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ABOUT WAR ON WHISTLEBLOWERS: FREE PRESS AND THE NATIONAL SECURITY STATE

Often the best source of information about waste, fraud and abuse in government is an existing government employee committed to public integrity and willing to speak out. Such acts of courage and patriotism, which can sometimes save lives and often save taxpayer dollars, should be encouraged rather than stifled. We need to empower federal employees as watchdogs of wrongdoing and partners in performance.

~ Barack Obama, 2008

SYNOPSIS

Without whistleblowers in government or private industry, the American public might not have known about the Watergate scandal. We might never have discovered that multiple presidential administrations had lied about the Vietnam War. Or that Big Tobacco knew cigarettes contained harmful carcinogens even as they continued to manufacture and market them. Or that Enron executives were using irregular accounting practices. Without the bravery of these truth-tellers—and without a free press that can tell their stories—the American public would remain ignorant of many of the decisions and assessments made behind closed doors by government and corporate officials. Whistleblowers are compelled to speak out against waste, fraud and abuse. They deliver transparency and accountability in an age of state secrets, billion-dollar contracts and unprecedented collusion between private and public entities.

In War on Whistleblowers, Brave New Foundation tells the story of the embattled whistleblower in the Obama era—an era in which both government and defense industry whistleblowers face relentless pressure to suppress evidence of illegalities. The film features the stories of four whistleblowers, including Thomas Tamm, who revealed improper wiretapping of Americans’ telecommunications, and Pentagon whistleblower Franz Gayl, whose recommendation for proper equipment to avoid roadside bomb fatalities in Iraq was initially ignored. Through their experiences, we discover that the Obama Administration has been marked by an unprecedented campaign of prosecution against those who try to reveal wrongdoing both within and outside of government. Despite Obama’s campaign promise to lead the most transparent White House in history, his administration’s use of the Espionage Act to pursue eight whistleblowers has in fact created a dangerous climate of intimidation and retribution, not only for the whistleblowers themselves, but also for the reporters who break their stories.

ABOUT THE PRODUCTION

War on Whistleblowers is part of Brave New Foundation’s War Costs project: an international effort to expose the financial and human costs of the US military industrial complex. Through feature-length films, short videos and social media, War Costs reveals the deep corruption of our political system by the lobbying and campaign spending of the war industry. In particular, it unveils the extent to which military spending priorities have been warped by corporate influence—at the cost of American taxpayers, and with dire consequences for American foreign policy.
Founder and president of Brave New Foundation, Greenwald has produced and/or directed more than 50 TV movies and miniseries, including *The Burning Bed* with Farrah Fawcett, as well as the films *Steal This Movie* (2000) and *Breaking Up*, starring Russell Crowe (1997). Greenwald turned to documentary filmmaking in 2002, inspired by pervasive voter rights abuses in the 2000 presidential election. He found audiences eager for substantive investigations of social issues, told through personal stories, and chose to bypass the usual gatekeepers by devising creative means of distribution, first through house parties, and ultimately through the Internet and social media. At Brave New Foundation, Greenwald has produced and directed *Uncovered: The War on Iraq; Outfoxed: Rupert Murdoch’s War on Journalism; Wal-Mart: The High Cost of Low Price; Iraq for Sale: The War Profiteers; Rethink Afghanistan* and *Koch Brothers Exposed*, along with many short pieces and campaigns. He is the recipient of many awards and accolades, including a Maggie Award from the Planned Parenthood Federation, the Peacemaker Award from the Physicians for Social Responsibility, the City of Justice award from LAANE, the 2007 Norman Felton and Denise Aubuchon Humanitarian Award and Liberty Hill Foundation’s Upton Sinclair Award. Greenwald was honored by the ACLU Foundation of Southern California for his activism and also received the 2001 Peabody Award and the 2002 American Film Institute Producer of the Year award. His films have garnered 25 Emmy nominations.

Previously the Executive Producer for Brave New Foundation’s critically claimed *Koch Brothers Exposed*, Cole was also the producer, director and writer for “Modern Marvels” on the History Channel, a Show Producer for NBC’s “The Apprentice” and West Coast Bureau Chief/Senior Producer for the nationally syndicated program “Inside Edition.”
Jim Miller  
Producer

Executive Director for Brave New Foundation since 2006, Miller helped to pioneer the Foundation’s unique film distribution system by organizing a coalition of more than 100 groups (including Amnesty International, MoveOn, True Majority and Voters For Peace) to host house party screenings of the 2006 documentary Iraq For Sale. Producer of the Foundation’s Koch Brothers Exposed, Miller has more than 25 years of film experience—a career that began with his work on Bull Durham (1988) and includes his roles as Director of Development for The Shooting Gallery, an independent film company that produced Sling Blade and You Can Count on Me, and as Head of Acquisitions for Cinema Park Distribution. Immediately prior to joining Brave New Films, Jim also produced four “Les Girls” charity benefits for the National Breast Cancer Coalition.

Natalie Kottke  
Co-Producer

Co-Producer for Brave New Foundation documentaries War on Whistleblowers and Koch Brothers Exposed, Kottke has also produced for E! Networks and CBS, and is Associate Editor for The New York Times best-selling author Linda Sivertsen and her agency, Book Mama.

Samantha Bates  
Associate Producer

A 2012 graduate from Loyola Marymount University, Bates’s growing passion to make documentaries about the natural world led her to film and television. In addition to her work on War on Whistleblowers, she was an Associate Producer on the War Costs project and the short video 178 Child Casualties.

Joseph Suzuki  
Editor

A freelance editor, graphic artist and visual effects compositor for film and television since completing his film education at Los Angeles Film School, Joseph joined Brave New Foundation in 2010, editing for a variety of projects including Koch Brothers Exposed.

Jason Guttierez  
Editor

A 2003 graduate of the University of Southern California’s School of Cinematic Arts, Guttierez has worked as a producer, editor and production department manager for a television affiliate that broadcasts to the Caribbean, and on a variety of independent productions, in addition to his work as editor for Brave New Foundation.

