Prompted in part by recent survey results showing that Americans neither know nor care very much about the First Amendment to the Constitution nor the press's role in defending and preserving the rights it guarantees, a teaching unit was designed to increase students' understanding and appreciation of the First Amendment and its implied responsibilities. The three-week unit was fashioned in content and format by responses given by high school and minority journalism educators to a survey concerning the teaching of press law in the secondary schools. Topics covered in the unit include (1) the promise and promise of a free press; (2) prior restraint, censorship, and government authority; (3) libel; (4) invasion of privacy and copyright; (5) confidentiality and free speech/free trial; (6) obscenity, responsibility, and codes of ethics; (7) student rights and responsibilities; and (8) advertising and content regulations. A content outline and lists of discussion sessions and activities are offered with each topic. The unit includes with compilations of pertinent court cases; a list of sources, such as the names of appropriate professional organizations and periodicals; and an annotated bibliography of press and materials. (The unit and an annotated list of resources are included.) (FL)
A Proposed Press Law and Responsibilities Teaching Unit
For Secondary Schools

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"PERMISSION TO REPRODUCE THIS
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TO THE EDUCATIONAL RESOURCES
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A paper presented to the Secondary Education Division
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"We pulled a quote last week because the English Department calls it all the students in a remedial class retarded, repeated the layout of our magazine totally because we couldn't get clearance from a boy's parents for him to pose for a silhouette picture indicating that he was homosexual, and reworded an article indicating the reporter knew a guy was stealing locks off lockers when the principal said he would suspend the reporter unless he revealed his source. And you want to know if I think students should be taught press law!"

The teacher who wrote this in response to a question last spring knows that there are practical as well as philosophical reasons high school students should know about freedom of speech, freedom of the press, responsibility and ethics. She and her students, who live with these concerns, no doubt understand and appreciate them.

But for other teachers and students—and for many reasons—the First Amendment is a historical document that has not come alive in their classrooms. There may be no journalism or mass media course offered. Where there is such a class, the accent may be on writing and production, with little time to devote to legal aspects of journalism. Advisers or English teachers assigned to teach such a course may not know much about press law and have less interest or time to spend acquiring the necessary knowledge.

But the California adviser quoted above and respondents in recent public opinion surveys imply that free speech rights should not be considered a classroom luxury. As an Iowa adviser and teacher noted a few years ago, "(A) thorough background in press law lays the foundation for the building of responsible student journalists and a responsible journalism program."2

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2 Carla Day, "May Teach Press Law? Student Journalists Need to Know Their Responsibilities" Battle and Scroll, April-May 1977, p. 15.
The need to study press law in the high schools goes beyond the link between student publications and the journalism class. More courses prepare students to be better media consumers and communicating citizens than to be future journalists. With that in mind, the findings of a recent Gallup poll and a Public Agenda Foundation survey make the study of constitutional freedoms even more important.

Reports earlier this year of a two-year study by the Public Agenda Foundation revealed that the public opposes censorship of the media, but believes that the government should counter the increasing power of the media by enforcing a policy of fairness and responsibility. The powerful media have too much discretion, to the detriment of the free flow of ideas, the public said. And a Gallup poll showed that three of every four Americans did not know what the First Amendment is, or even what it concerns. "Americans may be taking their basic freedoms, including freedom of the press, for granted," George Gallup, Jr., concluded. If anything, the public has become more indifferent and hostile to the press, he added.

Lack of awareness, misconceptions, double standards, acceptance of further restrictions on the press and speech in America—these characteristics of today's citizenry prompted representatives of the media, education and legal profession to convene a First Amendment Congress early in 1980. Twelve resolutions were adopted to increase understanding and appreciation of the First Amendment—with youth as the focus of attention.

The Society of Professional Journalists, Sigma Delta Chi, responded quickly to the challenge. One of its committees compiled and distributed a list of 42 activities that SPJ's professional and campus chapters could sponsor to increase

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4"National Congress Resolves to Improve First Amendment Education for Youth." The Newspaper Fund Newsletter, March-April 1980, p. 3.
5Ibid.
First Amendment understanding. The organization's Freedom of Information Committee in May issued a call for research to assess what has been or is being done to improve public understanding of press freedom, and asked for help in evaluating curriculum offerings concerning the First Amendment. 

The press law and responsibilities unit proposed here stems from the need perceived by the First Amendment Congress and the personal belief that attention must focus on youth during their formative years in the secondary schools. It is unrealistic to expect a course on press law and responsibility, and some teachers prefer to incorporate law and ethics into discussions of other course topics rather than have a separate unit. Integrating law, responsibility, content and techniques can be valuable, but the long-term significance of First Amendment study justifies more concentrated attention—even if for a short time.

Seeking Practical Direction

This proposed unit is designed to help teachers in a variety of contexts. The content and format were guided by a survey last spring of high school and university journalism educators throughout the country—persons likely to be interested in, or teaching, press law in the secondary schools.

A two-page questionnaire was mailed in February 1981 to 250 journalism educators: 50 members of the Secondary Education Division of the Association for Education in Journalism; 75 members, including the leadership, of the Journalism Education Association; 50 award winners in the most recent Quill and Scroll competition; and 75 randomly-selected members of the Minnesota High School Press Association. (The author was teaching at St. Cloud, MN, State University when the survey was conducted.)

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7Letter of May 19, 1981, from Anna Hunsaker, University of Maryland, MJC Committee Educational Liaison, Society of Professional Journalists, Sigma Delta Chi.
The unit outline came from the suggestions of the 129 respondents in 30 states. Respondents fairly evenly represented the four groups surveyed: 25 from AEJ, 33 from JEA, 27 from Quill and Scroll; 31 from MHSFA and 13 who did not complete the identification option. The objectives, topics, activities, format, texts and resources reflect the desires of most respondents. The lists of resources, questions, activities and cases were developed with the guidance of the survey results.

The unit has more questions, activities, resources and topics than could be part of a two- or three-week unit. The surfeit of material is meant to allow for flexibility and background information for those teachers who seek them.

Some information about the respondents may clarify the framework for this unit. The questionnaire went to those advisers and teachers most likely to have experience and interest in a press law unit. Indeed, most respondents had taught a high school journalism or mass media class (111 or 86%), and 118 (or 91.5%) had advised a school publication (36% the newspaper and yearbook; 30% the newspaper only). The respondents were experienced teachers and advisers: 76% of those who had advised had done so for six or more years; 17 (or 13%) had more than 16 years of advising experience.

Of the current high school teachers responding, 88 (or 94%) were from schools with a journalism or mass media course. Not surprisingly, 98% of all respondents either agreed or strongly agreed that law and responsibility should be part of a high school journalism or mass media course. Eighty-seven respondents (or 67%) said they had taught a law unit for high school students, most of them in high school but 32% in both high school and at a workshop.

**Guidance Offered**

Too much to cover in too little time. This was the complaint of many teachers who suggested ways to teach press law and responsibility. At least a half dozen
respondents said they do not teach a press law unit because of lack of time. A
number of others said that the topic was incorporated. "I try to integrate these
questions," one teacher wrote. "Law and ethics cannot be divorced from media
techniques and practices."

Of the 90 respondents who said that they have taught a formal unit, 70% said
it was no longer than two weeks and 87% said no longer than three weeks. Most—
43%—said a week or less was spent on press law; 27% said one to two weeks; 17% said two to three weeks. Because of this, the proposed unit is planned for a
two-week period, with topics that could be added if three weeks or more were allowed.

What should be taught and what is taught were revealed in two portions of
the questionnaire...and pointed again to the problem of inadequate time. When
asked to check from a list of 11 those topics that a law unit should deal with,
10 of the 11 were checked by more than half the respondents. When those who had
taught a law unit were later asked to check those topics they covered, only four
areas were checked by at least half the respondents.

