

Introduction

Laura Poitras (Dana), Glenn Greenwald (Jud), Edward Snowden (Lake)

Scene: Poitras and Snowden sit with their backs to one another in front of open laptops

Laura: Hello, I'm Laura Poitras, a documentary filmmaker.

**** SLIDE 2

I have made a series of films about America post 9/11. The first was about the Iraq War. The second was about Guantanamo and the war on terror. In 2006, after my movie about Iraq, I have been detained and interrogated at the U.S. border dozens of times..

In December 2012, an anonymous source contacted Glenn Greenwald. Glenn is a writer for the British paper the Guardian and, like me, focuses on government and corporate accountability. Glenn and the source are not able to establish a secure communication method so their correspondence stalls. A month later I start receiving anonymous encrypted emails.

My involvement with Citizen Four, who we now know as Edward Snowden, began with this email:

[Snowden types while reading the email he is composing to Laura]

***SLIDE 3

Snowden: Laura,

At this stage I can offer nothing more than my word. I am a senior government employee in the intelligence community. I hope you understand that contacting you is extremely high risk and you are willing to agree to the following precautions before I share more. This will not be a waste of your time. The following sounds complex but should only take minutes to complete for someone technical. I would like to confirm out of email that the keys we exchanged were not intercepted and replaced by your surveillance. Please confirm that no one has ever had a copy of your private key and that it uses a strong passphrase. Assume your adversary is capable of one trillion guesses per second. If the device you store the private key and enter your passphrase on has been hacked, it is trivial to decrypt our communications. Understand that the above steps are not bulletproof and are intended only to give us breathing room. In the end if you publish the source materials I will likely be immediately implicated. This must not deter you from releasing the information I will provide. Thank you and be careful.

Citizen Four

Laura: *[To the audience]*

After following the source's instructions to minimize the risk that our communications will be intercepted, our dialogue continues.

[Laura types while reading her reply]

Laura: I have taken the necessary steps to ensure that our communications are secure, or at least as secure as they can be. I am interested to know more about the information you wish to share and wonder if you chose to reach out to me because it has something to do with governmental abuses, a topic of particular interest to me.

[Snowden types while reading his email back to Laura]

*****SLIDE 3**

Snowden: You asked why I picked you. I didn't. You did. The surveillance you've experienced means you've been "selected." For now know that every border you pass, every purchase you make, every call you dial, every cell phone tower you pass, friend you keep, article you write, site you visit, and subject line you type in is in the hands of a system whose reach is unlimited but whose safeguards are not. Your victimization by the NSA system means that you are well aware of the threat that unrestricted secret police pose for democracies. This is a story few but you can tell.

Laura: *[To the audience]*

Citizen Four goes on to tell me that he is an employee of the consulting firm Booz Allen Hamilton, and that he has been working on a project for the National Security Administration in Hawaii. While working at the NSA, Snowden learned of a program, referred to by the code name Prism, pursuant to which the NSA was engaged in warrantless surveillance of U.S. citizens by working with internet and telecommunications companies to gather excessive amounts of data about customers' internet and cell phone communications.

Before Citizen Four provides me with any information, I want to be sure that he understands what the ramifications might be.

[Laura types while reading an email to Snowden]

Since my disclosure of the information you provide may lead to negative repercussions for you, I think it's important that you assess what protections may be available to you. There are many different federal laws that protect whistleblowers. Whether any of these laws applies depends in part on the type

of wrongdoing that it is being revealed. For example, there are distinct laws protecting defense contractors, railroad employees, and those who report violations of all sorts of environmental regulations. There is also the Whistleblower Protection Act of 1989, a federal law that protects federal employees who report a violation of law, rule, or regulation, an abuse of authority, or a substantial and specific danger to public health and safety.

Snowden: What, if any, protections do any of these statutes provide to someone in my shoes?

Laura: What each of these statutes provides is protection from retaliatory employment actions.

Snowden: Since I've already quit my job, being fired isn't my concern. What matters to me is whether there are any laws that protect me from prosecution for releasing classified information?

Laura: From my research, it appears that the statute most likely to provide you some protection is the Intelligence Community Whistleblower Protection Act. That law, which was passed in 1998, sets up a procedure by which employees or contractors of the CIA, FBI, National Security Agency, and other intelligence agencies, can report to Congress urgent matters of concern.

Snowden: So would widespread unauthorized government surveillance qualify as an "urgent concern?"

Laura: I would say "yes" since the law defines "urgent concerns" to include serious abuses relating to the administration or operations of an intelligence activity involving classified information.

Snowden: What would I have to do to take advantage of this law?

