

FRED FRIENDLY SEMINARS, INC.
ETHICS IN AMERICA II
WAR STORIES: NATIONAL SECURITY & THE NEWS
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PRODUCER: DOMINIQUE LASSEUR
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SESNO: You have been witness to history in the same way that Ernie Pyle was when he went on shore. Your job now is to put that into context. Are you gonna convey this as a terrible war crime? Are you gonna convey this as-- as the fog of war?

DONVAN: The story is gonna go out there and it's gonna become one of those crystallized, iconic moments of what the war is all about. No matter what context we offer to it.

LAWLOR: Journalism is what gives terrorism its throw weight. Ultimately terrorism is about fear, and the communication of that fear.

CLELAND: Truth is the first casualty of war. It should be the first cause of war. And in terms of journalist-- journalistic ethics, it should be something that we absolutely insist upon.

VOICEOVER: The situations are hypothetical but the dilemmas are real.

From the boardroom to the bedroom; from the court room to the classroom.

Men and women put their values to the test as they struggle with the kinds of decisions we face everyday.

Fred Friendly Seminars presents "Ethics in America."

This hour: War Stories: National Security and the News.

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VOICEOVER: Ethics in America is a presentation of the Fred Friendly Seminars at the Columbia University Graduate School of Journalism.

TAPPER: We are in the East Asian nation of Khaoistan. After the Cold War, the totalitarian regime in Khaoistan fell and the country fell into chaos and was run by warlords. One of those warlords had definite ties to terrorists and to terrorist acts. And a US-led coalition moved in. That was four years ago.

Now today northern Khaoistan is relatively safe and secure, but southern Khaoistan is a mess. There are insurgents firing upon and committing terrorist acts against US-led forces. It's in bad shape. The capital of Khaoistan is a town known as a Blubeck. And this is where you are, John Donovan, the chief correspondent for Tonight's News, the number one evening news broadcast. Now today, Blubeck Waste Treatment Plant number one is going to open. The military comes to you and says, "We are going to escort you to Blubeck Waste Treatment Plant number one." And once you're there you can attend the ribbon cutting ceremony and you can talk to the Khaoistani engineers who are gonna work there. And then we will bring you safe and secure passage back to Blubeck." John, what do you say? Are you excited?

DONVAN: I'll go.

TAPPER: You'll go?

DONVAN: Yeah.

TAPPER: I can't help but sense in your voice that you don't sound particularly excited? Am I wrong?

DONVAN: I'm not jumpin' for joy over it. But I would go.

TAPPER: Colonel, you are the public information officer for the US-led forces in Khaostan. Is this the reaction you expected when you brought this to 'em?

BOYLAN: Actually no, I expected that there would be a lot of hesitation. That there would be the lack of desire to go.

Past experiences have shown that the reconstruction efforts and what we are doing in this country-- they're not that excited or willing to cover (THROAT CLEARING) a lot of 'em. Even in-- even when we're providing the transportation.

TAPPER: Karen, is-- is the Colonel right? Is the US media generally reluctant to cover these types of things?

DEYOUNG: I think-- yes, if it is the 14th in a row. If this were, was a-- a sort of repeated thing all that we were able to do, no. Then you're not very excited.

HAYES: I guess I would differ a little bit. I mean, I think, depending on the-- the-- how many of the waste treatment plants have been opened, depending on whether this is a significant improvement of life before the US invasion, I think there actually could be some merit in covering this particular angle of-- of that story.

TAPPER: Is this gonna get on the evening news?

BOYLAN: Chances are if it does, it'll be a brief statement. But probably not.

DONVAN: Fox will do it. (LAUGHTER)

YON: That's the truth.

TAPPER: So let us assume that Colonel Boylan's assessment is correct and that you go to the plant. But it doesn't really get much play back in the States. Stars and Stripes covers it. Fox covers it. But generally not a lot of people hear about it back in the States. Is-- is that a fair assessment, Frank?

SESNO: Yes. And you'd have to fight this-- this story on the air. And-- and frankly into the prominent print coverage. Even though I think it's a very significant story. Because --

TAPPER: Why?

SESNO: Why? Because there are several stories that are happening in Khaoistan. The instability is one of them. Efforts to pe-- to put Humpty Dumpty back together is another one. And the taxpayer dollars, American taxpayer dollars to repair the infrastructure is another story.

TAPPER: So why are you gonna have to fight for it?

SESNO: Because most editors and producers, and frankly much of the audience, has decided it doesn't care.

TAPPER: Jim, you're-- you're Karen's editor back in New York. What kind of prominence are you gonna give this story?

HOGUE: We're probably gonna have about two paragraphs with a one column head on it just announcing that it is the first. And if it wasn't the first we wouldn't be having anything.

TAPPER: Front page above the fold?

HOGUE: No. Somewhere back around page 16.

TAPPER: Two paragraphs?

HOGUE: On the jump of a major story. Probably on the chaos that's going on in Khaostan.

TAPPER: Two weeks later you guys are told that Blubeck Waste Treatment Plant number one has been destroyed.

HOGUE: Now you got a story. (LAUGHTER)

TAPPER: Khaostani insurgents have exploded the plant. One Khaostani engineer is dead. A dozen are wounded. And while it's still too early to quite say how extensive the damage is, it's bad. John, one of your stringers was there. And while he missed the first explosion on videotape, he got the fires rising from the plant, and got the second explosion on tape. What kind of story is this now?

DONVAN: I would guess given that we had been there two weeks previously, seen it whole, seen the sense of celebration and now seeing the-- being able to-- to portray what happened to it after the fact, we have the video to do it, I think we would go with it.

SESNO: I think you'd be the lead story.

BOYLAN: Absolutely.

TAPPER: What's the lead, Frank?

SESNO: The lead story is this wonderful accomplishment that the military thought they had put together in Khaostan, that they proudly showed off two weeks ago. That with all of their security their took their journalists to has now been destroyed by persistent insurgents and terrorists. And see

how fragile the whole place is.

TAPPER: Jim, where do you give this play?

HOGGE: I think this is probably the lead story of the day. It would be quite something I think to take its place. It has a ying and a yang, which is -- it's both the story about destruction, but it is also a story about the efforts that are yet to come to fruition to try and make things better in Khaoistan.

