

The Washington Post

The New York Times

Freedom of the Press

Star-Telegram.com



What is “the press”?

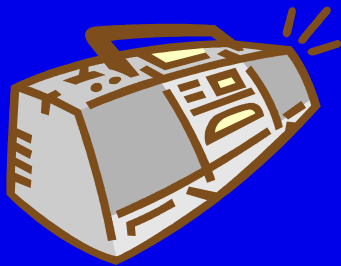
Newspapers

Magazines

Radio

Television

Internet



Fair Trials and Free Press

6th Amendment

The accused's right to a fair trial

Versus

1st Amendment

The public's right to know

(Freedom of the Press)

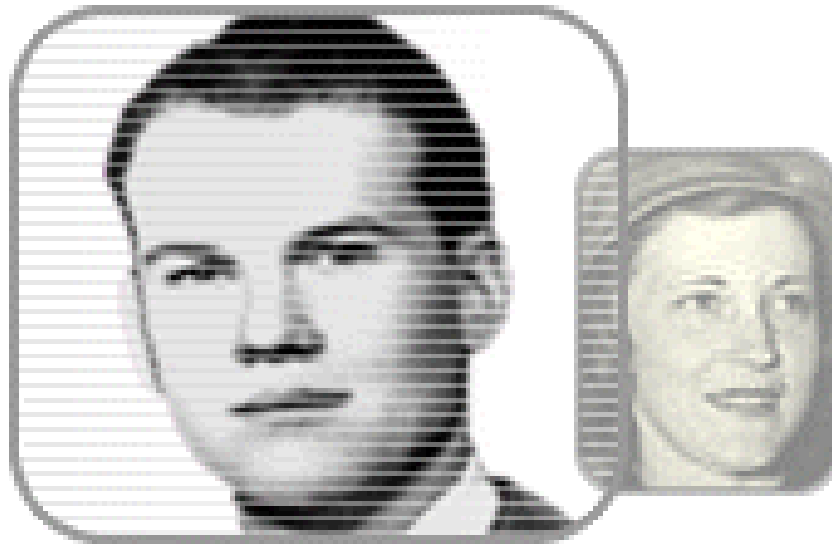


Fair Trials and Free Press

Sheppard vs. Maxwell (1966)

- **Doctor was accused of brutally beating his pregnant wife to death in 1954 in a suburb of Cleveland, Ohio.**
- **Sensational case (doctor was having an affair with a nurse)**

Sam



Marilyn



Fair Trials and Free Press

“Convicted by the press”

- Press interviewed witnesses, carnival atmosphere at court
- Judge did not sequester the jury, did not tell jury to ignore the press or the news coverage.
- Newspaper headlines screamed “Trial of the Century”.
- Police called a press conference and called Dr. Sheppard “a bare-faced liar.”
- Headlines demanded that Sheppard be roughed-up by the police.

Fair Trials and Free Press

Outcome of Trial

Sheppard was found guilty of 2nd degree murder and sentenced to life in prison.



Sheppard's mother committed suicide 4 days after conviction.

What Do You Think?

**Did Dr. Sheppard get
a fair trial?**



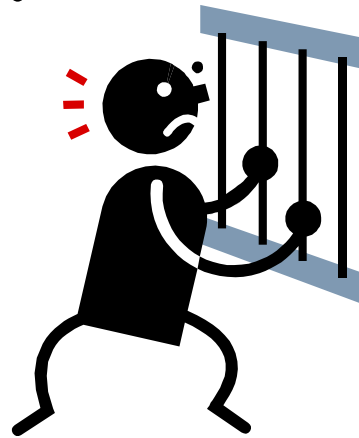
What Do You Think?

**Did the public have a right
to know all the sordid
details?**



Fair Trials and Free Press

The case was appealed saying trial was not fair due to extensive press coverage of the case and judge did not protect the witnesses from the press.



Fair Trials and Free Press

- Supreme Court said press coverage interfered with Dr. Sheppard's right to a fair trial. The judge was at fault for not protecting witnesses from the press.
- The conviction was thrown out.
- Case was tried again and Dr. Sheppard was found not guilty.