Laura: It seems that the way to avoid penalty for the release of classified information is to follow the very specific procedure that the ICWPA lays out. For NSA contractors like you, you would have to report your concern to the Inspector General of the Department of Defense. The IG has a short period of time to determine whether the complaint is credible. The IG is required to report credible urgent concerns to the director of the relevant agency who is then obligated to forward the complaint to the relevant congressional committee, along with supporting documents.

Snowden: I'm leaving the country so I can't say that I'm a citizen of any state. But just out of curiosity, are there any state laws that provide help in a situation like mine?

Laura: Some states offer similar protections to whistleblowers who share confidential information in support of their complaint. I know from my friend Nicholas Kristof who lives in Oregon that in 2017 Oregon created an affirmative defense to a civil or criminal charge for employees of public agencies and nonprofits who share confidential information related to a reported violation of law, so long as the whistleblower only discloses the information to certain people.

Snowden: If I were in Oregon, who could I share confidential information with and still take advantage of this defense?

Laura: ORS 659A.210 protects a whistleblower who faces a civil action or criminal charges for disclosure of confidential information so long as the information is disclosed to: (1) a state or federal regulatory agency; (2) a law enforcement agency; (3) a manager employed by the whistleblower's employer; or (4) an attorney licensed to practice in Oregon. You're not in Oregon and, even if you were, I don't know that state law could create an immunity from prosecution under federal law.

Snowden: Speaking of criminal prosecution, do you have any idea what sort of charges I may be looking at if I turn all this classified information I've got over to you?

Laura: Historically, the Government has pursued whistleblowers like you under the Espionage Act of 1917, which was passed after U.S. entry into World War I, and prohibits interference with military operations or recruitment and to prevent the support of U.S. enemies during wartime. It was this law that allowed the Government to bring criminal charges against the likes of Eugene Debs, Emma Goldman, Julius and Ethel Rosenberg. More recently, the Government relied upon the Espionage Act to bring charges against Daniel Ellsberg, the Pentagon Papers whistleblower, Chelsea Manning and Julian Assange.

I know that Glenn Greenwald has a better perspective than I do about how situations like yours have played out in the past. Why don't we plan to meet in person and we can talk more about what our plan should be.

[Snowden types while reading his email back to Laura]

Snowden: Great. I'll send you an encrypted message giving you the details of a place where I believe you, Glenn and I, and anyone else who might shed some light on my situation, can meet safely.

*******SLIDE 4**

Scene: Poitras, Snowden and Greenwald in a Hong Kong hotel room.

Greenwald: Welcome to Hong Kong. I hope you're cozy, we are going to be at this hotel for quite a while. ¹

Snowden: I'm not sure if I'll ever head back to the United States. Have whistleblowers always received this kind of treatment?

Greenwald: Absolutely not, in fact through the course of history blowing the whistle could be rather lucrative. Governments spend massive sums on healthcare, defense, and infrastructure. Corrupt people take advantage of limited oversight to steal, cheat, and overbill to maximize profits. This creates a higher tax burden and harms the public by lowering the quality of goods and services. Historically, a government's feelings have continuously shifted.

²Whistleblowing on behalf of the government dates back to 7th century England. The term qui tam, which we hear today in the context of False Claim Act cases, is shortened from the Latin phrase "qui tam pro domino rege quam pro se ipso in hac parte sequitur." Translated: "he who prosecutes for himself as well as for the king." The term Qui Tam is synonymous with whistleblowers who sue corrupt companies on behalf of their government.

When was the earliest whistleblower in England?!

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The earliest type of ruling dates to 695, in the declaration of King Wihtred of Kent, which explained that "if a freeman works during [the sabbath], he shall forfeit his [profits], and the man who informs against him shall have half the fine, and [the profits] of the labor." This is the first recorded instance of a law that allowed private persons to collect a bounty for reporting a violation of their country's legislation.

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These laws persisted due to their effectiveness. They crossed the Atlantic into America. For example, an 1868 Colonial Law of Massachusetts rewarded any inspector who reported fraudulent sale of bread could keep 1/3 of the collected fines.

Fraud is hard to detect, so nations historically rely on private persons to report on corruption, theft, and corporate misconduct. This has been happening since the seventh century. The basic principle of the statutes hasn't changed – governments rewarded individuals with a portion of the stolen money they helped uncover. This lives on in modern whistleblower laws.

Snowden: Why whistleblower as a descriptor?

*******SLIDE 7**

Greenwald: The term whistleblower was in common use since the 19th century. But, Ralph Nader picked up the term in the early 70's to put a divulging private information in a public light.