Of the 127 respondents who said that a law unit should be taught, topics
mentioned most often were:

- Student rights and responsibilities—99% of the respondents
- Libel (97%)
- Privacy (91%)
- Obscenity (86%)
- Confidentiality of sources (83%)
- Prior restraint (77%)
- Copyright (75%)
- Access to information (75%)
- Free press/fair trial (66%)
- Advertising regulations (55%)
- Broadcast regulations (32%)

The top four topics on the "should teach" list also led the "do teach" list,
although in slightly different order. The topics covered by teachers who do
teach press law, and the percentage of persons who mentioned each area, are
as follows:
Libel (67, privacy (96, student rights, obscenity (66), prior restraint (101), confidentiality (132), copyright (27, free press (102), access to information (22), advertising (11), broadcast (116))

Complicating apparent disagreement, the survey respondent (41 or 45%) did not distill statements such as text for high schools.

Also, as the textbook used a book that does not teach a press law, had taught a unit often, in order:

Scholarship on Libel, by Press Dissemination, Journalistic Mass Media, Captive (11), Knowledge. When all respondents recommended, it:

Student (11), (96) 102 (7), (11), (116)
Delivering the ease and effectiveness of teaching a press law unit is the dissatisfaction with current textbooks dealing with the topic. Of those respondents who have taught a law unit in high school, less than half (22%) did not use a text. Eighteen respondents wrote on the questionnaire such as “No text is as current as needed” or “There is no good overall high school student.”

Many teachers must rely on the law and responsibilities portion of book used in the journalism or media course. Some said that if they use a text, they used ones that only dealt with press law, it was for person and not classroom use. An interesting difference occurred between the books used by those who have press law unit and books recommended for such a unit. When those who taught a unit were asked to list the text they used, the ones mentioned most in order of frequency, were these:

Periodic Journalism, by English and Hach
Ad Time, by Adams and Stratton
The News Media, by Hoyes and White
Media and the School Paper, by Raderick
Five Voices, ed. by Jack Nelson
Normal Law for Student Expression, by the Student Press Law Center

Respondents were asked to recommend books for such a unit, the resources in the order of times mentioned first, are as follows:

Press Rights, by Trager
Periodic Journalism, by English and Hach
The Student Press, by Stevens
Normal Law for Student Expression, by the Student Press Law Center
Media and the School Paper, by Raderick
Because a general textbook is likely to be the students' primary resource during a press law unit, teachers should check this paper's annotated bibliography for supplemental resources that fit the time and topics of the press law unit and the instructor's knowledge.

Finally, survey respondents indicated which other resources they used to teach press law in secondary schools. Only guests and periodicals were mentioned by more than half the respondents, but films, pamphlets, filmstrips, and videotapes also were suggested.

Of the 77 respondents (60%) who said guests should be used in a law unit, 45 listed legal representatives such as attorneys or judges and 42 named local reporters or editors as worthwhile guests. More than three to one over any other publication recommended was the Student Press Law Center Report. Others mentioned at least six times were Scholastic Editor, Quill, Communication, Journalism Education Today, Quill and Scroll, and School Press Review.

If there was consensus about the objectives of a press law unit, it was that student awareness of journalists' and students' rights and responsibilities be heightened. That general objective—in line with the recommendations of the First Amendment Congress—is incorporated into the unit that follows. The activities listed reflect those respondents recommended and the study questions focus on topics most often cited as worthy for a press law and responsibilities unit.

The Unit

GENERAL OBJECTIVE: The goal of this unit is to increase students' general awareness of and appreciation for the First Amendment. Students should understand that the First Amendment is essential to a free society, is an instrument of a vibrant and responsible professional and student press, and serves as a vehicle for becoming enlightened, contributing citizens.
SPECIFIC OBJECTIVES: To increase students' understanding of:

* the philosophy of freedom of speech and press
* all citizens' responsibilities to defend free speech and press rights
* the value of a free press and free speech to society and its citizens...and to the school and its students
* the growth of press freedom in America
* the current state of free speech and press rights, specifically in the areas of censorship/prior restraint, libel, privacy, confidentiality of sources, obscenity, copyright and free press/fair trial
* legal and ethical constraints on free speech and free press
* application of the First Amendment to the high school—its students, staff and publications.

OUTLINE: I. Introduction: Premise and Promise of a Free Press

II. Prior Restraint/Censorship and Government Authority

III. Libel

IV. Invasion of Privacy and Copyright

V. Confidentiality and Free Press/Fair Trial

VI. Obscenity: Responsibility and Codes of Ethics

VII. Student Rights and Responsibilities

VIII. Advertising Regulations (optional)

IX. Broadcast Regulations (optional)

CONTENT OUTLINES:

I. INTRODUCTION: PREMISE AND PROMISE OF A FREE PRESS

A. The seed is planted early; growth of the marketplace of ideas
   1. John Milton
   2. John Locke
   3. John Stuart Mill
   4. John Peter Zenger
B. Authoritarianism, licensing... and the backlash of libertarian thinking

C. Free speech rights are recognized
   1. Philosophy acknowledged in 1919 Supreme Court decision (Abrams v. U.S.)
   2. States can't deny due process or withhold constitutional protection

D. A broad public right. Freedom of press... but also freedom to distribute pamphlets, give speeches, picket, use vulgar language, support other governments, and wear armbands or long hair.

E. But the First Amendment is not absolute
   1. Public supports the idea of a free press... but not limitless freedom
   2. Courts have agreed

F. Role of the courts: arbiters and interpreters
   1. Roles of other branches of federal government... and judicial branch
   2. Overview of state and federal courts
      (a) Levels of the court
      (b) Appeals process
      (c) Number of cases heard

G. Application to the high school—its students and teachers
   1. Students have free speech rights (Tinker v. Des Moines)
   2. And so do teachers (James v. Board of Education)

Discussion Questions


2. How do editorials and editorial page content reflect the extent of a free press? In what ways can they contribute to or detract from the exercise of free speech?

3. The U.S. Supreme Court has argued in recent years that the news media deserve no special privileges—only what the public and its other citizens enjoy. Discuss this in terms of access to government—its operations, proceedings and institutions—and the role of the press in America.

4. How do freedom of speech, freedom of the press, and government control of the media in the United States compare with freedom and regulation in other countries? Where differences exist, why?

5. The local League of Women Voters is sponsoring a public meeting of all candidates for school board two weeks before the election. After the meeting has been announced, and just before filing for board seats closes, a former teacher who is a homosexual and an outspoken supporter of gay rights announces his candidacy. There is pressure both to cancel the public forum or refuse to permit the former teacher to participate. Are there any constitutional rights that assure all candidates a chance to participate in the forum? What free speech arguments might be made to allow participation? (Examination question: Write an editorial that explains and defends your position.)
6. After discussing the Tinker case, ask students if it would be different if a teacher were the one wearing the armband...and told not to. What if students were wearing "White Power" buttons to school during tense days of white/black hostility and fighting?

7. Select excerpts from Captive Voices for discussion and evaluation with regards to the purpose and value of the student press.

Activities

1. Assess and possibly compare/contrast editorials that are run by your local newspaper and area radio and television stations. (You may want to include the student newspaper, too.) How do the editorials succeed in performing the role of a free press?

2. Check television listings and have students watch episodes of "Lou Grant" as springboards for discussion.

3. Role-play the U.S. Supreme Court case of Tinker v. Des Moines, having students prepare and present the arguments of the justices who wrote opinions in the case. Then the entire class can assess the case's significance.

4. Pose a hypothetical question (or questions) concerning freedom of speech, e.g., the right of a person to have access to government information about himself or herself; a person's right to speak in public about an unpopular or embarrassing topic; a student's right to distribute an alternative newspaper right outside the building after school; a local newspaper's right to print any four-letter word it wants; the right of a principal or advisor to censor material that might embarrass the school. Conduct a survey of students and teachers and use the results for class discussion of legal awareness and understanding. If your survey covers several of these topics as brief questions, try to determine issues or constitutional rights that need more attention and discuss your conclusions and recommendations with editors of the student and local newspapers and with appropriate teachers.

5. Check with or visit your state Supreme Court. Many have pamphlets that describe the structure, purpose and procedures of the state's judicial system. Compare and contrast this court with a municipal or district court in your area.

