When Does Press Freedom Cross the Line?

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When does press freedom cross the line?

The case was about two good things: the First Amendment’s guarantee of press freedom and a citizen’s right to privacy. It’s a tension that resonates strongly even now, in a charged political atmosphere full of debate about truth, lies and the role of the media.

But this decision came half a century ago. *Time Inc. v. Hill*, decided in 1967, was the first U.S. Supreme Court case to try to define a balance between privacy and free-press rights. In a case in which the plaintiff was represented before the court by Richard Nixon, the publishing giant won a 6–3 decision.

In a new book, *Newsworthy: The Supreme Court's Battle Over Privacy and Freedom of the Press* (Stanford University Press), Professor Samantha Barbas looks at the case, its sensational beginnings and the broader cultural movements behind it.

"It was a very interesting clash of worldviews over the credibility of the media and how much of a pass we should give the press to publish freely," says Barbas, a legal historian who has written extensively on libel and privacy laws.

"And it came at this historical moment when privacy had emerged as a major concern. The first computers were being used, and there were concerns about data collection and aggregation, marketing, mailing lists. You had a public that was really sympathetic to the idea of privacy. But it was also a time when Americans saw press freedom as something to be proud of, a distinction we had during the Cold War. So these two very powerful forces were in conflict."

From *Newsworthy*:

Nixon prepared obsessively for his performance. He memorized the trial record, relevant precedents, and dozens of law review articles. As the oral argument neared, he set up “skull sessions” – question-and-answer sessions with his colleagues simulating court argument. As Nixon recalled, "I locked myself up in my office for two weeks. No phone calls. No interruptions. I [took] a tremendous amount of concentration." His colleague Goldthwaite Dorr commented, "He did his homework. A lot of them don't, you know. But he made it his own, digested everything. Didn't care if he exposed his own ignorance to learn a thing. He had to know it." According to a profile in *Harper's* magazine, Nixon "lived, breathed, talked, and thought sixteen hours a day about the case... he was to argue before the Supreme Court." Nixon was driven to give the best possible performance in his return to the public stage; whether or not he admitted it, he was also enacting his vendetta against the press.