

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

HORACE B. EDWARDS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 14-cv-02631-JAR-TJJ
)	
EDWARD JOSEPH SNOWDEN, et al.,)	
)	
Defendants.)	

MOTION TO FILE DVD EXHIBIT CONVENTIONALLY

Defendants Praxis Films, Inc., Laura Poitras, Participant Media, LLC, Diane Weyermann, Jeffrey Skoll, and The Weinstein Company LLC, respectfully ask the Court for leave to file a DVD of the film *Citizenfour* in this case, conventionally, as Exhibit 1 to Defendants’ Motion to Dismiss Plaintiff’s First Amended Complaint.

Respectfully submitted,

LATHROP & GAGE, LLP

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PARTICIPANT MEDIA, LLC, DIANE
WEYERMANN, JEFFREY SKOLL and
THE WEINSTEIN COMPANY LLC

Of Counsel:

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was served via the Court's ECF System this ___ day of February, 2015 on the following:

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/s/Bernard J. Rhodes

An Attorney for Defendants Praxis Films,
Inc., Laura Poitras, Participant Media, LLC,
Diane Weyermann, Jeffrey Skoll, and the
Weinstein Company

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, Defendants Participant Media, LLC, Praxis Films, Inc. and The Weinstein Company LLC state as follows:

- Participant Media, LLC, is more than 10% owned by its parent company, See Media, LLC, a Delaware LLC;
- Praxis Films, Inc. has no corporate parents or public corporations that own more than 10% of its stock; and
- The Weinstein Company LLC has no corporate parents or public corporations that own more than 10% of its stock.

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Attorney for Defendants Praxis Films, Inc., Laura Poitras, Participant Media, LLC, Diane Weyermann, Jeffrey Skoll, and The Weinstein Company LLC

2:14-cv-02631-JAR-TJJ Edwards et al v. Snowden et al

Julie A. Robinson, presiding

Teresa J. James, referral

Date filed: 12/19/2014

Date of last filing: 02/10/2015

Full docket text for document 12:

ORDER granting [10] Motion for Leave to File DVD Conventionally. Signed by District Judge Julie A. Robinson on 2/10/2015. (This is a TEXT ENTRY ONLY. There is no pdf document associated with this entry.) (as)

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FOR THE DISTRICT OF KANSAS**

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Plaintiffs,)	
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)	
EDWARD JOSEPH SNOWDEN, et al.,)	
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Defendants.)	

MOTION TO DISMISS PLAINTIFF’S FIRST AMENDED COMPLAINT

Defendants Praxis Films, Inc., Laura Poitras, Participant Media, LLC, Diane Weyermann, Jeffrey Skoll, and The Weinstein Company LLC, move this Court, pursuant to Rules 12(b)(3) & (6) of the Federal Rules of Civil Procedure, to dismiss Plaintiff Horace B. Edward’s First Amended Complaint.

In support of their Motion, Defendants rely on the documentary, *CITIZENFOUR*, which is attached as Exhibit 1 in both DVD form (filed conventionally) and in a written transcript (attached hereto).

In addition, pursuant to Local Rule 7.1(a), a Memorandum in Support of Defendants’ Motion to Dismiss is being filed herewith.

Respectfully submitted,

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Laura Poitras, Participant Media, LLC,
Diane Weyermann, Jeffrey Skoll, and The
Weinstein Company LLC

Exhibit 1

TIMECODE	TRANSCRIPTION
10:00:00:00	<p>Please note: All <i>TEXT ELEMENTS</i> are in italics; VOICEOVER and spoken words are in normal text.</p> <p><u>START OF REEL 1</u></p> <p>TITLE CARD:</p> <p><i>•In 2006, I was placed on a secret watchlist after making a film about the Iraq war. In the following years I was detained and interrogated at the US border dozens of times.</i></p> <p><i>My next film was about Guantánamo and the war on terror.</i></p> <p><i>This film is the third par of a trilogy about America post 9/11.</i></p> <p>[VOICE OVER]</p>
10:00:34:08	<p>•Laura,</p> <p>At this stage, I can offer nothing more than my word. I am a senior government employee in the intelligence community. I hope you understand that contacting you is extremely high risk and you are willing to agree to the following precautions before I share more. This will not be a waste of your time.</p> <p>The following sounds complex but should only take minutes to complete for someone technical.</p>
10:00:58:20	<p>•I would like to confirm out of email that the keys we exchanged were not intercepted and replaced by your surveillance. Please confirm that no one has ever had a copy of your private key and that it uses a strong passphrase. Assume your adversary is capable of one trillion guesses per second.</p> <p>If the device you store the private key and enter your passphrase on has been hacked, it is trivial to decrypt our communications.</p>
10:01:22:16	<p>•Understand that the above steps are not bullet proof and are intended only to give us breathing room.</p>

	<p>In the end, if you publish the source material, I will likely be immediately implicated. This must not deter you from releasing the information I will provide.</p> <p>Thank you, and be careful,</p> <p>Citizen 4</p>
10:01:44:17	<p style="text-align: center;">TITLE:</p> <p>•CITIZENFOUR</p>
10:01:58:20	<p style="text-align: center;">LOCATION ID:</p> <p>•RIO DE JANEIRO, BRAZIL</p> <p style="text-align: center;">RADIO VOICE 1 (VO)</p> <p>Bottom line is, surveillance means that there are facts that we no longer abide to. If you take away the surveillance, there are no facts that the government can manufacture.</p> <p style="text-align: center;">RADIO VOICE 2 (VO)</p> <p>Ah that's right, and this is all about creating an independent record. To me, this goes to the question of independently verifying what the government is doing. That's why I keep going back to that question.</p>
10:02:20:20	<p style="text-align: center;">GLENN TYPES ON HIS COMPUTER:</p> <p>•When I wrote earlier this week about Jane Mayer's New Yorker article on the Obama administration's war on whistleblowers, the one parag -</p> <p style="text-align: center;">RADIO ANNOUNCER (VO)</p> <p>More with David Sirota after CBS news, traffic, and weather on KKZN Denver/Boulder, AM 7 - [audio cuts off]</p> <p style="text-align: center;">GLENN GREENWALD</p> <p>Hey, can you hear me?</p> <p>I am here, David, how are you?</p> <p style="text-align: center;">CHARACTER ID WITH FIELD NOTE:</p> <p>Glenn Greenwald - reporting for salon.com, 2011</p>

10:02:47:20	<p style="text-align: center;">GREENWALD (CONT.)</p> <p>•Well I would just point – start by pointing to what Barack Obama himself said about those questions when he was running for the office that he now occupies. In December of 2007, he said, quote, “The President does not have the power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation.”</p> <p>So by Obama’s own words, the president does not have the power that he is now exercising under the Constitution.</p> <p>And as far as why it matters, in, on August 1, 2007, when he laid out his reasons why he was running for office and why he thought it was so important to change</p>
01:03:21:17	<p>•the way we were doing things, he said, quote, “No more ignoring the law when it’s inconvenient. That is not who we are. We will again set an example for the world that the law is not subject to the whims of stubborn rulers.”</p>
	<p style="text-align: center;">TITLE CARD:</p> <p><i>In December 2012, an anonymous source contacts Glenn Greenwald. They are not able to establish a secure communication method, so their correspondence stalls.</i></p>
10:03:37:14	<p style="text-align: center;">TITLE CARD:</p> <p>•A month later, I start receiving anonymous encrypted emails.</p> <p style="text-align: center;">VOICEOVER (Reading of TITLE CARD that appears on screen):</p> <p>You asked why I picked you. I didn’t. You did.</p>
10:04:07:02	<p style="text-align: center;">EMAIL ID, top right:</p> <p>•Email from Jan, 2013</p> <p>The surveillance you experienced means you’ve been “selected” – a term which will mean much more as you learn about how the modern SIGINT system works. For now, know that every border you cross...</p>

10:04:17:15	<p style="text-align: center;">FIELD NOTE:</p> <p>•US Customs and Border Protection logs</p> <p style="text-align: center;">VOICEOVER (cont'd):</p> <p>...every purchase you make, every call you dial, every cell phone tower you pass, friend you keep, article you write, site you visit, subject line you type, and packet you route is in the hands of a system whose reach is unlimited, but whose safeguards are not.</p> <p>Your victimization by the NSA system means that you are well aware of the threat that unrestricted secret police pose for democracies.</p> <p>This is a story few but you can tell.</p>
10:04:45:12	<p style="text-align: center;">TITLE CARD:</p> <p>•I move to Berlin to protect my film footage from being seized at the US border. When the first emails arrive, I increase security.</p>
10:05:16:01	<p style="text-align: center;">TITLE CARD:</p> <p>•William Binney is a legendary NSA crypto-mathematician. During the Cold War, he analyzed nuclear threats. In the 90s, he shifted his focus to the internet and developed methods of mass data analysis.</p> <p style="text-align: center;">WILLIAM BINNEY (VO)</p> <p>Thank you for inviting me here to give me the opportunity to express my story. Let me give you some of my background.</p>
10:05:46:15	<p>•I spent about four years in the military and then I went into NSA. Directly. So I ended up with about 37 years of service combined. Most of it was a lot of fun, I tell you, it was really a lot of fun, breaking these puzzles you know, solving problems and things like that. And that's really what I did, I fundamentally started working out with data - looking at data systems and how you do that. I was developing this concept of analysis that you could lay it out in such a way that it could be coded and executed electronically. Meaning you could automate analysis.</p> <p style="text-align: center;">CHARACTER ID:</p> <p>William Binney - HOPE Conference</p>

10:06:17:19	<p style="text-align: center;">BINNEY [CONT.]</p> <p>•And it has to do with metadata and using metadata relationships. So that was the whole, that was my whole theme there at NSA. That was eventually, that's what I ended up to. I was the only one there doing that, by the way.</p> <p>So any rate, 9/11 happened, it must have been right after, a few days, no more than a week after 9/11 that they decided to begin actively spying on everyone in this country. And they wanted that back part of our program to run all of the spying.</p>
10:06:46:16	<p>•Alright? So, that's exactly what they did. And then they started taking the telecom data and expanded after that. I mean the one I knew was AT&T, and that one provided 320 million records every day. That program was reauthorized every 45 days by what I call the "yes committee," which was Hayden and Tenet and the DOJ.</p>
10:07:10:24	<p>•The program was called Stellar Wind.</p> <p>So first I went to the House Intelligence Committee and the staff member that I personally knew there, and she then went to the chairman of the committee, Nancy Pelosi was the minority rep. They were all briefed into the program at the time by the way, and all the other programs that were going on, including all these CIA programs.</p> <p>I wasn't alone in this, there were four others out of NSA, and we were all trying to work internally in the government over these years trying to get them to come around to being constitutionally acceptable and take it into the courts and have the courts' oversight of it too.</p>
10:07:45:18	<p>•So we, we naively kept thinking that could uh, that could happen. And it never did.</p> <p>But any rate, after that, and all the stuff we were doing they decided to raid us, to keep us quiet, threaten us, you know. So we were raided simultaneously, four of us. In my case, they came in with guns drawn. I don't know why they did that, but they did, so...</p>

10:08:14:20	<p style="text-align: center;">TITLE CARD:</p> <p><i>The NSA has built the world's largest repository for intercepted communications in Bluffdale, Utah. I started filming the site in 2011 when construction began.</i></p> <p style="text-align: center;">VOICE OVER:</p> <p>Laura,</p> <p>I will answer what I remember of your questions as best I can. Forgive the lack of structure. I am not a writer, and I have to draft this in a great hurry.</p>
10:08:38:21	<p style="text-align: center;">Email ID, top right:</p> <p>•<i>Email from Feb. 2013</i></p> <p>What you know as Stellar Wind has grown. SSO, the expanded Special Source Operations that took over Stellar Wind's share of the pie, has spread all over the world to practically include comprehensive coverage of the United States.</p> <p>Disturbingly, the amount of US communication ingested by NSA is still increasing. Publicly, we complain that things are going dark, but in fact, our accesses are improving. The truth is that the NSA has never in its history collected more than it does now.</p>
10:09:12:08	<p>•I know the location of most domestic interception points and that the largest telecommunication companies in the US are betraying the trust of their customers, which I can prove.</p> <p>We are building the greatest weapon for oppression in the history of man, yet its directors exempt themselves from accountability.</p> <p>NSA director Keith Alexander lied to Congress, which I can prove.</p>
10:09:36:21	<p>•Billions of US communications are being intercepted.</p>

10:10:08:02	<p>In gathering evidence of wrongdoing, I focused on the wronging of the American people, but believe me when I say that the surveillance we live under is the highest privilege compared to how we treat the rest of the world.</p> <p>This I can also prove.</p> <p>On cyber operations, the government's public position is that we still lack a policy framework. This too is a lie. There is a detailed policy framework, a kind of Marshall Law for cyber operations created by the White House.</p> <p>•It's called Presidential Policy Directive 20 and was finalized at the end of last year.</p> <p>This I can also prove.</p> <p>I appreciate your concern for my safety, but I already know how this will end for me, and I accept the risk. If I have luck and you are careful, you will have everything you need. I ask only that you ensure this information makes it home to the American public.</p> <p style="text-align: center;">CONGRESSMAN HANK JOHNSON</p> <p>Does the NSA routinely intercept American citizens' emails?</p> <p style="text-align: center;">GEN. KEITH ALEXANDER</p> <p>No.</p>
10:10:42:13	<p style="text-align: center;">FIELD NOTE:</p> <p>•Congressional hearing with NSA director Keith Alexander - 2012</p> <p style="text-align: center;">JOHNSON</p> <p>Does the NSA intercept Americans' cell phone conversations?</p> <p style="text-align: center;">ALEXANDER</p> <p>No.</p> <p style="text-align: center;">JOHNSON</p> <p>Google searches?</p> <p style="text-align: center;">ALEXANDER</p> <p>No.</p>

	<p style="text-align: center;">JOHNSON</p> <p>Text messages?</p>
	<p style="text-align: center;">ALEXANDER</p> <p>No.</p>
	<p style="text-align: center;">JOHNSON</p> <p>Amazon.com orders?</p>
	<p style="text-align: center;">ALEXANDER</p> <p>No.</p>
	<p style="text-align: center;">JOHNSON</p> <p>Bank records?</p>
	<p style="text-align: center;">ALEXANDER</p> <p>No.</p>
	<p style="text-align: center;">JOHNSON</p> <p>What judicial consent is required for NSA to intercept communications and information involving American citizens?</p>
10:11:05:14	<p style="text-align: center;">GEN. KEITH ALEXANDER</p> <p>•Within the United States, that would be the FBI lead. If it was a foreign actor in the United States, the FBI would still have the lead and could work that with, with NSA or other intelligence agencies as authorized. But to conduct that kind of, of collection in the United States it would have to go through a court order, and the court would have to authorize it. We are not authorized to do it, nor do we do it.</p>
10:11:36:06	<p style="text-align: center;">COURT CLERK</p> <p>•All rise. The United States Court of Appeals for the Ninth Circuit is now in session. Please be seated.</p> <p style="text-align: center;">TITLE CARD:</p> <p>In 2006, technician Mark Klein revealed that the NSA was tapping into AT&T's network in San Francisco. Customers filed a lawsuit.</p> <p>Years later, the litigation is still at the preliminary phase.</p> <p style="text-align: center;">M. MARGARET MCKEOWN</p> <p>Good morning, and welcome to the Ninth Circuit. The first case for argument is Jewel</p>

10:12:02:03	<p>versus National Security Agency. •You may proceed.</p> <p style="text-align: center;">KEVIN BANKSTON</p> <p>May it please the court, Kevin Bankston, for Carolyn Jewel and her fellow plaintiff appellants in Jewel v. NSA.</p> <p>Your honors, plaintiffs have specifically alleged that their own communications and communications records have been acquired by the government.</p>
10:12:30:02	<p>But the District Court found that we had failed to allege facts that differentiated the injury that our plaintiffs suffered from the injuries suffered by every other AT&T user</p> <p>•whose communications and records have been acquired by the government, basically concluding that so long as everyone is being surveilled, no one has standing to sue.</p> <p>However, to deny standing to persons who are injured simply because many others are also injured would mean that the most injurious and widespread government actions could be questioned by nobody.</p> <p style="text-align: center;">JUDGE PREGERSON</p> <p>Do you have anything concrete that in fact a specific communication of your client was intercepted?</p>
10:12:56:04	<p style="text-align: center;">BANKSTON</p> <p>•We have evidence that all the communications passing between AT&T's network and other networks in their Northern California facility have been intercepted. And so that would necessarily include the Internet communications of our Northern California plaintiffs.</p> <p style="text-align: center;">PREGERSON</p> <p>Ok, thank you.</p> <p style="text-align: center;">BANKSTON</p> <p>Thank you, Your Honors.</p>
10:13:19:22	<p style="text-align: center;">H. THOMAS BYRON</p> <p>•May it please the court, I am Thomas Byron from the Department of Justice here on behalf</p>

	<p>of the government defendants. We think this litigation need not be resolved in federal court in light of the oversight of the political branches, both legislative and executive, which provides a better opportunity for oversight and resolution of the concerns raised concerning nationwide policies of alleged surveillance...in these complaints.</p> <p style="text-align: center;">JUDGE HAWKINS</p> <p>Even if it's revealed that one or more of the plaintiffs had email or telephone conversations intercepted that had nothing to do with national security?</p>
10:13:57:02	<p style="text-align: center;">BYRON</p> <p>•Your honor, I don't know that anyone necessarily would have standing to raise the particular claims at issue in these two cases. We think instead that the kinds of claims at issue here against these defendants are those that are better suited to resolution before the, the representative branches of our government.</p> <p style="text-align: center;">JUDGE PREGERSON</p> <p>So what role would the judiciary, uh, have if your approach is adopted?</p> <p style="text-align: center;">BYRON</p> <p>Judge Pregerson, I think that...</p> <p style="text-align: center;">JUDGE PREGERSON</p> <p>I mean, we just get out of the way, is that it?</p> <p style="text-align: center;">BYRON</p> <p>•Well, Judge Pregerson, I think that there is a narrow category, a subset of cases, in which it may be appropriate to step aside for that narrow category of cases.</p> <p style="text-align: center;">JUDGE PREGERSON</p> <p>But the judiciary plays a role.</p> <p style="text-align: center;">BYRON</p> <p>To be sure, Judge Pregerson -</p> <p style="text-align: center;">JUDGE PREGERSON</p> <p>In our system.</p>

	<p style="text-align: center;">BYRON</p> <p>Yes, your honor. And we don't mean to diminish that.</p> <p style="text-align: center;">JUDGE PREGERSON</p> <p>You know, you're asking us to abdicate that role.</p> <p style="text-align: center;">BYRON</p> <p>No, your honor, um, but it is a question of this court's discretion whether to reach that issue.</p> <p>10:14:53:08 •Um, we do think that there is simply no way for the litigation to proceed without risk of divulging those very questions of privileged information that would cause, as the Director of National Intelligence has explained, exceptionally grave damage to national security if disclosed.</p> <p style="text-align: center;">TITLE CARD:</p> <p><i>NEW YORK CITY</i></p> <p style="text-align: center;">JACOB APPELBAUM</p> <p>So thanks for having me. If anybody has any questions, like I said, basically just raise your hand and I'll try to call on you as soon as I possibly can.</p>
10:15:22:16	<p style="text-align: center;">CHARACTER ID WITH FIELD NOTE:</p> <p>•<i>Jacob Appelbaum - Occupy Wall Street security training</i></p> <p>So who here actually feels like they are under surveillance pretty regularly?</p> <p>[From the audience: Everyone at Occupy is, no?]</p> <p>Everyone inside of Occupy. How many people have been arrested and had their--at their their court date they had their phone taken into the back room? How many people in here had their retina scanned? Wow.</p> <p>Um, so you guys are actually in a sense the canaries in the coal mine. Right? Because the incentives are all lined up against you. Anybody see on the subway, "Link your MetroCard to your debit card," right like,</p>

