

# Freedom of Speech and Student Press Law

## *Terms & Definitions*

### **1st Amendment:**

*Congress shall make no law ...abridging the freedom of speech, or of the press..."*

**Libel:** Libel occurs when any untrue written or spoken or pictorial material unjustly damages a person's reputation or exposes them to ridicule or hatred; and/or which subjects them to a loss of income (slander is strictly "spoken" material). Libel is a civil infraction of law. This means that an individual who believes they have been so libeled must sue the party who wrote, printed, publishes and distributed the material.

To prove libel, the injured party must show that the printed material was (1) false, (2) did material and substantial damage to a specific person's reputation, and (3) was done with malice.

*Another way to remember this is: P-I-I-F...publication - identification - injury - fault.*

Defenses for libel suits include the ability to show that

- (1) the material was true,
- (2) came from privileged sources (public records),
- (3) was justified as fair comment and criticism (a public performance or actions, both public and private, by public figures), and/or
- (4) was written, spoken, or presented pictorially without malice (absent malice).

**Censorship:** control exercised by a legally designated authority such as a governmental agency (like a school district) or religious organization to approve or disapprove of what is written or said before that material is released to the public. Censorship is based on the concept that this particular authority or organization knows best what the public should read, hear or see. On its face, censorship is unconstitutional as it violates the 1st Amendment of the U.S. Constitution.

**Prior Restraint or Prior Review:** forced or imposed inspection before publication, by a legally designated authority such as a governmental agency (like a school's administrator) or religious organization of what is written or said in a publication, giving this designated person final authority over what is to be published. (The principal in the Hazelwood v. Kuhlmeijer case was practicing "prior restraint/prior review.")

**Open Forum:** This comes from the expression "Forum Theory." If a publication has been determined to be a public forum for the free expression of ideas, opinions and viewpoints, it is far less likely to be faced with censorship through prior restraint or prior review. This means that the publication allows readers to write letters to the editor, develops its own editorial policy and/or viewpoints from various sources including students, staff, faculty, administrators and people from the community to be expressed in the newspaper.

**Invasion of Privacy:** This theory says that information about a person's private life must remain private. Generally these laws are similar to libel in that persons who feel they have had their privacy invaded must sue the other party in a civil court. Whereas truth is the best defense for libel suits, "newsworthiness" is the best defense for privacy suits. Although a person's private affairs must remain private, if they do something newsworthy, they may lose their right to privacy. A simple act like being hit by a car may dispose a person to public examination of their actions or the results of certain actions upon them. The theory is that the information related to the accident is of public interest.

**Obscenity:** Obscene, vulgar or profane statements or pictorial material is not protected by the 1st Amendment. Most states do not allow the use of vulgar or profane words or performances in schools and judges have supported these kinds of prohibitions.

Now, what is legally obscene is another question. Court decisions vary from state to state. The present practice is to make obscenity judgments based upon "prevailing or commonly accepted community standards."

## **SPLC Legal Brief**

### **Invasion of Privacy Law**

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*The legal right of privacy has been defined as the right to be let alone, the right of a person "to withhold himself and his property from public scrutiny if he so chooses." Federal Trade Commission v. American Tobacco Co. 262 U.S. 276 (1923) However, unlike the First Amendment right to free speech, privacy (in the media context) is not a right explicitly guaranteed by the Constitution. Instead, privacy law has developed over the last 100 years. During that time, four separate kinds of privacy invasion have emerged: (1) Public Disclosure of Private and Embarrassing Facts, (2) False Light, (3) Intrusion and (4) Misappropriation.*

## **I. Public Disclosure of Private and Embarrassing Facts**

Courts have recognized that certain intimate details about people, even though true, may be "off limits" to the press and public. For example, publishing detailed information about a private person's sexual conduct, medical condition or educational records might result in legal trouble. In order to succeed in this kind of lawsuit, the person suing must show that the information was:

- (1) Sufficiently private or not already in the public domain,
- (2) sufficiently intimate, and
- (3) highly offensive to a reasonable person.

### **The "Newsworthiness" Defense**

A news organization will be protected from a private facts privacy claim if it can show that the material published was "newsworthy." Almost any information about a well-known public figure or a public official will be considered newsworthy. Furthermore, reports of recent involvement in criminal behavior will be considered newsworthy for anyone.

### **Printing the Names of Minors**

In the unanimous 1979 decision, *Smith v. Daily Mail*, 443 U.S. 97 (1979), the U.S. Supreme Court ruled that the First Amendment protects the right of journalists to use the names of minors in newsworthy stories as long as the information is "lawfully obtained" and "truthfully" reported.

## **II. False Light**

A false light claim can arise anytime you unflatteringly portray -in words or pictures- a person as something that he or she is not. A typical "false light" problem can arise where a misleading caption is published with a photo (for example, a caption describes a bystander at an unlawful demonstration as a "participant"). The elements of false light, found in the *Restatement (Second) of Torts*, Sec. 652E are:

- (1) The portrayal must be found to be "highly offensive to a reasonable person" and
- (2) The actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.

The same legal standards that apply to libel apply to false light. The distinction between false light and libel is that in false light claims one need not prove injury or damage to reputation, but only that the statement was *highly offensive*. Courts in some states have refused to recognize false light claims because of their similarity to libel.

## **III. Intrusion upon Seclusion**

Intrusion is a claim often based on the act of news gathering. A reporter can be sued even when the information obtained is never published. It occurs when a reporter gathers information about a person in a place where that person has a reasonable right to expect privacy. However, newsworthiness can also be a defense to this kind of

privacy invasion. As a general rule, reporters are allowed to enter privately owned public places, for example, private school campuses or malls. However, also as a general rule, they must leave when they are asked.