SESNO: And your lead story status is propelled and reinforced by the fact the they have the tape and put it out there?

HOGGE: Right.

TAPPER: Senator Cleland, is it possible that more Americans will find out about the existence of Blubeck Sewage Treatment Plant number one now that it no longer exists than two weeks ago when it opened?

CLELAND: Yes. And that's exactly the point.

There are momentary blips on the screen and then move to a commercial. There is very little insight or wisdom put forward about how we got there, the history of the place, why we are there, what-- what are we gonna do to pay for it and how are we gonna get out.

All of those ultimate strategic questions are rarely ever asked. So the context in which a news event occurs is not there. It is just is what it is and move on to the next event.

TAPPER: General Lawlor?

LAWLOR: My take on this is that while the American public may not have learned of the opening of the new plant--

TAPPER: Sewage treatment plant.

LAWLOR: Sewage treatment plant, the insurgents certainly did. And the insurgents would then react, "How can we get our message out? And our message would be fear, instability, no progress." We do that by attacking the sewer plant, because they will know that you will cover the sewer plant explosion in much greater detail than you will the opening.

TAPPER: My god, John. General Lawlor, just said that you guys are tools of the insurgents.

YON: They are.

LAWLOR: That's correct. Absolutely.

DONVAN: Yeah, I-- and that's why I-- I-- I-- when you first put this to me, when I go with it, I-- I don't salivate over the notion of , "Oh my god. This is a great story and great video." It, at some level, I know that putting on the story of two weeks ago of the plant and now it's blown up somehow, as the Senator is saying, it's-- it's distorting-- it's-- it's very easy for people to draw the wrong conclusions from those two facts placed in juxtaposition to each other, which is what I would probably end up doing. And at some level I would know that the situation is far more complex than the one two punch of the story. And so I-- when—when you put it to me-- yeah, I knew I would go with it. But there's a sense of, "Dammit, do I have to go with it that way?"

TAPPER: So why are you doing it?

DONVAN: Because it's a matter of employment and competition. And-- to be--

SESNO: And your produce--

DONVAN: --honest.

SESNO: --and your producers are gonna be leaning on you hard because you have the tyranny of the picture.

DONVAN: Yeah, I agree (UNINTEL).

SESNO: The tyranny of the picture is you have an explosion on tape.

DONVAN: It's a very, very vivid, powerful image. But images don't necessarily tell their own story. The problem with them is that when you watch them at home you think they do.

TAPPER: Colonel?

BOYLAN: What I'm hearing and what I have seen while I've been stationed there is what we're seeing every day. The sensational explosion is what gets covered. The continuing progress doesn't get covered.

Before I went there I expected to see nothing but devastation. And when I got there that's not the story. So I think it's incumbent upon the media to be the storyteller and to provide news in its entirety. Even though it may not be as sensational as the explosion that just happened.

TAPPER: Captain Danbeck, you're stationed in Khaostan. What's your take on all of this?

DANBECK: Well, this was my pet project. And this is an area I've been workin' in a lot. We train the security forces and-- and the engineer's family. We've been developing a relationship with them. And I think that's the part of the story that's missing when you're talking about an insurgency. I'm trying to get to the heart of the people. Win the people to our side.

And it's not covered. And it hasn't been covered. And when I meet a journalist I try to-- I try to tell that story. I try to show them the story. And then when I check back home, nobody's heard about it.

DONVAN: But the journalist is seeing a broader swath of society than you are. And a journalist is meeting people who aren't meeting soldiers. (OVERTALK) I can drive around Khaostan and meet Khaostanis who will say very, very hostile things to me as a foreigner, as an American. Who can talk to me about how deeply they resent the occupation. And then meet some troops who have a relationship with some local sheik who are telling me how wonderful everything is. Why aren't you doing a story about us? But if I have a sense that the larger narrative is that things aren't going well, I would feel silly doing stories about happy relationships. About troops handing out candy. Or plants being--

SESNO: And it's not--

DONVAN: --opened if it-- you-- you-- you end up focusing-- you end up as a journalist in a situation, if you know the situation, having a sense of where things are moving.

SESNO: But there aren't--

DONVAN: And-- and you end-- and-- and you-- and you gravitate towards telling story through elements that you think are relevant to where things are moving. And it can be very frustrating to-- to somebody who has-- and I believe these personal relationships are real and developed. But that they don't matter to what's gonna happen in the big picture.

TAPPER: The plant has exploded. The media has already gone through its cycles. And now we are several weeks later. And Michael Yon, you are embedded with an Army unit, with a third

battalion. You have been for three weeks. What's that like?

YON: Fascinating.

TAPPER: What's it like getting to know the guys in the unit?

YON: Well, you-- you start to get a lot of information that you never would have gotten before. People will take you aside and tell you things and you start to develop a fuller picture.

TAPPER: Do you like these guys that you're embedded with?

YON: You begin to like 'em after a while because they are constantly protecting your life, so it's hard not to. (LAUGHTER) So--

TAPPER: Stephen, is that pretty much your experience?

HAYES: Yeah, I'd say for the most part. I don't think it's a given that you like all of the soldiers you're embedded with just because they're protecting you. You come to depend on them just because they're protecting you.

TAPPER: So Michael, big news today. A reliable informant has pointed to a hostile village outside of Blubeck in which a terrorist is hiding. And the unit in which you're embedded, led by Captain Danbeck, has been assigned to go and get this terrorist. Are you gonna go with 'em?

YON: Absolutely. I've been on many such missions.

TAPPER: Are you worried at all?

YON: Only about getting shot. I mean a--

(OVERTALK)

TAPPER: That's something to worry about though isn't it?

YON: Yeah. (LAUGHTER) Yes. I mean it-- it's very serious. You know combat is very unpredictable even though you're with highly trained soldiers. Things happen. The enemy is smart and they have serious weapons. And yeah.

TAPPER: Do you have a weapon?

YON: Negative. Only a camera.

TAPPER: Captain Danbeck, you're bringin' this guy along. An unarmed civilian who has not been through any military training. How does that work?

DANBECK: You keep 'em really, really close to you.

TAPPER: Tell him about this mission and where you want him.

