

WELCOME



DENTON, TEXAS
JUNE 19-21, 2025

LEGAL PRESS GUIDELINES FOR MEDIA

TPA TEXAS PRESS
ASSOCIATION
DENTON, TEXAS
JUNE 19-21, 2025



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I.

PRIOR RESTRAINT

Practically non-existent in Texas. To have prior restraint of press or speech there must be a showing of “clear and present danger.”

II.

RIGHT NOT TO PUBLISH

- A. Private print media: absolute**
- B. Government-owned media: no discrimination**
- C. Broadcast media: equal time?**

III.

ADVERTISING

- A. Right to refuse**
 - 1. Subject to existing contracts (Give Notice)**
 - 2. Absolute if you give no reason**
 - 3. Liability if you give wrong reason**
- B. After acceptance, requirements may be imposed**
 - 1. Disclosure on political ads**
 - 2. Prohibition on advertising of illegal activities**
 - 3. Statutory requirements prohibiting discrimination**
 - 4. Estoppel requirement on pricing with prior knowledge of funding**

IV. RIGHT TO GATHER THE NEWS

While there unquestionably appears to be a constitutional right to "gather" the news in Texas, the extent of the right is unclear. There are few Texas court decisions which clearly interpret the newsgathering right. The following are general guidelines based on general law in this regard.

- A. Federal law: The U.S. Supreme Court has recognized the constitutional "right" of newsgathering, subject to balancing by other important interests, primarily the government's right to regulate.
- B. Texas law: Texas courts have not clearly stated the reporter's newsgathering rights, or interpreted the Legislature's statutes in the areas of public access to "non official," but clearly "public" events (i.e., crime, accident and disaster scenes).

IV. RIGHT TO GATHER THE NEWS

C. General Guidelines

1. Reporters cannot be denied the same right of access to information available to the public generally. If a member of the public is allowed access to a certain location or behind police lines, a reporter must be provided the same right.
2. Police may impose nondiscriminating restrictions on access behind an established police line to preserve evidence related to their official investigations and to protect the public safety.
3. A reporter is allowed to pursue his normal newsgathering procedures until restrictions are specifically "ordered" by an authorized officer.

IV. RIGHT TO GATHER THE NEWS

4. The police line should be no larger geographically than necessary to accomplish the task, and any corresponding restrictions on the press should be no greater, or timely, than absolutely necessary.
5. No restriction should be placed on reporters newsgathering outside the police line, unless it clearly interferes with important police functions inside the police line (i.e., "bright" camera lights blinding police officers involved in a standoff, etc.). Normal newsgathering, telephoto photography, etc., from beyond the police line should not be otherwise prohibited.
6. No restriction should be placed on newsgathering in public places, especially when the coverage does not restrict or interfere with government functions (i.e., "live" on-the-scene coverage of crime or accident scenes, photography of accident victims or crime perpetrators, etc.). Any concerns related to privacy, libel, good taste, obscenity, etc., are matters of editorial judgment and discretion on the part of editors, or possible subsequent legal review by the courts. They are not prior restraint matters for concern on the part of government officials.

IV. RIGHT TO GATHER THE NEWS

7. In an attempt to control access, police have no right to seize or confiscate reporters' equipment, cameras, notes, etc.; or require prior censorship as a condition of return. Any such search or seizure must meet 4th Amendment requirements. (SUBPOENA)
8. With regard to "public" events on private property, general "trespass" laws may apply, but should not be used in a manner of prior restraint of a public newsworthy event.
9. Law officers cannot deny or discriminate with regard to press credentials to members of the news media, however "clear and narrow" restrictions may be enforced so that the police can regulate access to emergency situations. Generally, press credentials will be simply for "identification" purposes.

V. REVEALING SOURCES

- A. Qualified privilege
- B. Criminal cases – subject to subpoena
- C. Civil cases
 - 1. Presumption favors press
 - 2. Person seeking information must show "compelling" and "overriding" need with a "clear and specific" showing of high relevancy, critical to claim, and obtainable from no other source.

