# Asher’s Card File

## AFF

### Mexico

#### War against journalists.

The killing of the third journalist in a month in Mexico raises new alarms about the state of free expression in the country, said Amnesty International. Miroslava Breach, a reporter for La Jornada and el Norte de Juarez, was shot dead while she was in her car outside her home in the northern Mexican state of Chihuahua. Miroslava was known for reporting on issues including organised crime and drug trafficking. “In Mexico a ‘war’ is raging against journalists. The country has turned into a no-go zone for anyone brave enough to talk about issues including the increasing power of organised crime and the collusion of these groups with the authorities,” said Erika Guevara-Rosas, Americas Director at Amnesty International. “Journalism should not be a life threatening profession. Instead of looking the other way and ignoring this bloodshed, the Mexican authorities must take concrete measures to protect journalists and anyone daring to talk about the country’s ills. This crime should be urgently investigated and those responsible, brought to justice.” According to the organization Article 19, more than 103 media workers have been killed in México since 2000, with 11 in 2016 alone. Reporters Without Borders said that in 2016, Mexico was the third deadliest country for journalists in the world, only behind Syria and Afghanistan.

### civic republicanism stuff

### A2 indeterminacy abt reporter definition

#### Speculative and no impact.

**Stone 14** “Democracy Demands a Journalist-Source Shield Law” by GEOFFREY R. STONE [the Edward H. Levi distinguished service professor of law for The University of Chicago] 04.15.14 5:45 AM ET [https://www.thedailybeast.com/democracy-demands-a-journalist-source-shield-law //](https://www.thedailybeast.com/democracy-demands-a-journalist-source-shield-law%20//) OHS-AT

Second, Schoenfeld maintains that recognizing such a privilege would require “the classification of ‘journalists’” in a way that would authorize some “journalists” to invoke the privilege and not others. This is true. Given the nature of modern media, a serious question arises over who qualifies as a “journalist” for purposes of the privilege. Do I, a law professor, get to invoke the privilege when I write a piece for The Daily Beast? Does a personal blogger writing on Facebook get to invoke the privilege? What about a student writing for a high school newspaper? These are, indeed, tricky issues that quite predictably divide “journalists” themselves. No one who thinks of himself as a “journalist” wants to be left out. But the law is full of hard choices, and what matters here is not that every tomdickandharry self-professed “journalist” gets to assert the privilege, but that sources can reasonably find journalists who can invoke the privilege when they want anonymity. It is no doubt true that, no matter how one draws the line, some folks will be unhappy. But as long as the statutory definition of “journalist” is reasonable, and is not couched in such a way to exclude journalists because of their particular ideological slant, this is not a serious obstacle. Indeed, if 49 states have managed to make this work, so can the federal government.

### A2 ppl report anyways

#### No.

**Stone 14** “Democracy Demands a Journalist-Source Shield Law” by GEOFFREY R. STONE [the Edward H. Levi distinguished service professor of law for The University of Chicago] 04.15.14 5:45 AM ET [https://www.thedailybeast.com/democracy-demands-a-journalist-source-shield-law //](https://www.thedailybeast.com/democracy-demands-a-journalist-source-shield-law%20//) OHS-AT

Fourth, Schoenfeld argues that we don’t need the journalist-source privilege because people are willing to reveal information to reporters even without it. But this is an unsupportable assertion. Of course people who aren’t worried about being exposed disclose information to reporters without the benefit of the privilege. But the relevant people are those who do not reveal information to reporters because they do not want to be exposed. The absence of the privilege deprives the American people—and law enforcement—of that additional information, information that now never makes it into the public eye.

### A2 Whistleblower CP

#### Empirically fail. Martin 01 “Myths of whistleblowing” Published in D!ssent, No. 4, Summer 2000/2001, pp. 55-56. [https://www.uow.edu.au/~bmartin/pubs/00dissent.html //](https://www.uow.edu.au/~bmartin/pubs/00dissent.html%20//) OHS-AT

MYTH 4: the best way to protect whistleblowers is through whistleblower legislation. Actually, it doesn't work. There are whistleblower laws on the books in several Australian states, yet there is not a single whistleblower known to have benefited from any of them.

South Australia's 1993 whistleblower act looks excellent on paper, but has never helped any whistleblower. But, ironically, the threat of using the act was invoked to shut down a whistleblower web site exposing abuses by WorkCover.

