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Justice Talking Radio Transcript

Do Our Fighting Men and Women Have a Right to Free Speech?—Air Date: 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.

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MARGOT ADLER: From NPR, this is Justice Talking. I'm Margot Adler. As Congress continues to debate the war in Iraq, some soldiers have begun to voice their frustration with the ongoing conflict, organizing demonstrations, signing petitions. But does someone who dons a uniform also have a right to express his or her opinion? A popular blogger says the mainstream media could learn a thing or two from soldiers who are blogging about their experiences from the frontlines.

UNIDENTIFIED MALE: I really believe that the best press coming out of this war has been from blogs. And, of course, they don't get that much attention.

MARGOT ADLER: But new military regulations may change what type of information a soldier can post online. The First Amendment and the military, from blog posts to protests: after the news.

MARGOT ADLER: This is Justice Talking, from the University of Pennsylvania Annenberg Public Policy Center. I'm Margot Adler. On today's show: the First Amendment and the

military. When a soldier enlists in the service he or she agrees to adhere to military code. It dictates everything, from how to address a superior to how to clean a weapon, but what about free speech? As the war in Iraq continues, some soldiers have gone public with their thoughts on the war. A handful of infantry men recently penned an op-ed in the New York Times calling Iraq a lawless environment. And in an age when soldiers enter the war zone armed with laptops and digital cameras, new questions are raised about when and if your average G.I. should be able to log on and instantly upload his or her perspective from the front lines. Later in the show we'll talk about recent changes to the military's blogging policy, but first we go to Boston where one soldier is pushing the boundaries of free speech through more traditional means, anti-war protests. Monica Brady-Myerov has the story.

MONICA BRADY-MYEROV: When Liam Madden graduated high school in Vermont in 2002, he admits, he wasn't mature enough to succeed in college so he went straight into the military.

LIAM MADDEN: The Marine Core offered me the opportunity to see a lot of the world that you wouldn't get to see otherwise, to challenge myself and to grow up. And I did.

MONICA BRADY-MYEROV: He grew up in ways he didn't expect. A year after Madden joined the service the country went to war in Iraq. And after serving in Iraq for six months, he became a vocal opponent to the war. Today he leads the newly formed Boston chapter of Iraq Veterans Against the War. Over the summer he rode on a bus tour of military bases from New York to Georgia to recruit members and promote an end to the war. Recently he was part of a platform of speakers at an anti-war protest in Kennebunkport, Maine.

LIAM MADDEN: The word that comes to mind as I look out in front of me to a sea of New England's most concerned and compassionate citizens is conscience.

MONICA BRADY-MYEROV: Madden stands before several hundred people wearing his Marine Core combat camouflage shirt. It's a defiant act, because earlier this year Madden and another Iraq war veteran were facing administrative action for protesting in uniform and allegedly making disloyal statements at a rally. The Marines dropped the charges in June, but instructed Madden not to protest in his uniform because he is still part of the individual ready reserves, which is made of former active-duty soldiers and reservists. Madden says he'll continue to speak his mind.

LIAM MADDEN: Our solution as Iraq veterans against the war is to understand that this war will end not through an act of Congress but through an organized and collective act of conscience.

MONICA BRADY-MYEROV: Christopher Ott with the American Civil Liberties Union says the charges against Madden and others show the military is trying to dampen dissent.

CHRISTOPHER OTT: It just seems to me that what the military is really trying to do is to silence someone who is a veteran, who has first-hand knowledge about what he's talking about and disagrees with what the military's position officially is. And again it's not that there are

some people that are going to confuse what he's saying with the military's official position, they just don't want what he's saying to be heard. And that's troubling.

MONICA BRADY-MYEROV: Madden is also hoping to bring his message to Congress. In 2005, while still on active duty, he helped start the appeal for redress, an online petition calling for the withdrawal of troops from Iraq. It's a permissible way for soldiers to voice their opinion about the war to the members of Congress. But Madden goes even further, calling the war illegal.

LIAM MADDEN: The war in Iraq is by Nuremberg's standards and international and domestic law a war crime and a war of aggression.

MONICA BRADY-MYEROV: The free speech of veterans is an old issue says Ott of the ACLU. He holds a weathered copy of a 1977 ACLU manual called The Rights of Military Personnel. The manual says there are guidelines about what soldiers can do in uniform, such as march in a parade, but not make commercial endorsements.

CHRISTOPHER OTT: If there were a clear policy that said you just can't wear your uniform when you're not on duty, then that would be one thing, but since that is allowed then our opinion is essentially that the default should always be in the direction of free speech.

MONICA BRADY-MYEROV: But not all veterans think they and their fellow soldiers should be allowed to speak their mind while in uniform. Dan Frickey is a major in the Army Reserves who also served in Iraq.

