

# Law and Mass Communications Fall 2008 (G54.0011.002)

Thursday, 9-11:30 AM – Room 652

Professor Ruth S. Hochberger

Telephone: 212-873-9374; 917-446-1977

Email: [rsh5@nyu.edu](mailto:rsh5@nyu.edu), [ruthsusan@aol.com](mailto:ruthsusan@aol.com)

Office hours: Thursdays, 11:30 AM – 12:30 PM (place TBA), or by appointment

*“The only reason one will respect you as a journalist is because of your integrity. Your integrity is based on your credibility. Your credibility comes from your truthfulness. All these come from you submitting yourself as a servant of the truth, a servant of issues.”*

*--Shaka Ssali  
Voice of America’s senior editor and talk show host*

*“I believe in rules. Sure I do. If there weren't any rules, how could you break them?”*

*--Leo Durocher  
Baseball manager*

## **ABOUT THIS COURSE:**

This course examines the application of ethical and legal principles to journalistic decision-making, in print, broadcast and on-line. Unlike other professionals, journalists must make ethical decisions rapidly, often without clear guidelines and on their own, and the results of their decisions are open to public view. Also, unlike other professionals, journalists who violate ethical precepts are not punished by professional discipline or revocation of a license. This makes it vital that journalists weigh the value of how and what they choose to report against the potential harm to subjects, sources and society as a whole.

**Goal:** To be able to examine the media critically and apply ethical models of analysis and decision-making to journalism. To gain a basic understanding of the legal strictures governing the media.

**Objective:** The objective of this course is to provide guidance in developing a framework to help you make legal and ethical decisions and to suggest some criteria against which those decisions may be measured.

## **Required Texts:**

*Media Ethics: Issues and Cases (Sixth Edition)*. Philip Patterson and Lee Wilkins, McGraw Hill, New York, 2008

*The Journalist and the Murderer*. Janet Malcolm, Vintage Books, New York, 1990

*Ethical Journalism: Code of Conduct for the News and Editorial Departments, The New York Times*, 2003. (This is available at <http://www.nytco.com/company-properties-times-coe.html>)

New York Times Confidential News Sources Policy (This is available at [http://www.nytco.com/company/business\\_units/sources.html](http://www.nytco.com/company/business_units/sources.html))

Supplemental readings and case decisions to be assigned. Many will be assigned by e-mail or via Blackboard, so make sure to provide an accurate e-mail address and check it and the course site regularly.

Also required: The "Public Editor" column by Clark Hoyt in the Sunday *New York Times*; we will use it as a basis for classroom discussion as warranted.

You are urged to read a New York daily newspaper every day and watch or listen to a broadcast news report as well. This will provide you with examples for use in class discussion and will provide you with ideas for your final project.

**Other recommended sources:**

Web sites: The Poynter Institute ([www.poynter.org](http://www.poynter.org)); Columbia Journalism Review ([www.cjr.org](http://www.cjr.org)); American Journalism Review ([www.ajr.org](http://www.ajr.org)).

TV and radio: "On the Media," WNYC-AM 820, Saturdays, 7 AM and 3 PM.; WNYC-FM 93.9, Sundays at 10 AM.; "Reliable Sources," CNN, Sundays at 10 AM.

**Requirements:**

- 1. Attend** all classes **on time** and **prepared**. More than one unexcused absence can result in failure of the course.
- 2. Participate** in class discussion. Ethical and legal decisions are often made collaboratively among reporters, editors, publishers, photographers, designers, artists, and attorneys in newsrooms. It is helpful to hear a wide variety of viewpoints and weigh the different interests before settling on a course of action. Likewise in the classroom. There is no "right answer" to a lot of the dilemmas we will examine and it will be helpful to have a respectful and reasoned discussion to frame the issues. Your opinion should be backed up with reference to a legal, ethical or philosophical principle and examples.
- 3. Class Presentations:** Each student will be asked to research and orally report in class on a significant media litigation, case decision or ethical issue
- 4. Mid-term examination.** Thursday, **Oct. 23**.
- 5. Final project:** A 5-6-page paper (1,250-1,500 words), with bibliography. This will be a report and recommendation to your publisher or supervisor outlining an ethical policy that you believe is needed at your place of employment. You will need to set forth the policy, the reasons you see a need for it, examples as to how the policy would be applied, the arguments for and against such a policy, and a defense of why your formulation of the policy is best suited to accomplish the ethical objective you are seeking. A proposal for the project may be submitted and

approved in advance. (Additional requirements will be furnished later in the semester.) Due: Thursday, **Dec. 4.**