### **Three most common types of intrusion**

- (1) **Trespass:** going onto private property without the owner's consent.
- (2) **Secret Surveillance:** using bugging equipment or hidden cameras. The laws vary by state but as a general rule reporters can legally photograph or record anything from a public area, such as a sidewalk, but they cannot use technology to improve upon what an unaided person would be able to see or hear from that public place.
- (3) **Misrepresentation:** invalid or exceeded consent. Undercover reporting is not necessarily an invasion of privacy as long as the disguise is not used as a means to trespass or engage in an activity that would not otherwise be allowed. For example, it would not be an intrusion for a minority student reporter to pose as a potential pledge to investigate a story about racial discrimination inside a fraternity. The reporter has a right to pledge whether he is serious about it or not.

### **Information illegally obtained by a source**

Occasionally, the news media is provided with unsolicited, "confidential" information by an outside source. For example, a box of incriminating documents is left outside the newsroom or a tape of an intercepted and very sensitive cell phone conversation arrives mysteriously by mail. As long as the journalists themselves have not engaged in unlawful conduct to obtain the information or encouraged or assisted others in doing so, they have done nothing wrong. Moreover, if the information concerns a newsworthy topic, the Supreme Court has ruled that the news media will generally be protected from an invasion of privacy lawsuit if they should decide to publish it. *Bartnicki v. Vopper*, 121 S.Ct. 1753 (2001).

## **IV. Misappropriation of Name or Likeness**

Misappropriation is the unauthorized use of a person's name, photograph, likeness, voice or endorsement to promote the sale of a commercial product or service. (For example, using a photo of your school's star athlete in an ad for a pizza restaurant without her permission.) To avoid problems, publications should routinely have subjects sign a model release form written in simple, straightforward language when using their name or likeness in a commercial ad. Regardless of whether or not a release form has been signed, however, courts have generally allowed the media to reuse editorial photos or clips in its own self-promotion provided there is no suggestion that the person actually endorsed the publication.

### **Consent as a Defense**

With all four forms of invasion of privacy, consent is a valid defense. However, if you intend to rely on consent as your defense to a privacy claim you must make sure that you obtain the consent from someone with a legal right to give it and be candid with your subject about what information you want to use and how you intend to use it. While not necessary to be valid, consent is always easiest to prove when it is in writing.

### **Can a Minor Give Valid Consent?**

Consent is and should be effective if a minor is "capable of appreciating the nature, extent and probable consequences of the conduct (to which he consents)," even if parental consent is not obtained or expressly refused. *Restatement of Torts (Second) Sec. 892A*. This reasoning is in line with what courts have said when determining whether a child is responsible for the injuries he causes, his crimes and confessions to crimes. When obtaining consent from a minor, it is essential that a student journalist take extra precautions to insure that the minor is fully informed of what is taking place. While most minor high school students probably can provide valid consent, most elementary-aged children, because of their immaturity, *probably* cannot.

## **The Student Press Law Center's Top Ten List**

### *The ten questions high school student journalists most frequently ask about their rights*

#### **Q: Do high school students have First Amendment rights?**

A: Yes. As the United States Supreme Court said in 1969, "It can hardly be argued that either students or teachers shed their constitutional right to freedom of speech or expression at the schoolhouse gate." But the First Amendment only prohibits government officials from suppressing speech; it does not prevent school censorship at private schools. A state constitution, statute or school policy could provide private school students with free speech protections.

#### **Q: What about the Hazelwood decision?**

A: Hazelwood School District v. Kuhlmeier, the 1988 U.S. Supreme Court decision, gave public high school officials greater authority to censor some school-sponsored student publications if they chose to do so. But the ruling doesn't apply to publications that have been opened as "public forums for student expression." It also requires school officials to demonstrate some reasonable educational justification before they can censor anything. In addition, some states (currently Arkansas, California, Colorado, Iowa, Kansas and Massachusetts) have passed laws that give students much stronger free expression protection than Hazelwood. Other states are considering such laws.

#### **Q: What is a "public forum for student expression?"**

A: A student publication is a public forum for student expression when school officials have given student editors the authority to make their own content decisions. A school can do that either through an official policy or by allowing a publication to operate with editorial independence.

#### **Q: So if policy or practice indicates the content of my publication is determined by students, the Hazelwood decision doesn't apply to me?**

A: That's right. If a student publication is a public forum for student expression, then students are entitled to stronger First Amendment protection. School officials are only allowed to censor forum publications when they can show the publication will cause a "material and substantial disruption" of school activities.

#### **Q: What about underground or independent student publications? Are they protected from censorship?**

A: Absolutely. Although public schools can establish reasonable restrictions as to the time, place and manner of distribution of underground publications, they cannot absolutely forbid their distribution on school grounds. Like school-sponsored publications that are forums, a school must show substantial disruption before they can censor an independent publication.

#### **Q: Can a student publication be sued for libel, invasion of privacy or copyright infringement?**

A: Yes, and occasionally they are. In such cases the individual reporter and the editor could be held legally responsible. Court decisions indicate that a school which does not control the content of a student publication may be protected from liability. Students need to be aware that with press freedom does come legal responsibility.

#### **Q: Can student reporters protect confidential news sources or information?**

A: Some states have "shield laws" and others have court-created privileges that protect journalists from having to reveal this kind of information. However, most states have never explicitly applied these laws to student journalists. You should check your state law before making a promise of confidentiality because once you make such a promise, the law requires you to keep it.

#### **Q: Can I use freedom of information laws?**

A: Yes. Freedom of information, or "sunshine" laws, require government agencies such as public schools to open many of their official records and meetings to the public. These laws vary from state to state. Every newsroom should have a copy of their state's open records and open meetings laws.

#### **Q: Can I use cartoon characters, song lyrics or another publication's photographs in my publication?**

A: In most cases, only when you have obtained the permission of the copyright holder. Each of these works is protected by copyright law, which means others can use them only if they have obtained permission. Publishing a credit line does not take the place of permission. There is an exception to copyright law called "fair use" that can apply if you are only taking a small amount of a copyrighted work or if you are using the material along with a news story about it.

#### **Q: Where can I go for more information about my rights and responsibilities as a student journalist?**

A: The Student Press Law Center!

