

In This Hostile, Raunchy World, Can the Press Be Regulated?

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



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

-Salon.com



You Make The Call

Can the government stop this?

You Make The Call



Could Courts Stop Henry Ford's Newspaper From Blaming Farmers' Problems on "The Jews"?

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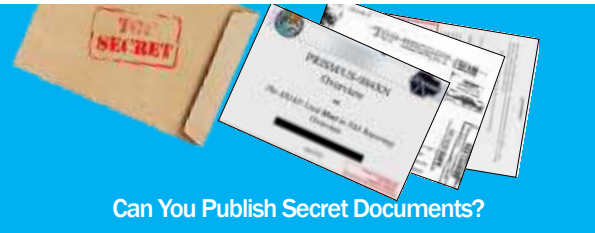
You Make The Call

MUST READS

Five Revelations from Snowden's Newest Leak

New report reveals how the NSA has been able to crack online encryption. "This is the golden age of spying," says one former analyst.

By Daniel Hicks (@danerhicks) · Sept. 05, 2013 · 15 Comments



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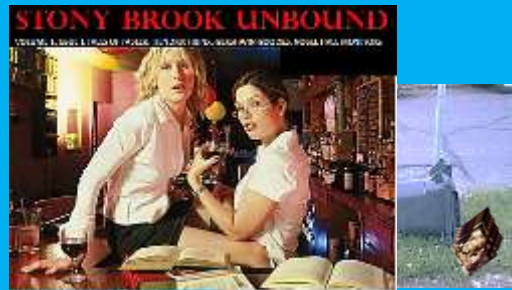
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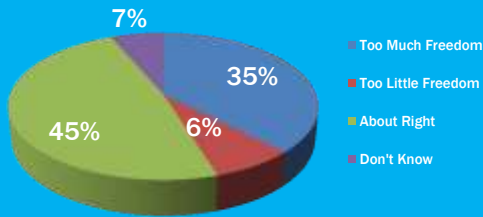
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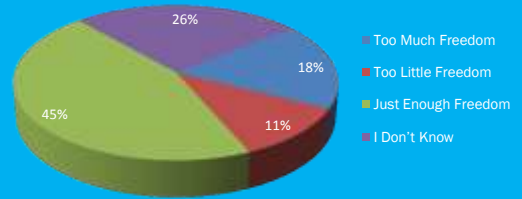
Can The University Force A Grad Student to Trash Her Trashy Magazine?

"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: 769 students in Fall 2013 News Literacy

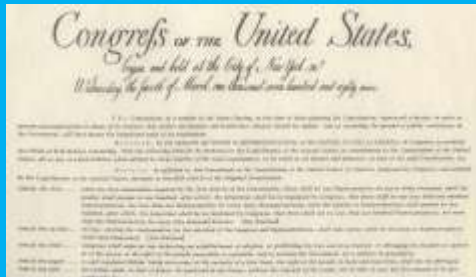
Presidential Candidate Wants Reporters Jailed

Rep. Peter King_Prosecute Glenn Greenwald.mp4

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



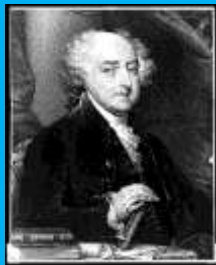
English Common Law allowed suppression of the press, but in America, “the people, not the government possess the absolute sovereignty.”

“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.”

“Think Twice”

A Silent Minute to Absorb the Material

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 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.” (dissent)

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.”

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.

Consequences When News Reports are False and Defamatory?



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

Libel Defenses:

• Fair Comment

• Privilege



By Tom Thomas
Letter to the Editor
The First Amendment is the cornerstone of our democracy. It guarantees the right of every citizen to speak freely and to publish their views. This is the foundation of our free society. It is the right of every citizen to speak freely and to publish their views. This is the foundation of our free society. It is the right of every citizen to speak freely and to publish their views. This is the foundation of our free society.



