

SFIFF 51



2008
Schools at the Festival
Study Guide

for

Secrecy

Developed by: Kate Rosenbloom

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Film Synopsis

From the official Secrecy film website:

<http://www.secrecyfilm.com/index.html>

In a single recent year the U.S. classified about five times the number of pages added to the Library of Congress. We live in a world where the production of secret knowledge dwarfs the production of open knowledge. Depending on whom you ask, government secrecy is either the key to victory in our struggle against terrorism, or our Achilles heel. But is so much secrecy a bad thing?

Secrecy saves: counter-terrorist intelligence officers recall with fury how a newspaper article describing National Security Agency abilities directly led to the loss of information that could have avoided the terrorist killing of 241 soldiers in Beirut late in October 1983. Secrecy guards against wanton nuclear proliferation, against the spread of biological and chemical weapons. Secrecy is central to our ability to wage an effective war against terrorism.

Secrecy corrupts. From extraordinary rendition to warrant-less wiretaps and Abu Ghraib, we have learned that, under the veil of classification, even our leaders can give in to dangerous impulses. Secrecy increasingly hides national policy, impedes coordination among agencies, bloats budgets and obscures foreign accords; secrecy throws into the dark our system of justice and derails the balance of power between the executive branch and the rest of government.

This film is about the vast, invisible world of government secrecy. By focusing on classified secrets, the government's ability to put information out of sight if it would harm national security, Secrecy explores the tensions between our safety as a nation, and our ability to function as a democracy.

Rob Moss, Director, On the Making of Secrecy

Excerpt from "This Documentary Moment" by Rob Moss

Appearing in *Media Ethics* Fall 2007, Vol. 19, No. 1

Available at <http://www.secrecyfilm.com/resources.html>

"From the outset, we have tried to initiate our own (filmmaking) strategies to keep our wits about us. To help us learn from our footage, we have been editing as we go, using the film itself as a guide for what it needs. Rather than starting by shooting, say, a dozen interviews, we used our initial research to film just a few, both to see how the arguments played and to see whether our ideas for animation/graphics and sound design/music might work together. Then we would add another idea, and then another...We are just now finishing our third year of work on this project. Our hope is to have the film's perspective emerge from the material rather than be marshaled ahead of time in the service of pre-held conclusions. As one of the critiques in the film is about secrecy's role in the run up to the war in Iraq, we hoped not to fall prey to our own prejudices and pre-judgements by working backwards from an opinion we held before we started filming. We also interviewed practitioners rather than pundits, preferring the film to be about individuals whose lives have been marked by their contact with the secrecy apparatus, rather than having experts hold forth. In the sense that we are interested in the human dimensions of secrecy, we have tried not to avoid ambiguity. But the pressure to make scenes play "better," to condense language, to make "strong" juxtapositions in the editing offers an irresistible logic that inevitably chooses some truths over others. The logic of what "works" exerts an almost gravitational pull on film projects, just as the size and scale of the secrecy system itself exerts an unseen yet consequential influence on our democracy."

About the Directors

From the official Secrecy film website:

<http://www.secrecyfilm.com/index.html>

Peter Galison is Pellegrino University Professor of the History of Science and of Physics at Harvard University. In 1997 Galison was awarded a John D. and Catherine T. MacArthur Foundation Fellowship; won a 1998 Pfizer Award (for Image and Logic) as the best book that year in the History of Science; and in 1999 received the Max Planck and Humboldt Stiftung Prize. His books include *How Experiments End* (1987), *Einstein's Clocks, Poincaré's Maps* (2003), and most recently *Objectivity* (with L. Daston, 2007)—he has worked extensively with de-classified material in his studies of physics in the Cold War. His film on the moral-political debates over the H-bomb, "Ultimate Weapon: The H-bomb Dilemma" (44 minutes, with Pamela Hogan) has been shown frequently on the History Channel and is widely used in courses and seminars in the United States and abroad. Galison co-curated a major exhibition, "Iconoclasm" at the German Media Museum (ZKM) in 2002. The show explored the battles between iconoclasm and iconophilia—the necessity and impossibility of images—in art, science, and religion