10:15:52:00	<p>auto refill?</p> <ul style="list-style-type: none"> •This is a concept that is key to everything we'll talk about today. And it's called linkability: <p>Take one piece of data and link it to another piece of data. So, for example, if you have your MetroCard and you have your debit card, you have those things and you can draw a line between them, right? So that's, like, not a scary thing. Except your bank card is tied to everything else that you do during the day. So now they know where you're going, when you make purchases. So when they decide to target you, they can actually recreate your exact steps. With a MetroCard and with a credit card, alone,</p>
10:16:19:20	<ul style="list-style-type: none"> •like literally where you go and what you buy, and potentially by linking that data with other people on similar travel plans, they can figure out who you talk to and who you met with. When you then take cell phone data, which logs your location, and you link up purchasing data, Metrocard data, and your debit card, you start to get what you could call "metadata" in aggregate over a person's life. And metadata, in aggregate, is content. It tells a story about you which is made up of facts, but is not necessarily true.
10:16:49:09	<ul style="list-style-type: none"> •So for example, just because you were on the corner and all those data points point to it, it doesn't mean you committed the crime. <p>So it's important to note that if someone has a perception of you having done a thing, it will now follow you for the rest of your life. So just keep in mind that what happens to you guys for example with fingerprints and retinal scans and photographs, that is what is going to happen to people in the future when they resist policy changes and when they try to protest in a totally constitutionally protected way.</p>
10:17:17:09	<p style="text-align: center;">EVENT ID WITH FIELD NOTE:</p> <p><i>Senate hearing with James Clapper, Director of National Intelligence - 2013</i></p> <p style="text-align: center;">SENATOR RON WYDEN</p> <p>This is for you, Director Clapper, again on the surveillance front, and I hope we can do</p>

	<p>this in just a yes or no answer because I know Senator Feinstein wants to move on. So, does the NSA collect any type of data at all on millions or hundreds of millions of Americans?</p> <p style="text-align: center;">CLAPPER</p> <p>No, sir.</p> <p style="text-align: center;">WYDEN</p> <p>It does not?</p> <p style="text-align: center;">CLAPPER</p> <p>Not wittingly. There are cases where they could inadvertently, perhaps, collect, but not wittingly.</p>
10:17:47:05	<p style="text-align: center;">TITLE CARD:</p> <p><i>•After months of anonymous communication, the source agrees to meet. I travel to New York and wait for instructions.</i></p> <p style="text-align: center;">EMAIL ID:</p> <p><i>Email from April 2013</i></p>
10:18:19:00	<p style="text-align: center;">VOICE OVER:</p> <p>The encrypted archive should be available to you within seven days. The key will follow when everything else is done.</p> <p><i>•The material I provide, and investigative effort required will be too much for any one person. I recommend at a very minimum, you involve Glenn Greenwald. I believe you know him.</i></p>
10:18:46:04	<p>The plain text of the payload will include my true name details for the record, though it will be your decision as to whether or how to declare my involvement. My personal desire is that you paint the target directly on my back.</p> <p><i>•No one, not even my most trusted confidante, is aware of my intentions, and it would not be fair for them to fall under suspicion for my actions. You may be the only who can prevent that, and that is by immediately nailing me to the cross rather than trying to protect me as a source.</i></p> <p>On timing, regarding meeting up in Hong Kong. The first rendezvous attempt will be at 10am local time on Monday. We will meet in the</p>

10:19:18:16	<p>hallway outside of a restaurant in the Mira Hotel.</p> <p>•I will be working on a Rubik's Cube so you can identify me. Approach me, and ask if I know the hours of the restaurant. I'll respond by stating that I'm not sure, and suggest you try the lounge instead. I'll offer to show you where it is, and at that point we're good. You simply need to follow naturally.</p>
10:19:39:10	<p style="text-align: center;">LOCATION ID:</p> <p>•HONG KONG, CHINA</p> <p><u>END OF REEL 1</u></p> <p><u>REEL 2</u></p>
10:19:57:12	<p style="text-align: center;">HK TIME BREAK:</p> <p>•June 3, 2013</p> <p style="text-align: center;">HK TIME BREAK:</p> <p>Monday</p> <p style="text-align: center;">EDWARD SNOWDEN</p> <p>As far as positioning, I mean, if you want us to sit in any particular way or whatever...</p> <p style="text-align: center;">LAURA POITRAS</p> <p>You know, I'm gonna go over there to try to get better light.</p> <p style="text-align: center;">TITLE CARD:</p> <p><i>Minutes after meeting, I set up the camera and start filming an encounter that will unfold over eight days.</i></p>
02:00:34:07	<p style="text-align: center;">GREENWALD</p> <p>•So - there's you know so many different enormous stories just that are kind of stand alone stories, that even, like, you know, certain things about an individual document that can just be their own story. And I just want to start churning those stories out. I basically woke up this morning and already started writing stories. So I'm hoping to you know start publishing like within a day or two days...</p> <p style="text-align: center;">SNOWDEN</p>

10:20:53:17	<p>•Ok.</p> <p style="text-align: center;">GREENWALD</p> <p>As long as you're good with that.</p> <p style="text-align: center;">SNOWDEN</p> <p>Yeah.</p> <p style="text-align: center;">GREENWALD</p> <p>So as far as like the stuff we have to talk about, I'm kind of dichotomizing it between stuff that I'd like to talk to you about in terms of like the documents and the content, and Laura has a bunch of questions about that as well, sort of working through the documents, getting your take on a lot of this stuff that, you know, will help me understand it better. But then also the sort of "you" story, like the who you are, what you've done, why you've done what you've done...</p> <p style="text-align: center;">SNOWDEN</p> <p>Yeah.</p>
10:21:23:08	<p style="text-align: center;">GREENWALD</p> <p>•And I'd love to do that first.</p> <p style="text-align: center;">SNOWDEN</p> <p>Ok.</p> <p style="text-align: center;">GREENWALD</p> <p>Um, in part because--you're the only one who can do that. So--</p> <p style="text-align: center;">SNOWDEN</p> <p>Yeah...</p> <p style="text-align: center;">GREENWALD</p> <p>So I'd just like to get that done so it's done, um, and also because you know it might be that you want to do that early--</p> <p style="text-align: center;">SNOWDEN</p> <p>Yeah--</p> <p style="text-align: center;">GREENWALD</p> <p>--because...</p> <p style="text-align: center;">SNOWDEN</p> <p>Who knows what could happen, yeah.</p>

	<p style="text-align: center;">GREENWALD</p> <p>It might be necessary, we might choose to have that done early. What are your--tell me your thoughts on where you are with that?</p>
10:21:51:13	<p style="text-align: center;">SNOWDEN</p> <p>So the primary one on that, I think I've expressed that a couple times online, is I feel the modern media has a big focus on personalities.</p> <p style="text-align: center;">GREENWALD</p> <p>Totally.</p> <p style="text-align: center;">SNOWDEN</p> <p>•And I'm a little concerned the more we focus on that, the more they're gonna use that as a distraction. And I don't necessarily want that to happen, which is why I've consistently said, you know, "I'm not the story here." Um-</p>
	<p style="text-align: center;">SNOWDEN (CONT.)</p> <p>Nervous, huh?</p> <p style="text-align: center;">GREENWALD</p> <p>No, it's a very, very cheap pen, that just with the slightest force broke--go ahead.</p>
10:22:20:15	<p style="text-align: center;">SNOWDEN</p> <p>Um--but uh, yeah, anything I can do to help you guys get this out I will do. I don't have</p> <p>•uh...any experience with media, with how this works, so I'm kind of learning as I go.</p> <p style="text-align: center;">GREENWALD</p> <p>Right, so I just want to get a sense of why did you decide to do what you've done.</p>
10:22:49:20	<p style="text-align: center;">SNOWDEN</p> <p>So for me, it all comes down to state power against the peoples' ability to meaningfully oppose that power. And I'm sitting there uh every day getting paid to design methods to amplify that state power.</p> <p>•And I'm realizing that if, you know, the policy switches that are the only things that restrain these states, were changed, there, you couldn't meaningfully oppose these. I mean you would have to be the most incredibly sophisticated technical actor in existence. I</p>

10:23:20:18	<p>mean I'm not sure there's anybody, no matter how gifted you are, who could oppose all of the offices and all the bright people--even all the mediocre people out there with all of their tools and all their capabilities.</p> <p>•And as I saw the promise of the Obama administration be betrayed and walked away from and in fact, actually advance--</p> <p style="text-align: center;">GREENWALD</p> <p>Uh huh, uh huh--</p> <p style="text-align: center;">SNOWDEN</p> <p>--the things that had been promised to be sort of curtailed and reigned in and dialed back, and actually get worse, particularly drone strikes, which I also learned at NSA, we could watch drone videos from our desktops. As I saw that, that really hardened me to action.</p>
10:23:48:20	<p style="text-align: center;">POITRAS</p> <p>•In real time?</p> <p style="text-align: center;">SNOWDEN</p> <p>In real time. Yeah, you...it'll stream a lower quality of the video to your desktop. Typically you'd be watching surveillance drones as opposed to actually like you know murder drones where they're going out there and bomb somebody. But you'll have a drone that's just following somebody's house for hours and hours. And you won't know who it is, because you don't have the context for that. But it's just a page, where it's lists and lists of drone feeds in all these different countries, under all these different code names,</p>
10:24:17:09	<p>•and you can just click on which one you want to see.</p> <p style="text-align: center;">GREENWALD</p> <p>Right, but, so if your self-interest is to live in a world in which there's maximum privacy, doing something that could put you into prison, in which your privacy is completely destroyed, is sort of the antithesis of that. How did you reach the point where that was a worthwhile calculation for you?</p>

	<p style="text-align: center;">SNOWDEN</p> <p>I remember what the internet was like before it was being watched, and there's never been anything in the history of man that's like it.</p>
10:24:44:19	<p>•I mean, you could again have children from one part of the world having an equal discussion where you know they were sort of granted, um, the same respect for their ideas and conversation, with experts in a field from another part of the world, on any topic, anywhere, anytime, all the time. And it was free and unrestrained. And we've seen, uh, the chilling of that and the cooling of that and the changing of that model,</p>
10:25:13:05	<p>•toward something in which people self-police their own views, and they literally make jokes about ending up on "the list" if they donate to a political cause or if they say something in a discussion. Uh, and it's become an expectation that we're being watched. Um, many people I've talked to have mentioned that they're careful about what they type into search engines because they know that it's being recorded. And that limits the boundaries of their intellectual exploration. And I'm -</p>
10:25:45:02	<p>•I am more willing to risk imprisonment, or any other negative outcome, personally, than I am willing to risk the curtailment of my intellectual freedom and that of those around me whom I care for, uh, equally, as I do for myself. And again, that's not to say that I'm self-sacrificing, because</p>
10:26:10:24	<p>•it gives me--I feel good in my human experience to know that I can contribute to the good of others.</p>
	<p style="text-align: center;">HK TIME BREAK:</p> <p><i>Tuesday</i></p>
	<p style="text-align: center;">TITLE CARD:</p> <p><i>The Guardian, where Glenn Greenwald is now working, also sends investigative reporter Ewen MACASKILL.</i></p>
	<p style="text-align: center;">MACASKILL</p> <p>Could you elaborate on that?</p>
10:26:38:01	<p style="text-align: center;">SNOWDEN</p> <p>So, I don't know how much of the</p> <p>•programs and the actual technical capacities everybody's talked to you about, but there's</p>

10:27:09:18	<p>an infrastructure in place in the United States and worldwide that NSA has built, in cooperation with other governments as well, that intercepts basically every digital communication, every radio communication, every analog communication that it has sensors in place to detect.</p>
10:27:37:16	<p>•And, uh, with these capabilities, basically, the vast majority of human and computer-to-computer communications, device-based communications, which sort of inform relationships between humans, are automatically ingested without targeting. And that allows individuals to retroactively search your communications based on self-certifications.</p>
10:28:06:14	<p>•So, for example, if I wanted to see the content of your email or, you know, your wife's phone calls, or anything like that, all I have to do is use what's called a "selector," any kind of thing in the communications chain that might uniquely or almost uniquely identify you as an individual. And I'm talking about things like email addresses, IP addresses, phone numbers, credit cards,</p>
10:28:34:21	<p>•um, even passwords that are unique to you that aren't used by anyone else. I can input those into the system, and it will not only go back through the database and go, "Have I seen this anywhere in the past?" It will, basically put in an additional level of scrutiny on it, moving into the future, that says, "If this is detected now or at anytime in the future I want this to go to me immediately, and alert me in real time"</p> <p>•that you're communicating with someone. Things like that.</p>
<p>EWEN MACASKILL</p>	
<p>So, I don't know who you are or anything about you.</p>	
<p>SNOWDEN</p>	
<p>Ok. I work for Booz Allen Hamilton, a defense contractor, I'm sort of on loan to NSA. I don't talk to a Booz Allen boss, I don't get tasking from Booz Allen, it's all from NSA.</p>	
<p>MACASKILL</p>	

10:29:04:01	<p>Sorry, I don't know your name.</p> <p style="text-align: center;">SNOWDEN</p> <p>Oh, sorry! I uh,--my name is Edward Snowden. •I go by Ed. Edward Joseph Snowden is the full name.</p> <p style="text-align: center;">MACASKILL</p> <p>S-N-O-W</p> <p style="text-align: center;">SNOWDEN</p> <p>O-W-D-E-N</p> <p style="text-align: center;">MACASKILL</p> <p>And where are you from?</p> <p style="text-align: center;">SNOWDEN</p> <p>I'm originally, I was born in North Carolina, uh, small town, Elizabeth City, there's a Coast Guard station there, I'm from a military family. But I spent most of my time growing up around Fort Meade in Maryland.</p> <p style="text-align: center;">MACASKILL</p> <p>And your family, what's the consequences for them of your--</p>
10:29:33:03	<p style="text-align: center;">SNOWDEN</p> <p>•This is actually what has made this hardest. My family doesn't know what's happening. They're unaware. I don't think I'll be able to keep the family ties that I've had for my life because of the risk of associating them with this. And I'll leave, you know, what to publish on this and what not to publish with you guys. I trust you to be responsible on this.</p>
10:30:04:19	<p>•Um...but basically, the closer I stay to my family, the more likely they are to be leaned on, you know--</p> <p style="text-align: center;">MACASKILL</p> <p>So you don't want me to--</p> <p style="text-align: center;">GREENWALD</p> <p>I mean yeah, we definitely want to do whatever we can not to include them or bring them into the mix.</p> <p style="text-align: center;">MACASKILL</p> <p>Yeah yeah, sure, that's fine, I won't--</p>

	<p style="text-align: center;">GREENWALD</p> <p>Let me, I'm sorry, let me interrupt you. Can we just stop for a second and do the document and then go back to that? That makes sense.</p> <p style="text-align: center;">SNOWDEN</p> <p>Sure.</p> <p style="text-align: center;">GREENWALD</p> <p>What do I need--do I need an email address that we're using, or...?</p> <p style="text-align: center;">SNOWDEN</p> <p>•Well, so you can, you can send them, once you've encrypted it, you can send it from whatever you think is appropriate. The main thing is you've got to encapsulate all of this--</p> <p style="text-align: center;">GREENWALD</p> <p>Uh huh--</p> <p style="text-align: center;">SNOWDEN</p> <p>--in a way that it can't be decrypted and read when it's in transit across the network--</p> <p style="text-align: center;">GREENWALD</p> <p>Right. Right.</p> <p style="text-align: center;">SNOWDEN</p> <p>--or on either of the end points that it's received at.</p> <p style="text-align: center;">GREENWALD</p> <p>Ok. So, just so you know, these documents are basically all gonna be uploaded in like 48 hours, 72 hours, whatever.</p> <p style="text-align: center;">SNOWDEN</p> <p>This is simply--you know, you want to get in the process of doing this for everything because it seems hard, but it's not hard, this is super easy.</p>
10:30:30:10	<p style="text-align: center;">GREENWALD</p> <p>Uh huh--</p> <p style="text-align: center;">SNOWDEN</p> <p>--in a way that it can't be decrypted and read when it's in transit across the network--</p> <p style="text-align: center;">GREENWALD</p> <p>Right. Right.</p> <p style="text-align: center;">SNOWDEN</p> <p>--or on either of the end points that it's received at.</p> <p style="text-align: center;">GREENWALD</p> <p>Ok. So, just so you know, these documents are basically all gonna be uploaded in like 48 hours, 72 hours, whatever.</p> <p style="text-align: center;">SNOWDEN</p> <p>This is simply--you know, you want to get in the process of doing this for everything because it seems hard, but it's not hard, this is super easy.</p>
10:30:58:20	<p style="text-align: center;">GREENWALD</p> <p>•So--just walk me through it, and--</p> <p style="text-align: center;">SNOWDEN</p> <p>Ok. Show me--show me the actual folder structure where these files are first.</p>

	<p style="text-align: center;">SNOWDEN</p> <p>How many documents did you say there were?</p> <p style="text-align: center;">GREENWALD</p> <p>Seven.</p> <p style="text-align: center;">SNOWDEN (to MACASKILL)</p> <p>Well while you're working did you want to...?</p> <p style="text-align: center;">GREENWALD</p> <p>Ok, go ahead-</p> <p style="text-align: center;">MACASKILL</p> <p>How many documents are we talking about? Because when the Guardian did WikiLeaks, technical people set up a system so they were available for anybody to see. And I just wondered if it's possible to do the same thing?</p> <p style="text-align: center;">SNOWDEN</p>
10:31:28:01	<p>•That would be the ideal end game, um, but because some of these documents are legitimately classified in ways that could cause harm to people and methods, I'm comfortable in my technical ability to protect them. I mean you could literally shoot me or torture me, and I could not disclose the password if I wanted to. Um, you know, I have the sophistication to do that. There are some journalists that I think could do that,</p>
10:31:58:09	<p>•but there are a number of them that couldn't. But the question becomes, can an organization actually control that information in that manner without risking basically an uncontrolled disclosure? But I do agree with that. Honestly, I don't want to be the person making the decisions on what should be public and what shouldn't. Which is why, rather than publishing these on my own, or putting them out openly, I'm running them through journalists.</p>
10:32:26:20	<p>•So that my bias, you know, and my things, because clearly I have some strongly held views, are removed from that equation, and the public interest is being represented in the most responsible manner.</p> <p style="text-align: center;">MACASKILL</p>

	<p>Yeah.</p> <p style="text-align: center;">SNOWDEN</p> <p>Actually, given your sort of, you know, geographic familiarity with the UK and whatnot, I'd like to point out that GCHQ has probably the most invasive--</p> <p style="text-align: center;">MACASKILL</p> <p>I've heard all that--</p> <p style="text-align: center;">SNOWDEN</p> <p>10:32:57:16 •[laughs]--network intercept program anywhere in the world.</p> <p style="text-align: center;">MACASKILL</p> <p>Yeah, yeah.</p> <p style="text-align: center;">SNOWDEN</p> <p>It's called Tempora, T-E-M-P-O-R-A, and it's the world's first "full take," they call it, and that means content in addition to metadata, on everything.</p> <p style="text-align: center;">GREENWALD</p> <p>Um so this, this is what I'd like to do in terms of scheduling--if it's good with everybody else--um, are you, do you feel like you're done with what you...?</p> <p style="text-align: center;">MACASKILL</p> <p>I am done.</p>
10:33:22:10	<p style="text-align: center;">GREENWALD</p> <p>•So I'm anxious to go back, get those articles done, and then there's a bunch of documents that aren't about those first two or three stories that I'd like to spend time with you--</p> <p style="text-align: center;">SNOWDEN</p> <p>Sure, yeah--</p> <p style="text-align: center;">GREENWALD</p> <p>--you know kind of going over, um, and do that--</p> <p style="text-align: center;">SNOWDEN</p> <p>I'm not going anywhere!</p> <p style="text-align: center;">GREENWALD</p>