VI. COPYRIGHT PROTECTION

A. Name, notice, year

1. Life plus 50 years
2. 75 years for publications
3. 3-year statute of limitations
4. Injunction and actual damages

VI. COPYRIGHT PROTECTION

B. Federal registration

1. Two copies to Library of Congress
2. Pay registration fee
3. Cannot file suit until registered
4. Full damages plus attorneys fees

VI. COPYRIGHT PROTECTION

C. Proof required

1. Registration
2. Evidence of date written

D. Made for hire

- C. Belongs to employer - not employee
- D. Subject to contract / non-staff contributions

VII. LIBEL

- A. False statement
- B. Defamatory to reputation
- C. Published with fault

VII. LIBEL

1. Public Plaintiff - actual malice required

(a) Public official

(b) Public figure

(c) Public controversy (very limited application)

(d) Actual malice means: Knowledge of falsity or a reckless disregard to whether it is true or false. Actual malice is: an awareness of probably falsity or serious doubts about its truth. It is not a failure to investigate, it is not failure to do what a responsible journalist would do, it is not ill will by a newspaper reporter. Punitive damages are allowed only if there is proof of actual malice.

2. Private plaintiff - negligence required

A private plaintiff is one who is not a public plaintiff.

VII. LIBEL

D. Defenses to libel

1. Truth or consent
2. Not defamatory/ libel proof

NOTES ON LIBEL

- Correction or retraction: not a defense, but can be used to show no malice to mitigate damages
- Parody (editorial cartoons or satire): if it is so extreme that no one would believe it, there is no libel
- Headlines: worse problem
- Never use the word "libel" or "defamation" on intra office memos, notes, or stories
- Single publication rule in Texas for print media

VII. LIBEL

3. Privileges:

(a) Opinion – fair comment

(b) Correct of factual reporting of:

- Judicial proceedings (not claims)
- Public meeting

4. Neutral reporting

5. Statute of limitations: one year

VIII. INVASION OF PRIVACY

- A. Commercial appropriation: commercial use of person's name or likeness without permission
- B. Intrusion into someone's seclusion: "peeping camera"
- C. Publication of private facts: public has no general right to know
- D. False light: misleading presentation of true facts

VIII. INVASION OF PRIVACY

E. Defenses

1. Truth is not a defense
2. Consent is a defense
3. No expectation of privacy
4. Statute of limitations: two years

IX. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

- A. Continual “badgering”
- B. Statute of limitation: two years

TEST TIME

City has a 5-person council

Three new members of council are elected

Before sworn in they meet privately and decide what they plan to do at their first meeting



TEST TIME

A repeated felon has committed another heinous crime.

The Sheriff and J.P. for security have agreed to a close arraignment.



WHAT IS THE LAW?

TEST TIME

A background image showing a stack of books with various colored spines (yellow, blue, red, green) and pages, slightly blurred to create a sense of depth.

WHAT IS THE
BUCKLEY AMENDMENT?

TEST TIME

The Democratic Sheriff candidate wants to run an ad.

The Republican candidate has run numerous ads and you have endorsed her editorially.

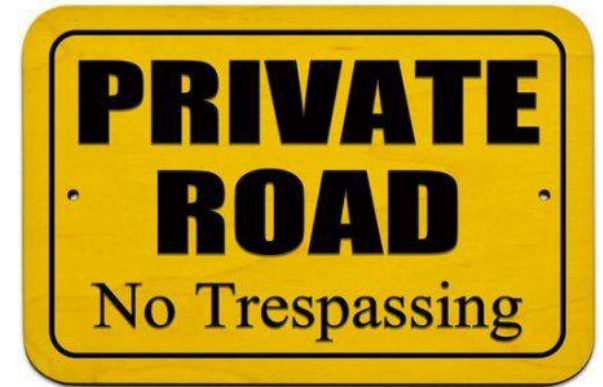


Since you allowed GOP – you must print Democrat ad?

TEST TIME

You follow a firetruck ten miles outside the city to a fire on a private ranch.

There are signs at the ranch gate - Private Road - No Trespassing.



What are your legal options?

LETTERS TO THE EDITOR

1

Mayor and City
Secretary involved in
torrid sexual affair.

-- *Joe Jones*

2

Superintendent has
been stealing from
lunchroom funds.

-- *Mickey Mouse*

3

Fire Chief watches
adult porn every night.

-- *unsigned*

47 U.S.C. SEC. 230(c)

(1) Treatment of Publisher or Speaker

No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

RE-EXAMINE UNDER SOCIAL MEDIA

1

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