



# LEGAL ISSUES AND JOURNALISTIC ETHICS

Chapter 15

“All the News: Writing and  
Reporting for Convergent Media”

Multimedia Reporting Course

# U.S. SOCIAL RESPONSIBILITY MEDIA MODEL

WIDE RANGE OF MEDIA RIGHTS AND FREEDOMS IN RETURN FOR THE PROMISE TO BEHAVE RESPONSIBLY

- ▶ Libel/Defamation
- ▶ Invasion of Privacy/Disclosure of Private Facts
- ▶ Using and Protecting Anonymous Sources
- ▶ Plagiarism and Fabrication
- ▶ Advertising Pressures
- ▶ Conflicts of Interest
- ▶ Deception in Gathering Information
- ▶ Taste and Sensitivity
- ▶ Journalistic Codes of Ethics can help guide us through the sometime gray, murky areas of news gathering and reporting
- ▶ Become familiar with:
  - ▶ [Society of Professional Journalists Code of Ethics](#)
  - ▶ [Radio Television Digital News Association Code of Ethics and Professional Behavior](#)

# LIBEL AND PRIVACY ISSUES

## Libel—

- ▶ Libel is defamation (injury to someone's reputation) by written words or by communication in some other tangible form
- ▶ Six things a plaintiff (someone alleging libel) must prove: defamation, identification, publication, falsity, injury and fault
- ▶ Three main media defenses- provable truth, fair-report privilege, fair comment and criticism
- ▶ Legal differences between “public officials,” “public figures,” and “private individuals”

# STEP FOR AVOIDING LIBEL SUITS

- ▶ Make sure everything in story is newsworthy
- ▶ ID everyone fully
- ▶ Include responses from those attacked
- ▶ Seek evidence to confirm attacks and denials
- ▶ Seek all relevant sources and documents
- ▶ Consider source's motives for allegations
- ▶ Explain source's credibility problems (if they exist)
- ▶ Avoid confidential or anonymous sources
- ▶ Never use such sources for attacks on a person
- ▶ Quote documents clearly and accurately
- ▶ Don't rush to publish or broadcast prematurely
- ▶ Keep all newsgathering materials—notes, tapes

# PRIVACY ISSUES

The law recognizes four kinds of invasion of privacy:

- ▶ Intruding on a person's seclusion or solitude
- ▶ Giving publicity to private facts
- ▶ Placing a person in a false light
- ▶ Appropriating a person's name or likeness for one's own benefit

# TYPES OF INVASION OF PRIVACY

- ▶ A lawsuit for intrusion requires that one person intentionally intrude on the solitude or seclusion of another in a manner that would be highly offensive to a reasonable **person** (“highly offensive” standard applies to all types of privacy issues)
- ▶ Lawsuits for publicity to private facts are a way people can receive damages when their secrets are revealed
- ▶ A false-light invasion of privacy lawsuit protects people from being portrayed inaccurately (similar to libel– difference is libel redresses reputation injury while false light protects a person’s right to be left alone)
- ▶ Misappropriation– anyone who uses the name or likeness of another for his/her own use or benefit may be sued for invasion of privacy by misappropriation (the most common types of offenses: using a person’s name, likeness, or creations, such as music, in an advertisement or promotional material without permission)

# PROVING AND DEFENDING LIBEL

## ▶ Plaintiff Must Prove:

- ▶ Defamation
- ▶ Identification
- ▶ Publication
- ▶ Falsity
- ▶ Injury
- ▶ Fault

## ▶ Media Defenses:

- ▶ Truth
- ▶ Fair-Report  
Privilege
- ▶ Fair Comment and  
Criticism

Also be aware of so-called  
Red Flag Words

# PROVING AND DEFENDING INVASION OF PRIVACY

## ▶ Four Kinds of Invasion of Privacy

- ▶ Intruding on a person's seclusion or solitude
  - ▶ Giving publicity to private facts
  - ▶ Placing a person in a false light
  - ▶ Appropriating a person's name or likeness for one's own benefit
- ▶ Key legal views: the right to be left alone; a reasonable expectation of privacy; would a reasonable person be offended?

## ▶ Major Media Defenses in Privacy Lawsuits

- ▶ Newsworthiness: is the public interested?
- ▶ Public places: did event occur in public or private place?
- ▶ Public records: info found in public record document cannot be deemed private
- ▶ Public proceedings: fair/accurate reporting from official meetings, trials, etc.
- ▶ Consent: permission given to use audio/video/photos?

# PUBLIC OFFICIALS/FIGURES AND “ACTUAL MALICE”

- ▶ Arguably the most important libel case in American history was 1964’s [New York Times vs. Sullivan](#) U.S. Supreme Court ruling
- ▶ In 1960 The New York Times ran a full-page advertisement from a civil rights group and leaders that protested the treatment of “Southern Negro students” engaged in non-violent demonstrations in the South (ad is shown on page 272 of our book)
- ▶ FYI- Orangeburg, S.C. is mentioned in the ad
- ▶ Thought not specifically named in the ad, L.B. Sullivan, the Montgomery, Ala. public safety commissioner, sued the New York Times for libel, saying the ad was inaccurate and defamed him as a leader of a law enforcement agency
- ▶ The case went all the way to the U.S. Supreme Court, which by a 9-0 vote, rejected Sullivan’s libel claim
- ▶ The court set a new standard that to prove defamation public officials must prove “actual malice”
- ▶ This means that something was published by the media with “reckless disregard for the truth” (intentionally false or with gross absence of basic fact and source checking)- the media knew it false, but published it anyway or there was reckless lack of investigation

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