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Editorial

WikiLeaks is a wake-up call for openness

1. Introduction

WikiLeaks' recent public disclosure of troves of classified U.S. Government records has been big news around the world, but it has been particularly significant in the open government community. For decades, groups like ours that are concerned with open government have been working to reform serious problems associated with pervasive and excessive U.S. Government secrecy, including the overclassification of government records, the lack of effective mechanisms for whistleblowers to report wrongdoing involving classified government programs, and the limited ability of the public to know and criticize what its government is doing. With WikiLeaks' mass disclosures of largely raw State Department and Pentagon records, the issue of U.S. Government secrecy has been placed on the forefront of public discussion, creating a pivotal point at which the system could be fundamentally restructured—for better or for worse.

Those of us who work to promote open government are deeply torn by the WikiLeaks disclosures. The State Department cables and Pentagon war logs posted by WikiLeaks clearly have public interest value in that they help to inform citizens of the activities of the U.S. government by providing a rare window into the inner workings of U.S. diplomacy and war efforts. But their disclosure also carries the potential to harm the public interest by threatening to fracture relationships between the U.S. Government and other countries and, in some cases, by threatening the safety of third parties, including human rights activists and dissidents, who were publicly identified as providers of information to the U.S. Government.

2. A sprawling culture of secrecy further exposed

The splintered nature of the open government community's reaction to the WikiLeaks disclosures is evidence of the difficulty in distinguishing legitimate government secrets from illegitimate ones. Nonetheless, there remains a strong consensus in the open government community—and in America in general—that the U.S. Government keeps far too many secrets and has done so for some time. Although it is too early to tell if the disclosures will benefit or harm the public interest, there is without question real harm associated with pervasive and excessive government secrecy.

In a report issued just over a decade ago ([Commission on Protecting and Reducing Government Secrecy, 1997](#)), Senator Daniel Patrick Moynihan analyzed the U.S. Government's organizational culture regarding access to classified information and noted that “secrecy [i]s a normal mode by which bureaucracies conduct their business,” and that “secrecy is a mode of regulation” that “concerns what citizens may know; and the citizen is not told what may not be known.” In his 1997 Chairman's Foreword, Senator Moynihan noted that over the previous

80 years, “a vast system of secrecy developed within the American Government. So much that it has been termed a culture of secrecy.” That vast system and culture has only grown—exponentially—since then. Indeed, the burgeoning culture of secrecy has recently been documented by *The Washington Post* in its series on “Top Secret America” ([Priest & Arkin, 2010](#)).

In 2004, the 9/11 Commission criticized the government for excessive secrecy, concluding that Washington stamps “classified” on too many documents, which keeps vital information hidden from Congress and the public and undermines efforts to thwart terrorism; “[s]ecrecy stifles oversight, accountability, and information sharing. Unfortunately, all the current organizational incentives encourage over-classification” ([National Commission on Terrorist Attacks Upon the United States, 2004](#)). During a congressional hearing that same year ([Too Many Secrets, 2004](#)), the Defense Department Deputy Undersecretary of Defense for Counterintelligence and Security acknowledged that fifty percent of all government classified documents may be unnecessarily or improperly classified ([Haave, 2004](#)). Others have estimated that the percentage is probably closer to seventy-five percent ([Blanton, 2010](#)). These examples from 2004 are illustrative of the continuing and growing problem.

3. The Government's response

Unfortunately much of the official reaction to the WikiLeaks disclosures, including reactions from the White House and Congress, threaten to make this culture of secrecy even more pervasive and harmful. At the end of the last Congress, legislation was introduced ([SHIELD bill, 2010](#)) that would amend the Espionage Act of 1917 to make it a crime for any person to knowingly and willfully disseminate, “in any manner prejudicial to the safety or interest of the United States,” any classified information “concerning the human intelligence activities of the United States.”

Such legislation would strike a painful blow to the public interest. Adequate mechanisms do not currently exist for government employees to safely and effectively disclose wrongdoing involving classified programs. The absence of those mechanisms has led many with knowledge of serious government wrongdoing to leak information to traditional media and organizations such as WikiLeaks. In many cases, such as Thomas Tamm's disclosure of the National Security Agency's warrantless wiretapping program to *The New York Times*, those disclosures have clearly been in the interest of the American public.

The Office of Management and Budget (OMB) also reacted to the WikiLeaks' disclosures with a memo to agencies that threatens to make matters worse ([Lew, 2011](#)). The memo, which requires agencies that handle classified information to assess weaknesses or gaps in information security, calls for the profiling of government employees

and could intrude upon protected First Amendment rights and privacy interests of government employees.

4. Recommendations

The proposed Shield Bill and the OMB memo mentioned above are an overreaction. Congress and the Obama administration should instead focus on common sense solutions that both protect legitimate secrets and encourage information sharing and openness. For instance, Congress should work to create a whistleblower system that would prevent leaks. Government employees with knowledge of wrongdoing involving classified information should have safe, legal channels by which to disclose such issues. As part of this system, employees should be ensured that they will be protected from any potential retaliation and that action will be taken to correct the problems they uncover. Furthermore, post-9/11, more effective information sharing between agencies became a mandate. However, once again, there is the risk that, in responding to the WikiLeaks disclosures, the pendulum will swing too far and inhibit necessary information sharing.

There are basic physical security precautions that can prevent someone from walking out the door with thousands of classified records but do not discourage information sharing among agencies. All agencies could implement, for example, a system called two-man integrity, in which the person accessing classified information would be in a room with only the computer screen, keyboard and mouse; the actual computers would be housed in a separate, secured, and guarded room. Any attempt to print classified information or download information to a disk or thumb drive would be monitored by the security officer. This policy would not prevent information sharing because email files could still be mailed to other cleared individuals through the classified network, but files could not be physically removed from the building without permission and a locked courier bag. Very simple and very effective.

The President's Executive Order on Classified National Security Information ([Executive Order No. 13526, 2009](#)), which called for agencies that create and use classified information to review and revise their guidance for classifiers, may be helpful. The cover memo to the Executive Order ([Obama, 2009](#)) also called for fundamental transformation of the classification system. These efforts need to be monitored to ensure that the effort improves public access to government information.

Regardless of an individual's views of WikiLeaks' disclosures, everyone who cares about a strong democracy that serves the people must be willing to roll up their sleeves and tackle the underlying systemic failures that exist. If nothing else, the WikiLeaks episode should provide a wake-up call to policymakers that the internet age has taken the long-simmering problem of overclassification and turned it into a crisis. Now is the moment to reconcile reasonable security for the subset of legitimately classified information with the principle that government information is the property of the people. As an open society, we must eradicate secrecy for its own sake.

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