Nuno Malo  
Composer

One of Portugal’s most respected and busiest film composers, Malo was awarded Breakout Composer of The Year at the 2011 IFMCA Awards, where he was also nominated for Best Original Score For A Drama Film with his score for Amalia. In 2012, his score for LUV was nominated for Best Score for a Feature Film at the Hollywood Music In Media Awards. Additional film credits include No God, No Master and The Celestine Prophecy.
A former attorney to the United States Department of Justice, Tamm became a whistleblower when he uncovered warrantless wiretapping by the National Security Agency (NSA) under the Bush Administration. He was one of the anonymous sources for The New York Times reporters James Risen and Eric Lichtblau in their 2005 article, “Bush Lets U.S. Spy on Callers without Courts,” which led to a criminal investigation. Tamm eventually told his full story to Newsweek’s Michael Isikoff in 2008, and he was awarded the Ridenhour Prize for Truth-Telling in 2009.

A former Senior Executive at the NSA, Thomas Drake faced prosecution under the Espionage Act of 1917—and a 35-year prison sentence—after he exposed waste, fraud, abuse and illegality within the government in the form of the NSA’s $1.2 billion “Trailblazer” data analysis program. A key material witness for two 9/11 Congressional investigations and a Department of Defense Inspector General audit of the NSA, Drake was also one of several sources for articles written about the Trailblazer program by Siobhan Gorman of the Baltimore Sun. Drake also exposed the Stellar Wind program, a super-secret warrantless surveillance program approved by the White House. Though never charged with spying, Drake was accused of having allegedly classified documents in his basement for the purpose of disclosure. In a major embarrassment for the Department of Justice, the criminal case against him collapsed on the eve of his public trial in June 2011, and the government dropped all ten felony counts against him. Drake was awarded the Ridenhour Truth-Telling Prize in 2011 and the Hugh M. Hefner First Amendment Award in 2012, alongside Jesselyn Radack from the Government Accountability Project.
Ellsberg is most widely recognized for his role in releasing to *The New York Times* and other news outlets what became known as “The Pentagon Papers”: a secret Pentagon study of government and intelligence decisions made and carried out during the Vietnam War. These documents revealed that the Johnson Administration had deceived the general public by grossly underestimating both the US’s ability to win the Vietnam War and the casualties that would result from it. Ellsberg remains politically active and stands by the notion that the President, and the government at large, lies to the public on a daily basis. Today he is a member of the Campaign for Peace and Democracy and appears regularly in the media public political forums.

A Lockheed Martin project manager and systems engineer, DeKort became a whistleblower when he posted a YouTube video that exposed crucial safety failures in the company's retrofitting of the 123 Coast Guard Cutter boat—part of the Coast Guard’s vast, $24 billion “Deepwater” modernization program. After Lockheed Martin management—and, later, high-ranking executives and board members—rebuffed his concerns, DeKort went public in 2006. His video eventually led to an investigation by the Inspector General of Homeland Security and a Congressional hearing on the entire Deepwater project, and the boats in question were ultimately decommissioned. The US Coast Guard subsequently revoked program management from Lockheed Martin. In 2008, DeKort received the Carl Barus Award for Outstanding Service in the Public Interest.

While working at the Pentagon as a civilian science advisor for the Marine Corps, Gayl—himself a former Marine—volunteered to deploy to Iraq, where he discovered critical equipment shortages that denied life-saving technologies to Marines serving in Iraq. Upon his return, Gayl alerted the shortages to the Office of the Secretary of Defense, and later to Congress and the press. He exposed in particular the Corps’ failure to fulfill a request for the mass fielding of Mine-Resistant Ambush Protected vehicles (MRAPs)—armed trucks that could effectively protect troops against improvised explosive devices. Despite Vice President Biden’s acknowledgement of Gayl’s central role in raising awareness of the need for MRAPs, Gayl has been the target of years of professional reprimand, retaliatory investigations and workplace harassment, including the elimination of meaningful duties and the extended suspension of his security clearances.

“*The whole do as to others as you would wish to have done to yourself...*  
*I actually believe in that.*”

against all corruption by ICGs and Lockheed Martin against the use of C4I systems which DeKort claimed had been procured in the contract. DeKort...
**FEATURED JOURNALISTS**

**Eric Lipton**  
Investigative Reporter, The New York Times

An investigative reporter for the *New York Times* and winner of the 1992 Pulitzer Prize for Explanatory Journalism, Lipton has been devoted to investigating the 9/11 attacks and their aftermath. Lipton co-authored the book *City in the Sky: The Rise and Fall of the World Trade Center* with James Glanz.

**Michael Isikoff**  
National Investigative Correspondent for NBC News


**Tom Vanden Brook**  
Journalist, USA Today

Vanden Brook has worked for *USA Today* since 2000, primarily covering the Department of Defense, and particularly the Pentagon’s use of private contractors and the efficacy of the programs in Afghanistan and Iraq. His numerous stories on MRAPs detail the Pentagon’s delays in fielding the life-saving trucks. Vanden Brook’s series “Troops at Risk: IEDs in Iraq,” was written about whistleblower Franz Gayl; it is what prompted Defense Secretary Robert Gates to make the production of MRAP vehicles a top priority.

**Dana Priest**  
Investigative Reporter, The Washington Post

A national security reporter at *The Washington Post*, Priest focuses on military, intelligence and counterterrorism operations. She is co-author of the book *Top Secret America*, which revealed the buildup in top-secret intelligence organizations in the aftermath of the September 11th attacks. She has twice been awarded the Pulitzer Prize for her reporting on the CIA’s secret prisons and the neglectful state of soldier care at Walter Reed Army Medical Care. She is also a two-time winner of the George Polk Award.

**Seymour M. Hersh**  
Journalist, The New Yorker

An investigative journalist based in Washington, DC, Hersh has reported on military and security matters for *The New York Times* and *The New Yorker* magazine, and he has written nine books, including *The Price of Power*, a critical look at the role of Henry Kissinger in the Nixon Administration. Hersh won a Pulitzer Prize in 1970 for his freelance reporting on the My Lai massacre in South Vietnam, and he has won two National Magazine awards for his *New Yorker* reporting on the Iraq War and the Abu Ghraib prison abuses. Hersh has won more than a dozen additional journalism awards, including five George Polk awards, over his fifty-year career.
David Carr  
Journalist, The New York Times

Before coming to The New York Times as a media and culture columnist, Carr was an editor for the Washington City Paper in Washington, DC. He is currently a regular contributor to The New York Times’s Media Decoder blog, and he writes the Media Equation column in the Times’s business section. He is also author of The Night of the Gun, a memoir of his addiction and recovery.