The United States has had whistleblower laws for much longer, with the same experience. The Office of the Special Counsel (OSC) was set up in 1978 as a formal channel for whistleblower disclosures. Congress has repeatedly amended the laws because they have not been working, being undermined by OSC administrators.

Tom Devine of the Government Accountability Project and author of the authoritative The Whistleblower's Survival Guide, concludes that "flaws in the system mean that an OSC whistleblowing disclosure is likely to be unproductive or even counterproductive." In other words, the OSC on balance has been useless or harmful.

## NEG

### Constitution? ?

**Constitutional crisis causes civil war**

**Wittes 18**

Quinta Jercic, managing editor of Lawfare, and Benjamin Wittes, editor in chief of Lawfare and senior fellow at the Brookings Institution, Is America on the Verge of a Constitutional Crisis?, March 2018, https://www.theatlantic.com/politics/archive/2018/03/is-america-on-the-verge-of-a-constitutional-crisis/555860/

The **constitutional scholars** Sanford Levinson and Jack Balkin more or less agree with Whittington’s typology, but add a third category of crisis: situations in which **the Constitution fails to constrain political disputes within the realm of normalcy**. In these cases, each party involved argues that they are acting constitutionally, while their opponent is not. If **examples** of the crises described by Whittington **are** relatively far and **few** between—if they exist at all—Levinson and Balkin view crises of interpretation as comparatively common. One notable example: the battle over secession that **began the Civil War.**

These three categorizations help show what a constitutional crisis could look like, but it’s not entirely clear how they apply to the situation at hand. Whittington, Levinson and Balkin all agree that the notion of a constitutional crisis implies some **acute episode**—a **clear tipping point** that **tests the legal and constitutional order**. But how do we know this presidency isn’t just an example of the voters picking a terrible leader who then leads terribly? At what point does a bad president doing bad things become a problem of constitutional magnitude, let alone a **crisis of constitutional magnitude?** Indeed, **it’s hard to see a crisis** **when** the sun is still rising every day on schedule, when **nobody appears to be defying** **court orders or challenging the authority of the country’s rule-of-law institutions**, and when a regularly scheduled midterm election—in which the president’s party is widely expected to perform badly—is scheduled for a few months from now. **What exactly is the crisis here?**

**Extinction**

**Laitman 17**

Michael Laitman, PhD-Philosophy in Israel and MS-Medical Biocybernetics, author of 40 books on political theory and philosophy of unity, frequently interviewed by mainstream news outlets including the NYT, There Will Be No Winners in the Second Civil War, August 2017, https://www.newsmax.com/MichaelLaitman/america-civil-war-newt-gingrich-don-lemon/2017/08/25/id/809867/

America is already so rife with extremists on both sides of the political aisle that many people see war not only as imminent, but as virtually inevitable. If that’s the case, we’d better get busy digging ourselves bunkers… and graves.

And not just in the U.S. **A civil war in America will not end in America**. If the country plunges into battle, **many will be vying for the loot**. **China, Russia, North Korea, Iran, and others will destroy whatever the war doesn’t**, the American empire will become history, **and a third world war, with multiple nuclear powers, will follow**. There will be no winners because, to quote Machiavelli, “Wars begin when you will, but they do not end when you please.”

### Case – Chilling Effect

#### Empirically no chilling effect.

**Eliason 08** “The Problems with the Reporter's Privilege” by Eliason D. Eliason, published in the American University Law Review Volume 57 | Issue 5 Article 5 // OHS-AT

