



For the last week, we have been discussing the differences between journalism and everything else...You have practiced using **V.I.A.** to identify Journalism. And you have pondered why it matters that you “know your information neighborhood.”

Now we are going to start looking more closely at different aspects of the “journalism and news neighborhood,” starting with just how much freedom and power the U.S. press has .

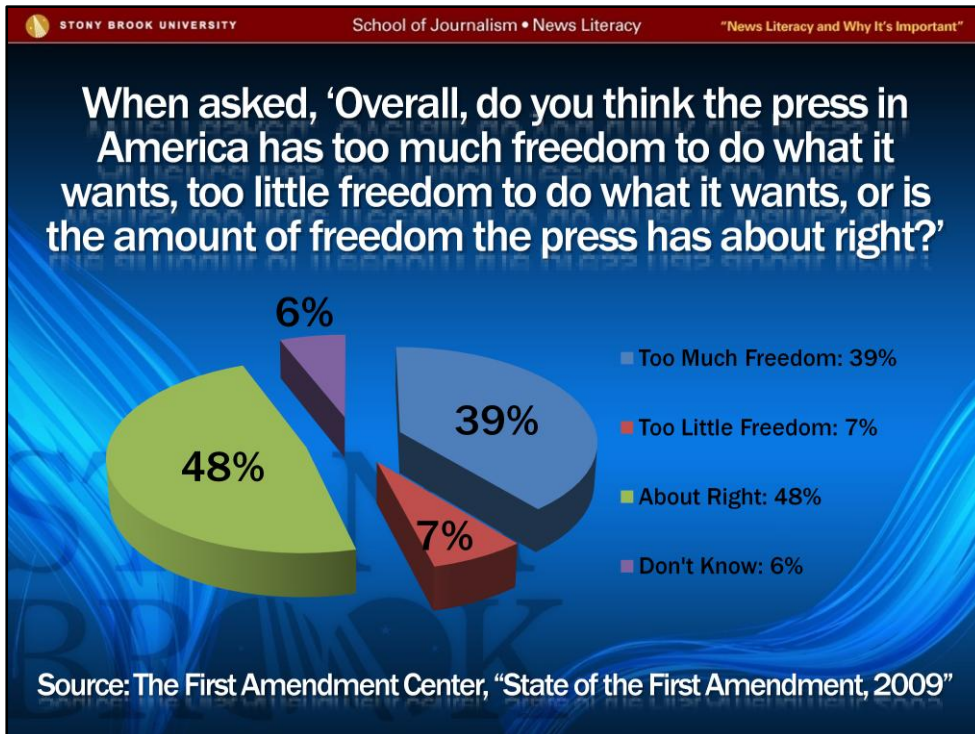
Let’s start with a phrase from your Fifth Grade social studies class: “Freedom of the Press”

ASK: In a sentence, who can tell me what it means?

ASK: Does it mean the freedom to publish anything you want, any time you want?

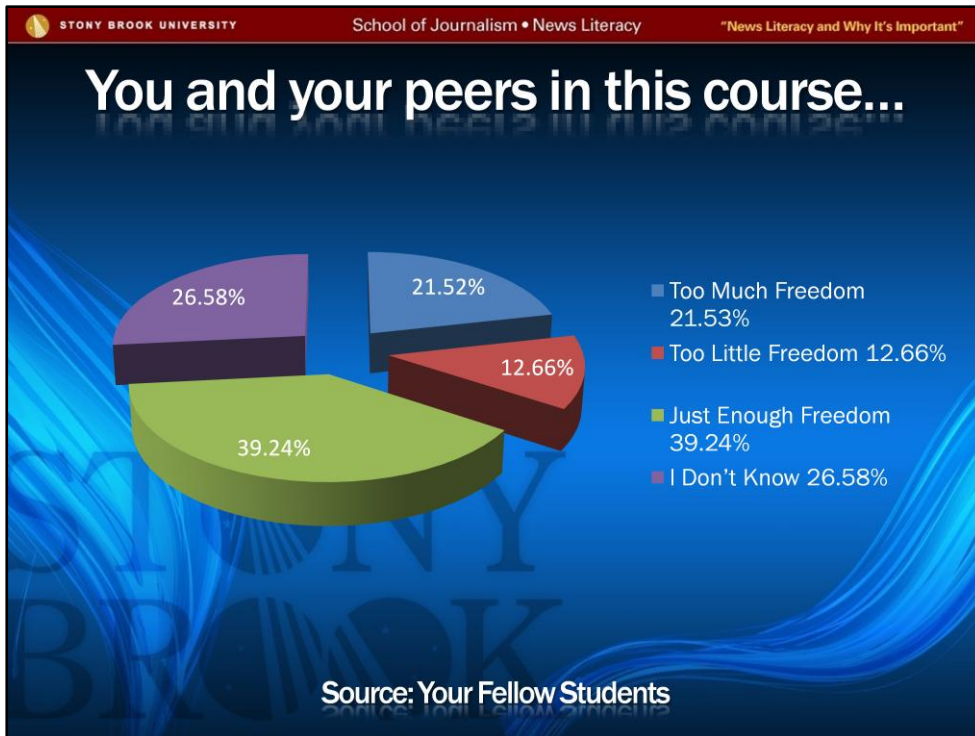
...Aren’t there any limitations to freedom of the press in the United States?

Let’s find out.



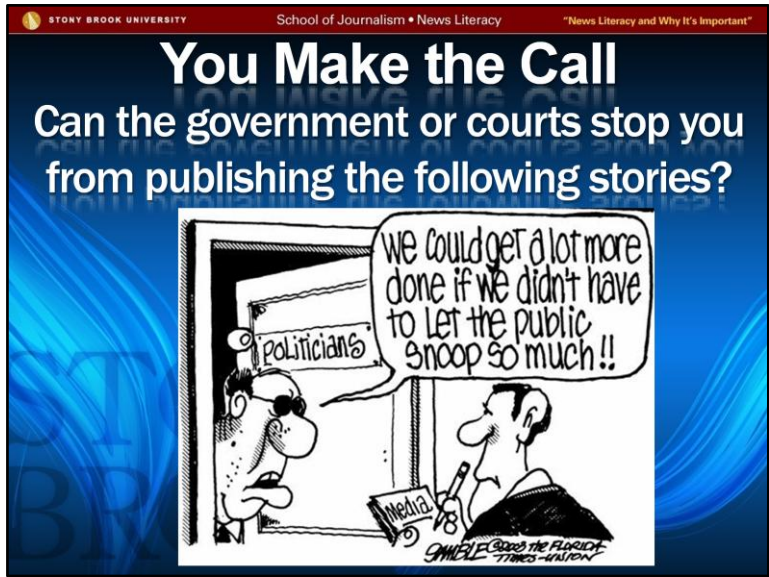
ANIMATION: Image appears with slide, source text fades in.

When asked if the press has too much freedom or too little, half of Americans say it's about right, but more than a third say the press has too much.



ANIMATION: image and title appear together, Subheading fades in.

In the survey you took at the beginning of the semester, the break down was similar: The largest group of students says the US News Media has just enough freedom, a significant fraction say “Too much” and the rest are undecided or in favor of even more freedom.



ANIMATION: TEXT FADES IN

Let's try to make those big abstractions: Too Much and Too Little and Just Right and see if we can make them concrete with some examples.

I'll summarize a scenario in which you are preparing to publish something controversial and someone wants to stop you. The class will vote whether you can be stopped.

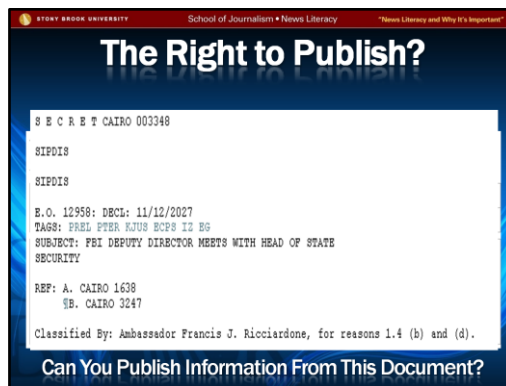
We'll record the overall vote and then return to the scenarios at the end of lecture to reflect on them a bit.