<http://www.splc.org/>

Telephone: 703.807.1904

Address: 1815 N. Fort Myer Drive, Suite 900 - Arlington, VA 22209, USA

## What Would You Do?

[http://www.landmarkcases.org/hazelwood/what\\_would.html](http://www.landmarkcases.org/hazelwood/what_would.html)

*Pretend you work on a high school newspaper and it is your job to decide whether to publish articles. Assume you live in a state that has not passed "anti-Hazelwood" legislation extending greater First Amendment protection to school newspapers than that afforded by Hazelwood. Below are brief descriptions of six articles you might receive. Your teacher will put you in groups and have each group discuss whether or not to publish the article, and why, and also whether you think the administration of your school would want to censor these articles. You should then be prepared to discuss your article with the rest of the class, and your reason for publishing or not publishing the article, keeping in mind the Supreme Court's decision in the Hazelwood case.*

1. Following a drug arrest at your school, a student writes a first-person account of how his friend got arrested. In the article, he admits to some activities that are in violation of school rules and state law. He criticizes both the police and the security guards at your school. He does not want the article published anonymously.
2. Reporters from your paper write an article based on a commercial Web site on which students post their ratings of their teachers. The article includes sample comments on teachers in your school, both positive and negative. The negative comments include: "If you get this teacher, run for the parking lot," "Can't teach his way out of a paper bag," and "this teacher had an affair with another teacher (not named)." The teachers are named.
3. A reporter for your paper writes a long article about the problem of drug use in your school. She interviews several students about their use of marijuana but does not use their names or other personal details about the students that could help identify them. The article makes it clear that marijuana use is widespread in your school.
4. Reporters for your paper discover that the star quarterback for your football team does not live within the boundaries of the school. They write an article exposing this fact and, of course, naming the quarterback. The consequences of publishing this article will include forfeiting all the wins from your school's football season, which is just ending with a good shot at winning the state championship.

5. A teacher approaches a reporter for your paper with an article about cheating being tolerated in your school, but the teacher will not agree to have her name used in the article. She says she caught a student cheating on a final exam and gave the student a zero. This failing grade on the final exam resulted in the student, a senior, being ineligible to participate in the school musical, in which she was scheduled to be the lead. Her parents pressured the principal to overturn the grade and the principal did so. Publishing the article would, of course, reveal the identity of the student involved but not the teacher.
  
6. There are high-stakes standardized tests given in your school every May. In order to graduate, students must pass these tests. Students have told your reporters that other students obtained a copy of the test in advance from a teacher. The students involved agree to tell what happened if none of the names of any of the parties involved would appear in the article.

## YOU BE THE EDITOR

Detroit Free Press (MI)

By **JOE GRIMM** Free Press Reader Representative

**Date:** May 14, 1989; **Page:** 1B ;

**Edition:** METRO FINAL; **Section:** COM

**Illustrations:** "Boy with his dog" Photo MARK STOCKWELL Attleboro Sun Chronicle;  
"Madonna in concert" Photo by Associated Press; and "State official commits public suicide"  
Photo by Associated Press

They're the tough calls, the close ones, the decisions that sometimes leave newspaper readers sputtering with rage and **editors** wondering whatever made them think they wanted to be in this business.

To publish or not to publish?

It's a cut-and-dried resolution to a complex question, but it is, many times, the only choice **editors** have. Today, we'd like **you** to face some of the questions Free Press **editors** face when they look at a report or a picture.

The questions involve fairness, responsibility, privacy and taste, and there are no right or wrong answers.

Take five minutes to answer the questions, which is the amount of time **editors** sometimes have, or take five days -- time doesn't always help. Talk them over with other people, just as the **editors** do.

Then mark your answers on this page or on the coupon on page 5B and send them to: **You Be the Editor**

P.O. Box 152

Detroit, Mich. 48231

If **you**'d like to include your name and address and a sheet of paper explaining your answers, we'd like that. Mail your answers by Friday, or fax them by Friday to 313-222-5981. In two weeks, on May 28, we'll publish a tabulation of readers' answers and compare them with answers from a team of reporters and **editors** at the Free Press.

Now, **YOU** be the **editor**:

## 1 The bomb threat

A man calls the city desk and tells one of your **editors** that a bomb will be placed aboard a jet leaving the local airport within the next month. Then he hangs up. The **editor** calls the airport and the police and tells them about the threat. This is the first they've heard of it, and they say they'll take "appropriate actions." The **editor** thinks the paper should publish an item warning readers of the bomb threat.

Another **editor** disagrees, saying it's probably a hoax and that a report would alarm people needlessly, hurt business at the airport and encourage other publicity seekers to make similar threats. The **editor** who took the call insists that the newspaper has an obligation to print the report and let readers decide for themselves whether to take the threat seriously. The **editors** ask **you** to make the decision. What do **you** do?

\* Print the bomb threat

\* Don't print the bomb threat

## 2 The AIDS victim

A reporter is writing an obituary on a prominent local man who died of AIDS and does not know whether to include the cause of death. The newspaper's unwritten policy is to print the cause of death unless there are overriding family concerns. The man's live-in companion of eight years says that the dead man wanted to have his cause of death published. The companion says that the newspaper has a responsibility to tell its readers that AIDS kills. The dead man's parents, however, definitely do not want the cause of death in the paper. They say it will cause pain and humiliation for them and the dead man's 10-year-old sister. None of their friends knew about their son's gay life-style, which has caused a tremendous rift in the family. What do **you** do?

\* Print the cause of death

\* Don't print the cause of death

### 3 The injured dog

One of your photographers is driving down the street when he sees a dog that has just been hit by a car. The photographer pulls over as the dog's owner, a young boy, hurries to its side. The photographer radios to the newspaper to report the accident and grabs his camera. He tells the boy that help is on the way, backs off and takes a few photographs. Later that day, **editors** are ready to put the photo into the paper. A last-minute call to the veterinarian, however, reveals that the dog's injuries were so extensive that it had to be destroyed. What do **you** do?