II. PRIOR RESTRAINT/CENSORSHIP AS GOVERNMENT AUTHORITY

A. Blackstone in England in 1760s said punish some, but don't prevent any speech

2. This philosophy has not been too popular, especially by government
1. Alien and sedition laws of 1797-98
2. Espionage Act of 1917 and 1918 (brought First Amendment question to the Supreme Court)
3. Also, governmental opposition to distribution of literature, speaking in public, marching...and via gag orders on the press, movie censorship boards, screening by the CIA.
is 50th anniversary of historic 1931 case of Near v. Minnesota
were rational or no prior restraint
sentent and significance of this case
absolute protection
rervent uses qualifications to restrain later

As' side to openness in government
Society of Information Act
Meeting Law
Record Law

l have made justification for censorship narrow...with burden on censor
sensitive safeguards and appeals process needed
see to consider
1) Pentagon Papers (New York Times v. U.S.,
2) Hydrogen bomb plans (U.S. v. Progressive)
3) Seeking alternatives to censorship (Nebraska Press Assn. v. Stuart)
4) Information as public record (Oklahoma Publ. Co. v. District Court)
5) Information public already has (Smith v. Daily Mail)

ship problem in the high schools
procedural safeguards for due process apply
then again is on censor...and mere discomfort is not enough reason
v cases have been upheld, but some exceptions
may a new arena—libraries and textbooks (Bicknell v. Vergennes Union H.S.,

questions

1. the local newspaper contribute to your community and to its citizens...
student newspaper to your school and its students?

2. if any, should be placed on the content of the news media,
ially in terms of editorials, letters to the editor, news stories,
feature stories? How would or should such limitations be enforced?

3. Where comes from the media's freedom to criticize government? What
are there to these freedoms? What dangers result from such

4. are laws that force the media to perform responsibly? Why or why not?

5. merits and drawbacks of secrecy by government, from the views of
officials and the media—both acting as servants of the people

6. a way to avoid the predicament the newspapers faced in the Pentagon
v...or when the government argues for restriction of material said
v national security? Is the public ever served by the
7. of material said by the government to be "top secret"?

13
Activities

1. Go through today's newspaper and watch a network or local television news show. Determine which news stories likely would not be permitted if the federal and state governments had the power to censor the news. What proportion of the newspaper or newscast? What news topics are most affected? Why?

2. Investigate your state's status on open meetings and open records laws. Are there such laws? What do they say? What limitations are there? Any penalties? How aware of these laws are public and school officials? What do local reporters think of them? Are the laws adhered to in your community? And if no such laws exist, ask your state representative or senator why not.

III. LIBEL

A. Greatest fear (and perhaps greatest danger and liability), but much protection exists for the careful communicator

B. Rationale for libel protection; justification for prior restraint?

C. Definition of actionable libel...via word, photo, layout, headline, etc.
   1. Defamation or harm to reputation
   2. Publication
   3. Identification
   4. Fault (negligence to malice) (Herbert v. Lando as corollary in terms of state of mind of reporter or editor

D. Defenses or mitigating circumstances
   1. Truth
   2. Qualified privilege
   3.Fair comment and criticism
      (a) Public figures
      (b) Public figures
      (c) Private individuals (Hutchinson v. Proxmire)
   5. Other factors to consider
      (a) Statute of limitations
      (b) Consent
      (c) Self-defense
      (d) Retraction
      (e) Double-meaning words or phrases

E. Libel in the high school setting
   1. Teachers, students, administrators/student government (Henderson v. Kasulka)
   2. Who is liable
   3. Newspaper, yearbook, magazine concerns

Discussion Questions

1. What is the difference between a retraction and a correction? Which is more important after a libelous statement has been printed? Why?
2. A reporter overhears a high school baseball coach give such a tongue-lashing to one of his players that the youth is reduced to tears. The reporter relays the incident to the sports columnist, who writes a column criticizing the coach’s apparent insensitivity and says that anyone with no more compassion than that should not be coaching. The editor tells the columnist to notify the coach before the item is printed. The coach neither confirms nor denies his actions, but says that if the column is printed he will sue for libel. If this were the local daily newspaper and you were the editor, would you print the column item? Why or why not? What defense, if any, do you have in a libel suit? Would this be handled differently if the school newspaper were involved instead? Why?

3. How would you caution your newspaper’s reviewer of movies, plays and books so as to avoid any possible libel suits, yet retain the reviewer’s ability to evaluate the product and performers involved? Would you have any different advice for the writers of your student newspaper’s sports column?

4. The editor of the student newspaper wants to encourage a more open exchange of ideas among readers, but to avoid legal problems wants to print a statement on the editorial page that says, “The opinions expressed in the letters to the editor are those of the writer and not the staff of this newspaper.” The editor reasons that such a disclaimer makes the writer, not the newspaper, responsible for any libelous statement printed. Is this correct? Why or why not?

5. Mike Simpson, former director of the Student Press Law Center, has said that more legal problems for the student newspaper come from April Fool’s Day editions than from any other single thing. Why are these publications likely to cause so much trouble?

Activities

1. Try to find examples of material that potentially libels or invades the privacy of a person or material that is irresponsible or a distortion of the truth. Be prepared to discuss your examples and defend your reasoning...or write a brief report...or discuss the examples in small groups.

2. Find old copies of yearbooks—those with captions or “clever” sayings beneath the individual pictures. Discuss which sayings are potentially libelous.

3. Ask the editors and advisers of the school yearbook and newspaper and local news media representatives to provide examples of potentially libelous material that they have received. Use these (with identification removed, of course!) for class discussion. Exchange papers also may provide material that is ethically or legally irresponsible...or very well handled.

4. Have the class write reviews of a local play or concert, a movie, a popular book, a television show or a record. See that some students cover local or school events, and that all reviewers are specific and include constructive but critical comments. Discuss the results in terms of fairness and the libel defense of fair comment and criticism.
5. Prepare a fact sheet that includes potentially libelous statements, e.g., a crime story where a person arrested is referred to as the "thief" or "rapist"; a personality story that quotes someone saying that so-and-so "never did a day of honest work in his life"; an accident story that quotes the dead person's father saying, "My girl would be alive today if that doped up fool had stayed off the road." Have students write a news story and then discuss the results in terms of libel.

If time permits and a separate section is not planned, this would be an opportune time to incorporate a discussion of BROADCAST REGULATION, noting that libel pertains to broadcast as well as print, but that because of Federal Communications Commission regulations, broadcast outlets may at times be free of liability. See the outline on pages 23 and 24.

IV. INVASION OF PRIVACY AND COPYRIGHT

A. Akin to, but distinct from, libel
   1. Privacy rationale: peace of mind and the right to be left alone
   2. Offensive activity does not have to involve printing, publishing or libel
   3. Guide to journalists: use legal or ethical means of obtaining newsworthy information

B. Legal considerations and defenses
   1. Newsworthy event or person—may protect when personal facts tend to otherwise embarrass
   2. Consent
      (a) When gathering news in a private place (hospital room, home, etc.)
      (b) When using person’s picture or name or likeness for commercial gain
   3. Public records or court proceedings released to the public legally
      (See Oklahoma Publishing Co. v. District Court)
   4. False—but not defamatory—information about a person may be protected if released without actual malice (Time v. Hill)

C. Ethical considerations
   1. Private lives of public figures
   2. Public sentiment via increasing loss of privacy in society
      (a) Computers easily and cheaply gather information about our lives
      (b) Buckley Amendment helps protect students’ right of privacy
   3. Other high school concerns
      (a) Students’ records
      (b) Advertising for publications
      (c) Misrepresentation to get a story
      (d) Newsworthy standards may be more narrowly defined for high school than for the professional press

If no special section is planned, time might profitably be spent now discussing COPYRIGHT, which concerns property rights of individuals akin to the personal rights of privacy. The link between consent needed for advertisements that may infringe on a person’s privacy and consent needed to use a copyrighted figure,
slogan that has been adopted since the war.

