



Covert Activity: the *Washington Post*, Edward Snowden and the National Security Agency Teaching Note

Journalists have long prided themselves on investigative work, including reporting about the workings of government. The field of national security reporting is a subset of investigative work that requires diligence, excellent sources and skepticism. Often, officials do not want information that journalists uncover to become public. Sometimes there are real national security concerns, but frequently the incentive for government secrecy is embarrassment. Reporters and their news organizations have to verify information that is often close to impossible to check, and weigh the interests of the public against those of government.

This case study traces the development of a story that the *Washington Post* broke on June 6, 2013. Reporter Bart Gellman, who had left the *Post* staff years before but contributed stories, had a source who promised to give him documents about a highly classified National Security Agency (NSA) program. Laura Poitras, an independent documentary film maker, introduced Gellman to the source, who identified himself only as Verax, in February. For several months, Gellman and Poitras worked to ascertain whether the source was bona fide or perpetrating some kind of scam. They slowly came to feel he was for real.

In mid-May, Verax finally provided some documents. The one that Gellman and Poitras felt needed attention first was dubbed PRISM, a series of PowerPoint slides about a secret NSA program to collect information from nine US Internet companies. The program was more comprehensive and intrusive than anything previously publicized. Gellman approached the *Washington Post*, with its storied history of investigative reporting, in late May about publishing the story. Both Investigations Editor Jeff Leen and Executive Editor Marty Baron agreed to Gellman's requirements, which included complete secrecy while the story was written and vetted. They also agreed to give Poitras a byline, although Gellman would write the story.

In early June, Poitras flew to Hong Kong to meet with Verax, by then identified as Edward Snowden, a contractor for the NSA. She went with Glenn Greenwald, who published with the UK

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Guardian newspaper; Snowden had long tried to interest Greenwald in his story and turned to Poitras when Greenwald did not engage. Snowden, who feared that official pressure would deter any newspaper from publishing his material, was pleased that now two publications were involved. On June 5, Greenwald published a story based on another document from Snowden. Gellman and the *Post* knew it was only a matter of hours before the *Guardian* would publish a story based on PRISM.

Gellman was conscientiously checking the PRISM story with his sources at the White House and in the intelligence community. A White House official, delegated to deal with the *Post* on this story, asked first that the paper not publish and then, when notified that publication would go ahead, requested that the nine companies remain anonymous. The official claimed that publication would endanger the program and compromise national security. Gellman and his editors respected the government viewpoint, but also the public's right to know what its taxpayer dollars were paying for. The *Post* had to decide: publish the names, or keep them confidential?

Teaching Objectives

This case is intended to introduce students to the difficult choices that can confront media that cover national security. It raises for discussion how to cultivate a source, how to vet a source, whether to seek official comment on a story, and how to process any official requests (such as to kill or modify a story). It also discusses protocols for protecting reporting material, and how to investigate classified material while remaining within the law oneself.

Ask students to consider what constitutes a verifiable source. Often individuals or organizations approach reporters with what they claim is a hot tip or valuable information. When is such information reliable, or when might it come from a source eager to manipulate the media? When is it entrapment? How can a reporter tell the difference? This is as true for business and culture reporting as it is for political reporting. Discuss some examples of the kinds of stories that a source would love to plant with a reporter and why journalists should be cautious—a putative corporate takeover, a rumored film role offer, a scientific breakthrough by a research firm.

As a reporter follows up on a tip, what rules are helpful to keep in mind? As a class, assemble a checklist: consider the source and possible agendas; look for independent corroboration; internal consistency; cultivate your own healthy skepticism; research the legal, political and economic context etc. Write on the board.

Secondly, what are the risks for individual journalists or publications in accepting classified information? Research the Espionage Act and how it applies to journalists. Then discuss with the class. Does a reporter in this field have to be prepared to go to jail? What about a non-US journalist? What are some of the constraints and/or freedoms that come with being a US versus a non-US journalist reporting on American national security? While this case does not include

information on the situation in other countries, an instructor might choose to contrast US law with a different legal system.

An instructor might also want to talk about who is a journalist and what contributions to a story merit a byline. Why does the *Post* willingly grant Poitras a byline? Might there be legal considerations? Is Poitras Gellman's source or his collaborator? Should a publication normally grant a byline to a non-employee journalist who contributes to a story? Why or why not? Charge the class to come up with a set of guidelines for such a decision.

There is also scope to use this case to talk about protecting information and protecting sources. With the explosion of information and data available via the Internet, this issue has become relevant to journalists covering many beats. Ask whether Gellman is going overboard in his efforts to hide his communications from scrutiny. When should reporters consider installing encryption software? How much protection is enough? Is the journalist protecting him/herself, the source or the information—or some combination of the three?

