

1-1-1996

# Military Control Over War News: The Implications of the Persian Gulf

Stephen D. Cooper

*Marshall University*, [coopers@marshall.edu](mailto:coopers@marshall.edu)

Follow this and additional works at: [http://mds.marshall.edu/communications\\_faculty](http://mds.marshall.edu/communications_faculty)



Part of the [Communication Technology and New Media Commons](#), [Mass Communication Commons](#), and the [Social Influence and Political Communication Commons](#)

---

## Recommended Citation

Cooper, S. (1996). Military control over war news: The implications of the Persian Gulf. *The New Jersey Journal of Communication*, 4, 1-20.

This Article is brought to you for free and open access by the Communications at Marshall Digital Scholar. It has been accepted for inclusion in Communications Faculty Research by an authorized administrator of Marshall Digital Scholar. For more information, please contact [zhangj@marshall.edu](mailto:zhangj@marshall.edu).

# **Military Control Over War News: The Implications of the Persian Gulf**

Stephen Cooper<sup>1</sup>

*News coverage of warfare poses a difficult problem for political systems with a free press, such as ours in the United States. In an era of high-tech weaponry and nearly instantaneous global communications, conflicts are inevitable between the obligation of the press to inform the general public, and the obligation of the military to successfully conduct war. The military's controls over newsgathering during the 1990-91 Persian Gulf War set off a controversy still smoldering during the Haiti occupation of 1994. This paper examines the legal, historical, and technological aspects of this issue.*

## **Introduction**

The United States government's decision to control newsgathering during the 1990-91 Persian Gulf War sparked a lively debate in legal, journalistic, and academic circles. During this war, journalists were denied free access to the theater of operations during deployment and combat, and were restricted by a system of military escorts, pooled coverage, and military review of copy. Although similar restrictions were in place during the military operations in Grenada and Panama, the Persian Gulf War prompted the most serious challenges to the press restrictions, including lawsuits contesting their constitutionality. At issue are the legality and social desirability of the restrictions, in a media system with libertarian and neoliberal underpinnings (Helle, 1995).

From a legal perspective this question involves the First Amendment. Critical positions hold that the access restrictions constituted a *de facto* prior restraint of the press, and thus violated the First Amendment. Supportive positions point to legal precedents allowing government control of information on grounds of national security, and making a legal distinction between the protections afforded publishing and the protections afforded newsgathering.

The social dimensions of this question concern the functions of the press in a democratic society. Objections to the restrictions turn largely on the idea that the press serves an essential function as the watchdog of government actions. Careful scrutiny of military operations is critical, in this view, to the informed consent or disapproval of the American citizenry; press restrictions thus damage the political process by impeding the timely and accurate flow of information to the public.

The principal lawsuit filed during the Gulf War, *Nation Magazine v. United States Department of Defense* (1991) proved inconclusive in settling the issue of constitutionality. Since that time the Clinton administration has chosen in Somalia not to appreciably restrict the press, but in Haiti to prepare controls similar to those of the Gulf War. Arguably the news reports from Somalia, especially the picture coverage of the treatment of U.S. casualties and a

---

*I. Stephen Cooper (M.C.I.S., Rutgers University) is Manager of Television Production and adjunct instructor at Brookdale Community College, Lincroft, NJ. The author wishes to thank Milton Mueller of Rutgers University, Jorge R. Schement of Pennsylvania State University and three anonymous NJJC reviewers, for their insight and critique.*

prisoner of war, pressured the president to redefine the U.S. mission there. The Somalian and Haitian situations thus provide a postscript to the Persian Gulf, regarding news coverage of post-Cold War military operations. Technological developments in newsgathering and broadcasting, particularly live satellite transmission from the battlefield, have heightened the urgency of this issue.

This paper will explore the legal and institutional dimensions of the government controls over the press during the Persian Gulf War. It will argue that the controls were not a violation of the First Amendment, but rather a necessary restructuring of the ongoing relationship between the military and the press, driven by developments in electronic communications.

### **The Legal Battle Over the Gulf War Press Restrictions**

Serious questions were raised about the legality of the press restrictions in place during the Gulf War. Media outlets, interest groups, and journalists joined in lawsuits brought against the Department of Defense during the combat operations, charging the government with violating the First and Fifth Amendments (\*1). Since the end of the war, a number of law journal articles have appeared, many of which judged the press restrictions to have been unconstitutional and argued forcefully that the military should never again be allowed to control the press to the degree it did in *the* Persian Gulf War.

Three lawsuits in all were filed challenging the constitutionality of the press restrictions. Two suits concerning access to the war zone in Kuwait were combined and heard in the United States District Court in New York, as *Nation Magazine v. U.S. Dept. of Defense* (1991). A third suit, concerning the military's refusal to allow picture coverage of casualties being returned to Dover Air Force Base in Delaware, was heard in the federal district court in Washington (*JB Pictures, Inc. v. United States Department of Defense*, 1991). In both trials the plaintiffs' requests for injunctive and declarative relief were denied (\*2). Of the two, *Nation* raises the issues most significant to this discussion. Does the press have, as the plaintiffs claimed, "a First Amendment right to unlimited access to a foreign arena in which American military forces are engaged" (*Nation Magazine*, 1991, p. 1561)?

#### *What Nation Did, and Did Not, Settle*

There were two fundamental questions in the *Nation* suit: do courts have jurisdiction over the military's control of the press, and if so, were the Gulf War restrictions constitutional? Whether a court could even entertain a challenge to the military hinged on three points: whether the plaintiffs had standing to file the complaint, whether it was a political question rather than a judicial question, and whether the issue had become moot.

The first task of the plaintiffs was to establish that the suit represented a complaint capable of judicial resolution, and that the plaintiffs had in fact suffered injury because of the defendants' actions. That the court, if it chose, could resolve the issue by striking down the press guidelines was clear. The plaintiffs claimed damage to their First Amendment rights to publish and Fifth Amendment guarantee of due process. The court found the plaintiffs to have standing to file the suit (*Nation Magazine*, pp. 1559 and 1561).

The second point concerned whether the issue was actually a political question disguised as a judicial matter. While noting that civilian courts have long been reluctant to intrude into military affairs, the *Nation* court observed that in this case the plaintiffs were not challenging "this

country's military establishment, its goals, directives or tactics" (*Nation Magazine*, 1991, p. 1567) but rather objecting to the controls on newsgathering. Accordingly, the court determined this case to be a judicial question.