1. The
2. The
3. The
4. The

Discussion

1. Critical
2. The
3. The
4. Yes
5. The

Action

V. Conclusion
When discussing copyright, it is essential that Fair Use considerations written into the 1976 Copyright Act be discussed, as the four main criteria should guide decisions of whether copyright law applies to a specific situation involving the media. Those four considerations are:

- The purpose and character of the use
- The nature of the work
- The amount and substantiality of the portion used
- The effect on the market value of the work

Would your use cause the copyright holder financial loss?

**Session Questions**

Cite instances where the local newspaper, radio station or TV station faces the threat of an invasion of privacy suit? What threatening situations exist for those working for the student media?

What are some general guidelines to offer a reporter who is worried about invading the privacy of persons while reporting?

Under what circumstances is the photographer of your local or school newspaper free to photograph people without fear of invading their privacy? What limitations are there? Do different criteria apply for photographers than for reporters?

Your school yearbook wants to include characters from the "Peanuts" comic strip on the division pages. Would it be an infringement of copyright law for the students to use blow-ups of the characters without getting permission? Try or why not?

Can you cite examples of borrowed material that can be used in a newspaper without infringement of copyright? Explain the circumstances.

**Citizens (See Libel section)**

**CONFIDENTIALITY AND FREE PRESS/FAIR TRIAL**

1. As a journalistic ethic, the belief in keeping confidences is one long held
   1. Felt it is a way to get people to talk, thus obtaining needed information
   2. Promises must be kept, so journalists keep their credibility with sources
   3. But reporters go to jail arguing this, and have for some time. Why?
   4. How is the public served or hurt by confidentiality of sources?

2. The U.S. Supreme Court has said no special privileges for the media
   (See Kovacic v. Ford)
   1. If a grand jury calls, reporters must respond (Barnesburg v. Hayes)
      (a) Conflict with rights of accused...and need for every person’s testimony
      (b) States or Congress might act to protect journalists, Court said.
2. Shield laws (none at federal level; some states have them)
   (a) Usually there are exceptions that require disclosure
   (1) When likely that journalist has information pertaining to a felony, and
   (2) When that specific info is needed in the given circumstance, and
   (3) When only the journalist is able to provide the needed information
   (b) Shield laws inhibit, but have not always worked; not absolute
3. Penalty? Contempt of court
   (a) Jail until source revealed
   (b) And/or a fine
4. Can seek information from journalist in two ways:
   (a) Subpoena to appear before grand jury or in court (Branzburg v. Hayes)
   (b) Search warrant (Zurcher v. Stanford Daily)

C. Link to students and school publications
1. Shield laws often do not apply to student publications
2. Ethics should be considered: Is confidentiality essential or just easy?
3. Potential costs and benefits for student publications must be weighed

The topic of FREE PRESS/FAIR TRIAL did not rank high among the press lawyers topics
taught or suggested by the survey respondents. If time and interest exist, however, it is appropriate to relate the legal and ethical ramifications of this issue to discussion of confidentiality. The following questions/issues could be examined:

A. Clash of two constitutional rights—First Amendment right of free speech and Sixth Amendment right to a speedy and public trial.

B. Again, as with confidentiality, this is an ethical question for the media.

C. Value to the public and the defendant in having open courts and no gag orders
   1. Defendant's right to public assurances of constitutional rights
   2. Public scrutiny of the governmental process assured.

D. Attempts to preserve First and Sixth Amendments
   1. Guidelines by press and bar
   2. Procedural safeguards (via Sheppard v. Maxwell)
      (a) Change of venue
      (b) Sequestration
      (c) Continuance
      (d) Mistrial
      (e) Voir dire
   3. And the least desirable option—gag orders
      (a) Possible...but should be last option (Nebraska Press v. Stuart)
      (b) Can be used for pre-trial hearings (Gannett v. DePasquale)
      (c) But only a last resort for trials (Richmond Newspapers v. Virginia)

E. Closing the courtroom to cameras
   1. Rationale
      (a) Decorum
      (b) Pressure on participants
      (c) Push by American Bar Association
   2. Bad experiences have made judges and attorneys uneasy (Estes v. Texas)
Many states have experimented and/or adopted guidelines to allow cameras
(See Chandler v. Florida)
Movement to cameras in legislature, Congress, state courts, local government

What about minors?
1. Restrictions on what can be covered about minors
2. If names acquired as the public would, and legally, OK (Smith v. Daily Mail)
   or if in open court (Oklahoma Publ. Co. v. District Court)

Discussion Questions

1. Does your state have a shield law that protects reporters' confidential sources? If so, what qualifications are tied to it? Does it apply to student journalists?

2. A reporter for your local newspaper has interviewed and quoted in a story someone who is selling heroin to high school students. After the story is printed, the reporter is subpoenaed by a grand jury and told to reveal her source. The reporter refuses, saying that she promised the source confidentiality. Debate both sides of this ethical and legal question. How would it likely be resolved if it went to court in your state?

3. A local newspaper (or your school paper) decides to report the court proceedings of a case involving a former high school custodian and three 15- and 16-year-olds charged with operating a burglary ring.
   (A) What will you be able to report and what will you not? Why?
   (B) What advice would you give to the reporter assigned so the newspaper does not get sued for libel?
   (C) How can the newspaper provide coverage of the study without endangering the rights of the accused to a fair trial?

4. Is there ever a time when the names of minors should be reported in a crime-related or court-related story? Discuss the circumstances and reasons.

5. John Hinckley was wrestled to the ground and arrested before a national television audience after his alleged assassination attempt on President Ronald Reagan. What is the responsibility of the media in balancing the rights of the public to be informed of this news event and the constitutional right of Hinckley to be considered innocent until found guilty in court?

6. Based on the circumstances of the Sam Sheppard trial and its outcome, what advice can you give to a judge presiding at a sensational trial involving a case like the Atlanta child murders or the assassination murder of ex-President John Lennon? What could or should be done to assure that the accused in these cases get a fair trial?

7. What are the advantages and disadvantages of permitting still cameras and TV cameras in the courtroom? Is the rationale any different when the question concerns cameras in the meeting rooms of the School Board? the City Council? the State Legislature? the Congress?
Activities

1. Have students read *All the President's Men*, by Woodward and Bernstein, and then see the movie. Compare and contrast...or discuss the principles raised in either of these works, especially concerning the use of Deep Throat as the unnamed source.

2. Take your class to court. Familiarize students with what is there, and where, and after the session arrange to visit with the presiding judge, who can give his views of responsible news coverage of the judicial process and answer questions about the rights and responsibilities of journalists, or what went on that day in court.

3. Find out how local attorneys, judges and television reporters feel about allowing cameras in the courtroom. The U.S. Supreme Court in 1981 said that states could allow cameras in the courtroom without automatically jeopardizing the rights of the defendant (*Chandler v. Florida*). Are cameras allowed in your state's courthouses? If so, are there limitations?

4. Show the videotape of the Ronnie Zamora trial (contact the ABA in Chicago) and use it to trigger discussion of cameras in the courtroom and the reporting of juvenile offenders.

5. Assess the coverage of a trial in your area as reported in a local or regional newspaper or on television. Ideally, follow the coverage during the trial, analyzing reports immediately. As part of your analysis of the fairness of the coverage, see if you can anticipate the outcome of the trial before it is announced. Otherwise, assess whether the verdict is fairly well reflected in the coverage that preceded it.

