appeals' 1998 decision in *Owens* in a one-sentence opinion noting the recent enactment of the shield law. On July 26, Judge Patti ruled that the constitutional reporter's privilege applied and quashed the subpoena. He distinguished the Shinn-Chandler matter from the *Owens* case, noting that the case before him involved a subpoena in a civil case that implicated confidential as well as nonconfidential sources. That order was not appealed.

What other protections exist?

The U.S. attorney general has adopted strict policies limiting the issuance of subpoenas by U.S. Attorneys to members of the news media and to telephone companies for telephone records of members of the news media.[17] The U.S. attorney general also has policies regarding the interrogation, indictment or arrest of members of the news media.[18] U.S. attorneys must demonstrate to the attorney general that all reasonable attempts have been made to obtain information from alternative sources and obtain authorization from the attorney general before subpoenas are issued to reporters. The nature of the protection afforded by this policy is, however, questionable. The D.C. Circuit Court of Appeals held that the policy created "no enforceable right."[19] The decision as to whether a subpoena complies with the department's policy thus lies solely in the discretion of the attorney general.

What else does a reporter need to know?

- Although there is necessarily some give and take between reporters and their sources, reporters should be cautious about discussing their news gathering activities or previously published articles with lawyers or other individuals interested in that information. The lawyer may be engaging in discussion with the reporter to establish a basis for claiming that the reporter has waived any privilege under the shield statute or under the First Amendment by revealing supposedly confidential information.

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[16] Shinn v. Price, 27 Media L. Rep. (BNA) 2341 (N.C. Super. Ct. 1999).
[17] 28 CFR § 50.10 (1991).
[18] *Id*.
[19] *In re* Grand Jury Subpoena, Judith Miller, 397 F.3d 964, 975 (D.C. Cir. 2005).

● If a reporter is served with a subpoena, the reporter should immediately contact a supervising editor. Don't tuck the subpoena into a drawer and wait until the day before your appearance is required to let your editor know! Time is of the essence, because certain subpoenas can be dispatched through service of an objection under the N.C. Rules of Civil Procedure, but that can only be done if the reporter takes action within 10 days.[20] The reporter and editor should promptly contact the newspaper's attorney. Remember that subpoenas for testimony (but not for documents) in state court actions may be served by a telephone call from the sheriff's department.[21]

● If a reporter refuses a judge's order to testify, the reporter or her newspaper may be sentenced to civil or criminal contempt and/or subjected to jail time or fines. In an extreme case, which has never occurred in North Carolina, a reporter could be ordered to jail until he or she agrees to provide the information sought.

● If a reporter breaks a promise of confidentiality to a source, he should be mindful that courts in some jurisdictions have permitted a confidential source to sue reporters and publications that reveal the source's identity in violation of a pledge of confidentiality. Those cases have been based on breach of contract, promissory estoppel and other theories.[22]

Can the police search a newsroom with a search warrant?

The federal Privacy Protection Act[23] protects journalists against most searches of newsrooms by law enforcement officials. The law generally prohibits federal, state and local law officials from searching for or seizing journalists' "work product materials" and documentary materials. Work product materials are those created in anticipation of communication to the public and include impressions, conclusions, opinions or theories of the journalist. Documentary materials are obtained in the course of investigating a story and do not include a reporter's opinions.

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[20] N.C.R. Civ. P. 45(c)(3)(b) (made applicable to criminal proceedings via G.S. § 15A-801)
[21] N.C. GEN. STAT. § 1A-1, Rule 45(e).
[22] Ventura v. Cincinnati Enquirer, 246 F.Supp.2d 876 (S.D. Ohio 2003) (denying newspaper's motion to dismiss source's claims based on promissory estoppel and promissory fraud); Huskey v. Nat'l Broad. Co., Inc., 632 F. Supp. 1282 (N.D. Ill. 1986); Doe v. Am. Broad. Co., 543 N.Y.S.2d 455 (A.D. 1 Dept.), *appeal dismissed,* 74 N.Y.2d 945 (1989). The U.S. Supreme Court has held that the First Amendment does not protect reporters and news organizations in such situations. Cohen v. Cowles Media Co., 501 U.S. 663 (1991). There are no N.C. cases involving such breaches of confidentiality agreements by journalists. While some courts decline to enforce reporter-source confidentiality agreements on public policy grounds, that is not the only possible result. *See* Cohen v. Cowles Media Co., 457 N.W.2d 199 (Minn. 1990); Ruzicka v. Conde Nast Publ'ns, 999 F.2d 1319 (8th Cir. 1993). Note, however, that if a reporter is required by law – for example, by a court order – to reveal the identity of a source, the reporter would probably be immune from a suit despite breach of the agreement. *See* Moon v. Jordon, 390 S.E.2d 488 (S.C. App. 1990); Pennsylvania State Shopping Plazas, Inc. v. Olive, 120 S.E.2d 372 (Va. 1961).
[23] 42 U.S.C. § 2000aa (2000).