Sharon Weinberger  
National Security Reporter

A national security writer focusing on science and technology issues, Weinberger is a 2011 Alicia Patterson Foundation Fellow reporting on “War 2.0,” the Pentagon investment in social network analysis. She is also a regular contributor on national security for AOL News, a reporter for Wired’s national security blog, Danger Room, author of Imaginary Weapons: A Journey Through the Pentagon’s Scientific Underworld, and co-author of A Nuclear Family Vacation: Travels in the World of Atomic Weaponry. She was the founding editor-in-chief of Defense Technology International, a monthly magazine published by McGraw Hill’s Aviation Week Group. Her writing on science and technology has also appeared in the Washington Post Magazine, Slate, Nature, Discover, Financial Times and Aviation Week & Space Technology, among other publications.

Jane Mayer  
Staff Writer, The New Yorker

Mayer joined The New Yorker as a staff writer in March 1995. Based in Washington, DC, she writes about politics, law and national security for the magazine. Recent subjects include the impact of the Supreme Court’s Citizens United decision on the 2012 presidential campaign; the Koch Brothers’ funding of the Tea Party Movement; the Obama Administration’s prosecution of national security leaks; and the administration’s expanded use of drones in the War on Terror. Before joining The New Yorker, Mayer was a reporter at the Wall Street Journal. In 1984, she became the Journal’s first female White House correspondent. Among other stories, she covered the bombing of the American barracks in Beirut, the Persian Gulf War, the fall of the Berlin Wall and the final days of Communism in the Soviet Union. A winner of many reporting awards, among them the 2012 George Polk Award, the 2012 Robin Toner Prize for political reporting and the 2010 James Aronson Award for Social Justice Journalism, Mayer is also author of the bestselling 2008 book The Dark Side: The Inside Story of How the War on Terror Turned Into a War on American Ideals and co-author of Strange Justice and Landslide: The Unmaking of the President, 1984-1988.

Bill Keller  

An executive editor for The New York Times for eight years until 2011, Keller is now an Op-Ed columnist for the newspaper and writes for The New York Times Magazine. He has reported on a wide range of topics throughout his career, including agriculture, labor, military affairs and the end of white rule in South Africa. In 1989, he was awarded a Pulitzer Prize for his coverage of the collapse of Communist rule and the dissolution of the Soviet Union. He is also the author of The Tree Shaker: The Story of Nelson Mandela.
**FEATURED EXPERTS**

**Jesselyn Radack**

Director, National Security & Human Rights, Government Accountability Project

A former US Department of Justice ethics attorney, Jesselyn Radack blew the whistle when the FBI committed an ethics violation while interrogating so-called “American Taliban” John Walker Lindh in 2001. After continued suppression of the truth by the Department of Justice, Radack resigned from her post and disclosed important emails regarding Lindh’s case to *Newsweek*—an action that subsequently led to a relentless campaign of retaliation against her by the Justice Department. Her memoir, *Traitor: The Whistleblower and the “American Taliban,”* details her actions and the evolution of the US torture program. Radack is now the Director of National Security & Human Rights at the Government Accountability Project, the nation’s leading whistleblower organization, and she is the attorney to whistleblowers Thomas Drake and John Kiriakou, both charged under the Espionage Act. Radack is also a pundit and blogger on Daily Kos.

**William Hartung**

Director, Arms and Security Project at the Center for International Policy

A former senior research fellow in the New America Foundation’s American Strategy Program, Hartung is an expert on alternative approaches to national security strategy and weapons proliferation. He has authored numerous books and articles on the subject, including *Prophets of War*. Hartung’s current position as the director of the Arms and Security Project at the Center for International Policy focuses on reforming US policies on military spending, arms trade and nuclear weapons.

**Tom Devine**

Legal Director, Government Accountability Project

As Legal Director at the Government Accountability Project, Devine has provided legal assistance to more than 5,000 whistleblowers and served as a “Whistleblower Ambassador” to more than a dozen nations on trips sponsored by the US State Department. A leading voice in the campaigns to pass or defend 20 major national and international whistleblower laws, Devine was instrumental in the creation of the Whistleblower Protection Act of 1989 for US federal employees as well as ten recent laws creating the right to jury trials for corporate whistleblowers. He is author and co-author of numerous books, including *The Corporate Whistleblowers Survival Guide: A Handbook for Committing the Truth and Courage Without Martyrdom: The Whistleblower’s Survival Guide*. And he is recipient of the Hugh M. Hefner First Amendment Award and the “Defender of the Constitution Award” bestowed by the Fund for Constitutional Government, among other honors.

**Winslow T. Wheeler**

Director, Straus Military Reform Project of the Project on Government Oversight

Currently the director of the Straus Military Reform Project of the Project on Government Oversight, Wheeler previously worked on national security issues for members of the US Senate and Government Accountability Office from 1971 – 2002. He directed studies on the 1991 Gulf War air campaign, the US strategic nuclear triad and weapons testing. In 2002, he wrote an essay under the pseudonym “Spartacus,” which discussed Congress’s reaction to the 9/11 attacks. After senators featured in the essay attempted to have Wheeler fired, he resigned his position. He continues to speak out about national security and military affairs and is the author of *The Wastrels of Defense: How Congress Sabotages National Security and Military Reform: An Uneven History and an Uncertain Future* and the editor of the anthology *The Pentagon Labyrinth: 10 Short Essays to Help You Through It*. 
A defense analyst and weapons designer for the Pentagon from 1966 – 1986, Sprey and his colleagues led the concept design and development of the F-16 air-to-air fighter and the A-10 close support fighter in the 1960s and early 1970s. During the late 1970s, Sprey, together with a small group of Pentagon and congressional insiders, started a military reform movement that led to the establishment of the Congressional Military Reform Caucus and, later, passage of several military reform bills in the early '80s. In 1986, because he felt “it would be impossible to build another honest aircraft,” Sprey stopped working for the Department of Defense. He turned to recording music, founding jazz and blues record label Mapleshade Records. He continues to work with reform-minded foundations and journalists.

