

# MASS MEDIA AND SOCIETY

## Libel Law

### Introduction

One of the more confusing areas of media law is privacy law. There are three reasons for this:

1. Privacy law is relatively new . . . only about a hundred years or so. While this is a long time for you and me, it is not long for a law to go through a series of clarifications.
2. Privacy law as it applies to the mass media is not just one law, it is really four tort areas of law.
  - Intrusion into one's private affairs
  - Putting one in a false light
  - Disclosure of private, but embarrassing facts
  - Appropriation of a person's name or likeness or identify for personal advantage.

That would be confusing enough if there was just one set of laws for the nation. Privacy is a state concern and each state has slightly different laws. What we'll look at is a general discussion of the four tort areas.

3. And finally, the Internet and its ubiquity have challenged the notion of privacy because of a lack of control structures.



### Intrusion

The first area is intrusion into a person's seclusion or solitude, or into his/her private affairs. Trespassing onto someone's property or eavesdropping on someone's conversation --including wiretapping-- would be examples of intrusion.

Photographers generally can take photos of anything they can see from a public place, but when they venture onto private property they are intruding. Using a long lens to take photos might be an intrusion under some circumstances, though.

Reporters working under cover are undoubtedly going to invade privacy. Gaining entrance onto privacy under false pretenses is an intrusion. Also taping a conversation without the person knowing it is also an intrusion. So don't tape phone calls or hide that pocket recorder without notifying the person you are talking to.

A newsman's defense for invading privacy in such ways would be an overwhelming newsworthiness.

## **Disclosure**

Another form of invasion of privacy is to publish private and embarrassing facts of an identifiable individual without cause. This would be truthful information (false information might be considered libelous). The media must be sure that publishing the information is newsworthy.

For instance, you may have a reformed prostitute in your town. No one else knows her past and she is not doing anything that would draw undue attention to herself. Why drag out her past?

Or you might have someone running for mayor on a law and order ticket. He is making a big deal about juvenile delinquency and how severely juvenile offenders should be punished. But you find out that when he was a teenager he stole a car for a joy ride, but got off with a slap on the wrist. Since he has set the agenda, his past is certainly newsworthy.

We once had a photo of a student being arrested on campus on an outstanding warrant for failure to appear. Seems his original arrest was for assault with a deadly weapon. He threatened to sue for libel if we ran the photo without his permission. Well, first of all, it was truthful, so it wasn't libelous. The photo was taken from a public sidewalk, so it wasn't intrusion. But it certainly was embarrassing. The editors of the paper had not planned to run the photo until he threatened to sue. An arrest on campus certainly is newsworthy.

## **False Light**

The third type of invasion of privacy is publicity that places the person in a false light in the public's eye. This type of information does not have to meet the defamatory definition of libel, but can cause embarrassment.

A prime example of this situation would be a television crew doing a story on syphilis. Let's say that a report just came out that one in 10 adults is suffering from the sexually transmitted disease. Since television wants pictures, the crew decides to shoot a generic shot of people walking on a busy sidewalk. But when the news story airs and the announcer gets to the one-in-ten figure the picture seems to be focusing on one person stepping off a curb. No one said the person had syphilis, but the impression is certainly there. The person has been painted in a false light.

Or you run across a story about a man who was declared dead at a hospital emergency ward. As they are wheeling him off to the morgue, he suddenly comes to. You could make jokes about the doctor who doesn't know a dead person when he sees one, even if the doctor did everything by the book and 100 out of 100 doctors would have declared the man dead. Nothing false here, but by painting him as a doctor who can't tell a live person from dead person you are creating a false light that could damage the doctor's reputation.

## **Appropriation**

The fourth area of invasion is sometimes the easiest to understand: Appropriation, for your advantage, of someone else's name or likeness or identity.

Most often this comes up in advertising. An advertiser cannot use your picture to promote her

business without your permission. The advertiser cannot run an ad saying you endorse his product without your permission, etc. Celebrities are protected by this, too.

Today another example, especially where the Internet is concerned, is identity theft. You cannot pretend you are someone else. You could, of course, adopt a false identity, but not someone else's identity.

### **Reading Assignment**

You should be reading the chapter on media law in your textbook to get more information about media law and the First Amendment.

### **Exercise**

Outline the four tort areas of privacy law. Include a one-sentence explanation.

Note that when submitting the answer start the subject line with:

**J100x - YourLastName - Privacy**

**Send to rcameron@cerritos.edu**