

**NATIONAL WHISTLEBLOWER CENTER
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Reporter Ordered to Testify in Major Whistleblower Case

Washington, D.C. September 2, 2008. On Thursday U.S. District Judge Robert H. Cleland issued an order in the case of former U.S. Assistant District Attorney Richard Convertino, granting Mr. Convertino's motion to compel the deposition of Detroit Free Press reporter David Ashenfelter. The judge's ruling allows Mr. Convertino access to critical information in his Privacy Act claim against the Department of Justice.

Mr. Convertino is a former award-winning prosecutor who led several complex terrorism cases at the DOJ. In 2003, Mr. Convertino blew the whistle to reveal severe deficiencies in the Justice Department's "war on terror." Shortly thereafter, high-ranking DOJ officials retaliated by leaking highly disparaging and untrue information about Mr. Convertino to Mr. Ashenfelter, who then printed it in the Detroit Free Press. Mr. Convertino filed a Privacy Act complaint to protect his rights as a whistleblower and sanction the officials who illegally leaked this information.

In ordering Mr. Ashenfelter to comply with the subpoena, Judge Cleland drew a critical distinction between this case, where a high ranking official sought anonymity for his illegal retaliation against a subordinate, and the case of a whistleblower who risks his career to expose misconduct:

*"Virtually every case in which a court compels a reporter to disclose a confidential source implicates at least some risk, direct or otherwise, that news gathering activities protected by the First Amendment may be hindered...However, this generalized danger is minimized in this case, as the anonymous DOJ officials may well have violated federal law by communicating with Ashenfelter as to these matters. If the informants indeed violated the Privacy Act as Convertino alleges, potential sources of further similar violations *should be deterred from interactions of this kind with representatives of the press. This is not an instance where the reporter's informant reveals hitherto unknown dangerous or illegal activities that, being unlikely otherwise to come to light, result in reporting that is obviously more weighty in a court's calculation of First Amendment safeguards.*"*

Lindsey M. Williams, Advocacy Director of the National Whistleblower Center, called the decision "a momentous step towards vindication for an irrational attempt by the DOJ to destroy one of its highly decorated prosecutors, DOJ officials must be held accountable for their crude attempt to cover up official misconduct. This is an important decision as it protects whistleblowers while preserving First Amendment rights."

[Judge Cleland's Order, August 28, 2008](http://www.whistleblowers.org/2008.08.29_order_granting_in_part_motion_to_compel.pdf)
http://www.whistleblowers.org/2008.08.29_order_granting_in_part_motion_to_compel.pdf