The key factual claim in support of the reporter’s privilege is that the privilege is necessary to encourage confidential sources to come forward and speak to reporters. This will, in turn, increase the flow of information to the public and ensure a robust free press. In the absence of a privilege, the argument runs, there will be a “chilling effect” on confidential sources, and the flow of information to reporters and to the public will dry up.51 Privilege advocates speak in apocalyptic terms about this alleged chilling effect, claiming that without a privilege reporters will be reduced to “spoon feeding the public the ‘official’ statements of public relations officers.”52 This claim is the very raison d’être for the privilege; indeed, the proposed federal legislation—the Free Flow of Information Act—embodies this concept in its title. In Branzburg, the Supreme Court was skeptical of this factual premise. The Court observed that the lessons of history suggested the free press had always flourished without a privilege.53 Claims about “chilling effects” and harm to the press, the Court noted, were largely speculative and consisted primarily of the opinions of reporters themselves, and so “must be viewed in the light of the professional self-interest” of those making the claims.54 Overall, the Court concluded it was “unclear how often and to what extent informers are actually deterred from furnishing information” when reporters are compelled to testify.55 This skepticism seems as fully justified today as it was thirty-six years ago. The strongest argument against the supposed chilling effect is simply the argument of history. There has never been a federal shield law, and investigative journalism in this country has flourished, with no shortage of confidential sources. Watergate, Iran-Contra, Abu Ghraib, secret CIA prisons, domestic National Security Agency (“NSA”) surveillance—all of these stories and countless others were reported through the use of confidential sources, and all without a federal shield law.57 Even the images of Judith Miller being jailed and forced to testify had no discernable effect on investigative reporting or on the number of stories relying upon confidential sources.58 One can grant that confidential sources are important to journalism without agreeing that a shield law is necessary or appropriate. In other words, it is a myth to suggest that reporters can’t promise confidentiality without a shield law. It is important to distinguish between a reporter’s promise of confidentiality to a source and the existence of a legal privilege. As history makes clear, reporters may promise sufficient confidentiality to encourage sources to speak even in the absence of a privilege, simply by promising not to name the source in a story and never to identify the source voluntarily. In fact, if this were not the case and if the alleged chilling effect were real, investigative journalism would have foundered long ago for want of a federal privilege.59 It’s reasonable to assume that most sources who wish to remain anonymous are concerned primarily with not having their names in the paper in a story the reporter writes the next day. They are not very likely to be looking down the road and trying to evaluate whether, two years from now, a judge might weigh the various terms and exceptions of a shield law and compel the reporter to identify them. To the extent they do consider that possibility, a reporter can truthfully tell a source that, historically speaking, the chance that the reporter will ever be compelled to testify is extremely remote. Any reasonable concern for confidentiality may therefore be satisfied simply by a reporter’s promise never to identify the source voluntarily.60

#### X.

**Eliason 08** “The Problems with the Reporter's Privilege” by Eliason D. Eliason, published in the American University Law Review Volume 57 | Issue 5 Article 5 // OHS-AT

According to an article by Lori Robertson in the American Journalism Review, the Dallas Morning News requires reporters to tell anonymous sources that in rare instances the reporter may be forced to identify them if efforts to protect them are exhausted in a legal dispute.67 Similarly, New York Times Executive Editor Bill Keller has said that some reporters now agree with sources they will protect them to the extent legally possible, but if they lose a court fight they are not going to go to jail to protect the source.68 There is no indication that reporters at those papers have suffered from a lack of confidential sources. Robertson also describes the experience of Fred Schulte, an investigative reporter for the Baltimore Sun for twenty-five years. Schulte reports that he tells his sources he will protect them up to the point of a grand jury investigation, but if he is called before a grand jury he will have to testify. All of his sources have agreed to these terms.69 Again, the purported evidence that the chilling effect exists is largely anecdotal and unreliable, consisting of a few reports of self-interested journalists. Most evidence is in the form of affidavits of journalists submitted in various lawsuits, affirming the importance of confidential sources and citing examples where such sources were essential to their work.70 But considering that all of the sources in these past stories agreed to come forward without a federal shield law, such examples do not provide much support for the argument that a shield law is needed. Such affidavits may demonstrate that confidential sources are important to journalism, but they also demonstrate, albeit unintentionally, that reporters can develop confidential sources without a federal shield law. As evidence of the supposed chilling effect, privilege supporters also like to cite a claim by the editor of Cleveland’s Plain Dealer that the paper has withheld publication of two stories of “profound importance” due to the fear of a leak investigation because the stories rely on confidential sources.71 The trouble with this “evidence,” of course, is that its veracity can’t be tested because the editor will refuse to reveal the information necessary to evaluate his claim. Relevant questions would include: What efforts has the paper made to go back to the sources to probe how concerned they are about confidentiality? What efforts have been made to develop additional sources who may be willing to go on the record? And is the editor really saying that if a federal shield law with its various exceptions and qualifications were enacted, that would make all the difference?72 Untested assertions such as those by the Plain Dealer editor may be the stuff of lore within the journalism community, but such unsubstantiated, isolated anecdotes provide a poor factual foundation for proposed federal legislation. Dr. Tucker and Professor Wermiel essentially concede that this supposed chilling effect cannot be established. They conclude that it is “unnecessary to resolve the question of whether the lack of a shield law causes a chilling effect” because “that is a policy decision left to the legislative branch” and if Congress passes the shield law, the courts will enforce it.73 This may be true, but it leaves unanswered the question of just what Congress is supposed to rely upon when making this policy decision, other than the desires of the large media corporations lobbying for the law. The argument essentially boils down to this: “We can’t really demonstrate that this law is necessary, but the press wants it, and if we can convince Congress to pass it then we’ll be home free.” This is hardly a ringing endorsement of the legal merits of the shield law. History demonstrates that reporters are able to guarantee sufficient confidentiality without a federal shield law. As argued below concerning Myth #4, of all of the risks of exposure that a source faces, the danger that the reporter will be subpoenaed and compelled to testify is probably the most remote. Privilege advocates are therefore necessarily arguing that there are a substantial number of sources who would willingly assume all of the greater and more immediate risks of exposure by leaking information, but will be deterred from coming forward solely by the most remote risk of all—the risk of the reporter being forced to testify. Common sense and the historical record suggest this is not the case. Some sources may well be afraid of exposure, and may seek assurances of confidentiality. But these assurances may be given without a privilege and, considering the basket of risks a source faces, the presence or absence of a legal privilege is unlikely to weigh heavily in a source’s decision about whether to speak to a reporter.