ANIMATION: Images fade in, bottom text fades in after
You are the Executive Producer at the nightly news at
a national network.

A foreign correspondent calls to tell you she has a
great anecdote for a story on the use of Satellite
Phones by terrorists: it turns out Osama Bin Laden
uses one and the CIA has been listening in on the calls
for a month, gathering information about the people
protecting Bin Laden. You assign a Washington, DC
reporter to call the CIA for comment and within 15
minutes a very angry CIA Deputy Director in charge of
field operations calls to order you not to run the story
because you'll waste months of field agent work. You
explain that if your reporter found out about it, it's
obviously not very secret. And that itself is a story. You
both say regrettable things and then he threatens to
have you jailed if you air the story.

VOTE: Can the CIA stop you from airing the story?



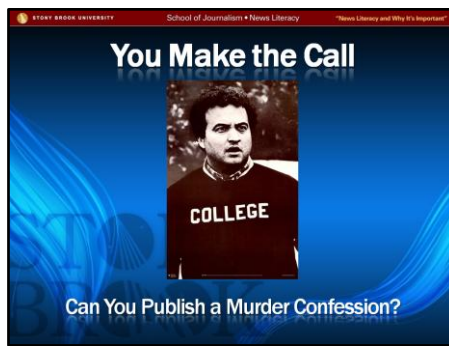
ANIMATION: Document title fades in. On click, excerpt fades in.

(secret cable dealing with an ambassador's meeting.)

Bored and over-caffeinated on Red Bull one night, you go to the WikiLeaks website and begin reading the 9,000 classified documents about the U.S. forces in Afghanistan. They are written by CIA, military and other U.S. officers.

The documents, stamped "Top Secret" include detailed battle plans from last year's major operations, plus lists of Afghan citizens who cooperate with the U.S. military, and an after-action report detailing what went wrong in the campaign to drive the Taliban from Marjaq. It's interesting stuff that makes you wonder what we're doing over there.

You post the documents to your blog and comment on what is in them. When you get back from dinner, a NY State Trooper waits by your dorm door. Ten minutes later, an FBI agent arrives. An hour later, a CIA agent comes knocking. They tell you to take down the documents or you will be arrested for releasing CIA and military secrets. Can you be ordered to un-blog the documents? (<http://213.251.145.96/cable/2007/11/07CAIRO3348.html>)



ANIMATION: Image fades in

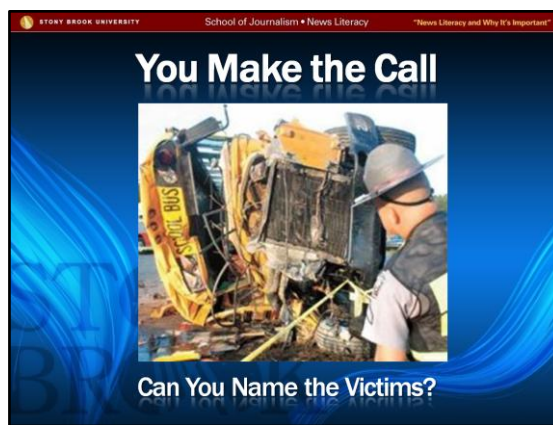
The campus is shocked by the murder of Sally Albright, a popular junior gymnast, found strangled in the “Nookie Room,” a TV lounge in the attic of her sorority...

It’s a double-shock when police interrupt a News Literacy lecture to arrest Big Man On Campus John Blutarski and charge him with the murder.

You are the Editor of the local newspaper. After lunch, you find a grocery bag hanging from your rear-view mirror. In it, a tape of Blutarski confessing he accidentally choked Albright to death while playing Twister™.

With the tape is a photocopy of his signed statement. A reporter calls Blutarski’s lawyer for comment and she who demands that you not publish the confession because she says Bluto was drunk when he was interrogated and the confession is therefore inadmissible in court.

Worse yet, he confesses he is also a Red Sox fan, which will prejudice the community, making it impossible for Blutarski to get an impartial jury of his peers. Can the courts prevent you from publishing the confession?



ANIMATION: Image fades in

A speeding Chevy Suburban T-bones a school bus, putting a dozen elementary school students in the hospital.

You are a reporter for the student TV station. You call the hospital to confirm as tip that two of the injured students are the adopted children of a popular young professor who studies the psychology of adoption.

The hospital refuses, citing federal privacy law (HIPAA). But, your room-mate works as an orderly at the hospital. You call and he finds the two names on the room roster. Plus, he sees the professor pacing the hall outside the E.R. You call back the hospital, hoping to get a comment on the nature of the childrens’ injuries. The spokesperson threatens legal action and demands you not air the story, saying you will have violated federal privacy law if you do.

If she finds a judge ready to hear the case right away, can the judge prevent you from airing the story?



ANIMATION: Image fades in

Two impoverished grad students decide to publish a magazine of erotic web-cam photographs submitted by students.

They sell out all 5,000 copies at \$5 per. The grad students cover the costs of their final research for doctoral dissertations on Juxtapositional Organ Secretions in the Lower Mollusks.

In an interview with the local TV station, one of the grad students declares that new pictures flooded in after the first issue. She promises the next issue will be raunchier and more racy than any other magazine on the racks in local stores.

All of the design and assembly work is done in the two grad students' apartment in Mt. Sinai and a printer in Babylon has ordered extra paper. The University, fearing backlash from parents and from alums, orders the students to stop. Can the students be prevented from making and distributing their magazine?



(Name is pronounced “Yahsson Ah-Ten-Ah-SeeYaduss”)

Every semester, the School of Journalism brings top journalists to campus to share with students their life experiences.


News Literacy students earn extra credit points for attending these evening lectures, which require tickets, but are free. Those points can rescue your grade at semester’s end.

The first speaker of this semester is Iason Athanasiadis, a photojournalist, writer and video producer who specializes in challenging the conventional wisdom about Iran, Iraq, Afghanistan and the other hotspots of the Middle East.


He is just back from Cairo, where he spent a week in Tahrir Square, covering the uprising that toppled Mubarak.

STONY BROOK UNIVERSITY School of Journalism • News Literacy "News Literacy and Why It's Important"

Will you be next?



Aleksandar Gilbert Petrovic
Winner, Fall 2010
News Literacy Essay Competition
One semester's in-state tuition
Paid by New York Community Bank Foundation



He's a Poli. Sci. major and a freshman.
He bested 1,300 other essay submissions.
And paid for a semester's tuition.

