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A Shield Law For Reporters Can Help To Protect The Public's Basic Right To Know

By Susan Bysiewicz & James Spallone

Ben Bradlee of the Washington Post once remarked: "Newspapers are the first rough draft of history."

What would that "rough draft" look like, though, if reporters for newspapers, radio and television were not allowed to fully perform their constitutionally protected responsibilities?

What if reporters uncovering the Watergate scandal more than 30 years ago had not been allowed to depend on the help of reliable, confidential sources? As it was, the effects of the worst political scandal in American history were devastating. But imagine how much worse things could have been if Watergate had lingered on for an additional year or 18 months because news reporters were not able to protect their sources?

What if our free and unfettered press were not as free and unfettered as it was intended in the First Amendment of the Bill of Rights?

This question, unfortunately, is not just theoretical. Last year, Judith Miller of The New York Times was held in contempt of court and served a jail sentence when she refused to identify a confidential source. Matthew Cooper of Time magazine narrowly avoided a similar fate. Closer to home, Jim Taricani of WJAR-TV in Providence served six months of home confinement for protecting the identity of a source who provided information about a public corruption scandal. News organizations report that subpoenas of reporters are on the rise across the country.

We need to act now to prevent this from happening in Connecticut.

While U.S. Supreme Court precedent does not provide protection, more than 30 states currently have "shield laws," which prohibit the compelled disclosure by the news media of certain information, such as the identity of confidential sources in civil or criminal proceedings and investigations. Connecticut has no such law, but needs one.

That is why we are strongly supporting House Bill 5212, "An Act Concerning The Freedom of the Press," that essentially protects reporters from having to disclose their confidential sources in court and similar proceedings. The bill, introduced by Rep. Spallone, was passed by the state House of Representatives last week and is awaiting action by the state Senate. We are hopeful that it will be approved and signed into law by Gov. M. Jodi Rell before the 2006 session closes in early May.

Watergate is the prime example in modern times of the need for a free press and the need to protect reliable, unnamed sources. There are other cases of government corruption or neglect, or cases of corporate malfeasance that have been uncovered by accurate media reports, some of which relied on confidential information. Those with vital information often

do not come forward without the promise of confidentiality. The cost to them and their families might just be too great.

The case of Gov. John G. Rowland, only recently released from jail due to his leading role in the worst case of public corruption in Connecticut's history, was largely revealed through carefully researched and constructed news stories. Could these news accounts have been as thorough and revealing if reporters had to think twice about working with unnamed sources? The shield bill is a good government bill.

Connecticut and other states have enacted laws protecting "whistleblowers," those who expose wrongdoing in the corporate world and in government. These laws protect people from the retribution of those they expose, build a better work environment, keep those in power from abusing their authority and give a voice to employees who may otherwise be too afraid of the consequences to speak up. We are a better society with these laws.

Responsible news reporters frequently act as whistleblowers in their own right. They often are the first ones to expose serious wrongdoing, and do it objectively and within the constructs of editorial review and a strict ethical code. They are protected by a constitutional right to pursue and report the truth, and should be able to do their jobs responsibly and without fear of being restricted.

We know the important investigatory role the press can play in exposing cases of corruption and shedding daylight on controversial issues. The consequences would be chilling if that role were at all impeded, or if the right to use confidential sources were diminished. The dry press release would rule the day, and whistleblowing, as we know it, would conceivably be a thing of the past. This new shield law assures that it will not be.

The events and issues of today will one day be learned as history by future generations. We owe it to them, and to ourselves, to ensure that the history they learn is accurate and complete.

Susan Bysiewicz is the secretary of the state. State Rep. James Spallone (D-Essex) represents the 36th State House District. He serves as vice-chair of the Judiciary Committee. ■