Mejico es malo.

### Case – Trump Bad

#### Trump utilizes anonymous news to make his case against the media. Yilek 17 “**Trump claims anonymous sources 'made up' by 'fake news writers'**” by Caitlin Yilek May 28, 2017 08:55 AM [https://www.washingtonexaminer.com/trump-claims-anonymous-sources-made-up-by-fake-news-writers //](https://www.washingtonexaminer.com/trump-claims-anonymous-sources-made-up-by-fake-news-writers%20//) OHS-AT

"It is my opinion that many of the leaks coming out of the White House are fabricated lies made up by the #FakeNews media," Trump tweeted Sunday morning. "Whenever you see the words ‘sources say' in the fake news media, and they don't mention names it is very possible that those sources don't exist but are made up by fake news writers," he continued. "#FakeNews is the enemy!" In February, Trump accused reporters of making up stories and sources that were critical of him. "They shouldn't be allowed to use sources unless they use somebody's name," he told the Conservative Political Action Conference. "Let their name be put out there." Trump's attacks on the media come as his campaign team faces increased scrutiny over its contacts with Russia. Members of Trump's White House have regularly requested anonymity when speaking to the press.

### Case – Corporate Whistleblowers

#### Companies ignore. Tippett 16 “Why companies like Wells Fargo ignore their whistleblowers – at their peril” Elizabeth C. Tippett [Assistant Professor, School of Law, University of Oregon] [https://theconversation.com/why-companies-like-wells-fargo-ignore-their-whistleblowers-at-their-peril-67501 //](https://theconversation.com/why-companies-like-wells-fargo-ignore-their-whistleblowers-at-their-peril-67501%20//) OHS-AT

High-profile corporate frauds like these all seem to follow the same pattern. First the misconduct is discovered, and then we learn about all of the whistleblowers who tried to stop the fraud much earlier. Congress then tries to enhance whistleblower protections, with varying success.

The Sarbanes-Oxley Act, passed in 2002 after the Enron and Worlcom scandals, was supposed to protect whistleblowers who uncovered accounting frauds, but judges typically rejected their retaliation claims. The Dodd Frank Act, approved in 2010, provides financial rewards for certain whistleblowers. Its success is still unclear.

While these laws may protect employees who expose wrongdoing from retaliation and encourage more to do the same, nothing requires employers to take their disclosures seriously. And as we saw with the latest scandal involving Wells Fargo, several former employees say they tried to get the company’s attention in 2005 and 2006, to no avail.

Their ineffectiveness is hardly unique. The 2011 National Business Ethics Survey found that 40 percent of employees who reported misconduct believed that their report had not been investigated. When an investigation did take place, over half thought the process was unfair.

### National Security Stuff

#### Link maybe?

**Eliason 13** “A Reporter's Privilege Would Allow Crimes to Go Unpunished” By Randall Eliason [a former federal prosecutor and Professorial Lecturer in Law at George Washington University Law School] May 15, 2013, at 4:23 p.m. [https://www.usnews.com/debate-club/should-there-be-such-a-thing-as-reporters-privilege/a-reporters-privilege-would-allow-crimes-to-go-unpunished //](https://www.usnews.com/debate-club/should-there-be-such-a-thing-as-reporters-privilege/a-reporters-privilege-would-allow-crimes-to-go-unpunished%20//) OHS-AT \*\*bracketed for gendered language\*\*

