

## Journalism on Trial



*“Resolved: The First Amendment does not protect American journalist Glenn Greenwald from prosecution under the Espionage Act of 1917, nor from prosecution for treason. The basis for prosecution is his Sept. 5 report that the U.S. National Security Agency can and does decrypt most of the codes commonly used to protect the privacy of electronic communications.”*

You will prepare for an in-class debate by writing five talking points on both sides of the above resolution. Use the precedents announced by the Supreme Court in the major cases covered in the Mission of the American Press lecture. Please don't get bogged down in moral or evidentiary arguments. This is a debate about Freedom of the Press and the U.S. Constitution's First Amendment.

Before starting to write, familiarize yourself with the details of the story: what happened, who's involved, why have the actions of Edward Snowden and The New York Times, the Guardian and ProPublica been controversial. Consider the many sides of the debate: Was Snowden right to share the files? Were the news outlets right to print stories based on classified information? Are their critics right? If Greenwald is prosecuted and imprisoned, how will that shift the balance of power between government and the governed?

## Research

In the “Greenwald Trial” folder your instructor will post for you, read the following documents:

1. Five Revelations from Snowden's New...
2. Revealed\_ how US and UK spy agencie...
3. Why We Published the Decryption Stor...
4. The case supporting NSA
5. The\_Rest\_of\_the\_Snowden\_Files\_Shoul...
6. LAW OF ESPIONAGE AND CENSORSHIP
7. Law of Treason

Then, go to this link to watch Rep. Peter King, R-NY make the case he often makes: for prosecution of journalists who reveal national security secrets: <http://www.youtube.com/watch?v=lyPPuo74n4o>.

## Writing

Based on the research, make two lists of at least 5 talking points that you will use in an in-class debate:

List 1: Five arguments in support of the prosecution of Glenn Greenwald for Espionage (and/or treason)

List 2: Five arguments against the the prosecution of Glenn Greenwald for Espionage (and/or treason).

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<sup>1</sup> And the other journalists whose bylines indicate authorship of nearly identical articles published the same day: James Ball and Julian Borger of The Guardian; Nicole Perlroth and Scott Shane of the New York Times and Jeff Larson of ProPublica.



## NEWS LITERACY – JRN 101 / JRN 103

### Why You're Doing This

In recitation, your class will debate the merits and repercussions of the the news outlets' decision to publish information provided to them by Snowden. You won't know until you get to class which side of the debate you'll be on, or how extensively you may be called to argue, so you must be prepared to argue from either side.

### What You Should Aim to Get Out of It

This week's lecture addresses whether the U.S. press has too much or too little freedom, a brief history of press freedom, and the legal and ethical limitations on what stories can be published or broadcast. This assignment will require you to study that material and apply it to a critical analysis of the NSA story, one example of a difficult decision made by journalists. You should come out of this assignment with a more nuanced understanding of the mission and responsibilities of the press. A great job earns 4 points.

### How to write a talking point

A talking point is a simple statement of a point you wish to make during the debate, followed by the list of supporting facts or information.

Here's an example of one of the talking points circulated to supporters of Elena Kagan's nomination to the U.S. Supreme Court. Each of your five on each side should state your argument and then list evidence or citations from the readings.

#### **Talking Point: Critics who have attacked Kagan's record for hiring minorities at Harvard Law School have failed to include other appointments/hiring/promotion decisions that enhanced diversity while she was the Dean:**

- A. Lani Guinier was the only woman of color on Harvard Law School's faculty – a source of great complaint until 2005, when Kagan hired Jeannie Suk, an Asian-American woman and up-and-coming young scholar.
- B. Guhan Subramanian, a South Asian law professor, was given tenure in 2004 – making him the only South Asian law professor on the faculty.
- C. Kenneth Mack, an African-American legal historian, was given tenure in 2006.
- D. Harvard Law School already has one of the largest group of black tenured law professors in the nation (Scott Brewer, Lani Guinier, Ken Mack, Randall Kennedy, Charles Ogletree, David Wilkins).
- E. Of the 12 Clinical Professors Kagan hired, three were minorities – 25%. This included Ron Sullivan – a highly sought-after African-American law professor Kagan poached from Yale University, Brian Price – an African-American professor who teaches in the area of community economic development and Ashish Nanda – a South Asian professor who helps run the school's executive education program.