The press restrictions had been lifted by the time this case was heard, and the final point was whether the complaint had been rendered moot. Although an earlier case against the press restrictions in Grenada had been thrown out on this ground (*Flynt v. Weinberger*, 1984; Kenealey, 1992, p. 295), the *Nation* court observed that the question was likely to arise again in the next war. An exception to the mootness principle occurs when the injury is too short in duration to be litigated before it stops, but may occur again; that is, the action is "capable of repetition, yet evading review" (*Nation Magazine*, 1991, p. 1568). The court found that even though the provocation for the suit had been removed, the issue itself was not moot.

Having heard the case, the court denied the requests for injunctive and declarative relief. The decision was handed down after the cessation of hostilities and the lifting of the press restrictions; an injunction was pointless by then. The decision noted that an issue such as this was likely to arise in a future conflict, which would suggest declarative relief. Nonetheless the court refused to rule on the constitutionality of the particular restrictions used in the Gulf War, seeming to defer to future action by the Supreme Court (see *Nation Magazine*, 1991, p. 1560). While the decision was not satisfactory to those advocating an absolute right of press access, *Nation* did establish precedent for judicial review of military controls on the press. Yes, the media could raise legal challenges to access restrictions and have their day in court.

### *But Which Supreme Court Doctrine Should Apply To Wartime?*

Three doctrines exist which might be applied to press coverage of war: *prior restraint*, *public forum*, and *right of access to information*. Despite some legal commentators' enthusiasm for applying it to the Gulf War restrictions (e.g., Boydston, 1992 & Smith, J. E., 1993) the Supreme Court doctrine of prior restraint, if carefully considered, is not the proper framework. Prior restraint, prohibiting the publication of information in the possession of the press, bears a heavy burden of proof. While the cases of *Schenck v. U.S.* (1919) and *Near v. Minnesota* (1931) had recognized national security interests as justification for prior restraint, the "Pentagon Papers" case, known formally as *New York Times Co. v. U.S.* (1971), established how difficult it would be for the government to make such an argument. There is very little possibility, if the press restrictions were indeed a case of prior restraint, that they would be upheld. The critical point here, however, is that information *gathering*, not publication, was the issue in the Gulf War. The doctrine of prior restraint, while convenient for opponents of the press restrictions, is not appropriate to considering a question of access to information.

Another possibility is the doctrine of the public forum. If the news process is considered to be expressive activity is the military barred from restricting the press activities? The public forum cases protect against government interference in places traditionally open to the public for debate and expression (Smolla, 1992, p. 208-211). By contrast, "the Supreme Court has expressly ruled that military bases are not public fora" (Kenealey, 1992, p. 303). Again, arguing against the Gulf War restrictions on this basis misapplies "a doctrine designed to protect expressive activities to activities that involve the gathering of information" (Cassell, 1985, p. 951).

The doctrines of prior restraint and public forum are tangential to the question at hand. Recent Supreme Court decisions have begun to delineate a limited right of access to information, and it is in this context that the Gulf War restrictions should be considered.

## *The Supreme Court, the Press, and a Limited Right of Access*

The First Amendment guarantees freedoms of speech and publishing. The “Pentagon Papers” case was a ringing endorsement of the freedom to publish, even when the material was obtained illegally. By contrast, a right of the press to acquire information is not so clear cut.

In contrast to the well-established doctrine that prior restraints are presumptively invalid in all but the most extreme circumstances, the right of journalistic access to news, or to places where news is found, is one that the Supreme Court has never even recognized. In fact, many cases expressly state that no such constitutional right exists, except as a figment of publishers’ imaginations (Jacobs, 1992, p. 678).

In particular, there has been no decision on the rights of the press to obtain information on a military operation (Olson, 1992, p. 525). There are a number of decisions granting the press access to government information in nonmilitary situations, but these in fact are quite specific in their application despite much advocacy for a broader right comparable to that of free speech (e.g., Kenealey, 1992, p. 311 & Smith, J. E., 1993, p. 338).

Ironically enough the language suggesting a right of access first appeared in a case in which the Supreme Court denied reporters’ First Amendment claims. In *Branzburg v. Hayes* (1972) the Court rejected journalists’ arguments that the guarantee of a free press implied a right to withhold the names of their confidential sources from a grand jury. While noting that “newsmen have no constitutional right of access to the scenes of crime or disaster when the general public is excluded” (*Branzburg*, 1972, p.p. 684-685), the decision was nonetheless careful to rein in the inference that might have been drawn: “Nor is it suggested that news gathering does not qualify for First Amendment protection: without some protection for seeking out the news, freedom of the press could be eviscerated.” (*Branzburg*, 1972, p. 681). As cautious and limited as the reference may seem, this passage is the source of later assertions that a right of access exists.

The Court directly took up the question of a putative right of access two years later in *Pell v. Procunier* (1974) and *Saxbe v. The Washington Post Co.* (1974). Both cases dealt with reporters’ demands to conduct interviews with prison inmates, requests which had been denied by state and federal prison authorities. In both cases the embryonic right of access fared badly: the Court determined that no violation of the First Amendment had in fact occurred. The decision in *Pell*, written by Justice Potter Stewart (*Pell v. Procunier*, 1974), makes a sharp distinction between the press’ freedom to try to obtain information and a government obligation to provide sources.

It is one thing to say that a journalist is free to seek out sources of information Not available to members of the general public....It is quite another thing to suggest that the Constitution imposes upon government the affirmative duty to make available to journalists sources of information not available to members of the public generally (p. 834).

While the press had no luck in getting access to restricted areas of prisons (*Pell v. Procunier*, 1974; *Saxbe v. Washington Post Co.*, 1974; *Houchins v. KQED*, 1978), it fared much better with

regard to criminal trials. Two cases, *Richmond Newspapers, Inc. v. Virginia* (1980) and *Globe Newspaper Co. v. Superior Court for the County of Norfolk* (1981) established that government restrictions on access to trials must satisfy a stringent three-part test.

In *Richmond Newspapers* the Court found that the press indeed had a right to attend criminal trials, just as the public did. The decision, written by Chief Justice Burger, noted that “a presumption of openness adheres in the very nature of a criminal trial under our system of justice” (*Richmond Newspapers*, 1980, p. 573). A separate concurrence by Justice Stevens broadened the scope considerably: “the First Amendment protects the public and the press from abridgment of their rights of access to information about the operation of their government” (*Richmond Newspapers*, 1980, p. 584). Justice Brennan in his separate concurrence supported “the special nature of a claim of First Amendment right to gather information” (*Richmond Newspapers*, 1980, p. 586) (\*3).