IMAGINE THE DEPARTMENT of Homeland Security prepares a top secret report highlighting security vulnerabilities around the nation's nuclear power plants. In violation of [their] his duty to protect classified information, an employee leaks it to a reporter, who publishes an article about this scandalous lack of security. Shortly thereafter, terrorists use the reported information to plan a devastating attack, which is narrowly averted at the last minute. Most would agree it's appropriate to punish the person who leaked the classified report, damaged national security and put the American people at risk. If getting information from the reporter is off limits, however, then finding the responsible employee will be almost impossible. If a whistleblower provides information to the press about the misconduct of others within a government agency or a corporation, there is rarely a need to seek information from the reporter. Prosecutors usually have no reason to go after the leak; they can subpoena documents and witnesses and directly investigate the reported misdeeds. But a case in which the leak itself is the crime – such as a leak of classified information – is very different. There are usually only two witnesses: the leaker and the reporter. Even if the suspected leaker is identified, he has a Fifth Amendment right to remain silent. That leaves the reporter as the primary, and possibly only, source of information. If a privilege prohibits seeking that information, the crime likely will go unpunished. Supporters of a reporter's privilege argue that, without it, confidential sources will be "chilled" from coming forward for fear of being exposed. As the Supreme Court has observed, history shows these arguments to be speculative at best. Watergate, the Pentagon Papers, Iran-Contra, secret CIA prisons, abuses at Abu Ghraib – all of these stories involved leaks that occurred without a reporter's privilege. Our robust free press has flourished for more than 200 years without such a privilege, with no sign that leakers feel a chill. What's more, if fear of exposure means that criminal leaks are deterred, that is in the public interest. We generally think it's a good thing when people abide by the criminal law. Some may believe the government classifies too much material, but most would agree there is at least some critical national security information that must be protected. It would be nonsensical to criminalize leaks of such classified information but then shield from prosecution only disclosures made to reporters – the very ones most likely to ensure that the information is widely disseminated. Subpoenas to the press are, and should be, rare, but in some cases there may be no alternative. If the government keeps too many secrets, then we should reform the laws concerning classified information. Creating a reporter's privilege that would allow leakers to disclose with impunity any classified information, no matter how potentially damaging, is not the solution.

### Base

#### The Trump administration’s cracking down on reporters’ privilege now – the aff is a major flip flop.

**Murillo 17** “Trump Is Going After Legal Protections for Journalists” BY HELEN MURILLO | AUGUST 10, 2017, 11:36 AM <https://foreignpolicy.com/2017/08/10/trump-is-going-after-legal-protections-for-journalists/> // OHS-AT