	<p>You're available? You want to check your book first?</p> <p style="text-align: center;">SNOWDEN</p> <p>Yeah! Let me...uh--let me check my schedule.</p> <p style="text-align: center;">GREENWALD</p> <p>Is that good for you Laura? You wanna--</p> <p style="text-align: center;">POITRAS</p> <p>It's great.</p> <p style="text-align: center;">GREENWALD</p> <p>Ok.</p> <p style="text-align: center;">TITLE CARD:</p> <p><i>Wednesday</i></p>
10:33:54:20	<p>•[phone rings]</p> <p style="text-align: center;">SNOWDEN</p> <p>[answering phone] Hello? Yes. My meal was great. Thank you very much. No I still have some left and I think I'm gonna be eating it later. So uh, you can just leave me alone for now. Ok, great. Thank you so much. Have a good one. Bye.</p>
10:34:20:03	<p style="text-align: center;">SNOWDEN</p> <p>•Let's uh, fix that real quick.</p> <p style="text-align: center;">SNOWDEN</p> <p>So uh, another fun thing, I was telling Laura about this, all these new VOIP phones, they have little computers in them, and you can hot mic these over the network--</p> <p style="text-align: center;">GREENWALD</p> <p>Uh huh--</p> <p style="text-align: center;">SNOWDEN</p> <p>--all the time, even when the receiver's down, so--as long as it's plugged in, it can be listening in on you, and--</p> <p style="text-align: center;">GREENWALD</p> <p>Ok.</p> <p style="text-align: center;">SNOWDEN</p>

	<p>--and I haven't, hadn't even considered that earlier, but yeah.</p> <p style="text-align: center;">GREENWALD</p> <p>Ok.</p> <p style="text-align: center;">SNOWDEN</p> <p>There are so many ways this could be-- everything that's in here is pretty much gonna be on the public record at some point, we, we should operate on that, that basis, because--</p> <p style="text-align: center;">GREENWALD</p> <p>Yeah, yeah, I think we are.</p> <p style="text-align: center;">SNOWDEN</p>
10:34:50:11	<p>•So, do you have your air-gapped machine with you?</p> <p style="text-align: center;">GREENWALD</p> <p>I do.</p> <p style="text-align: center;">SNOWDEN</p> <p>You can pop that out--</p> <p style="text-align: center;">SNOWDEN</p> <p>Do you have an understanding or commitment on when you guys are going to press with the first stories?</p> <p style="text-align: center;">MACASKILL</p> <p>I suppose seven or eight in the morning in London.</p> <p style="text-align: center;">SNOWDEN</p> <p>Uh huh, ok.</p> <p style="text-align: center;">SNOWDEN</p>
10:35:17:11	<p>Now let's see here--</p> <p>•oh hey, look, there's the other one. Pro tip, let's not leave uh the same SD cards in our laptops forever, in the future. Did you know this was still kicking around in your laptop?</p> <p style="text-align: center;">GREENWALD</p> <p>Yeah, um that was the--um, ok. Yeah.</p> <p style="text-align: center;">SNOWDEN</p> <p>Ok, just makin sure.</p> <p style="text-align: center;">SNOWDEN</p>

	<p>This is that--right there.</p> <p style="text-align: center;">GREENWALD</p> <p>Ok.</p> <p style="text-align: center;">SNOWDEN</p> <p>You will have a new one that looks exactly identical that's a different archive, so you might want to take a Sharpie to it, or something.</p> <p style="text-align: center;">SNOWDEN</p> <p>•Could you pass me my magic mantle of power?</p> <p style="text-align: center;">POITRAS</p> <p>Mm hmm--gonna go pick up-</p> <p style="text-align: center;">GREENWALD</p> <p>Is that about the possibility of--</p> <p style="text-align: center;">SNOWDEN</p> <p>Visual, yeah, visual collection.</p> <p style="text-align: center;">GREENWALD</p> <p>I don't think at this point there's anything in this regard that will shock us.</p>
10:35:48:15	<p>•We've become pretty...in fact Ewen said before, he's like, he's like "I'm never leaving my room--I'm never leaving anything in my room again, not a single machine." I was like, "You've been infected by the paranoia bug, almost all of us!"</p>
10:36:15:02	<p style="text-align: center;">SNOWDEN</p> <p>Yeah.</p> <p style="text-align: center;">GREENWALD</p> <p>And the way he said it, he was like, "I would never leave a single device in the room again alone."</p>
	<p style="text-align: center;">MACASKILL</p> <p>My bag is getting heavier and heavier.</p> <p style="text-align: center;">GREENWALD</p> <p>That's your evil influence, Ed.</p>
10:36:45:19	<p style="text-align: center;">SNOWDEN</p> <p>All right, I'm going need you to enter your root password because I don't know what it is.</p> <p>•If you want to use this, you're more than</p>

10:37:13:20	<p>welcome to, uh--looks like your root password's about four characters long anyway, so--</p> <p style="text-align: center;">GREENWALD</p> <p>It's usually a lot longer, but that's just the one time only thing, right?</p> <p style="text-align: center;">SNOWDEN</p> <p>So it is--uh--</p> <p style="text-align: center;">GREENWALD</p> <p>It had been a lot longer, but ever since I knew that it was just like a one time only session one, I've been making it shorter--is that not good?</p> <p style="text-align: center;">SNOWDEN</p> <p>It's actually not - I was expressing this with Laura - either. The issue is, because of the fact that it's got a hardware mac address and things like that, if people are able to identify your machine, and they're able to--</p> <p style="text-align: center;">POITRAS</p> <p>•This is the fact you're about to break the most upsetting story-</p> <p style="text-align: center;">GREENWALD</p> <p>Right, that's true, that's true-</p> <p style="text-align: center;">SNOWDEN</p> <p>Yeah--so they might kind of prioritize you for targeting--</p> <p style="text-align: center;">GREENWALD</p> <p>It's ten letters. I type very quickly. It actually is ten letters.</p> <p style="text-align: center;">SNOWDEN</p> <p>Ok, so ten letters would be good if they had to brute force the entire keypace--</p> <p style="text-align: center;">GREENWALD</p> <p>Right.</p> <p style="text-align: center;">SNOWDEN</p> <p>That would still probably only take a couple days for NSA... That's a fire alarm.</p> <p style="text-align: center;">GREENWALD</p>
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10:37:42:07	<p>Ok, hopefully it just sounds like a three second test--</p> <p>•or is--do you want to call the desk and ask? I think it's fine...</p> <p style="text-align: center;">SNOWDEN</p> <p>Yeah, I don't think it's an issue, but it's interesting that it just--</p> <p style="text-align: center;">MACASKILL</p> <p>Did that happen before?</p> <p style="text-align: center;">SNOWDEN</p> <p>Maybe they got mad they couldn't listen in to us via the phone anymore.</p> <p style="text-align: center;">MACASKILL</p> <p>Has the fire alarm gone off before?</p> <p style="text-align: center;">SNOWDEN</p> <p>No, that's the first time that's happened. See, just in case, they've got an alert that goes to--that's unusual.</p> <p style="text-align: center;">GREENWALD</p> <p>We probably--</p>
10:38:13:04	<p style="text-align: center;">SNOWDEN</p> <p>•We might have to evacuate.</p> <p style="text-align: center;">GREENWALD</p> <p>--shouldn't ignore that--I don't know.</p> <p style="text-align: center;">MACASKILL</p> <p>It's not continuous.</p> <p style="text-align: center;">GREENWALD</p> <p>It's not continuous.</p> <p style="text-align: center;">GREENWALD</p> <p>No, I'm just saying, if it continues.</p> <p style="text-align: center;">POITRAS</p> <p>And then we go, and we meet the guys down in the lobby...</p>
10:38:38:23	<p style="text-align: center;">SNOWDEN</p> <p>Yeah, right? Yeah. Let's uh, let's leave it for now. Let me just finish this up.</p> <p>•Alright. Not that they're going to answer because they probably got like seven thousand</p>

	<p>calls--</p> <p style="text-align: center;">GREENWALD</p> <p>Yeah...</p> <p style="text-align: center;">SNOWDEN</p> <p>[into phone] Hi, uh, we hear a loud buzzing on the tenth floor, can you tell us what that is? [listens] Oh, ok. Ok great. Thank you. Bye. Fire alarm testing maintenance.</p> <p style="text-align: center;">GREENWALD</p> <p>•That's good. That's what you wanted to hear.</p> <p style="text-align: center;">SNOWDEN</p> <p>Nice of them to uh...nice of them to let us know about that in advance.</p> <p>Um...I just wanted to give you kind of a quick tour, uh, when Laura was looking at this she was kind of salivating and couldn't stop actually reading the documents--</p> <p style="text-align: center;">GREENWALD</p> <p>Right, right. So we'll try and restrain ourselves without promising that we'll succeed.</p> <p style="text-align: center;">SNOWDEN</p> <p>Yeah, I just wanted to kind of explain a--a brief overview of what these are and how they're organized. Um, the beginning are just some documents of interest.</p>
10:39:08:09	<p>•The primary purpose of the second archive is to bring the focus over to SSO, as opposed to uh, PRISM. And this is in general. SSO are the Special Source Operations, those are the worldwide passive collection on networks. They're both domestic to the US and international. There's a lot of different ways they do it, but corporate partnerships are one of the primary things uh they do domestically, they also do this with multinationals that might be headquartered in the US or they can kind of coerce, just pay into giving them access--</p>
10:39:37:02	<p>•and they also do it bilaterally, with the assistance of certain governments. And that's basically on the premise that they go, "Alright, we'll help you set this system up if you give us all the data from it." Um, so</p>
10:40:06:19	

	<p>yeah--there's, there's...a lot more here than any one person or probably one team could do.</p> <p style="text-align: center;">GREENWALD</p> <p>Right.</p> <p style="text-align: center;">SNOWDEN</p> <p>Um, XKeyscore DeepDive--XKeyscore in general, and there's a huge folder of documentation on XKeyscore and how it works, is the front-end system that analysts use</p>
10:40:34:12	<p>•for querying that sort of ocean of raw SIGINT that I was telling you about. All of that stuff where you can sort of do the retroactive searches and live searches and get flagging and whatnot, Xkeyscore is the front end for that.</p>
10:41:05:15	<p>I'm just gonna show you one slide here 'cause Laura thought it was valuable, and I was talking about kind of how these uh capabilities ramp up in sophistication over time. This is kinda nice, as of fiscal year 2011, they could monitor 1 billion telephone or internet sessions</p> <p>•simultaneously per one of these devices. And they could collect at the rate of about 125 gigabytes a second, which is a terabit.</p> <p style="text-align: center;">GREENWALD</p> <p>That's just each one of these devices.</p> <p style="text-align: center;">SNOWDEN</p> <p>That's for each one of these, yeah.</p> <p style="text-align: center;">MACASKILL</p> <p>And how many Tumult missions would there be, then?</p> <p style="text-align: center;">SNOWDEN</p> <p>Uh--per this, back then, there were 20 sites, there's 10 at DOD installations, but these are all outdated. We've expanded pretty rapidly. But still 20 sites, that's at least 20 billion.</p>
10:41:34:22	<p style="text-align: center;">GREENWALD</p> <p>•This all needs to get out, you know I mean it's like, just in terms of understanding the capabilities. It's so opaque.</p>

10:42:01:09	<p style="text-align: center;">SNOWDEN</p> <p>It's not science fiction, this stuff is happening right now.</p> <p style="text-align: center;">GREENWALD</p> <p>No, that's what I mean, it's like, the, the magnitude of it, and, and like this is a pretty inaccessible technical document, but even this like is really chilling. Do you know what I mean?</p> <p style="text-align: center;">SNOWDEN</p> <p>Yeah.</p> <p style="text-align: center;">GREENWALD</p> <p>And, yeah I mean we should have, we should be having debates about whether we want</p> <ul style="list-style-type: none"> •governments - I mean this is massive and extraordinary. It's amazing. Even though you know it, even though you know that--to see it, like the physical blueprints of it, and sort of the technical expressions of it, really hits home in like a super visceral way that is so needed.
10:42:18:21	<p style="text-align: center;"><u>END OF REEL 2</u></p> <p style="text-align: center;"><u>REEL 3</u></p> <p style="text-align: center;">TITLE CARD</p> <p>•Six hours later Glenn Greenwald publishes the first story.</p> <p style="text-align: center;">ANNOUNCER (VO)</p> <p>This is CNN Breaking News.</p> <p style="text-align: center;">WOLF BLITZER</p> <p>An explosive new report is reigniting the concerns that your privacy is being violated to protect America's security. It reveals a court order giving the National Security Agency blanket access to millions of Verizon customers' records on a daily basis.</p> <p style="text-align: center;">JAKE TAPPER</p> <p>Earlier I had the chance to conduct the first TV interview with the reporter who broke this story wide open: Glenn Greenwald of the Guardian.</p>

	<p style="text-align: center;">JAKE TAPPER</p> <p>Congratulations on the scoop. Explain for our viewers why this is important.</p>
10:43:09:05	<p style="text-align: center;">GREENWALD</p> <p>It's important because people have understood that the law that this was done under, which is the Patriot Act, enacted in the wake of 9/11, was a law that allowed the government very broad powers to get records about people with a lower level of suspicion than probable</p> <p>•cause, the traditional standard. So it's always been assumed that under the Patriot Act, if the government had even any suspicion that you were involved in a crime or terrorism, they could get a lot of information about you. What this court order does that makes it so striking, is that it's not directed at any individuals that they believe or have suspicion of committing crimes or are part of a terrorist organization, it's collecting the phone records of every single customer of Verizon business and finding out every single call that they've made, internationally and locally, so it's indiscriminate and it's sweeping. It's a</p> <p>•government program designed to collect information about all Americans, not just people where they believe there's reason to think they've done anything wrong.</p>
10:43:41:15	
10:43:50:10	<p style="text-align: center;">LOWER THIRD</p> <p>•Thursday</p>
10:44:45:13	<p style="text-align: center;">SNOWDEN</p> <p>•Ah, it's, it's a tough situation, you know, hearing that the person that you love, that you've spent the decade with, may not be coming back.</p>
	<p style="text-align: center;">POITRAS</p> <p>What did they ask her?</p>
10:45:07:13	<p style="text-align: center;">SNOWDEN</p> <p>Um, when was the last time she saw me, where am I, um, what am I doing, you know, what does</p> <p>•she know about my illness, things like that. Uh, so. Yeah, they're um, they're pretty solidly aware. Cause, she, uh, I'm clearly not at home ill.</p>

10:45:44:02	<p style="text-align: center;">MACASKILL</p> <p>•Hello?</p> <p style="text-align: center;">GREENWALD</p> <p>Hello?</p> <p style="text-align: center;">SNOWDEN</p> <p>Hello. Let me disconnect from the internet...</p> <p style="text-align: center;">GREENWALD</p> <p>So, there's some news?</p>
10:45:56:11	<p style="text-align: center;">SNOWDEN</p> <p>•Yes there was indeed some news. I have config. Today, I think, maybe just a few hours ago?</p> <p style="text-align: center;">GREENWALD</p> <p>What, what kind of people visited?</p> <p style="text-align: center;">SNOWDEN</p> <p>An HR lady, I'm assuming from NSA as opposed to, uh, as opposed to Booz Allen, because she was accompanied by a police officer, which means NSA police. And they were planning to break into my house, which regular police don't do. Um...</p> <p style="text-align: center;">GREENWALD</p> <p>Does she live there?</p> <p style="text-align: center;">SNOWDEN</p> <p>Yeah, she lives there. So I told her to cooperate fully--</p> <p style="text-align: center;">GREENWALD</p> <p>I can't find my phone, just one second...</p> <p style="text-align: center;">SNOWDEN</p> <p>You know, worry about herself.</p> <p style="text-align: center;">GREENWALD</p> <p>You know what I'm gonna do, I'll just take out the stuff I wanna use...</p> <p style="text-align: center;">SNOWDEN</p> <p>Ok.</p>

	<p style="text-align: center;">GREENWALD</p> <p>Ok, well look. I mean, this is not a surprising development.</p> <p style="text-align: center;">SNOWDEN</p> <p>•Nah, I know, I planned for it, but it's just, you know, when it's impacting them and they're talking to you, it's a little bit different.</p> <p style="text-align: center;">GREENWALD</p> <p>Absolutely. But it's possible that they just noticed that you're missing. I guess it's not really a possibility.</p> <p style="text-align: center;">SNOWDEN</p> <p>It is, but they're, I mean--</p> <p style="text-align: center;">GREENWALD</p> <p>Um, let me just get rid of this.</p> <p style="text-align: center;">SNOWDEN</p> <p>Sorry, I obviously was focused on other things that appearance this morning.</p>
10:47:06:02	<p style="text-align: center;">GREENWALD</p> <p>•How did she react, was she relatively calm about it?</p> <p style="text-align: center;">SNOWDEN</p> <p>She's relatively calm--</p> <p style="text-align: center;">GREENWALD</p> <p>Does she know anything about what you're doing and why?</p> <p style="text-align: center;">SNOWDEN</p> <p>She has no idea. And that's, I mean, I feel badly about that, but that's the only way I could think of where, like, she can't be in trouble.</p> <p style="text-align: center;">GREENWALD</p> <p>Did you just basically, did you just basically do a, "I have to go somewhere for reasons that I can't tell you about" kind of thing, or...?</p>
10:47:31:02	<p style="text-align: center;">SNOWDEN</p> <p>I just disappeared when she was on vacation. Um, and I left a note saying hey I'm going to</p> <p>•be gone for a while for work, which isn't</p>

	<p>unusual for me in my business.</p> <p style="text-align: center;">GREENWALD</p> <p>Right.</p> <p style="text-align: center;">SNOWDEN</p> <p>You know, so--</p> <p style="text-align: center;">GREENWALD</p> <p>Ok, so let me ask you a couple things just quickly. Are they gonna be able to go into your stuff and figure out what you took?</p> <p style="text-align: center;">SNOWDEN</p> <p>Um, in some kind of, some sort of, like, peripheral senses, but not necessarily--</p> <p style="text-align: center;">GREENWALD</p> <p>Not with great specificity--</p> <p style="text-align: center;">SNOWDEN</p> <p>Yes. Because I cast such a wide net, if they do that the only thing they're gonna do is have a heart attack because they're gonna go, "He had access to everything."</p> <p style="text-align: center;">GREENWALD</p> <p>Yeah.</p> <p style="text-align: center;">SNOWDEN</p> <p>10:48:00:04 •And they're not gonna know what specifically has been done. I think they're gonna start to actually feel a little better, although they're not gonna be wild about this in any case, when they see that the stories are kind of cleaving to a trend, you know, it's not like, "Here's the list of everybody who works everywhere." Um--</p> <p style="text-align: center;">GREENWALD</p> <p>10:48:30:10 Right. I also think, you know, they're gonna be paranoid in the extreme, and assuming all kinds of worst case scenarios, which is gonna, you know, I think make them react in ways that probably aren't, like, gonna be particularly</p> <p style="text-align: center;">SNOWDEN</p> <p>I agree, and I mean, I had kinda time to set a</p>
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	<p>stage where--we all enjoy at least a minimum level of protection, you know, no matter who we are, who's involved in this, you know, you're either a journalist--</p>
10:48:56:02	<p style="text-align: center;">GREENWALD</p> <p>Right.</p> <p style="text-align: center;">SNOWDEN</p> <p>--or you're either out of jurisdiction, so we have some time to play this before they can really get nasty. I think it's over you know the weeks when they have times to get lawyers really sort of go, "This is a special</p>
	<p>•situation, how can we interpret this to our advantage?" Like we, we see them do this all the time, you know, whether it's drones or wiretapping or whatever, they'll go, "Well according to this law from the 1840s, you know, with XY or Z authority..."</p> <p style="text-align: center;">GREENWALD</p> <p>Yeah, of course.</p> <p style="text-align: center;">SNOWDEN</p> <p>But that takes time. And that takes a great deal of time.</p> <p style="text-align: center;">GREENWALD</p> <p>And also, you know, I mean, I think the more public we are out there too, like as journalists, the more protection that's gonna give as well. Have you started to give thought to when you're ready to come forward?</p>
10:49:27:21	<p style="text-align: center;">SNOWDEN</p> <p>I'm, I'm ready whenever, um, honestly I think</p> <p>•there's sort of an agreement that it's not going to bias the reporting process. That's my primary concern at this point. I don't want to get myself into the issue before it's gonna happen anyway, and where it takes away from the stories that are getting out.</p>
10:50:18:05	<p style="text-align: center;">HK DAY BREAK:</p> <p>•Friday</p> <p style="text-align: center;">VOICE OF JESSELYN RACACK (VO):</p> <p>We're talking about tens of millions of Americans, who weren't suspected of doing</p>