**6. Final examination:** Thursday, **Dec. 18.**

**Grading:**

Your grade will be based on the following:

|                                    |     |
|------------------------------------|-----|
| Attendance and class participation | 15% |
| Midterm Exam                       | 20% |
| Class presentation                 | 10% |
| Final project                      | 30% |
| Final exam                         | 25% |

There will be **no** Incompletes submitted for this course. Late submissions of final project will drop that portion of your grade one entire grade (i.e., A- to B-).

***Extra Credit***

Keep your eyes open for articles, photos, graphics, advertisements, radio or TV broadcasts, Web reports or page designs that you believe pose journalistic ethics or legal issues. Put them in my faculty mailbox or e-mail them to me with a paragraph describing what you think is the issue. This will entitle you to extra credit and we will use some of these for class discussion.

**Thurs., Sept. 4:** Introduction to the course, Explanation of syllabus and assignments, ethical dilemma writing assignment. Introduction to the legal system and how to read and brief a case decision. Difference between legal constraints and ethical ones.

**Assignment for Next Class:** Read *Near v. Minnesota* (1931) and *New York Times v. United States* (1971). Be prepared to discuss the fact patterns and legal reasoning involved in these cases. Try and think of a fact situation where prior restraint would be warranted.

Read Chapter 1 in *Media Ethics*.

**Thurs, Sept. 11:** First Amendment, Restrictions on the Press, Prior Restraint, *Near v. Minnesota*, Pentagon Papers, Ethical Issues regarding withholding information, National Security

**Assignment for Next Class:** Read Chapter 2 in *Media Ethics*.

*New York Times*, May 11, Article, p. 1, "Correcting the Record: Times Reporter Who Resigned Leaves Long Trail of Deception" and Editor's Note p. 3, same issue.

**Thurs., Sept. 18:** Plagiarism and Fabrication: The Trust Relationship Between a Journalist and the Reader or Viewer.

**Assignment for Next Class:** *Ethical Journalism: Code of Conduct for the News and Editorial Departments*, *The New York Times*.

Radio-Television News Directors Association Code of Ethics and Professional Conduct (<http://www.rtnda.org/ethics/coe.shtml>)

Society of Professional Journalists Code of Ethics  
(<http://www.spj.org/ethicscode.asp>)

“Ethics Codes: The Lawyers Take,” Bob Steele  
(<http://www.poynter.org/column.asp?id=36&aid=18920>)

Focus on the difference in approaches and coverage of these codes and consider how easy it would be to follow their rules as a working journalist.

**Thurs., Sept. 25:** Codes of Ethics: Clarity and Usefulness

**Assignment for Next Class:** *Cohen v. Cowles Media* (1991)

New York Times Confidential News Sources Policy

“The Washington Post’s Policies on Quotations, Attribution, and Datelines,” (<http://www.poynter.org/column.asp?id=53&aid=61244>)

“The Miller Case: A Notebook, a Cause, a Jail Cell and a Deal,” *New York Times*, Oct. 16, 2005 (There is also an accompanying timeline on the *Times* website)

**Thurs., Oct. 2:** Sources and Confidentiality: Conflicting Loyalties, Trust and Legal and Ethical Principles

**Assignment for Next Class:** *Branzburg v. Hayes* (1972)

“Josh Wolf: video blogger at the center of controversy over journalists rights,” *Online Journalism Review*, Oct. 3, 2006  
(<http://www.ojr.org/ojr/stories/061002pearson/>)