VI. OBSCENITY, RESPONSIBILITY AND CODES OF ETHICS

A. Obscenity is not protected by the constitution, the Supreme Court said in 1957. Why?

B. Problem is in defining what is and is not obscene
   1. Historically, it was the "tendency to corrupt"—Hicklin Standard (1868)
   2. Anthony Comstock made himself heard in 1873 via the Post Office
   3. The Supreme Court entered the fray in 1957 to begin 20 years of standard-setting and revision
   4. Now...application of standards set in 1973 (*Miller v. California*)
      (a) Average person must provide basis for judgment
      (b) Contemporary community standards apply
      (c) Dominant theme must be considered
      (d) Work as a whole must be considered
      (e) It must appeal to prurient interest
      (f) And it must have no serious literary, artistic, political or scientific value

C. Problems arose in the definition
   1. Different standards could be applied for children (*Ginsberg v. New York*)
   2. The work must be patently offensive—or akin to hard core sexual matter
   3. There can be no infringement on one's personal privacy rights
La pia the high school setting

is not in and of themselves obscene (Papish v. Bd. of Curators)

Great standards exist for children, and some discretion given to
administrators to define personal harm (Trachtman v. Anker)
discretion when selecting or cutting school materials
(Rickwell v. Verona Public HS.)

Responsibility of the media is an important consideration

does the public react to media content in poor taste?
allegedly obscene or questionable material must add to the
story to make its use worth the risk

Responsibility is not mandated by the constitution; obligations
differ for print and broadcast media

Print—not a requirement; no legal pressure

Broadcast—Fairness Doctrine requires an indication of responsibility

Hutchins Theory... and what it says about responsibility

Marketplace of ideas: truth will out; free enterprise notion

Self-regulation via codes of ethics

Responsibility Theory—since Hutchins Commission in 1947

Print media have balked for fear of more government intervention

and a Fairness Doctrine for the print media

Some media have responded (viaombudsmen, reader’s rep),

minimizing pressure for governmental intervention

Responsibility is linked to credibility

sections

Real newspaper, radio and TV stations adhere to a code of ethics?

Are there any noticeable violations of these codes? Any

Active results?

Is there a news medium that adopts a code of ethics?

Examples of "bad taste" in photos? Can you think of photos that

all right to print, but that would do the newspaper more harm

by printing?

Censorship board or a set of guidelines for evaluating the

City of movies shown in your community? What criteria are used?

Board exists, what service does it provide?

Responsibility of the media by selecting a current topic in the news—

Middle East crisis, a local or state government issue—

news media, monitoring broadcast news coverage and assessing

These into groups of two-member teams. Give each team a hypothetical

case scenario. Have the students discuss the case from all sides

various questions raised, possible alternatives,

(As an added resource, the Jean LaFleur report has excellent examples

(Continued on page 20.)
3. Write a newspaper editorial policy or a code of ethics. Either work separately and compare the results; work in groups to draft different portions or fewer versions for comparison; have half the class prepare one for the school newspaper and the other half do one for the local paper, or one for print and the other for broadcast, then compare the results. If the class is separate from the student publication, compare the results with the existing policy statement of the newspaper, offer the class version to the newspaper for consideration or arrange to present the results to the principal, superintendent or school board for reaction.

VII. STUDENT RIGHTS AND RESPONSIBILITIES

A. Nebraska v. Des Moines sets the tone
   1. Value of a free student press to students and to school
   2. Students do have constitutional rights, and not just on school-sponsored publications (Papish v. Bd. of Curators)
   3. Rights are not absolute, but person who restricts those rights has the burden of proof to justify suppression
   4. Differences between professional and student media
      (a) Traditionally, courts kept hands off the schools; officials should know best, courts felt
      (b) Roles of student media vary...and are self-determined
         (1) Historical record
         (2) Forum for student ideas
         (3) Laboratory experience
      (c) Audience consists largely of minors; some variable standards
      (d) Many operate from powerless position, with accent on procedural guidelines or policy statements to acquire rights
      (e) Belief—though arguable—that school administrator is akin to publisher of a professional paper

B. Applications to the student press (The following could be incorporated into discussions of earlier topics or could serve as a review in a different context.)
   1. Prior restraint/censorship
      (a) Permissible for material that is
         (1) Obscene (if definition met; seldom is) (See Raineske v. Cobb County School District; Jacobs v. Bd. of School Commissioners)
         (2) Libelous
         (3) Potentially disruptive of the educational process (Thomas v. Granville School District)
      (b) Burden is also on the censor—or adviser/principal/school board (See Prance v. Andrews)
      (c) Procedural safeguards needed; due process (Mitzberg v. Parks)
      (d) Not absolute (except in the 7th Circuit—Indiana, Illinois and Wisconsin via Fujishima v. Board of Education)
         (1) Insubordination justifies punishment for action
         (2) Can't be merely upset with content (Gambino v. Fairfax County)
         (3) Review can be OK and restriction of time, place and manner of distribution (Eisner v. Stamford Board of Education)
      (e) An alternate form of censorship: killing the publication altogether
2. Libel—feared, but few cases in high schools
   (a) Unlike professional press, more likelihood to see justification
to censor for libel potential—though seldom upheld in court
   (b) Sometimes "obscenity" argument used when fear is that of libel
   (c) Teachers and students as public or private persons
      (Henderson v. Kaulitty)

3. Privacy
   (a) Cases from court proceedings or trials are OK, as with professionals
   (b) Privacy cited as peripheral issue when sex questionnaires are
      thought to be too specific and intimate (Trachtman v. Anker)
   (c) Advertising concerns in terms of person's photo or name without OK

4. Confidentiality of sources
   (a) There may be no shield protection for student journalists
   (b) No other special treatment for student journalists
   (c) Ethics and value questions on need for confidentiality

5. Obscenity
   (a) Since no legal protection, many attempts at restraint here
   (b) Variable obscenity is a factor with young people
   (c) University case went to Supreme Court on this, with infringement
      defeated regarding an underground newspaper (Popish v. Md.
      of Garsboro)
   (d) Fear of obscenity or indecency not a justification; disruption
      needed (Raikes v. Cobb County School District; Jacobs v.
      Bd. of School Commissioners)

6. Advertising regulation
   (a) Much discretion to refuse to accept commercial advertisements
   (b) When publication stresses public forum function and issue
      coverage, right to refuse issue advertising may be limited
   (c) Cases to consider: Zucker v. Parents; Lee v. Board of Regents
   (d) But aide for illegal or harmful products may be restricted
      (Williams v. Spencer)

D. Responsibility—a way to minimize problems and confrontations
1. Administrators do have powers—if there is a threat to educational process
   (a) Insubordination can justify prior restraint...as punishment
   (b) Can establish time, place and manner guidelines, uniformly
       administered
   (c) Can shift advisers to other duties if legitimate need
   (d) Can cut out publication altogether if not as punishment for content
   (e) Do not have to wait until school is disrupted to curb danger
   (f) In questionable circumstances, discretion given to administration
      by the courts

2. Limits
   (a) "Forum for ideas" papers: harder to restrict content...or to deny
      access to readers and advertisers
   (b) Private schools have more discretion to censor and restrict

3. Avoiding problems via guidelines
   (a) Be as specific as possible; see models
   (b) Allow for give-and-take, responsibilities as well as rights
   (c) Incorporate procedural rights of due process
   (d) Boards of Publication can help
Discussion Questions

1. What are the advantages and disadvantages of an adversary relationship between the news media and government? Could the analogy—with similar advantages and disadvantages—be applied to the high school "society" and differences of opinion between the student media and school administration?

2. What are the advantages and disadvantages to a school newspaper that has adopted a policy statement or a set of procedural guidelines? Should such policy or set of guidelines be for staff use and knowledge only or to share with and seek the support of readers and administrators? Why or why not?

3. Under what circumstances is libel likely to occur in a high school newspaper? in the yearbook? How can the threat be minimized?

4. Is the principal or superintendent the "publisher" of the student newspaper the same way an owner is the publisher of a daily or local newspaper? What differences and similarities are there? What have the courts said about this? What does this mean in terms of freedom of speech and press—both for the professional and student press?

5. There is a break-in overnight at the high school and $500 worth of damage is done to the administration's offices. The principal says that she does not think that this should be reported in the school newspaper. If you agree, why? If you disagree, how would you convince the principal?

6. As a local reporter (or a reporter for the student newspaper), you are told at a meeting of the School Board that you cannot be present for the discussion about purchasing equipment for the next school year. The board argues that the best interests of the public will not be served if everyone knows what and how much equipment must be purchased. What steps can or should you take to get the board to change its mind? What reasons would you give for your action?