STONY BROOK UNIVERSITY School of Journalism • News Literacy "News Literacy and Why It's Important"

News Matters...it's your turn

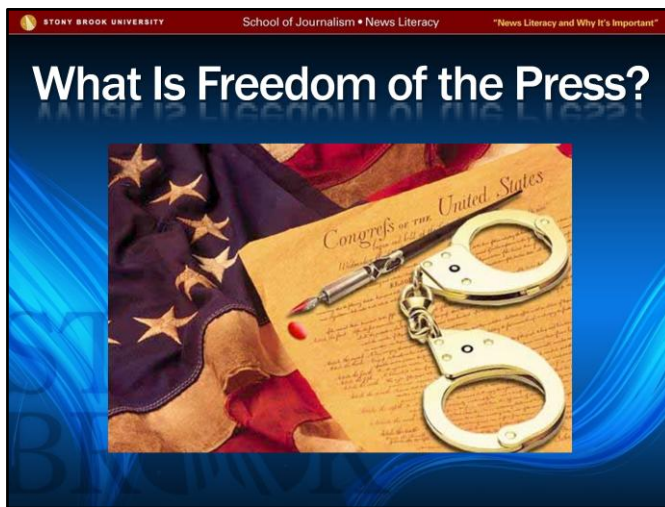
newslit.news.matters

@gmail.com

See Blackboard for directions:
"Course Information" link
"Extra Credit" folder

Animation: Image and text fade in together

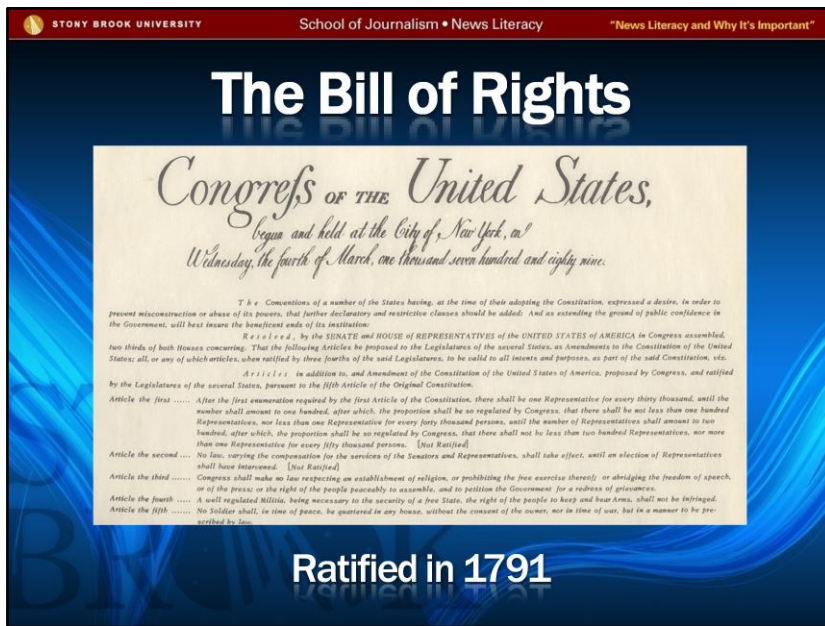
SLIDE: NEWS MATTERS PROMO



ANIMATION: Image fades in

Return to Lecture's Main Theme: What, exactly, IS Freedom of the Press?

The First Amendment is possibly the 45 most powerful words in American history, reserving to the public some remarkable powers that on good days define us as a country and on bad days...define us as a country.



Animation: Image fades in followed by sub heading

The Bill of Rights (the first 10 amendments to the Constitution) was not universally hailed when the amendments were adopted in 1791. Three states didn't vote for ratification until 1791 and then only for ceremonial reasons (the 150th anniversary of Bill of Rights) They didn't initially work out as the founders had believed they might.



Animation: Text fades in

Five Freedoms:

- Religion,
- Speech
- Press
- Assembly
- Petition

(Mnemonic is "P'RAPS" ...AS IN "PERHAPS")

ASK: What was the big problem with the first amendment. (read it aloud)

There's no definition.

What, exactly, does "Freedom of the Press" mean?

It would take 140 years to figure it out.

Here's what it has come to mean...for now...

Ben Franklin's Apology for Printers



"Printers are educated in the belief, that when men differ in opinion, both sides ought equally to have the advantage of being heard by the public; and when truth and error have fair play, the former is always an overmatch for the latter."

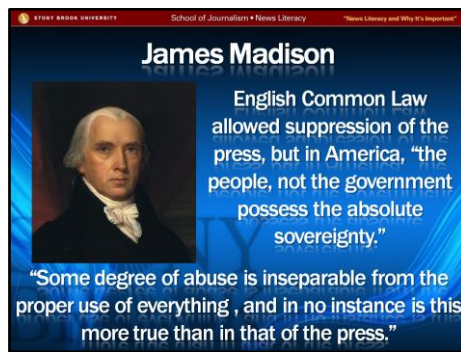
ANIMATION: Image fades in followed by quote

Tolerance for the ideas we hate was a kind of article of faith of the Enlightenment, when philosophic inquiry and the scientific method began to flower across Europe.

Franklin, an admirer of Enlightenment philosophers, steals this idea from John Milton's "Areopagitica"

"And though all the winds of doctrine were let loose to play upon the earth, So Truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and falsehood grapple; who ever knew Truth put to the worse in a free and open encounter?"

Sounds dangerous, doesn't it?



ANIMATION: Image fades in followed by text, then quote.

This radical idea, defended to this day by the political right and left in their own ways, is every American’s intellectual inheritance, to be squandered, spent or invested as you alone see fit.

Is this like the right to bear arms, another crazy idea with disastrous consequences?

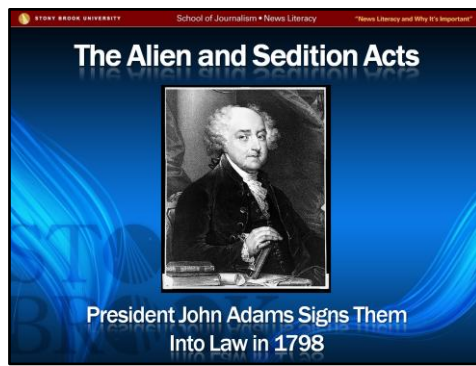
That’s the point of today’s lecture.

There aren’t many precedents for this kind of primacy of the rights of the individual because, as we assert in this course, history is one long battle for control over information. And why would you tolerate misuse of freedom by mere individuals?

One corollary can be found in the biblical story of Abraham haggling with God. Would the vast sinning cities of Sodom and Gomorrah (Genesis 18:23-32) be saved if 50 righteous individuals could be found there? How about 40? And so on to 10. You might say that story proposes the idea that it’s better to tolerate even widespread iniquity so that the individual can be free. With apologies to the faithful...that’s a CRAZY idea.

Crazy regard for the individual pops up again in English Common Law. The jurist William Blackstone proposed that it is “Better that ten guilty persons escape than that one innocent suffer.” Another CRAZY idea with staying power.

Yet protection of even irresponsible freedom took root with Madison’s argument, was included in Pennsylvania’s constitution in 1790 and in the Bill of Rights. Crazy.

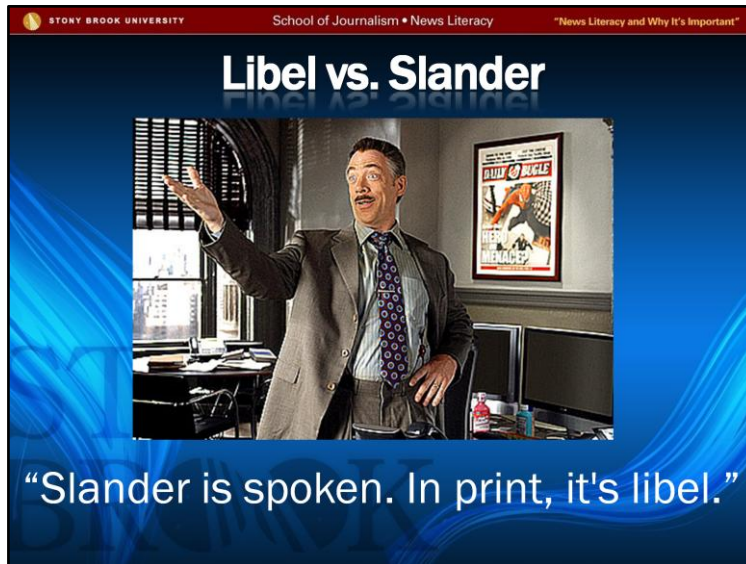


Animation: Image fades in followed by subheading.

No sooner have the states ratified the Bill of Rights, than we see the first big challenge: In 1798, Congress passes four bills, called the Alien and Sedition Acts. Sponsors claimed the intent was to protect the United States from alien citizens of enemy powers and to prevent seditious attacks on the government, which was fighting an undeclared war with France. History judges them, harshly, as craven attempts to stifle critics of John Adams, who signed them into law. Twenty five people were arrested for sedition, 15 indicted, 10 convicted- almost all were political opponents of Adams. Even after this act expired in 1801 (the law was made to expire the day before the next president was sworn in) newspapers and speech were routinely censored, particularly by the States.