DANBECK: Well, I'm gonna take you-- you're gonna be with let's say third platoon. And right now they're gonna be the outer cordon force. And so I'm gonna want you to stay with them for now. And if situations--

YON: I'd like to go on the inner-- on the raid, actually.

DANBECK: Okay, well, we'll see about that. (LAUGHTER) Right now, right now, I mean, I guess as

I'm developing this relationship with him, you know we can get him closer than--

YON: The outside--

DANBECK: --the outside cordon. But I-- I think with the actually raiding element is-- is someplace that I'm not gonna wanna put you.

YON: I can't--

DANBECK: That's where --

(OVERTALK)

CAPTIAN DANBECK: --in the house.

YON: --see anything from the outer cordon though.

DANBECK: I-- I understand, but your safety is very important to me. And-- and--

YON: It's important to me--

DANBECK: --I have a responsibility for it--

YON: --too, but I'm willing to risk it.

CLOONAN: Are you not in fact jeopardizing some of the other people of your crew and your team if you allow him to go in there with a camera? Why does he have to go in the first place?

DANBECK: I want him to come.

TAPPER: Why do you want--

DANBECK: Because--

TAPPER: --him to come?

DANBECK: --if he comes-- because if we're successful and-- and it turns out well, then-- then another good story will-- well, in my mind a good story gets out. Hopefully a good story will get out.

TAPPER: What if you fail?

DANBECK: Then we fail. You know? And hopefully a-- a story gets out. You know it's still my guys doin' our job, trying to-- to ensure the security of-- of the area.

TAPPER: We're going on this mission. And Michael, you have your laptop, your pad and paper, your security info, security equipment, whatever you need.

YON: I only bring a camera.

TAPPER: Okay. It's a DV camera.

YON: No. A still camera.

TAPPER: No, I'm giving you a DV camera and that's the camera you have. (LAUGHTER) Along the way, you pass the scene of what had to have been some sort of incident. You're not quite sure. You're driving along with the convoy. And there are a bunch of dead Khaoistanis on the ground.

Maybe insurgents. You don't know. You're not stopping. But you're driving by them. Are you gonna film it?

YON: Absolutely.

TAPPER: Why?

YON: Well, it's important. Later I can look at the tapes and I can try to figure things out. Talking with the intelligence people in the Captain's unit. I might be able to look at some of their SigActs, what they're called-- to--

TAPPER: What's a SigAct?

YON: It's a significant-- significant action report.

TAPPER: Captain--

YON: The Khaoistani--

TAPPER: --Danbeck--

YON: --Army.

TAPPER: --is this cool with you that he's filming this?

DANBECK: I don't have a problem.

TAPPER: Okay. We keep going a few miles down the road. We come across a different scene where

there was recently some action. And there are body bags there. And in the body bags are dead US soldiers. Michael, are you gonna film that?

YON: I would ask the Captain if I could photograph this.

TAPPER: Talk to Captain Danbeck.

YON: Well, Captain, these are your men that are dead. I think it's important to photograph it. I will not put these photographs out for the world to see, but I think it's important to get it down.

TAPPER: Wait, wait, wait. Hold on. Why are you filming it if you're not gonna put them on your blog?

YON: I-- there's no way I'm gonna put that out there for somebody's family to see.

TAPPER: Then why are you filming it at all?

YON: For information. Later I can look at the-- at the-- at the-- the photographs and I can-- I can write about it. But there's just no way I'm gonna put out photographs of somebody's dead father.

TAPPER: They're in bags. You can't see who's-- who's in the bags.

YON: I would still ask and-- and every case--

TAPPER: Okay, go ahead--

YON: Do you mind if I photograph these body bags?

DANBECK: I'd rather you not. I don't see the purpose of it. I-- it's a-- it's a black plastic bag. You

know, but it represents one of my guys. And I'd rather you not.

I'm not going to forcefully restrict you from doing so, but I'm asking you not to. These are my guys. You've been with us for three weeks. I can respect what risks you're taking with us. But you're not one of us--

TAPPER: So Captain--

DANBECK: --and--

TAPPER: --dead Khaoistanis okay to film. Dead US soldiers not okay to film.

DANBECK: To me, yeah. I-- I just-- personally these are my guys.

TAPPER: Stephen? What do you think?

HAYES: Yeah, there's a difference.

TAPPER: What's the difference?

HAYES: I'm an American. And I have a double standard. I would-- I would film insurgents.

TAPPER: I didn't say they were insurgents. They might be insurgents. They're Khaoistanis.

HAYES: Yeah, I would film Khaoistanis. Probably from a distance or try-- probably try to-- to do so in a way that shows what's happened to the extent that we can without, you know, showing their identities or showing their faces. But I think I would respect the Captain's request not to-- to take the photograph, even of the body bags.

TAPPER: Karen, is that the right decision?

DEYOUNG: No, I think that I would try to get all of the information I could. You know you decide when you go back to write your story and talk to your editor what it is what you've seen means and what you're-- what you're gonna say about it. But that's your chance. And you're out there to collect information. And you collect all of the information you can.

TAPPER: Senator Cleland, she's gonna film the dead US soldiers.

CLELAND: I've been sittin' here wondering about this. (CLEARS THROAT) I can remember when I saw some body bags a number of years ago. There's also a part of me that says, "War is war. If you're gonna cover it, cover it all."

Otherwise you'll begin to be selective. If you're gonna cover up the bad parts, cover up the cost of war, whether on the battlefield, in the hospitals or with the flag draped coffins that you're not gonna take pictures of when they come back, then you're not reporting the full story. So the American people, when their sons and daughters go to war, they deserve the full story. The full story of war is very bad. It's a very tough thing.

And so, when this country goes to war, it deserves to-- to know the full story. It's-- it's of -- it's often said that truth is the first casualty of war. It should be the first cause of war. And in terms of journalist-- journalistic ethics, it should be something that we absolutely insist upon.

I've always wondered (COUGHING) about the term embedded. Does that mean your co-opted? You-- you see what just happened here? The wonderful relationship that works for a while, when bad things happen, when the popcorn hits the fan, then all of a sudden you're embedded. You have a relationship.

Are you a journalist covering your-- covering your rear end or are you covering the story?