¹ <https://www.whistleblowersinternational.com/what-is-whistleblowing/history/>

² Let's put in some questions and answers!

Snowden: Well, I'm not exactly expecting to get paid for this, but I will be writing a book in 2019.

*******SLIDE 8**

Greenwald: You are still in fine historical company, pay or not. In 1773, Benjamin Franklin blew the whistle in the Hutchinson affair. What was the Hutchinson affair you ask? He shared confidential letters showing how Massachusetts' royally appointed governor intentionally misled parliament to promote a military buildup in the colonies.

*******SLIDE 9**

In the 1777-8 cases of Sam Shaw and Richard Marven, two seamen accused the Commander in Chief of the Continental Navy Esek Hopkins of torturing British POWs. Congress dismissed the accused Commander and agreed to pay the pair's defense costs after Hopkins filed a suit for libel. Shaw and Marven were cleared in a jury trial.

Throughout the civil war, fraud crippled both armies. Lame mules, busted rifles, and defective ammunition were constant headaches. Congress passed the False Claims Act on March 2, 1863. Individuals with personal knowledge of scams were allowed to sue on behalf of the government. If successful, plaintiffs could keep half of what was recovered.

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In WWII, the government rarely used civil fines to target war profiteers. Instead, they filed criminal cases. So, potential qui tam plaintiffs would wait to file suit immediately after indictments were filed. Because of this, a personal knowledge requirement was added³

Snowden: Is qui tam the same as quid pro quo?

*******SLIDE 11**

Snowden: I just know I don't want to end up like Thomas Drake.⁴ He was a senior executive at the NSA who in the early 2000's complained about NSA's Trailblazer project, which was an early domestic surveillance program and a colossal waste of money. Drake followed the steps required by the Intelligence Community Whistleblower Protection Act, but there was no action. He eventually divulged some information to a reporter at the Baltimore Sun. The government responded by raiding his home with guns drawn, filing criminal cases against him, and ruining him financially and professionally. He ended up working at an Apple store. I think I may need to make my own path.

Greenwald: You make a good point. Drake even filed a whistleblowing retaliation complaint with the Inspector General's office after his criminal indictment. His complaint alleged that the crimes he was charged with were based in part, or entirely on information given during the IG

³ See: New Scientist 9 Dec. 1971, p. 69: "The Code [of Good Conduct of The British Computer Society] contains secrecy clauses that effectively prohibit Nader style whistle-blowing"

⁴ <https://www.theguardian.com/us-news/2016/may/22/how-pentagon-punished-nsa-whistleblowers>

investigation of the NSA whistleblowers.⁵ John Crane, a former Assistant Inspector General and eventually a legal analyst at the nonprofit Government Accountability Project (GAP), recently confirmed that his superiors there ordered him to not release documents that would have exonerated Drake in his criminal trial and complaint⁶ The documents need to reply to the complaint were “accidentally” shredded.⁷

Snowden: See? The sad reality of today’s policies is that going to the inspector general with evidence of truly serious wrongdoing is often a mistake. Going to the press involves serious risks, but at least I may have a chance.

***SLIDE 12 -

Ellsworth/Nixon Skit

Ø *Enter Nixon*

Ø Snowden: Oh hey, it’s Nixon. You know a thing or two about whistleblowers.

Ø Nixon: That’s an understatement. I know you’re going through a rough patch and I thought I’d chat with you about my run-in with Daniel Ellsberg.

Ø Snowden: Yeah, thanks – that would be really helpful. So, what happened with Ellsberg?

***SLIDE 13

Ø *Enter Ellsberg*

Ø Nixon: Well if it isn’t my arch nemesis, Ellsberg.....(glaring at Ellsberg)

Ø Ellsberg: (glaring back at Nixon) If someone is going to tell my heroic tale of whistle blower-dom, it’s going to be me

⁵ <https://www.whistleblower.org/in-the-news/cdn-senate-agrees-whistleblower-protection/>

⁶

<https://www.rootsaction.org/news-a-views/1191-exclusive-meet-the-pentagon-official-who-blew-the-whistle-on-mistreatment-of-other-whistleblowers>

⁷<https://www.pbs.org/wgbh/pages/frontline/government-elections-politics/united-states-of-secrets/the-frontline-interview-thomas-drake/>

Ø Ellsberg: It all starts with Vietnam – easily the worst war of all time. By 1971, I had become a well-established opponent to the war efforts.

Ø Nixon: Couldn't you have just done what everyone else who hated the war did & grabbed some signs & participated in an old-fashioned protest?

Ø Ellsberg: No, I had to do more than that.....I had to turn the public against the war so we could make it stop. Bombs were dropping at that time.

