

## LECTURERS' ALERT 8 MINUTES OF VIDEO

Name	Size	Duration	Dimensions
60Mins.wmv	5,748 KB	0:01:33	640 x 480
assange60.wmv	5,826 KB	0:01:05	720 x 480
bart.wmv	32,770 KB	0:02:43	720 x 480
Keller.wmv	3,949 KB	0:01:32	508 x 288

### Digital Resource Center Extensions:

Whenever possible, we provide digital materials for use outside class to encourage solo work by students and accommodate a wider range of learning styles.

#### Extending [this](#) lecture:

*"The News Literacy Channel" on Vimeo™  
Daniel Ellsberg at Stony Brook, 2011  
Reflecting on the Pentagon Papers  
and the Bradley Manning case*

*Coming Soon to The News Literacy Channel:  
Christiane Amanpour at Stony Brook, talks  
about shedding the light on genocide in Bosnia*



### After this lecture, students will be able to:

1. Identify the five freedoms in the First Amendment, and define the Fourth Estate.
2. Summarize major Supreme Court rulings on press freedom.
3. Apply the law's limits on press freedom in order to analyze a series of hypothetical and real-world situations.
4. Explain remedies available to someone who feels wronged by a publisher or broadcaster.
5. Describe specific situations in which freedom of the press conflicts with other constitutional rights.

These skills relate to course outcome 4

### In This Hostile World, Can the U.S. Government Censor the Press?

"Either you are  
with us, or you  
are with the  
terrorists."



elon.mss

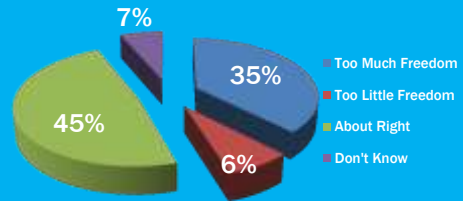
"The Obama administration has already charged more people (six) under the Espionage Act for alleged mishandling of classified information than all past presidencies combined."



# The U.S. News Media

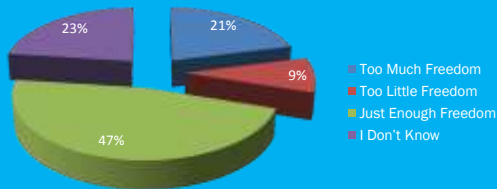
## Too Much Freedom? Or Not Enough?

When asked, 'Overall, do you think the press in America has too much freedom to do what it wants, too little freedom to do what it wants, or is the amount of freedom the press has about right?'



Source: The First Amendment Center, "State of the First Amendment, 2010"

## You and your peers in this course...



Source: 999 students in Fall 2012 News Literacy

Part Deux!

## You Make the Call

Can the government stop you from publishing the following stories?

## You Make the Call



Can You Publish a Study That Gives Away Osama Bin Laden's safe house?

## The Right to Publish?

SECRET CAIRO 003348

SIFDIE

SIFDIE

E.O. 12958: DECLASSIFIED 11/12/2017

CLASS: UNCL. EXEMPT FROM GDS II DE

SUBJECT: FBI DEPUTY DIRECTOR MEETS WITH HEAD OF STATE SECURITY

REF: A. CAIRO 1638

FB. CAIRO 3247

Classified By: Ambassador Francis J. Ricciardone, for reasons E.O. (b) and (d).

Can You Publish Information From This Document?

## You Make the Call



Can You Publish a Murder Confession?

## You Make the Call



Can You Name the Victims?

## You Make the Call



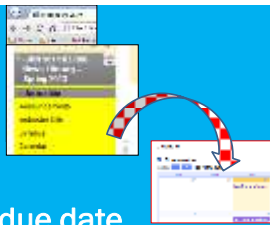
Can Grad Students Publish a Porn Magazine?



Housekeeping, Announcements & Notes

Do Homework on Time  
To Multiply its Value

Submit Written Work  
via Safe Assign  
BEFORE class on the due date.