Now I understand all of the dynamics of the battlefield. I really do. I don't like pe-- seein' pictures of dead soldiers. Trust me. But I don't like seein' dead soldiers at all. So you're gonna tell the whole story of war or are you not?

TAPPER: Michael, you get to the site of the military action. Tell us about it.

YON: Well--

TAPPER: Where are you?

YON: Now we're at the raid. Ballistic entry. Blow open the doors.

TAPPER: Where are you?

YON: Right behind 'em. And they go into the house throwing flash bang grenades and secure the place. Find the guy and I'm right there when-- when the smoke is clearing photographing everything.

TAPPER: The raid is over. It has been a success. Congratulations, Captain Danbeck. The terrorist has been captured and taken (COUGHING) away. The house is given the all clear. And Michael, you're told you can go into the house where the raid took place. You walk in. Your camera's going. And there you see a soldier that you know, named Sam, standing there with his rifle. Behind him on the ground, an insurgent. Now you know Sam. This is his first real combat. This operation. This raid. Sam sees you filming. He's pumped up. He puts his rifle above his head. "We did it. We did it." There's a noise behind him. And before you can know what's going on, he fires multiple rounds into the insurgent on the ground behind him and you're filming. And the insurgent is killed. And blood is trickling on the insurgent's shirt. And Sam pa-- pats down the insurgent. The insurgent is not armed. He has killed her. That's right, her. It's a female insurgent. Sam looks at you. You got the whole thing. "Oh, god, man. Oh, god. You're not gonna do anything with that film, are you?" Talk to me. I'm Sam.

YON: Sam, you need to get outside the house and you need-- you need to-- you need to clear out of the room. You need to leave.

TAPPER: What are you gonna do with that film?

YON: We'll talk about it. And I'm walkin' out the door. "Captain, you got a problem."

TAPPER: Captain, what are you gonna do?

DANBECK: This situation is-- is-- it's difficult to deal with, but at the same time I-- I can't imagine Sam being in the room by himself, first of all. It just would never happen in-- in my unit. But Sam's in the room by himself and he puts rounds into an-- known or suspected insurgent. Known or suspected. Do we know?

TAPPER: Suspected insurgents.

DANBECK: Okay.

TAPPER: She was in there when the raid-- when the--

DANBECK: You know and--

TAPPER: --terrorists were captured.

DANBECK: I probably have already taken Sam outside and I have more senior NCOs in the room, my non-commissioned officers and some of my other leaders in the room already securing the situation. And-- and Sam's outside.

TAPPER: And are you gonna talk to Michael?

DANBECK: I'm not gonna talk to Michael at this time. Probably. I mean in-- enough to say, "Get out of my way and let me take care of my soldier."

TAPPER: Public information officer Colonel Boylan. You hear about this tape. Talk to Michael.

BOYLAN: Can we get a copy of it?

YON: It'll take me about 15 minutes.

TAPPER: You're not gonna take the tape itself? You just want a copy?

BOYLAN: Nope. Not gonna take the tape.

TAPPER: Why?

BOYLAN: It's-- it's happened.

TAPPER: So you have no problem with this tape to air? Or to be put on the internet?

BOYLAN: I know it will be.

TAPPER: You know it will be. Are you gonna put the tape up on the internet?

YON: I would eventually. But I would first do my homework. I would not put it out precipitously. It wouldn't go out in the next 48 hours.

TAPPER: John Donovan, let's change the facts of this for one second. You're the one that has the tape. You're the one-- you're the one who was embedded. What are you gonna do with it?

DONVAN: I'm gonna-- (CLEARS THROAT) I'm gonna hesitate. I'm gonna not know what to do, to be honest.

TAPPER: Do you wanna--

(OVERTALK)

TAPPER: --talk to your senior producer back in New York?

DONVAN: Frank is my senior producer?

TAPPER: Yes. (LAUGHTER)

DONVAN: With respect I say that.

SESNO: And you can call collect. (LAUGHTER)

DONVAN: Frank, I've got-- something unbelievable happened today and it was awful and we got it all on tape. And it's hugely explosive and it's gonna cause untold damage. It's gonna make the rounds at al Jazeera in a second. It's also something nobody else has. And we got it all. And --

SESNO: So we're the only ones who have this tape?

DONVAN: It's exclusive.

SESNO: I want you to tell me everything that happened out there. I want you to really think about what we should do with this. And I want you to make the recommendation to me to begin with, because you're the reporter in the field.

DONVAN: I wanna hold it a couple of days. First of all, I just want-- I want time to think about it. It doesn't have to go today. Though it happened today. It's exclusive.

SESNO: What do we gain by waiting?

DONVAN: We have the time to think about the implications of what this is gonna mean.

SESNO: Nobody else was there?

DONVAN: No.

SESNO: And the troops are not gonna talk and you're not gettin' pressure from the Colonel?

DONVAN: The Colonel is asking for a copy. I've told him we can't do that. That that's not gonna happen.

SESNO: Okay, I don't think we should wait a couple of days. We're gonna have to figure this out faster than that because that's the way the world works. But we-- I think that--

DONVAN: Well, no, why does the world have to work that way?

SESNO: Well, because--

DONVAN: I'm here--

(OVERTALK)

DONVAN: --on the ground and I'm just asking for a few days to--

TAPPER: All right. Well, John--

DONVAN: --think about this.

TAPPER: --your boss is telling you you need to make a decision right now. So what's the decision?

DONVAN: No.

TAPPER: You're not gonna use it?

DONVAN: No.

TAPPER: Why?

DONVAN: 'Cause I'm uncomfortable with the implications of the thing getting out. I-- I want time to think about it. And if he's saying yes or no, saying it's yes or no now and you have to decide, I'm gonna say no. Because I-- it-- I just don't feel comfortable going with that.

SESNO: And I may agree with you, but I'm also gonna push it. And I'm gonna say, "John, I know this was tough for you. This was traumatic for you.

"But you've got news. And there's not much that's going to change in the next few days. We don't have to go with it tonight. But I think we need to go with it tomorrow. And you get to your contacts in the military and get an explanation for this and figure out how we go with this."

DONVAN: So it's not my call?

SESNO: It's your recommendation. And if I push you to a point where you're uncomfortable, obviously you can quit. But it's not entirely your call.