Ø Snowden: So, what did you do?

Ø Ellsberg: I leaked a secret Defense Department study of the United State's involvement in the decades long Vietnam conflict that came to be known as the Pentagon Papers to the country's leading newspapers.

Ø Snowden: Where were you working at that time?

Ø Ellsberg: I was working for the RAND (research and development) Corporation on high-level military strategy. Our focus was planting our strategic forces in such a way that they couldn't be destroyed in a first strike by the Soviet Union. During that time we all believed at RAND and in the air force that there was a missile gap in favor of the Russians and that a Russian attack was a real possibility.

Ø Nixon: The threat of the Soviet Union attacking us is still very real.....

Ø Snowden: How did you come to learn about the futile efforts in Vietnam?

Ø Ellsberg: I spent many years examining the war in Vietnam on behalf of the government.

Ø Nixon: At what point did you decide to do this terrible thing to me, I mean to our country.

Ø Ellsberg: It was a really difficult decision to make. I was very concerned that it would result in me being incarcerated for my entire life. What ultimately inspired me to do this were the draft resisters – Randy Kehler & Bob Eaton. And it wasn't

easy. Our technology was a bit lacking at the time so I had to copy each page individually – it took me months.

Ø Nixon: How did you even pull that off?

Ø Ellsberg: I would work during the day and make copies in the night after everyone had left. My kids actually helped with some of the copying and cutting of the top secret language on the pages.

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Ø Snowden: (to Nixon) How did you view Ellsberg?

Ø Nixon: As a very dangerous man – he had information and leaked secrets, including my own personal thoughts about Vietnam. It was the actions of operatives of my own administration that led to the dismissal of charges at Ellsberg's trial because we had planned.....well, that's unimportant.

Ø Ellsberg: Oh, are you referring to the break-in you planned at my psychoanalysts' office? Or are you referencing how Bernard Barker, a CIA asset, was instructed on a mission to break both of my legs? Twelve of the CIA assets, most of them Bay of Pigs veterans came to a rally I was speaking at on May 3, 1972, and were shown my picture and instructed that I was to be incapacitated totally.

Ø Snowden: Yikes (looking around his room to see if anyone is after him). At least they weren't told to kill you.

Ø Ellsberg: You have to understand, Snowden, these guys don't use the word "kill." So neutralize, incapacitate – they basically mean kill.

Ø Snowden: So the charges against you were ultimately dropped?

Ø Ellsberg: Yeah, as I indicated earlier, my trial ended, and the charges were dropped when the government actions taken against me were exposed.

Ø Nixon: Are you still proud of your decision? What is your reaction to someone like, uh, Snowden?

Ø Snowden: Before you respond, Ellsberg, I want you to know that it was because of you that I made the decision (to leak massive amounts of documents to to do what I did.

Ø Ellsberg: Thank you Snowden, that is really gratifying to hear. I've been urging people to use their judgment and conscience for decades to put out information that the public needs to know, and it just hasn't happened. For example, the Iraq War and ISIS never should have happened – if people had access to the pertinent information in advance.

Ø Snowden: Do you regret not releasing the Pentagon Papers sooner?

Ø Ellsberg: Every day. If I'd released the papers in 1964, I think we could have averted the war. The decision to move forward wouldn't have passed.

Scenario 3: Katherine Graham (Pilar), Roger Clark (Deena)

*******SLIDE 15**

Enter Katherine into bedroom where Poitras and Greenwald are.

Katherine: Mr. Snowden, I'm Katherine Graham and I was the publisher of the Washington Post. I heard that you're struggling with your decision about what to do with incriminating classified information and that you can't talk about whistleblowing during the Nixon administration without considering the role that the press played.

Let me take you back to 1972 when I was having a discussion with my lawyer, Robert Clark, that was similar in many ways to the conversation you're having now with these journalists.

Scene: Flashback to New York City in 1972

Katherine: I got a call threatening me if I publish the story about something super top secret where the President will shut down the Washington post. The President made threats of economic retaliation against my paper. It's detrimental. The New York times is involved too. They did an expose. I am worried about my legacy, but this is big and I need to know what to do. It has to do with super top secret stuff and so I want to know: 1) what will happen if I publish the story; (2) can I go to jail for treason; (3) can I be forced to identify my source; and (4) can I even tell you the details without blowing confidentiality?

Attorney Roger Clark:

First you can tell me without blowing confidentiality. Generally, unless I am aiding in the commission of crime or a fraud, it's confidential.