Finish readings BEFORE class on the  
due date. There will be quizzes

*Extra Credit Even If You Could Not Attend*

Christiane Amanpour  
Chief international correspondent, CNN

*Watch Blackboard™ Announcements  
Video and Questions will be posted*



## News Quizzes: What Surprised You?



I fear four hostile newspapers more than a thousand bayonets



## In This Hostile World, Can the U.S. Government Censor the Press?



"The Obama administration has already charged more people (six) under the Espionage Act for alleged mishandling of classified information than all past presidencies combined."



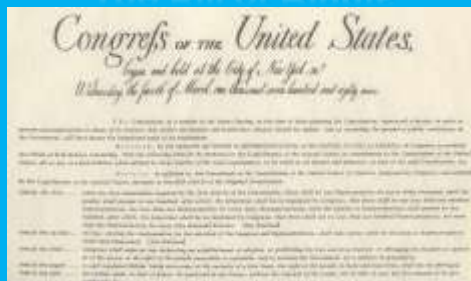
"Either you are with us, or you are with the terrorists."



## What Is Freedom of the Press?



## The Bill of Rights



Ratified in 1791

## The First Amendment

*“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble, and to petition the Government for a redress of grievances.”*

**(Mnemonic: “P’RAPS”)**

## 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.”*

## Literally, Freedom of The Press



Not “The Press”



## James Madison



English Common Law allowed suppression of the press, but in America, “the people, not the government possess the absolute sovereignty.”

*“Some degree of abuse is inseparable from the proper use of everything, and in no instance is this more true than in that of the press.”*

## The Alien and Sedition Acts



President John Adams Signs Them  
Into Law in 1798

## The Supreme Court's 'First Great Press Case'



1931: Near v. Minnesota

## A Divided Court



**Justice Louis Brandeis:** "Every man has a right to publish what he wishes, and if it be defamatory or libelous suffer the consequences later."

## A Divided Court



**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."

## 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."

## No Prior Restraint



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

But, the publisher can face consequences later.

## Remedy When News Reports are False, Defamatory?



Prof. Jameson's distinction: "Slander is spoken. In print, it's libel."

## Defenses:

- Fair Comment

- Privilege

*By Hon. Thomas Little, Justice of the Peace*  
 In a recent case, the plaintiff sought damages for libel and invasion of privacy. The court found in favor of the defendant, who had published a true and accurate report of a public official's actions. The court held that the defendant's report was a fair comment on a matter of public concern and was therefore protected by the First Amendment.



• Truth





## No Prior Restraint



'Freedom of the Press is the Right of the Press to be Wrong'  
- First Amendment Attorney Alan Dershowitz

## The First Amendment Empowers YOU



## Citizen Watchdogs At Work

**MEDILL** | INNOCENCE PROJECT  
NORTHWESTERN UNIVERSITY | IN PURSUIT OF THE TRUTH

HOME ABOUT NEWS CASES PRESS TEAM EDUCATION CONTACT

### The Ariel Gomez Case

New Findings Challenge Chicago Man's '98 Murder Conviction

Students track down witnesses—who never testified—who say police persuaded them to identify Gomez as the shooter.



Student Watchdogs Help Expose 258 Wrongful Convictions

## America Has No Monopoly on Citizen Watchdogs

**The New York Times**

Outrage Grows Over Air Pollution and China's Response





### The First Amendment Empowers US



Including Citizens in the News Media

### Watchdogs at Work

**The Washington Post**  
**TOP SECRET AMERICA**  
*A Washington Post Investigation*



A hidden world, growing beyond control

by Dana Priest and William H. Inge

### Watchdogs at Work

**Mother Jones**

**Are US Nuke Secrets Vulnerable to Cyberattack?**

The Department of Energy's internal watchdog has released a "long-overlooked" report about the agency's practices.