	<p>anything, who were surveilled in this way.</p> <p style="text-align: center;">VOICE OF WOLF BLITZER (VO) :</p> <p>Your thoughts for a moment, I want to continue this conversation because these are really important, sensitive issues, and the public out there has a right to know what's going on. Stand by -</p> <p style="text-align: center;">TITLE CARD:</p> <p><i>I publish the second story in the Washington Post, together with journalist Barton Gellman.</i></p> <p><i>The Guardian reports on the same NSA program soon after.</i></p>
10:50:32:13	<p style="text-align: center;">ANNOUNCER (VO) :</p> <p>•This is CNN Breaking News.</p> <p style="text-align: center;">WOLF BLITZER</p> <p>Another explosive article has just appeared, this time in the Washington Post. It's breaking news that it reveals another broad and secret US government surveillance program. The Washington Post and the Guardian in London reporting that the NSA and the FBI are tapping directly into the central servers of nine leading internet companies, including Microsoft, Yahoo, Google, Facebook, AOL, Skype, YouTube, and Apple. The Post says they're extracting audio, video, photographs, emails, documents, and connection logs that enable analysts to track a person's movements and contacts over time. Let's discuss this latest revelation they are coming out fast, Bill Binney the former official of the NSA who quit back in 2001, you were angry about what was going on, you are known as a whistleblower</p>
10:51:21:10	<p>• right now. Bill, what do you think about this Washington Post story?</p> <p style="text-align: center;">BINNEY</p> <p>Well I assume it's just a continuation of what they've been doing all along.</p> <p style="text-align: center;">BLITZER</p> <p>So you're not surprised. Do you have any idea who is leaking this information?</p> <p style="text-align: center;">JESSLYN RADACK</p>

	<p>I don't know who leaked this. I have no doubt that the administration will launch an investigation, not into who approved these programs but into who leaked the information.</p> <p style="text-align: center;">BARTON GELLMAN (TV INTV.)</p> <p>I'm not shocked the companies are denying it, I don't assume--</p> <p style="text-align: center;">PIERS MORGAN</p> <p>Do you blame them?</p> <p style="text-align: center;">GELLMAN</p> <p>There may be some technical basis on which</p> <ul style="list-style-type: none">•they can say that 'we are not actively collaborating' or 'they don't have what we consider in our own definition to be direct access to our servers' but what I do know is that I've talked to more than one person who has sat at a desk at a web portal and typed out commands and reached into those servers from a distance. So whatever they want to call that, that's what's happening. <p style="text-align: center;">PIERS MORGAN</p> <p>Well what I would call it is the single biggest infringement on American civil liberties probably of all time, isn't it?</p> <p style="text-align: center;">ANDERSON COOPER</p> <p>It's interesting, already you have the New York Times now today saying the administration has lost all credibility.</p>
10:51:48:13	
	10:52:20:13
	<p style="text-align: center;">ARI FLEISCHER</p> <p>•The New York Times slammed President Obama for this, and frankly I was used to that. The New York Times used to slam George Bush for protecting the country and for the steps he took. I don't want us to drop our guard, I don't want us to be struck again. As we saw in Boston, Anderson, people are willing to sacrifice their civil liberties. People sheltered inside--</p> <p style="text-align: center;">MORGAN</p> <p>How can you believe in freedom, do you think, I mean, try and play Devil's Advocate for me, when you have secret courts, secret operations like PRISM, secret investigations which go</p>

10:52:48:18	<p>into every spit and cough of every American's lives, without any member of the American public knowing about it. That's not freedom, is it?</p>
10:53:15:19	<p>GREENWALD [interviewed on Piers Morgan Live] In 2008, they eliminated the warrant requirement for all conversations except ones that take place by and among Americans exclusively on American soil. So they don't need warrants now for people who are foreigners outside of the US, but they also don't need warrants for Americans who are in the United States communicating with people reasonably believed to be outside of the US. So again, the fact that there are no checks, no oversight about who is looking over the NSA's shoulder, means that they can take whatever they want. And the fact that it's all behind a wall of secrecy and they threaten people who want to expose it, means that whatever they're doing, even violating the law, is something that we're unlikely to know until we start having real investigations and real transparency into what it is that the government is doing.</p>
	<p style="text-align: center;">MORGAN</p> <p>Glenn Greenwald, congratulations again on exposing what is a true scandal. I appreciate you joining me.</p>
10:54:23:00	<p style="text-align: center;">SNOWDEN</p> <p>•I just heard from Lindsay, and uh, she's still alive, which is good, and free. My rent checks apparently are no longer getting through to my landlord, uh, so they said if we don't pay them in five days we'll be evicted, which is strange because I've got a system set up that automatically pays them. Uh, so</p>
10:54:45:22	<p>•there's that, and apparently there's construction trucks all over the street of my house, so that's uh...I wonder what they're looking for.</p>
10:55:37:14	<p>•It is, uh, it is an unusual feeling that's kind of hard to, hard to like describe, or, or convey in words, but not knowing what's going to happen the next day, the next hour, the next week, it's scary, but at the same time it's liberating. You know, the uh, the</p>

10:56:09:14	<p>planning comes a lot easier because you don't have that many variables to take into play. You can only act and then act again.</p> <p style="text-align: center;">MATT LAUER [TODAY SHOW]</p> <p>Now all these phone calls are being recorded digitally, not for content but for origin and destination, now word the government is going</p> <ul style="list-style-type: none"> •right into the servers of these large internet companies. How does the government, politically speaking, make the argument that this is essential to national security and not a dramatic overreach in terms of personal privacy?
10:56:38:04	<p style="text-align: center;">WOMAN [TODAY SHOW]</p> <p>It's difficult Matt, because, as Peter was pointing out, overnight we had an extraordinary late night, close to midnight, announcement at a declassification from the Director of National Intelligence. They are scrambling. The administration's already supported strongly by leaders in both parties from the intelligence committees.</p> <p style="text-align: center;">SNOWDEN</p> <ul style="list-style-type: none"> •GCHQ has an internal Wikipedia, at the top secret, you know, super classified level, uh, where anybody working in intelligence can work on anything they want. That's what this is. I'm giving it to you, you can make the decisions on that, what's appropriate, what's not. It's going to be documents of different types, pictures and Powerpoints, Word documents, stuff like that. Um... <p style="text-align: center;">MACASKILL</p> <p>Sorry, can I take a seat?</p> <p style="text-align: center;">SNOWDEN</p> <p>Yeah.</p> <p style="text-align: center;">MACASKILL</p> <p>Yeah. Sorry, so I'll get you to repeat, so in these documents they all show--</p> <p style="text-align: center;">SNOWDEN</p> <ul style="list-style-type: none"> •talks about Tempora and a little more thing, that's the Wiki article itself. It was also
10:57:09:18	

10:57:35:13	<p>talking about a self-developed tool called UDAQ, U-D-A-Q. It's their search tool for all the stuff they collect, was what it looked like. It's going to be projects, it's going to be troubleshooting pages for a particular tool...</p> <p style="text-align: center;">MACASKILL</p> <p>Thanks. Um...what's the next step? When do you think you'll go public?</p> <p style="text-align: center;">SNOWDEN</p> <p>Ah, I think it's pretty soon, I mean with the •reaction, this escalated more quickly. I think pretty much as soon as they start trying to make this about me, which should be any day now--</p>
10:58:04:09	<p style="text-align: center;">MACASKILL</p> <p>Yep.</p> <p style="text-align: center;">SNOWDEN</p> <p>I'll come out just to go, "Hey, this is not a question of somebody skulking around in the shadows." These are public issues, these are not my issues, you know, these are everybody's issues. And I'm not afraid of you, you know, you're not going to bully me into silence like you've done to everybody else. And if nobody else is gonna do it, I will, and hopefully •when I'm gone, whatever you do to me, there will be somebody else who'll do the same thing. It'll be the sort of internet principle of the hydra, you know, you can stomp one person but there's gonna be seven more of us.</p> <p style="text-align: center;">MACASKILL</p> <p>Yeah.</p> <p style="text-align: center;">MACASKILL</p> <p>Are you getting more nervous?</p> <p style="text-align: center;">SNOWDEN</p> <p>Um...I mean, no. I think, uh, I think the way I look at stress, particularly because I sort of knew this was coming, you know, because I sort of volunteered to walk into it, um.... I'm already sort of familiar with the idea, I'm not worried about it. When somebody like busts in the door? Suddenly I'll get nervous,</p>

10:59:00:19	<p>and it'll affect me, but until they do--I don't know, you know. I'm eating a little less, that's the only difference, I think.</p> <p style="text-align: center;">GREENWALD</p> <p>•Let's talk about the issue with, when we're gonna say who you are.</p> <p style="text-align: center;">SNOWDEN</p> <p>Yeah.</p> <p style="text-align: center;">GREENWALD</p> <p>This is, you know, you have to talk me through this. Because I have a big worry about this--</p> <p style="text-align: center;">SNOWDEN</p> <p>Ok, tell me.</p> <p style="text-align: center;">GREENWALD</p> <p>--which is that, if we come out and--I know that you believe that your detection is inevitable and that it's inevitable imminently. There's, you know in the New York Times today, Charlie Savage, the fascinating Sherlock Holmes of political reporting,</p>
10:59:28:10	<p>•deduced that the fact that there's been these leaks in succession probably means that there's some one person who decided to leak a bunch of stuff--</p> <p style="text-align: center;">SNOWDEN</p> <p>Somebody else quoted you as saying it was one of your readers, and somebody else put another thing, so yeah--</p> <p style="text-align: center;">GREENWALD</p> <p>So you know, it's fine. I people, I want it to be like, you know, like this is a person, I want to start introducing the concept that this is a person who has a particular set of political objectives about informing the world about what's taking place. So I'm keeping it all anonymous, totally, but I want to start introducing you in that kind of incremental way.</p>
10:59:59:15	<p>•But--here's the thing. What I'm concerned is that if we come out and say, here's who this is, here's what he did, the whole thing that we talked about, that we're gonna basically be doing the government's work for them. And</p>

we're basically going to be handing them, you know, a confession, and helping them identify who found it. I mean--maybe you're right, maybe they'll find out quickly, and maybe they'll know, but is there any possibility that they won't, are we kind of giving them stuff, that we don't or, or--

POITRAS

The possibility that they know but they don't want to reveal it because they don't know--

GREENWALD

Or that they don't know and we're going to be telling them, like, is it a possibility that they're going to need two or three months of uncertainty and we're going to be solving that problem for them? Or, let me just say the other part, maybe it doesn't matter to you, maybe...you're not coming out because you think inevitably they're going to catch you, and you want to do it first, you're coming out because you want to fucking come out. And you wanna be heard.

SNOWDEN

11:00:57:06

There is that. I mean that's the thing, I don't want to hide on this and skulk around, I don't think I should have to. Um, obviously there are circumstances that are saying that, and I think it is powerful to come out and be like, look, I'm not afraid, you know, and I don't think other people should either. You know, I was sitting in the office right next to you last week. You know, we all have a stake in this, this is our country, and the balance of power between the citizenry and the government is becoming that of the ruling and the ruled, as opposed to actually you know, the elected and the electorate.

GREENWALD

Ok, so that's what I need to hear, that this is not about--

SNOWDEN

But I do want to say: I don't think there's a case that I'm not going to be discovered in the fullness of time, it's a question of time frame. You're right, it could take them a long time, I don't think it will--I didn't try to

	<p>hide the footprint because again, I intended to come forward the whole time.</p> <p style="text-align: center;">GREENWALD</p> <p>Ok I'm going to post this morning just a general defense of whistleblowers--</p> <p style="text-align: center;">SNOWDEN</p> <p>That's fine, yeah.</p> <p style="text-align: center;">GREENWALD</p> <p>--and you in particular without saying anything about you. I'm gonna go post this right when I get back. And I'm also doing like a big fuck you to all the people who keep like talking about investigations. I want that to</p>
11:01:55:23	<p>•be, the fearlessness and the fuck you to like the bullying tactics has gotta be completely pervading everything we do.</p> <p style="text-align: center;">SNOWDEN</p> <p>And I think that's brilliant. Your principles on this I love, I can't support them enough. Because it is, it's inverting the model that the government has laid out, where people who are trying to, you know, say the truth skulk around and they hide in the dark and they quote anonymously and whatnot--I say yes, fuck that, let's just--</p> <p style="text-align: center;">GREENWALD</p> <p>Ok, so here's the plan then. And this is the thing. I think we just all felt the fact that this is the right way to do it, you feel the power of your choice, you know what I mean, and I want that power to be felt in the world. And it is--it's the ultimate standing up to them. Right, like, "I'm not gonna fucking hide, even for like one second, I'm gonna get right in your face. You don't have to investigate, there's nothing to investigate, here I am."</p> <p style="text-align: center;">SNOWDEN</p> <p>Yeah.</p> <p style="text-align: center;">GREENWALD</p>
11:02:51:00	<p>You know, and I think that just is incredibly powerful. And then the question just becomes • how do we do this in the right, you know, the perfect way, and that's my burden. And that's what I'm gonna - so today is gonna be the</p>

	<p>story in the morning, assuming that it doesn't change with the Guardian, it's gonna be the story in the morning, just to keep the momentum going, just to keep the disclosures coming, a big one at night. Now it's becoming like ok, this is -</p> <p><u>END OF REEL 3</u></p> <p><u>BEGINNING OF REEL 4</u></p> <p style="text-align: center;">GREENWALD (CONT'D)</p> <p>- a major leak, and after today, when we post the two things that we're gonna post, it's gonna be, "What the fuck is this leak, and</p>
11:03:19:02	<p>•who did it?" I guarantee you.</p> <p style="text-align: center;">POITRAS</p> <p>One second...I just want to make sure--move over slightly--</p> <p style="text-align: center;">GREENWALD</p> <p>Do you want me to move a little more over, or--ok</p> <p style="text-align: center;">POITRAS</p> <p>I just wanna--all right. All right, we're rolling.</p> <p style="text-align: center;">GREENWALD</p> <p>So let's just begin with some basic background information, like, just state your name, what position you held in the intelligence community, and--and how long you worked within that community.</p>
11:03:50:18	<p style="text-align: center;">SNOWDEN</p> <p>•Ok. Um, just so I'm aware of where we're going, how in depth are we going, just in general, like 'I'm currently an infrastructure analyst you know, Booz Allen Hamilton, not going through my whole back story...'</p> <p style="text-align: center;">POITRAS</p> <p>Yeah.</p> <p style="text-align: center;">SNOWDEN</p> <p>Ok.</p> <p style="text-align: center;">GREENWALD</p> <p>Just like yeah summary kind of--</p>

11:04:48:14	<p style="text-align: center;">SNOWDEN</p> <p>Ok. Uh My name's Ed Snowden, I'm uh 29 years old, I work for Booz Allen Hamilton as an infrastructure analyst for NSA, uh in Hawaii.</p> <p style="text-align: center;">GREENWALD</p> <p>And what are some of the positions that you held previously within the intelligence community?</p> <p style="text-align: center;">SNOWDEN</p> <p>Uh, I've been uh a systems engineer, systems administrator, uh senior advisor uh for the uh Central Intelligence Agency, solutions consultant and a uh telecommunications informations systems officer.</p> <p style="text-align: center;">GREENWALD</p> <p>And what kind of clearances have, have you held, what kind of classification?</p> <p style="text-align: center;">SNOWDEN</p> <p>Uh--Top Secret--uh--so people in my levels of access for systems administration or as a--a</p> <ul style="list-style-type: none"> •infrastructure analyst, typically have uh higher accesses than an NSA employee would normally have. Normal NSA employees have a combination of clearances called TS, SI, TK, and Gamma. Um, that's Top Secret, uh, Signals Intelligence, Talent Keyhole, and Gamma. And they all uh relate to certain things that are sort of core to the NSA mission. As a systems administrator, you get a special clearance called PRIVAC, for Privileged Access, which allows you to be exposed to information of any classification, regardless of what your position actually needs.
11:05:42:10	<p style="text-align: center;">LOWER THIRD:</p> <ul style="list-style-type: none"> •Monday] <p style="text-align: center;">LOWER THIRD:</p> <p>June 10, 2013]</p>
	<p style="text-align: center;">TELEVISION ANNOUNCER (BACKGROUND SOUND) BBC?</p> <p>Just before we go, a reminder of our top story, that's that the former CIA technical worker Edward Snowden says he's responsible for leaking information that US authorities</p>

11:06:20:20	<p>had been monitoring phone and internet data. The US Justice Department confirmed it's in the first stages of a criminal investigation.</p> <p style="text-align: center;">SNOWDEN</p> <p>Leave it longer or cut it shorter, what do you think? As far as the video that people saw? Am I less identifiable now?</p> <p style="text-align: center;">LP:</p> <p>Lose it.</p> <p style="text-align: center;">ES:</p> <p>Lose it? Cause I can't go all the way down. It's still gonna be stubble. I don't have the blade for closer.</p> <p style="text-align: center;">AP JOURNALIST</p> <p>Will you be talking to any other media about this story today?</p> <p style="text-align: center;">GREENWALD</p> <p>I am.</p> <p style="text-align: center;">AP</p> <p>Will you be coming to our office at Associated Press? Basically we'd be interested to ask of course about where is Snowden now, what his plans are.</p>
11:06:43:13	<p style="text-align: center;">GREENWALD</p> <p>Well I'm obviously not going to talk about that, so unless you have any other questions this is gonna be a pretty pointless interview.</p> <p style="text-align: center;">AP</p> <p>Ok. What are your plans, please? Are you staying in Hong Kong for the time being?</p> <p style="text-align: center;">GREENWALD</p> <p>For a little while...</p> <p style="text-align: center;">AP:</p> <p>And do you have any hopes to write more about this story, or are you stopping new writing about this story?</p> <p style="text-align: center;">GREENWALD</p> <p>No, I'm gonna continue to write about it.</p>

	<p style="text-align: center;">AP</p> <p>Have you had any pressure from the US authorities about continuing to report on this?</p>
	<p style="text-align: center;">GREENWALD</p> <p>No.</p>
	<p style="text-align: center;">AP</p> <p>And have you heard anything about what could be the attitude of Hong Kong authorities towards this case, if they've contacted you or asked you anything about the whereabouts of Snowden and whether that is another--</p>
11:07:12:12	<p style="text-align: center;">GREENWALD</p> <p>•I haven't heard from the authorities of any government.</p>
	<p style="text-align: center;">AP</p> <p>And where do you think the story is going, for you and of course for Snowden, and of course for the US media and the US administration in general?</p>
	<p style="text-align: center;">GREENWALD</p> <p>Well for me I can tell, I'm gonna continue to report, on--do my reporting on what the government has been doing and what I think my readers should know about. Um, as for him, I don't--I don't think anyone knows.</p>
	<p style="text-align: center;">[TELEVISION PLAYING SNOWDEN AUDIO]</p> <p>They could have people come after me, or any of their third-party partners. You know, they work closely with a number of other nations.</p>
11:07:40:14	<p>•Or, you know, they could pay off the triads. You know, any - if their agents or assets uh...we have a CIA station up the road, at the consulate here in Hong Kong.</p> <p style="text-align: center;">DANIELA RITORTO, BBC NEWS</p> <p>Hello, I'm Daniela Ritorto, the top story this hour: facing a criminal investigation, the whistleblower who revealed details on how the US is monitoring phone calls and internet data goes public. Security forces in Afghanistan say a number of Taliban insurgents have targeted Kabul's airport. Now it's time for our newspaper of the year and looking at what's making headlines around the world.</p>

11:08:37:09	<p>•Let's start with The Guardian, our top story, which is revealing the identity of the former CIA employee who the paper says leaked information exposing the scale of American surveillance of the Internet. Edward Snowden-</p> <p style="text-align: center;">BBC COMMENTATOR (MALE)</p> <p>What a great story.</p> <p style="text-align: center;">DANIELA RITORTO, BBC NEWS</p> <p>Kira, Ewen, what do you think?</p> <p style="text-align: center;">BBC COMMENTATOR (MALE)</p> <p>Well I think it's a fantastic story, first off. It could be straight out of a John Le Carré novel. I mean, when you read what he did, he first got the material, then decided to go to the place he identified as being very difficult for America to get at him--</p> <p style="text-align: center;">SNOWDEN</p> <p>God damn it.</p> <p style="text-align: center;">BBC COMMENTATOR (MALE)</p> <p>--which is Hong Kong, because, of course,</p>
11:09:07:12	<p>•technically inside China, the one country, two systems policy there, meaning he would get potentially some protection [unclear]. All very well-planned, it could have been just out of a spy novel. But what about the details?</p> <p style="text-align: center;">SNOWDEN</p> <p>Well that could make it worse, but...I don't know, only shows the lower half of my face...</p> <p style="text-align: center;">BBC NEWS ANNOUNCER</p> <p>From [unclear] the controversy over mobile roaming rates. From [unclear] to air miles, to travel acts. Wherever you're traveling next, join me, [unclear], every weekend, here on the BBC World News. For in-depth, on-the-point analysis with a global perspective, join me, [unclear], BBC World News.</p> <p style="text-align: center;">BBC ANNOUNCER</p>
11:10:05:09	<p>Snowden says he'd become increasingly dismayed</p> <p>•by what he saw as the growing power of the NSA, hence his decision to pass on documents which are said to reveal not only that the organization monitored millions of phone</p>