Robb Moss's recent film, *The Same River Twice*, premiered at the 2003 Sundance Film Festival, was nominated for a 2004 Independent Spirit award, and played theatrically in more than eighty cities across North America. Other films have shown at the Telluride Film Festival, screened at Lincoln Center and the Museum of Modern Art in New York City, and at numerous venues around the world, including in Amsterdam, Paris, Munich, Sydney, Ankara, and Rio de Janeiro. As a cinematographer he has shot films in Ethiopia, Hungary, Japan, Liberia, Mexico, Turkey—on such subjects as famine, genocide and the large-scale structure of the universe—many of these pieces were shown on Public Television. He was on the 2004 documentary jury at the Sundance Film Festival and has thrice served as a creative advisor for the Sundance Institute documentary labs. He is the past board chair and president of the Association of Independent Video and Filmmakers and has taught filmmaking at Harvard University for the past twenty years.

Tough Calls: How Do Journalists Make Ethical Decisions?

From Education for Freedom

<http://www.freedomforum.org/packages/first/curricula/educationforfreedom/L03main.htm>

We all want to be informed and have the right to make informed and reasoned decisions about issues that affect our lives. To do so, we need accurate, reliable, timely news. A free press provides us with the information we need to make personal and professional choices.

A free press is the glue that binds our nation. Without it, we lose our common vision of who we are and where we stand in the world. Our free-press tradition encourages us to look everywhere for news. We can read the news, watch it, listen to it, spread it, publish it and speak it.

Conflicts regarding the public's right to know are increasingly common. Sometimes the conflict relates to individual rights, such as the right to privacy or the right to a fair trial. Other times, the conflict is with the government, which may want to restrict information for reasons of national security or simply to avoid public controversy.

Americans are of two minds when it comes to free and unrestricted media. We are glued to TV screens when important — or sensational — stories break. We download material straight from the Internet. We rush to newsstands for printed materials offering greater detail and analysis. We tune in — and call in — to talk shows on radio and TV. Newspaper circulation numbers and television ratings rise dramatically. Yet even as we empty newsstands of newspapers and news magazines, even as we overload our phone and cable lines with Internet chatter, we criticize the very media that bring the news to us.

There is nothing in the First Amendment that says a journalist must be responsible. On the other hand, journalists make tough decisions regarding whether or not to report something based on their own professional codes of responsibility. Their decisions have to do with knowing what readers and viewers want and will tolerate and with the possible consequences of reporting certain information. Reporters also are aware of their personal prejudices, working to remain objective and fair in their coverage. For the most part, we have interpreted the First Amendment to mean that if the media have information, they cannot be prevented from telling the story; however, this ruling does not mean media are required to tell the story.

There's no doubt about it: it is hard to be a good journalist, to present stories in a clear and consistent manner and to search for the truth. Despite the difficulties inherent in their jobs, most journalists try to develop stories honestly, hoping to gain the public's trust by virtue of fair reporting.

Key concepts

* The First Amendment to the U.S. Constitution establishes a press that is generally free of government interference, ensuring that citizens have access to a wide array of information. Consumers of news must find a way to judge whether the news and information they receive is accurate and reliable.

* The credibility of a news organization is its most prized asset. Good journalism seeks to bring readers and viewers closer to the truth by providing the latest, most factual information possible. Every day, reporters, editors and news directors grapple with questions about accuracy, fairness and context in the stories they offer to the reading, viewing and listening public.

* Ethical decision-making in journalism is a process, subject at times to individual judgments of reporters, editors and news directors and at other times to policies and principles of news organizations.

What is the “State Secrets Privilege”?