Finally, talk about national security reporting in the context of accountability reporting. Classification is a system government employs to protect from prying eyes information which could endanger the wellbeing of the nation. Students should consider what role national security coverage plays in a democracy. There are countries that prohibit publication of most information about government activities. Where does the US fall on the spectrum? Is classification itself a mistake or a necessity?

Class Plan

Use this case in a course/class on national security reporting, investigative reporting, or editorial management.

Pre-class. Help students prepare for class by assigning the following question:

1. Should the *Washington Post* publish the names of the nine Internet companies named in the PRISM document?

Instructors may find it useful to engage students ahead of class by asking them to post brief responses (no more than 250 words) to the above question in an online forum. Writing short comments challenges students to distill their thoughts and express them succinctly. The instructor can use the students' work both to craft talking points ahead of class and to identify particular students to call upon during the discussion.

In-class questions: The homework assignment is a useful starting point for preliminary discussion, after which the instructor could pose any of the following questions to promote an 80-90 minute discussion. The choice of questions will be determined by what the instructor would like

the students to learn from the class discussion. In general, choosing to discuss three or four questions in some depth is preferable to trying to cover them all.

- a) What role does national security reporting play in a democracy? Discuss.
- b) How should the *Washington Post* weigh the competing concerns of national security and the public's right to know? Are guidelines appropriate or should it be case-by-case?
- c) What steps might a reporter take to vet a source who has approached him/her with a story or tip? List on board.
- d) What do you think of the partnership between Gellman and Poitras? Is it desirable or a necessary evil?
- e) Should the *Washington Post* give Poitras a byline? Why or why not?
- f) What role, if any, should encryption play in a reporter's work? Is it a basic requirement, good to have, or unnecessary?
- g) What risks attend a reporter who receives classified material? What can s/he do to protect against legal charges?
- h) Is the government an ally or an opponent of a news organization that covers national security? How could it be enlisted as an ally? When should it not be trusted?
- i) Snowden is highly suspicious of the mainstream media's ability to publish the information he has. Is this suspicion justified? Why or why not?
- j) Does the competition from the *Guardian* affect the *Post*'s story and, if yes, how?

Suggested Readings

Steven Aftergood website: <http://fas.org/blogs/secretcy/>

SYNOPSIS: Steven Aftergood has been tracking secrecy in government for years. He runs the FAS Project on Government Secrecy and publishes Secrecy News, both of them excellent sources for material. His 1997 Freedom of Information Act lawsuit against the Central Intelligence Agency led to the declassification and publication of the total intelligence budget for the first time in 50 years.

Glenn Greenwald, *No Place to Hide* (New York: Henry Holt), 2014.

SYNOPSIS: This book chronicles Greenwald's experience dealing with Edward Snowden. By turns self-aggrandizing or ideological, the book is also an engaging account of one journalist's experience with the national security apparatus and his take on one of the biggest stories of his career.

Noreen Malone, *Sources of Discomfort*, New Republic, June 20, 2013

SYNOPSIS: This article, nearly contemporaneous with the publication of the Snowden documents, gives a good overview of the constraints under which national security reporters had to operate during the Obama Administration. It does post-date the case, so distribute it to students advisedly and preferably after the case discussion.

<http://www.newrepublic.com/article/113485/national-security-reporting-age-leak-hunts>

Leonard Downie, Jr., *Leak investigations and surveillance in post-9/11 America*, Committee to Protect Journalists, October 10, 2013.

SYNOPSIS: This report, by the former executive editor of the Washington Post, came out after the Edward Snowden leaks. But it does a fine job of telling the history of national security reporting through the years, including what changed during the Obama Administration. Commissioned by the Committee to Protect Journalists, it is part of that organization's efforts to ensure that reporters can operate freely and effectively in all societies.

<http://www.cpj.org/reports/2013/10/obama-and-the-press-us-leaks-surveillance-post-911.php>

James Bamford, "The Most Wanted Man in the World," *Wired*, August 22, 2014.

SYNOPSIS: This comprehensive article tells the story of Edward Snowden's life, career, disillusionment, spying and the fallout from his revelations. It gives background that goes well beyond what was known about him in June 2013 but could be interesting for an instructor to know, or for students to read after the case discussion.

<http://www.wired.com/2014/08/edward-snowden>

Human Rights Watch and the American Civil Liberties Union, *With Liberty to Monitor All; How Large-Scale US Surveillance is Harming Journalism, Law, and American Democracy*, July 2014.

SYNOPSIS: This 120-page joint report by two non-governmental organizations documents the effects of surveillance on the practice of journalism and of law. It examines whether US freedom of expression and association are under threat, thanks to government policies on secrecy, preventing leaks and officials' contact with reporters. Much of it builds on what the Snowden documents revealed, but the background sections should be useful for instructors planning to teach the case.

http://www.hrw.org/sites/default/files/reports/usnsa0714_ForUpload_0.pdf