Thomas Jefferson, that radical firebrand, thought the Bill of Rights ceded to the individual states the power to control the press. States did. Postmasters throughout the South were empowered to seize any mailed materials that might lead to insurrection.

Maybe that Bill of Rights stuff was too crazy, after all. Government can't function without some control over information, can it?



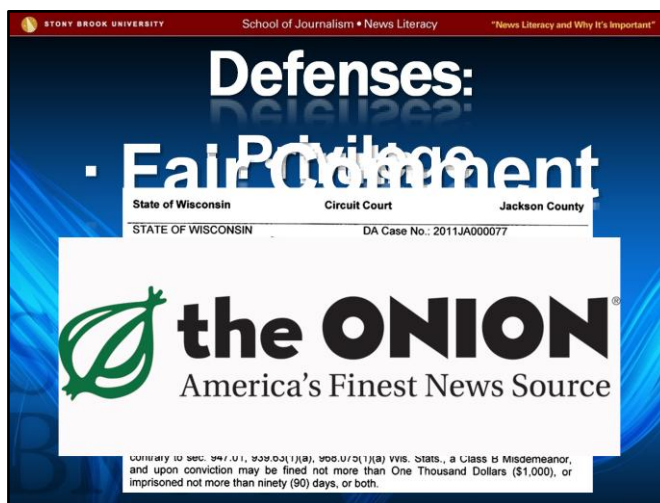
ANIMATION: Bullet Points fade in successively.

Outside the criminal arena, the civil law of slander and libel developed to settle disputes over injury to reputations by publishers and broadcasters.

The civil courts deal out consequences to publishers who harm people by publishing falsehoods.

By the way, don't be an ignoramus about this concept.

No less of an authority than the Editor of the Daily Bugle (J. Jonah Jameson) said it best in "Spiderman," correcting a colleague who was worried newspaper was slandering someone. Slander is the defamatory stuff you spread around in conversation. Libel refers to defamation in print.



ANIMATION: EACH DEFENSE COMES UP, WITH AN IMAGE, THEN DISAPPEARS WHEN YOU CLICK AGAIN.

So...can a lawsuit silence investigative reporting?

Not very often.

There is no grounds to sue for libel if:

1. The Information is true. (Honest Abe had no fears)
2. The damaging information, even if untrue or unproven, is contained in court testimony, police reports or other public documents, which the public has the right to review as a means of keeping an eye on the courts, and the press has the right to share with the public.
3. By longstanding (Common Law) tradition, you have the privilege to criticize and comment on matters of public interest without being liable for defamation, provided that the comment is an honest expression of opinion and free of malice (the intent to cause harm without legal justification or excuse)



ANIMATION: LECTURER CLICKS

Well, okay, but what does all that legal language mean in practical terms?


Can't the government do ANYTHING to stop an irresponsible press before it harms someone?

We didn't get a really clear answer until 1931...

The first great press case: Jay M. Near, the anti-Catholic, anti-Semitic, anti-black and anti-labor publisher of the (Minneapolis) Saturday Press, published a story in 1927 linking the Mayor of Minneapolis, police chief, County Attorney and other officials with gambling syndicates in the city. City officials moved to shut down Near's paper under the Minnesota Gag Law, which permitted permanent injunctions (closure) of newspapers if they were found to be publishing "obscene, lewd, scandalous, malicious, defamatory material."

STONY BROOK UNIVERSITY School of Journalism • News Literacy "News Literacy and Why It's Important"

Justice Pierce Butler



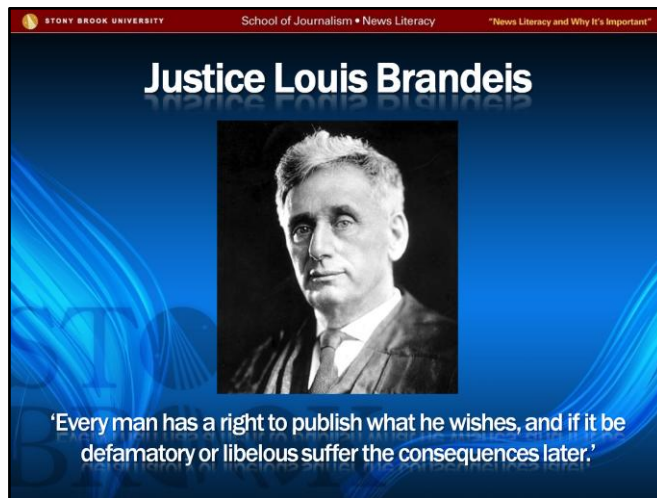
"Permitting a scandal sheet such as Near's to destroy the reputation, peace of mind, and even personal safety of other citizens, society is not only encouraging malice and revenge but could inflict distressing punishments upon the weak, timid, and innocent."

ANIMATION: Image fades in followed by text

Local court upholds the injunction and goes so far as to ban Near from publishing a newspaper under the title *Saturday Press* or any other title.

Near Appeals.

The State Supreme Court upholds the local court's ruling and compares Near's *Saturday Press* to brothels, speakeasies, lotteries, noxious weeds, feral dogs and other threats to the public peace. In ruling on Near's 2nd appeal, the court relented a little and said Near could publish a newspaper after all, but only "*in harmony with the public welfare.*"



ANIMATION: Image fades in followed by quote


Near appeals to the U.S. Supreme Court, arguing the First Amendment guarantees his right to print his paper.

In June, 1931, The Court agreed with him on a split ruling, 5-4 against the Minnesota Gag Law. In that decision, Judge Louis Brandeis lays down the fundamental definition of U.S. free press law: *“Every man has a right to publish what he wishes, and if it be defamatory or libelous suffer the consequences later.”*

Notice it is the right of the individual, not of the press industry.

STONY BROOK UNIVERSITY School of Journalism • News Literacy "News Literacy and Why It's Important"

Chief Justice Charles Evans Hughes Breaks the Tie




'The fact that the liberty of the press may be abused . . . by purveyors of scandal does not make any less necessary the immunity of the press from prior restraint in dealing with official misconduct.'

ANIMATION: Image fades in followed by quote. Chief Justice Charles Evans Hughes breaks the tie and coins a key phrase: **“Immunity from prior restraint.”** That idea... “No prior restraint” means it is almost impossible to stop the publication or broadcast of a story once a news organization has the material. And that precedent stands today.

STONY BROOK UNIVERSITY School of Journalism • News Literacy "News Literacy and Why It's Important"

No Prior Restraint



Government cannot stop something from being published or broadcast or posted on the Internet, except in rare instances.

But, the author or organization can be punished later.

ANIMATION: Image fades in followed by text in two successive groupings.

A judge or sheriff can't step in and block publication before the damage is done?

No.

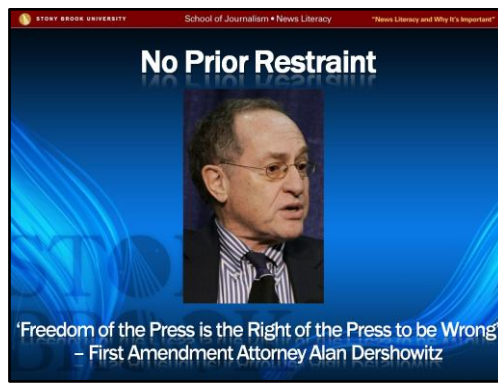
But the publisher/broadcaster/webmaster must face the consequences if the information is found to be libelous or defamatory.

Really?

I can't be stopped from printing ANYTHING

I want?

That's right... sort of.



ANIMATION: Image fades in followed by quote.

Why such extraordinary protection of the right to publish?

What was the rationale? What was the context in which the framers took such a radical stance?