Fair Trials and Free Press

Epilogue:

- **Dr. Sheppard had served 10 years in prison.**
- **His reputation was ruined.**
- **Tried to return to medical practice, but was sued for malpractice and left the profession.**
- **For a while, he became a professional wrestler.**
- **Became an alcoholic and died in 1970 at age 46.**
- **A popular TV show was loosely based on the case (“The Fugitive”).**

Fair Trials and Free Press

- **In late 1980's, a handyman who worked for the Sheppard's confessed to the killing while in prison for another murder. The handyman was killed in prison a short time later, but investigators now believe that he was lying.**
- **In 1995, the son of Sam and Marilyn Sheppard got the court to re-investigate the case.**
- **Marilyn's body and the fetus she was carrying were exhumed and DNA testing was conducted.**

Fair Trials and Free Press

- **Investigators now believe that Mrs. Sheppard was actually killed by the wife of the local mayor who was in a fit of jealous rage when she discovered that Mrs. Sheppard was having an affair with her husband. Based on the DNA tests, they believe Mrs. Sheppard's pregnancy was a result of her affair with the mayor.**
- **A civil case is still pending. The son is demanding compensation from the estate of the mayor's wife. (Both the mayor and his wife are now deceased.)**

*Was anything about this case
fair to Dr. Sheppard?*

FYI

- **The Sheppard case was huge news all over the country. Everyone knew about it. I was in elementary school when the murder occurred, but I remember my parents discussing the case.**
- **When Mr. Cortez started college at UTA in the 1980's, his original major was forensics. It was his fascination with this case that inspired his choice of that major. Only later, did he switch to History and become a teacher.**

What Do You Think?

**How can a court insure a
fair trial?**



Fair Trials and Free Press

So ... what can be done to insure fair trial?

- Move the trial
- Limit the number of reporters in courtroom
- Control reporters conduct in the courtroom
- Isolate witnesses
- Isolate jurors
- Sequester the jury until trial is over

Fair Trials and Free Press

- Gag orders are unconstitutional in U.S.
(What is a gag order???)
- Press must have access to all aspects of a trial (secret trials are illegal).
 - Preliminary hearings
 - Jury selections
 - Trial



Censorship

What is censorship?



What Do You Think?

**What issues do you think
surround censorship?**



Censorship Issues

- **Who will be the censor?**
- **What will they censor?**
- **Who decides what will be censored?**
- **What criteria will they use to decide what gets censored?**
- **How will censorship occur?**

Freedom of the Press Issues

Freedom from government censorship

versus

National Security



When should the government be allowed to use National Security to limit Freedom of the Press?

Freedom of the Press Issues

“The dominant purpose of the 1st amendment was to prohibit the widespread practice of government suppression of embarrassing information.”

Justice William O. Douglas (1971)



Freedom of the Press Issues

- *“The press [is] to serve the governed and not the governors ...”*
- *“The press was protected so that it could bare the secrets of government and inform the people.”*

Justice Hugo L. Black (1971)

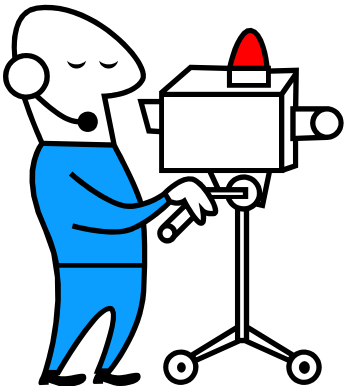


Radio and Television

Should radio and TV have “freedom of the press/speech” to air anything?

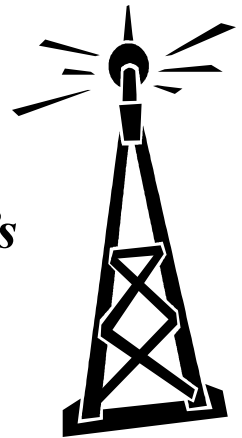
Should there be any limits?

If so, what limits?



Radio and Television Issues

- **Since Radio and TV use public airwaves, there are more restrictions regarding obscene or indecent language.** *(George Carlin's "Seven Dirty Words" routine in 1978)*
- **Cable TV is less restricted but still has some limits because there is usually only one cable provider for an area, although this is changing rapidly in urban areas.** *(But still some limits on sexually oriented programming.)*



Radio and Television Issues

Commercial Speech

- **Advertising is restricted.**
 - No misleading claims
 - What kind of goods may be advertised.
 - This changes with the times
 - Example: Tampons, Cigarettes, Viagra
- **But virtually no limits on political or religious speech**

Motion Pictures



Should there be any limits on what producers of motion pictures can put in their shows?

Producers have managed to avoid regulation by a system of self-restraint and labeling.

(G, PG, PG-13, R, X)



Internet



**Should there be any
limits on the content of
internet sites?**



**Supreme Court has ruled that the internet
is entitled to full 1st Amendment
protection. (You are paying for access. You have to
search for the content.)**