\* Publish

\* Don't publish



MARK STOCKWELL/Attleboro Sun Chronicle

**Eight-year-old Peter McCormick of North Attleboro, Mass., weeps in December over his pet dog, which was hit by a car.**

#### **4 The police cover-up**

A reporter tells **you** that a suburban police department covered up the involvement of a top officer in a traffic accident. It seems the officer had been drinking on his day off and had caused the accident, but was never ticketed. The real story here, says the reporter, is not the accident but the cover-up. He shows **you** copies of documents that prove the story, including the cover-up. The only problem is that the documents were stolen. They weren't stolen by the reporter, but by someone in the police department who did not have authorized access to the documents but saw them on a desk and photocopied them to expose the cover-up. It's a good story, but the only way **you** can tell it is by using documents that may have been obtained illegally. What do **you** do?

\* Publish

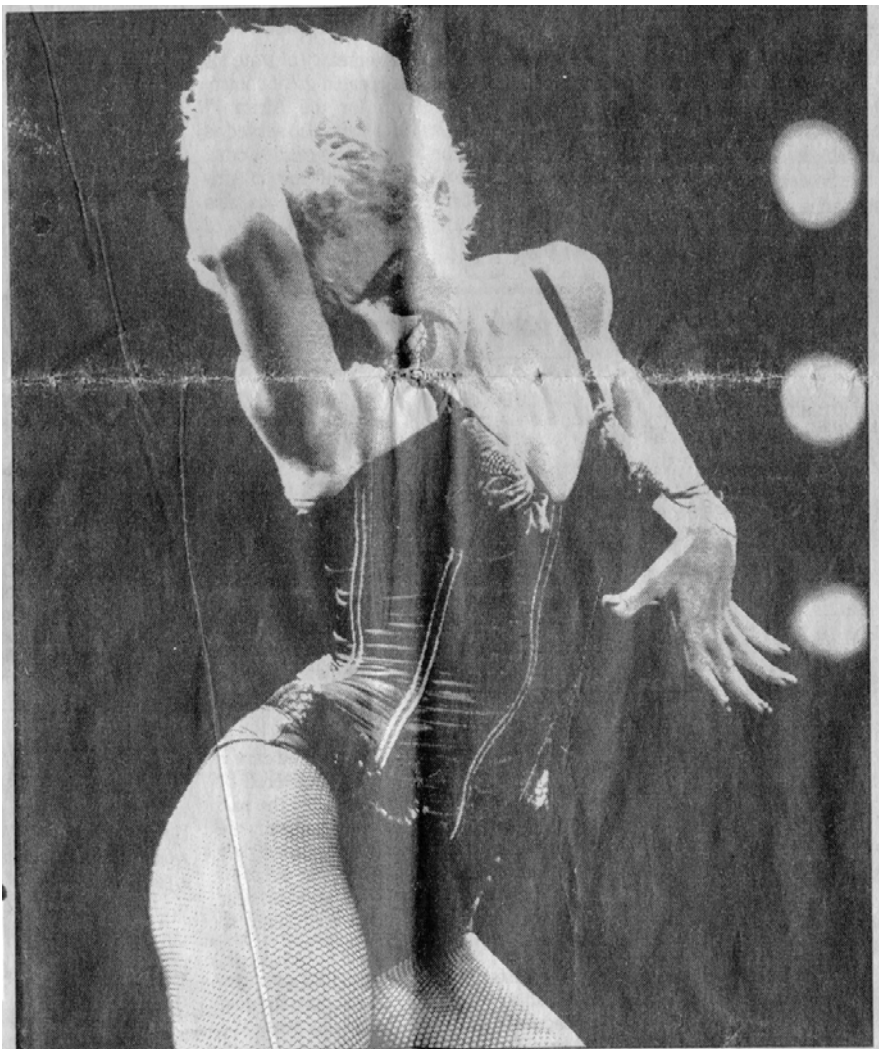
\* Don't publish

#### **5 The rock star**

Your news photographer was allowed near the stage for just one shot, but he says it's a great one. It captures Madonna's performance perfectly and is a good portrayal of the spirit of the concert. The page **editor** has some reservations, though. He thinks the photo is too suggestive for a family newspaper. Besides, this is a concert, not a news event; why risk offending people over something like this? It would be better to go without the picture, he says. "Come on," counters the photographer, "this was the kickoff concert for a nationwide tour by a local star. There were lots of families with kids in the audience. Is it our job to tell readers what's going on in the world or to shelter them from the things that we think might offend someone?" What do **you** do?

\* Publish

\* Don't publish



Associated Press

Rock star Madonna sizzles before a sold-out 1988 crowd at Anaheim Stadium near Los Angeles before taking her "Who's That Girl" show on the road.

## **6 The land deal**

Your city government reporter has noticed some unusual patterns in land purchases and has learned that a foreign company wants to build a major high-tech manufacturing plant in your city. Your city needs jobs and the plant would employ about 1,000 people. Your reporter has enough information to write the article, but city officials ask **you** to sit on the report. Publicity, they say, will drive up land prices, scare off the foreign company and all those jobs. Your reporter says the city is bluffing -- and besides, don't people living in that area have a right to know what is about to happen? What do **you** do?

\* Publish the article

\* Sit on the article

## **7 The drug bust**

A 15-year-old youth is arrested for possessing a small amount of marijuana. The newspaper generally considers these arrests to be minor and does not report them. In this case, however, the suspect's father is a minister who has launched a community-wide campaign to get tough on drugs. An assistant city **editor** says readers will want to know how the minister handles drug problems in his own home. Your police reporter says it is unfair to single out a young person for unfavorable publicity because of his father's actions. She thinks the arrest should be handled like similar arrests -- not at all. What do **you** do?