Second, let's talk about protecting your sources. That's a First Amendment issue. The First Amendment states that no federal law can be made abridging the freedom of the press, but a few landmark cases in the 20th century had established precedents creating exceptions to that rule, among them the "clear and present danger" test. Publishing news of a report can put newspaper publishers at real risk of prosecution. Third, jail can be a possibility.

But before I go into that why don't you tell me what's going on? And who your source is?

Katherine: I have the highest classified documents of the war. It's about the (Robert) McNamara study where it exposes Johnson, Eisenhower, and Kennedy and how they were lying about the Vietnam War for 30 years. I got more than 4,000 pages from the McNamara study.

Nixon has already prosecuted the New York Times and is seeking an injunction. He is saying that this will cause irreparable damage to defense interests.

Attorney: Are these documents from a trusted source and who? Was it the same source as the New York Times?

Katherine: Yes, I don't want to reveal my source. It might be likely the same source.

Attorney: The government will argue it is a violation of the Espionage Act. And that's a felony. If the government wins, the Washington Post will cease to exist. And if you got the study the same way the NYT got it, this would be considered collusion.

Katherine: What about the freedom of the press? I thought we don't live in a world where the government can't tell us what to print or not.

Attorney: How about we call the attorney general and tell him we intend to print in a few days. In that way we give them and us time to figure out the legality of all of this while the court in New York decides the Times' case. There's arguments on both sides. But I wouldn't publish. This is going to hurt your paper dearly.

Fast forward to present

Katherine: We published the story.

Poitras and Greenwald: Was everyone ok?

Katherine: Other newspapers followed suit and published. So we weren't alone. The outcome of the case was favorable to us with 6-3. The Government bearing the heavy burden of showing sufficient justification for the imposition of a prior restraint on speech. The government did not meet its burden. And the Washington Post escaped the ban. The First Amendment "gave the free press the protection it must have to fulfill its essential role in our democracy. The press was to serve the governed, not the governors."

End Scene

*******SLIDE 16**

Scenario Four - Ukraine Whistleblower Skit

SCENE 4 OF 5. Narrator, Ukraine Whistleblower, Gordon Sondland (Eriks)

Narrator: Edward Snowden is visited by a friend from the future, an anonymous source, now known as the Ukraine Whistleblower. In 2019, The Ukraine whistleblower made reports in August, alleging that Donald Trump sought help from Ukrainian president Volodymyr Zelensky to investigate Joe Biden and his son Hunter Biden, possibly violating anti-bribery statutes. The report and a memo documenting a July 25 phone call between Trump and Zelensky are now the basis of an impeachment inquiry currently occurring in the House.

ENTER UKRAINE WHISTLEBLOWER, SITS ON BED W/
SNOWDEN

[Ukraine Whistleblower]: Edward, Edward. Don't worry. Everything's going to be fine . . .I hope. I'm the Anonymous whistleblower everyone's been talking about lately. Sorry to be the one to break it to you, but, you're a little. . .passé. . . at this point in the news cycle. You thought that Obama was scandalous? I blew the whistle on one of the latest of the numerous, several, ongoing, Trump scandals. Let me tell you how the law will protect me. Well. Fingers crossed, anyway.
raise both hands with fingers crossed.

Edward Snowden So how did you blow the whistle about Trump's phone call to the Ukraine president? Did you just call Anderson Cooper?

Ukraine Whistleblower I opted to follow the complaint channels required by the Intelligence Community Whistleblower Protection Act, which you and Laura Poitras talked about earlier. It allowed me to report Donald's wrongdoing to the inspector general.

Edward Snowden: Wow, so you are just taking the chance that Congress will protect you from retaliation and that you won't suffer the same fate as poor Thomas Drake?

Ukraine Whistleblower	Already, things haven't gone quite as planned. Even though I followed all the right channels, my supervisor decided that, even though he found my report to be credible, he did not pass it on to Congress within the required seven days because he believed the contents of the report fell under executive privilege. He said that The president can withhold information from Congress and the courts, if it is a matter of executive privilege.
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[Edward Snowden] Well, I was just chatting with President Nixon. He ALSO said that he believed Executive privilege would protect him!

Ukraine Whistleblower Interesting. Well. We know how that turned out.
 Anyway, Edward. Like you, I am worried about my safety.
 Under the Intelligence Community
 Whistleblower Act, my identity is supposed to be protected.
 And yet, all sorts of people have been naming me.

Snowden: Didn't Lars Larson name YOU on Fox News last week?

Ukraine Wistleblower Maybe it was me and maybe it wasn't...

We have a lot in common, you and I, Edward.

Snowden: Like what?

