

An All Too Common Disrespect for Fundamental Defendant Rights

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The U.S. Constitution guarantees freedom of the press and criminal defendants are assured an "impartial jury." In high profile cases, however, these 1st and 6th amendment guarantees frequently come into conflict.

The press, in such cases, frequently highlight, exaggerate, and sensationalize case details and help to promulgate rumor and innuendo relevant to impending or ongoing notorious cases. Other participants in such cases such as: prosecutors, police, and lawyers sometimes participate in subverting the system through leaks, overzealous press conferences, and media interviews laced with hyperbole and inaccuracy. Sleazy talk show hosts ravenously conspire to present lurid case details, to hype case-related presentations as if they were box office hits, and present case related material in ways that unmistakably poison the available jury pool before the case is litigated or subvert available sub-sequent jury members should the case be retried.

TV and radio ratings, magazine sales, and talk show call-in tallies clearly indicate that the public as consumers also participates in this system subversion. Well, if everyone is contributing to the problem, what is the solution? I believe a significant answer is for everyone to carefully remind themselves that everything we do or say has consequences.

The constitutional right to print or electronically report does **not** require that such reports be exercised. Too often the press exaggerates the need to report and to be the "first" to do so. If I am watching ABC TV or reading the Boston Globe, how am I to know that another TV station got the story out earlier or that another newspaper had the story hours earlier? What real difference does it make anyway? It's a myth: "that to be earlier with the story is to be better" that media outlets use to justify irresponsible and careless activity. Remember the reports of Jim Brady's death occurred when ABC's Frank Reynolds tried to beat his competition. The inaccuracy of that story and the hurt it caused Mr. Brady's family was inexcusable. The public has heard that myth so frequently, many have come to believe it. Joseph Goebbels perfected the view that if you tell a lie often enough, people will come to believe it. If news is genuinely essential for the public to have immediately, all responsible media outlets will include it. The media will likely not take the responsible road until consumers demand it. Public opinion and intolerance for subversions of the system of basic rights for defendants hold the key for change.

Leaks are another tear in the fabric of justice. Reporters claim to have information from "reliable sources," from "sources close to ****," or from "unnamed sources." The public seems to accept these fuzzy references; some having been shown to be totally fabricated. When the public finally demands that all reporters' sources be named, we will have made great progress. Press defenders jump at this claim to announce that that would be the end to many valuable reports; that sources will not supply information if their names are revealed. Nonsense! Yes, many sources will disappear, and good riddance to them! Rumors, unattributed comments, and leaks from cowards unwilling to stand up for what they believe and say are damaging to the credibility of reporters and news outlets, people's reputations, and to the integrity of the criminal justice system. Information suppliers with honorable motives, without a personal axe to grind, and with legal and moral freedom to supply such information will still come forward with their names attached to the story. Reporters will have to work harder; but they can be prouder of their work and the public can feel more assured of an honest report.

Consider this: you may be the next wrongfully accused person in a horrendous case having your reputation smeared, having small details of your life/case exaggerated in prejudicial ways, having innuendo transcend fact, and having your sixth amendment rights which are guaranteed for both your personal legal protection and the system's integrity trashed for a media outlet's profit and publicity and for some prosecutor/police officer to get a few minutes of fame and glory. Is this what we desire that our system stand for? A society is judged by how we treat those in greatest need of help. Anyone accused of a crime [rightly or wrongly] is in dire need for the system to work without prejudice or subversion.