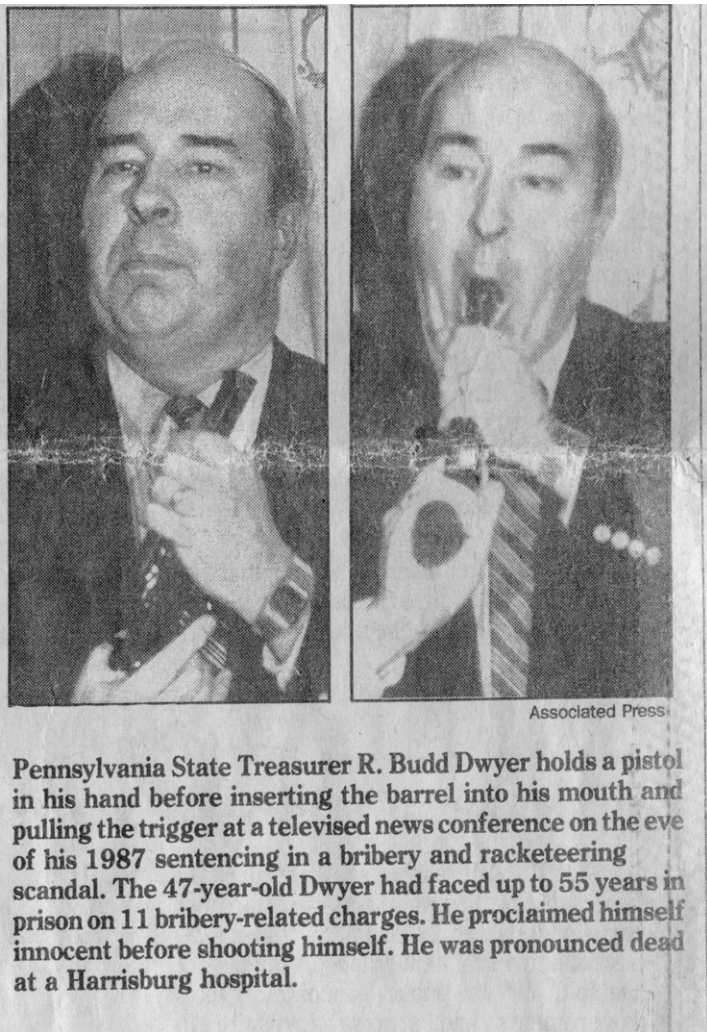
\* Publish

\* Don't publish

## **8 The public suicide**

A state official, recently convicted in a bribery scandal and facing life behind bars, kills himself at a news conference after proclaiming his innocence to journalists. After reading a statement, he pulls a revolver from a large envelope, places it in his mouth and fires one shot. He dies instantly. Dozens of reporters and photographers witness the suicide and there are pictures of everything. One of your **editors** argues for the picture where the official has the gun in his mouth. "This is a well-known state official killing himself at a press conference," she says. "That photo tells the story best." The other **editor** says that it will offend readers. "We don't need to show him the instant just before he killed himself. This other photo and our story will tell the story well enough." What do **you** do?

- \* Publish the photo with the gun in the mouth
- \* Publish the photo where he is just holding the gun



If **you'd** like to keep the **You Be the Editor** questions on the front of this section, **you** can use this form to send in your answers. Please use another piece of paper if **you'd** like to include your name, address and additional comments. Mail by Friday to:

**You Be the Editor**

P.O. Box 152

Detroit, Mich. 48231

Or send by fax to: 313-222-5981

1. The bomb threat

Print the bomb threat

Don't print the bomb threat

2. The AIDS victim

Print the cause of death

Don't print the cause of death

3. The injured dog

Publish

Don't publish

4. The police cover-up

Publish

Don't publish

5. The rock star

Publish

Don't publish

6. The land deal

Publish the article

Sit on the article

7. The drug bust

Publish

Don't publish

8. The public suicide

Publish the photo with the gun in the mouth

Publish the photo where he is just holding the gun

### **CUTLINES:**

- Eight-year-old Peter McCormick of North Attleboro, Mass., weeps in December over his pet dog, which was hit by a car.
- Pennsylvania State Treasurer R. Budd Dwyer holds a pistol in his hand before inserting the barrel into his mouth and pulling the trigger at a televised news conference on the eve of his 1987 sentencing in a bribery and racketeering scandal. The 47-year-old Dwyer had faced up to 55 years in prison on 11 bribery-related charges. He proclaimed himself innocent before shooting himself. He was pronounced dead at a Harrisburg hospital.

- Rock star Madonna sizzles before a sold-out 1988 crowd at Anaheim Stadium near Los Angeles before taking her "Who's That Girl" show on the road.

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## **YOU BE THE EDITOR**

Detroit Free Press (MI)

**By JOE GRIMM Free Press Reader Representative**

**Date:** May 28, 1989; **Page:** 1B ;

**Edition:** METRO FINAL; **Section:** COM

**Illustration:** Photo WILLIAM ARCHIE

All we said was, "**You Be the Editor**," and the next thing we knew, more than 2,450 of **you** had brought, mailed, phoned or faxed us with your most careful thoughts, your best ideas and your most deeply held convictions.

In the May 14 Free Press, we offered eight questions an **editor** might be called on to answer and asked how **you'd** answer them. Debate erupted in classrooms, offices and homes -- and students, coworkers

and family members found out they didn't necessarily see eye-to-eye on what they wanted in "their" newspaper.

The most disputed questions were whether to publish news of a bomb threat and whether to report the cause of death of a man who died of AIDS. Readers divided almost 50-50 on those, and several gave up, saying they just couldn't decide.

Readers were more unified on whether to publish hypothetical news about the cover-up of a police officer's involvement in an accident while drunk, and a proposed factory development that city officials want to keep quiet, and whether to run a revealing photo of pop star Madonna. Almost three-fourths of responding readers said yes to all three.

Free Press staff members were more willing than readers to publish in every case except the bomb threat, where readers were almost twice as likely to publish.

The results of this little exercise aren't scientific because participants weren't selected at random, but readers' judgments -- and especially their comments -- indicate where many would draw the line and where they think the Free Press should.

On Pages 6-7 are the readers' judgments, compared with the judgments of more than 60 Free Press staff members.