TAPPER: Frank, are other people at the network who hear about this, your superiors, what are they gonna wanna do?

SESNO: Well, I-- they're not just gonna hear about it because I need to call them. And you have cut to one of the most difficult, wrenching situations that we can possibly be in. We-- whatever we do we're going to get criticized roundly. If we air this, we will be criticized roundly for perhaps irresponsibly airing dirty laundry. If we don't air it, we're criticized for sanitizing war and for not doing our job, which is not a popularity contest. Ultimately we're going to put this on the air.

TAPPER: The whole thing?

SESNO: Yes, I think so. I think that--

TAPPER: Including--

SESNO: --would-- that would--

TAPPER: --the moment of death?

SESNO: That-- probably not. We might pixellate that. But we will have to tell the audience that what we have for you this evening is very disturbing. But it is a moment of war. It is a difficult moment of war. You may not wanna watch this.

TAPPER: Why won't you show the moment of death if you're showing the truth?

DONVAN: We're already sanitizing if we're doing that. And we're already making decisions about putting limits on war. So--

SESNO: --where I'm at--

DONVAN: --we're now only negotiating.

SESNO: We were-- yes, but we negotiate and we wrestle with this all the time. What shred of humanity is left through that lens? What-- how much is enough to convey the story and-- and too much? I don't know. I-- I-- I don't know. I-- we probably will not show that instant (SNAPPING) moment of-- of death.

TAPPER: General Lawlor, did Tonight's News make the right call?

LAWLOR: My answer would be no.

TAPPER: Why not?

LAWLOR: Well, because the question is what is the story. The story is-- there seems to be an assumption here that this soldier has done something wrong. And I'm not sure that's correct.

SESNO: But if we go with this, it's not just the picture of the-- of the-- of the soldier with the gun and the moment. It's the raid. It's the confusion. It's the military's response to it.

LAWLOR: That's--

SESNO: It-- it cannot just be (UNINTEL)--

LAWLOR: Your-- your assumption, Frank, is all of those other things will overshadow that picture. And that's incorrect. That picture will dominate the entire story.

DONVAN: Simply putting the whole story in context and even saying the guy was frightened and hadn't eaten in a few days in-- etcetera-- you-- you can almost justify what he did. The fact is that the-- the story is gonna go out there and it's gonna become one of those crystallized, iconic moments of what the war is all about. No matter what context we offer to it. And-- and the reason I hesitate, I-- and-- and say, "I wanna think about it," number one is we rush too much all the time anyway. We say, "We got it. We go with it." Personally I reject that and-- and that's a career issue (LAUGHS) for me. I-- I don't necessarily think, given that it's exclusive-- it might have been a few years ago I would have had to drive back three days to Blubeck to get that. And I would have had the time to think about it. But nowadays we're 10 minutes away from-- from air time. We're under that pressure all the time.

TAPPER: Stephen, how is the rest of the world gonna look at that tape and do they care about the context?

HAYES: No, I think they probably don't care about the context. I think the speculation that it will show up on al Jazeera and other networks throughout the world is right.

TAPPER: Floyd, is it important for the American media to consider how their reporting might be misused?

ABRAMS: I think in general it's important for them not to. That is to say as a general proposition they

should do their best to tell the truth and if others are gonna tell untruths based upon real truth that's not the fault of the teller of this.

That said, however, I-- I think the broadcaster would likely consider the wide range of audiences. Not just al Jazeera, but Congress. Colleagues of Senator Cleland. The President may wind up attacking the broadcaster for putting it on.

This is an institutional decision of the highest significance for this broadcaster to make about whether the story is important enough to take the heat for running it. And that will be a-- a very serious internal decision that he'll--

DONVAN: I'll--

ABRAMS: --have to make.

DONVAN: --I-- I keep asking myself as the person who witnessed this aside from its revealing, once again, that war is terrible, what have-- what have I really learned? And I really think that what my producer in New York is excited about is I've got great B-roll. I've got a--

SESNO: No, John.

DONVAN: --unbelievably--

SESNO: No, John.

DONVAN: --sensational moment.

SESNO: No, John. That's--

DONVAN: But what have I really--

SESNO: No, John.

DONVAN: --what have we really learned?

SESNO: You have been witness to history in the same way that Ernie Pyle was when he went on shore. Your job now is to put that into context. Are you gonna convey this as a terrible war crime? Are you gonna convey this as-- as the fog of war?

DONVAN: What about--

SESNO: The pain--

DONVAN: --not using it at all?

SESNO: Well, that's certainly a conversation we can have. But I--

DONVAN: Have we cheated--

SESNO: Or--

DONVAN: --have we cheated our audience of an understanding of what's going on--

SESNO: But I think you're--

DONVAN: --by not showing them--

SESNO: --cheating them--

DONVAN: --a random--

(OVERTALK)

DONVAN: --moment that we don't (UNINTEL).

MALE VOICE: That's right.

YON: If you don't bring it up at all--

MALE VOICE: And the--

YON: --I think you've cheated your integrity.

SESNO: That's right. And then in your negotiations with the Captain comes up, of course you're going to come along--

(OVERTALK)

SESNO: --and we'll-- and-- and-- and we're going to take the chances that it goes badly. Well, guess what? It went badly.

TAPPER: John, how much are you gonna fight this? Are you not gonna give your network the tape?

DONVAN: No, I'll definitely give my network the tape.

TAPPER: Are you gonna--

DONVAN: They own--

TAPPER: --resign?

DONVAN: --the tape. They own the tape.

TAPPER: Are you gonna resign?

DONVAN: I don't think I would resign over it. I would-- and-- and I think I would have very mixed feelings about it being broadcast. I might ask if I felt strongly enough, I-- I'll say if I do feel strongly enough about it, I might ask to-- to have somebody else do the report.

TAPPER: We're gonna take you out of Khaoistan, so you can all take a deep breath.

SESNO: Thank you. (LAUGHTER)

TAPPER: And bring you to treacherous waters of Washington, D.C.

CLELAND: God help us. (LAUGHTER)

LAWLOR: Let's go back to Khaoistan. (LAUGHTER)

CLELAND: That's right.