Ukraine Wistleblower: Like you, it was revealed that I am a Central Intelligence Agency (CIA) employee. I know you had to go into hiding. But, I'm interested in keeping my job and there is a 2014 Amendment to the ICWPA that provides broader protections from employment retaliation. That wasn't in place when you were going through your whistle-blower conundrum.

Some people are saying that I am just a person who doesn't like Trump. But it has nothing to do with that. I am a dedicated public servant. Besides, whistleblowers must report violations of the *law*, and not differences of opinion over public policy. Otherwise, there is no protection from retaliation, like the CIA firing me or taking away my security clearance. But, If they do try to do that, I'm not allowed to bring cases to court. I have to rely on an internal appeal process. . . How can I trust in that process, when my own supervisors didn't follow it when I first blew the whistle?

****SLIDE 17

ENTER – SONDLAND

[GORDON SONDLAND] Hello, Anonymous Whistleblower! I am just stopping by to wish you luck. You see, I'm Gordon Sondland. I own this hotel, among many others, and run in various circles close to Trump. I tried to help President Zelensky navigate some of Trump's eccentricities by personally advising him on how to deal with. . . the Donald. I had my eye set on an Ambassadorship to the Ukraine. People misunderstand Donald Trump. The same way people here in Portland misunderstand me. Donald CAN be fun, and as a hotelier like me, I wish people would get to see that great

side of him. It looks as though no matter what information i provide to congress, I won't be able to claim any sort of whistleblower protections like you. Good luck, Anonymous.

EXIT SONDLAND

[Ukraine Whistleblower] **to Edward** Well I won't need any luck. I'll have the Intelligence Community Whistleblower Protection Act on my side. Keeping my identity anonymous is a top priority for my lawyers, but they don't seem to have much of a handle on it. Getting me in and out of Congress for a hearing without revealing my identity will be difficult to be sure . . . But, my documentation of the now-infamous call is out for all to see. I've done my part to make sure that *this* president won't be burning the evidence.

****SLIDE 18

*****SLIDE 19

SNOWDEN WRAPS UP

Wow. I've learned so much about being a whistleblower.

The Intelligence Community Whistleblower Protection Act allows intelligence agency employees to report matters of urgent concern, which includes abuses involving classified information and violations of law.

In Oregon, public employees who share confidential information related to a violation of law have a statutory affirmative defense to a civil or criminal charge for sharing that information.

Historically, the government has pursued whistleblowers like me under the Espionage Act of 1917. The government has prosecuted people like Daniel Ellsberg, the Pentagon Papers whistleblower, under that act.

On the other hand, the government also rewards whistleblowers when it benefits the government! That's why there are qui tam lawsuits available, when someone alerts the government of fraud or waste of government funds.

If whistleblowers use the proper channels, there is a chance that the appropriate officials won't ever let the secret information out, and it dies with them. It's why many have resorted to sharing information with members of the press in order to expose corruption and hold the government accountable.

I really hope that lawmakers and lawyers in the future continue to advocate for first amendment protections for the press, and for protections for whistleblowers, including keeping our identity anonymous and helping us keep our jobs.

*******SLIDE 20**

Public servants and journalists shouldn't face threats for doing the right thing and exposing corruption.

It's not ideal, being quarantined in a hotel room, going into hiding, living in exile in Russia, and risking my life to expose unlawful government secrets – but, now that I say it out loud, please read my book. Since the government sued me in September, it is #1 on Amazon.

*******SLIDE 21**

THE LAST WORD WITH ED

*******SLIDE 22**

Be Careful What You Wish For. Remarks on the legacy and role of IC whistleblowers.

Edward J. Hill

After more than thirty years of speculation, Deep Throat, the whistleblower who gave Bob Woodward and Carl Bernstein the rope to publicly hang Richard Nixon, revealed himself in 2005 as the 91-year-old ex-FBI second-in-command W. Mark Felt.

The admission threw Felt into the center of controversy. Ex-Nixon aides like Patrick Buchanan publicly called him a traitor. Former Nixon crony and nationally syndicated columnist Robert

Novak wrote that Felt's "motivation may not have been as noble as his family makes it out to be." Even convicted Watergate burglar G. Gordon Liddy found a spot on national television to say that he thought Felt acted "unethically." The left, meanwhile, generally took the lead from Felt's grandson, who proclaimed the man a real American hero. Felt himself said he hoped to be remembered as such.

But Felt had another political legacy. It also dates to the 1970s. It also involves break-ins and a host of dirty tricks against the left. This time, though, Felt ordered the crimes instead of exposing them. Along with Edward Miller, the FBI's assistant director of the domestic intelligence division, Felt was convicted in December 1980 for supervising or ordering the warrantless break-ins of "friends and acquaintances" of the Weather Underground in 1972 and 1973. As the Public Research Associates website reported in 2005, Felt also admitted approving a "black-bag job" against the Arab Information Center in Dallas in 1972. The prosecutor said Felt was responsible for "violation of the rights of all people of this country, violations that cannot and will not be tolerated as long as we have a Bill of Rights."