DAN FRICKEY: That's totally unprofessional. Number one, there are policies and directives that dictate when you can wear your uniform. Secondly, it's like the policeman going to a union demonstration and picketing.

MONICA BRADY-MYEROV: Madden says he doesn't want to offend his fellow soldiers, but he has to speak his conscience. He hasn't heard from the Marine Core since wearing his fatigues at that protest in Kennebunkport.

LIAM MADDEN: How do we support the troops?

CROWD: Bring us home now!

MONICA BRADY-MYEROV: Madden hopes that when Americans see soldiers protesting it will help bring an end to the war. For Justice Talking, I'm Monica Brady-Myerov.

MARGOT ADLER: Liam Madden has gotten a lot of publicity for his campaign against the war and his actions have brought to the forefront the question of what free speech rights do soldiers have and what rights do they give up. My next guest says that soldiers actually retain several First Amendment rights when they join the service.

Eugene Fidell is the president of the National Institute for Military Justice, a nonprofit organization dedicated to improving understanding of the military justice system. I asked him to give me a sense of what soldiers can and can't do when it comes to freedom of expression.

EUGENE FIDELL: There's a lot of things they can do. For example, the New York Times not long ago ran an op-ed signed by seven active-duty enlisted men about the war in Iraq. That sounds pretty public, and so far as I know, no adverse action has been taken against them. An interesting issue some years ago had to do with bumper stickers. This was during the Nixon administration. And the question presented at a base in the South was: Can you have a bumper sticker that says "Impeach Nixon"? And the legal office that was concerned with that decided that there was no problem with such a bumper sticker. Obviously G.I.s have the right to vote, and a G.I. can make a political contribution. So there's plenty of things that G.I.s can do.

MARGOT ADLER: And are there other things that they can't do?

EUGENE FIDELL: Yes, there are limits in terms of involvement with hate groups, extremist groups. What would happen if, for example, somebody put a poster of the leader of the Third Reich on the wall in a barracks? I'm sure that would be--a way would be found to get rid of the poster. Obviously, you know, white power groups, for example, have been problematic in the past. There are other issues, by the way, that relate to religious expression, which of course is also a function of the First Amendment to the Constitution. And that's a very, very rich area right now.

MARGOT ADLER: So in other words, things about wearing crosses or stuff like that, or Jewish stars.

EUGENE FIDELL: Well, wearing religious insignia of whatever kind is not the issue. I think the issue currently has to do with proselytization. And you know this has been a concern, particular at the Air Force Academy, but elsewhere as well, because the military, of course, is not, you know, simply another workplace or the corner of Connecticut and K in Washington, where if somebody hassles you on the street or tries to proselytize you can simply say get lost, I'm not interested. In the military it's a hierarchical environment. People are sort of oriented to obey and get along. There's less autonomy.

MARGOT ADLER: Let's talk specifically about uniforms. This seems to be a particularly touchy area.

EUGENE FIDELL: It's a rich area, but ultimately I think people pretty much know what the rules are. A person in the military really shouldn't be wearing the uniform during demonstrations. And we know roughly what a demonstration is. And the reason for that is it can suggest that the military itself is behind the demonstration or supportive of the demonstration. That's a relatively easy case. Unfortunately that doesn't entirely cover the field. What if you have somebody who wears the uniform shirt, you know, and civilian trousers. MARGOT ADLER: Or camouflage pants without any insignia, right?

EUGENE FIDELL: Or camouflage pants which you or I could buy at the local Army-Navy store. I mean, you could--law professors have a lot of fun with this subject. You can imagine all the hypotheticals. But the hard core of the question is should a person in the military be wearing a uniform at a political or other demonstration. And the answer is no. Not long ago there was an issue relating to a lieutenant general who was very invested in religious matters and gave what certainly seemed to be a tendentious political talk in uniform at a church, I believe in Florida. And that caused quite a stir. And I think appropriately so. People do have to exercise a little self control.

MARGOT ADLER: I have a memory of John Kerry throwing away those metals, or ribbons, and being in uniform, and yet I don't think he was prosecuted under the Uniform Code of Military Justice. Was he?

EUGENE FIDELL: I recall the metals incident and there was some question whether they were actually his or whether they were copies. But I don't believe he was in uniform when he threw the metals over a fence, or something like that. I don't think that was a uniforms issue. Now, of course, there were a lot of other issues. Who among us has not seen television shows or movies where people are in uniform? But of course drama is itself a form of First Amendment expression and conceivably there might be problems if you had a G.I. in uniform in a movie.

MARGOT ADLER: And all of these rules about what you do about protest, what you can write-- is this all in the Uniform Code of Military Justice?