Details of how the government would have to justify restricting access were forthcoming in *Globe Newspaper* (1981). The Court struck down a Massachusetts law excluding the press from trials of sex crimes involving minors, again affirming that trials were presumptively open to the public, and that the press performed a valuable service in bringing information to the public. Justice Brennan’s majority opinion delineated three points on which the question of press access turned: “the criminal trial historically has been open to the press and general public” (*Globe Newspaper*, 1981, p. 605); “the right of access to criminal trials plays a particularly significant role in the functioning of the judicial process and the government as a whole” (*Globe Newspaper*, 1981, p. 606); denial of access must be “necessitated by a compelling governmental interest, and...narrowly tailored to serve that interest” (*Globe Newspaper*, 1981, p. 607).

Not all justices shared Justice Brennan’s apparent enthusiasm for looking at the big picture. Justice Sandra Day O’Connor’s separate concurrence in *Globe* specifically disclaimed any broader applicability of the decision: “I interpret neither *Richmond Newspapers* nor the Court’s decision today to carry any implications outside the context of criminal trials” (*Globe Newspaper*, 1981, p. 611). The dissent of Justices Burger and Rehnquist criticized the majority opinion’s “expansive interpretation” (*Globe Newspaper*, 1981, p. 613).

Given the ambiguity whether the *Globe* decision should extend to press coverage of war, it is not surprising that the *Nation* court was so reluctant to apply it to the Gulf War restrictions. Nonetheless, legal scholars, eager for a broad statement of principle, have looked to *Globe* to provide guidance, variously arguing that *Globe* supports both positions on the constitutionality of the restrictions (for example, Boydston 1992, p. 1098; Cassell, 1985, pp. 958-959; Kenealey, 1992, p. 309; Smith, J. E., 1993, pp. 309-311). Both sides seem ready to accept the applicability of *Globe* to the Gulf War access restrictions, and argue the specifics.

The three conditions of the *Globe* decision can be generalized in this way: First, a claimant [of access] must show that the place ‘historically had been open to the press and general public.’ Second, the right of access must ‘play a particularly significant role’ in the functioning of the process in question and of the government as a whole. Finally, if these two elements have been satisfied, access may be denied if the government establishes that ‘the denial is necessitated by a compelling governmental interest, and is narrowly tailored to serve that interest’ (Cassell, 1985, pp. 958-959).

If the assumption is made that the *Globe* test is applicable to situations beyond criminal trials, as lower courts have subsequently done (Kenealey, 1992, pp. 309-311), the question becomes whether the Gulf War combat theater was exempt from press access under the terms outlined above. The first prong of the *Globe* test requires an examination of how war has traditionally been covered by the American press.

### **The Historical Context: A Brief Look At American War Reportage**

Reportage of early conflicts in America's history was both unrestricted and haphazard, with much of the press' information coming from soldiers' correspondence (Kenealey, 1992, pp. 312-313). Prior to the Civil War, reports from the battlefield were so slow to arrive that there were few concerns about their threat to military security (Jacobs, 1992, p. 679; Olson, 1992, p. 514). With the introduction of the telegraph and the professionalization of the press in the first half of the nineteenth century, the situation changed dramatically. Both postpublication sanctions and access restrictions were common during the Civil War in the North and the South. Government control of the press extended even to the extreme of shutting down newspapers (Boydston, 1992, pp. 1076-1077; Jacobs, 1992, p. 680).

Press restrictions during the Spanish-American War also seem harsh by present-day expectations. "Censors were stationed at key telegraph offices to monitor incoming dispatches, although reporters remained free to roam the battlefield" (Jacobs, 1992, p. 680). The timeliness of telegraphed dispatches created a new strategic value in the information; the government response was to control the content of the dispatches at the point of a technological bottleneck.

Similar restrictions continued during World War I. While they could travel freely in the theater of operations of the American Expeditionary Force, American reporters were required to obtain accreditation, one condition of which was that "[t]he newspaper representative was to submit all correspondence, except personal letters, to the press officer or his assistant...and, the correspondent agreed to accept the press officer's instructions as to further censorship rules from time to time" (Boydston, 1992, p. 1078)(\*4). During this time the Supreme Court upheld a number of convictions under the Espionage Act of 1917, which prohibited certain antiwar expressions. While most cases concerned speakers and pamphleteers (Franklin, 1987, p. 47; Hixson, 1989, pp. 288-298), the editors of two German-language newspapers were held to have violated the Espionage Act by publishing material disparaging the American military (*Schaefer v. U.S.*, 1920). This war saw two innovations in shaping the war coverage: "the public information specialist and a bureau to issue war reports" (Jacobs, 1992, p. 681).

Press pools were widely used for the first time in World War II (Olson, 1992, p. 516). Reporters were allowed to travel relatively freely, although not completely without restrictions (Cassell, 1985, p. 939). Again, the trade-off took the form of censorship. President Roosevelt set up the United States Office of Censorship, which "instituted a system of voluntary self-censorship for the press and issued *A Code of Wartime Practices for the American Press*" (Boydston, 1992, pp. 1079-1080). While censorship was nominally voluntary, field commanders had latitude in controlling the flow of news information, and some imposed harsh restrictions (Jacobs, 1992, p. 682). In addition, the price of accreditation as a correspondent was signing an agreement to submit all copy for military review (Cassell, 1985, p. 938), as it had been during World War I.

In Korea, press censorship initially was voluntary (Boydston, 1992, p. 1080). Criticism of the American command's performance so outraged General Douglas MacArthur (Olson, 1992, p.

518) that the journalists themselves eventually requested a formal system of censorship (Cassell, 1985, p. 940). To journalists, censorship was a protection from the wrath of MacArthur, described as “You-write-what-you-like-and-we’ll-shoot-you-if-we-don’t-like-it” (Jacobs, 1992, p. 683).

The Vietnam War stands alone in American journalistic history in terms of freedom of access, freedom from review of dispatches, and even logistical support in getting reporters to the battlefield.

In previous conflicts, censorship was uneven but pervasive. During the Vietnam War, however, the Pentagon imposed neither censorship by restricted access nor censorship by prepublication review... Reporters were free to venture almost anywhere at any time and to write about whatever interested them (Jacobs, 1992, pp. 683-684).