New York’s Shield Law: Section 79-h of the state Civil Rights Law  
(<http://www.citmedialaw.org/new-york-civil-rights-law-article-7-section-79-h>)

“Anatomy of a Federal Shield Law: The Legislative and Lobbying Process,” Robert D. Lystad (<http://www.spj.org/pdf/shieldlaw.pdf>)

**Thurs., Oct. 9: No class – Religious Holiday**

**Thurs. Oct. 16:** Reporter’s Privilege; State Shield Laws and Subpoenas, Federal Shield Law

**Assignment for Next Class:** Prepare for midterm

**Thurs., Oct. 23:** Midterm

**Assignment for Next Class:** *New York Times v. Sullivan* (1964)  
*Gertz v. Welch* (1974)

**Thurs., Oct. 30:** Libel and Defamation: Elements, Defenses, Private Individual v. Public Figure, Avoiding Risk in Reporting and Editing

**Assignment for Next Class:** “Banana Peel,” *Columbia Journalism Review*, September/October 1998

(<http://backissues.cjrarchives.org/year/98/5/chiquita.asp>)

“Just How Far Is Too Far?” *Columbia Journalism Review*, September/October 1998 (<http://backissues.cjrarchives.org/year/98/5/hoyt.asp>)

“Truth, Lies and Videotape,” *Columbia Journalism Review*, July/August 1993 (<http://backissues.cjrarchives.org/year/93/4/primetive.asp>)

"Deception/Hidden Cameras Checklist," Bob Steele, Feb. 1, 1995  
([http://www.poynter.org/content/content\\_view.asp?id=866](http://www.poynter.org/content/content_view.asp?id=866))

**Thurs., Nov. 6:** Newsgathering Issues: Trespass, Hidden Cameras, Misrepresentation, Harassment

**Assignment for Next Class:** Chapter 6, *Media Ethics*  
"The Right to Privacy," Samuel Warren and Louis Brandeis, *Harvard Law Review*, 1890  
([http://www.lawrence.edu/fast/BOARDMAW/Privacy\\_brand\\_warr2.html](http://www.lawrence.edu/fast/BOARDMAW/Privacy_brand_warr2.html))

*Bartnicki v. Vopper* (2001)  
"Name the Accuser and the Accused," Geneva Overholser, July 23, 2003  
(<http://www.poynter.org/column.asp?id=54&aid=42260>)

**Thurs., Nov. 13:** Privacy: State privacy laws. Taping, recording and eavesdropping. Identifying criminal suspects, victims, juveniles. Newsworthy subjects and their families and friends. Paparazzi. Gruesome visuals and intruding on grief.

**Assignment for Next Class:** Chapters 4 and 8, *Media Ethics*. Think about all the conflicting loyalties a journalist has.  
American Society of Newspaper Editors, Guide 16 "LA Times, Staples Center," Aug. 8, 2002  
(<http://www.asne.org/credibilityhandbook/discussionguide2.htm>)

**Thurs., Nov. 20:** Loyalty: Conflicts of interest. Balancing duties and obligations. Getting too close to a source or subject. Avoiding appearances of impropriety. Serving the corporate master.

**Final Project due.**  
**Assignment for Next Class:** Chapter 10, *Media Ethics*  
"Top 10 Rules for Limiting Legal Risk," Geanne Rosenberg, Knight Citizen News Network (URL to come)

**Thurs., Nov. 27: No class. Thanksgiving holiday**

**Thurs., Dec. 4:** Law and Ethics Online: Are the rules the same for bloggers? What applicable precedent exists? How can you follow the rules in a wilderness that doesn't appear to have any? A few distinct copyright and libel considerations.

**Final Project due.**  
**Assignment for Next Class:** Finish *The Journalist and the Murderer*.

**Tues., Dec. 9:** Wrap-up. Ethics of interviewing and persuading. *The Journalist and the Murderer*.

**Assignment for Next Class:** Prepare for Final Exam.

**Thurs., Dec. 18:** Final examination.