EUGENE FIDELL: No, very little of it is in the Uniform Code of Military Justice as such. It's more in the implementing regulations. The military is very, very dedicated to regulations. There are Department of Defense regulations, and each of the armed services has regulations on such things as extremist organizations, for example, or political activities. And you cannot answer all questions. I'm commonly asked, well, can you do this, can you do that, give me a list. And the answer there is no list, because of the variety of forms of political expression, political and other expression, in our society, and also the changing environment that we live in. You know, once upon a time it was one thing to talk in the trenches, let's say, or to hand out leaflets or to write an op-ed. Now everything is interconnected through the Internet, through digital photography, through things like blogs, that kind of communication. So it's a much richer environment than it once was.

MARGOT ADLER: Eugene Fidell is a lawyer and the president of the National Institute of Military Justice. Thank you for talking with me today.

EUGENE FIDELL: It's my privilege.

MARGOT ADLER: Coming up on Justice Talking: Is it a danger to democracy when soldiers get involved in politics? And later in the show: The military is using YouTube to tell its story from the front lines. Stay with us.

MARGOT ADLER: This is Justice Talking, the public radio show about law and America life. I'm Margot Adler. On today's show we're talking about freedom of speech and the military. In January, Liam Madden, a soldier home from the war in Iraq, brought a petition to Washington. It was signed by more than a thousand soldiers calling for an end to the war. Since then a thousand more soldiers have added their names to the list. The impact of this petition -- called the "appeal for redress" -- remains to be seen. But the event caught the attention of Boston University professor Andrew Bacevich, who published an op-ed in The Atlantic Monthly warning against the dangers of a military that becomes too politically active.

Andrew Bacevich joins me now. He's a professor of international relations and history at Boston University. I am also joined by Eric Seitz, a lawyer who has represented service members in several hundred court-martials. Both of my guests are critical of the current war, but they hold very different views about soldiers voicing their opinions on the war or on politics in general. Welcome both of you to Justice Talking.

ANDREW BACEVICH: Thank you.

ERIC SEITZ: Thank you.

MARGOT ADLER: While the rights of expression are limited in certain ways for soldiers, those in the armed forces retain some freedom in this regard. Andrew, in your article in The Atlantic Monthly you warned against soldiers exercising these First Amendment rights and becoming too politicized. Why?

ANDREW BACEVICH: First of all, I'm not an opponent of the First Amendment. I'm a supporter of free speech. But I think that in this situation we have two very important principles that are colliding. On the one hand the principle of free speech and on the other hand really a basket of principles that are necessary to maintain good order and discipline in the military are necessary to ensure that we have an effective military and are necessary to ensure that the military is clearly subordinate to duly constituted constitutional authority. In other words, I want a military that follows orders and stays out of politics.

MARGOT ADLER: Eric, how would you respond to this? In some fundamental way are the ideas of the military and free speech at odds with one another?

ERIC SEITZ: I think that they can be and I think they are today because of what's going on in the real world. I don't disagree in principle with anything that Professor Bacevich has said in his article. In an ideal democracy you certainly want the military to be subservient and not to threaten civilian control of a political system. But in this period of time, just as in the period of time in Vietnam -- and I can cite other historical examples as well -- it's critical for the military people to uphold the oaths which they've taken to support and defend the Constitution and laws of the United States. And when you have an administration such as we have, which is using the control of the military to its own ends, many of which I believe constitute violations of treaties and commission of war crimes, I think it's incumbent upon military leadership, as we've seen, and upon the troops themselves, to take a position to in principle defend what they believe they should be ordered and required to do.

MARGOT ADLER: I'm wondering if you make a distinction, Andrew, between officers and enlisted men. Since Article 88 of the Uniform Code of Military Justice only applies to officers, an enlisted soldier is really a temporary position. It's not a career, like an officer. So shouldn't the ordinary grunt have more First Amendment rights than an officer?

ANDREW BACEVICH: No, I don't think so. And I think I probably would question the notion that the enlisted soldier is sort of a temporary employee who's just passing through. That was the case, let's say, in the World War II army, when our enlisted soldier -- the identity of the enlisted soldier -- was very much that of a citizen soldier who was wearing a uniform only temporarily. But the identity of the military today actually is quite different than it was back in the 1940s. We have this so-called "all-volunteer force," which really is a professional army. And most of the enlisted soldiers who are recruited, I wouldn't say most of them are necessarily going to stay for 20 or 25 years, but they are perceived as professionals, they're perceived as people who may well stay. So I would sort of hesitate to endorse that sort of distinction.

MARGOT ADLER: Eric, do you see a distinction between officers and enlisted men in regard to these rights?