	<p>calls, but that it had direct access to some of the biggest internet companies in the world.</p> <p style="text-align: center;">POITRAS</p> <p>How do you feel?</p> <p style="text-align: center;">SNOWDEN</p> <p>Um--what happens, happens. We've uh, we've talked about this. I knew what the risks were. If I get arrested, I get arrested, we were able to get the information uh that needed to get out, out. And you and Glenn are able to keep reporting, regardless of what happens to me.</p> <p style="text-align: center;">BBC NEWS</p> <p>Now what 29-year-old Edward Snowden said that US..gathered millions of phone records and monitored internet data...the Guardian Newspaper says they revealed his identity at his own request. From Washington, David Willis has this. (news continues under)</p>
11:10:55:22	<p style="text-align: center;">SNOWDEN</p> <p>•Yes? Uh, I'm sorry, who's asking? Uh, I'm afraid you have the wrong room. Thank you. Wall Street Journal.</p> <p style="text-align: center;">SNOWDEN [CONT]</p> <p>Yes...Uh, I'm sorry, say again? Uh, no no thank you. No calls. I think they have the wrong number. Yeah, no calls. Thank you. Uh, wait, I'm sorry, if it's uh, if it's two men from the front desk, they can call, but no outside calls. Wait, actually, just let them through. Wait, wait, ma'am? Fuck!</p>
11:12:02:07	<p style="text-align: center;">SNOWDEN</p> <p>Yes...uh, wait, is it a lawyer? Yeah, no no</p> <p>•no, I mean the people who are asking, ask them if they are lawyers. Uh, no. Tell her that uh she has the wrong number and there's no Mr. Snowden here. Yes.</p>
11:12:17:14	<p style="text-align: center;">TITLE CARD</p> <p>•To avoid the media, we move to my room.</p> <p style="text-align: center;">JONATHAN MAN (SUBTITLES)</p> <p>Hi Robert, can you talk right now?</p>

11:13:00:24	<p>I safely got into the room.</p> <p>I'm now safely with the client. Ok?</p> <p>So, can we talk together about the plan?</p> <p>Did this application start already or what? Technically?</p> <p>Yeah, but?</p> <p>So technically it hasn't started yet.</p> <p style="text-align: center;">CHARACTER ID: <i>Jonathan Man, human rights lawyer</i></p> <p style="text-align: center;">MAN (SUBTITLES)</p> <p>Would you mind to talk in speakerphone?</p> <p>•Hey Robert?</p> <p style="text-align: center;">ROBERT TIBBO</p> <p>Yeah, hi.</p> <p style="text-align: center;">CHARACTER ID: <i>Voice of Robert Tibbo, human rights lawyer</i></p> <p style="text-align: center;">SNOWDEN</p> <p>Hi, I'm the client.</p> <p style="text-align: center;">TIBBO (SUBTITLES)</p> <p>Hi Edward, how you holding up?</p> <p style="text-align: center;">SNOWDEN</p> <p>Uh, pretty good. I'm doing well.</p> <p style="text-align: center;">TIBBO (SUBTITLES)</p> <p>Ok, I just met with the head of the UNHCR here in Hong Kong,</p> <p>and they're aware that you are raising the protection you are entitled to under the UNHCR and</p> <p>they would like you to come in with us to the UN.</p> <p style="text-align: center;">SNOWDEN</p> <p>Ok--</p> <p style="text-align: center;">TIBBO (SUBTITLES)</p> <p>If you come now, it's lunchtime,</p>
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11:13:55:02	<p>but they're gonna let us in. No one else can get in.</p> <p>At the UNHCR there are separate exits from the building</p> <p>so we have a good opportunity,</p> <p>if any of the media finds out you're there, you'll be able to exit a different way from the building.</p> <p style="text-align: center;">SNOWDEN</p> <p>Ok that's great. Is it ok if I bring equipment? Cause I'm just kind of going so I can leave in any direction at any time and not come back if necessary.</p> <p style="text-align: center;">TIBBO (SUBTITLES)</p> <p>Just walk out of there, you don't have to go back.</p> <p style="text-align: center;">SNOWDEN</p> <p>•Ok.</p> <p style="text-align: center;">TIBBO (SUBTITLES)</p> <p>Take whatever you want with you and just go with Mr. Man.</p> <p>I will pick you... He knows where I'm gonna pick you guys up.</p> <p>And then I'll bring you to the UNHCR.</p> <p style="text-align: center;">SNOWDEN</p> <p>Ok, that sounds good.</p> <p style="text-align: center;">TIBBO (SUBTITLES)</p> <p>Alright.</p> <p style="text-align: center;">SNOWDEN</p> <p>Thank you, uh, thank you so much for helping me.</p> <p style="text-align: center;">MAN (SUBTITLES)</p> <p>He's quite worried about the next step, about accommodation, where he's going to stay,</p>
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11:14:52:17	<p>whether there is something private and that he would not be discovered by the police.</p> <p style="text-align: center;">TIBBO (SUBTITLES)</p> <p>Don't...don't</p> <p>I wouldn't worry about that now, let's just get up to the UN.</p> <p style="text-align: center;">MAN (SUBTITLES)</p> <p>Ok, I see.</p> <p>I will give you a call before we start, ok?</p> <p style="text-align: center;">MAN/TIBBO (SUBTITLES)</p> <p>Ok, thank you.</p> <p style="text-align: center;">MAN (SUBTITLES)</p> <p>Bye-bye.</p> <p style="text-align: center;">TIBBO (SUBTITLES)</p> <p>Bye.</p> <p style="text-align: center;">MAN (SUBTITLES)</p> <p>So...</p> <p>We don't have a car.</p> <p>What I'm thinking...</p> <p>We may</p> <p>ask the concierge to arrange a car.</p> <p>Or we just go down and catch a taxi?</p> <p>But it's quite...</p> <p>The traffic here in Tsim Sha Tsui is quite difficult to get a taxi.</p> <p style="text-align: center;">SNOWDEN</p> <p>And so is there a precedent for this, where Hong Kong would extradite someone for political speech?</p> <p style="text-align: center;">MAN (SUBTITLES)</p> <p>•No, I'm not aware of.</p> <p>But if we have a torture claim,</p> <p>or asylum seeking claim,</p>
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11:15:57:05	<p>then they ought, under the law, they ought to give you recognizance for you to stay in Hong Kong because they don't know where to dump you back yet.</p> <p style="text-align: center;">VOICE [OBAMA PRESS SECRETARY?]</p> <p>•The President certainly does not welcome the way that this debate has earned greater attention in the last week, the leak of classified information about sensitive programs that are important in our fight against terrorists who would do harm to Americans, is a problem. But the debate itself is legitimate and should be engaged.</p> <p style="text-align: center;">FIELD NOTE:</p> <p><i>Snowden NSA archive</i></p> <p style="text-align: center;">TITLE CARD:</p> <p><i>Snowden applies for refugee status through the UN and goes underground.</i></p> <p><i>I stay in Hong Kong, hoping to continue filming but realize I am being followed. Six days later, I return to Berlin.</i></p>
11:16:50:04	<p style="text-align: center;">LOCATION ID:</p> <p>•BERLIN, GERMANY</p> <p style="text-align: center;">ES AND LP CHAT</p> <p><i>ES: Hey.</i> <i>ES: Are you there?</i> <i>LP: yes!</i> <i>LP: Are you ok?</i> <i>ES: I am.</i> <i>ES: I don't think I'll be able to meet with you guys again for some time. Your profiles are too high.</i> <i>ES: And now that my handle has been published by the WaPo, NSA may destroy my accounts or block connection attempts.</i> <i>ES: So we need to re-verify each other</i></p>
11:17:18:21	<p>•<i>LP: Ok.</i> <i>LP: If I could get you a camera, would you be able to film where you are?</i> <i>ES: Not now. My hosts are very vulnerable</i></p>

11:17:46:02	<p><i>people.</i> <i>ES: I can't really speak out loud here.</i> <i>LP: You can't?</i> <i>ES: I don't want to get anybody's door kicked in</i></p> <p style="text-align: center;">LOCATION ID:</p> <p>•RIO DE JANIERO</p> <p style="text-align: center;">LOCATION ID:</p> <p>O GLOBO</p> <p style="text-align: center;">SUBTITLE (NEWSPAPER ARTICLE) :</p> <p>"The US Spied on Millions of Brazilian Emails and Phone Calls"</p> <p style="text-align: center;">GREENWALD (Portugese w/English ST)</p> <p>I'd like to show you the new document now.</p> <p>You'll see it much more clearly.</p> <p>This map shows the cables they use to collect the data for PRISM.</p>
11:18:15:06	<p>•Here it shows how much they are collecting.</p> <p>The thicker the line, the more they're collecting.</p> <p>You can see these lines,</p> <p>the cables, are quite thick in the south of Brazil</p> <p>and up north in the Sea of Brazil.</p> <p>So they're collecting a lot through PRISM program,</p> <p>which I think is very important because PRISM is Facebook,</p> <p>Skype, YouTube, Yahoo, Hotmail.</p> <p>And it shows a lot is being stolen from Brazil.</p>
11:18:44:22	<p>•But we don't know how much the Brazilian government knows,</p>

	<p>or whether it's collaborating with Brazilian companies.</p> <p>But we're going to know, I believe.</p> <p style="text-align: center;">O GLOBO EDITOR [Portugese w/ English ST]</p> <p>One day we will know everything. Or almost everything.</p> <p style="text-align: center;">GREENWALD</p> <p>Yes.</p>
11:19:18:16	<p style="text-align: center;">LP CHAT WITH GLENN</p> <p>•Glenn: what are your current thoughts about going to US? LP: I wouldn't go now. Glenn: and later? LP: I don't know. LP: What about you? Glenn: I don't know LP: there is a strong chance we'll be served with a subpoena if we go back Glenn: For me, that's the best-case scenario Glenn: we'll see</p>
11:19:51:01	<p style="text-align: center;">LOCATION ID</p> <p>•THE GUARDIAN, LONDON</p> <p style="text-align: center;">PJ</p> <p>All right, so which ones do we want here, then? This is operational stuff, so we mustn't say any of this...</p> <p style="text-align: center;">JULIAN</p> <p>So redact that--</p> <p style="text-align: center;">PJ</p> <p>Go--go to top--what about the Alexander quote?</p> <p style="text-align: center;">JULIAN</p> <p>Yeah, that's in TARMAC. "Why can't we collect all the signals all the time? Sounds like a good summer homework project for Menwith." Keith Alexander, the head of the NSA, on a visit to UK. This one.</p> <p style="text-align: center;">PJ</p> <p>Yeah.</p>

11:20:38:09	<p style="text-align: center;">PJ [CONT.]</p> <p>Secret document, isn't it? Secret document. We've got a stick here that should just have three single slides on them. If it's got more than three single slides, we have to be extremely careful.</p> <p style="text-align: center;">NICK</p> <p>Yeah?</p> <p style="text-align: center;">PJ</p> <p>Yeah, that's it.</p> <p>This is really dangerous stuff for us. Guardian is. Make mistakes at the very end where we kept it all under lock and key and no one knows. I'm not saying that. They will come in and smack the front door down if we-- if we elaborate on that. He said the Prime Minister's extremely concerned about this. And they kept saying, "This is from the very top."</p>
11:20:56:15	<p style="text-align: center;">LP AND ES CHAT</p> <p><i>•ES: How are things over there?</i></p> <p><i>LP: I'm at the Guardian. They're publishing TEMPORA today</i></p> <p><i>LP: they are very nervous - worried about an injunction.</i></p> <p><i>ES: The NSA love that program.</i></p> <p><i>LP: Why?</i></p> <p><i>ES: Because they aren't allowed to do it in the US. The UK lets us query it all day long</i></p> <p><i>LP: They are getting cold feet about publishing names of the telecoms collaborating</i></p> <p><i>ES: Do they know the companies?</i></p> <p><i>LP: Yes, I believe so.</i></p> <p style="text-align: center;">THE FOLLOWING AUDIO IS LOW UNDERNEATH CHAT:</p> <p style="text-align: center;">PJ</p> <p>We haven't got TEMPORA in there, anywhere, have we, in these headlines? TEMPORA is the--</p> <p style="text-align: center;">JULIAN (?)</p> <p>No, we only have the--secret TEMPORA project--and--yeah--</p> <p style="text-align: center;">PJ</p> <p>Yeah that's what we want somewhere...</p> <p style="text-align: center;">LOCATION ID + FIELD NOTE</p>

11:21:34:12	<p>•Undersea cables intercept site for TEMPORA - GCHQ Bude, UK</p>
	<p><u>END REEL 4</u></p>
	<p><u>START OF REEL FIVE</u></p>
	<p>TEXT CARD:</p>
11:21:50:15	<p>•On June 21, 2013, the US government charges Snowden with three felonies, two under the Espionage Act, and asks Hong Kong to extradite him.</p> <p>Two days later, WikiLeaks organizes his departure from Hong Kong to seek political asylum.</p>
	<p>LOCATION ID:</p>
11:22:05:07	<p>•ECUADORIAN EMBASSY, LONDON</p>
	<p>RT NEWS ANNOUNCER (VOICE ONLY)</p>
	<p>As you can see on this map, the flight that reportedly has Snowden aboard has almost reached its destination here in Moscow, scheduled to land in the Russian capital within minutes. It's said though that Snowden won't be staying long in Moscow...</p>
	<p>ASSANGE</p>
	<p>As you may have heard, there is a CIA Agent who has revealed a lot of information, and he is now trapped in the, um, the airport in Moscow. We managed to get him out of Hong Kong, but when he landed in the Moscow airport, the American government had cancelled his passport. So formally, he hasn't entered into Russian territory.</p>
	<p>FIELD NOTE, NAME ID:</p>
	<p><i>Sarah Harrison, editor, WikiLeaks</i></p>
11:22:33:17	<p>• He is in the transit area of the airport, and one of our people is accompanying him. We are trying to arrange a private jet to take him from Moscow to Ecuador or perhaps maybe Venezuela or maybe Iceland, countries where he would be safe.</p>
	<p><u>END OF REEL FIVE</u></p>

11:22:58:00	<p><u>BEGINNING OF REEL SIX</u></p> <p style="text-align: center;">LOCATION ID:</p> <p>•BRASILIA, BRAZIL</p> <p style="text-align: center;">FIELD NOTE:</p> <p><i>Brazilian Senate hearing on NSA spying</i></p> <p style="text-align: center;">SENATOR (PORTUGESE w/English STs)</p> <p>The floor is yours, for the time that you deem necessary.</p> <p style="text-align: center;">GREENWALD (Portugese w/ English STs)</p> <p>Thank you and hello.</p> <p>First of all, Americans' justification for everything</p> <p>since the September 11 attacks is terrorism.</p> <p>Everything is in the name of national security,</p>
11:23:28:10	<p>to protect our population. In reality, it's</p> <p>•the opposite. A lot of the documents</p> <p>have nothing to do with terrorism or national security,</p> <p>but with competition between countries,</p> <p>and with companies' industrial, financial, or economic issues.</p> <p>Secondly, there's Xkeyscore.</p> <p>When we first starting publishing articles,</p> <p>the US government's dfense was that it was not invading the content of communications,</p> <p>just taking the metadata. That means the names of the people talking,</p> <p>who is calling whom, call durations.</p> <p>But if I know all the people you are communicating with,</p> <p>and everyone they are communicating with,</p>

11:24:31:00	<p>where you are when you are communicating, the call duration and the location, then I can learn a lot about your personality, your activity, and your life. This is a major •invasion of privacy.</p> <p>In reality, that defense is totally false.</p> <p>The US government has the ability to get not only metadata, but the actual content of your emails or what you say on the phone, the words you type into Google searches, the websites you visit, the documents you send to colleagues.</p> <p>This system can track nearly everything that every individual is doing online.</p> <p>So if you're a journalist investigating the American government,</p> <p>if you work for a company with American competitors,</p> <p>or if you work in human rights involving the American government</p> <p>or any other field,</p>
11:25:27:03	<p>•they can very easily intercept your communication.</p> <p>If you're an American living in the US, they have to seek permission from a court but they always get it. But if you're not American, they don't need anything, no special permission at all.</p> <p>I think the consequences of eliminating privacy are difficult to predict,</p>

11:26:12:18	<p>but we must understand that this will have an enormous impact.</p> <p>The population's ability to have demonstrations</p> <p>or to organize is greatly reduced when people don't have privacy.</p> <p style="text-align: center;">LOCATION ID</p> <p>•<i>BERLIN</i></p> <p style="text-align: center;">LAWYER 1</p> <p>May I collect all phones, please?</p> <p style="text-align: center;">LAWYER 2</p> <p>Ok.</p> <p style="text-align: center;">LAWYER 3</p> <p>I have everything here, so--</p> <p style="text-align: center;">BEN WIZNER</p> <p>Put them in the refrigerator.</p>
11:26:36:13	<p style="text-align: center;">TITLE CARD:</p> <p>•<i>An international group of lawyers representing Snowden pro bono meets to discuss his legal status.</i></p> <p style="text-align: center;">CHARACTER ID:</p> <p><i>Ben Wizner, Snowden's ACLU lawyer</i></p> <p style="text-align: center;">WIZNER</p> <p>So as you know, in June, Snowden was charged with three legal violations, felonies, principally under a World War 1-era criminal law called the Espionage Act. The Espionage Act is an extremely broad criminal prohibition against the sharing or dissemination of what's called national defense information. It was only used to, uh, prosecute people who had been accused of acting with a foreign power. Spies, not whistleblowers. And it's a very unusual legal representation, I think, not</p>
11:27:21:02	<p>•just for all of you but for me as well. The Espionage Act does not distinguish between leaks to the press in the public interest and selling secrets to foreign enemies for personal profit. So under the Espionage Act,</p>

11:28:17:14	<p>it's not a defense if the information that was disclosed should not have been withheld in the first place, that it was improperly classified, it's not a defense if the dissemination was in the public interest, that it led to reforms, um, even if a court determines that the programs that were revealed were illegal or unconstitutional, that's still not a defense under the Espionage Act, the government doesn't have to defend the classification, it doesn't have to demonstrate harm from the release, um, all of this is irrelevant. So when we say that the trial wouldn't be fair, we're not talking about what human rights lawyers think of as fair trial practices. We're saying the law--the statute itself--eliminates any kind of defense that</p> <ul style="list-style-type: none"> •Snowden might be able to make, and essentially would equate him with a spy. And of course those three counts could be increased to a hundred or two hundred or three hundred. They could charge him separately for each document that has been published by a journalist.
	<p style="text-align: center;">WIZNER [CONT.]</p> <p>And I think that, that we all recognize, even though we sit here as lawyers in a lawyer's meeting, that it's probably 95% politics and 5% law how this will be resolved.</p>
11:28:45:13	<p style="text-align: center;">LP AND ES CHAT</p> <ul style="list-style-type: none"> •ES: So I have news for you which won't be shocking LP: ok, I'm here. ES: The FBI has authorization to work with the CIA and a number of unnamed foreign partners - incl the UK - to team up in finding out my plans and the location of people in contact with me worldwide. LP: where does this come from? ES: All I can say is a reliable source. ES: They've been tasked to use "all appropriate means" - incl. gov pressure "where appropriate" - to persuade media to refuse publication.
11:29:16:00	<p style="text-align: center;">OBAMA PRESS SECRETARY</p> <p>Mr. Snowden has been charged with very serious</p> <ul style="list-style-type: none"> •crimes, and he should be returned to the