## **THE BOMB THREAT**

A man calls the city desk and tells one of your **editors** that a bomb will be placed aboard a jet leaving the local airport within the next month. Then he hangs up. The **editor** calls the airport and the police and tells them about the threat. This is the first they've heard of it, and they say they'll take "appropriate actions." The **editor** thinks the paper should publish an item warning readers of the bomb threat.

Another **editor** disagrees, saying it's probably a hoax and that a report would alarm people needlessly, hurt business at the airport and encourage other publicity-seekers to make similar threats. The **editor** who took the call insists that the newspaper has an obligation to print the report and let readers decide for themselves whether to take the threat seriously. The **editors** ask **you** to make the decision. What do **you** do?

Don't print: 47.5 pct

Print It: 52.5 pct

Reader responses: 2,457

Don't print: 67.2 pct

Print it: 32.8 pct

Staff responses 61

### **Publish**

\* Pat Embach, Indian River: We lost our son-in-law, Greg Kosmowski of Hartland, on Dec. 21, 1988, on Pan Am Flight 103. If the news media had published that three bomb threats had been received, Greg would be alive today. Our family is very bitter that Pan Am, the State Department and the newspapers never let the public know. Pan Am Flight 103 -- the truth must be known.

\* Clara Mae Prince, Allen Park: Airlines and airport personnel will then take much greater precautions in security, and publicize it in order to dispel public alarm.

\* John L. Bennett Jr., Mt. Clemens: We are an adult society which should not be sheltered from the truth by a paranoid **editor** who fears that the fringe lunatics may further public apprehension of terrorism by seeing unfounded threats published.

### **Don't publish**

\* Sherri Lane, Detroit: There's no reason to have the community in a panic.

\* Eric P. Jones, Troy: Even though I was very close to the Pan Am 103 tragedy at Syracuse, publication is inappropriate although it may prevent potential tragedy.

\* Joyce D. Hess, New Baltimore: The object of terrorism is to scare as many as possible and, therefore, wield power over the masses based on such threats.

### **THE AIDS VICTIM**

A reporter is writing an obituary on a prominent local man who died of AIDS and does not know whether to include the cause of death. The newspaper's unwritten policy is to print the cause of death unless there are overriding family concerns. The man's live-in companion of eight years says that the dead man wanted to have his cause of death published. The companion says that the newspaper has a responsibility to tell its readers that AIDS kills. The dead man's parents, however, definitely do not want the cause of death in the paper. They say it will cause pain and humiliation for them and the dead man's

10-year-old sister. None of their friends knew about their son's gay life-style, which has caused a tremendous rift in the family. What do **you** do?

Don't print: 51.1 pct

Print It: 48.9 pct

Reader responses: 2,460

Don't print: 37.7 pct

Print it: 62.3 pct

Staff responses 61

### **Publish**

\* Randall R. Phillips, Sterling Heights: If this were a heterosexual couple, there would be no doubt about which party has the final say. The same should be the case for gay and lesbian people who enter into a personal relationship.

\* Nord W. Christensen, Ypsilanti: Either cause of death is relevant for any and all, or it isn't. The idea that there are certain causes of death **you** just don't talk about doesn't wash -- especially communicable diseases.

\* Merri Busch, Ferndale: To buy into "pain and humiliation" feeds the perception of a gay life-style or sexual choice as immoral or humiliating rather than just what's so.

### **Don't publish**

\* James C. Kors, Beverly Hills: There is no way of verifying whether the dead man really wanted his cause of death revealed. Readers already know AIDS kills; they don't need to know it killed this man.

\* Nancy Karp, Ann Arbor: Many years ago, my uncle was shot in the spine during a holdup in his Detroit store. The Free Press reported the story in more detail than I felt necessary. . . . Your story was an invasion of my family's privacy.

\* Michael McGlaughlin, Trenton: Death from AIDS is still not accepted in today's society, and the family would be subjected to a hell on Earth."

### **THE INJURED DOG**

One of your photographers is driving down the street when he sees a dog that has just been hit by a car. The photographer pulls over as the dog's owner, a young boy, hurries to its side. The photographer radios to the newspaper to report the accident and grabs his camera. He tells the boy that help is on the

way, backs off and takes a few photographs. Later that day, **editors** are ready to put the photo into the paper. A last-minute call to the veterinarian, however, reveals that the dog's injuries were so extensive that it had to be destroyed. What do **you** do?

Don't print: 60.5 pct

Print It: 39.5 pct

Reader responses: 2,449

Don't print: 28 pct

Print it: 72 pct

Staff responses 62

### **Publish**

\* Rita M. Houlehan, Royal Oak: If perhaps one person sees this picture, realizes the anguish the loss of a pet creates and, as a result, uses a bit more caution behind the wheel, I'm not going to let my personal feelings interfere.

\* Sally Hanley, Grosse Pointe Farms: This picture is sad but also heartwarming. . . . Life is precious and fragile and we all need to be reminded of that.

\* Anna L. Terry, Battle Creek: Will people never learn to leash their animals?

### **Don't publish**

\* Ramona Hamood, Dearborn: Maybe the National Enquirer would be expected to go for this one. The child should be able to mourn without some photo and story reminding him of his loss.

(**Editor's** note: This is an actual case from the Sun Chronicle in Attleboro, Mass., where **editors** decided not to run the photo. Later, **editors** learned that the boy was one of their carriers and asked him if he wanted the photo. Instead, he asked them to publish it as a message to drivers. They did.)

### **THE POLICE COVER-UP**

A reporter tells **you** that a suburban police department covered up the involvement of a top officer in a traffic accident. It seems the officer had been drinking on his day off and had caused the accident, but was never ticketed. The real story here, says the reporter, is not the accident, but the cover-up. He shows **you** copies of documents that prove the story, including the cover-up. The only problem is that the

documents were stolen. They weren't stolen by the reporter, but by someone in the police department who did not have authorized access to the documents but saw them on a desk and photocopied them to expose the cover-up. It's a good story, but the only way **you** can tell it is by using documents that may have been obtained illegally. What do **you** do?