ERIC SEITZ: No, I don't. And I also question the presumption that this is a volunteer army, because of the way in fact that people are recruited -- the economic disparities that lead to recruitment of people from low-income areas -- I'm particularly thinking about American Samoa now, which is near us, which has the highest percentage of people in the Army given their population, and correspondingly the highest number of deaths in Iraq and Afghanistan. There are still great disparities that cause people to go into the military for circumstances that are other than voluntary. And therefore I think that it is incorrect to assume that when people go into the military that they know or understand or agree that they are giving up any significant rights for the rest of their lives or for significant periods of their lives.

MARGOT ADLER: That was Eric Seitz, a lawyer who has represented several hundred service members in court proceedings. Also with me is Andrew Bacevich, a professor of international relations and history at Boston University. I'm Margot Adler. This is Justice Talking and we're looking at free speech and the military.

Andrew, you've been very critical of the appeal for redress from the war in Iraq. That's a petition that's written and signed by a group of military personnel and vets asking Congress to end the war. But sending petitions to Congress is one of the First Amendment rights specifically protected for soldiers.

ANDREW BACEVICH: I actually agree with the sentiments expressed by the people who--the soldiers who organized the appeal for redress. My concern though, and perhaps it is more clearly shown in the response elicited by the appeal for redress, which is another appeal, and it's called the appeal for courage, organized by, I believe, a naval--a young naval officer serving in Baghdad, and which has its own website, which has a quote/unquote "petition" to which I think around 4,000 serving soldiers have signed, and this appeal for courage calls on Congress to quote "halt any calls for retreat," and it urges Congress to quote "actively oppose media efforts which

embolden my enemy while demoralizing American support at home," unquote. Well, I don't think it is the business of serving soldiers to tell the Congress that the Congress needs to shut down protests or to limit the activities of the press. And that's the sort of thing that I fear happens when we invite soldiers to become actively involved in political controversies. They need to stay out of that. We, the citizens who are not serving members, are the people who should be leaning on the Congress or protesting in the streets or signing petitions or doing whatever we can, but we ought to keep soldiers out of that business.

MARGOT ADLER: Eric, pushing more on this issue of Andrew's fear of a soldier's lobby: It's one thing to have a single soldier speak out, say, I don't agree with this war, but isn't it dangerous to have the military begin to feel that it can weigh in and influence the president on issues of national security? Or go to Congress? A civilian control of the military seems very important, doesn't it, Eric?

ERIC SEITZ: Oh, absolutely. I would not waffle on that principle as being something that's a key ingredient of a democracy. However, as a practical matter in our system, the military does weigh in. The generals and the joint chiefs of staffs and high-ranking military people are very active in the formulation of policies in Washington, D.C., and elsewhere. There's no question about that. And you can't simply draw a line and say they're just giving professional advice. They are advocating for policies and they're doing it on a regular basis. And for years we've objected to the fact that people who support a particular military policy are allowed to speak to the media to advocate for that policy and wear their uniforms and do so, whereas there is a distinction drawn that people who oppose or criticize policies cannot do that. We don't think that's appropriate, because there is clearly advocacy that goes on by people in uniform. However, having said that, and understanding that there should be a principle of civilian control over the military in any democracy, what happens when the democracy's not functioning? What happens, as in Vietnam, where there was an overwhelming objection to the continuation of that policy, and our presidents and our political leadership basically ignored it for how many years?

ANDREW BACEVICH: May I comment?

MARGOT ADLER: Yes, certainly. ANDREW BACEVICH: I mean, I think this gets to the heart of the difference between Eric and myself. I mean, in many respects I endorse his critique of American democracy, and it sort of grieves me that although procedurally we seem to be a democratic system, substantively something is badly out of whack. But I have to say that as I listen to his argument, it strikes me as an argument in favor of praetorianism. The system is broken, the political system is broken, so let us turn to soldiers and let us summon the soldiers from the barracks and they will fix what is broken in our political system. Now I think that is a very dangerous notion. If the system is broken, and indeed it is, then the obligation to fix it rests on the mass of the citizens who have not taken an oath to obey the orders of the officers appointed over me. It's the rest of us who are called upon to fix things. And to say that we need to have the soldiers fix what's broken strikes me as just a real invitation to a constitutional mess.

MARGOT ADLER: Eric, I'm wondering what you think should happen if a soldier's speech is discriminatory or prejudicial. A lot of generals spoke out against President Clinton when he

wanted to allow homosexuals to openly serve in the military. The same was true for President Truman when he desegregated the armed forces. What do you think should take place then?