7. In a spring issue, the student newspaper runs a photo of a nude sunbather lying face down on a local beach. The editor and adviser are told that all copy and photos for future issues must be brought to the assistant principal, who will eliminate such "obscene" material before publication.
   (A) As the editor, evaluate the pro's and con's of the use of such a picture.
   (B) Would such a photo be considered "obscene" if it appeared in a high school newspaper? Why or why not?
   (C) Is prior review by the assistant principal legally permissible in this instance? Why or why not?

8. The student newspaper during the past year has printed stories about pollution of the environment, registration for the draft, unwed mothers, drug use by students and the poorly stocked library. Now a person representing a new student group called Voice of the Moral Majority approaches the editor and asks to place an ad calling for the withdrawal of 75 objectionable books from the library. What legal or ethical obligations do you have to run the advertisement?
Activities

1. Draw up a Bill of Rights for students, covering the areas of freedom of speech, freedom of assembly, freedom of the press and right of petition.

2. Read and report on a magazine article about law as it affects the student media, as reported in one of the scholastic journalism publications.

3. Collect editorial policies from exchange newspapers, or from area daily and weekly newspapers. Compare and contrast these.

4. The high school principal says that he thinks the student newspaper has become too devil-may-care and starting next year he will want to see all copy before it goes to the printer. As an alternative, you suggest writing a statement of rights and responsibilities that the School Board would be asked to endorse, and that the staff would then follow. The principal agrees. See samples from area schools, the Student Press Law Center and possibly your state's Department of Education and then prepare this document. Bring it to the board for action or reaction.

5. Have a panel discussion with the school principal, school board member, a parent, an editor...and perhaps the advisor. Discuss the roles of the student media, legal and ethical considerations and strategies for avoiding problems. The school's attorney, a professional journalist or a representative of the American Civil Liberties Union also could be part of this panel.

VIII. ADVERTISING REGULATIONS (optional)

A. Courts take a hand in this, but much self-regulation and monitoring by the Federal Trade Commission (like the FCC with broadcasting)

B. Legal power
   1. Print can refuse any ad...as a private enterprise
   2. Broadcast media have more restrictions, especially via political ads

C. Early view of ads
   1. Commercial ads were thought to be unworthy of constitutional protection, of less value than political or "idea" speech
   2. Later, ads said to serve people too, even commercial ads...so protection

D. Protection for advertising today via the constitution
   1. If the service or product is legal, protection afforded (Biallov v. Virginia)
   2. Potentially harmful or illegal products not protected, most recently in terms of a student press case (Williams v. Spencer)

IX. BROADCAST REGULATIONS (optional)

A. Role of Federal Communications Commission (since Communications Act of 1934)
   1. See that public airways are filled with servants of the public (Fairness Doctrine as guide)
   2. Regulates the crowded airways via licensing of radio, television, cable
Defining "public interest, convenience and necessity" has been a problem (see FCC v. Pacific)

- Coverage interpreted by the FCC and applied to broadcast media
- Controversial issues
- Personal attack
- Editorializing
- Equal Time provision—for political content
- Limited editorial discretion
- Protection from libel cases

Comparison of performance of print and broadcast media in terms of regulation or lack of it.

Questions (Advertising and Broadcast Regulation)

- Might a local newspaper have to refuse to accept advertisements for political candidates? To endorse a political candidate?
- And why is there less discretion for the radio and television station advertising political advertisements? Political endorsements?
- Is the role of the Federal Communications Commission? What powers does it have? How does the freedom of the broadcast media differ from that of print media? What is the effect of this difference in freedoms?

Use (Advertising and Broadcast Regulation)

- A local radio or television person to discuss legal and ethical standards, with specific reference to Federal Communications Commission decisions and the National Association of Broadcasters code of ethics.

Communications Act of 1934 said that to retain their licenses broadcast stations are to air material that is in the public's interest. The Federal Communications Commission has had to assess how well broadcasters meet that standard. Write a paragraph or a short story that describes your interpretation of broadcast content that is in the public's interest. Or have the class write a statement on how this can be interpreted for broadcast half on how a newspaper might interpret this obligation. Compare the ideas.

- With the advertising managers of local or area newspapers, radio and television stations about their policies regarding the content of ads. Ads that type or for what products are not allowed? Why? What does state say about what can and cannot be advertised? Does your student newspaper have similar guidelines?
A local attorney, the school’s attorney or a judge to discuss such
issues and obligations of the media in courtroom coverage;
libel and unacceptable behavior by the media in reporting
proceedings;
the journalists—or student journalists—that would keep them
out of legal problems
the student journalists, and the limits and responsibilities
of exercising these rights
the pros and cons of cameras in the courtroom
restraint of the state’s open meetings law and open records law,
such exist in your state

Newspaper editor and a radio or television news director to discuss
issues:
—major concerns, parts of their work that are most susceptible
—ethical safeguards they have
—on the acceptance of gifts, free tickets, special favors
—on the courts so as to protect rights of the accused
—on the threat of libel or invasion of privacy
—on open meetings and public records—how the media deal with
—on the community or advertisers that may influence, slant
—on employment, the flow of information
—on policies/codes that are followed, specifically regarding the
—on offensive language or content thought to be in bad taste

Newspaper or broadcast news reporter to discuss such topics as:
listed above, from the perspective of the reporter
—issues placed on the reporter by the paper/station management
—issues from the newspaper or station that the reporter finds unethical...
—what the reporter would like to see from the medium adopt
values of the First Amendment
—intervene when the reporter should and should not reveal a source...
—promise the reporter confidentiality in the first place

Journalism law professor from an area college to discuss legal
related to the professional or student media. Other area advisors
are able to contribute, too.

Activities

See in the bibliography or recreate situations described in the Student
Center Report and role-play as participants in legal controversies.

Role-play dilemmas with students as advisor and administrator, as
well as government official and reporter or editor.
3. Use press law controversies reported in the daily news media, in *Editor and Publisher, Broadcasting, News Media and the Law*, and the SPLC Report. For those controversies that have not yet been resolved, have students develop arguments on both sides and role-play the case with students as jurors, judge and attorneys.

4. Ask students to either prepare material for or suggest a topic to the media related to the First Amendment. This could be a story, cartoon, letter to the editor or guest editorial for the school or local newspaper, a guest editorial or public service announcement for radio, or a tip that could inspire the news media to do their own stories.

5. Conduct a survey of the student body to determine how aware they are of their constitutional rights as citizens—of the Bill of Rights. Use this as a basis for discussion of public awareness of the law and the constitution and the ramifications of that for journalists, other citizens and society.

6. Survey the public regarding its perceptions of the Bill of Rights and accompanying responsibilities. Determine public attitudes in general to constitutional rights and public response to specific hypothetical situations. Compare the results of public or student attitudes regarding the Bill of Rights in general and specific applications of those rights.

**Evaluation**

The preceding discussion questions and activities are designed to help evaluate student awareness and understanding of unit content.
Related Court Cases

(These are the cases referred to in the unit outline and appropriate for corollary study. Summaries of most of these cases are available from these sources: The Student Press Law Center (for student press-related cases); Mass Media Law, rev. ed., by Pember; The Idea of Liberty: First Amendment Freedoms, by Starr; and Mass Communications Law in a Nutshell, by Mackman and Gaynes.)