From Wikipedia

http://en.wikipedia.org/wiki/State_Secrets_Privilege

The State Secrets Privilege is an evidentiary rule—e.g., doctor-patient, lawyer-client or priest-penitent privilege—created by United States legal precedent. The court is asked to exclude evidence from a legal case based solely on an affidavit submitted by the government stating court proceedings might disclose sensitive information which might endanger national security. The purpose of the state secrets privilege is to prevent courts from revealing state secrets in the course of civil litigation (in criminal cases, the Classified Information Procedures Act serves the same purpose). The government may intervene in any civil suit, including when it is not a party to the litigation, to ask the court to exclude state secrets evidence. While the courts may examine such evidence closely, in practice they generally defer to the Executive Branch. Once the court has agreed that evidence is subject to the state secrets privilege, it is excluded from the litigation.

State Secrets Privilege in Current Events

From the San Francisco Chronicle

<http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2006/04/29/MNG31IHTHV1.DTL>

U.S. moves to quash privacy suit against AT&T

Bob Egelko, Chronicle Staff Writer

Saturday, April 29, 2006

The Bush administration said Friday that it will ask a federal judge to dismiss a privacy rights group's lawsuit against AT&T over the company's reported role in a government surveillance program, because the case might expose state secrets.

In a filing in U.S. District Court in San Francisco, Justice Department lawyers said the government will assert the "military and state secrets privilege ... to protect against the unauthorized disclosure in litigation of information that may harm national security."

The information is so sensitive that the entire subject matter of the case is a state secret, government lawyers said.

The suit was filed by the Electronic Frontier Foundation in January on behalf of AT&T customers. It accuses the telecommunications company of giving the National Security Agency access to its voice and data network and its databases of records of customers' calls and e-mails to help the agency's recently disclosed surveillance program.

President Bush has said that shortly after the terrorist attacks of Sept. 11, 2001, he authorized the agency to intercept phone calls and e-mails between U.S. residents and terror suspects abroad without court approval. A 1978 law, the Foreign Intelligence Surveillance Act, requires the government to obtain a warrant from a court in a secret session for such surveillance, but Bush maintains he has the constitutional authority to override the law.

The lawsuit says AT&T has allowed the federal agency to sift electronically through all its messages to find targets for interception.

"It appears the NSA is capable of conducting what amounts to vacuum-cleaner surveillance of all the data crossing the Internet, whether that be people's e-mail, Web surfing or other data," Mark Klein, a former AT&T technician, said in a statement released by his lawyers.

He said the federal agency installed a device at the company's San Francisco office in 2003 capable of scanning huge amounts of data to locate specific targets.

Company documents obtained by Klein to back up his assertions have been filed under seal. Chief U.S. District Judge Vaughn Walker is scheduled to hear arguments May 17 on a request by AT&T to keep the documents confidential on the grounds that they contain trade secrets.

Kurt Opsahl, a lawyer with the Electronic Frontier Foundation, said Walker should reject the government's request to dismiss the suit.

"The state secret privilege should not be used to protect an illegal program from judicial scrutiny," Opsahl said.

Justice Department lawyers did not specify how the case would endanger national security. But they cited rulings by the U.S. Supreme Court in 1953 and the Ninth U.S. Circuit Court of Appeals in 1998 affirming the government's authority to keep military secrets out of court, even if that meant dismissing an entire lawsuit.

One Journalist's Opinion
From the Washington Post

<http://www.washingtonpost.com/wp-dyn/content/article/2006/06/09/AR2006060901976.html>

Excerpts from:

Public Secrets

By Robert G. Kaiser

Sunday, June 11, 2006; Page B01

Why does The Washington Post willingly publish "classified" information affecting national security? Should Post journalists and others who reveal the government's secrets be subject to criminal prosecution for doing so? These questions, raised with new urgency of late, deserve careful answers.

There's a reason why we're hearing these questions now. We live in tense times. The country is anxious about war and terrorism. Washington is more sharply divided along ideological lines than at any time since I came to work at The Post in 1963. The Bush administration has unabashedly sought to enhance the powers of the executive branch as it wages what it calls a "war on terror," many of whose components are classified secrets.

These are new circumstances, but to a reporter who has been watching the contest between press and government for four decades, what isn't new here seems more significant than what is. What isn't new is a government trying to hide its activities from the public, and a press trying to find out what is being hidden.