ERIC SEITZ: Well, in fact there was a decision recently of the Army Court of Appeals, which is a military court that reviews court-martial decisions, in which a soldier in I believe South Carolina was convicted of offenses relating to his sending out e-mails to fellow soldiers and others of a racist nature, white supremacist nature. And basically what he was charged and convicted of in that case had to do with creating problems inside the military, undermining military discipline because he was perpetrating basically racist ideology, which would affect the ability of the military and of people in the military to be able to carry on their jobs. Those kinds of limitations, speech which is decidedly dangerous, I think can always be prosecuted, just as, for example, yelling fire in a crowded theater, as the old saying goes, can be prosecuted, because it's directly related and eminently related to a harm that we are entitled to prevent from occurring. So under classic First Amendment law I think that kind of speech and those kinds of ideas can be regulated when they are put out there on the table in a way to incite people to engage in actions that we have a right to prevent. But what we're talking about here is basically political ideas. And while it's true that political ideas may lead to certain kinds of consequences, when you talk about Vietnam and you talk about Iraq, and if you want to go all the way back, for example, and talk about the role that the Russian army played in World War I when they finally decided that they weren't going to fight anymore, which obviously gave aid and comfort to the revolutionaries and allowed them to overthrow the Czarist regime -- I mean, you have those kinds of historical examples -- and Andrew is correct, I mean, basically putting soldiers or putting military into the field politically is a very dangerous concept that in theory I would love never to see happen.

ANDREW BACEVICH: I may be misinterpreting what Eric is saying, but it sounds to me like what he's saying is that when a circumstance exists like the Bush administration Iraq war that I find offensive, then I want to give soldiers maximum latitude to engage in political speech. But where the circumstance that exists is not one that I find offensive, then I can make arguments to regulate the speech of soldiers. And I don't understand how one could sort of turn on and off the rules of allowing soldiers to speak in that way. Either they're going to have a wide latitude to engage in political debate, to become politicized, to be political actors, or they're not.

MARGOT ADLER: But Andrew, isn't it true that that turning on and off happens all the time? For example, if we go back to the Clinton example, there wasn't a lot of fallout for the officers who criticized Clinton, but today--

ANDREW BACEVICH: Let me emphasize that that was unprofessional, reprehensible, did severe -- I'm talking about the generals opposing the gays in the military initiative -- did severe damage to America's civil-military relations. I am not for a second trying to argue that we should keep enlisted soldiers out of politics so that the generals can play politics. The senior officer ranks are politicized; that's a problem. The solution to the problem is not to invite enlisted soldiers also into the political arena, the solution to the problem is try to restore an ethic of military professionalism to which officers once adhered, which said that part of being a professional officer was to stay outside of politics. The ethic of, let's say, George Marshall, that

has been tremendously eroded over the years. So Eric wants more soldiers' participation in politics; I want less, and in particular I want less on the part of general officers.

MARGOT ADLER: I'd like to ask you if either of you have any final thoughts. I'll start with you Andrew.

ANDREW BACEVICH: I just want to emphasize, I hope I don't come across as somebody who doesn't believe in the First Amendment. I do, and free speech. I'm disappointed, as I think Eric is, that somehow the mass of our citizens are not exercising that right in meaningful ways. My only concern is I don't want to see a politicized military.

MARGOT ADLER: Eric?

ERIC SEITZ: Well, I don't want to see a politicized military either. But I would prefer not to have a situation where the military is being misused to create the kind of havoc that they are now creating in Iraq and in other parts of the Middle East. And with that prospect I think it therefore is incumbent upon us to utilize every way in which we can to combat those polices. And unfortunately, in some respects it may be that we need to rely upon people in the military and their expressions to be able to effectively tell us what's actually occurring.

MARGOT ADLER: Eric Seitz is a lawyer who has represented service members in several hundred court-martials in administrative and appellant proceedings. Andrew Bacevich is a professor of international relations and history at Boston University. Thank you both for coming on our show.

ANDREW BACEVICH: Thanks very much.

ERIC SEITZ: Thank you.

MARGOT ADLER: Coming up on Justice Talking, we look at the impact new military regulations may have on soldiers' blogs.

UNIDENTIFIED MALE: Yeah, you know a lot of these blogs are diaries and I wouldn't want to go to my commander and say: Hey, sir, I want to tell my mom about a particularly hot day I had last week. Can I do that?

MARGOT ADLER: And in a time before laptops, blogs and YouTube, soldiers in the Vietnam War found other means to spread their opinion:

UNIDENTIFIED MALE: A so-called underground G.I. press, which consists largely of anti-war newspapers.

MARGOT ADLER: Stay with us.