Danielle Brian
Executive Director, Project on Government Oversight

Brian has been the Executive Director of the Project on Government Oversight since 1993. She frequently testifies before Congress and regularly meets with members of Congress, White House officials and federal agencies to discuss how to achieve a more effective, accountable, open and ethical federal government. Under Brian’s direction, the Project on Government Oversight has conducted numerous investigations that have resulted in major public policy reforms. Brian was inducted into the Freedom of Information Act Hall of Fame, was ranked by Ethisphere magazine as one of the top 100 most influential people in business ethics, and received the Smith College Medal. She also serves on the board of Taxpayers for Common Sense, and she is the chair of the Steering Committee for OpentheGovernment.org.
Serving as the so-called “classification czar” during the Bush Administration, Leonard was appointed the head of the Information Security Oversight Office at the National Archives and Records Administration in 2002, and resigned in 2007. In this role, he was responsible for overseeing the policies of the US government’s security classification system and the National Industrial Security Program for the Bush Administration. Previously, he held a series of information security jobs at the Department of Defense. Following his resignation, he worked with NSA whistleblower Thomas Drake’s defense team as an expert on classification. In 2011, he issued a complaint against the National Security Agency and Justice Department, arguing that both engaged in routine over-classification of government documents. He has also served as a professor of political science at St. Mary’s College of Maryland.

Currently the Executive Vice President for the National Taxpayers Union, Sepp has written a number of policy papers and studies on multiple topics concerning tax reform, including Congressional perquisites and citizen-initiated tax revolts, and he has lectured on tax administration reform issues in both the US and abroad. Sepp has appeared as an expert on both CNN and MSNBC and has contributed to The New York Times, The Washington Post and multiple other print media outlets.

Beginning her career as a reporter at the St. Paul Pioneer Press in 1980 and then becoming a media lawyer for the Minneapolis law firm of Dorsey and Whitney, Lucy Dalglish later worked for twelve years as the Executive Director of Reporters Committee for Freedom of the Press. Currently the Dean of University of Maryland’s Philip Merrill College of Journalism, Dalglish was awarded the Kiplinger Award by the National Press Foundation in 2012 for her service to journalism. She was also the recipient, in 1995, of the Wells Memorial Key, the highest honor bestowed by the Society of Professional Journalists.

Senior Research Analyst at the Federation of American Scientists (FAS) as well as director of the FAS Project on Government Secrecy, Aftergood works on confronting government secrecy in order to promote and reform current secrecy practices. The author of numerous papers, Aftergood is also the recipient of the Pioneer Award from the Electronic Frontier Foundation, the James Madison Award from the American Library Association, the Public Access to Government Information Award from the American Association of Law Libraries and the Hugh M. Hefner First Amendment Award.

“As an American, I made that choice.”
ABOUT THE ISSUE

A SHORT HISTORY OF WHISTLEBLOWER PROTECTIONS IN THE UNITED STATES

Whistleblowers are a crucial part of maintaining transparency and accountability in the American government and in private industry. But the first law enacted on behalf of whistleblowers was not intended to ensure transparency among government officials and institutions; it was intended to encourage citizens’ loyalty to the government by rewarding them for reporting fraud against it. Passed in 1863, during the Civil War, the False Claims Act offered monetary compensation to private citizens who detected fraudulent business practices among would-be war profiteers. For the first time, individuals could sue companies on behalf of the US government—a legal provision that came to be known as *qui tam*, for the first two words of a Latin phrase meaning “he who brings a case on behalf of our lord the King, as well as for himself.”

Eighty years later, in 1943, the False Claims Act was weakened. Congress reduced the reward guaranteed the whistleblower, and it disallowed any *qui tam* lawsuit when the whistleblower’s evidence was already known to any government employee or recorded in a government file. Thus diminished in its power, the legislation fell into infrequent use.

In 1986, however, Congress made the False Claims Act stronger once again. It passed amendments that effectively increased the reward for whistleblowers (and ensured payment of whistleblowers’ attorneys) when the government won a suit. And it safeguarded once again the right of whistleblowers to bring *qui tam* lawsuits, even if they had tipped off the government already. The strengthened legislation, which was amended again in 2009 and 2010, paved the way for an increased volume of lawsuits brought against companies defrauding the US government. According to the law firm Philips and Cohen LLP, which exclusively represents whistleblower cases, more than 6,000 *qui tam* cases have been filed since 1986.

Aside from the False Claims Act, additional legislation also protects federal workers who blow the whistle. First passed in 1989, The Whistleblower Protection Act expressly aimed “to strengthen and improve protection for the rights of Federal employees, to prevent reprisals, and to help eliminate wrongdoing within the Government by mandating that employees should not suffer adverse consequences as a result of prohibited personnel practices,” which could include reporting “fraud, waste, abuse, and unnecessary Government expenditures.” But the 1989 Whistleblower Protection Act had weak spots as well. In particular, federal employees didn’t merit whistleblower protections under the law if they made their disclosures to a co-worker or supervisor; if they weren’t the first to disclose the misconduct; or if they blew the whistle while carrying out job duties, among other limitations.

The Whistleblower Protection Enhancement Act was therefore introduced in 2009 in an attempt to ameliorate these loopholes in protection, and specifically, to broaden whistleblower protection law to apply to the reporting of any violation of the law.

THE WHISTLEBLOWER PROTECTION ENHANCEMENT ACT OF 2012

The Whistleblower Protection Enhancement Act (WPEA) of 2012 was signed into law by President Obama in November 2012, after passing the Senate and House of Representatives unanimously following thirteen years of negotiation. The act empowers federal employees to report wrongdoing in government agencies—safely, without fear of retaliation, and without being subject to the loopholes that plagued previous whistleblower legislation.

In particular, the WPEA protects federal workers from illegal retaliation by making it easier to discipline employers that attempt to punish a whistleblower. The improved act also covers a broader group of federal agencies; ends the Federal Circuit Court of Appeals’ sole jurisdiction to review whistleblower cases; provides rights to employees who challenge censorship; and cancels a precedent that had effectively required employees to present “undeniable, uncontestable, or incontrovertible proof” of misconduct in order to enjoy whistleblower protections, among other changes.