Famous civil liberties lawyer Alan Dershowitz, of Harvard Law School, says the Near case's prohibition on prior restraint means that Freedom of the press is basically the right to be wrong.

That's what Madison said, isn't it? Some abuse is to be expected.

But the alternative, government control of publishing, is worse.



ANIMATION: Image fades in followed by subheading.

The Bill of Rights did not declare newspaper owners and journalists a special class. Not at all.

The framers described you...US...the citizenry as a “Fourth Estate of Power,” to serve as a check on executive, legislative and judicial power.

They reserved vast freedoms to that Fourth Estate as a protection against tyranny.

Learn this and you’ll know more than most journalists:

The Fourth Estate is You.

The First Amendment protects YOUR speech and dissent as a free individual. The constitution guarantees Your right to speak your mind and spread your ideas.

Newspapers, Radio, TV and the Web are merely the vessels through which citizens’ ideas are distributed.

When they wrote “Freedom of the Press,” the framers literally meant Gutenberg’s contraption...Not the Press Industry.

...literally the mechanism of reproduction for mass distribution of ideas and information.

That function of the Fourth Estate is sometimes referred to as the watchdog function.

And in that role the Press Industry, or News Media, are merely full-time citizens with no superior rights, but with the full time job of exercising every citizen’s right to gather and distribute. As such, they are granted broad protections, but only because they are the mechanisms by which citizens distribute their ideas.

So, what does the press acting as watchdog look like?



ANIMATION: Image fades in, then sub heading.

At Northwestern University outside Chicago, law students and journalism students team up to investigate Death Row cases and have found dozens of cases in which police or prosecutors lied or the use of DNA evidence made a convict's guilt impossible. Finally, a "Law and Order" Republican governor placed a hold on all executions in Illinois until the system could be fixed.

So far, with the help of undergraduates as well as law students and other volunteers, there have been 258 post-conviction DNA exonerations across the U.S.

That's a kind of tyranny that it took the Fourth Estate to combat.

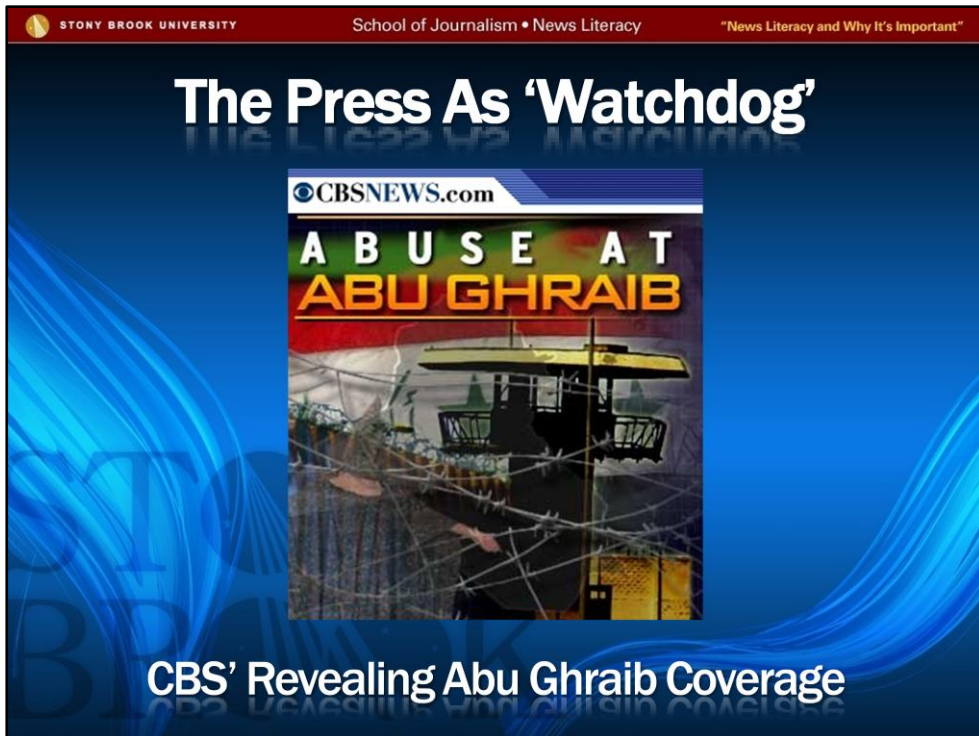


ANIMATION: Images fade in together, followed by subheading.

NY Times editor and columnist James Reston knew about the plans for the invasion of Cuba but did not publish the information, fearing he would jeopardize the operation or even cause deaths. He later says that might have been a mistake . And President John F. Kennedy, who oversaw the fiasco, once said he wished Reston had blown the lid. It might have saved the U.S. from embarrassment.

ASK: Could Reston have really published the information? What do you think?

Maybe because of incidents like this, the Fourth Estate has become bolder about prying into military matters, challenging decision-makers.



ANIMATION: ANIMATION: Image fades in followed by quote.

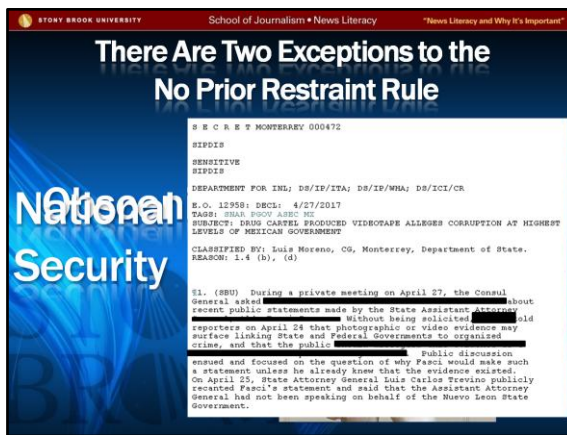
In 2004, The New Yorker and CBS uncover evidence of violations of the Geneva Conventions by U.S. interrogators in Iraq. You can debate the definition of torture, but the photos of prisoners of war in humiliating poses are a violation.



How could CBS get away with revealing this when it could hurt our standing in the world and hamper the U.S. military's wartime activities?

Whose side are they on?

Again...Aren't there ANY restrictions on the press?



1. Over time, two exceptions to No Prior Restraint have been recognized. They are rarely used because the U.S. Supreme Court essentially ruled that any prior restraint is presumed to be unconstitutional and therefore requires extraordinary circumstances.

CLICK TO BRING UP CENSORED "DAVID"

Some forms of speech enjoy no constitutional protection "Fighting words," obscene speech, and sexually explicit depictions of children fall within this category. In Free Press cases, the courts have been willing to tolerate prior restraint of "obscene" material. Each community is permitted to enforce standards of obscenity and to prevent publication of material it deems outside "community standards."

CLICK TO BRING UP CENSORED DOCUMENT

The second exception is national security. To succeed with this exception, the would-be censor must show that publication of a piece of information would result in direct, immediate and irreparable damage to the nation and its people.

Let's look at the case that established the national security exception's standards, the so-called "Pentagon Papers" case, (New York Times Co. v. United States)



ANIMATION: Image fades in, moves right and text appears.

The Pentagon Papers, officially titled **United States–Vietnam Relations, 1945–1967: A Study Prepared by the Department of Defense**, was a top-secret history, (45 volumes!) first brought to the attention of the public on the front page of the New York Times in 1971. Daniel Ellsberg, a White House military analyst and veteran of the Viet Nam ground war, was shocked to find that that Presidents from Truman to Johnson had systematically lied, not only to the public but also to Congress. Seeking to end what he said was an unjust war, he leaked a copy to the New York Times, which prepared to publish significant portions of it. The Nixon administration sought an injunction, saying the release of classified material was a matter of national security. The courts enjoined the Times after it published the first batch of material. But editors stayed one step ahead by sharing copies with other newspapers. Right after the Times, the Washington Post ran a story from the Pentagon papers and after that the Boston Globe and then Newsday. The news media stayed one step ahead of the courts and publication continued uninterrupted, with the public learning what it had not known about the way we got into that war. The U.S. Supreme Court two weeks later ruled (9-0) in favor of the Times, saying the bar “must be very high,” to support a national security exemption... it only can do so when “immediate and irreparable damage to the country” would be done.