Last week, the Washington Post published leaked transcripts of President Donald Trump’s January phone calls with Mexican President Enrique Peña Nieto and Australian Prime Minister Malcolm Turnbull. Even with the administration beset by daily embarrassing leaks, this one was shocking, going well beyond the mere embarrassing portrayals of daily White House dysfunction. It is fair to presume that such transcripts are classified, and when asked about them, National Security Council spokesman Michael Anton said only that he “can’t confirm or deny the authenticity of allegedly leaked classified documents.” So nobody should have been surprised that on Friday morning, Attorney General Jeff Sessions and Director of National Intelligence Dan Coats held a press conference condemning the many leaks and vowing investigation and prosecution of those responsible. Sessions called for “discipline” in executive agencies and Congress to stem leaks. He indicated that since January, the Department of Justice has tripled the number of active leak investigations, and he announced a new FBI counterintelligence unit to manage them. But then Sessions got to the press: “One of the things we are doing is reviewing policies affecting media subpoenas. We respect the important role that the press plays and will give them respect, but it is not unlimited. They cannot place lives at risk with impunity. We must balance the press’s role with protecting our national security and the lives of those who serve in the intelligence community, the armed forces, and all law-abiding Americans.” Coats reiterated that the administration is “prepared to take all necessary steps to … identify individuals who illegally expose and disclose classified information.” This marks a serious intervention in a delicate, decades-long balancing act between the federal government and professional journalists. A change in the policy about press subpoenas could have grave consequences for the government and press alike. A subpoena is the legal tool that forces an individual to testify or produce evidence. When subpoenas are issued to journalists (or their communications providers) in leak investigations, it is most often for the purpose of identifying a leaker: Match the relevant reporter’s telephone records to an individual with access to the classified information — or better yet, force the reporter to testify directly as to the source — and you’ve got your leaker. But you’ve also compromised the press’s ability to protect their sources, undermining their ability to do their job. Reporters who refuse to reveal their sources in compliance with such subpoenas risk contempt charges. To enforce subpoenas, courts and Congress have the authority to bring contempt charges against those who refuse to comply with lawful orders. Contempt charges aim to compel compliance with the order and can include jail time. In 2005, New York Times reporter Judith Miller famously submitted to jail time for contempt rather than reveal a confidential source in the Valerie Plame leak investigation. (After two and a half months in jail, Miller was released early when Scooter Libby gave a waiver authorizing the government to question reporters about his conversations with them and Miller agreed to testify.) Testimony that may otherwise be required by law might be nevertheless protected by a privilege. Such privileges include the Fifth Amendment privilege against self-incrimination, marital communications privilege, attorney-client privilege, and executive privileges. The question is whether such a privilege does or should apply to reporters, exempting them from revealing sources. While the Constitution limits government intrusion on the freedom of speech and of the press, the law does not offer absolute protection for journalists against revealing their sources. Congress has not enacted robust protections and the Supreme Court has not interpreted the First Amendment as itself embodying such a privilege — nothing approximating a broad “press privilege” relieving reporters from revealing sources. Such a privilege is protected at the state level in nearly all states. New York’s statutory press privilege, for instance, broadly protects professional journalists against contempt charges “for refusing or failing to disclose news obtained or received in confidence or the identity of the source of such news coming into such person’s possession in the course of gathering or obtaining news for publication.” But no such privilege has been recognized uniformly at the federal level. In 1972, the Supreme Court rejected a broad First Amendment press privilege in Branzburg v. Hayes. Justice Lewis Powell joined the five-justice majority to reject an unqualified press privilege against revealing confidential sources, but wrote a puzzling separate concurrence suggesting some limited privilege subject to a balancing against the government’s interest in a particular case. The state of the law remains uncertain but what we do know is that there is currently no broad, unqualified First Amendment privilege against revealing confidential news sources. (Importantly here, the U.S. Courts of Appeals for the District of Columbia has agreed that even if there is a First Amendment press privilege to not reveal sources, the privilege is not absolute.) Instead, since 1970, the executive branch has voluntarily restrained itself by limiting the situations in which it will subpoena reporters in investigating leaks. Those self-restraints are codified in federal regulation. Those regulations explicitly recognize the need to “strike the proper balance among several vital interests: Protecting national security, ensuring public safety, promoting effective law enforcement and the fair administration of justice, and safeguarding the essential role of the free press in fostering government accountability and an open society.” In striking that balance, the Justice Department explains that subpoenas directed to the news media are “extraordinary measures, not standard investigatory practices.” As such, press subpoenas are to be approved by the attorney general (or other high-ranking DOJ officials in certain limited cases) and are to be issued only where the information is “essential” and only “after all reasonable alternative attempts have been made to obtain the information from alternative sources.” A system of mutual restraint thus governs in the face of indeterminate legal boundaries. Reporters don’t want to go to jail and the government doesn’t want to provoke a sweeping Supreme Court ruling or congressional enactment of an absolute press privilege. So reporters notify the government of stories to be published and often respect government requests to hold stories for some period of time for national security reasons. The government reserves the right to subpoena in extraordinary cases, but agrees to correspondingly extraordinary procedures. But critical to making this delicate system work is that the government maintains credibility — that the public believes the government pursues leak investigations, particularly those investigations that directly implicate press freedoms, for legitimate national security reasons, not simply because the leak is embarrassing. When the president lambasts leakers for imperiling national security and threatens to subpoena the press over embarrassing leaks, but then retweets news stories he finds favorable even if they are based on highly sensitive classified defense information, he erodes that credibility. He erodes the government’s foothold in that delicate balance with the press. It is unclear what the attorney general’s statement about press subpoenas portends for Justice Department policy and for the delicate balance that has held for decades. Some legal commentators have noted that the department itself has a lot to lose in upsetting the status quo and potentially forcing an adverse First Amendment ruling. What is likely a more immediate threat to the balance is a president who lacks any regard for its fragility and for the importance of the government’s credibility in its preservation.