The price of this unprecedented freedom was merely voluntary adherence to a set of guidelines regarding military security (Boydston, 1992, p. 1081). Relations between the military command and the press deteriorated as the press reports became progressively more critical, and “while war correspondents had traditionally served as instruments of their country, press boosterism slowly and painfully eroded” (Jacobs, 1992, p. 684). Television reportage was a potent weapon in the newly adversarial relationship between the press and the military: “graphic war footage and stories of American atrocities undermined the public’s will to support the war” (Olson, 1992, p. 519). Despite the controversy connected with this war, the military never instituted any form of censorship other than voluntary security guidelines, although some actions were conducted in secrecy, notably the bombing of Laos and Cambodia in 1969 and 1970 (Cassell, 1985, p. 942).

The 1983 action in Grenada marked a different kind of first: reporters were not allowed to accompany an invasion force. On the third day of the operation, a group of reporters was escorted around the island for a few hours. Full press access to Grenada did not come until the sixth day, when the fighting was effectively over (Kenealey, 1992, pp. 316-317; Olson, 1992, pp. 520-521). Journalists railed against these restrictions, yet the public seemed by and large to support the policy (Cassell, 1985, pp. 944-945).

Press furor took two forms: a lawsuit and editorial complaints. The lawsuit, *Flint v. Weinberger* (1984), was dismissed by a federal district court as moot, and the finding upheld on appeal (Jacobs, 1992, p. 715; Olson, 1992, pp. 525-526). The bitter complaints of the press led the military to convene a panel to develop policy on wartime press coverage. The Sidle Panel, named after its chairman, retired Major General Winant Sidle, produced a set of recommendations, including “the largest possible pooling procedure to be in place for the minimum time possible” and “voluntary compliance by the media with security guidelines or ground rules established and issued by the military” (Cassell, 1985, p. 946).

The press’ cautious acceptance of the Sidle Panel’s report evaporated with the 1989 operation in Panama. The press pool was not allowed to accompany the first invasion forces, and once in Panama was again delayed for military escorts and transportation (Olson, 1992, p. 522). Again, the action was of short duration, and the serious fighting was over by the time the press had the opportunity to visit the battlefield (Boydston, 1992, p. 1083; Smith, J. E., 1993, p. 300).

The Persian Gulf War continued pooling, military escorts, and review of the dispatches (\*5). The major objections of the press concerned restricted access in the form of pooling, delays in the transmission of stories for copy review, and military escorts’ interference in reporters’

interviews with the troops (Dennis, Stebenne, Paulik, Thalhimer, LaMay, Smillie, FitzSimon, Gazsi, & Rachlin, 1991, p. 19), although some journalists working outside the press pools claimed they were harassed by members of the armed forces (Committee to Protect Journalists, 1992, pp. 167-169). Censorship *per se*, however, was minimal. Few stories were altered as a result of military review (Dennis *et al.*, 1991, pp. 26-30), and the guidelines provided that the news organizations, not the military, would make the final determination in the event of a dispute (*Nation Magazine*, 1991, pp. 1577-1578) (\*6).

Last-minute diplomatic initiatives were able to avert war in Haiti in the fall of 1994, but the Department of Defense had prepared for a full-scale military invasion. Press guidelines were similar to those in the Persian Gulf War, and again included provisions for military escorts, review of reporters' copy for violations of the security ground rules, and a requirement that reporters obtain accreditation before being allowed access to the front (U.S. Department of Defense, 1994a) (\*7). The media ground rules were also similar to those issued during the Gulf War, and in addition to detailing specific kinds of information that could not be reported without jeopardizing the correspondent's accreditation, left open the options of restricted access and press pools (U.S. Department of Defense, 1994b)(\*8).

### **Military Operations and the *Globe* Newspaper Test**

#### *Is There a Tradition of Openness?*

That criminal trials have historically been open is clear. Battlefields and military bases, however, are not presumptively open to the public as are trials and public fora. While control over making war and funding military forces is firmly in civilian hands, a power tracing back to Article I, Section 8 and Article II, Section 2 of the Constitution, in fact there is *not* a tradition of complete public access to areas in which the military operates, nor complete public access to information in possession of the military. If the *Globe* test is taken literally, "there is no tradition of *public* openness" with regard to military operations (Cassell, 1985, p. 959).

While the general public has not enjoyed access to the battlefield since the early engagements of the Civil War, an argument can be made that the press acts as a surrogate for the public in its scrutiny of government activities. Justice Powell's dissent in *Saxbe* (1974) makes such an argument.

In seeking out the news the press therefore acts as an agent of the public at large...By enabling the public to assert meaningful control over the political process, the press performs a crucial function in effecting the societal purpose of the First Amendment (p. 863).

Thus, situations historically open to the press might be construed as, in effect, open to the public. Accredited correspondents have long had some kind of access to war. If not to the public itself, is there a tradition of openness to the press? Press complaints about the Pentagon's restrictions in the Gulf War were long, loud, and often adversarial (e.g., Browne, 1991; Cronkite, 1991; Kurtz, 1991;

---

Rykken, 1991; Schanberg, 1991). Review of the historical context of American press coverage of warfare, however, suggests that the Gulf War restrictions were neither extraordinary nor

unusually restrictive by comparison to the heavy-handed controls frequently in place prior to the Vietnam War; in fact, “wartime regulation of the press is hardly a recent development” Jacobs, 1992, p. 677). While some writers decry the pool coverage begun in the Grenada action as an unconstitutional encroachment on the press freedom benchmarked by Vietnam (e.g., Smith, J. E., 1993) it is historically more accurate to see Vietnam as the exception rather than the rule (Jacobs, 1992, pp. 683-684).

The pool coverage system used in the Persian Gulf, Grenada, and Panama is not simply a regression of a historical trend of ever-freer press coverage of combat. There are two distinct trends moving in opposing directions: access to the front has become more restrictive, as interference with news copy has become less restrictive. Some would rather the press gain greater access at the expense of censorship (Cronkite, 1991); others fear that demands for greater access may bring exactly that trade-off (Cassell, 1985; Jacobs, 1992). Regardless of how one might feel about the desirability of the situation, in fact “the press has been able to view wartime operations only at the sufferance of the military” (Cassell, 1985, p. 959, footnote 210), and courts have rightly been reluctant to second-guess “when the cost of judicial error is so high” (Jacobs, 1992, p. 703).