ANIMATION: Wash. Post capture fades in, followed by sat. image, then image of prisoner. Subhead follows fade in of last image.

In 2005, Washington Post reporter Dana Priest documented a secret program by which the CIA and other US agencies were shipping prisoners of wars to prisons in countries where there are no restrictions on torture.

ASK: Does this rise to the level set by the Pentagon Papers case?

What is the impact?

Was the Post justified in deciding to expose this?



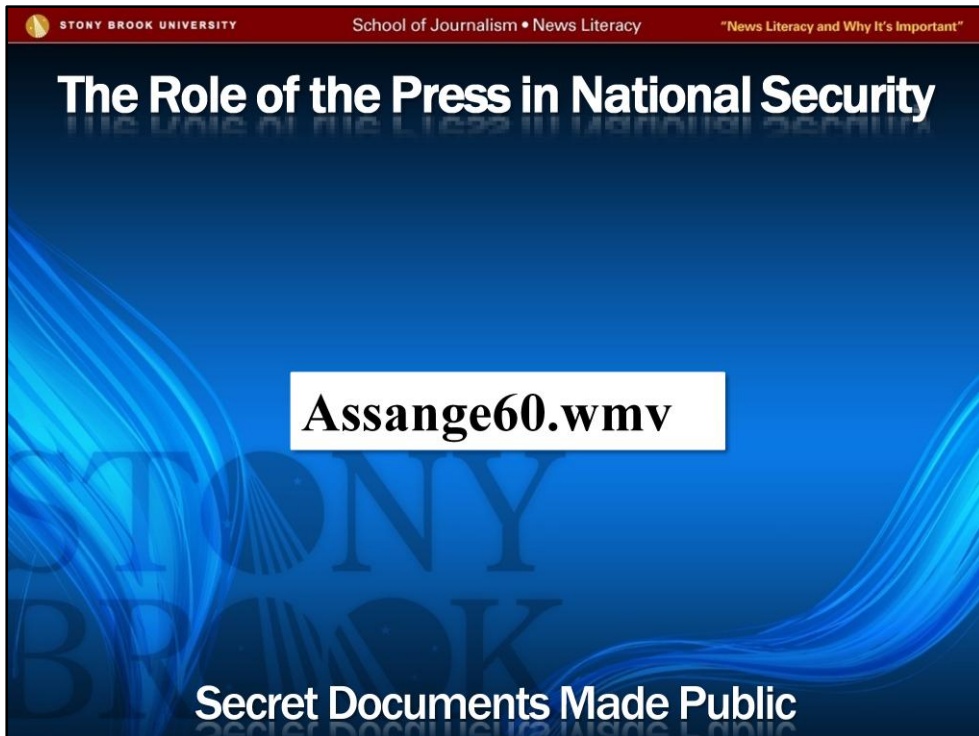
What about WikiLeaks founder Julian Assange?

He harvests stolen documents, documents from recycled hard drives and materials leaked to him by unknown players in global politics.

He's not even a citizen of the U.S.

Can he be stopped under the No Prior Restraint ruling and the national security exception?

Here's part of what he recently said on 60 Minutes.



(AFTER VIDEO RUNS)

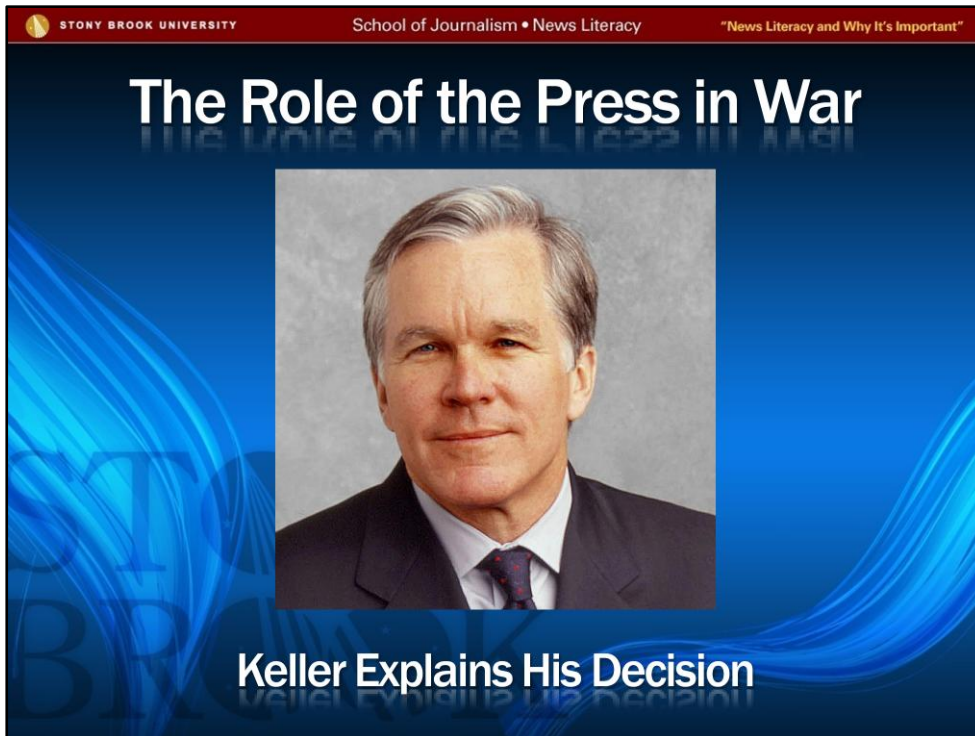
"...Disregard for U.S. traditions..."

What do you think he means by that?

Is he comparable to Daniel Ellsberg?



ANIMATION: All elements fade in together. June, 2006, the New York Times reports that within weeks of the September 11, 2001 attacks, the Bush administration talked a Belgian wire transfer company into allowing counter-terrorism officials to study financial records from a vast international database and examine banking transactions involving thousands of Americans and others in the United States. The purpose was to track terrorists by following their money. But U.S. officials were operating without the kinds of warrants usually required for such wire-tapping.

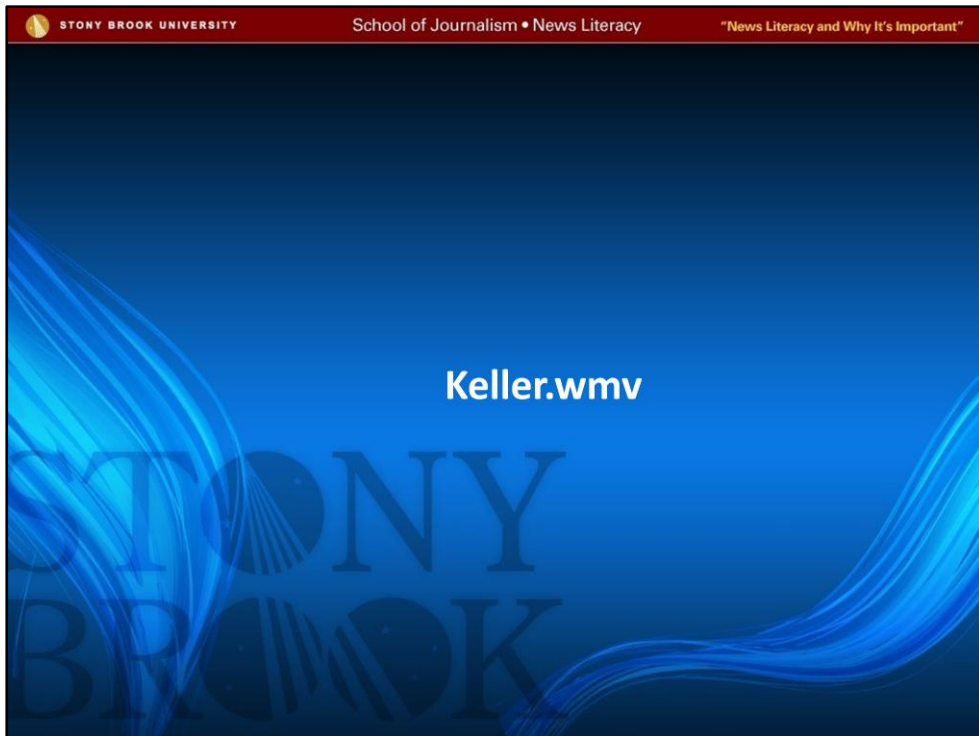


ANIMATION: Image fades in followed by sub heading

Civil Libertarians are outraged, saying this is a clear example of abuse of executive power in war time.