Despite these advancements in employment protections, however, the WPEA does not currently protect whistleblowers from the intelligence community, nor does it safeguard whistleblowers from prosecution, nor preclude their imprisonment.
TALKING ABOUT
WAR ON WHISTLEBLOWERS

Whether you’ll host your screening in a public forum or a private classroom, you’ll want to set aside time for conversation and reflection after the film. Read through the questions below before your event, and use the discussion period after your screening to pose a few to your audience.

You may wish to convene a panel of local experts, professors, student activists or administrators to steer the discussion. Alternately, you might treat the post-film period as an open dialogue with a single moderator who can field questions and set the tone for the conversation. Either way, use the questions below as prompts, or brainstorm your own!

WHAT IS WHISTLEBLOWING?

1. Tom Devine, Legal Director of the Government Accountability Project, calls whistleblowers “the pioneers of change.” What do you think he means by this? In what ways have whistleblowers been catalysts for change throughout history? In what ways are they “pioneers”?

2. Whistleblowing is defined legally as the act of exposing “fraud, waste and abuse in government operations.” But this action is also often called “leaking”—a word that has less righteous connotations. Do you think whistleblowing and leaking are synonymous? Why or why not? If not, how would you define “leaking”? Why do you think one word is used in place of the other?

3. How would American society be different if whistleblowing were illegal? How would it be different if whistleblowers were not protected at all?

4. What if whistleblowers were protected more rigorously, or rewarded more robustly? Do you think broadened protections or rewards would incentivize more whistleblowing?

5. In the film, we hear whistleblowing described as “the sound of professional suicide.” Do you believe this is true? How could further amendments to the Whistleblower Protection Enhancement Act change this? What other shifts in policy, law or professional culture could mitigate the professional damage still suffered by whistleblowers?

WHISTLEBLOWING AND FREEDOM OF THE PRESS

1. What are the risks—personal, professional, or legal—to a journalist working with a whistleblower? What are the potential rewards? Do you believe the risks outweigh the rewards, or vice versa?

2. How are the risks faced by journalists and whistleblowers different? How are they the same?

3. Whistleblower protection is not mentioned in the Bill of Rights. How do you think the Founding Fathers might feel about the government’s protection of whistleblowers? What would they think about the current administration’s prosecution of whistleblowers? Do you think the Founding Fathers intended freedom of speech and the press to include the freedom to blow the whistle?

4. What, if any, responsibility does a journalist have to a source whose testimony blows the whistle on government or company misconduct? Protection? Recognition? Anonymity?

5. Do you think that broadening the work of investigative journalists, or enhancing cooperation between journalists and government agencies, would eliminate the need for individual whistleblowers? Why or why not?
WHISTLEBLOWING AND THE GOVERNMENT

1. Do you think whistleblowers provide a necessary check on government power? Do you think whistleblowing is crucial to a democratic system? Why or why not?

2. What are the consequences for a government agency when wrongdoing is reported by a whistleblower? Under current legislation, which party do you think has more to lose through whistleblowing: the whistleblower or the agency or company whose conduct is exposed?

3. Thomas Drake, formerly of the NSA, was charged with violating the 1917 Espionage Act, which exists to prosecute spies against the US government. Do you think Drake’s actions are those of a spy? How would you define the difference between spying and whistleblowing?

4. Do you think government employees have a responsibility to protect government secrets? Do you think journalists have that responsibility? What special circumstances, if any, would influence your answer?

5. Who should have the power to determine which information should be kept secret from the public and which information should be exposed? Do you think American citizens can trust the government to police its own secrecy or transparency? Should Americans trust journalists to perform this kind of check on government? Why or why not?

THE ETHICS OF WHISTLEBLOWING

1. Many whistleblowers identify a moment when they had a “crisis of conscience” and felt compelled to expose abuse, fraud, waste or misconduct. What does a “crisis of conscience” mean to you? Do you think whistleblowing must always arise from an ethical “crisis”?

2. What steps do you think should come before whistleblowing? Do you think employees have the responsibility to first report abuse or fraud to their immediate supervisors? Upper management? Their Board of Directors? How far up the chain of command should a whistleblower go before exposing wrongdoing externally?

3. In the film, Franz Gayl explains that he asked himself, “If not me, then who? If not now, then when?” What qualities do you think a whistleblower must have? What makes one employee blow the whistle while another keeps quiet?

4. When, if ever, is whistleblowing unethical?

5. In describing his decision to leak the Pentagon Papers, Daniel Ellsberg states that he felt the Vietnam War “would continue to go on unless these lies were exposed.” Does the need for whistleblowing change based on the consequences or benefits of the information being exposed?
TRANSPARENCY VS. SECRECY

1. Are the American people entitled to government transparency? Why or why not?

2. Is the government entitled to secrecy? If so, when?

3. The first whistleblower protection legislation, the False Claims Act of 1863, was passed during the Civil War. And of the five whistleblowers featured in this film, all blew the whistle during a period when the United States was at war. How does war influence our understanding of the importance of government transparency? Of government secrecy? Of “fraud, waste, abuse, and unnecessary Government expenditures?”

4. The New York Times’ columnist David Carr explains that, “The Obama Administration came to power promising the most transparent administration in history … and began prosecuting [whistleblowers] every which way.” What do you think caused the rift between Obama’s campaign promises and his administration’s prosecution of whistleblowers?

5. Do you believe transparency and secrecy are always at odds? Can a government agency make itself transparent to the American public while also carrying out secret operations?

SECURITY VS. SURVEILLANCE

1. In the film, we hear that “the greatest gift that the national security state ever got was…the ability to exploit the fear of 9/11.” What do you think is meant by this statement? What role does fear play in the laws and policies surrounding whistleblower protection?

2. How much surveillance is acceptable in a democracy? How much personal surveillance are you comfortable with? Does surveillance make you feel more secure? Less secure?

