

this was “not ‘conclusive’ of the reasonableness of the Policy”; (3) the impact of accommodating the asserted constitutional right would be negative; and (4) no alternative would “fully accommodate the prisoner’s rights at *de minimis* cost to valid penological interests.”⁹⁹⁶ The plurality believed that its “real task in this case is not balancing these factors, but rather determining whether the Secretary shows more than simply a logical relation, that is, whether he shows a *reasonable* relation” between the Policy and legitimate penological objections, as *Turner* requires.⁹⁹⁷ The plurality concluded that he had. Justices Thomas and Scalia concurred in the result but would do away with the *Turner* factors because they believe that “States are free to define and redefine all types of punishment, including imprisonment, to encompass various types of deprivation—*provided only that those deprivations are consistent with the Eighth Amendment.*”⁹⁹⁸

Neither prisoners nor reporters have any affirmative First Amendment right to face-to-face interviews, when general public access to prisons is restricted and when there are alternatives by which the news media can obtain information respecting prison policies and conditions.⁹⁹⁹ Prison restrictions on such interviews do indeed implicate the First Amendment rights of prisoners, the Court held, but such rights must be balanced against “the legitimate penological objectives of the corrections system” and “internal security within the corrections facilities,” taking into account available alternative means of communications, such as mail and “limited visits from members of [prisoners’] families, the clergy, their attorneys, and friends of prior acquaintance.”¹⁰⁰⁰

While agreeing with a previous affirmation that “news gathering is not without its First Amendment protections,”¹⁰⁰¹ the Court denied that the First Amendment imposed upon the government any affirmative obligation to the press. “The First and Fourteenth Amendments bar government from interfering in any way with a free press. The Constitution does not, however, require government to accord the press special access to information not shared by members of

⁹⁹⁶ 548 U.S. at 531–32.

⁹⁹⁷ 548 U.S. at 533.

⁹⁹⁸ 548 U.S. at 537 (Thomas, J., concurring), quoting *Overton v. Bazzetta*, 539 U.S. at 139 (Thomas, J., concurring) (emphasis originally in *Overton*).

⁹⁹⁹ *Pell v. Procunier*, 417 U.S. 817 (1974). Justices Douglas, Brennan, and Marshall dissented. *Id.* at 836.

¹⁰⁰⁰ 417 U.S. at 822–25.

¹⁰⁰¹ *Branzburg v. Hayes*, 408 U.S. 665, 707 (1972), quoted in *Pell v. Procunier*, 417 U.S. 817, 833 (1974).