President Bush is outraged, saying the New York Times has given away the crown jewels of the U.S. counter-terror program.

Here is New York Times Editor Bill Keller describing his meeting with the President.



NEWS FELLOW: LINK (INSERT) VIDEO TO THIS SLIDE AND SELECT “START AUTOMATICALLY”

AFTER: What right does some ink-smearing wretch from a newspaper have to stand up to the President this way? Who elected him? He’s not the Commander in Chief...he’s just a citizen. What do they call those people? The Fourth Estate....Hmph.

STONY BROOK UNIVERSITY School of Journalism • News Literacy "News Literacy and Why It's Important"

The Role of the Press in War



Lawmaker Wants Times Prosecuted
By Devin Barrett
Associated Press
Monday, June 26, 2006; Page A02

The chairman of the House Homeland Security Committee urged the Bush administration yesterday to seek criminal charges against newspapers that reported on a secret financial-monitoring program used to trace terrorists.

[Rep. Peter T. King \(R-N.Y.\)](#) cited the New York Times in

Long Island Congressman Peter King Wants Reporters Jailed

ANIMATION: All elements fade in together. Here's what the Administration's supporters in the Congress think of the Fourth Estate. Put 'em in Jail. There's the watchdog role, says Long Island's congressman... and then there's disloyalty. So, that's a simple outline of the major issues raised by exercise of the Freedom of the Press. But there are other conflicts, too.



ANIMATION: Bullet points fade in together

From the beginning, the constitution's framers understood that freedom of the press was meaningless if the public didn't have the right to demand information from its servants in government.

Apart from espionage, what about just day-to-day workings of any federal agency? Do you have a right to know salaries and budgets and purchasing contracts? (yes)

What about the Sixth Amendment's guarantee of a fair trial? Which amendment is more powerful?

Can freedom of the press collide with your right to be tried in front of an impartial jury of your peers?

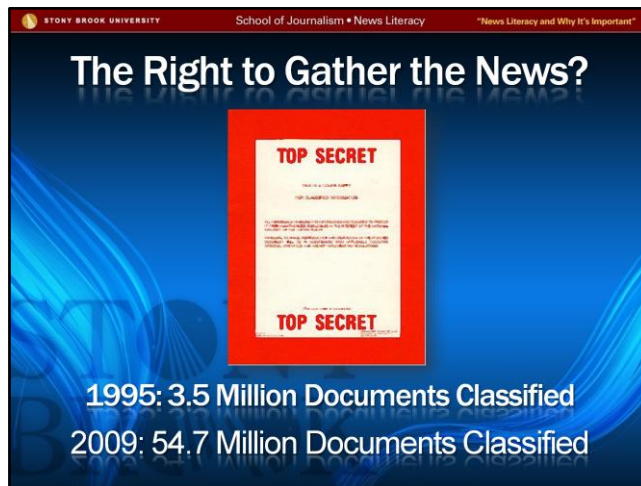
What about your personal privacy? Can a news photographer zoom her lens in on your apartment and take pictures of what's going on behind your closed door? There is no constitutional right to privacy, but still...



ANIMATION: Title fades in followed by subheading

Your right to know is guaranteed in theory, but in practice, it's complicated.

In *Branzburg v. Hayes*, 1972 the court ruled "*newsmen have no constitutional right of access to the scenes of crime or disaster when the general public is excluded.*" which is a kind of backhanded way of confirming the idea that a citizen's first amendment rights are the same as a professional journalist's.



ANIMATION: Image fades in, followed by each bullet point successively.

Then in 1980, the U.S. Supreme Court reinforced the idea that newsgathering is constitutionally protected.

"The First Amendment protects the public and the press from abridgement of their right of access to information about the operation of their government," the court said in *Richmond Newspapers Inc, v. Virginia*.

That sounds good, but the U.S. government slaps the "classified" stamp on millions of documents every year.

This trend of decreased access to information has continued since FY 2006. The last report, 2009, showed a huge increase. To be fair, the Information Security Oversight Office (a federal agency) said the increase of classified information was "largely attributed to more accurate data provided by agencies."

Whatever the reason, that's a lot of information about government you aren't allowed to know.

Aren't those documents the deepest darkest secrets of government?

How many Americans have security clearance to read such documents?

One Dozen? One Hundred? One Thousand? One Hundred Thousand? A half-million?

How about 854,000?



<http://www.justice.gov/oip/>

There are ways, other than WikiLeaks, to pry open files. All federal agencies, the Department of Justice (DOJ) are required under the Freedom of Information Act (FOIA) to disclose records requested in writing by any person. However, agencies may withhold information pursuant to nine exemptions and three exclusions contained in the statute. The FOIA applies only to federal agencies and does not create a right of access to records held by Congress, the courts, or by state or local government agencies. Each state has its own public access laws that should be consulted for access to state and local records



What about privacy? Does the First Amendment give you the right to make my death public?

Lance Corporal Joshua Bernard, 21 of New Portland, ME, was on patrol in Dahaneh, Afghanistan in August of 2009 when a Taliban RPG hit him.

An Associated Press photographer, who had been with the patrol all day, took a picture of his comrades tending to him in the field. Bernard died in the hospital. The photographer finished her time with that military unit and put together an extensive report with dozens of photos for distribution to AP clients worldwide. AP made a courtesy call to the family to alert them that the photo would be part of an AP report on the war. The father strongly objected, saying it would dishonor the memory of his son. AP respectfully listens, but says the photo is integral to reporting on what happens in war. Fatal injury is a daily reality and while the AP does not set out to photograph dying soldiers, that will occasionally be part of the coverage. The Secretary of Defense calls the AP's chairman to argue for holding it.

AP distributes the photo. Does the First Amendment protect that? (yes)



ANIMATION: Quote fades in, followed by subheading

What happens when two parts of the Bill of Rights collide?

You have a right to read about how the courts are conducting the public's business. But doesn't pre-trial reporting on a case influence potential jurors?



ANIMATION: Glamour images of Lindsay fade in first. On click, glamour fades away, and the latest felony fun fades in.

It's hard to imagine where Lindsay Lohan's trial on theft charges could be moved in order to find a jury that hasn't read of her drunken exploits.

<http://www.t TMZ.com/2011/02/12/lindsay-lohan-jewelry-necklace-grand-theft-felony-petty-theft-misdemeanor-value-950-dollars-los-angeles-diamonds-carats/>

<http://www.t TMZ.com/2011/02/14/lindsay-lohan-missing-necklace-police-report-assistant-felony-grand-theft/>



ANIMATION: Bullet points all fade in together

But it turns out the First Amendment kind of trumps the Sixth.

There is no prior restraint on publishing information about trials.

But, judges have remedies to reduce the likely impact.

- A judge can move a trial to another geographic area, to harvest jurors unlikely to have read or heard about the case.