3. Daniel Ellsberg says “we talk about a national security state that pretends that it’s interested in our national security, when in fact it’s interested in the security of corporate interests, of agency interests, of politicians keeping their jobs.” Do you agree with Ellsberg’s observation? What evidence does the film present to back up Ellsberg’s claim?

4. The word “surveillance” is often meant to describe the scrutiny of the many by the few—or put another way, the observation of the less powerful by the more powerful. What word should we use to describe the scrutiny of powerful systems by the private citizen or individual employee? Is this surveillance, too?

5. When does “surveillance” become “spying”? Or vice versa? What does each word mean to you? Would either make you feel safer? Explain.

TRAITORS OR PATRIOTS?

1. The film references Galileo and Copernicus as early, vilified whistleblowers. Did this surprise you? Do you think time blurs the line between traitors and whistleblowers? Do you think our definitions of whistleblowing have evolved since the 16th century?

2. Think of the whistleblowers featured in the film. As a group, would you call them traitors or patriots? Whistleblowers or spies? Why?

3. Government prosecution of whistleblowers typically portrays truth-tellers as traitors. In the government’s view, who or what have the whistleblowers betrayed? Do you agree with this assessment?

4. Michael DeKort blew the whistle on Lockheed Martin in order to protect Coast Guard sailors from harm. Franz Gayl, a former Marine, blew the whistle to bring American soldiers safer equipment on the battlefield. Both suffered retaliation for compromising national security. Do you think these men betrayed their government? Their fellow citizens? Why or why not?

5. How can individuals support whistleblowers? How can companies? Government agencies?
WHISTLEBLOWING IN THE NEWS:
EDWARD SNOWDEN AND THE NSA

In the spring of 2013, a young man named Edward Snowden, a former NSA contractor and CIA employee, provided detailed documentation of top-secret American and British government surveillance programs to members of the press. His actions paved the way for a series of exposés on such surveillance programs by The Guardian, The Washington Post and other news outlets. And they sparked a heated international conversation about government secrets, whistleblowing and information privacy.

In the wake of Snowden’s disclosures, The New York Times called Snowden’s actions “among the most significant breaches in the strict secrecy of the NSA… since its creation in 1952.” And on June 14, 2013, Snowden was charged with espionage and theft of government property.

The questions below urge conversation and reflection on these current events. Read through the discussion prompts to generate your own up-to-the-minute dialogue about Snowden’s actions and their relevance for whistleblower protection in the United States.

1. Former Vice President Dick Cheney is among those who see Edward Snowden as a traitor inflicting “enormous damage” on American national security. Do you agree or disagree with this characterization? Is Snowden’s disclosure an act of heroism? An act of patriotism? A criminal act? What kind of “damage” has Snowden caused, if any? What factors influence your answer?

2. Some press reports characterize Snowden as a “leaker.” Other reports, often from international newspapers, refer to him as a “whistleblower.” American federal prosecutors have charged him with being a spy. Which, if any, do you think is the most apt description?

3. Edward Snowden has said, “I understand that I will be made to suffer for my actions, but I will be satisfied if the federation of secret law, unequal pardon and irresistible executive powers that rule the world that I love are revealed even for an instant.” What does this statement reveal about Snowden’s motives? Do you agree with them?

4. The Obama Administration has charged Snowden with two violations of the Espionage Act, making him the eighth person charged under the Espionage Act during this administration. Of these eight, all were charged for disclosing classified or sensitive information. But the Espionage Act was first passed in 1917 to criminalize spying, not leaking or whistleblowing. Do you think there should be a distinction between spying and leaking? Why do you think the Obama Administration has used the Espionage Act to prosecute Snowden?

5. Compare and contrast Snowden’s disclosures to those featured in War on Whistleblowers. How is his story similar? How is it different?
HOSTING A SCREENING OF WAR ON WHISTLEBLOWERS

ABOUT YOUR SCREENING
Film screenings held on college campuses—whether in the lecture hall, outdoors in a campus quad, or as part of a film series—often have a unique ability to spark in-depth discussion and student activism. Whether your screening is intended to complement coursework or classroom debate, or to provide an open forum for the university community and the public to come together, it creates opportunity for thoughtful communication and powerful social and civic action. Before you host your own campus event, read through the tips below to ensure that your screening can become one that fosters open dialogue and critical thinking.

PLANNING FOR YOUR SCREENING
Start by finding a good location for your event. If you’ll open your screening to the broader public beyond the campus gates, you’ll want to be sure that your venue is easy to find and that it can accommodate a broad audience (young, old, people with disabilities). If you’ll show the film as an extension of an academic class or as part of your student organization’s outreach programming, you should use the space in which your class or your group regularly meets. In all cases, make sure your venue is equipped with the audio-visual equipment necessary to show a film on DVD—that is, a laptop or stand-alone DVD player, a projector and screen or television set that all can see, and a good sound system.

Once you’ve decided on your venue, pick a date and time. On college campuses, Wednesday and Thursday night events are typically better attended than screenings held on weekends or Monday or Tuesday nights. Be sure that other campus events won’t diffuse your audience, and avoid scheduling events on university holidays or during high-profile athletic games or other campus festivities.

If you haven’t already, sign up to host a screening at the War on Whistleblowers website: http://www.waronwhistleblowers.com/screenings. Here, you can register to host an event and post your own screening details online.
SCREENING CHECKLIST

THREE WEEKS PRIOR TO YOUR EVENT

☐ Compile a contact list of potential audience members—students, community leaders, administrators, faculty, etc.—and divide it into groups that can be contacted best via email and social media platforms, and those who you’ll want to be in touch with in person, over the phone or through flyers placed on campus. Then start spreading the word!

☐ Using the downloadable film stills available on the “Extras” page of the War on Whistleblowers website, create an e-newsletter, a hard-copy event flyer, or a Facebook event to print out or send electronically to your guests. Be sure to include your date, time, venue directions and a link to the War on Whistleblowers “Host a Screening” page, where your registered event will be listed.

☐ If you have limited space in your venue or need to track RSVPs for class credit (or any other reason), create an Evite or an EventBrite listing for your screening and send to your invitee list. Begin to send event announcements and updates via your Facebook page and Twitter feed as well.