11:29:30:21	<p>United States where he will be granted full due process and every right available to him as a United States citizen. Facing our justice system under the Constitution.</p> <p style="text-align: center;">LOCATION ID</p> <p>•<i>THE GUARDIAN</i></p>
	<p style="text-align: center;">TITLE CARD</p> <p><i>On July 20, 2013 the UK Government pressures The Guardian to destroy the GCHQ archive given to Ewen MacAskill in Hong Kong.</i></p> <p style="text-align: center;">TITLE CARD</p> <p><i>After 40 days spent in the transit zone of Moscow's Sheremetyevo Airport, Snowden receives political asylum in Russia for one year.</i></p>
11:30:15:10	<p style="text-align: center;">LOCATION ID / FIELD NOTE:</p> <p>•<i>NSA surveillance base in the UK - Menwith Hill station</i></p> <p style="text-align: center;">OBAMA</p> <p>No, I don't think Mr. Snowden was a patriot. I called for a thorough review of our surveillance operations before Mr. Snowden made these leaks. My preference, and I think the American peoples' preference, would have been for a lawful, orderly examination of these laws. A thoughtful, fact-based debate that would then lead us to a better place.</p>
11:31:04:24	<p style="text-align: center;">TITLE CARD:</p> <p>•<i>On his return home from meeting me in Berlin, Glenn Greenwald's partner, David Miranda, is detained at London's Heathrow Airport for nine hours under the UK Terrorism Act.</i></p> <p><i>The White House is notified in advance.</i></p> <p style="text-align: center;">GREENWALD</p> <p>Oh, my god--David--hey my baby, how you doing? You ok?</p> <p style="text-align: center;">MIRANDA</p> <p>Let's go. I just want to go home.</p> <p style="text-align: center;">GREENWALD</p>

	<p>Ok, ok, you just have to walk, dude.</p> <p style="text-align: center;">MIRANDA</p> <p>How are you?</p> <p style="text-align: center;">GREENWALD</p> <p>Good, I'm totally fine, I didn't sleep at all, I couldn't sleep.</p> <p style="text-align: center;">MIRANDA</p> <p>I know.</p> <p style="text-align: center;">[O GLOBO HEADLINE]</p> <p><i>"Brazil Demands Explanation from UK Government"</i></p>
11:32:05:07	<p style="text-align: center;">LOCATION ID:</p> <p>•BRUSSELS, BELGIUM</p> <p style="text-align: center;">TITLE CARD:</p> <p><i>In September 2013, the European Parliament begins hearings to investigate NSA surveillance on EU citizens and companies.</i></p> <p style="text-align: center;">EU MODERATOR (LAWYER)</p> <p>Recent reports have revealed that the NSA have access to encryption keys and they paid tech companies to introduce back doors in encryption protocols. So we're going to talk about ways in which we can defend ourselves against governments spying on us. So Mr. Jacob Applebaum is an an encryption and security software developer and journalist. Ladar Levinson is the founder of the encrypted email service Lavabit, used by Edward Snowden. You have the floor.</p>
11:33:08:04	<p style="text-align: center;">LEVINSON</p> <p>Thank you. Lavabit is an email service that hopefully one day will be able to stand on its own without any references to Snowden. My service was designed to remove me from the possibility of being forced to violate a person's privacy. Quite simply, Lavabit was designed to remove the service provider from the equation. By not having logs on my server</p> <p>•and not having access to a person's emails on disk, I wasn't eliminating the possibility of surveillance, I was simply removing myself from that equation. In that surveillance</p>

11:34:05:00

would have to be conducted on the target - either the sender or the receiver of the messages. But I was approached by the FBI quite recently and told that because I couldn't turn over the information from that one particular user, I would be forced to give up those SSL keys and let the FBI collect every communication on my network without any kind of transparency. And of course, I wasn't comfortable with that, to say the least. More disturbing was the fact that I couldn't even tell anybody that it was going on. So I decided if I didn't win the fight to unseal my case, if I didn't win the battle to be able to tell people what was going on, then my only ethical choice left was to shut down. Think about that. I believe in the rule of law, I believe in the need to conduct investigations. But those investigations are supposed to be difficult for a reason. It's supposed to be difficult to invade somebody's privacy. Because of how intrusive it is. Because of how disruptive it is. If we can't--if we don't have our right to privacy, how do we have a free and open discussion? What good is the right to free speech if it's not protected, in the sense that you can't have a private discussion with somebody else about something you disagree with. Think about the chilling effect that that has. Think about the chilling effect it does have on countries that don't have a right to privacy.

11:35:03:22

APPLEBAUM

I've noticed a really interesting discussion point. Which is that what people used to call liberty and freedom, we now call privacy. And we say, in the same breath, that privacy is dead. This is something that really concerns me about my generation. Especially when we talk about how we're not surprised by anything. I think that we should consider that when we lose privacy we lose agency, we lose liberty itself. Because we no longer feel free to express what we think. There's this myth of the passive surveillance machine. But actually what is surveillance, except control? This notion that the NSA are passive, this is nonsense. What we see is that they actively attack European citizens, American citizens, and in fact, anyone that they can if they

11:35:38:12	<p>perceive an advantage.</p> <p style="text-align: center;">LOCATION ID:</p> <p>•<i>DER SPIEGEL, BERLIN</i></p> <p style="text-align: center;">SPIEGEL FACT CHECKER (German w/ English STs)</p> <p>And then there's the key paragraph that says</p> <p>it was the SCS that intercepted</p> <p>Chancellor Merkel's mobile phone.</p> <p>We have the number.</p>
11:36:04:08	<p style="text-align: center;">LP AND ES CHAT</p> <p>•LP: Merkel story is happening. Still waiting for German gov. response</p> <p>ES: did you try calling the number?</p> <p>LP: Not yet - don't want to tip hand</p> <p>LP: I have a question on background: is it plausible that Merkel is referenced with her real name and not codename?</p> <p>ES: Yes... Codenames are typically for assets, not targets</p>
11:36:33:05	<p style="text-align: center;">LOCATION + FIELD NOTE</p> <p>•NSA surveillance base in Germany - "Dagger Complex"</p>
11:36:59:10	<p style="text-align: center;">LOCATION ID:</p> <p><i>GERMAN PARLIAMENT, BERLIN</i></p> <p style="text-align: center;">TITLE CARD:</p> <p>•<i>In March 2014, Germany begins a parliamentary inquiry to investigate NSA spying.</i></p> <p><i>William Binney is asked to testify as an expert witness.</i></p> <p style="text-align: center;">BINNEY</p> <p>Ok. Right?</p> <p style="text-align: center;">JOURNALIST</p> <p>What will you tell the German people?</p> <p style="text-align: center;">BINNEY</p> <p>I'll have to give that in testimony.</p> <p style="text-align: center;">JOURNALIST</p> <p>What are you going to tell?</p>

	<p style="text-align: center;">BINNEY</p> <p>Everything I can, truthfully.</p> <p style="text-align: center;">JOURNALIST</p> <p>What will you talk about?</p> <p style="text-align: center;">BINNEY</p> <p>Whatever the questions they ask me.</p> <p style="text-align: center;">WOMAN</p> <p>Yeah I think it's over there.</p> <p style="text-align: center;">BINNEY</p> <p>OK, all right, thank you.</p> <p style="text-align: center;">WOMAN (German with English ST)</p> <p>Hello Mr. Binney.</p> <p style="text-align: center;">BINNEY</p> <p>Hey, how are you, good to see you again.</p>
11:37:53:10	<p style="text-align: center;">BINNEY (SUBTITLES)</p> <p>•It is my pleasure to be here. I feel that it's important to testify about what's really going on behind the scenes in the intelligence communities around the world.</p> <p>Not just in NSA.</p> <p>All those programs that Edward Snowden has exposed fundamentally are ways of acquiring information.</p> <p>Every dictatorship down through history has always done that.</p> <p>One of the first things they need to do is try to acquire knowledge of their population.</p> <p>And that's exactly what these programs do.</p> <p>I see this as the most major threat to our democracies all around the world.</p>
11:38:25:07	<p style="text-align: center;">TITLE CARD</p> <p>•Binney's testimony is interrupted when news breaks that the CIA has a double agent spying</p>

11:38:47:08	<p><i>on the German NSA inquiry.</i></p> <p style="text-align: center;">LP EMAIL TO GLENN</p> <p>•Glenn,</p> <p><i>This should stay on an airgapped machine. There is a new submission.</i></p> <p><i>We need to set up a code name for working on this.</i></p> <p><i>We should be very careful this is not a set-up.</i></p> <p><i>Laura</i></p>
11:39:23:08	<p style="text-align: center;">JEREMY SCAHILL</p> <p>What do you think they're doing to reporters, those of us that are working directly with the Snowden documents? How do you think they would approach dealing with people like us?</p> <p style="text-align: center;">BINNEY</p> <p>You're on the cast iron cover list. Which means any, any electronic device you use that they can attach to you they'll record and capture all of that data.</p> <p style="text-align: center;">CHARACTER ID:</p> <p><i>Jeremy Scahill, investigative journalist</i></p> <p style="text-align: center;">SCAHILL</p> <p>And what do they do with that data? Are they just trying to figure out what we're doing?</p> <p style="text-align: center;">BINNEY</p> <p>Uh, well, that's part of it, primarily, but the other part for them I think is to find the sources of information you're getting.</p>
11:39:50:09	<p style="text-align: center;">SCAHILL</p> <p>So if I have a confidential source who's giving me information as a whistleblower, and he works within the US government, and he's concerned about what he perceives as</p> <p>•violations of the Constitution, and he gets in touch with me, they - go ahead -</p> <p style="text-align: center;">BINNEY</p> <p>From there on, they would nail him and start watching everything he did, and if he started</p>

	<p>passing data, I'm sure they'd take him off the street. I mean the way you'd have to do it is like Deep Throat did, right? In the Nixon years. Meet in the basement of a parking garage, physically.</p> <p><u>END OF REEL SIX</u></p> <p><u>START OF REEL SEVEN</u></p>
11:40:30:15	<p>LOCATION ID:</p> <p>•MOSCOW, RUSSIA</p> <p>TITLE CARD:</p> <p><i>In July 2014, Edward Snowden's longtime partner Lindsay Mills moves to Moscow to be with him.</i></p> <p>POITRAS VO (READS EMAIL)</p> <p>Let's disassociate our metadata one last time. So we don't have a record of your true name in our final communication chain.</p> <p>EMAIL ID, UPPER RIGHT</p> <p><i>Email from April 2013</i></p> <p>This is obviously not to say you can't claim your involvement, but as every trick in the book is likely to be used in looking into this, I believe it's better that that particular disclosure come on your own terms.</p>
11:41:09:09	<p>•Thank you again for all you've done. So sorry again for the multiple delays - but we've been in uncharted territory with no model to benefit from. If all ends well, perhaps the demonstration that our methods worked will embolden more to come forward.</p> <p>- Citizen</p> <p>GREENWALD</p> <p>So the update that I wanna give you is about the new...source that we...</p> <p>SNOWDEN</p> <p>Okay.</p> <p>GREENWALD</p>
11:41:42:08	<p>•This is what...(writes) This is the person</p>

	<p>who's doing the most -</p> <p style="text-align: center;">SNOWDEN</p> <p>Mhm, right.</p> <p style="text-align: center;">GREENWALD</p> <p>The work on it, um...And basically what's happened is...and...</p> <p style="text-align: center;">SNOWDEN</p> <p>That's actually - that's really dangerous. Um...on the source's side. Do they know how to take care of themselves?</p> <p style="text-align: center;">GREENWALD</p> <p>I mean he - it's all being done...(writes) •through this - (shows paper). And they're all talking...(writes) this way - (shows paper).</p> <p style="text-align: center;">SNOWDEN</p> <p>I was gonna say, one of the big questions there is, can they handle it?</p> <p style="text-align: center;">GREENWALD</p> <p>No, they're very careful. Even - through that. Yeah. (writes) And...(hands paper</p>
11:42:14:12	<p>•over, Snowden reads it) That's where that is.</p> <p style="text-align: center;">SNOWDEN</p> <p>Wow, that's really somethin. (laughs; reads again)</p> <p style="text-align: center;">GREENWALD</p> <p>Did you know that?</p> <p style="text-align: center;">NOTE ON PAPER ON WHICH GREENWALD HAS WRITTEN:</p> <p><i>One key thing - ALL drone strikes are done through Ramstein Air Base in Germany - German gov't has always denied this - will be a huge controversy</i></p> <p style="text-align: center;">GREENWALD</p> <p>It's not the actual planes.</p> <p style="text-align: center;">SNOWDEN</p> <p>Right, right - you mean the control.</p> <p style="text-align: center;">GREENWALD</p>
11:42:35:06	<p>•It's the process - who's sending the, yeah.</p>
11:43:12:20	

11:43:41:18	<p>There's a chart. There's like a whole layout for every one...</p> <p style="text-align: center;">SNOWDEN</p> <p>That is really bold; it's really risky. You know, that's the thing, if they understand what they're doing...</p> <p style="text-align: center;">GREENWALD</p> <p>There's more, there's this chart, it goes like this. It shows the decision-making chart. It's shaped like this: (writes) So up here it says...that's the decision-making chart for each...one.</p>
11:43:59:11	<p style="text-align: center;">SNOWDEN</p> <p>It's so political!</p> <p style="text-align: center;">GREENWALD</p> <p>This is, this part's amazing. That's -</p> <p style="text-align: center;">SNOWDEN</p> <p>•That's fucking ridiculous.</p> <p style="text-align: center;">GREENWALD</p> <p>It's so shocking.</p>
11:44:09:01	<p style="text-align: center;">SNOWDEN</p> <p>•That's...that's the population of an entire country.</p> <p style="text-align: center;">GREENWALD</p> <p>That's what we're working on.</p> <p style="text-align: center;">SNOWDEN</p> <p>That person is incredibly bold.</p> <p style="text-align: center;">GREENWALD</p> <p>But also very well aware.</p>
11:44:39:17	<p style="text-align: center;">SNOWDEN</p> <p>You know, I just hope - I mean -</p> <p style="text-align: center;">GREENWALD</p> <p>•No, I mean, the boldness of it is shocking, but it was obviously motivated by what you did, I mean</p> <p style="text-align: center;">SNOWDEN</p> <p>This is going to...this is going to...that could raise the profile of this whole</p>

<p>11:45:39:17</p>	<p>political situation with whistleblowing to a whole new level.</p> <p style="text-align: center;">GREENWALD</p> <p>Exactly. I actually think that's a great thing. And I think people are gonna see what's being hidden, again, by a totally different part of the government.</p> <p>•CUT TO BLACK.</p> <p><u>END OF REEL 7</u></p>
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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

HORACE B. EDWARDS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 14-cv-02631-JAR-TJJ
)	
EDWARD JOSEPH SNOWDEN, et al.,)	
)	
Defendants.)	

**INDEX OF CONVENTIONALLY FILED EXHIBIT IN
SUPPORT OF DEFENDANTS’ MOTION TO DISMISS
PLAINTIFF’S FIRST AMENDED COMPLAINT**

Pursuant to the Court’s February 10, 2015 Order (Doc. No. 12), a copy of which is attached, the below exhibit in support of Defendants’ Motion to Dismiss Plaintiff’s First Amended Complaint (Doc. 13) is being filed conventionally:

EXHIBIT 1 - DVD of *Citizenfour* (with timecode).

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on this 10th Day of February, 2015, I served a copy of the above and foregoing and Defendants' Conventionally Filed Exhibit 1 on the following counsel of record by U.S. first class mail:

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Diane Weyermann, Jeffrey Skoll, and the
Weinstein Company LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

HORACE B. EDWARDS, ET AL.,

PLAINTIFFS,

V.

EDWARD JOSEPH SNOWDEN, ET AL.,

DEFENDANTS.

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CASE NO. 14-CV-02631-JAR-TJJ

**MEMORANDUM IN SUPPORT OF MOTION TO DISMISS
PLAINTIFF'S FIRST AMENDED COMPLAINT**

TABLE OF CONTENTS

	Page
I. PRELIMINARY STATEMENT.....	6
II. FACT STATEMENT.	8
III. ARGUMENT.	10
A. No Allegations Support Venue in This District.....	10
B. Plaintiff Fails to Allege Facts Sufficient to Demonstrate Standing.....	12
1. No “Economic Injury” is Pleaded.	13
2. Plaintiff’s Generalized Grievance Regarding Injury to the American People is Insufficient for Standing.	14
3. Plaintiff is Not Within the Zone of Interest of Any Law Alleged.....	15
C. Plaintiff Fails to State a Claim Upon Which Relief May be Granted.....	15
1. Plaintiff Fails to Allege Breach of any Fiduciary Duty Owed to Him.	16
2. Plaintiff Cannot Sue on Behalf of the United States.	18
(1) Plaintiff Cannot Create by Analogy a New Cause of Action on Behalf of the United States.	18
(2) Plaintiff Cannot Add the United States as an Involuntary Plaintiff.	19
D. <i>CITIZENFOUR</i> is Protected by the First Amendment.	20
1. Publication of Truthful Information on a Matter of Public Interest is Protected, Regardless of How it was Obtained by a Third Party.	21
2. The First Amendment Forbids Punishing Expression Based on Content.....	22
3. A Constructive Trust Violates the First Amendment Even if No Prior Restraint Occurs.	24
IV. CONCLUSION.	25

TABLE OF AUTHORITIES

	Page
Cases	
<i>Allen v. Wright</i> , 468 U.S. 737 (1984)	7
<i>Ashcroft v. Am. Civil Liberties Union</i> , 535 U.S. 564 (2002)	17
<i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009)	18
<i>Bartnicki v. Vopper</i> , 532 U.S. 514 (2001)	16, 17, 18
<i>Boyle v. United Technologies Corp.</i> , 487 U.S. 500 (1988)	11
<i>Burton v. Countrywide Bank, FSB</i> , No. 10-cv-00298-EJL-LMB, 2012 WL 976151 (D. Idaho Mar. 1, 2012)	13
<i>Citizens United v. Federal Election Com'n</i> , 558 U.S. 310 (2010)	17
<i>Cruz v. United States</i> , 219 F. Supp. 2d 1027 (N.D. Cal. 2002)	13
<i>Daniel v. Am. Bd. of Emergency Med.</i> , 428 F.3d 408 (2d Cir. 2005)	6
<i>Elk Grove Unified School Dist. v. Newdow</i> , 542 U.S. 1 (2004)	7
<i>Emp'rs Mut. Cas. Co. v. Bartile Roofs, Inc.</i> , 618 F.3d 1153 (10th Cir. 2010)	5
<i>Galena St. Fund, L.P. v. Wells Fargo Bank, N.A.</i> , No. 12-cv-00587, 2013 WL 2114372 (D. Colo. May 15, 2013)	11
<i>Garrett v. Branson Commerce Pakr Cmty. Improvement Dist.</i> , No. 13-CV-2551-JAR-JPO, 2014 WL 4853704 (D. Kan. Sept. 30, 2014)	1
<i>Gen. Bedding Corp. v. Echevarria</i> , 714 F. Supp. 1142 (D. Kan. 1989)	5
<i>Goff v. Hackett Stone Co.</i> , No. 98-7137, 1999 WL 397409 (10th Cir. Jun. 17, 1999)	5

TABLE OF AUTHORITIES
(Continued)

