



## Justice Talking Listening Guide

### Should Our Fighting Men and Women Have a Right to Free Speech? 9/24/07

When a soldier joins the armed forces, he or she agrees to abide by military law — these rules and regulations are meant to ensure good order and discipline in the military. But what about when it comes to free speech? By putting on a uniform, does a soldier surrender his or her First Amendment rights? Today more and more soldiers are posting their thoughts and feelings in online diaries or blogs, but military officials are beginning to worry that sensitive information could make its way onto the Internet. Tune in to this edition of Justice Talking as we examine whether our fighting men and women have a right to free speech, from blog posts to protests.



**Eugene Fidell**

- Part 1: Justice Talking contributor Monica Brady-Myerov profiles soldier Liam Madden, who's pushing the bounds of free speech with his anti-war protests.



**Andrew Bacevich**

- Part 2: Margot speaks with **Eugene Fidell**, president of the National Institute of Military Justice, about what free speech rights soldiers enjoy and what rights are limited.



**Eric Seitz**

- Part 3: Margot is joined by history and international relations professor **Andrew Bacevich** and **Eric Seitz**, a lawyer who has represented court-martialled service members, to debate the implications and dangers of a politically active military.



**Matthew Burden**

- Part 4: Margot is joined by former Army major and blogger **Matthew Burden** to discuss soldier blogs and recent changes to how the military is monitoring these online dispatches from the front.



**David Zeiger**

- Part 5: Filmmaker **David Zeiger** talks about his recent film on soldiers protesting in Vietnam, called "Sir! No Sir!"



#### **Pentagon Drops YouTube, MySpace from Its Networks**

The military says it's concerned that personal use of the sites on its computers is stealing bandwidth and hampering operations. This means that military personnel overseas will lose key contact points with their families and friends. Soldiers may still access these sites via private ISPs, but that may be a little difficult to do in war zones.

Listen to this May 2007 report:  
[http://www.npr.org/blogs/news/2007/05/pentagon\\_drops\\_youtube\\_myspace\\_1.html](http://www.npr.org/blogs/news/2007/05/pentagon_drops_youtube_myspace_1.html)



**Host Margot Adler**

Margot Adler is a National Public Radio correspondent based in NPR's New York bureau. Adler has forty years of experience as a radio host and reporter and is the author of several books.

## DEFINITION OF TERMS

**Courts-Martial** – Military law has jurisdiction over members of the armed forces. But it may also relate to civilians in some instances, including conscripts who fail to report for induction and former military personnel whose offenses are committed within a specific period after their release from the service. There is always a formal investigation before a trial conducted by a military court. This is normally conducted by a military magistrate and set in motion by a “procurator,” who is comparable to a prosecutor in civilian criminal trials. Military courts are generally composed of three, five, or seven judges, depending on the type of case, and consist of military officers, though in the United States, at the request of an accused enlistee, at least one third of the court must consist of other enlistees. In some countries a civilian judge serves. In most countries trained lawyers are also included.

-Encyclopedia Britannica, [www.britannica.com](http://www.britannica.com)

### First Amendment – What It Says, What It Means

*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

The First Amendment allows citizens to express and to be exposed to a wide range of opinions and views. It was intended to ensure a free exchange of ideas even if the ideas are unpopular. Freedom of speech encompasses not only the spoken and written word, but also all kinds of expression (including non-verbal communications, like sit-ins, art, photographs, films and advertisements). Under its provisions the media—including television, radio, and the Internet—is free to distribute a wide range of news, facts, opinions, and pictures. The amendment protects not only the speaker, but also the person who receives the information. The right to read, hear, see and obtain different points of view is a First Amendment right as well.

But the right to free speech is not absolute. The Supreme Court has ruled that the government sometimes may be allowed to limit speech. For example, the government may limit or ban libel (the communication of false statements about a person that may injure his or her reputation), obscenity, fighting words, and words that present a clear and present danger of causing violence. The government also may regulate speech by limiting the time, place or manner in which it is made. For example the government may require activists to obtain a permit before holding a large protest rally on a public street.

**From “amicus curiae” to “zoning,” find definitions for legal terms in Justice Learning’s Democracy Glossary at <http://services.justicetalking.org/dg/>.**

## DISCUSSION QUESTIONS

1. Do you think it’s fair for soldier speech to be limited beyond what is necessary to prevent military secrets from getting out? What about in the case of Liam Madden?
2. Do you think soldier blogs should be protected? Why or why not?

*The New York Times*  
LearningNetwork

**Interns? No Bloggers Need Apply:** On the first day of his internship last year, Andrew McDonald created a Web site for himself. It never occurred to him that his bosses might not like his naming it after the company and writing in it about what went on in their office.

Read this New York Times Learning Network article here:

[http://www.nytimes.com/learning/teachers/featured\\_articles/20060526friday.html](http://www.nytimes.com/learning/teachers/featured_articles/20060526friday.html)