Don't print: 26.8 pct

Print It: 73.2 pct

Reader responses: 2,451

Don't print: 4.9 pct

Print it: 95.1 pct

Staff responses 61

### **Publish**

- \* Henry Gumbis, Wyandotte: As a police officer, anything that blackens the eye of law enforcement, also blackens my eye. We are not above public scrutiny!
- \* Leonard M. Schwartz, Okemos: If **you** don't publish, aren't **you** part of the cover-up?
- \* Jack Charlebois, Wyandotte: The paper didn't actually steal them, besides, no one should have the right to walk away from accidents concerning alcohol.
- \* Jean Barnard, Rochester: I would not really consider the documents stolen. They should be a matter of public record, as in any similar case.
- \* Louise Hodgson, Detroit: The public has a right to know about the performance of its elected and paid employees.

### **Don't publish**

- \* Gordon McBean, Royal Oak: A blunt NO to such tactics. This would only encourage thieves to steal many kinds of privileged material.
- \* Joseph W. Rattner, Troy: Why be a partner in an illegal adventure?

### **THE ROCK STAR**

Your news photographer was allowed near the stage for just one shot, but he says it's a great one. It captures Madonna's performance perfectly and is a good portrayal of the spirit of the concert. The page **editor** has some reservations, though. He thinks the photo is too suggestive for a family newspaper. Besides, this is a concert, not a news event; why risk offending people over something like this? It would be better to go without the picture, he says. "Come on," counters the photographer, "this was the

kickoff concert for a nationwide tour by a local star. There were lots of families with kids in the audience. Is it our job to tell readers what's going on in the world or to shelter them from the things that we think might offend someone?" What do **you** do?

Don't print: 29.2 pct

Print It: 70.8 pct

Reader responses: 2,451

Don't print: 6.5 pct

Print it: 93.5 pct

Staff responses 62

### **Publish**

\* Len Baas, Taylor: More provocative scenes are found at the beach every day. If **you** don't like it, turn the page.

\* Maureen Currey, Rochester Hills: I find this woman revolting -- an impression formed purely from pictures of her in various publications. Maybe if enough of us see her the same way, she will become just another rocking bore.

\* Cheryl Newsom, Rochester: That was a great concert, and for those who couldn't go it would be a great keepsake. . . . Madonna is the greatest!

\* Lydia Rizzo, Farmington Hills: What's so suggestive about this picture? Madonna looks as if she's in agony.

### **Don't publish**

\* Hank Bianchi, Lincoln: Rock concerts get publicity without media help more easily than national news. Why glorify Madonna (no pun intended) or other rockers?

\* Irene Brown, Farmington: This photo is sexist and exploits women.

### **THE LAND DEAL**

Your city government reporter has noticed some unusual patterns in land purchases and has learned that a foreign company wants to build a major high-tech manufacturing plant in your city. Your city needs jobs and the plant would employ about 1,000 people. Your reporter has enough information to write the article, but city officials ask **you** to sit on the report. Publicity, they say, will drive up land prices, scare off the foreign company and all those jobs. Your reporter says the city is bluffing -- and besides, don't people living in that area have a right to know what is about to happen? What do **you** do?

Don't print: 29.5 pct

Print It: 70.5 pct

Reader responses: 2, 368

Don't print: 11.5 pct

Print it: 88.5 pct

Staff responses 61

### **Publish**

\* David J. Hearndon, Detroit: City officials are elected by the people they serve. The people have a right to know what is being planned and what is being acted upon.

\* Cherie Boeneman, Clawson: To sit in the article in such a case may be tantamount to participating in a cover-up.

\* Patricia T. Welch, Westland: Many of the people eligible for those promised jobs will be the same people duped out of their rightful price for their property.

\* Paul Biskner, Westland: What would happen if papers "sat on" every story that city officials did not want printed?

\* Sarah McCue, Port Huron: The people have a right to know. Give them a chance to fight this thing before the deal is wrapped up and the ribbon is cut.

### **Don't publish**

\* Mary Stewart, Ypsilanti: Just on the off chance that printing the article could hurt the city's chances, why print it? They'll find out soon enough.

\* Jens W. Kuehne, Berkley: If it is a policy of the city to honor requests by businesses to remain silent during initial bargaining, then the paper should respect this.

### **THE DRUG BUST**

A 15-year-old youth is arrested for possessing a small amount of marijuana. The newspaper generally considers these arrests to be minor and does not report them. In this case, however, the suspect's father is a minister who has launched a community-wide campaign to get tough on drugs. An assistant city **editor** says readers will want to know how the minister handles drug problems in his own home. Your police reporter says it is unfair to single out a young person for unfavorable publicity because of his father's actions. She thinks the arrest should be handled like similar arrests -- not at all. What do **you** do?

Don't print: 62.4 pct

Print It: 37.6 pct

Reader responses: 2,429

Don't print: 43.5 pct

Print it: 56.5 pct

Staff responses 62

### **Publish**

\* Larry Weis, Detroit: Children of civic leaders live with the burden that their behavior may become public knowledge, be it good or bad. The illegitimacy of Coleman Young's son is certainly a disgrace that his innocent son will now have to live with forever. If a newspaper is willing to label a young man a bastard, a simple thing like a drug bust is next to nothing.

\* Leslie Johnson, Adrian: Obviously the minister has been in the news campaigning against drugs. The media have an obligation to let the people know his own family is going to "pot."

\* Thomas Yates, Inkster: If the father truly believes the community must get tough on drugs, he will insist the story be run to show that drugs are everywhere and a problem in every level of society.

\* Karen Garza, Southfield: The minister must prove he practices what he preaches.

### **Don't publish**

\* The Rev. Charles B. Hastie, Mackinaw City: Stick to the rule regarding minors. It is more important than going after the minister-father.

\* Nora Hollingsworth, Belleville: Why should they be singled out to suffer? Surely, the minister will suffer plenty either way. Why make it worse?