These and other acts were all part of the FBI's Counterintelligence Program (COINTELPRO), which operated officially from 1967 to 1971, although it continued until at least 1975. Its main targets were the Black Panthers and the American Indian Movement, though the radical left in general was subject to a range of illegal tactics—including surveillance, arrests on specious charges, spreading false information about activists and even murder (most famously, 21-year-old Black Panther leader Fred Hampton, murdered while he slept in Chicago in December 1969).

In April 1981, in his first act in office (and shortly after Felt and Miller were convicted), Ronald Reagan pardoned them, showering them with praise as "two men who acted on high principle to bring an end to the terrorism that was threatening our nation." Two years later, a judge ordered their criminal records swept clean, and the government's widespread, illegal counterinsurgency efforts disappeared from legal consideration. To date, Felt and Miller are the only ones who have been prosecuted for anything emanating from COINTELPRO.

Such was Mark Felt, hero to those, mostly on the left, who credited him with bringing Nixon to heel.

In June 2013, Edward Snowden, the barn burning whistleblower of his generation, shocked the world by releasing to Glen Greenwald and Laura Poitras hundreds of thousand of files he appropriated from the NSA that revealed the "real life" application of Section 215 of The Patriot Act and Section 702 of the FISA Amendment of 2008. Among his principal revelations were the following:

1. Secret FISA court orders allowing the NSA to sweep up Americans' phone records.

2. PRISM

PRISM was the NSA's program to directly access the servers of U.S tech giants like Google, Facebook, Microsoft and Apple, among others, without the knowledge of those companies or their users.

3. Britain's version of the NSA tapped fiber optic cables around the world

4. NSA spies on foreign countries and world leaders

The German newsweekly *Der Spiegel* revealed that the NSA targets at least 122 world leaders.

5. XKeyscore, the program that sees everything

XKeyscore is a tool the NSA uses to search "nearly everything a user does on the Internet" through data it intercepts across the world. In leaked documents, the NSA describes it as the "widest-reaching" system to search through Internet data.

6. NSA efforts to crack encryption and undermine Internet security

7. NSA elite hacking team techniques revealed.

The NSA has at its disposal an elite hacker team codenamed "Tailored Access Operations" (TAO) that hacks into computers worldwide, infects them with malware and does the dirty job when other surveillance tactics fail.

8. NSA cracks Google and Yahoo data center links

9. NSA collects text messages

The NSA, following its unofficial motto of "collecting it all," intercepted 200 million text messages every day worldwide through a program called Dishfire.

Other documents also revealed that the NSA could "easily" crack cellphone encryption, allowing the agency to more easily decode and access the content of intercepted calls and text messages.

10. NSA intercepts all phone calls in two countries

The NSA intercepts and stores all phone calls made in the Bahamas and Afghanistan through a program called MYSTIC,

Unlike Mark Felt who was a leader of the “Deep State” blowing the whistle on a popularly elected but criminal President, Edward Snowden was a Deep State contractor who blew the whistle on the Deep State itself.

Reactions to Snowden were mixed, as they were to Mark Felt.

The [American Civil Liberties Union](#) declared on the fifth anniversary of Glenn Greenwald’s first Guardian article, "Thanks to Snowden's disclosures, people worldwide were able to engage in an extraordinary and unprecedented debate about government surveillance,"

[Ben Wizner](#), director of the ACLU Speech, Privacy, and Technology Project and a member of Snowden's legal team, told Ars Technica. "Snowden's number one goal was to launch a meaningful debate about the appropriate limits of government surveillance authority, and that goal was accomplished "His biggest fear was that the revelations would be ignored or cynically dismissed, and instead we have a global debate. Now it's obviously the case that in many instances he would have liked to have seen more significant reforms, but that was the secondary goal."

But even if the ends seemed indisputably good, not every security-watcher believed in the means. [Klon Kitchen](#), the Heritage Foundation's senior research fellow for Technology, National Security and Science Policy, acknowledged that Snowden's "illegal disclosures significantly elevated public debate on the intrinsic tensions between liberty and security," but he believed there are "far more responsible ways" to initiate that conversation.

"Edward Snowden is no hero," Kitchen told Ars Technica. "Any positive effects that may have emerged following his treachery are overshadowed by the great costs to our nation’s security."