I. Historical and Theoretical Introduction
- Abrams v. United States, 250 U.S. 616 (1919)
- James v. Board of Education, 461 F.2d 566 (2nd Cir. 1972)
- Houchins v. KQED, 438 U.S. 1 (1978)

II. Prior Restraint/Censorship and Government Authority
- Near v. Minnesota, 282 U.S. 691 (1931)
- U.S. v. Progressive, 467 F. Supp. 990 (E.D.Wis. 1979)
- Ricknoll v. Vergennes Union H.S., 638 F.2d 438 (2nd Cir. 1980)

III. Libel
- Herbert v. Lando, 441 U.S. 153 (1979)

IV. Invasion of Privacy

V. Confidentiality of Sources
- Drasnburg v. Hayes, 408 U.S. 665 (1972)

VI. Free Press/Fair Trial
- Richmond Newspapers v. Virginia, 100 S.Ct. 2814 (1980)
- Estes v. Texas, 381 U.S. 532 (1965)

VII. Obscenity
- Ginsberg v. New York, 390 U.S. 629 (1968)
- Miller v. California, 413 U.S. 15 (1973)
- Papish v. Bd. of Curators of the University of Missouri, 410 U.S. 667 (1973)
VIII. Student Rights and Responsibilities (Censorship in Schools)
- Eisen v. Stanford Bd. of Education, 440 F.2d 803 (2nd Cir. 1971)
- Jones v. Bd. of School Commissioners, 490 F.2d 601 (7th Cir. 1973),
  600 F.2d 128 (1979)
- Fujikawa v. Bd. of Education, 460 F.2d 1355 (7th Cir. 1972)
- Ritsberg v. Parks, 525 F.2d 378 (4th Cir. 1975)
- Gumbos v. Fairfax County School Board, 429 F. Supp. 731 (E.D.Va. 1977),
  556 F.2d 137 (4th Cir. 1977)
- Trigg v. Anthem, 363 F.2d 512 (2nd Cir. 1977)
- Thomas v. Granville School District, 607 F.2d 1043 (2nd Cir. 1979)

IX. Advertising Regulations
- Bigelow v. Virginia, 95 S.Ct. 2222 (1975)
- Lee v. Bd. of Regents, 441 F.2d 1237 (7th Cir. 1971)
- Williams v. Spencer, 622 F.2d 1200 (4th Cir. 1980)

X. Broadcast Regulations
RESOURCES

Organizations

American Bar Association, 1155 East 60th Street, Chicago, IL 60637

Columbia Scholastic Press Association and Columbia Scholastic Press Advisers Association, Box 11, Central Mail Room, Columbia University, New York, NY 10027

Journalism Education Association, Att.: Lois Luse, Box 99, Blue Springs, MO 64015

National Scholastic Press Association, University of Minnesota, 720 Washington Ave. S.E., Minneapolis, MN 55414

The Newspaper Fund, P.O. Box 300, Princeton, NJ 08540

Student Press Law Center, 917 F Place, N.W., Washington, D.C. 20001 (202) 347-7154. The SFLC is a national, nonprofit organization providing legal assistance and information to student journalists and faculty advisers experiencing censorship or other legal problems.

Student Rights Organizations. Annotations for a dozen national organizations devoted exclusively to student rights are printed in the February 1977 issue of the Student Press Law Center Report.

Quill and Scroll, School of Journalism, University of Iowa, Iowa City, IA 52240

Publications

Columbia Journalism Review, published bi-monthly by the Graduate School of Journalism, Columbia University, 700 Journalism Building, Columbia University, New York, NY 10027

Communication: Journalism Education Today, published quarterly by the Journalism Education Association, Box 99, Blue Springs, MO 64015

CSPA Bulletin, published quarterly by the Columbia Scholastic Press Advisers Association, Box 11, Central Mail Room, Columbia University, New York, NY 10027

Journalism Quarterly, published quarterly by the Association for Education in Journalism, School of Journalism, University of South Carolina, Columbia, SC 29208

News Media and the Law, published five times a year by The Reporters Committee for Freedom of the Press, summarizing state and federal cases affecting the news media. Issues are $2 each from News Media & the Law, 1125 15th Street, N.W., Box 403, Washington D.C. 20005
Books and Articles

Adams, Julian
Prate's students
Newspaper
Regular

"Administrative
by the
This
In

Aldrich, Ann
Cleveland
An essay

Allnutt, Bertha
Scholastic
paper

Rights

Amendment
Naval
An essay
with the
Dulles

An Open Press
One man
by law
Articles (a—asterisk indicates resource of particular use to teachers)


Presidential Control of Student Publications." A Legal Memorandum published by the National Association of Secondary School Principals in March 1975. This 10-page discussion concludes with recommendations to administrators regarding control of the student press.


Code of Student Rights and Responsibilities. This booklet from the National Education Association "explores the rights and responsibilities of students and the causes of student unrest; develops a definitive statement on student rights and responsibilities; designs action programs to ensure that the basic rights of students are not jeopardized."
"Concerning Student Publications: A Report and A Statement of Opinion." A Legal Memorandum from the National Association of Secondary School Principals in April of 1977 that defends the administration's prior restraint in the Gambino v. Fairfax County School Board case.

Consoli, John. "Student Editors Punished for Editorial Viewpoint." Editor and Publisher, April 19, 1980, pp. 16, 38. This summary of the free press controversy at Baylor University is a good trigger to discussion of how the First Amendment can be applied differently at private and public schools.


Diamond, Priscilla. "Interference With the Rights of Others: Authority to Restrict Students' First Amendment Rights." Journal of Law and Education, Vol. 8, No. 3 (July 1979), pp. 347-358. This examination of the Trachtman v. Anker case, which supported school officials' suppression of a sex questionnaire in a New York high school, includes a reproduction of the controversial questionnaire.


"Public or Private—Status Often Determines First Amendment Protection." Communication: Journalism Education Today. Vol. 11 (Fall 1977), p. 3. Good overview of how the First Amendment is applied differently in the private school than in the public school.


Flygare, Thomas J. "John Tinker: Still an Idealist." Phi Delta Kappan, (November 1979), pp. 210-212. This interesting historical piece ten years later looks back on the landmark Tinker v. Des Moines case, with insight from John Tinker, then a student involved in the controversy.

Legal Rights of Students. Bloomington, IN: Phi Delta Kappan Educational Foundation. 1975. This 50-page pamphlet is part of PDK's Fastback series.

"Freedom of the Press." A special section on the First Amendment in the February—March 1980 issue of Today's Education (Vol. 69, No. 1). Includes "Courts and the Media—Freedom of the Press on Trial," by Ninth Circuit Court of Appeals judge Alfred Goodwin and Lynn Taylor (pp. 46-51); "Walter Cronkite and the Supreme Court" (pp. 52-55); and "What About the Student Press?" by Michael Simpson, former director of the Student Press Law Center (pp. 59-64).


"Making the First Amendment as Real as Sex." The Civil Liberties Review. March-April 1978, pp. 51-54. Argues that students are becoming more willing to go to court in defense of their First Amendment rights.

Hulteng, John L. The Messenger's Motives: Ethical Problems of the News Media. New York: Prentice-Hall. 1976. Examines some 200 situations involving ethics as applied to all the mass media. Instructor's manual is available and cases are offered for student discussion in this 262-page paperback.

"Implementing Ideas of the First Amendment Congresses." A list of 56 activities proposed by the Society of Professional Journalists, Sigma Delta Chi, with the goal of increasing public awareness of and support for the First Amendment. Activities are directed at professional and campus chapters of this society, but some ideas can be adapted to the classroom. Prepared in September 1980 by SPJ,SDX, 35 E. Wacker Drive, Chicago, IL 60601.

"J-Teacher and the Law." Regular feature of Communication: Journalism Education Today, these articles are written by the director of the Student Press Law Center.


Law and the Courts: A Layman's Handbook of Court Procedures, with a Glossary of Legal Terminology. Published in 1980 by the American Bar Association as a reference for non-lawyers, this 36-page booklet is available for 50 cents from the ABA...and a bargain.

Laybourne, Kit, and Pauline Cianciolo, eds. Doing the Media, rev. ed. New York: McGraw-Hill Book Co. 1978. This 212-page paperback is subtitled "A Portfolio of Activities, Ideas and Resources" for classroom teachers. Although it focuses on film, television, sound and photo activities for the classroom, the 35-page "Resources" section, with annotated bibliography and descriptions of reference sources and organizations, is excellent.


Maurer, Diana J. "High School Press Freedom." Freedom of Information Center Report No. 381, November 1977, from the School of Journalism, University of Missouri at Columbia. This 4-page report "surveys the current state of affairs in high school journalism, with particular attention to recent court interpretations of how the First Amendment applies."