TAPPER: Karen DeYoung. Three years ago the Department of Defense created a new agency as part of the Khaoistani war effort. It is the Electronic Intelligence Agency and you have been covering it for the past three years. For the last six months you've been hearin' something is up.

Something's not right at the EIA.

One day one of your trusted sources, somebody you-- you believe in who has worked with you on other stories and has been working at the EIA comes to you. He is nervous.

"Karen, there is something really bad happening here, something that a lot of us even within the EIA think might be illegal. But I can't talk to you about it unless you can promise me complete confidentiality." Talk to me.

DEYOUNG: Absolutely. I wanna hear what you have to say. That doesn't mean I'm gonna put it in the newspaper tomorrow. I wanna hear what you have to say and that's really only the beginning of what I'm doing. And I'm starting out to talk to a whole lot of other people. Because I know 'cause I've been covering this beat for three years. I know a whole lot about it. I know a lot of people to ask. I don't expect that anybody on this story is gonna want me to use their name.

TAPPER: Karen, this isn't just some story. If you and I do this, I'm-- I just won't lose my jo-- my-- my job if they find out I gave you this information. I-- I could go to jail. I have your word?

DEYOUNG: Absolutely.

TAPPER: We agree to meet. Where are we gonna meet?

DEYOUNG: Wherever you say. Wherever you're comfortable.

TAPPER: Garage? (LAUGHTER)

CLOONAN: Of course. Of course.

TAPPER: Karen, the EIA has been conducting surveillance on Khaoistanis in Khaoistan and tracing the calls back to the United States. This document that I have here proves that after that, the EIA has

been conducting surveillance on those individuals who received phone calls from Khaoistan.
Emails, phone calls, warrantless surveillance.

This is not in the EIA's charter. And there are a lot of us in the EIA who think that this is illegal.
This memo says classified.

DEYOUNG: Thank you.

TAPPER: You're taking it?

DEYOUNG: Absolutely.

TAPPER: Take it.

DEYOUNG: I got it.

TAPPER: Now let's assume that you put that document through the most rigorous authentication test
that there is. We'll just posit that it is real. Do you wanna talk to your editor?

DEYOUNG: Oh, sure. That's the first thing I'd do--

TAPPER: Talk to --

DEYOUNG: --after I--

TAPPER: --your editor.

DEYOUNG: --after I'd talked to the source.

TAPPER: He's right there.

HOGUE: Absolutely go to work on it. And I'll-- obviously we want as much sourcing as we can get.

Secondly, we've gotta talk to both our lawyers and our legal correspondents on what is the legal context here. And then we're gonna have to sit down and make some very tough choices.

TAPPER: Jim, I don't know if you know your lawyer, Floyd Abrams. Floyd, talk to them.

ABRAMS: Well, this is an easy one-- (LAUGHTER)

TAPPER: Floyd, have any crimes already taken place?

ABRAMS: The receipt of the classified information could be argued to be criminal.

TAPPER: Did I commit--

(OVERTALK)

TAPPER: --a crime by giving it to her?

ABRAMS: Probably.

TAPPER: Senator on the Armed Services Committee is nodding yes (LAUGHTER) very--

CLELAND: Yes.

TAPPER: --affirmatively.

ABRAMS: Probably.

TAPPER: As is a member of the military (LAUGHTER) right next to him.

TAPPER: What does Karen need to know before she proceeds with this story?

ABRAMS: Given the current state of the law at least in Washington you may well have no protection legally for your confidential source relationship. For a story of this magnitude, there will--

TAPPER: She could go to jail?

ABRAMS: There will be enormous pressure to find out who leaked. And to go after you. And therefore you will be at significant peril and may have very little legal protection.

TAPPER: I feel for health reasons I need to go to Victoria. (LAUGHTER) Please, what do you have to say?

TOENSING: Thank you. Well, listen to the legal analysis that the-- that the journalists are asking for. Only is my rear end in trouble? What's my culpability? Why not a legal analysis on whether there was indeed a violation depending on what ever this classified material tells them?

TAPPER: Let's say that they went to a bunch of legal experts and the experts say they think this is probably against the law. The government will make a case, but some very good legal minds say, "This is not in the EIA charter. We think it's against the law." Okay. What's your next step, Karen?

DEYOUNG: Well, I-- I think it's important to say that I-- I have a lot of reporting to do.

TAPPER: Okay.

DEYOUNG: I'm gonna spend a long time on this--

TAPPER: Let's get to it.

DEYOUNG: --and Jim and I are gonna have--

TAPPER: Okay.

DEYOUNG: --endless conversations about this.

TAPPER: He's another one of--

DEYOUNG: This isn't the sort of--

(OVERTALK)

TAPPER: --your sources right here. He works at the Department of Homeland Security.

(LAUGHTER) He knows about the program. You're not crazy about it. Wasn't your idea. But you know about it. Give him a call.

DEYOUNG: General?

LAWLOR: Hello? (LAUGHTER)

DEYOUNG: God, you know, I heard the weirdest thing the other day. This wiretapping without warrants of the people who are talking overseas. Do you know anything about that?

LAWLOR: What-- what are you talking about? What-- what are you-- (LAUGHTER) What have you heard?

DEYOUNG: But do you know anything about this? About these wiretaps?

LAWLOR: I wouldn't-- I wouldn't be able to talk about it if I did, but-- I-- I just don't see this violation that your talking about. I--

ABRAMS: You're a great source.

(OVERTALK)

LAWLOR: --haven't heard anything a violating.

(OVERTALK)

TAPPER: Well, Karen, has he-- he has--

(OVERTALK)

TAPPER: --conveyed anything to you just there?

DEYOUNG: A little bit just in the nervousness of his voice. In the care with which he chooses the words to not say, "This is not true. This doesn't happen." In his trying to question me about where I have this information from.

TAPPER: Let's assume that you don't just have issues about this program. Let's assume you hate this

program. You think it is in direct violation of the law. Does that change anything?

LAWLOR: It doesn't change my requirement to obey the law myself. I would have an obligation to go to my superiors. I would have an obligation to fight it as hard as I could within the system. I-- I would have an obligation, if I felt so strongly about it, to resign in protest and then let people ask the questions, "Why did this man resign?" But I don't have an obligation, an ethical obligation, to tell a newspaper reporter about classified information.