In an interview with John Oliver in Moscow in 2015, Snowden himself said, “I did this to give the American people the chance to decide for themselves the kind of government they want to have.”

Hold that thought.

The policy impact started with some changes made by the Obama administration, including [Presidential Policy Directive 28 \(PPD-28\)](#).

One of the things that PPD-28 eventually changed was how parts of the intelligence community ran bulk surveillance of Internet traffic. The NSA conducted those actions under the authority of Section 702 of the FISA Amendments Act of 2008. Post-Snowden, the NSA ended what it called "[about](#)" collection—searching the contents of communications for email addresses and other "selectors" rather than just looking for traffic between persons of interest The PPD-28 change made what the ACLU and EFF contend to be an unconstitutional form of surveillance "less unconstitutional."

Somewhat less obscure were the legislative changes that followed—specifically, the [USA Freedom Act](#), which changed the way the NSA runs the FISA 215 program. USA Freedom got the NSA out of

the business of directly storing phone records, and the policy now requires the government to obtain records from providers after obtaining an authorization from the FISC.

One of the major contentions of Snowden's critics in the national security world is that his leak and the earlier WikiLeaks documents dump facilitated by Chelsea Manning have inspired the host of leaks that followed. Attorney Mark Zaid, who has worked with whistleblowers for years, contends that "every time we have someone like Snowden or Manning, it makes it more difficult for whistleblowers to come forward," particularly through legitimate channels.

Zaid has said "The impact of Snowden was that the agencies have clamped down and become far more paranoid of what used to be viewed as everyday conduct. It's now viewed through a different lens."

No matter your perspective on Snowden's impact many feel the intelligence community's morale and credibility has been complicated more by damage inflicted within the last two years by the current president of the United States, the leader, to paraphrase Snowden, of "the kind of government [Americans] want to have."

Mark Rumold, Senior Staff Attorney of the Electronic Frontier Foundation has commented, "Honestly, I think what President Trump is doing now—bashing the IC, and the claims about the 'Deep State'—are doing more to undermine the public's perception of the Intelligence Community than the disclosures did. I think the real takeaway is that there are a lot of problems in the intel community and with foreign intelligence surveillance, and Trump is exploiting those problems for his own political ends without actually caring about the substance of the problem."

The inclinations of many leaders of the IC under President Obama have arguably only encouraged Trump and supported his rantings. The FBI's James Comey; the CIA's John Brennan; the NSA's Mike Rogers; and, Director of National Intelligence James Clapper, have since the post 2016 election/pre-inaugural period presented themselves as wary of Trump at best and vehemently opposed to him at worst. They have, in a sense, become very public manifestations of the Feltian motivations so admired on the left and have done so with an enormous amount of support from the left. Never mind the whistle blown by Snowden about the behavior of the IC. Now the IC is once again "our IC" in the age of "not my President."

But the political and social context of the current IC rebellion has changed dramatically since the era of Deep Throat. It is widely recognized that Mark Felt was only able to force Nixon out of office thanks to the erosion of Nixon's support among voters and Republican Senators and Roger Cronkite and Dan Rather and other in the mainstream media who were able to manufacture the necessary consent among voters and officeholders for Nixon's removal. Nixon headed for the door knowing he was doomed anyway.

Not so, Trump. Roger Ailes made it very clear that one of the main reasons he built FOX News was to make sure that Richard Nixon could never be impeached again. FOX News has by now evolved into America's most watched cable news network, a form of de facto state television and the center

of a virtual cult. Support for Trump has barely moved during an impeachment inquiry that in an earlier political era would have doomed the President and, understanding this basic political math, Republican members of the House and Senate have created the impression that they will consider virtually no crime committed by Trump to be serious enough to merit removal from office. Instead, they have publicly trafficked in debunked conspiracy theories and shamelessly attacked the truthfulness of competent and credible witnesses including Ambassadors Taylor and Jovanovich, Assistant Secretary Kent and Colonel Vindman with the frothing intensity of the mob. Several have even demanded that the CIA analyst better known as “the whistleblower” be identified, violations of federal law notwithstanding. They have become the standard bearers of Trump’s assault on the Deep State.

An argument could be made that there is therefore karmic justice loose in the land. Trump is, after all, a duly elected President of the United States, as was Richard Nixon. The case can be made that nobody in Mark Felt’s position, much less an individual with hands as dirty as Felt’s, had any business ratting out Nixon and undermining “the people’s” elected President. A similar argument is implied in the current matter of Trump’s impeachment by the question, “do we REALLY want the IC to blow up our elected representatives at will?” Do we REALLY want to rely on the kind of people exposed by Edward Snowden to “save us from ourselves?”