

# Two views on confidentiality

## Reporters must protect sources

By KAREN LIST

Time Magazine on Thursday decided to turn over confidential documents to a federal grand jury against the wishes of its reporter who was willing to go to jail to protect his sources.

Time's editor in chief, Norman Pearlstine, who is also a lawyer, was quoted in the New York Times as saying "the journalist and lawyer were fighting in my head" as he made the decision to turn over reporter Mathew Cooper's sources to the federal investigator trying to determine which officials in the Bush administration disclosed the identity of a covert CIA agent, Valerie Plame.

Unfortunately for journalism and for the American people, the lawyer won.

Journalists have a long and proud history of protecting sources who tell them significant stories, often about the government, and who would not be willing to tell those stories without the protection of anonymity.

One of the first lessons that would-be reporters learn in journalism ethics classes is that once a promise to a source is made, that promise must be kept.

The reason is simple: If you give up a source, you'll never have another source. And significant information about the workings of government will never reach the public.

In fact, the privilege that journalists claim to protect sources is all about the public. The promise of confidentiality is not given in the interest of the journalist; it is given — and kept — in the interest of the American people, who depend on journalists to report on and watchdog the government. Americans



fought a revolution to make their government accountable to the people, and the First Amendment was written in part to protect journalists as they publish such information.

The question is: If journalists aren't watching the government, who is? The answer, too often, is no one.

The Valerie Plame investigation is a strange case in that the reporter who published her name is not the reporter in the hot seat. Robert Novak has refused to say if he has cooperated with the grand jury investigation. The journalists facing jail time for protecting their sources are Cooper, who published a Time column after Novak's column appeared, and Judy Miller of the New York Times, who conducted interviews in relation to the story but never published anything.

Both Cooper and Miller are willing to go to jail, as dozens of others have done before them, to protect their sources and their ability to cover the stories that the American people need to hear and would otherwise never see. Bob Woodward protected the identity of his Watergate source, for three decades known only as Deep Throat, until Mark Felt himself chose to come forward earlier this summer. Free-lance journalist Vanessa Leggett spent more than five months in jail several years ago upholding that same principle.

This year, unprecedented numbers of

journalists have been cited for contempt in federal court for refusing to reveal sources. They all risk fines and imprisonment in the interest of this principle on which good, investigative journalism depends. When these reporters refuse to reveal sources, their news organizations also are fined.

Pearlstine says that the fines faced by Time Inc. had nothing to do with his decision to turn over Cooper's material. But others have not hesitated to argue that no company has the right to put the assets of its shareholders at risk through noncompliance with a subpoena.

The problem with that argument is that journalism has only one thing to sell, and that is its credibility. Once confidential sources are compromised, credibility is lost. And everyone loses, most importantly the public in whose interest journalists work.

New York Times reporter Myron Farber made that argument 25 years ago when he told the judge who jailed him for 40 days for refusing to turn over his notes in a criminal trial that he wasn't seeking to protect his material in his own interest, but in the public interest. The Times paid \$285,000 in fines in the Farber case for the same reason.

It is a good time to remind ourselves that courage has a cost. Just ask the news organizations willing to pay such fines and the reporters willing to go to jail to protect one of their profession's most fundamental principles — a principle that is priceless and that, once lost, cannot be regained.

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