TAPPER: Is that right, Victoria?

TOENSING: That's absolutely right. Besides, there's a statute. You could also go to Congress to the oversight committees. And that's the process that you should take instead of going to Karen. If I were your lawyer I-- I'd-- I'd lead you right up to the oversight committee.

TAPPER: So leaking is bad? Leaking never goes on in Washington D.C.? (LAUGHTER)

TAPPER: Mr. Cloonan?

CLOONAN: I think people leak all the time. I'm a bit troubled by it, frankly. I think as the General suggested, there's a way and a means to address issues such as these. Leaks are very damaging. And leaks can be incredibly disruptive. Certainly in the so called war on terror that we're sort of discussing today. The consequences can be incredible.

TAPPER: Even if--

CLOONAN: I feel like--

(OVERTALK)

TAPPER: --the government's breaking the law?

CLOONAN: Look, there's a-- there's a way to address those-- those issues. I mean, you've got whistleblower statutes. You've got the oversight committee. You've got a variety of different things.

HOGGE: And one reason you have some of these is because the press has been vigilant from time to time throughout history pointing out things that otherwise don't get pointed out within the system. It's wonderful to have a system with oversight. With supervisors. But the chances of-- of violating the system within the system is always there. We're human.

If you had a governing system in this country with no look-- leaking whatsoever, I think you'd regret it. And I think the public would be shortchanged. It learns a lot this way.

Now are there mistakes? Yes. Are there things that would have been better not leaked? Yes.

But to try and close it down entirely and on the basis that classification is sacrosanct when we all know it's also a political activity and which an awful lot of stuff gets overclassified, is the wrong road to go down.

CLOONAN: I would agree with Jim that there's frankly a-- a lot of-- overclassification, if you will.

But just based on the-- the facts that you've given me thus far, I'm gonna assume that this is highly technical in nature. And that there are consequences here if this thing gets published.

TAPPER: Okay, we'll get--

CLOONAN: Because --

TAPPER: --We'll get to that in a--

CLOONAN: All right.

TAPPER: --second. General Lawlor, which bothers you more: the program you think is against the law or the leak you think is against the law?

LAWLOR: Both elements are-- are something that I strongly disagree with.

TAPPER: Which bothers you more?

LAWLOR: I guess the question is what would I do.

What I will do is not aggressively go after the leaker. Although I think it's wrong, I will leave that to somebody else to do.

TAPPER: Karen, you work the story. You nail the story. It might be time for you to talk to the director of the EIA, right?

DEYOUNG: Absolutely.

TAPPER: He's right there. Now Jack, you've inherited this program at the EIA. And it might not have been the way you would have gone about doing things. But you're in charge with protecting the program. Talk to Karen.

CLOONAN: Well, Karen it's come to my attention that you've got some information that I'm very, very concerned about. I understand that you may in fact have in possession of some classified information. You may feel it necessary to write a story about it.

And I'm here to try to persuade you that that's not what I would like to see happen. The information, if you do choose to acknowledge that you have this, is very sensitive in nature.

If you indeed publish this information not only will lives conceivably be jeopardized, but our

ability long-term to either identify, preempt and possibly interdict acts of terror against the United States are at risk here.

What I'm telling you in effect is that we are not as good as you think we are. That our ability to get this type of information is so difficult and so sensitive that if you do publicize this story, even if you don't go into detail and publicize sensitive sources and methods, I cannot replicate this system that we have.

DEYOUNG: I can certainly understand that. But why couldn't you achieve the exact same results without going outside the existing statutes? That's what I don't understand.

CLOONAN: There's been a-- a-- a proliferation, if you will, in the number of venues that we have to monitor. And the technology is such that sometimes our ability to go and put an affidavit before the court can be cumbersome.

DEYOUNG: Well, why not ask Congress to change the law?

CLOONAN: And I think, well, that's something that we're certainly looking into. And I think that is a very, very real issue.

TAPPER: Let's assume this conversation ends in an impasse, which I don't think is so hypothetical. (LAUGHTER) Jim, you're Karen's editor. You get a phone call from one of Jack's superiors. And he says, "Look, I understand you're talking about doing this story. Please just before you publish anything, we have three crucial field operations going on with this program. Can you just wait until we finish these field operations?"

HOGUE: I'd have to make a judgment on my part if I wanna take his word for it alone. Secondly we're now down to what my lawyer has told me is an institutional decision. I would go to my publisher as well, because if we go ahead and we're running the risk also of not only Karen going

to jail but others and penalties and fines, that has to be (LAUGHTER) taken-- yes. I would also be going to jail because I would not publish this story without knowing what the source was.

TAPPER: So the field--

HOGUE: So--

TAPPER: --operations doesn't matter so much to you?

HOGUE: It-- of course it matters to me. But-- but I'm being-- being asked to take one man's judgment--

TAPPER: They reveal some information that-- that you cannot report.

HOGUE: Right.

TAPPER: And you are convinced that there are some field operations going on right now that if you publish this it would ruin those field operations.

HOGUE: All right. Then I think I would fall back on an interim step, which is indeed I would hold it back for a period of time. I also would go to a Congressional oversight committee and say, "I think you all need to know."

TAPPER: How long would you wait?

HOGUE: I can't tell you how many days or weeks, but-- or months. But you've-- you've-- but-- but--

TAPPER: --shared it--

HOGGE: --But let me tell you--

(OVERTALK)

HOGGE: --what happens if you wait too long. Let us say you wait a year with information that you have. And then you publish it. One of the very first questions that gets asked is, "Why did you wait a year? Is it because you were trying to influence the election or not influence the election?" In other words non-journalistic reasons. Non-security reasons. And that happens all the time. Journalism is in the business of-- of transmitting information that is of interest and sometimes of importance to the public. When you find it, when you've satisfied that journalistic obligations of accuracy, as best you can determine, publish. If you're start not publishing for non-journalistic reasons, you almost always get into trouble.

TAPPER: Karen, is it possible that if you shared that information with members of Congress that maybe Frank and John would start hearing about this program?

DEYOUNG: Sure. Absolutely. People--

SESNO: Maybe.