#### Trump main strat.

**Sargent 17** “Trump is leading a ‘hate movement’ against the media” By Greg Sargent, August 1, The Plum Line Opinion <https://www.washingtonpost.com/blogs/plum-line/wp/2018/08/01/trump-is-leading-a-hate-movement-against-the-media/?utm_term=.344facd94201> // OHS-AT

On Tuesday, CNN’s Jim Acosta — one of President Trump’s favorite human targets — and other members of the media were abused and heckled by Trump supporters at a rally in Florida. Videos of the event — see here or here — show the crowd at one point loudly chanting “CNN sucks,” with many angrily brandishing middle fingers in the direction of the living, breathing members of the press corps. Trump’s son, Eric Trump, tweeted out video of the “CNN sucks” chant, with the hashtag #Truth, while directly singling out Acosta. And the president himself retweeted his son. The president’s son is actively encouraging Trump supporters to direct rage and abuse toward working journalists, and the president is joining in, helping to spread the word. You might think it reeks of “whataboutism” to juxtapose this event with the expulsion of Sarah Huckabee Sanders. On the contrary, I’d like to argue that both these events belong in the same category: They both were the direct result of Trump’s nonstop and very deliberate efforts to provoke as much rage and division as he can, in as many quarters as he can. The profound imbalance and asymmetry revealed by the juxtaposition of the two situations is the real story here. After the Tampa rally, Acosta worried aloud that all this anger could result in “somebody getting hurt.” We don’t know whether it will come to that, but it is impossible to watch those videos without concluding that it’s a serious possibility. The president commands an enormous megaphone. Instead of concluding that such an outcome is to be avoided, and recognizing a responsibility as the bearer of that megaphone to use his influence to make that so, he is actively stoking the anger, with nonstop attacks on the press for the simple act of holding his administration accountable, and now, by approvingly drawing attention to one of the most flagrant displays of it yet. Jay Rosen calls all of this a “hate movement against journalists” that is essential to Trump’s political style, and urges them to recognize it as such. And Trump’s approving retweet of his son does appear to confirm that he believes all this anger benefits him politically, probably by energizing and consolidating the base heading into the midterms. But we should expand that point to note that Trump plainly sees political gain in provocation on as many fronts as possible. When Trump pardoned former sheriff Joe Arpaio despite his lawless and racist civil rights abuses, Trump had grown persuaded that it was “a way of pleasing his political base.” When Trump refused to unambiguously condemn white supremacist violence in Charlottesville, choosing instead to stoke racial tensions further, Stephen K. Bannon candidly declared that those tensions would help Trump politically. There can be no doubt that Trump sees benefit in riling up his supporters with decisions like those, regardless of the anger that it unleashes on the other side. Indeed, that anger, coming from the “right” people, the liberals and the elitists, is useful, because it further provokes the anger of his own supporters. At a minimum, we know Trump recognizes no institutional responsibility to try to dial down these tensions where possible. Indeed, it’s worse: The deliberate goal, as Bannon has put it, is “to throw gasoline on the resistance.”

#### Reporter’s privilege exists to protect the media – that’s a polar opposite to Trump’s core positions.

**Dallojacono 17** “"My Lips Are Sealed, Unless..." Examining the Reporter's Privilege in New York and Why It Should Be Applied Federally” by Luann Dallojacono in Touro Law Review Volume 33 | Number 3 Article 12 // OHS-AT

The reporter’s privilege exists to prevent journalists from being forced to disclose confidential sources because doing so could disrupt the “free flow of information protected by the First Amendment” by discouraging sources from speaking with reporters.21 As one New York Court of Appeals case described it, the “thrust of the Shield Law was aimed at encouraging a free press by shielding those communications given to the news media in confidence.”22 The privilege does more than just protect journalists and their sources.23 It also protects the integrity of the newsgathering and reporting process and promotes trust in the reporter-source relationship, which results in the release of more information and ultimately, a better story for the reporter’s readers.24 If reporters could be forced to reveal the names of sources who had given them confidential information, which usually comes in the form of sensitive or damning material, it naturally follows that people would be hesitant to give up such information if it could be traced back to them.25

#### Trump is spearheading the idea of ‘fake news’– his base HATES the media.

**Fair Observer 17** “Why Trump Supporters Hate the Media” BY FAIR OBSERVER [a US-based nonprofit media organization that aims to inform and educate global citizens of today and tomorrow] JULY 1, 2017 <https://www.fairobserver.com/region/north_america/donald-trump-mainstream-media-attack-culture-news-99121/> // OHS-AT