• 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



Citizens Watchdogs With Free Press Rights



America Has No Monopoly on Citizen Watchdogs



Iconic Watchdog

(Now a Stony Brook Professor)



Watchdogs at Work



Revealed: The NSA's Secret Campaign to Crack, Undermine Internet Security



Press As Its Own Censor



The Bay of Pigs Invasion

When reporters keep silent instead of scoops

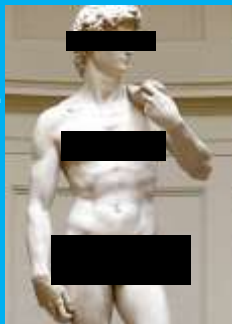
by Tom Spillier | on.Apr. 2nd, 2012 | 0 comments

Foreign Policy Association



Two Exceptions to No Prior Restraint

XXX-ception #1
Obscenity



Two Exceptions to No Prior Restraint

Exception #2
National Security



The Pentagon Papers

Newspapers Publish Top Secret Government Files

The New York Times

Vietnam Archive: Study Tells How Johnson Secretly Opened Way to Ground Combat

President Johnson ordered in April, 1964, that the military should begin the ground combat in Vietnam. The order was not to be made public until after the end of the year. The order was not to be made public until after the end of the year. The order was not to be made public until after the end of the year.



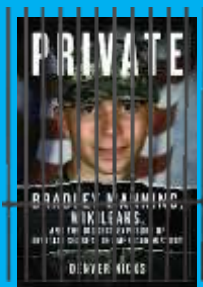
New York Times Co. v. United States (1971)



Justice Potter Stewart:

“In absence of governmental checks and balances, the only effective restraint upon executive policy and power in [national defense & international affairs] may lie in an enlightened citizenry—in an informed and critical public opinion which alone can here protect the values of democratic government.”

2010: WikiLeaks and the National Security Exception To No Prior Restraint



2013: Edward Snowden and the National Security Exception to No Prior Restraint



Revealed: The NSA's Secret Campaign to Crack, Undermine Internet Security



“Think Twice”

A Silent Minute to Absorb the Material

The Big Chill:

Government Tools to Prevent Scrutiny
Jailing Reporters Who Protect Sources

The Washington Post
Julian Miller in Jail: Privacy vs. Politics

Tapping Reporters' Phones

WASHINGTON (AP) — The Justice Department secretly obtained two months of telephone records of reporters and editors for The Associated Press in what the news cooperative's top executive called a "massive and unprecedented intrusion" into how news organizations gather the news.

Refusing to Talk to Journalists Who Ask Tough Questions

Associated Press: Obama 'Limiting Press Access In Ways That Past Administrations Wouldn't Have Dared'

First Amendment Collisions:

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

Freedom of the Paparazzi ?

Hawaii follows in California's footsteps in proposing new anti-paparazzi law

Rocker Steven Tyler leads charge

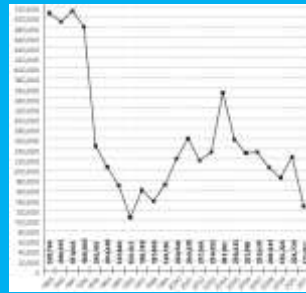
NPPA Says New California Anti-Paparazzi Bill 'Threatens First Amendment Rights'



Limitations on Press Freedom Press Arrests



The Right to Know?



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

The Right to Know vs. Privacy



A controversial decision to publish a photo of war

Pivot Point

Every other row
Pivots to the row behind
To discuss in groups of four

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

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



Pivot Point

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A Free Press vs. A Fair Trial

Judges have other remedies :

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

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By David Nakra @Demotix - Sept. 05, 2013 15 Comments



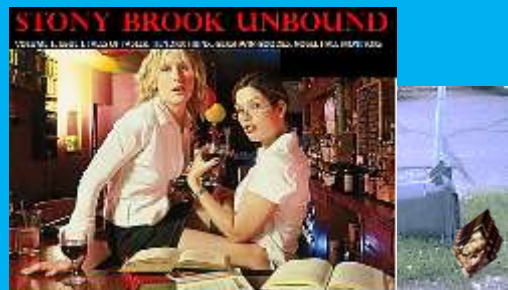
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Can The University Force A Grad Student to Trash Her Trashy Magazine?

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