MARGOT ADLER: This is Justice Talking where we make the connection between law and American life. I'm Margot Adler. The current Iraq war has been dubbed the first online war. Not only have reporters embedded with troops, but infantrymen themselves have taken advantage of Internet access and digital cameras to provide an unprecedented first-hand look at the war. Soldiers' blogs or online diaries have skyrocketed in popularity. But they have also raised important questions about security and the potential for sensitive information to leak onto the net. Former Army Major Matthew Burden joins me to discuss recent changes in how the military regulates soldier blogs. He's been following this story on his own blog, Blackfive.

MATTHEW BURDEN: Well, the original regulation -- and basically these are the guidelines the Army follows -- the original regulation for operational security stated that if you had a blog or a website you needed to have that blog registered with your chain of command, and that the first colonel -- which is pretty high up there -- the first colonel in your chain of command had to review your content about every three months for operational security information. And this is information you don't want to give the enemy. You don't want to give away battle damage assessment from a bomb attack to let them know how effective or ineffective they've been, and so this is very important. Most soldiers get this. They don't want their actions to be the cause of more problems. And so that was the original guidance. And the guidance changed and the guidance stated that every piece of electronic communication, including e-mail, needed to be monitored by the chain of command that needed prior approval by the chain of approval. And this created basically an untenable position for commanders, because there's no way they could be able to do that.

MARGOT ADLER: They don't have the time right?

MATTHEW BURDEN: Right.

MARGOT ADLER: They don't have the time to do this.

MATTHEW BURDEN: Nobody would have enough time.

MARGOT ADLER: Right. And I would assume that particularly if you're in the military and you're busy and you're involved in stuff, this is not your priority.

MATTHEW BURDEN: Yeah, a lot of these blogs are diaries, and I wouldn't want to go to my commander and say: Hey, sir, I want to tell my mom about a particularly hot day I had last week. Can I do that?

MARGOT ADLER: I've also heard some reporters say that the new regulations could be the end of soldiers' blogs. Do you agree?

MATTHEW BURDEN: I have, at the end of "The Blog of War," which is a book that I put together of soldiers' blogs, I predict that it's the beginning of the end of combat blogging. Now there's a difference between military blogging and combat blogging. And combat blogging is

when they actually describe what it's like to be in a fire fight. Colby Bazell had a great blog that turned into a book called "My War: Killing Time in Iraq." There was a lot of that back then. These regulations basically have squelched the combat blogging because it gives away methods of movement: how we enter buildings in Iraq, those kind of things. It hasn't killed off the blog. In fact, blogs have grown. But they're definitely a lot more muted than they used to be.

MARGOT ADLER: The Department of Defense has also blocked certain websites, particularly content-sharing websites like YouTube or MySpace, where soldiers can go and post pictures or video. But as I understand it, soldiers can still visit these sites, just not from military computers. So are these new restrictions making any significant changes?

MATTHEW BURDEN: Well, not really, and part of this was there was sort of a media reaction to the banning of the sites. And it's like a work environment. Where I work, at my corporation, we ban certain sites because you're supposed to be doing work instead looking at YouTube.

MARGOT ADLER: The military actually has its own YouTube channel, correct?

MATTHEW BURDEN: Yes, the Multi-National Force-Iraq, or General Petraeus has his own YouTube channel, that's correct.

MARGOT ADLER: And they post videos from the front lines that are shot by public affairs officials. Let's actually listen to one example. This video shot in Baghdad of U.S. soldiers engaging insurgents.

[VIDEO CLIP OF BATTLE NOISE]

MARGOT ADLER: By posting their own videos, isn't the military acknowledging that reports and videos from the frontlines can be pretty powerful public relations tools?

MATTHEW BURDEN: Well that's the difference between General Petraeus and his predecessors, is that I think he understands that Web 2.0, user-generated content, you know, Internet tools, digital tools, are very valuable in getting the word out about the good work that the military is doing.

MARGOT ADLER: Let's talk about your own blog. It's called blackfive.net. Tell me about why you started the blog and how it's evolved over the years.

MATTHEW BURDEN: Well, I'm pretty much a news junkie and pay attention to a lot of the news sources, read newspapers, things like that. And I've been paying attention to blogs as well. And in 2003, unfortunately, a very good friend of mine named Major Matthew Shrame from Brookville, Wisconsin, was killed in an ambush, on Memorial Day of 2003. And as he was fighting his way out of this ambush he saved a convoy and he died. He was the only one who paid the price. And I found out at his funeral later on that there had been a reporter from a mainstream news magazine along on his convoy. And the reporter had decided not to write a story about my friend. And that angered me quite a bit. So I decided to do something about it and just started blogging and telling the stories that I was getting from the field that were

contradicting what I was reading in the newspapers or seeing on cable news. And basically I left the military in 2001 and I had a few hundred friends in the combat zones in Iraq and Afghanistan. And they were sending me e-mails constantly that were contradicting what I was reading, and so that's what I started doing, was publishing those reports. And that's why the popularity of the blog--it took off pretty quickly.