—by Dana Ziskind | The Hill, July 2012, 2:04 AM EDT



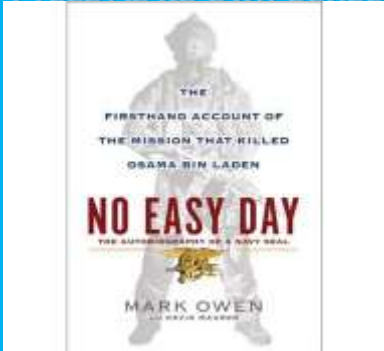
### Watchdogs at Work

**Los Angeles Times**

**Ex-SEIU local exec convicted of stealing from low-income members**



### Press As Its Own Censor



Naming the anonymous Navy SEAL

### Press As Its Own Censor



The Bay of Pigs Invasion

### Watchdog or Traitor?



### There Are Two Exceptions to the No Prior Restraint Rule

### Obscenity



## There Are Two Exceptions to the No Prior Restraint Rule

### National Security

U.S. GOVERNMENT DOCUMENTS

REF ID: A671047

CLASSIFICATION: UNCLASSIFIED

DATE: 08/17/2017

AUTHOR: DANIEL ELLSBERG

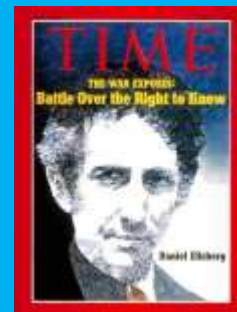
TITLE: THE PENTAGON PAPERS

CHARACTER: 1.4 (b) (1)

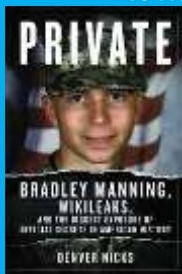
1.4 (b) (1) During a public hearing on April 25, the United States Supreme Court heard oral arguments about the government's attempt to enjoin the publication of the Pentagon Papers. The government argued that the papers contained information that was so sensitive that its disclosure would be injurious to the national defense. The Supreme Court, in a 6-3 decision, rejected the government's argument and held that the First Amendment's protection of free speech applied to the publication of the Pentagon Papers. The Court's decision was a landmark victory for the press and for the public's right to know.

## The Pentagon Papers Case

Daniel Ellsberg  
Leaks Secret  
Defense Documents



## 2013 WikiLeaks and the National Security Exception To No Prior Restraint



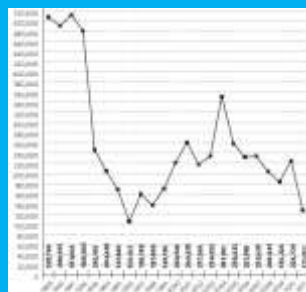
## Other Conflicts

- The Right to Know
- The Right to Know vs. Privacy
- A Free Press vs. A Fair Trial

## Limitations on Press Freedom Press arrests



## The Right to Know?



The US Government decided to classify documents 127,072 times in 2011.

## Is The Right to Gather News Limited?



Ye\$, It I\$.

## The Right to Know vs. Privacy



A controversial decision to publish a photo of war

## In the Midst of Outrage Can an Impartial Jury be Selected?



USA TODAY

Fair trial in Delhi rape case may be impossible

Updated on 2/27/13 10:00 AM EDT

## A Free Press vs. A Fair Trial

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed . . . .”

The Sixth Amendment

www.LocalLeaks.me

### The Steubenville Files

On August 26, 2012 two members of the Big Red High School football team in Steubenville, Ohio - both who pleaded and pleaded with the rape and kidnapping of an out of town 16 year old girl that took place on August 11th. At the time of this girl's rape, the girl was intoxicated and unconscious. The victim had been viciously dragged with a "date rape" ingredient. She was photographed and video was taken of her in this vicinity, and there is evidence that she was fouled in a conscious state in multiple ways - and almost certainly raped by more members of the local high school football team than just the two players who currently stand charged. There is even evidence that she was drugged upon during this horrific assault.

exhibitions

Some people deserve to be peed on: #whoretheyou



Despite all this, it looked as though a town (the with corruption, cronyism, illegal gambling and stolen cases) their star high school football team to make economic investment targets) were prepared to orchestrate a major cover-up in order to sweep the matter under the rug. As this disclosure will document, this cover up was perpetrated by people in the high school administration, local government and law enforcement.

