



# Justice and the Media: Reconciling Fair Trials and A Free Press (Routledge Communication Series)

*Matthew D. Bunker*

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USE THIS FIRST PARAGRAPH ONLY FOR GENERAL CATALOGS... The First Amendment right of free speech is a fragile one. Its fragility is found no less in legal opinions than in other, less specialized forms of public discourse. Both its fragility and its sometimes surprising resiliency are reflected in this book. It provides an examination of how the U.S. Supreme Court has dealt with the problem of restrictions on media coverage of the criminal justice system, as well as how lower courts have interpreted the law created by the Supreme Court. The author explores the degree to which the Court has created a coherent body of law that protects free expression values while permitting reasonable government regulation, and examines the Supreme Court's jurisprudence concerning prior restraints, post-publication sanctions on the press, and their right of access to criminal proceedings.

This is a study of the evolution of constitutional doctrine -- particularly when transported from the rarefied air of the Supreme Court to lower court judges who may not share the values of the jurists above them in the judicial hierarchy. The book's greatest strength lies in its thorough analysis and critique of how judges apply First Amendment doctrine to the complex problem of providing for both a "free press" and "fair trials." Much of the available literature on this topic focuses on legal doctrine, but with attention to the legal rules that emerge from the courts, rather than examining and critiquing the judicial techniques that *produce* those rules. Moreover, although a significant body of scholarship has explored Supreme Court doctrine, this work is one of the few that trace the influence of those doctrines through lower federal court decisions. The hope is to produce a reasonably accurate -- if partial -- picture of how intermediate appellate and trial courts use U.S. Supreme Court doctrine to decide First Amendment cases.

Note: This book is necessarily influenced by the 'round-the-clock' press coverage of the recent O.J. Simpson trial. Although the Simpson case did not make new law, the trial and its outcome seem to be -- at this writing -- an inescapable part of how many people think about these issues. The simple truth, however, is that the Simpson case was an anomaly that has little relation to the everyday concerns of media coverage of the criminal justice system. While the venerable "parade of horrors" can be an effective strategy for the legal advocate, it is not always the ideal way to address larger concerns, particularly when fundamental rights are at stake.

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