There are four exceptions to the rule against newsroom searches:

- Search warrants are allowed if someone in the newsroom is suspected of a crime related to the work product or documentary materials sought and if the crime is not related to the handling of the material in question. If the purported criminal act is the communication of the information to be seized, the seizure is inappropriate unless the information deals with national defense, classified information, child pornography, sexual exploitation of children or the sale of children.
- Searches are allowed for work product or documentary materials if seizure is necessary to prevent death or serious bodily injury.
- Searches are allowed if there is reason to believe that subpoenas for documentary materials would result in the destruction, alteration or concealment of those materials.
- Searches are allowed if the newsroom has ignored orders to produce documentary materials or if there is reason to believe that delay would be against the interests of justice.[24]

Every newsroom should have an immediately accessible file memorandum on how to handle a surprise search warrant.

Conclusions

Every N.C. journalist should have a copy of the state's shield law and be well aware of what it does and does not protect. You also should know your employer's policies regarding the use of confidential sources, and do not make promises of confidentiality you aren't prepared to keep – even if keeping it means going to jail or being subjected to fines imposed by the court.

[24] 42 U.S.C. § 2000aa(b)-(c) (2000). *See* Minneapolis Star and Tribune Co. v. United States, 713 F.Supp. 1308 (D.Minn. 1989) (newspaper and television station brought Privacy Protection Act action against FBI for seizing their equipment at narcotics arrest, and court awarded $3,000 in damages and $80,0000 in attorneys' fees). In Sennett v. United States, 667 F.3d 531 (2012) the Fourth Circuit affirmed summary judgment against plaintiff who brought Privacy Protection Act claim against the FBI, finding that there had been probable cause to believe plaintiff participated in acts of vandalism during protest at an International Monetary Fund meeting. The court found that the Privacy Protection Act did not prohibit the search of her home related to the investigation of that incident.

How to handle confidential sources: A checklist

- Don't promise confidentiality casually or needlessly. Many sources expect an agreement that a comment will not be attributed to them by name in an article, but they do not expect a reporter to promise absolute confidentiality. Unless you have discussed and agreed to absolute confidentiality, don't assume that a source expects you will never reveal his or her identity.

- If a source requests confidentiality or wants to talk "off the record" or "on background," discuss what he or she means by those terms. Attempt to persuade the source not to require confidentiality as part of the bargain for information. Attempt to persuade the source to agree that any pledge of confidentiality will become void in the event a court orders disclosure and all available appeals are exhausted.

- If you intend to promise confidentiality, do so clearly and negotiate limitations if possible. Don't leave yourself in a position of being uncertain whether you have promised confidentiality to a source.

- If the source insists upon absolute confidentiality, make a determination in your own mind regarding whether the source would – if approached after a court ordered disclosure of his or her identity – be likely to release you from your pledge of confidentiality. Determine whether the source's asserted need for confidentiality is a matter of convenience, job security or personal safety.

- Know your newspaper's or station's policy regarding confidential sources and abide by it. Note that even when the statutory or First Amendment qualified privilege is applied by a court, it can be overcome by a demonstration that the information sought is relevant, essential and cannot be obtained from alternative sources. The court may then order the disclosure of the name of the confidential source and impose sanctions – jail and/or fines – on the reporter and the newspaper or other media company for failure to obey its order.

- Before publication, determine how you would attempt to prove the truth of all statements in a story without reliance on the information provided by the confidential source. This is important when you are defending yourself against a libel suit.

- Determine whether a prosecutor or potential criminal or civil litigant would have alternative sources of the information you have obtained from the confidential source.

- If you promise confidentiality, maintain it. Don't disclose the source's identity to anyone who has no compelling need to know, especially friends or family members. Don't disclose the identity of the source to your attorney unless your editor and the attorney agree that there is a need for the attorney to know.

  If your newspaper or station has a policy about retaining notes and other documents related to stories, follow it. If your employer has no policy, use your common sense about the importance of those notes to the article, the quality of those notes and whether they would be helpful in the event of a libel suit. Don't include commentary or asides in your notes that you would be embarrassed to have read aloud to a judge or jury.

- Don't make a casual decision to disclose a confidential source for editorial reasons. Such disclosure could subject the reporter and newspaper to liability for breach of contract or under some other legal theory, as noted above.

- If served with a subpoena from a U.S. attorney, check with your attorney to determine if the U.S. attorney general's guidelines on when federal law enforcement officials may issue subpoenas to obtain information from reporters have been met.

- Analyze facts of the criminal or civil litigation closely to bolster your argument that your confidential source or information is not crucial to the outcome of the litigation. Prepare to demonstrate to the court that there is equivalent evidence available from other sources. Prepare to demonstrate that there are potential sources of the information that have not been investigated by the parties.

- Should all else fail, pack your toothbrush and some good reading material and stand by your journalistic principles.