Thanks to resourceful reporters, we have learned a great deal about the war that the administration apparently never intended to reveal: that the CIA never could assure the White House that Saddam Hussein's Iraq actually had weapons of mass destruction; that U.S. forces egregiously abused prisoners at Abu Ghraib; that the United States had a policy of rendering terrorism suspects to countries such as Egypt and Jordan where torture is commonplace; that the United States established secret prisons in Eastern Europe for terrorism suspects; that the National Security Agency was eavesdropping without warrants on the phone calls of countless Americans, as well as keeping track of whom Americans called from home and work.

You may have been shocked by these revelations, or not at all disturbed by them, but would you have preferred not to know them at all? If a war is being waged in America's name, shouldn't Americans understand how it is being waged?

Secrecy and security are not the same. On this point, Exhibit A for journalists here at The Post is the 1971 Pentagon Papers case. The Pentagon Papers were a top-secret history of the Vietnam War written inside the Pentagon and leaked to the New York Times and then The Post. Top-secret means a document is so sensitive that its revelation could cause "exceptionally grave damage to the national security." The Nixon administration was in power, and it went to court to block publication on grounds that revealing this history would endanger the nation. A court in New York enjoined the two papers from publishing the information for several days.

But the Supreme Court decided, 6 to 3, that the government had failed to make a case that overrode the constitutional bias in favor of publication. The man who argued the case was Solicitor General Erwin N. Griswold. Eighteen years later, Griswold wrote a confession for the op-ed page of this newspaper: "I have never seen any trace of a threat to the national security from the publication [of the Papers]. Indeed, I have never seen it even suggested that there was such an actual threat."

...

I want to add, immodestly, that The Post's record on stories of this kind is good. I don't know of a single case when the paper had to retract or correct an important story containing classified information. Nor do I know of a case when we compromised a secret government program, or put someone's life in danger, or gave an enemy significant assistance.

These are the criteria we generally use when evaluating a report based on classified information. Editors here spend long hours on these stories. We never rush them into print; our lawyers usually read them along with editors.

We publish news we think is important, which is usually easy to recognize. We always ask the administration of the day to comment on sensitive stories, knowing that we may be inviting efforts to dissuade us from publication. This happened in the case of [Dana] Priest's story on the secret prisons [in Eastern Europe]. The Bush administration asked Leonard Downie Jr., our executive editor, not to mention the names of the countries in which these prisons were located, on grounds that naming them could disrupt important intelligence relationships. He agreed, in part because "naming the countries wasn't necessary for American readers," he said later.

But Downie rejected the suggestion that he kill the story altogether. "It raised important issues for American voters about how their country was treating prisoners, and it raised significant civil liberties issues," he said. Journalists are inclined to publish what we learn -- that's our job.

But we don't assert that the government has no right to keep secrets. On the contrary, we have probably helped the government keep secrets more often than we should have. But we exercise common sense, and seek guidance from knowledgeable people when we're uncertain. We avoid the gratuitous revelation of secrets. If we learn next week that the United States has found Osama bin Laden's hiding place, you are unlikely to read a story about it here before the government takes some action.

The American experiment is an experiment in self-government. The Founders established Americans' right to govern themselves. Abuse of government power was their abiding concern. The Founders saw a free press as a tool to control the abuse of power, which is why they gave the press special protection in the First Amendment to the Constitution: "Congress shall make no law . . . abridging the freedom . . . of the press."

The history of the First Amendment makes clear why the Founders embraced it. Consider, for example, an early draft of the journalist's favorite provision offered to the Constitutional Convention by James Madison: "The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments, and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable."

Information is the bulwark Madison had in mind. The people had to know what the government was doing in their name to be able to respond like good citizens. Accountability is only possible when citizens, including members of Congress, know what is going on. None of us has ever been held accountable for an act no one knew we committed.

Self-government and self-defense are two values that don't always coexist easily -- they have to be balanced. But balance is the Founders' greatest gift. They gave us three branches of government to prevent any one from getting an upper hand. And they gave us a free press, a completely independent observer to keep the people informed about the doings of the other three.