TWO WEEKS PRIOR TO YOUR EVENT

☐ Issue a press release to your campus newspaper, your local city daily paper and alternative weekly and the event listings of your campus student center. Be sure to include a link to the “Extras” page of the War on Whistleblowers website so that reporters can download images to accompany their coverage.

☐ Post your event flyer near campus buildings, cafés, student center bulletin boards and the bulletin boards of relevant campus departments (e.g. journalism, communications, American studies, law, and political science). Equip a few volunteers with tape and thumbtacks, and send them on a posting mission!

ONE WEEK PRIOR TO YOUR EVENT

☐ Send reminders about your event via email and social media platforms.

☐ Create a simple itinerary for your event using the ideas on page 20.

☐ Double-check with your venue about day-of-event details such as parking procedures, room capacity, wheelchair-accessible entries and policies on food and drink.

☐ Make sure your venue space gets very dark and that the screen can be seen from every chair.

☐ Test-run your DVD and equipment. If you notice a problem with your DVD, contact outreach@bravenewfoundation.org immediately. A few items to check:

☐ Make sure the DVD plays all the way through.

☐ Make sure your projector, audio and DVD player cables fit.

☐ Make sure your sound is audible (even in the back of the room).

☐ Make sure the picture projected on your screen or wall is the right shape and size. If the picture appears squeezed or elongated, adjust your player’s “aspect ratio” settings until the picture looks right.
AT YOUR SCREENING
To ensure that your screening runs smoothly, consider following an itinerary similar to the one below.

INTRODUCTION (5 minutes)
Welcome your guests to your venue, ask them to silence their phones and tell them a little bit about your first experience viewing or hearing about War on Whistleblowers. Encourage your guests to stay beyond the film’s credit roll for a post-film discussion. If you’ll have special guests or panelists after the film, tell the audience a little something about them now.

SCREENING (65 minutes)
Dim the lights first to signal the beginning of the viewing experience (as in a movie theater). Once any rustling or chatter has stopped, hit play.

POST-FILM DISCUSSION (30 minutes)
After watching the film, your audience may feel angry, saddened, confused, curious or eager to speak out. Let a moment or two pass before you turn the lights up, to help transition your audience out of the emotional screening experience and into the discussion portion of the film.

Next, before you lose anyone, encourage your guests to turn their phones back on, and to take a moment to “Like” War on Whistleblowers on Facebook (https://www.facebook.com/WarCosts) and follow @WarCosts on Twitter before your discussion begins. Urge your audience to become part of the wider War on Whistleblowers community online, perhaps even by live-tweeting your discussion!

If you will have a guest speaker or discussion moderator, introduce them to the group now. If the conversation will be audience generated, or if your group is small, you may wish to offer a few initial observations or questions yourself to inspire questions and reflection from the audience. See pages 14-17 for possible discussion questions.

AFTER YOUR SCREENING
The day after your event, send a thank you note to attendees through your social media networks, and be sure to thank any volunteers, professors, administrators, moderators or special guests who helped make the night possible.

Many audience members will want to know how they can learn more about War on Whistleblowers, how they can receive a DVD or how they can host their own events. Send them on to www.waronwhistleblowers.com for more resources (and to download their own copy of the materials included in the Taking Action section of this guide), and encourage them to follow us on Facebook and Twitter. Prospective screening hosts can email outreach@bravenewfoundation.org for more information.

If you have photos from your event, post them to both your and our Facebook pages to showcase your success, or email copies to outreach@bravenewfoundation.org.
TAKING ACTION

Once you’ve planned your screening, consider how you can act—and encourage others to act—to support whistleblowers and the legislation and policies that protect them. The organizations below are powerful resources for students wishing to become involved in advocacy for whistleblowers. Learn about their priorities and initiatives; then contact them to lend your efforts to their work.

Founded in 1981, the Project on Government Oversight (POGO) is a nonpartisan independent watchdog that champions good government reforms. POGO’s investigations into corruption, misconduct and conflicts of interest achieve a more effective, accountable, open and ethical federal government. And POGO’s work doesn’t end at investigating and exposing wrongdoing; it is also committed to advocating for solutions. Every year, POGO briefs numerous members of Congress and the executive branch, and it enables tens of thousands of citizens to get involved in good-government actions.

POGO has played a significant role in getting important reforms introduced and passed in Congress, and in getting policy changes implemented in federal agencies. POGO’s work has been applauded by members of Congress on both sides of the aisle, federal workers, whistleblowers, other nonprofit organizations and the media.

HOW YOU CAN HELP

In 2012, Congress passed the Whistleblower Protection Enhancement Act, which addressed many loopholes in the original Whistleblower Protection Act but left the intelligence community unprotected. President Obama responded by issuing a Presidential Policy Directive that prohibited retaliation against intelligence and national security personnel who expose waste, fraud, abuse and other illegality. Still, more must be done; Congress must increase protections for that community.

TO GET INVOLVED:

- Contact your member of Congress and write to President Obama to tell them that whistleblowers from every part of government need and deserve authentic protections. Explain that claims of national security must not be used to illegitimately keep secret information the public has a right to know. National security should never be used as an excuse for secrecy, suppression of wrongdoing or the denial of a citizen’s rights.

- Get involved with POGO’s current campaigns to protect whistleblowers, make the government more accountable and demand openness at www.pogo.org/do-something.

- Visit POGO’s blog at www.pogo.org/blog, follow POGO on Twitter @POGOblog, and like the POGO Facebook page at www.facebook.com/pogo.org to stay up-to-date on current legislation, policy and advocacy about whistleblowing.
The Government Accountability Project (GAP) is the nation’s leading whistleblower protection and advocacy organization. Its mission is to promote corporate, government and institutional accountability by protecting whistleblowers, advancing occupational free speech and empowering citizen activists. Founded in 1977, GAP is a nonprofit, nonpartisan advocacy organization based in Washington, DC. Since its inception, GAP has helped thousands of whistleblowers expose scandals that have shocked the public.

GAP achieves its mission by offering whistleblowers legal representation; working with the media and other organizations to publicize whistleblower concerns; working with members of Congress to strengthen whistleblower protections; and working on public education campaigns that educate citizens about what whistleblowing is, why it is important, and why occupational truth-tellers must be protected and recognized. Part of this last endeavor is GAP’s American Whistleblower Tour, which visits universities across the country and allows prominent whistleblowers to engage directly with our country’s incoming workforce.