MARGOT ADLER: You've also put together a book called "The Blog of War." It's a collection of blog entries by a variety of soldiers and military personnel. Could you share a couple of passages with us?

MATTHEW BURDEN: Sure. One of my favorite chapters of the book is called "The Healers," and it's about doctors and nurses and medics, as you'd think, and it's also about chaplains, who don't get enough credit in the military. And the last piece is about a guy who's actually a grunt. He's an infantryman named Nick Catamatori and he's in Iraq and he's been trained as a combat life saver:

"I ride the gun because I want some time to think. I ride the gun so no one can look directly at me if I break. I ride the gun so if the opportunity presents itself, if there is a call, then I can cause the absolute maximum damage possible. I want to cleanse myself and fire. And yet the opportunity doesn't come. I want to make someone pay, because that kid was 20 with a girlfriend younger than him, because for all I know he may never see again. Because I had to be there, because I can see so many things that I should have done differently, because his hand was holding mine and that tears me apart. Because there's so much put on me. Finally I'm back in my little cell. I am safe, relatively. My command from highest to lowest is telling me good job and talking about an award for me, and all I can think of is that I (beep) up somewhere and that he is paying. I don't know how exactly, but I'm sure I did. I am not all right. But I'm not gone either. I'm still here. I'm not whole, but I'm not shattered. I want things simple, where I can go out and fight, fight back against this. For most soldiers there is no fighting for country, no fighting for money, no fighting for God; there's only fighting for each other, because we're all in this (beep) together."

MARGOT ADLER: When I was reading your book the other night I noticed that a lot of the selections are very positive about the war, and I'm wondering whether you think this is true across the board when it comes to soldiers' blogs or whether that's, you know, sort of just your take, and whether there are soldiers out there who are using their blogs as a means to protest or to voice criticism and concerns.

MATTHEW BURDEN: Well, you know, that tends to be a criticism of editors and publishers too that have been around for a long time and have covered the military. This is an all-volunteer force. It's very well educated. Most of the people are there because they want to be. Now don't take this the wrong way, but soldiers complain about everything. And as a matter of fact, when my soldiers weren't complaining, I would worry that something was wrong. You know, there is that aspect of it. On the other side, the majority of these blogs are positive. And it's just incredibly interesting to me that they are that way, and in 1,300 to 1,500 every year.

MARGOT ADLER: Is there anything else that you want to add?

MATTHEW BURDEN: I really believe that the best press coming out of this war has been from blogs. And, of course, they don't get that much attention. So the piece I think that we didn't touch on is from a historical point of view. You know, when soldiers send letters home from Vietnam or World War II or Korea, a lot of times we'll find those letters after that soldier's passed on, or that soldiers can take them and publish them, you find them in a shoe box. But soldiers that come back from the war zone often let their websites, let their domains expire, let those great, great written pieces just kind of burn into bits and bytes on the Internet and then they're gone. And one of the reasons I wrote "The Blog of War," or edited it and put it together, was because I did not want to lose that piece of history that was out there. And in fact a lot of these blogs are now gone.

MARGOT ADLER: Matthew Burden is a former major in the U.S. Army Reserve. He writes the military blog blackfive.net. He's also edited a book called "The Blog of War: Front Line Dispatches from Soldiers in Iraq and Afghanistan." Thank you so much for joining me on Justice Talking.

MATTHEW BURDEN: Thank you very much.

MARGOT ADLER: We've just heard about all kinds of new technology in the war zone, blogs and digital cameras. But a lot of the larger questions that were raised in today's show aren't unique to the 21st Century or this particular conflict. A recent film, "Sir, No Sir," looks at how some soldiers spoke out during the Vietnam War. There were demonstrations and underground G.I. newspapers.

David Zieger, the writer and director of the film, joins me now. Welcome to Justice Talking.

DAVID ZIEGER: Thank you very much for having me.

MARGOT ADLER: Many soldiers were involved in protesting the war in Vietnam. You call it a G.I. movement. How many people are we talking about?

DAVID ZIEGER: I'm not saying hundreds of thousands of people organized or demonstrated, but tens of thousands of soldiers, active-duty soldiers, did in fact demonstrate against the war, helped put out underground newspapers, did a number of things that were in opposition to the war and opposition to racism and all of those things, and identified with the anti-war movement rather than with the military.

MARGOT ADLER: One of the ways the soldiers were organizing was through underground newspapers. You even have a clip of Walter Cronkite talking about it on the news. Let's hear it.

