

FREEDOM OF PRESS

1. the SC will usually rule in favor of freedom of speech and also usually freedom of press, although the book specifies that the Internet has changed this substantially.
2. the SC does not usually make a distinction between press and speech and protects both equally.
3. as is noted, not all speech, press and expression is protected.

LIBEL

Libel is the release of false statements that could potentially do substantial damage to someone's reputation or standing. This and slander are types of defamation, which is the (intentional) release of false information in order to harm someone's reputation.

Usually, the bar is high when it comes to qualifying as libel or defamation in general. This is prominent in **New York Times v. Sullivan of 1964**, where the NYT posted an article about MLK which contained a number of false statements about an AL town and its commissioner. The commissioner sued, and won, then the case was appealed and the NYT ended up winning, on the grounds that there was no malicious intent and thus the speech was still protected.

The room for false information, **called breathing space**, is protected by the Courts, who note that such space is necessary to sustain the freedoms of expression. This then established the precedent that in order to prove libel has taken place, the petitioner must:

1. The respondent printed false information about them
2. The respondent did so knowingly and with the intent of causing defamation.
3. Actual damage resulted from the printing of said information.

PRIOR RESTRAINT

Prior restraint is the use of government power in order to stop a certain idea before it has taken place. Courts generally agree that the government cannot do this except under specific circumstances.

This is shown in case **New York Times v. United States of 1971**. In this case, the New York Times and Wapo both obtained a report from a Pentagon analyst that detailed what kind of bullshit the United States had pulled in order to enter Vietnam and deceive others. Nixon sued, saying that these reports questioned the government's trustworthiness and thus arrested the United State's forward momentum in the War, and thus hampered the government's power to conduct a war. Lower courts said OK to this, and issued an order to the groups to stop.

The NYT appealed, saying that this action violated their constitutional right to free press. It is important to note here that the analyst was not in the right to leak the document (the person got arrested and tried for violating the 1917 Espionage Act), but once the document had been leaked, the NYT was within its right to print that shit out and distribute it to the public.

The decision was in the favor of the NYT, the reasoning being that since:

- A. substantial proof that there is a clear and imminent threat to national security resulting from an AOExp is required
- B. no proof that imminent danger would result from this AOExp was present
- C. the justification “national security” was fairly vague,

the government had no right holding back the publication of these papers.