\* Rosalind Eland, Warren: The minister is trying to launch a campaign against drugs that could help a lot of people. Maybe part of his reason for the campaign is the problem in his home.

\* Cyril H. Peleman, Grosse Pointe Woods: Why hurt his father when he's doing good with other kids? Besides, the kid may not be that bad and this could hurt him all his life.

\* Susan C. Usztics, River Rouge: The only real reason to publish this is to put the minister on the spot. Why do this? How do **YOU** handle drug problems in your own home?

### **THE PUBLIC SUICIDE**

A state official, recently convicted in a bribery scandal and facing life behind bars, kills himself at a news conference after proclaiming his innocence to journalists. After reading a statement, he pulls a revolver from a large envelope, places it in his mouth and fires one shot. He dies instantly. Dozens of

reporters and photographers witness the suicide and there are pictures of everything. One of your **editors** argues for the picture where the official has the gun in his mouth. "This is a well-known state official killing himself at a press conference," she says. "That photo tells the story best." The other **editor** says that it will offend readers. "We don't need to show him the instant just before he killed himself. This other photo and our story will tell the story well enough." What do **you** do?

Gun in mouth: 31.1 pct

Gun in hand: 68.9 pct

Reader responses: 2,301

Gun in mouth: 46.3 pct

Gun in hand: 53.7pct

Staff responses 67

### **Gun in the mouth**

\* Nikki Crawford, Flat Rock: This photo gives the reader the feeling of the story. I could imagine, looking at this photo, of how the reporters were feeling as they witnessed the suicide. The photo gives the story that extra oomph.

\* Margaret Mingo, Farmington Hills: The photo holding the gun sends a message that suicide is somehow an honorable solution to this man's problems. The photo with gun in mouth captures the true depression of suicide.

\* Brenda Hamlin, Hazel Park: The one with him just holding the gun makes it look like he may be ready to kill someone else.

### **Holding the gun**

\* Lisa Williams, Milford: It is nobody's business. A family goes through enough pain as it is; no more is necessary. I can relate to suicide because I know many young teens that took their lives. People don't realize how mean they are to others.

\* Donna S. Cooper, Canton: We don't need to start our morning and day off seeing a man with a gun in his mouth just moments before he pulls the trigger. If I chose not to read the article (which I probably wouldn't) it would be my choice. I had no choice not to see the picture.

\* Maria Eby, Warren: The one last shred of dignity that would be afforded this man would be not showing him taking his last breath of life.

\* Jo Mettert, Livonia: We don't need (the picture of the gun in his mouth) to realize the man has chosen a horrible and public way to dramatize his death.

\* John Sowerby, St. Clair Shores: If **you** published with the gun in mouth, **you** may as well publish after trigger is pulled, also.

\* Elaine M. Foster, Livonia: This photo shows sadness and determination before he commits a desperate act. The photo with the gun in his mouth is nothing but pure sensationalism.

## **TAKING PART**

**Below, teacher Lorraine Caver, right, at Clippert Middle School in Detroit put Mikerra Bostic, 12, and her other fifth- and sixth-graders to the test. Some of the schools that submitted answers are:**

- \* Avondale High School
- \* Bullock Creek High School, Midland
- \* Clippert Middle School, Detroit
- \* Dexter High School
- \* Divine Child High School, Dearborn
- \* East Middle School, Plymouth
- \* Enterprise High School, Romeo
- \* Grand Ledge Adult Education
- \* Grosse Pointe South
- \* Ford High School, Utica
- \* Benson Public School, Windsor
- \* Lowrey Junior High, Dearborn
- \* Marian High School, Birmingham
- \* Michigan State University
- \* Morrice Area Schools
- \* Parkside Junior High, Jackson
- \* Rochester Adams High School
- \* Royal Oak Kimball High School
- \* Southfield-Lathrup High School
- \* Swartz Creek Middle School
- \* Edison School, Port Huron
- \* **Wayland High School, Wayland MI – Jeff Salisbury, publications adviser**
- \* Wayne State University
- \* Webber Middle School, Detroit
- \* Yale Alternate School

**CUTLINES:**

**Should the newspaper report that an anonymous man has called the paper and said that a bomb will be placed aboard a jet leaving the local airport within the next month?**

Yes. "Each person is entitled to make his or her own evaluation under the circumstances. When it comes to your own life, you should have the right to make a decision. Decisions should not favor business or loss of it, but should favor individual lives." BARBARA COOK, Farmington Hills

**Should the newspaper publish an article about a foreign firm's wishes to put a plant and 1,000 jobs in the city, despite city objections that an article might scare off the investors?**

No. To "start counting chickens before they hatch is bad, but these eggs haven't even been laid yet."  
WILLIAM F. KEENE, Detroit

**Should the newspaper report the arrest on marijuana possession charges of the 15-year-old son of a minister who is leading an anti-drug campaign?**

No. "This is a very personal problem, how the minister handles the drug problem in his own home, but if in the future the same teenager is arrested again, I would publish everything immediately." MARIA DEL P. RODRIGUEZ, Ann Arbor

**Should the newspaper publish a moving picture of an 8-year-old boy grieving at the side of his dog, which was hit by a car and later died?**

No. "The death of a dog impacts no one except those directly involved, and publishing the picture could only add anguish to the boy's already traumatic experience." JEFF HEATH, Mt. Clemens

Rosalind Eland

James Kors

Sherri Lane

Madonna

The Norton family of Rochester Hills displays split sentiments over whether a Madonna concert picture should be published. From left, Janice; Andy, 19; Jeff, 14; Tim, 5; John, and Lisa, 18.

Peter McCormick, 8, of North Attleboro, Mass., weeps over his pet dog that was hit by a motor vehicle minutes earlier.

R. Budd Dwyer, Pennsylvania state treasurer, moments before his suicide in 1987.  
Dwyer proclaimed his innocence in a bribery scandal before killing himself at a news conference.

Lisa Williams, Milford: "It is nobody's business."

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