"N.J. High School Adviser Protects Student Reporter." *Editor and Publisher.* April 4, 1981, p. 34. Good recent case for the application of confidentiality of sources to the high school publication environment.


"Tips for Student Publications." Student Press Law Center Report, 79, pp. 19-34. This model includes sections on overall policy, time of student journalists, prohibited material, protected press review.
State Education Department booklets on student rights include the following:
(Write your Department of Education to see if your state has such a booklet.)

- Students and Schools: Rights and Responsibilities, Illinois Office of Education.
- Guidelines for Students' Rights and Responsibilities, New York State Education Department.
- A Recommended Guide to Students' Rights and Responsibilities in Michigan, Department of Education.
- Students' Rights, South Carolina Department of Education.


Stevens, George E. "Faculty Tort Liability for Libelous Student Publications." Journal of Law and Education. Vol. 5, No. 3 (July 1976), pp. 307-316. Discusses problems the adviser faces while ensuring student journalists their constitutional rights.

... and John D. Webster. Law and the Student Press. Ames, IA: The Iowa State University Press. 1973. A 136-page examination of censorship, libel, obscenity, contempt, advertising regulation, copyright, access, distribution and other problems. Dated but has good appendices that include policy statements and distribution guidelines.


... "Recent Developments in Secondary Students' Press Rights." Paper presented to Secondary Education Division of the Association for Education in Journalism convention in August 1976, College Park, MD.

* Student Press Rights. DeKalb, IL: Journalism Education Association. 1976. An 84-page paperback that cites most of the cases that are the foundation of student press rights today. Chapters on background, development, particular circumstances, First Amendment limitations, administrative regulations and administrators' responsibilities provide a valuable overview.

... and Donna L. Dickerson. "A Ban on Prior Restraint in High Schools: The Aftermath of the Tinker Decision." Paper presented at the Association for Education in Journalism convention August 1977 at Madison, WI. This paper concerns a study of the extent of prior restraint in high schools of Illinois, Wisconsin and Indiana, where the Seventh Circuit Court of Appeals has said prior restraint in the schools is unconstitutional.
Trager, Robert, and Bruce L. Plopper. "Public Forum Theory in the Educational Setting: From the Schoolhouse Gate to the Student Press." Paper presented to the Secondary Education Division at the Association for Education in Journalism convention in August 1978 at Seattle, WA. Argues for protection to student newspapers operating as forums for expression of ideas.


Update. This publication by the American Bar Association offers useful topics on law-related education, from elementary school through college. See especially the Winter 1978 issue on "Freedom of Press on Trial," with articles on mock trials in the classroom, a historical look at the struggle for a free press and an article entitled "The Emerging Student Press."


Zuckman, Harvey L., and Martin J. Gaynes. Mass Communications Law in a Nutshell. St. Paul, MN: West Publishing Co. 1977. This small 431-page paperback is a bit dated in the technicalities of libel and open courtroom, but otherwise is a readable discussion of print and broadcast law, with reference to appropriate cases. It is a useful teacher reference.

Audio-Visuals: Filmstrips


The Student Press: A Case Study. Color. 35 minutes. This dramatizes the conflict between students wanting to sell an unauthorized school newspaper and school officials who suspend the students for violating school rules. Viewers are left to discuss and resolve the issue after the film shows parents taking the issue to court. 1972. Guidance Associates, Communications Park, Box 300, White Plains, NY 10602.


Audio-Visuals: Films

Censorship: A Question of Judgment. Color. 5 minutes. Film dramatizes the disagreement a principal has with a high school reporter who wants to publish a picture of a student fight. Contrasting views are offered, but the question is left unresolved. 1964. National Film Board of Canada, 1251 Avenue of the Americas, New York, NY 10020.
Calor. 32 minutes. Part of the Afterschool series, this program concerns a high school student who comes under school paper and has to learn from her advice gets her into trouble. 1977. Published by Walt Disney Educational Media Co., 600 S. Westlake, CA 90131.


The Shepard Case. Color. 20 minutes. This drama depicts the dilemma as a deciding whether to print a story that will bring about a community member. Meant to prompt discussion of 1966. Teaching Film Custodians, 25 W. 43rd St., New York, NY 10019.

B&W. 20 minutes. From WNET's "Behind the Lines" series concerns the dilemma of balancing two constitutional rights of reporters, editors, police and attorneys are present. Ezra and Oswald's cases are dealt with. University Audio-Visual Center, Bloomington, IN 47401.

The Shepard Case. Color. 27 minutes. This film of documentary materials regarding the 1966 Supreme Court articles, TV interviews and newsreel interviews with those involved. Encyclopaedia Britannica Educational Corp., 425 N. Michigan Ave., Chicago, IL 60611.

Color. 15 minutes. This segment from the "60 Minutes" series guide for its look at a free speech issue—whether speakers have the right to be heard. Dr. William Black asserts that blacks are genetically inferior, is the focus. 1976. CBS News, 383 Madison Ave., New York, NY 10017.

Color. 20 minutes. Examines the conflict between the First and free speech is not an absolute right. Use with defendants charged with disturbing the peace and his anti-Semitic views. Both sides are presented and left to decide. 1970. BFA Educational Media, Santa Monica, CA 90404.


Color. 23 minutes. The viewer is left to resolve the issue of the reporter subpoenaed by a grand jury and told to reveal his views. 1973. BFA Educational Media, 2211 Michigan Ave., Santa Monica, CA 90404.


Nightmare: The Result: Zenger and Freedom of the Press. 20 minutes. Concerns the John Peter Zenger trial, which set the tone for freedom of press in America and the defense of truth in libel cases. 1962. Teaching Film Custodians, 25 W. 43rd St., New York, NY 10036.

Persuasiveness, Ethics and Credibility in the Media. 40 minutes. Hal Bueh, executive newsphoto editor of the Associated Press, analyzes standards of taste and ethics in photojournalism. His comments and examples focus on the image of the media's right to know and the individual's right of privacy begins. Also touches responsibility of journalists to consider audience reactions and expectations. Based on Bueh's presentation to 1975 Picture Editing Workshop at Indiana University. Foellinger Learning Lab, Indiana University, Bloomington, IN 47405.

Six Hours to Deadline: A Free and Responsible Press. 20 minutes. Looks at the ethical dilemma of a small-town editor who must decide whether to print a story that may hurt a local person. 1955. Teaching Film Custodians, 25 W. 43rd St., New York, NY 10036.

The Speaker...A Film About Freedom. Color. 42 minutes. With 32-page discussion guide. A drama about a university professor invited to speak in a high school about his theories of genetic inferiority of Blacks. The student Current Events Committee that invited the speaker gets pressure from the community to reconsider, but refuses, and the school board president then cancels the speech. Film is designed to prompt discussion of constitutional protection for unpopular topics. 1977. American Library Association, 50 E. Huron St., Chicago, IL 60611.

guidelines for reporters, federal vs. state control and the First Amendment.


The Responsible Press. 28 minutes. Magazine and newspaper editors discuss limits on press freedom, especially concerning violent, sexually oriented or libelous material. Center for Cassette Studies, 8110 Webb Ave., North Hollywood, CA 91605.

The Responsibilities of the Press. 30 minutes. British journalist outlines his views on the obligations of a free press and the dangers a newspaper can create. Center for Cassette Studies, 8110 Webb Ave., North Hollywood, CA 91605.
Tape: 60 minutes. Abe Rosenthal of the New York Times; Judge a Watts, dean of the National College of State Judiciary; and I. E. Casey, chairman of the American Bar Association Committee rial and Free Press, discuss "gag orders" and proposed guidelines and trial news coverage. 1976. Foellinger Learning Lab, university, Bloomington, IN 47405.

Audiotapes:

g. 27 minutes. Concerns press shield laws, self-incrimination, os, federal vs. state control and the First Amendment. e Library, 5316 Venice Blvd., Los Angeles, CA 90019.