- Gag orders can keep lawyers from grandstanding

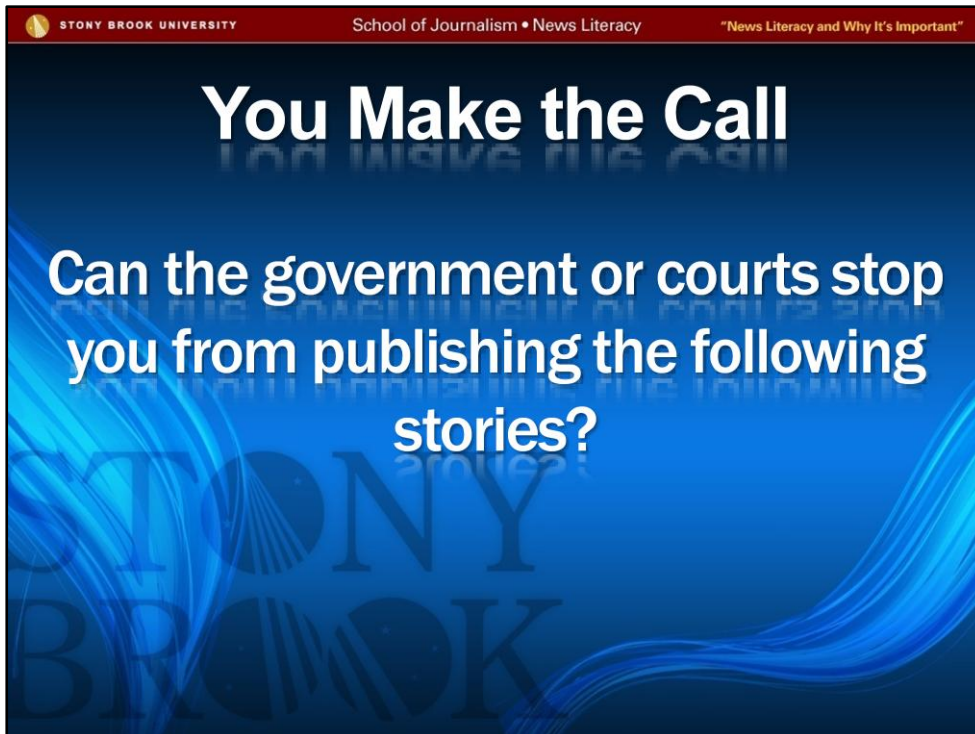
- * Cameras are often banned from the courtroom during pre-trial hearings.

- *Lawyers and judges quiz prospective jurors in a process called voir dire, to see if they are impartial.

If coverage of a trial is intense, a judge can order sequestration, which is when jurors are kept out of the public eye and away from newspapers, radio and TV. Kind of a long-term News Blackout.

“We don’t want to discourage citizens from being well informed. They can be on the jury provided they will be fair and decide the case on what they hear in the courtroom.”

- Chief Justice John Marshall on empanelling an impartial jury



ANIMATION: TEXT FADES IN

So that's a First Amendment law course
crammed into an hour...

Let's go back to our hypotheticals.

What do you think now?

STONY BROOK UNIVERSITY School of Journalism • News Literacy "News Literacy and Why It's Important"

The Right to Publish?



News Group Publishes Story About Osama Bin Laden's Satellite Phone

Animation: Images fade in, followed by subheading.

Osama Bin Laden's SatPhone....
You can't be stopped unless the government can prove that publication poses an immediate threat to the safety of the U.S. or its people.

STONY BROOK UNIVERSITY School of Journalism • News Literacy "News Literacy and Why It's Important"

The Right to Publish?



Popular Student
Charged With Murder Confesses

ANIMATION: Image fades in, followed by subheading.

SLIDE: Blutarski's confession.

Can the court stop you from publishing it?
No. The judge has plenty of other remedies and the courts start from the presumption that an attempt at prior restraint is unconstitutional.

The Right to Publish?



Do You Name the Victims?

ANIMATION: Image fades in, followed by subheading.

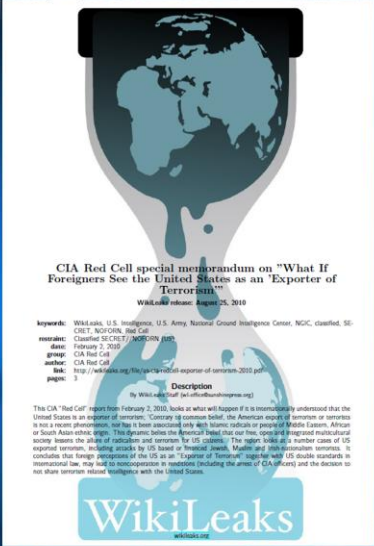
The names of the young accident victims.

Can you publish?

Yes. There is no constitutional right to privacy that trumps First Amendment free press protections.

STONY BROOK UNIVERSITY School of Journalism • News Literacy "News Literacy and Why It's Important"

The Right to Publish?



CIA Red Cell special memorandum on "What If Foreigners See the United States as an 'Exporter of Terrorism'"
 WikiLeaks released August 25, 2010

keywords: WikiLeaks, U.S. Intelligence, U.S. Army, National Ground Intelligence Center, NGIC, classified, SI, CIET, NORCOM, Red Cell
metadata: Classified: SI, CIET, NORCOM, Red Cell
date: February 5, 2010
author: CIA Red Cell
url: http://wikileaks.org/wiki/cia/redcell/exporter_of_terrorism_2010.pdf
pages: 3

Description
 by WikiLeaks (at://wikileaks.org)

This CIA "Red Cell" report from February 2, 2010, looks at what will happen if it is internationally understood that the United States is an exporter of terrorism. "Contrary to common belief, the American export of terrorism or terrorism to host a recent phenomenon, but there is a long association with Arab, Islamic, radical or potential Middle Eastern, African or South Asian ethnic origin. This document, before the American public, that our first, open and integrated multicultural society issues the idea of radicalism and terrorism for US citizens. The report lists all a number cases of US exported terrorism, including attacks by US based or Israeli Jewish, Muslim and Sikh nationalist terrorism. It concludes that foreign supporters of the US as an "Exporter of Terrorism" might have US double standards in international law, may lead to noncooperation in operations (including the areas of CIA officers) and the decision to not share terrorism related intelligence with the United States.

WikiLeaks

Can You Publish Information From This Document?

ANIMATION: Image fades in

Your blog's post containing Classified documents.

Can the CIA force you to take them down and stop you from adding more?

Under the Ellsberg case, probably not.

On Espionage or other grounds? Who knows?

STONY BROOK UNIVERSITY School of Journalism • News Literacy "News Literacy and Why It's Important"

The Right to Publish?



Grad Students Publish a Porn Magazine

The image shows two young women sitting at a bar. They are both wearing white shirts. The woman on the left is looking towards the camera, while the woman on the right is looking at a book. There are several open books on the bar in front of them, along with wine glasses. The background is a dimly lit bar with shelves of bottles and a hanging light fixture.

ANIMATION: Image fades in, followed by subheading.

The grad student's Do-It-Yourself porn magazine...

Can the University, or the local prosecutor, stop publication of Issue #2?

(Maybe. Remember, we said it would be raunchier than anything else on local shelves. By definition, that exceeds community standards.)



ANIMATION: All elements fade in together.

SET UP THE IN-CLASS TRIAL DEBATE:

June 23, 2006 NY Times: Under a secret Bush administration program initiated weeks after the Sept. 11 attacks, counterterrorism officials have gained access to financial records from a vast international database and examined banking transactions involving thousands of Americans and others around the world.

Your assignment for recitation this week is to read the materials on the S.W.I.F.T. case and then prepare to debate if it was Watchdog Journalism...or Treason.

You will write 5 talking points on each side of the question and prepare to be randomly selected to argue the case.

Assignments:

1. Read S.W.I.F.T. articles and chapter three of "*The Elements of Journalism*." Write talking points for a debate in recitation, citing chapter and articles.
2. Watch assigned videos (expect questions in News Quiz).
3. "War, Terrorism & National Emergencies"
(In digital textbook)
(Read, think, write. Due next Lecture)

ANIMATION: Title fades in, followed by text.