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Research exercise: Legal Implications of Publishing National Secrets

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OFF LIMITS:
The rights and ramifications of gathering illegally-obtained information and documents
by Megan Kennedy '13 and Michael J. Shuey '14
Annette Taylor, Ph.D., Adviser | CMM 432 - Law and the News Media

When obtaining information, a journalist must ask themselves whether or not they are able to retrieve the information they need without trespassing or invading someone’s privacy to do so. There are many other ways to get information legally, which may not present a legal issue when the story breaks into the news world.

In the United States, the existence and enforcement of the Freedom of Information Act and the state-regulated “Sunshine laws,” have opened the doors for journalists to report the most accurate and up-to-date information available, but there’s always that information that journalists opt to use alternative channels to get their hands on. Even if it means prison time, journalists are dedicated.

Seeking the truth by all means necessary may uncover many skeletons in the closet, but it would be truth nonetheless.

Pearson v. Dodd, 410 F.2d 701 (D.C. Cir. 1969)
Multiple instances in June and July of 1965, two employees of Senator Thomas Dodd, Drew Pearson and Jack Anderson, went into Dodd’s office without Dodd’s knowledge, and eventually published information located in Dodd’s files. When the verdict came back, the court ruled that the columns published in the newspaper containing information about Senator Thomas Dodd, the evidence of the case did not support the plaintiff’s invasion of privacy tort. Based on history, it is excusable for private information to be published, so long as it is of general public interest. Dodd’s published documents included material regarding his relationships with certain lobbyists for foreign interests, thus proving the argument that the information was of public interest.

The complainants, Aaron C. Boring and Christine Boring filed a complaint that Google’s “Street View” program, a feature of Google’s website, which allows viewers to search for any address in the world and see a panoramic street view of the address. The Boring family believed that this was a violation of their privacy, as their street had a “No Trespass” sign at the entrance. According to the Third Circuit Court of Appeals, the Borings claim that they have a “Private Road No Trespassing” sign in their front yard and they contend that, in driving up their road to take photographs for Street View, Google disregarded their privacy interests. Eventually, the court granted Google’s motion to dismiss as to all of the Borings’ claims. The court decided that the claim of invasion of privacy was invalid for the reason that the Borings could not prove that Google’s conduct was highly offensive to a person of ordinary sensibilities.

The use of a tape unlawfully recorded by a journalist is one thing, but when a third party, whom alone is responsible for the creation of the record, delivers the recording to a paper without any prior request, the journalist and organization is considered free of any prosecution.

Following the uncovering of the “Pentagon Papers,” the New York Times was sued for unlawfully publishing them classified information. Because it would have been seen as a shot at the First Amendment, and also due to the fact that the government could not prove their points well, the opinion of the court was to rule in favor of the New York Times.