

# Press Access Rights: Journalists Covering War and Seeking Information at Home

## Seeking Information at Home: A Study of California and Ohio

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## Journalists Access and Safety During War-time: The Dept. of Defense Law of War Manual

Do states tend to rule in favor of those seeking information to uphold their respective public records acts?

These court cases show is the public has a right to know what the government does, most especially when the record is of public concern. Both California and Ohio have shown significant strides in affirming that the public records are for the public and reaffirmed that government has the burden of proof with nondisclosure.

**Ohio:** *National Broadcasting Company v. City of Cleveland (1988)* — “The fact that excepted materials may be contained in records which also contain materials subject to disclosure does not relieve the government of its duty to disclose the non-exempted material.”

*Dayton Newspapers v. City of Dayton (1976)* — “We believe that doubt should be resolved in favor of disclosure of records held by governmental units. Aside from the exceptions mentioned in R. C. 149.43, records should be available to the public unless the custodian of such records can show a legal prohibition to disclosure.”

**California:** *County of Santa Clara v. The Superior Court of Santa Clara County (2009)* — “The public interest in disclosure outweighed the public interest in nondisclosure. The public interest in disclosure was not hypothetical or minimal.”

*California State University, Fresno Association, Inc. V. The Superior Court of Fresno County (2001)* — “The broad definition of public records in Gov. Code, § 6252, subd. (e), of the California Public Records Act is designed to protect the public's need to be informed regarding the actions of government”.

The courts have a history of siding with the government on issues of access and if a case were brought against the government now, against the language used in the manual, it is doubtful the courts would rule in favor of the media.

- *Houchins v. KQED*, 438 U.S. 1, 98 S.Ct. 2588, 57 L.Ed.2d 553 (1978) The First Amendment does not "mandate[] a right of access to government information or sources of information within the government's control."
- *JB Pictures Inc. v. Department of Defense*, 86 F.3d 236 (D.C. Cir 1996) “It is obvious that military bases do not share the tradition of openness on which the Court relied in striking down restrictions on access to criminal court proceedings...thus, unlike the restrictions upheld in *Saxbe* and *Pell*, the Dover policy does not impede acquisition of basic facts, the raw material of a story.”
- *Larry Flynt v. Caspar W. Weinberger*, 762 F.2d 134 (D.C. Cir 1985) “In reaching this conclusion, we have had no occasion to consider whether it is unconstitutional for the government to ban the press from covering military actions where the sole or principal justification offered by the government is the safety of the press (and especially where an allegation is made that the government's actual motivation is to prevent unfavorable press coverage which might influence public opinion)”