WALTER CRONKITE: A phenomenon has cropped up at several Army bases these days, a so-called underground G.I. press, which consists largely of anti-war newspapers. Military authorities are clamping down hard on the papers.

MARGOT ADLER: Tell me how these papers functioned, how they started, who was producing them, who was reading them.

DAVID ZIEGER: The first underground newspaper that was started was started by a Vietnam vet, a guy named Jeff Charlotte who came back, went to college and he put out a paper called Vietnam G.I. Students helped him publish it. And he developed a list of about 5,000 people, soldiers in Vietnam, that the newspaper was sent to, and it was spread all over the country from that. And off of that people started putting out their own newspapers. Sometimes it would be two or three individuals who would get together and say we got to talk about harassment on this base, we got to talk about the war, etcetera, etcetera. They would secretly put it together, mimeograph it and hand it out secretly as well, because handing out unauthorized material on a military base is a court-martial offense. And then there were also networks of supporters, civilians and veterans who supported these newspapers and helped publish them at bases around the country. I myself worked at a place called the Oleo Strut, which was part of a network of coffeehouses where G.I.s would get together and organize against the war.

MARGOT ADLER: And how many newspapers were there, different newspapers?

DAVID ZIEGER: Well, the people who have documented this, one of my research associates had done his Ph.D. thesis on G.I. underground, and he counted I think 260 papers that were published at one point or another inside the military, underground papers.

MARGOT ADLER: And what was the military's response to the underground newspapers?

DAVID ZIEGER: Well, their response was to do everything they could to stomp it out. There were many cases of people who had started papers initially in the early days of the G.I. movement, starting in about 1967, and up until '70, '71, people were being court-martialed for handing out papers on the base. Often they would be, you know, picked on some other charge and court-martialed, or one of the things that the military did which was somewhat comical is that they would transfer people to other bases, so underground newspapers started on all those bases.

MARGOT ADLER: Got it. DAVID ZIEGER: In the early '70s the military basically decided that they simply had to get rid of the problem and they discharged people en mass. Not only did the military stop sending combat troops into Vietnam in 1971, but troops that came home after one tour, even though they may have had anywhere from six months to 18 months still left in the military, were simply let out.

MARGOT ADLER: You mentioned working at the coffeehouse Oleo Strut, and it's featured in your film. Tell me about the atmosphere of that coffeehouse, of many coffeehouses. How many again were there?

DAVID ZEIGER: There were, at one point there were I think as many as 30, I think 32. These places ranged from actual coffeehouses, which is what the Oleo Strut was in Killeen, which were kind of meant to be havens for soldiers to be able to come and talk about their feelings, talk

about their experiences. A lot of them were legal centers. We had a legal counseling office. They became really the hub of the counter-culture and opposition to the Vietnam War inside the military at a lot of bases. And they also faced a lot of repression; a lot of the places were closed down by local governments. The local government in Killeen tried several times to close down the Oleo Strut.

MARGOT ADLER: An issue that's coming up today is the whole question of military personnel wearing their uniforms while speaking out against the war in Iraq. In your film you interview a naval nurse, Susan Snell. Here she reflects on her decision to wear her uniform.

SUSAN SNELL: My opinion was really straightforward. It was if Westmorland could wear his uniform being for the war and talking in front of Congress, then as an active duty person I certainly had the same rights that he did and I could wear my uniform protesting the United States involvement in Vietnam.

MARGOT ADLER: She was court-martialed. How is the military responding to this issue of protesting in uniform and was this a major concern?

DAVID ZIEGER: Most G.I.s, when they're off base, the last thing they want to do is wear their uniform. So at least in my experience that wasn't so much a matter of principle. I think for Susan it was very significant because I think the idea and the law that you cannot voice opposition to the war while in uniform was scurrilous to her and to a lot of people because exactly as she says in the clip, that, you know, Westmoreland would give speeches supporting the war in uniform, and certainly that was acceptable. And I think it symbolized for many people the idea that somehow as a soldier it is your duty to support the war whether that war is legal or not or whether it's right or not. And that was what was being really contested in a sharp way by lots and lots of soldiers.

MARGOT ADLER: David Zieger is the writer and director for the film "Sir, No, Sir." Thanks for talking with me.

DAVID ZIEGER: Thank you very much for having me here. I really appreciate the chance.

MARGOT ADLER: To learn more about the First Amendment rights of soldiers or for links to David Zieger's movie and Matthew Burden's blog, go to our website, justicetalking.org. While there you can post on our message boards, you can learn more about our guests, and you can sign up for our free podcast. And you can also check out our blog, where many of the nation's leading commentators give their views on law and American life.

Thanks for listening. I hope you'll tune in next week. I'm Margot Adler.