## A Free Press vs. A Fair Trial

Judges have other remedies :

- Change of venue
- Gag orders
- Voir Dire
- Sequestering the Jury

Part Deux!

# You Make the Call

Can the government stop you from publishing the following stories?

## You Make the Call



Can You Publish a Study That Gives Away Osama Bin Laden's safe house?

## The Right to Publish?



Popular Student Charged With Murder Confesses

## The Right to Publish?



Do You Name the Victims?

## The Right to Publish?



Can You Publish Information From This Document?

## The Right to Publish?



Grad Students Publish a Porn Magazine

## The Role of the Press in National Security



Secret Documents Made Public

## The Role of the Press in National Security

**Assange60.wmv**

Secret Documents Made Public



# The Role of the Press in War

Bank Data Is Sifted by U.S. in Secret to Block Terror



**Journalists Report on Secret U.S. Sifting of Bank Data to Block Terror**  
U.S. officials, including those at the Treasury, reported that the search for bank data to block terrorism has been a secret, but the disclosure of the program to the public is a sign of a more open relationship between the U.S. and the rest of the world.

# The Role of the Press in War



Keller Explains His Decision

Keller.wmv

# The Role of the Press in War



**Lawmaker Wants Times Prosecuted**  
By Devin Superintendant  
Associated Press  
Monday, June 25, 2006, Page A02  
The chairman of the House Homeland Security Committee urged the Bush administration Monday 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

## The New York Times on Trial for Treason



Innocent or Guilty?

## In-class debate: Wikileaks, The Times & Manning



Protected by the First Amendment?

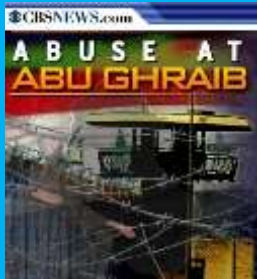
## Assignments:

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. OR...Read Wikileaks articles and chapter three of *"The Elements of Journalism."* Write talking points for a debate in recitation, citing chapter and articles.
2. "War, Terrorism & National Emergencies"  
(In digital textbook)  
(Read, think, write. Due next Lecture)



hus endeth the Lesson...

## The Press As 'Watchdog'



CBS' Revealing Abu Ghraib Coverage

60Mins.wmv

Jihad.wmv

## The Fourth Estate



Who is the "Watchdog"? You are.

## The Fourth Estate

*The Atlantic*



## A Free Press vs. A Fair Trial



## Watchdogs or Traitors?

**We Don't Need No Stinking Warrant:  
The Disturbing, Unchecked Rise of the  
Administrative Subpoena**



About the administrative subpoena (pdf): 2009, a federal official's signature, bank, hospital, doctor's office, telecommunications companies and even utilities and internet service providers — usually all businesses — are required to hand over sensitive data on individuals or corporations, as long as a government agent declares the information is relevant to an investigation. Via a wide range of laws, Congress has authorized the government to bypass the Fourth Amendment — the constitutional guard against unreasonable searches and seizures that requires a prima-facie warrant signed by a judge.

The First Amendment Protects Even This?

## The Washington Post Exposes Secret CIA Prisons

**CIA Holds Terror Suspects in Secret Prisons**

Debate Is Growing Within Agency About Legality and Morality of Overseas System Set Up After 9/11

By Dana Priest  
Washington Post Staff Writer  
Wednesday, November 2, 2009, Page A01



Is This What the Framers Wanted?