The complaints of some journalists that the military was unwilling to accredit a sufficient number of correspondents to properly cover the war are simply not warranted; there were more correspondents in the field during the Gulf War than in Vietnam.

In the end, an average of 165 reporters and support personnel were put into U.S. units in fourteen pools and allowed to cover the [Gulf] war. By comparison, of the 461 reporters with the Eisenhower HQ in England, only twenty-seven eventually went with U.S. forces on D-Day. By the media’s own estimates, there were never more than seventy-five reporters out ‘in the bush’ under fire at any one time in Vietnam (Sherman, 1992, p. 647).

Nor is it credible to suggest, for instance, that coverage of World War II was open objective (see Fussell, 1989), while the Persian Gulf coverage was made-to-order government propaganda (see Parenti, 1993, pp. 163-171). In military operations other than Vietnam, the press enjoyed access only at the cost of censorship of its copy, which is no longer a legally or socially palatable tradeoff.

### *Is Press Access Significant to the Process?*

It is hard to argue that public scrutiny helps the military in the conduct of war; on the contrary, secrecy is of prime operational importance (Ciausewitz, 1832/1’993, pp. 233-234). One of the few exceptions the Supreme Court has recognized to the First Amendment right of free speech concerns matters of national security during wartime.

When a nation is at war many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight and that no Court could regard them as protected by any constitutional right (*Near v. Minnesota*. 1931, p. 716).

The communication technology used in contemporary journalism is radically different from that used in earlier wars (Sherman, 1992, pp. 636-637), chiefly in the speed with which field reports are processed and disseminated (\*9). The heightened security concerns of the military are well founded: real-time news broadcasts eliminate any possibility of security review of the material before it becomes public. Technology changes have been significant not only in the news process, but in the conduct of warfare. Smart bombs and stealth fighters illustrate the strategic importance of information to modern warfare. The more technology dependent warfare becomes, the more critical is the control of technical information and the more difficult the task of controlling it (Smolla, 1992, p. 304).

Now that global television coverage is commonplace, news broadcasts can easily serve as intelligence for the enemy: "even the most careless newspaper reporter has her work scanned by editors, while the remarks of a television reporter broadcasting live go unchecked, straight from her mouth to Saddam Hussein's ears" (Jacobs, 1992, p. 709). In World War II, a serious breach of the security guidelines occurred when a reporter revealed that the Allies had been able to crack the Japanese naval code (Jacobs, 1992, p. 682). No apparent harm came of the article, which was published in the *Chicago Tribune*, but the potential damage of a comparable television story today is clearly much greater. In the Gulf War, a story on how the Air Force located and destroyed Iraqi tanks was subsequently judged by the military to have breached security guidelines, and the information may well have been useful to the Iraqi forces (Dennis *et al.*, 1991, p. 20). More recently, a television news executive, explaining CNN's decision to delay reporting on military planes taking off for Haiti, acknowledged the unique ability of live television coverage to compromise a military operation: "Unlike the print process, our work is instantly available to global eyes: friend, foe, neutral alike" (Turner, 1994).

Such a dramatic increase in the speed of transporting some material (in this case, information about warfare) is likely to produce a crisis in the control of that material (Beniger, 1986). The speed and geographical coverage of satellite communications have effectively rendered the traditional security controls over reporters' copy obsolete, chiefly by eliminating opportunities to review the copy before broadcast. With little or no time remaining between the origination of the pictures and reception by worldwide viewers, the military's access restrictions can fairly be seen as the attempt to rebuild a control mechanism capable of satisfying its legitimate need for secrecy.

Beyond the strategic concerns of the military is the larger context: the role of public information in policy formation and implementation. While war needs to be waged in relative secrecy, our form of government requires policy to be formed in relative openness. The dilemma is that while "[s]peech concerning national security is unique in its potential for catastrophe...[s]ecrecy is the antithesis of free speech and an anathema to an open democracy" (Smolla, 1992, p. 303).

In the late twentieth century the prevailing image of the press is that of watchdog: the press provides the checking force on the three branches of Federal government (Stewart, 1982; Boydston, 1992, p. 1096), guarding against possible abuses of power. This is essentially a reformist role (Gans, 1980, pp. 68-69); the value of the press to the public is that it draws attention to undesirable governmental policies or actions and stimulates change. The tie between the press and various reform movements is a long-standing tradition, elating back to the middle 1800's (Dicken-Garcia, 1989, pp. 40-41). While the press can exert influence on public discourse in various ways, including agenda-setting and issue framing (Iyengar & Simon, 1993), the essence of the press' challenge to the power structure is its demand for self-reform. The news industry's protests about the Gulf War restrictions are good examples of such calls for change (\* 10).

A source of frustration to the press, in fact, is the public's acceptance of the restrictions (Dennis *et al.*, 1991, p. 82 ff.). Far from seeing the constraints on information flow as a violation of either their right to know or their vital interest in monitoring the government's actions, ordinary citizens for the most part reacted favorably (\*11). While the press may have seen a righteous conflict between itself and the military (e.g., Browne, 1991), the public clearly wanted the press to play on the military's team.

The military's aversion to microscopic scrutiny by the press has at least some basis in the way the press chooses to cover war, and in the recognition that the commercial environment of the news media can drive the coverage toward "a sensationalized focus on emotional issues...in a desperate search for high ratings" (Sherman, 1992, p. 638). Battlefield reports can easily exaggerate the importance of a single event or viewpoint at the expense of the deeper policy issues (\*12). Journalists may not completely understand military situations, yet their commentary can carry a weight disproportionate to their expertise. One military expert noted that in the Gulf War coverage "[a] gross mistake repeated over and over tended to gain a level of legitimacy" (Smith, P.M., 1991, p. 131).

The government's concern about the effect of press coverage on the home front is longstanding, and realistic. The carnage of warfare is something the American public has not confronted directly since the Civil War; American soil has never been the target of aerial bombing, a painful memory in other parts of the world. On the whole, war reportage has spared the public the very most grotesque images of war (See Fussell, 1989, for rather unvarnished descriptions of the anatomical remains of battle.)

Faced with graphic evidence of the horror of war, the public may lose the will to wage it (Olson, 1992, p. 519), even though they might agree the situation required such use of brutal force. It is plausible that military operations in the Gulf War might have continued into Iraq (and many now argue that they should have) had the scenes of carnage on the highway out of Kuwait City not come to national attention so dramatically. The images of the air war in the Persian Gulf, on the other hand, seemed cleaner and thus easier to accept, perhaps fulfilling a hope that "the war could be won by shrewd Yankee technological expedients, like, for example, bombing from costly airplanes flying at safe altitudes" (as Fussell, 1989, p. 13 comments about World War II).