HOW YOU CAN HELP
GAP supports whistleblowers from all kinds of industries and workplaces, but it currently focuses in the following program areas: Corporate and Financial Accountability, Environmental Concerns, Food Integrity, International Reform, National Security and Human Rights and Public Health.

TO GET INVOLVED:
- Learn more about GAP’s campus American Whistleblower Tour by visiting www.whistleblowertour.org or contacting Alison Glick, Education Coordinator, at (202) 457-0034, ext. 111 or alisong@whistleblower.org.
- Sign the MoveOn.org petition that demands that Congress protect whistleblowers by passing legislation that would arm whistleblowers with an affirmative defense for criminal prosecutions, and that would make it illegal to open a criminal investigation in retaliation for activities shielded by the Whistleblower Protection Act.
- Visit GAP’s blog at http://www.whistleblower.org/blog, follow GAP on Twitter @GovAcctProj, and like the GAP Facebook page at www.facebook.com/GovernmentAccountabilityProject to stay up-to-date on current legislation, policy and advocacy about whistleblowing.
National Taxpayers Union (NTU) is a nonpartisan, nonprofit organization and the nation’s oldest taxpayer advocacy group. As “the voice of America’s taxpayers,” it’s worked to make government more transparent and accountable to citizens, in addition to advocating for limited government, since its founding in 1969.

Throughout its history, NTU has worked to bring the fiscal-policy perspectives of whistleblowers to policymakers, the media and the general public. This valuable information has proven to be a key resource for the NTU’s successful campaigns for military procurement and pro-taxpayer reforms at the Internal Revenue Service.

HOW YOU CAN HELP
For many years, NTU has been a proud and active participant in the movement for federal whistleblower protections, which achieved a key victory with passage of the Whistleblower Protection Enhancement Act in late 2012. But the coalition that helped make that bill law has much work ahead. Not only have courts repeatedly failed to sustain whistleblower protections, but also more comprehensive statutes are needed to shield those who speak out within government, particularly in the national security field.

TO GET INVOLVED:
- Learn more about the federal and state-level issues NTU supports to encourage increased government transparency and whistleblower protection at http://www.ntu.org/news-and-issues/government-reform/transparency.
- Follow NTU’s GovernmentBytes blog at http://www.ntu.org/governmentbytes for real-time analysis of the issues NTU supports; follow NTU on Twitter @NTU; and like the NTU Facebook page at www.facebook.com/NationalTaxpayersUnion to keep in touch about NTU actions in support of increased government transparency.
- Support NTU’s work by making a donation!

Public Citizen is a national nonprofit organization that has been standing up to corporate power and holding government accountable since 1971. It fights for openness and democratic accountability in government; for the right of consumers to seek redress in the courts; for clean, safe and sustainable energy sources; for social and economic justice in trade policies; for strong health, safety and environmental protections; and for safe, effective and affordable prescription drugs and health care.

As part of this work, Public Citizen supports whistleblower protection, advocating for the rights of government employees who witness acts of fraud, waste or abuse and expose the truth.

TO GET INVOLVED:
- Track breaking news on Public Citizen’s work in support of whistleblower protections in the Open Government section of Public Citizen’s website and on the CitizenVox blog at http://www.citizenvox.org.
- Join the Public Citizen Action Network and get e-alerts about the work Public Citizen does to defend whistleblower rights; then follow Public Citizen on Twitter @Public_Citizen and like its Facebook page at www.facebook.com/publiccitizen to get minute-by-minute updates and news.
- Become a member of Public Citizen and receive its magazine, Public Citizen News while supporting its efforts toward greater protection of whistleblowers.
For more than 40 years, the Reporters Committee for Freedom of the Press (RCFP) has provided free legal advice, resources, support and advocacy to protect the First Amendment and Freedom of Information Rights of journalists working in areas where US law applies, regardless of the medium in which their work appears. Since RCFP’s founding in the Nixon era, no journalist or media company has been charged for RCFP assistance, whether it’s research, coordinating and filing amicus briefs or helping a reporter find local counsel.

Although its professional media law services are limited to working journalists, RCFP maintains one of the premiere media law websites, with information always free and available to anyone.

TO GET INVOLVED:

- Use the 50-state Open Government Guide at http://rcfp.org/open-government-guide to find open records and meetings laws in your state. The guide is arranged in a standard format that makes it easy to find laws in your own location and to compare laws across the country.

- Watch RCFP’s webinars at http://www.rcfp.org/webinars to learn more about your rights as a journalist—or student journalist—and to learn valuable tips about how to cover the news when there’s a possibility of being arrested; how to file Freedom of Information Act (FOIA) requests; and how to get information on trials and other court proceedings.

- Browse RCFP’s quarterly magazine; follow its Twitter feed @rcfp and like its Facebook page at www.facebook.com/ReportersCommittee to gain access to more resources and news; or download RCFP’s mobile app at www.rcfp.org/app to gain access to open government laws on the go.
FURTHER RESOURCES

ARTICLES AND ANALYSIS


http://www.newyorker.com/reporting/2011/05/23/110523fa_fact_mayer

http://online.wsj.com/article/SB10001424052702304432304576371711414361754.html

http://www.whistleblower.org/blog/42/2034


http://www.motherjones.com/politics/2013/01/obama-whistleblower-protections-signing-statement

http://www.thenation.com/blog/174054/war-whistleblowers#axzz2XQlYo0PQ

http://www.guardian.co.uk/commentisfree/2013/apr/16/obama-contradictory-stance-whistleblowing

Dana Farrington, “What is Meant By the Term Whistleblower?”, The Two Way, NPR, June 10, 2013.
http://www.npr.org/blogs/thetwo-way/2013/06/10/190380255/what-we-mean-when-we-say-whistleblower


BOOKS


FILMS AND TELEVISION

http://www.pbs.org/independentlens/enron/index.html

Robb Moss and Peter Galison, Secrecy, Sundance Channel, 2008.
http://www.sundancechannel.com/films/secret

http://www.pbs.org/pov/mostdangerousman

NOTES


13 ibid.