DEYOUNG: --in Congress are big gossips. (LAUGHTER)

TAPPER: Maybe?

SESNO: Not maybe.

TAPPER: Not maybe?

DEYOUNG: Absolutely.

TAPPER: Congress is--

SESNO: Within about five minutes.

DEYOUNG: Yeah.

SESNO: No, not-- not quite that. But it's-- it clearly would come out--

TAPPER: All right. A year has passed. And you still haven't published it. You're getting word that Frank and John and the people at Tonight's News are working on this story. Are you eventually gonna publish this story?

HOGGE: Yes.

TAPPER: Okay. The story is published. It is huge.

HOGGE: She might even put a book out.

TAPPER: The country is even further divided. Is it legal? Is it illegal? Congress is gonna hold hearings. Everybody's concerned and trying to figure out. Except for you, Victoria Toensing, because the Attorney General has asked you to be a special prosecutor to figure out who leaked that information to Karen DeYoung. Are you gonna take the job?

TOENSING: Absolutely.

TAPPER: Are you gonna subpoena Karen?

TOENSING: Absolutely. But I'll do it according to the Attorney General guidelines. Even though I'm a special prosecutor, I will adopt (COUGHING) whatever the-- the Department of Justice would do in that regard.

TAPPER: Karen, a special prosecutor's been appointed. Do you wanna talk to Floyd?

DEYOUNG: Absolutely. (LAUGHTER) Floyd is my first call.

TAPPER: Floyd, talk to Karen. She's a little bit worried I think.

ABRAMS: Don't worry. It's-- (LAUGHTER) Everything's gonna be all right. (LAUGHTER) But there is a problem. That some point we'll have a ruling from the court. And Karen may then be in a situation where if things don't go well, she's gotta make a new decision. The ultimate decision if we lose is yours alone. And it's extra-legal. It's-- it's whether you're gonna engage in a sort of civil disobedience by saying, in effect, "You know I know I've lost this legal battle, but I just can't and won't betray my source."

TAPPER: So Floyd, a journalist's promise to a source is not legally binding?

ABRAMS: A journalist's promise to a source is subject to a lot of different laws which are conflicting around the country. But here in Washington right now, where there's a federal grand jury, there is no real legal protection for a journalist who promises confidentiality to a source.

TAPPER: Karen?

DEYOUNG: I think--

TAPPER: You have a tough decision, huh?

DEYOUNG: No, I don't think it is tough.

TAPPER: It's not tough?

DEYOUNG: No. I've made a commitment to somebody. But do you--

TAPPER: Do you wanna talk to your source?

DEYOUNG: Maybe. But maybe not. Because that person's probably already under suspicion and probably doesn't wanna hear from me. But I think I-- I've made a commitment. You know, I've given my word.

TAPPER: Are you gonna send her to jail?

TOENSING: Of course.

TAPPER: Do you want to send her to jail?

TOENSING: I don't.

TAPPER: You don't?

TOENSING: Not at all.

TAPPER: You don't want to, but you're going to?

TOENSING: Yes.

TAPPER: Why don't you want to?

TOENSING: I know she's doing her job. And she has certain considerations just like I as a lawyer, if I'm in a situation where somebody's trying to get me to testify against a client, I have to decide whether it's appropriate under the law or not.

TAPPER: Karen--

TOENSING: So--

TAPPER: --DeYoung, you are now in jail. (LAUGHTER)

TOENSING: I did it.

DEYOUNG: Thank you.

TAPPER: And while you're in jail you have a lot of time to reflect. And you can reflect on what a lot of people in the country are saying about you and your colleagues.

They're saying that you're in jail because you're protecting somebody who leaked classified information about a national security program to protect American lives. And your colleagues in Khaoistan are sending images around the world that the US government says is fueling anti-US hatred and anti-US actions. Are these the actions of patriotic Americans, what you and your colleagues are doing?

DEYOUNG: I believe so. Yes.

TAPPER: Why?

DEYOUNG: Because I believe that the whole basis of this country and the way it operates is-- is on the informed consent of the population. And I think that the government has an obligation to first of all follow the law. And there were-- there were easy ways for the government to avoid this. For the government not to have, in my view, put itself in a position of-- of violating the law. And I think that it's my-- that's my job. My job is to tell people.

TAPPER: Frank Sesno?

SESNO: Yes.

TAPPER: Are these the actions of patriotic Americans? Are they ethical actions?

SESNO: Yes, I think they are. Because first of all I think, you know, we fast forwarded through a lot of events. Suddenly Karen's in jail and I hope to visit you regularly and bring you decent food. (LAUGHTER) But there is an enormous amount of thought and angst that goes into this. It's why Jim didn't publish for a year. Not-- we didn't spend a year not thinking about this. We thought a lot about this.

And we have had ample examples through our history-- of-- of places where the-- the-- the press, the media have exposed government wrongdoing. But no journalist does this, whether it's exposing ugly, horrible images or putting their own lives and reputations on the line, without a lot of thought. There's a lot of ethical and moral soul searching in this. This is tough, tough stuff.

TAPPER: General, are these the behaviors of ethical people?

LAWLOR: I think they're the behavior of ethical people, but not within the context that's sort of

surrounding this whole discussion. Terrorism and if I can use this terrible metaphor, is like a movie. And too often journalists believe that they're reporting on the movie as reviewers. They're talking about the content. They're talking about the people that were involved. But in reality they're the producers. Journalism is what gives terrorism its throw weight. Ultimately terrorism is about fear. And the communication of that fear.

TAPPER: Senator Cleland? Take us home on this. Are these journalists ethical? Are they patriotic?

CLELAND: Adlai Stevenson once said that patriotism is a long and steady dedication of a lifetime. I think what I've seen around the table here with-- with the media is the sense in which they feel responsibility for the country. They feel responsibility-- a duty to the-- to their profession. And ultimately their responsibility under the-- under the First Amendment, to do the right thing. That is at times an agonizing decision. And we've approached it case by case, item by item here. And I think what testifies to me that they're patriots is that they agonize about these things. We all agonize about these things, particularly in terms of war. When there's massive gray areas. So-- I-- I give tribute to those who are involved in-- in the journalistic ethic. And their long and steady dedication of a lifetime.

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