While it is a tribute to our humanity that we abhor the brutality to which war coverage bears testimony, that emotion may not always be the wisest basis on which to debate waging war, or to decide military strategy once combat has begun.

Kind-hearted people might of course think there was some ingenious way to disarm or defeat an enemy without too much bloodshed, and might imagine this is the true goal of the art of war. Pleasant as it sounds, it is a fallacy that must be exposed: war is such a dangerous business that the mistakes which come from kindness are the very worst (Ciausewitz, 1832/1993, pp. 83-84).

If the primary reason for a free press is "its function of providing information to the public so that the citizenry may adequately govern" (Kenealey, 1992, p. 320) the information being provided must be appropriate to that governance. Even if the press has unimpeded access to the front, the public is still not guaranteed that it will obtain information useful for reasoned consideration of policy.

Broadly speaking, disputes over the use of American troops often will center not on precisely what the troops were doing or what the conditions surrounding their involvement were, but rather on the propriety of using force as an instrument of national policy. In such disputes, press access to the battlefield is simply irrelevant (Cassell, 1985, p. 968).

It is interesting to note the arenas in which various interested parties chose to contest the issue of the Gulf War restrictions. The progressive news organizations, Congressmen, and academics chose the courts, via the *Nation* suit, as the venue in which to advance their interests. Because they have comparatively less clout in the media marketplace, the institutional level was the best choice for these stakeholders. On the other hand, the mainstream press and the military engaged in the arena of public discourse, via op-ed broadsides on the one hand and public relations strategies on the other. Since public support is “capital” vital to both these heavyweights, we might think of this as a struggle for positional advantage in the marketplace of ideas. Through the lens of an economist, the argument over the Gulf War press restrictions would appear as a negotiation of transaction costs for the interested parties (see Pejovich, 1990, pp. 38-41 for discussion of transaction costs).

Whether in support of a war or in opposition to it, press coverage is at best imperfect information serving an imperfect discourse on matters of utmost importance. If war is best waged in secrecy, and public decisions best made with full knowledge, then military operations exist in a state of tension between those two imperatives. In an open democracy such as America, public opinion about a military operation is of crucial significance to the operation’s success. Changes in communication technology have forced us to reconsider the balance between the need to hide and the need to know.

*Is There a Compelling Government Interest?  
Were the Restrictions Narrowly Drawn?*

The press, for its part, has been adamant in framing the press restrictions as a government power play in an adversarial relationship between itself and the military (for example, Cronkite, 1991; Denniston, 1991; Kurtz, 1991; Rykken, 1991; Schanberg, 1991; Sloyan, 1992), an animosity it says dates back to Vietnam. One journalist comments, “I cannot entirely dismiss from my mind the anti-press cant that has pervaded American military journals and pronouncements ever since the Vietnam War” (Browne, 1991, p. 30). Another is more direct: “The military is acting on a generally discredited Pentagon myth that the Vietnam War was lost because of the uncensored press coverage” (Cronkite, 1991). While the military has repeatedly justified the restrictions on grounds of operational security and protection for the reporters themselves (for example, Gersh, 1991; “Pete Williams Debriefs,” 1991; “Press, Politicians Weigh Coverage,” 1991), many journalists simply do not accept that explanation. The Gulf War restrictions were, in their view, a thinly disguised public relations strategy to keep the home front supportive of the war effort.

So it’s all too clear that the current restrictions have nothing to do with military security and everything to do with political security. Political security requires that the government do as complete a job as possible at blacking out stories that might lead to embarrassment or criticism of the government or to questions from ordinary Americans about the war policy (Schanberg, 1991, pp. 24-25).

Even if the press' deconstruction of the military's pool system is true, and the real intent of the restrictions was to muzzle the kind of critical reportage which fueled public discontent with the Vietnam War, the operational security concerns raised by instantaneous electronic communications still remain.

The problem with the pool system is that it became a convenient tool to reward and punish reporters for the stories they wrote, and to keep journalists from learning embarrassing or unfavorable information. However...the existence of an illegitimate purpose does not negate a legitimate purpose (Jacobs, 1992, p. 722).

It is likely that the press guidelines issued for the Haiti operation in the fall of 1994 would have sparked similar complaints had actual combat broken out. While news executives were pleased that they were able to deploy equipment and correspondents on Haiti in advance of an expected U.S. invasion force (Carter, 1994a), some journalists nonetheless denounced the press guidelines as too similar to those of the Gulf War ("Military Censorship Lives," 1994). It is worth noting, however, that the television networks agreed to a White House request to delay reports that planes carrying paratroopers were en route to Haiti, and cited concern for the success of the operation as the reason (Carter, 1994b).

While some in the press might be willing to volunteer for censorship of television and print reports in exchange for freer access (Cronkite, 1991), the doctrine of press freedom defined by the Pentagon Papers case bars such clear-cut prior restraint. In the final analysis, access restrictions may be the only way to guarantee protection of national security interests when technology has reduced transmission times to nearly zero.

### **And the Bottom Line Is...**

This paper cannot resolve whether there ought to be such a thing as war. History tells us there is, and current events suggest there will be. Since Vietnam the public has a clearer picture of the horrors of war; our struggles over the depiction of war have a direct outcome in our ability to successfully conduct war. The press' interest in showing war in its raw and uncut form is a legitimate interest, as is the military's interest in controlling information. In modern televised warfare, information is armament, not just in the technical and strategic realms but in the effect news stories can have on policy formation.

However deeply the press may feel it is entitled to legal protection from the military's controls, warfare is exempted by the *Globe Newspaper* test. The access restrictions in place during the Persian Gulf War, and those prepared for a possible war in Haiti, were constitutional.

That press access to the battlefield is socially desirable is at least arguable. That such access is a right guaranteed by the First Amendment is contrary to constitutional law. If the press is to win greater freedom in covering war, it will likely fare better in the marketplace of public opinion than in the courts.