	Page
<i>Hoopa Valley Tribe v. U.S.</i> , 597 F.3d 1278 (Fed. Cir. 2010).....	9
<i>Jordan Patterson Post v. Chaffee</i> , 103 F.R.D. 523 (D. Kan. 1984).....	15
<i>Landmark Communications v. Virginia</i> , 435 U.S. 829 (1978).....	17
<i>LeRoy v. Great Western United Corp.</i> , 443 U.S. 173 (1979).....	6
<i>Lexmark Intern., Inc. v. Static Control Components, Inc.</i> , 134 S. Ct. 1377 (2014)	7
<i>Lujan v. Defenders of Wildlife</i> , 504 U.S. 555 (1992).....	7, 9
<i>M.K.C. Equip. Co. v. M.A.I.L. Code, Inc.</i> , 843 F. Supp. 679 (D. Kan. 1994).....	5
<i>Miller v. Staab</i> , No. 91,931, 2005 WL 1429834 (Kan. Ct. App. Jun. 17, 2005).....	12
<i>Mills v. Alabama</i> , 384 U.S. 214 (1966).....	16
<i>Minneapolis Star and Tribune Co. v. Minnesota Com’r of Revenue</i> , 460 U.S. 575 (1983).....	19
<i>New York Times v. United States</i> , 403 U.S. 713 (1971).....	1, 19
<i>Operating Engineers Local 101 Pension Fund v. Al Muehlberger Concrete Const., Inc.</i> , No. 13-2050-JAR-DJW, 2013 WL 5409116 (D. Kan. Sept. 26, 2013).....	3
<i>Rivera v. Wyeth-Ayerst Laboratories</i> , 283 F.3d 315 (5th Cir. 2002)	8
<i>Sheffield Steel Corp. v. HMK Enters. (In re Sheffield Steel Corp.)</i> , 320 B.R. 405 (Bankr. N.D. Okla. 2004).....	12
<i>Sheldon v. W. Bend Equip. Corp.</i> , 718 F.2d 603 (3rd Cir. 1983).....	15

TABLE OF AUTHORITIES
(Continued)

	Page
<i>Simon & Schuster, Inc. v. Members of New York State Crime Victims Bd.</i> , 502 U.S. 105 (1991)	18
<i>Smith v. Daily Mail</i> , 443 U.S. 97 (1979)	17, 19
<i>Snepp v. United States</i> , 444 U.S. 507 (1980)	12
<i>Stalley ex rel. U.S. v. Orlando Regional Healthcare Sys., Inc.</i> , 524 F.3d 1229 (11th Cir. 2008)	14
<i>Street v. New York</i> , 394 U.S. 576 (1969)	18
<i>Strunk v. Obama</i> , 880 F. Supp. 2d 1 (D.D.C. 2011)	9
<i>TMJ Implants, Inc. v. Aetna, Inc.</i> , 498 F.3d 1175 (10th Cir. 2007)	16
<i>U.S. v. Morison</i> , 844 F. 2d 1057 (4th Cir. 1988)	18
<i>U.S. v. Rosen</i> , 445 F. Supp. 2d 602 (2006)	18
<i>U.S. v. United Serv. Auto Ass’n.</i> , 968 F.2d 1000 (10th Cir. 1992)	12
<i>U.S. v. Walli</i> , No. 12-cr-107, 2013 WL 1837152 (E. D. Tenn. Jan. 2, 2013)	10
<i>United Seniors Ass’n, Inc. v. Philip Morris USA</i> , 500 F.3d 19 (1st Cir. 2007)	14
<i>Utah Shared Access Alliance v. Carpenter</i> , 463 F.3d 1125 (10th Cir. 2006)	7, 9
<i>Vermont Agency of Natural Res. v. U.S. ex rel. Stevens</i> , 529 U.S. 765 (2000)	14
<i>Warth v. Seldin</i> , 422 U.S. 490 (1975)	7, 9

TABLE OF AUTHORITIES
(Continued)

	Page
<i>Wheat v. Lee</i> , No. C-12-6299, 2013 WL 2285174 (N.D. Cal. May 23, 2013).....	13
 Rules	
Fed. R. Civ. P. 19(a)(2).....	14
Fed. R. Civ. P. 8(a)(2).....	10
Fed. R. Evid. 201	3
 Statutes	
25 U.S.C. § 81.....	14
28 U.S.C. § 1391(b)(2).....	5
28 U.S.C. § 516.....	13
31 U.S.C. § 3729(a)	14
31 U.S.C. §§ 3729–3733	14
35 U.S.C. § 292(b)	14
 Other Authorities	
Federal Practice and Procedure § 4514 (2d ed.).....	11

Defendants Praxis Films, Inc., Laura Poitras, Participant Media, LLC, Diane Weyermann, Jeffrey Skoll, and The Weinstein Company LLC (“Documentary Film Defendants”) submit this memorandum in support of their motion to dismiss plaintiff’s First Amended Complaint (“FAC”).¹

I. PRELIMINARY STATEMENT.

In the summer of 2013, Edward Snowden became America’s most high profile whistleblower since Daniel Ellsberg leaked the *Pentagon Papers* to *The New York Times* and *The Washington Post* some forty years earlier. *See New York Times v. United States*, 403 U.S. 713 (1971). Mr. Snowden leaked classified documents to journalists about a previously unknown—and officially disavowed—global surveillance system run by the National Security Agency (“NSA”). *See* FAC ¶¶ 17, 47. Defendant Laura Poitras was one of the first journalists to receive and report on these documents. *See* FAC Ex. F at 2. Her Academy Award nominated documentary *CITIZENFOUR* details Mr. Snowden’s story, from his initial disclosures through their worldwide ramifications, both personal and political. *See* Ex. 1.²

Plaintiff Horace Edwards bought a ticket to *CITIZENFOUR* and, according to his First Amended Complaint, was “outraged” by what he called a “charade” of a documentary. FAC ¶¶ 1–2. Based on nothing more, Mr. Edwards brought this action—purportedly “on behalf of the

¹ Defendant Edward Snowden is not a party to this motion.

² As this Court recently explained, a court may consider—without converting a motion to dismiss to a motion for summary judgment—an exhibit referred to in the complaint (but not attached) if it is “central” to the plaintiff’s claims. *See Garrett v. Branson Commerce Pakr Cmty. Improvement Dist.*, No. 13-CV-2551-JAR-JPO, 2014 WL 4853704, at *2 (D. Kan. Sept. 30, 2014). *CITIZENFOUR* is repeatedly referenced and relied upon in Mr. Edwards’ First Amended Complaint, and is unquestionably central to his claims. Accordingly, the Documentary Film Defendants have herewith filed two copies of the documentary, as well as a true and correct transcript of the same, as Exhibit 1. Pinpoint cites to Exhibit 1 refer to pages of the transcript.

American people”—to silence Ms. Poitras and her documentary *CITIZENFOUR*. FAC ¶ 1. There is no legal basis whatsoever for doing so. Moreover, the “constructive trust” demanded runs afoul of our nation’s long cherished First Amendment protections. It would be unconstitutional and unprecedented to apply this circumscribed legal remedy to journalists, for it would punish the protected publication of truthful information on a matter of public interest and impermissibly chill the press from reporting on unconstitutional abuses by the United States government.

This Court need not reach these constitutional issues, however, as subjective beliefs and opinions about Mr. Snowden and the merits of *CITIZENFOUR* do not give rise to a cognizable legal claim. As an initial matter, this lawsuit must be dismissed for improper venue. Mr. Edwards has not offered a single allegation that any “events . . . giving rise to the claim” occurred in Kansas, much less a “substantial part of the events” as required. Moreover, Mr. Edwards does not have standing to bring this lawsuit. He cannot claim to have personally suffered “economic injury” because he believes the money he paid to see *CITIZENFOUR* should have instead gone to the U.S. government, and his claimed harm to national security is precisely the type of generalized grievance regarding enforcement of the laws long deemed insufficient for standing. Mr. Edwards also fails to state a cause of action upon which relief can be granted. His claim of breach of a fiduciary duty fails because he does not allege the required facts necessary to demonstrate that any defendant *owed him* a fiduciary duty. And his attempt to sue on behalf of the U.S. or the American people fails, as no statute authorizes suits of this type by private individuals (so-called “derivative suits”), and no law authorizes adding the U.S. as an involuntary plaintiff.

For these reasons, the Documentary Film Defendants urge this Court to dismiss Mr. Edwards’ frivolous lawsuit.

II. FACT STATEMENT.

Laura Poitras is an award-winning American journalist and documentary film director. She has received numerous awards for her work. She has twice been nominated for an Academy Award for Best Documentary Feature, for *My Country, My Country* and *CITIZENFOUR*, the documentary that is the subject of this litigation.³ Her journalism has likewise received numerous awards, and her reporting of the illegal NSA surveillance program disclosed by whistleblower Edward Snowden contributed to the 2014 Pulitzer Prize for Public Service awarded to *The Guardian* and *The Washington Post*.⁴

Edward Snowden is a computer systems analyst who leaked classified documents to journalists about a secret global surveillance program run by the NSA. Ex. 1 at 29–31, 45–46. In June 2013, Mr. Snowden met with journalists Ms. Poitras, Glenn Greenwald, and Ewen Macaskill in Hong Kong. FAC ¶ 15. In the following months, news articles appeared in press outlets around the world, including *The Guardian*, *The Washington Post*, *The New York Times*, and the like. Ex. 1 at 30–31, 37–40.

³ *CitizenFour: Documentary Feature - Nominees - Oscars 2015*, The Oscars, available at <http://oscar.go.com/nominees/documentary-feature/citizenfour>. The Documentary Film Defendants request the Court take judicial notice of this fact. “Under Fed. R. Evid. 201, the Court may take judicial notice at any time of the proceeding of a fact ‘that is not subject to reasonable dispute because it [] can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.’” *Operating Engineers Local 101 Pension Fund v. Al Muehlberger Concrete Const., Inc.*, No. 13-2050-JAR-DJW, 2013 WL 5409116, at *2 (D. Kan. Sept. 26, 2013). The Oscars’ website is an authoritative source listing nominees for the prestigious award, whose accuracy cannot reasonably be questioned.

⁴ *The 2014 Pulitzer Prize Winners: Public Service*, The Pulitzer Prizes (2014), available at <http://www.pulitzer.org/citation/2014-Public-Service>. The Documentary Film Defendants also request the Court take judicial notice of this fact, because the Pulitzer Prize’s website is an authoritative source listing recipients of the prestigious award, whose accuracy cannot reasonably be questioned.

These news articles disclosed a myriad of previously unknown NSA surveillance programs. Amongst other details, the news reports revealed that the NSA was spying on millions of people by tracking their cell phones, email accounts, and tapping into Yahoo, Microsoft, Facebook, YouTube, and Google to obtain information. Ex. 1 at 31–32, 37–38. These news articles precipitated an intense, ongoing debate on privacy and warrantless domestic surveillance in the United States. *Id.* at 54. In response, the United States filed a criminal action against Mr. Snowden. FAC ¶ 11. The United States then sought to extradite Mr. Snowden from Hong Kong. Ex. 1 at 58. At the same time, Mr. Snowden left Hong Kong for Moscow, where he received asylum. *Id.* at 63.

CITIZENFOUR is Ms. Poitras’ documentary about Mr. Snowden. It follows Mr. Snowden from his first meetings with Ms. Poitras (and other journalists) in Hong Kong, through the initial worldwide disclosures about the secret NSA surveillance programs, to the resulting personal and political ramifications. *See* Ex. 1. Ms. Poitras directed the documentary and produced it through her company Praxis Films, Inc. FAC ¶¶ 2, 5. Participant Media, LLC’s Jeffrey Skoll and Diane Weyermann are executive producers of the documentary. FAC ¶ 25. The Weinstein Company LLC distributed it in the United States (other distributors distributed the documentary abroad). FAC ¶ 19.

CITIZENFOUR has been met with widespread critical acclaim, but it is not without its detractors. *See, e.g.* FAC Ex. H. Mr. Edwards is one of them. When he saw the documentary, he was “outraged” by its content. FAC ¶ 2. Rather than voice his criticisms in the myriad media forums available, Mr. Edwards instead set out to harm the documentary and its filmmakers through legal threats and action. First, he reached out to the Academy of Motion Picture Arts and Sciences, its Executive Committee, and members, requesting that the documentary be

deemed ineligible for an Academy Award. FAC Exs. A–B. The Academy rejected this demand.⁵ Mr. Edwards then brought this lawsuit.

III. ARGUMENT.

A. No Allegations Support Venue in This District.

Plaintiff bears the burden of showing venue is proper. *M.K.C. Equip. Co. v. M.A.I.L. Code, Inc.*, 843 F. Supp. 679, 682 (D. Kan. 1994). Mr. Edwards alleges venue is proper in this District as to the Documentary Film Defendants by virtue of 28 U.S.C. § 1391(b)(2), which requires a civil action be brought in the district where “a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated.” *Id.* To determine whether venue is proper under § 1391(b)(2), a court must first “examine the nature of the plaintiff’s claims and the acts or omissions underlying those claims.” *Emp’rs Mut. Cas. Co. v. Bartile Roofs, Inc.*, 618 F.3d 1153, 1166 (10th Cir. 2010). Next, a court must determine “whether substantial ‘events material to those claims occurred’ in the forum district.” *Id.*

In making this determination, the court must keep in mind that “venue statutes are generally designed for the benefit of the defendants, and in determining what events or omissions give rise to a claim, the ‘focus [is] on relevant activities of the defendant, not of the plaintiff.’” *Goff v. Hackett Stone Co.*, No. 98-7137, 1999 WL 397409, at *1 (10th Cir. Jun. 17, 1999) (unpublished opinion); *see also Gen. Bedding Corp. v. Echevarria*, 714 F. Supp. 1142, 1145 (D. Kan. 1989) (In considering whether venue is proper, court should consider “the availability of witnesses, the

⁵ Scott Feinberg, *Academy Rejects Challenge to ‘Citizenfour’ Oscar Eligibility (Exclusive)*, The Hollywood Reporter, December 23, 2014, available at <http://www.hollywoodreporter.com/race/academy-rejects-challenge-citizenfour-oscar-759987>.

accessibility of other relevant evidence, and the convenience of the defendant, but not the convenience of the plaintiff”).

Here, Mr. Edwards’ claims for breach of fiduciary duty and aiding and abetting stem from (1) emails exchanged between Mr. Snowden and Ms. Poitras, who are alleged to have been in Honolulu and Berlin, Germany, respectively, at the time, FAC ¶¶ 15, 18, 34, and (2) disclosures of confidential information by Mr. Snowden to Ms. Poitras in Hong Kong. FAC ¶¶ 15–16. It also allegedly stems from the production of the documentary by the so-called “Hollywood Defendants.” FAC ¶ 5. Honolulu, Hollywood, and Berlin, Germany are not in Kansas.

In fact, there is no allegation that any defendant did anything in Kansas. Rather, the *only* allegations in the First Amended Complaint regarding Kansas are that: (1) “Plaintiff . . . is a former Secretary of the Kansas Department of Transportation,” FAC ¶ 2, and (2) “Plaintiff is a United States citizen who resides in Kansas.” FAC ¶ 31. But *CITIZENFOUR* is not about the roads in Kansas, so Mr. Edwards’ reference to his tenure as the KDOT Secretary a quarter century ago is wholly irrelevant. Equally irrelevant to a proper venue analysis is Mr. Edwards’ residence when it has no connection to the claim alleged. *See LeRoy v. Great Western United Corp.*, 443 U.S. 173, 175 (1979) (“Congress did not intend to provide for venue at the residence of the plaintiff”); *Daniel v. Am. Bd. of Emergency Med.*, 428 F.3d 408, 431–432 (2d Cir. 2005). Finally, it should be noted that Mr. Edwards does not even allege that he purchased his ticket to *CITIZENFOUR* in Kansas.

Because the First Amended Complaint is devoid of any allegations connecting defendants with Kansas, and because other allegations therein indicate the events purportedly giving rise to Mr. Edwards’ claims occurred elsewhere, his First Amended Complaint should be dismissed for improper venue.

B. Plaintiff Fails to Allege Facts Sufficient to Demonstrate Standing.

In every federal suit, “the party bringing the suit must establish standing to prosecute the action.” *Elk Grove Unified School Dist. v. Newdow*, 542 U.S. 1, 11 (2004). A plaintiff must establish both Article III standing—which enforces the Constitution’s case-or-controversy requirement, and prudential standing—which embodies judicially imposed limits on the exercise of federal jurisdiction. *See id.* To establish Article III standing, a plaintiff must allege: (1) an injury in fact; (2) a causal relationship between the injury and the challenged act; and (3) a likelihood that the injury will be redressed by a favorable decision. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992). In addition, to establish standing: (1) the plaintiff generally must assert his or her own legal rights; (2) the court must refrain from adjudicating generalized grievances most appropriately addressed by one of the other branches of government; and (3) the plaintiff’s complaint must fall within the zone of interests protected by the law invoked. *See Allen v. Wright*, 468 U.S. 737, 751 (1984); *Utah Shared Access Alliance v. Carpenter*, 463 F.3d 1125, 1137 (10th Cir. 2006); *Lexmark Intern., Inc. v. Static Control Components, Inc.*, 134 S. Ct. 1377, 1386–87 (2014). If a plaintiff fails to establish Article III standing, the court lacks subject matter jurisdiction, and his lawsuit must be dismissed. *See Warth v. Seldin*, 422 U.S. 490, 502 (1975).

The injuries Mr. Edwards alleges are insufficient for standing. *First*, Mr. Edwards alleges he “expended funds that instead of going to the United States Treasury have instead wrongly been conveyed to certain named Defendants,” a so-called “economic injur[y].” FAC ¶¶ 41–42. *Second*, Mr. Edwards alleges he “as well as others [*sic*] similarly situated individuals and the American people as a whole . . . have been exposed to harm by the breach of all Defendants in that the instability caused within the United States and abroad has jeopardized their safety and security.” FAC ¶ 54. Finally, Mr. Edwards alleges “the injury in fact under Article III of the

Constitution for which Plaintiff seeks redress is not limited to economic injuries and interests but also because he falls within the zone of interest in a derivative action on behalf of the American Public to support and enforce a constructive trust by the United States Government.” FAC ¶ 42. None of these ostensible injuries establish standing.

1. No “Economic Injury” is Pleaded.

Mr. Edwards’ allegation that he somehow suffered “economic injury” because he purchased a ticket to see *CITIZENFOUR* is contrary to both law and logic, and contradicted by his own allegations. He alleges he “purchased a ticket to Citizenfour *and watched the documentary. . .*” FAC ¶ 2 (emphasis added). In other words, he “expended funds” to watch the documentary, and did so. As such, there is no cognizable injury, as cases like *Rivera v. Wyeth-Ayerst Laboratories*, 283 F.3d 315 (5th Cir. 2002), illustrate. There, plaintiffs sued a manufacturer of painkillers after they were recalled. *Id.* at 316–317. Although plaintiffs did not claim the medication “caused them physical or emotional injury, was ineffective as a pain killer, or has any future health consequences to users,” they nevertheless argued—as Mr. Edwards here alleges—“that their loss of cash is an ‘economic injury.’” *Id.* at 319. The Fifth Circuit disagreed, noting that even if the defendant had “provided additional warnings or made [the painkiller] safer, the plaintiffs would be in the same position they occupy now.” *Id.* at 320.

The same is true for Mr. Edwards. He purchased a ticket to see a documentary, and received the benefit of his bargain when he watched that documentary. The fact that he did not like the documentary, and disagreed with its point of view, is of no legal import. Nor is his claimed injury that “instead of going to the United States Treasury [his funds] have instead wrongly been conveyed to certain named Defendants.” FAC ¶ 41. Mr. Edwards would be in the same economic position regardless of whether the funds had gone to the U.S. Treasury or not—

once Mr. Edwards relinquished his interest in those funds, their ultimate disposition could not be an injury in fact *to him*. See *Hoopa Valley Tribe v. U.S.*, 597 F.3d 1278, 1283–84 (Fed. Cir. 2010) (no injury in fact to Indian tribe that received its portion of settlement fund, even if remainder of fund was improperly distributed).

And, tellingly, the remedy Mr. Edwards seeks—even if granted—would not redress his claimed “economic injury.” See *Warth*, 422 U.S. at 508 (no standing unless plaintiff “personally would benefit in a tangible way from the court’s intervention”). Indeed, only the United States would benefit from the remedy Mr. Edwards seeks. Any claimed “economic injury” would remain, thereby illustrating there is no “economic injury” to redress.

2. Plaintiff’s Generalized Grievance Regarding Injury to the American People is Insufficient for Standing.

The Supreme Court has “consistently held that a plaintiff raising only a generally available grievance about government—claiming harm to his and every citizen's interest in proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits him than it does the public at large—does not state an Article III case or controversy.” *Lujan* 540 U.S. at 573–74; see also *Carpenter*, 463 F.3d at 1137.

