

# THE OBSERVER



Weekly Publication

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*Reporting Accurate and Objective Information Based on Facts, not Theory*

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## ***"And Things Are Not What They Seem"***

(Henry Wadsworth Longfellow)

Freedom of speech and of the press is perceived by one's interpretation by comparison. With this in mind it is clear that reporting sensationalism rather than fact is common. This type behavior for the most part is taken for granted as the accepted practice which leads to the question; does the reporting of sensationalism over fact diminish one's accountability for the actions of others?

As stated in the 1st and 14th Amendments to the Constitution of the United States it is a *Right* to express information, ideas, and opinions free of government restrictions based on content. A modern legal test of the legitimacy of proposed restrictions on freedom of speech was stated in the opinion by Oliver Wendell Holmes, Jr. in *Schenk v. U.S.* (1919): a restriction is legitimate only if the speech in question poses a "*clear and present danger*", for example, a risk or threat to safety or to other public interests that is serious and imminent. Many Cases involving freedom of speech and of the press also have concerned defamation; obscenity and prior restraint.

Any discussion of freedom of the press must distinguish freedom in fact from legal freedom. The principle of freedom of the press as a constraint on government actions against the press can differ from the amount of freedom the press actually exercises at a given time. On the one hand, various social, political, and economic forces may serve to make the press freer in fact than it is in law. Conversely, those same forces may substantially curtail the exercise of a legal freedom.

Legal doctrine has not always translated into public understanding or freedom in fact, but the result of a large number of Supreme Court Cases protecting even harmful and offensive speech in the public forum, and narrowing to virtual disappearance the legal definition of "*obscenity*" has created an environment in which the presence of unpleasant speech and reporting inaccuracies is taken for granted, become acceptable as information to rely upon and without consideration for accountability.

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Courtesy of USAPI | April 28, 2009

### **In The News**

#### **Swine Flu Outbreak Status:**

A novel strain of swine influenza A (H1N1) was detected last week in Mexico, and has spread in the United States. As of 4-28-09, the CDC reports that there have been 91 human cases of this new virus confirmed in 10 States and one death. Other cases are occurring in Mexico, Canada, Israel, New Zealand, Spain, and the United Kingdom. The viruses from the cases are reported to be related to one another and contain a unique combination of gene segments never seen before.

There is currently no available vaccine; the seasonal flu vaccine has not shown to protect against this strain.

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#### **Prior Publications:**

[The Media and Reporting 4.17.09](#)