### **Notes**

(\*1) While no mainstream news organization chose to challenge the press restrictions in court, the list of plaintiffs in *Nation Magazine* is a who's who of the American progressive journalism

world. Joined in this suit are *Nation*, *Harper's*, *In These Times*, Pacific News Service, *The Guardian*, *The Progressive*, *Mother Jones*, *The L.A. Weekly*, *The Village Voice*, *The Texas Observer*, Pacifica Radio News. Sydney H. Schanberg, E. L. Doctorow, William Styron. Michael Klare, and Scott Armstrong, plus a separate lawsuit filed by Agence France-Presse. The list of interested parties with *amicus curiae* briefs included thirteen members of Congress, the American Civil Liberties Union. Fairness and Accuracy in Reporting, and academics Ben Bagdikian, Todd Gitlin, and Herbert L Schiller, among others. The defendants included Secretary of Defense Richard Cheney, Assistant Secretary of Defense for Public Affairs Peter Williams, Chairman of the Joint Chiefs of Staff General Colin Powell, and President of the United States and Commander-in-Chief of the Armed Forces George Bush. While the mainstream press did not join in this suit (see Parenti, 1993, p. 167 for criticism on this *Nation Magazine v. U.S. Dept. of Defense* nonetheless was fraught with the possibility of kind of defeat for the military.

(\*2) Injunctive relief halts an activity in progress. Declarative relief prohibits the action in the future.

(\*3) The delicate balancing of the public's right to know and the legitimate need to keep certain information confidential is evident in Justice Brennan's concurrence:

[T]he First Amendment has not been viewed by the Court in all settings as providing an equally categorical assurance of the correlative freedom of access to information... Yet the Court has not ruled out a public access component to the First Amendment in every circumstance... [A]ny privilege of access to governmental information is subject to a degree of restraint dictated by the nature of the information and countervailing interests in security and confidentiality (*Richmond Newspapers*, 1980, p. 585-586).

(\*4) Quotation is from an agreement signed by accredited correspondents, cited in Boydston, 1992, p. 1078, footnote 58.

(\*5) Iraqi forces invaded Kuwait on August 2, 1990. American forces were deployed on August 8, followed by the press pool on August 12. On August 26 the pool was abolished and access allowed to all accredited journalists. In advance of the hostilities, the Department of Defense renewed pooling on January 7, 1991 and added review of stories and military escorts to the requirements. The air war began on January 16, and the ground offensive on February 24. Pool coverage of the ground warfare was blacked out for forty-eight hours at the start of the ground campaign; dispatches from correspondents accompanying the ground forces were delayed. Hostilities ceased on February 27, and all press restrictions ended on March 4. (See Olson, 1992, pp. 512-513).

The *Nation* suit was filed on January 10, 1991, prior to the start of the air war, and decided on April 16, 1991, after the restrictions had been lifted.

(\*6) The full texts of the ground rules, media guidelines, and operating policies of the press pools appear in the appendices of *Nation Magazine*, 1991, pp. 1575-1582.

(\*7) Note the following passages from the Defense Department's "Guidelines for News Media,"

issued September 16, 1994:

Media representatives are asked to assist the operation by blacking out network broadcasts from launch points prior to the landing of forces in the area of operation.... Do not approach military personnel, especially during hours of darkness, without express military approval....News media representatives who are not accredited with the Joint Task Force Joint Information Bureau (JTB) will not be permitted into forward areas....Security at the source will be the primary and desired means of protecting the operations security of the mission and enforcing the media ground rules.

(\*8) Note the following passage from the Defense Department's "Haiti Operation Media Ground Rules," issued September 16, 1994:

...the media will be provided timely access to the operation, subject to operations security and legal consideration. However, situations may arise in which movement of news media representatives will be restricted or in which a media pool is necessary.

(\*9) A survey of news executives listed ten new communication technologies the press used in the Gulf War: electronic mail and computer-to-computer communications; digital transmission of still photographs; facsimile transmission; portable satellite telephones; remotely sensed satellite imagery; frame capture of video images to print; laptop computers; international data transmission networks; flyaway satellite uplinks; and computer graphics (Dennis *et al.*, 1991, p. 35). All of these technological changes increase the speed of newsgathering and reporting, which stresses or bypasses the traditional security mechanisms.

(\*10) Not everyone is satisfied with a moderate role for the press. Some critics have charged that despite its assertions to the contrary the mainstream press acts not as a watchdog but as a mouthpiece for government interests (e.g., Parenti, 1993; Solomon, 1992), particularly when military operations are concerned. Nonetheless, it is hard to discount the stridency of the mainstream press' protests about the Gulf War restrictions simply because the protests operated within the "system."

(\*11) Even while aware that the government had withheld information about the war from them, 57% answered "give military more control" to a January 1991 *Times Mirror* poll question whether the government or the press should exert more control over the Gulf War reporting. In the same survey, another item asking "do you think the United States military is hiding bad news (about the Gulf) from the public or do you think it is telling the public as much as it can under the circumstances?" generated a 78% response of "telling as much as it can" (Milavsky, 1991, p. 32). If the wartime polls on news coverage constitute something of a referendum on the press restrictions, there is ample reason to believe a majority of Americans "feel that censorship for national security is more important than the media's ability to report the news the way it wants to report it" (Lichter, 1991, p. 2).

That the public entrusted the government with a higher degree of control over information during the Gulf War than it would tolerate in peacetime is not unprecedented. A poll taken during World War II showed 55% of the respondents supported "having official government

spokesmen write the war news for the papers and broadcast it over the radio” (Milavsky, 1991, p. 32).

(\*12) The dramatic change in U.S. policy goals in Somalia following the publication of pictures of mistreated American casualties is illustrative of the potency of news coverage in public dialogue about war (see, for instance, Gordon & Friedman, 1993). This relationship between the press and government policy is not unique to the United States, but a characteristic of a political system which allows a free press in an age of electronic communications (e.g., Erlanger, 1994 on the impact of the newly-free Russian press on government efforts to suppress a rebellion in Chechnya).