President Donald Trump has been urging his followers not to trust the “dishonest media” due to the critical coverage that plagued his presidential campaign. At a recent rally in Cedar Rapids, Iowa, Trump continued his attack: “We will never be intimidated by the dishonest media corporations who will say anything and do anything to get people to watch their screens or to get people to buy their failing papers.” Pew Research Center has been tracking public attitudes toward the media, and a recent poll revealed that the view of the role of the press as a valid government watchdog has reached its greatest partisan divide over the last two decades. A 2016 Gallup Poll found that only 14% of Republicans expressed trust in the media, down from 32% in 2015 — a drop the pollster calls a “new low.” So, what are the fundamental issues Trump supporters have with mainstream media? To get insight on this question, VICE News’ Evan McMorris-Santoro set up a “Tell Me Why You Hate The Media” booth at Trump’s Iowa rally in order to get perspectives from his supporters. The answers consisted primarily of pointing out how the liberal media seems to have a problem with Republicans. People explained how coverage tends to impose a negative view on conservative values and paints them as unintelligent, racist, homophobic, xenophobic and biased in their political views. Many did not approve of the emphasis in the news cycle on topics such as the FBI investigation into the Trump administration’s alleged ties to Russia, climate change or issues unrelated to the plight of average Americans.

Info abt the poll:

* Gallup has been asking the question yearly since 1997
* Random sample of 1020 adults, 18+, all 50 states+DC
* minimum quota of 60% cellphone respondents and 40% landline respondents, with additional minimum quotas by time zone within region. Landline and cellular telephone numbers are selected using random-digit-dial methods

## Extra

### Climate change??

#### Current ethical uncertainty about ethics codes involving climate change. Ward 09 “Journalism ethics and climate change reporting in period of intense media uncertainty” Bud Ward, ETHICS IN SCIENCE AND ENVIRONMENTAL POLITICS Vol. 9: 13–15, 2009 doi: 10.3354/esep00097 Paginated September 2009 Published online January 8, 2009 // OHS-AT

Consider another aspect of journalistic ethics as it applies to covering climate change. One element of the SPJ Code of Ethics urges reporters to ‘give voice to the voiceless; official and unofficial sources of information can be equally valid’. Another cautions reporters to ‘support the open exchange of views, even views they find repugnant’ (note that it is ‘repugnant’ and not ‘factually inaccurate’ here). In reporting on climate change and the findings in the physical and earth sciences defining it, US reporters for many years practiced what critics contend is a ’false balance’, providing space disproportionate to its scientific credibility to perspectives running counter to what is now widely accepted as the ‘established’ scientific judgment. In effect, reporters may for too long have been balancing opinions about science when in fact they might better have been evaluating and reporting evidence based on the science. Accuracy can trump balance in such a case, so that one perspective gets 90% of the column inches, based on the standard of evidence, and another perhaps 5 or 10%, or maybe none at all. Just as that approach to covering climate science based on evidence and not sheer opinion has changed throughout much of the western world, it appears in recent years to have also changed, albeit much later, among many US news reporters. So, instead of the over-simplified notion of providing ’balance’ in reporting on news involving differing perspectives, journalists increasingly, and rightly, take their clues from the leading and acknowledged scientific experts when it comes to the facts and causes of global climate change. That means, in effect, reporting as a given—until science shows otherwise—that warming of Earth actually is occurring and that human activities have a significant role, though not the only one, in that warming. Issues of journalism ethics in dealing with climate change go much farther than that. Assume, for the purposes of discussion, that the effects and impacts of global warming just may be as dire as a number of leading scientists suggest, threatening not only vast ecological systems and the natural resources dependent on them, but also posing great risks of accelerated extinctions, forced human migrations from low-lying lands, diminished food resources for a growing population, and so forth. What then are the ethical responsibilities facing news reporters? Is it up to them to sustain the clarion call by way of front-page headlines and repeated broadcast ‘breaking news’ alerts, despite what some observers now dismiss as ‘climate fatigue’ on the parts of their already-harried audiences? Isn’t that too much like making and not merely reporting the news that others—acclaimed scientists or leading policy makers—have as part of their portfolios? So what if the nature of the threatened worst-case climate change outcomes are to be most clearly manifested only for future generations, or only as they directly affect audiences geographically far removed from one’s own readers or viewers? Do the journalists’ ethical responsibilities differ if it is just ‘some other population’ (or perhaps even some other species) that is at greatest risk, and not the one closest to them in time and space? Journalists have profound ethical responsibilities covering issues as expansive and critical (not many are, perhaps) as climate change. That they are dealing with these issues during a time of profound change in their own field, and during a time of profound global economic and financial uncertainty, compounded by ongoing threats of divisive wars and terrorist activities, only confounds their approach to these issues.