Once we understand the need for balance, it follows logically that no single authority should be able to decide what information should reach the public. Some readers ask us why the president's decisions on how best to protect the nation shouldn't govern us, and specifically our choices of what to publish. The answer is that in the American system of checks and balances, the president cannot be allowed to decide what the voters need to know to hold him accountable. A king may have such power, but the elected executive of a republic cannot, or we will have no more republic.

Classroom Discussion and Activities

To enrich the students' experience, we recommend post-viewing discussions and activities for *Secrecy*. Teachers are encouraged to adapt the study guide to meet their own learning objectives for their students.

Grade Levels

We recommend *Secrecy* for grades 10 - 12.

Suggested Subject Areas

American History, Journalism, Political Science, Social Studies, World Affairs

Post-viewing Discussion

To get the student discussion going, pose some general questions such as:

- What is the significance of the film's title?
- Did anything in this film surprise you? If so, what was it?
- What new insights or knowledge did you gain from this film?
- What is this film about and what is the filmmaker trying to get across to the audience?

Questions for the filmmakers

- How did you become a filmmaker?
- Where did you learn your own filmmaking skills and style?
- How did you come up with the idea for the film?
- What does it mean to be a director of a movie? What is your job description?
- Why have you chosen to do documentaries as opposed to feature films? Do you think you will ever make a feature film?
- What kind of challenges did you face in making this film?

Post-viewing Activities

1. Come up with a topic you think would be an interesting subject for a documentary. Research it and come up with a script.
2. Write a letter to the filmmakers Peter Galison and Robb Moss. Let them know what you thought of the film, critiquing the film, being as specific as possible. Please be honest, but respectful. You can send emails to them at galison@secrecyfilm.com and robbmoss@secrecyfilm.com.
3. Imagine a reporter for your school newspaper has just written a story detailing how school administrators have been secretly recording the activities of students they suspect might be dangerous. Hold a classroom debate in which one side argues for the article to be published and the other side argues for the story to be withheld.

Essay Questions:

1. Come up with answers to the questions Robert G. Kaiser posed in his Washington Post editorial, *Public Secrets*: Why do newspapers willingly publish "classified" information affecting national security? Should journalists and others who reveal the government's secrets be subject to criminal prosecution for doing so?
2. Do you think the government should be more open with the information it collects? Why or why not? Is it ever OK to publish information that might compromise our country's national security?
3. Research the opinions of Hillary Clinton, John McCain and Barack Obama on government secrecy and the State Secrets Privilege. Do they support or criticize the Bush administration's use of secrecy? What kinds of actions have they taken (such as votes) to back up their opinions? Do the candidates agree or disagree with each other? Do you agree or disagree with their opinions? (You can research candidates' voting records and positions at Project Vote Smart: <http://www.votesmart.org/>)
4. Do you agree or disagree with the government's decision to secretly observe the phones and computers of American citizens? Why?
5. Research and write a report on what has happened to the AT&T wiretap lawsuit since the article above was published.

Recommendations

Books:

- *A Kids' Guide to America's Bill of Rights: Curfews, Censorship, and the 100-Pound Giant* by Kathleen Krull
- *Declaring Freedom: A Look at the Declaration of Independence, the Bill of Rights, and the Constitution (How Government Works)* by Gwennyth Swain
- *All the President's Men* by Bob Woodward and Carl Bernstein

Films:

- *All the President's Men* (Alan J. Pakula, 1976)
- *Fahrenheit 9/11* (Michael Moore, 2004)
- *Fog of War* (Errol Morris, 2004)
- *Breach* (Billy Ray, 2007)

Websites

- Official *Secrecy* Website
<http://www.secrecyfilm.com/>
- U.S. Government Accountability Office
<http://www.gao.gov/>
- Government Accountability Project
<http://www.whistleblower.org>
- Freedom Forum
<http://www.freedomforum.org>
- Center for Investigative Reporting
<http://www.centerforinvestigativereporting.org>

Please feel free to contact me at kzwolfer@sfs.org to give me feedback on the screening. Let me know what you thought of it, comments, requests for future activities, etc....

Keith Zwölfer
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