## References

- Beniger, J. R. (1986). *The control revolution*. Cambridge, MA: Harvard University Press.
- Boydston, M. D. (1992). Press censorship and access restrictions during the Persian Gulf War: A First Amendment analysis. *Loyola of Los Angeles Law Review*, 25, 1073-1106.
- Branzburg v. Hayes*, 408 U.S. 665 (1972).
- Browne, M. W. (1991, March 3). The military vs. the press. *New York Times Magazine*, pp. 27-30, 44-45.
- Carter, B. (1994a, Sept. 18). TV ready for battle, with high-tech access. *New York Times*, p. 13.
- Carter, B. (1994b, Sept. 20). Networks held back the news that invasion planes were headed for Haiti. *New York Times*, p. A12.
- Cassell, P. G. (1985). Restrictions on press coverage of military operations: The right of access, Grenada, and “off-the-record” wars. *Georgetown Law Journal*, 73, 931-973.
- Clausewitz, C. von (1993). *On war* (M. Howard & P. Paret, Trans.). New York, NY: Knopf.
- Committee to Protect Journalists. (1992, March). *Attacks on the press*. New York, NY: Author.
- Cronkite, W. (1991, February 25). What is there to hide? *Newsweek*, p. 43.
- Dennis, E. E., Stebenne, D., Pavlik, J., Thalhimer, M., LaMay, C., Smillie, D., FitzSimon, M., Gazsi, S., & Rachlin, S. (1991). *The media at war: The press and the Persian Gulf conflict*. New York, NY: Gannett Foundation.
- Denniston, L. (1991, March). Suing the Pentagon for access to war. *Washington Journalism Review*, p. 48.
- Dicken-Garcia, H. (1989). *Journalistic standards in nineteenth-century America*. Madison, WI: University of Wisconsin Press.
- Erlanger, S. (1994, December 20). Russians watch first war on uncensored TV, to Yeltsin’s alarm. *New York Times*, p. A14.
- Flynt v. Weinberger*, 588 F. Supp. 57 (1984), *affirmed in part, vacated in part*, 762 F. 2d 134 (D.C. Cir. 1985).
- Franklin, M. A. (1987). *Cases and materials on mass media law*. Mineola, NY: Foundation Press.
- Fussell, P. (1989). *Wartime*. New York, NY: Oxford University Press.
- Gans, H. J. (1980). *Deciding what’s news*. New York, NY: Vintage Books.
- Gersh, D. (1991, April 6). Pentagon spokesman speaks. *Editor & Publisher*, pp. 16-17.
- Globe Newspaper Co. v. Superior Court for the County of Norfolk*, 457 U.S. 596 (1981).
- Gordon, M. R., & Friedman, T. L. (1993, October 25). Disastrous U.S. raid in Somalia nearly succeeded, review finds. *The New York Times*, pp. A1 & A10.

- Gulf War access cases dismissed. (1991, Spring). *The News Media and the Law*, pp. 35-36.
- Helle, S. J. (1995). Libertarianism and neoliberalism in First Amendment law. In J. C. Nerone (Ed.), *Last rights: Revisiting Four Theories of the Press* (pp. 52-62). Urbana, IL: University of Illinois Press.
- Hixson, R. (1989). *Mass media and the Constitution*. New York, NY: Garland.
- Houchins v. KQED*, 438 U.S. 1 (1978).
- Iyengar, S. & Simon, A. (1993). News coverage of the Gulf Crisis and public opinion: A study of agenda-setting, priming, and framing. *Communication Research*, 20(3), 365-383.
- Jacobs, M. T. (1992). Assessing the constitutionality of press restrictions in the Persian Gulf War. *Stanford Law Review*, 44, 675-726.
- JB Pictures, Inc. v. United States Department of Defense*, 927 F.2d 1257 (D.C. Cir. 1991).
- Kenealey, K. P. (1992). The Persian Gulf War and the press: Is there a constitutional right of access to military operations? *Northwestern University Law Review*, 87(1), 287-325.
- Kurtz, H. (1991, May 14). News chiefs vow to resist Pentagon war coverage rules in future. *The Washington Post*, p. A4.
- Lichter, S. R. (1991). *Keeping the news media honest: How the news media covered the war* (Heritage Lecture No. 347). Washington, D.C.: Heritage Foundation.
- Milavsky, J. R. (1991, March/April). The war, the media, and the public. *The Public Perspective: A Roper Center Review*. pp. 29-32.
- Military censorship lives (1994, September 21). *New York Times*, p. A22.
- Nation Magazine v. United States Department of Defense*, 762 F. Supp. 1558 (S.D.N.Y. 1991).
- Near v. Minnesota*, 283 U.S. 697 (1931).
- New York Times Co. v. U.S.*, 403 U.S. 713 (1971).
- Olson, K. T. (1992). The constitutionality of Department of Defense press restrictions on war-time correspondents covering the Persian Gulf War. *Drake Law Review*, 41, 511-535.
- Parenti, M. (1993). *Inventing reality*. New York, NY: St. Martin's Press.
- Pejovich, S. (1990). *The economics of property rights: Towards a theory of comparative systems*. Dordrecht, The Netherlands: Kluwer.
- Pell v. Procunier*, 417 U.S. 817 (1974).
- Pete Williams debriefs the press (1991, March 18). *Broadcasting*, p. 26.
- Press, politicians weigh coverage restrictions (1991, February 25). *Broadcasting*, pp. 52-53.
- Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980).
- Rykken, R. (1991, April). War over, the press looks back. *Presstime*, pp. 40-41.
- Saxbe v. Washington Post Co.*, 417 U.S. 843 (1974).
- Schaefer v. U.S.*, 251 U.S. 466 (1920).
- Schanberg, S. H. (1991, March). Censoring for political security. *Washington Journalism Review*, pp. 23-26, 53.
- Schenck v. U.S.*, 249 U.S. 47 (1919).
- Sherman, M. T. (1992). Forgive us our press passes. *St. John's Law Review*, 66, 633-648.
- Sloyan, P. J. (1992). Press restrictions during the Gulf War: "Hail Fredonia." *St. John's Law Review*, 66, 649-654.
- Smith, J. E. (1993). From the front lines to the front page: Media access to war in the Persian Gulf and beyond. *Columbia Journal of Law and Social Problems*, 26, 291-339.
- Smith, P.M. (1991). *How CNN fought the war*. New York, NY: Carol Publishing Group.
- Smolla, R. A. (1992). *Free speech in an open society*. New York, NY: Alfred A. Knopf.
- Solomon, W. S. (1992). News frames and media packages: Covering El Salvador. *Critical*

*Studies in Mass Communication*, 9, 56-74.

Stewart, P. (1982). Or of the press, In D. L. Brenner & W. L. Rivers (Eds.), *Free but regulated: Conflicting traditions in media law*. Ames, IA: Iowa State University Press.

Turner, E. (1994, Sept. 28). In Haiti reporting, CNN acted responsibly. *New York Times*, p. A20.

U.S. Department of Defense (1994a, September 16). Guidelines for news media.

U.S. Department of Defense (1994b, September 16). Haiti operations media ground rules.