Mr. Edwards’ allegation that “Plaintiff as well as others [*sic*] similarly situated individuals and the American people as a whole . . . have been exposed to harm by the breach of all Defendants in that the instability caused within the United States and abroad has jeopardized their safety and security,” FAC ¶¶ 54, 64, is precisely the type of generalized grievance insufficient to establish standing. See *Strunk v. Obama*, 880 F. Supp. 2d 1, 4 (D. D.C. 2011) (dismissal for lack of standing when claimed injury was “a national security dilemma that will harm [plaintiff] and similarly situated individuals”); *U.S. v. Walli*, No. 12-cr-107, 2013 WL 1837152, at *5–6 (E.D.

Tenn. Jan. 2, 2013) (no standing when claimed injury was “nuclear weapons [] constitut[e] a threat of harm to all persons indiscriminately”).

3. Plaintiff is Not Within the Zone of Interest of Any Law Alleged.

Mr. Edwards also cannot create standing when none exists by merely declaring “he falls within the zone of interest in a derivative action on behalf of the American Public to support and enforce a constructive trust by the United States Government.” FAC ¶ 42. As explained below, *infra* Part C.2, there is no “derivative action on behalf of the American Public to support and enforce a constructive trust by the United States Government.” As such, Mr. Edwards does not fall within any zone of interest protected by an actual law.

C. Plaintiff Fails to State a Claim Upon Which Relief May be Granted.

Mr. Edwards purports to bring two claims, one for “Constructive Trust for Breach of Fiduciary Duty” and another for “Constructive Trust for Breach of Fiduciary Duty as to the United States of America.” *See* FAC, Counts I–II. It is difficult to ascertain the factual or legal bases for these claims, however, as he fails to provide a “short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). This alone is grounds for dismissal. Mr. Edwards appears to bring claims for breach of fiduciary duty *against Mr. Snowden* (who is not a party to this motion) and for aiding and abetting that breach of fiduciary duty *against the Documentary Film Defendants*. *See* FAC ¶¶ 46–54. Yet, Mr. Edwards fails to allege any facts plausibly suggesting Mr. Snowden owed him any fiduciary duty, and there can be no cause of action for breach of a fiduciary duty without such a duty being owed. And without a viable breach action against Mr. Snowden, there can be no viable aiding and abetting action against the Documentary Film Defendants.

In his First Amended Complaint, Mr. Edwards purports to bring these claims both on behalf of himself and others similarly situated, and “on behalf of the U.S. Government, akin to a derivative action.” FAC ¶ 8. He also seeks to add the United States as an involuntary plaintiff, and to bring this suit directly on behalf of the United States. FAC ¶¶ 3, 56–64. But a private plaintiff cannot bring a cause of action for breach of fiduciary duty on behalf of the United States and Mr. Edwards has no legal basis for joining the United States as an involuntary plaintiff.

1. Plaintiff Fails to Allege Breach of any Fiduciary Duty Owed to Him.

To state a claim for breach of fiduciary duty,⁶ a plaintiff must allege (1) the existence of a fiduciary relationship owed to the plaintiff by the defendant, and (2) a breach of that duty resulting in harm to the plaintiff. *See* Restatement (Second) of Torts § 874 (1977) (“One standing in a fiduciary relation with another is subject to liability *to the other* for harm resulting from a breach of duty imposed by the relation”) (emphasis added); *Galena St. Fund, L.P. v. Wells Fargo Bank, N.A.*, No. 12-cv-00587, 2013 WL 2114372, at *12 (D. Colo. May 15, 2013). It is axiomatic that there can be no cause of action for breach of fiduciary duty when a plaintiff is not owed a fiduciary duty; and if Mr. Snowden did not owe a fiduciary duty to Mr. Edwards, then there can be no breach of such a duty and there is nothing for the Documentary Film Defendants to aid and abet.

⁶ Mr. Edwards alleges he is bringing a claim for “federal common law breach of fiduciary duty.” FAC ¶ 9. For purposes of this motion, the Documentary Film Defendants assume federal common law controls. Indeed, the legal consequences of a breach of a fiduciary relationship that exists by virtue of a contract or employment relationship with the United States is likely “an area of uniquely federal interest” subject to federal common law. *See Boyle v. United Technologies Corp.*, 487 U.S. 500, 506–07 (1988). “In determining the content of federal common law, a court is free to choose any rule it deems appropriate, and it may look for guidance to other federal contexts, to what it perceives to be first principles, to considerations of equity and convenience, or to the law of the forum state.” 19 Wright & Miller, *Federal Practice and Procedure* § 4514 (2d ed.). Because the Documentary Film Defendants are aware of no case establishing federal common law on aiding and abetting breach of fiduciary duty (and Mr. Edwards has cited to none), these claims are addressed with reference to general principles and the common law of the forum state.

See, e.g. Sheffield Steel Corp. v. HMK Enters. (In re Sheffield Steel Corp.), 320 B.R. 405, 420 (Bankr. N.D. Okla. 2004); *Miller v. Staab*, No. 91,931, 2005 WL 1429834, at *5 (Kan. Ct. App. Jun. 17, 2005).

The only case cited by Mr. Edwards as purported authority for his breach of fiduciary duty claims, *Snepp v. United States*, highlights the types of facts that could give rise to a fiduciary relationship, none of which Mr. Edwards has pleaded. 444 U.S. 507 (1980). In that case, the Supreme Court relied on the existence of a contract *between the parties* and the nature of their employment relationship to find that a fiduciary relationship existed between defendant Snepp and his employer, the United States. *Id.* at 510. The Court found that “Snepp’s employment with the CIA involved an extremely high degree of trust,” and that the “nature of Snepp’s duties” established a “trust relationship.” *Id.* at 510, 510 n. 5, 511 n.6.

Here, Mr. Edwards had not pleaded *any* facts regarding *any* relationship between himself and Mr. Snowden, much less facts plausibly suggesting the existence of a fiduciary relationship between them. Nor can he. Mr. Edwards did not employ Mr. Snowden. He did not enter into any contracts with Mr. Snowden. And he did not entrust Mr. Snowden with any confidential information.⁷ His claim for breach of fiduciary duty as to him personally therefore must fail. *See, e.g., Cruz v. United States*, 219 F. Supp. 2d 1027, 1040 (N.D. Cal. 2002); *Burton v. Countrywide*

⁷ Apparently cognizant of this legal shortcoming, Mr. Edwards suggests he is somehow a “third party beneficiary of any relevant agreement[s]” between Mr. Snowden and the U.S. Government. FAC ¶ 43. However, he has not alleged any facts supporting this conclusory allegation. In fact, the sample secrecy agreement he cites explicitly provides that it is the “United States Government” that is entitled to enforce it, not any third-party beneficiary, and certainly not Mr. Edwards. FAC Ex. I ¶ 12. Moreover, for any such relationship to be established, “the intent to benefit the third-party must be clearly expressed in the contract.” *U.S. v. United Serv. Auto Ass’n.*, 968 F.2d 1000, 1002 (10th Cir. 1992). There is no reference whatsoever to third parties in the sample agreement plaintiff submits. Therefore, this allegation also fails to establish that Mr. Snowden owed anyone (except perhaps the United States) a fiduciary duty.

Bank, FSB, No. 10-cv-00298-EJL-LMB, 2012 WL 976151, at *5–7 (D. Idaho Mar. 1, 2012); *Wheat v. Lee*, No. C-12-6299, 2013 WL 2285174, at *13 (N.D. Cal. May 23, 2013).

Since Mr. Edwards is unable to state facts showing the existence of a fiduciary relationship between Mr. Snowden and himself, his claim against the Documentary Film Defendants for aiding and abetting a breach of that duty must also fail.

2. Plaintiff Cannot Sue on Behalf of the United States.

Mr. Edwards cites no statute or other authority granting him a right to sue “on behalf of the U.S. Government, akin to a derivative action,” FAC ¶ 8, or any statute or authority that allows him “to add the United States” as a party. FAC ¶ 3. Congress provided that “[e]xcept as otherwise authorized by law, the conduct of litigation in which the United States, an agency, or officer thereof is a party, or is interested, and securing evidence therefor, is reserved to officers of the Department of Justice, under the direction of the Attorney General.” 28 U.S.C. § 516. Mr. Edwards’ inability to point to any such law or authority that permits an exception to this rule is fatal to his so-called “derivative” claims.

(1) Plaintiff Cannot Create by Analogy a New Cause of Action on Behalf of the United States.

Lacking any statutory authority to bring a so-called “derivative action,” Mr. Edwards attempts to do so by analogy. However, his analogy is off—a suit asserting rights on behalf of the U.S. Government is not a “derivative suit,” but rather a *qui tam* action. In a *qui tam* action, a private plaintiff sues as “a partial assignee of the United States.” *Vermont Agency of Natural Res. v. U.S. ex rel. Stevens*, 529 U.S. 765, 774 n.4 (2000). This is precisely what Mr. Edwards attempts to do here.

However, as courts have long recognized, there is “no common-law right to bring a *qui tam* action, which is strictly a creature of statute.” *United Seniors Ass’n, Inc. v. Philip Morris USA*, 500 F.3d 19, 23 (1st Cir. 2007); *see also Stalley ex rel. U.S. v. Orlando Regional Healthcare Sys., Inc.*, 524 F.3d 1229, 1233 (11th Cir. 2008). Mr. Edwards’ failure to identify a statutory basis for his right to sue on behalf of the United States precludes his claim.

Mr. Edwards does not identify any such basis because none exists. In *Vermont Agency*, the Supreme Court identified the four *qui tam* statutes that “remain on the books.” 529 U.S. at 768 n.1.⁸ None of these statutes even come close to authorizing a *qui tam* claim for breach of fiduciary duty owed to the U.S., so Mr. Edwards’ “derivative action” claim must also be dismissed.

(2) Plaintiff Cannot Add the United States as an Involuntary Plaintiff.

Furthermore, Mr. Edwards’ attempt to join the United States as an involuntary plaintiff fails because he does not meet the requirements for involuntary joinder. A party may only be added as an in “involuntary plaintiff” in a “proper case.” Fed. R. Civ. P. 19(a)(2). The “proper case” is when: “1) the party to be joined has an obligation to permit its name or title to be used to protect rights asserted in the action; 2) is beyond the jurisdiction of the court; and 3) has refused to voluntarily join in the action following notification thereof.” *Sheldon v. W. Bend Equip.*

⁸ The most well-known of these statutes is the False Claims Act, 31 U.S.C. §§ 3729–3733, which authorizes suit on behalf of the United States against any individual who “knowingly presents, or causes to be presented, to an officer or employee of the United States Government . . . a false or fraudulent claim for payment or approval.” 31 U.S.C. § 3729(a). “Three other *qui tam* statutes, all also enacted over 100 years ago, remain on the books. *See* 25 U.S.C. § 81 (providing cause of action and share of recovery against a person contracting with Indians in an unlawful manner); § 201 (providing cause of action and share of recovery against a person violating Indian protection laws); 35 U.S.C. § 292(b) (providing cause of action and share of recovery against a person falsely marking patented articles).” *Vermont Agency*, 529 U.S. at 768 n.1.

Corp., 718 F.2d 603, 606 (3rd Cir. 1983); *see also Jordan Patterson Post v. Chaffee*, 103 F.R.D. 523, 525-26 (D. Kan. 1984). Here, Mr. Edwards has alleged no special relationship with the United States. He also has not alleged that the United States is beyond the jurisdiction of this Court, nor has he alleged that the United States received notification of this action and refused to join. Therefore, Claim II of the First Amended Complaint must be dismissed.

D. *CITIZENFOUR* is Protected by the First Amendment.

Even if Mr. Edwards could somehow state a claim for aiding and abetting Mr. Snowden's breach of fiduciary duty (and he cannot), that claim would violate the Documentary Film Defendants' First Amendment rights. Mr. Edwards appears to claim that Documentary Film Defendants aided and abetted breaches of fiduciary duty by Mr. Snowden in two distinct ways. *First*, regarding Ms. Poitras, he alleges she aided and abetted Mr. Snowden's breach of fiduciary duty by meeting with him in Hong Kong and "accepting all of the purloined information to use for her personal benefit financially and professionally . . . acknowledging that she has the right to possess and control stolen classified digital information belonging to the U.S. government and to parlay that information into profit. . . ." FAC ¶ 4. However, as the Supreme Court has repeatedly held, the First Amendment protects publication of truthful information on a matter of public interest, even if it was obtained through unauthorized means by a third party. *Second*, regarding all Documentary Film Defendants, he alleges they aided and abetted Mr. Snowden's breach of fiduciary duty by taking "the original film footage of Defendant Snowden's Hong Kong admissions and cloak[ing] Defendant Snowden's illegal acts in the guise of righteousness and virtue." FAC ¶ 5. In other words, Mr. Edwards alleges the act of producing and distributing a documentary that depicted Mr. Snowden favorably (or not as negatively as Mr. Edwards thought warranted) *is* itself aiding and abetting Mr. Snowden's breach of fiduciary duty. However, the First Amend-

ment forbids the punishment of any particular viewpoint. Therefore, under any theory of “aiding and abetting,” the First Amendment protects the Documentary Film Defendants’ speech here.

1. Publication of Truthful Information on a Matter of Public Interest is Protected, Regardless of How it was Obtained by a Third Party.

The Supreme Court has repeatedly held that the publication of truthful information on a matter of public interest is protected by the First Amendment—even if it was an unauthorized disclosure by a third party—unless punishing the expression furthers a compelling government interest. *See Bartnicki v. Vopper*, 532 U.S. 514, 535 (2001). Here, there is no allegation that the information disclosed by Mr. Snowden was not truthful, and it is unquestionably a matter of public interest.⁹ Indeed, Mr. Snowden’s revelation of a massive, secret government surveillance program targeting American citizens is precisely the type of criticism of government at the very heart of First Amendment protections. *See, e.g., Mills v. Alabama*, 384 U.S. 214, 219 (1966) (“Suppression of the right of the press to praise or criticize governmental agents . . . muzzles one of the very agencies the Framers of our Constitution thoughtfully and deliberately selected to improve our society and keep it free”).

In *Bartnicki*, the Supreme Court explicitly found that publication of truthful information is protected, even if it was obtained without authorization by a third party. 532 U.S. at 535. There, a radio station played a tape of a private cellular conversation regarding collective-bargaining negotiations, which was recorded by a third party without the speakers’ knowledge or consent. *Id.* at 519. The two individuals speaking on the tape brought a civil suit against the radio station under both federal and state wiretapping laws. *Id.* at 519–20. The Court held that

⁹ In the context of the First Amendment, a matter is of public interest when it is “a subject of general interest and of value and concern to the public at the time of publication.” *TMJ Implants, Inc. v. Aetna, Inc.*, 498 F.3d 1175, 1185 (10th Cir. 2007).

“a stranger’s illegal conduct does not suffice to remove the First Amendment shield from speech about a matter of public concern.” *Id.* at 535. *See also Landmark Communications v. Virginia*, 435 U.S. 829, 838 (1978) (government could not constitutionally punish newspaper for publishing article disclosing information lawfully gathered from a third party).

Because Mr. Edwards does not allege there was anything unlawful about Ms. Poitras’s receipt of classified documents from Mr. Snowden, publication of that information may not be punished without proof of a compelling government interest. *Smith v. Daily Mail*, 443 U.S. 97, 101–02 (1979) (“[A] sanction for punishing lawfully obtained, truthful information . . . requires the *highest form of state interest* to sustain its validity”) (emphasis added). As *Bartnicki* makes clear, however, when a criminal or civil remedy exists to deter an initial breach of confidentiality, the limited value of additional deterrence achieved by punishing publication is not compelling. *Bartnicki*, 532 U.S. at 529–30 (“It would be quite remarkable to hold that speech by a law-abiding possessor of information can be suppressed in order to deter conduct by a non-law-abiding third party”).

2. The First Amendment Forbids Punishing Expression Based on Content.

The Supreme Court has also made clear that objections on the basis of a work’s content, or disagreement with its point of view or portrayal of events, cannot give rise to a legitimate legal action punishing speech. The government has “no power to restrict expression because of its message, its ideas, its subject matter, or its content.” *Ashcroft v. Am. Civil Liberties Union*, 535 U.S. 564, 573 (2002). Although one may disagree with how a story is told, “[t]he First Amendment stands against attempts to disfavor certain subjects or viewpoints.” *Citizens United v. Federal Election Com’n*, 558 U.S. 310, 340 (2010); *see also Street v. New York*, 394 U.S. 576, 592

(1969) (“It is firmly settled that under our Constitution the public expression of ideas may not be prohibited merely because the ideas are themselves offensive to some of their hearers”); *Simon & Schuster, Inc. v. Members of New York State Crime Victims Bd.*, 502 U.S. 105, 115–116 (1991) (statute violates First Amendment when it “plainly imposes financial disincentive only on speech of a particular content”). To the extent Mr. Edwards alleges the Documentary Film Defendants “aided and abetted” Mr. Snowden’s breach of fiduciary duty because *CITIZENFOUR* depicts him favorably, such an argument runs counter to the First Amendment’s protection. *See* FAC ¶ 3 (“Citizenfour portrays Defendant Snowden as a well-meaning whistleblower . . . when in fact the film glorifies international espionage for profit”).

Moreover, no compelling government interest could be furthered by punishing the release of *CITIZENFOUR* based on its content. Here, Mr. Edwards invokes vague claims that “U.S. national security has been seriously damaged, human lives placed at risk or worse, and military and non-military assets compromised” because of *CITIZENFOUR*. FAC ¶ 7. Such conclusory allegations are precisely the type of allegations discredited in *Iqbal*. “A pleading that offers labels and conclusions or formulaic recitation of the elements of a cause of action will not do. Nor does a complaint suffice if it tenders naked assertions devoid of further factual enhancement.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). In any case, courts have held “the mere invocation of ‘national security’ or ‘government secrecy’ does not foreclose a First Amendment inquiry.” *U.S. v. Rosen*, 445 F. Supp. 2d 602, 630 (2006). *See also U.S. v. Morison*, 844 F. 2d 1057, 1081 (4th Cir. 1988) (Wilkinson, J., concurring) (“First Amendment interest in informed popular debate does not simply vanish at the invocation of the words ‘national security’”). Indeed, the justification for limiting free speech “must be ‘far stronger than mere speculation about serious harms.’” *Bartnicki*, 532 U.S. at 532.

3. A Constructive Trust Violates the First Amendment Even if No Prior Restraint Occurs.

Finally, Mr. Edwards attempts to sidestep the First Amendment by seeking a constructive trust, rather than an injunction prohibiting distribution of *CITIZENFOUR*. In fact, Mr. Edwards goes so far as to allege that the constructive trust remedy he seeks “does not infringe upon First Amendment rights but maintains a reasonable balance between national security and the fundamental Constitutional protections of Freedom of the Press. No censorship occurs and no public access is restrained.” FAC ¶ 1. However, as the Supreme Court has made clear, the constitutional protections of the First Amendment are not so easily subverted, and reach far “beyond prior restraints.” *See Daily Mail*, 443 U.S. at 101. Indeed, the Supreme Court has held that even a modest use tax on “the cost of paper and ink products consumed in the production of a publication” violates the First Amendment, although it does not directly restrain speech. *Minneapolis Star and Tribune Co. v. Minnesota Com’r of Revenue*, 460 U.S. 575, 577 (1983). In doing so, the Court reasoned that even the threat of increased taxation targeted at the press “can operate as effectively as a censor to check critical comment by the press, undercutting the basic assumption of our political system that the press will often serve as an important restraint on government.” *Id.* at 585. Applying the “constructive trust” remedy to journalists as Mr. Edwards suggests would have the same effect, because the threat of seizure of any funds derived from a work would operate just as effectively as a use tax to check critical comments by the press on issues of public interest.

And, of course, as the Supreme Court’s decision in *New York Times v. United States*—in which the Court allowed the publication of the classified *Pentagon Papers*—makes clear, any ban on publication of the classified information provided by Mr. Snowden is constitutionally

prohibited. 403 U.S. at 714. Because the requested constructive trust is nothing more than a disguised attempt to enjoin the continued showing of *CITIZENFOUR*, it is constitutionally impermissible.

IV. CONCLUSION.

For the foregoing reasons, Mr. Edwards' First Amended Complaint should be dismissed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing was served via the Court's ECF System this 10th day of February, 2015 on the following:

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