

Privacy Protection After Twenty Years Under *Reporters Committee*

Presented by the Collaboration on Government Secrecy

April 28, 2009

8:45 am – 4:30 pm

American University Washington College of Law
4801 Massachusetts Avenue, NW, Room 603, Washington, DC

In 1989, in what arguably is the most significant Freedom of Information Act decision ever issued, the Supreme Court in *Department of Justice v. Reporters Committee for Freedom of the Press* both broadened the concept of personal privacy and narrowed the definition of the “public interest” in disclosure. This decision brought about nothing less than a sea change in privacy protection by radically altering the balancing process by which federal agencies decide whether to invoke the FOIA’s privacy exemptions -- leading to the withholding of greater amounts of information from the public. Marking the 20th anniversary of this landmark FOIA decision, this program examines *Reporters Committee’s* full impact on government openness versus the protection of personal privacy and explores its continued viability with the passage of time.

8:45 am **Registration and Continental Breakfast**

9:30 am **Welcome and Introduction:** *Daniel J. Metcalfe*, Executive Director,
Collaboration on Government Secrecy, Washington College of Law

9:40 am **Keynote Address:** *Jane Kirtley*, Silha Professor of Media Ethics and Law
and Director, Silha Center for the Study of Media Ethics and Law, University
of Minnesota School of Journalism and Mass Communication, and former
Executive Director, Reporters Committee for Freedom of the Press

10:15 am **Panel One: Reporters Committee Revisited** -- discussions of the origin of
the case, the formulation of the government’s position, and the unexpected
breadth of the Supreme Court’s decision.

Speakers: *John F. Daly*, Deputy General Counsel for Litigation, Federal Trade
Commission, and former senior attorney, Civil Division Appellate Staff,
Department of Justice; *Roy T. Englert, Jr.*, Robbins, Russell, Englert, Orseck,
Untereiner & Sauber LLP, and former Assistant to the Solicitor General; and
Marc Rotenberg, Executive Director, Electronic Privacy Information Center,
and Adjunct Professor, Georgetown University Law Center

11:15 am **Panel Two: “Practical Obscurity?”** -- a pragmatic analysis of the Supreme Court’s novel “practical obscurity” concept for protecting personal privacy interests.

Speakers: *Jim Harper*, Director of Information Policy Studies, Cato Institute; *Tonda Rush*, President, American PressWorks; *Ari Schwartz*, Vice President and Chief Operating Officer, Center for Democracy and Technology; and *Lucy A. Dalglish*, Executive Director, Reporters Committee for Freedom of the Press (moderator)

12:30 pm **Luncheon Speaker:** *Mary Ellen Callahan*, Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security

2:00 pm **Panel Three: “Core Values”** -- critical consideration of *Reporters Committee* “core purpose” standard for determining a limited “public interest” that can be balanced in favor of disclosure.

Speakers: *Patrick Clawson*, private investigator and broadcast journalist, and former spokesman for Dr. Steven J. Hatfill; *Rebecca Daugherty*, Immediate Past President, American Society of Access Professionals, and former FOI Director, Reporters Committee for Freedom of the Press; *David A. Schulz*, Levine Sullivan Koch & Schulz, and Lecturer-in-Law, Columbia Law School; and *Ronald K. Collins*, First Amendment Scholar, Freedom Forum’s First Amendment Center (moderator)

3:15 pm **Panel Four: The Future of Privacy Protection** -- comprehensive reviews of *Reporters Committee’s* impact on FOIA administration, FOIA litigation and implementation of the Privacy Act of 1974, raising questions of the need for and prospects of legislative reform.

Speakers: *Wendell Cochran*, Professor, Journalism Division, and Senior Editor, Investigative Reporting Workshop, American University School of Communication; *Jane Kirtley*, Silha Professor of Media Ethics and Law and Director, Silha Center for the Study of Media Ethics and Law, University of Minnesota School of Journalism and Mass Communication, and former Executive Director, Reporters Committee for Freedom of the Press; and *John W. Kropf*, Deputy Chief Privacy Officer and Senior Adviser for International Privacy Policy, Department of Homeland Security

General Registration – no charge. CLE Accreditation (4 credits) will be applied for – *CLE Registration* - \$50
To register, please go to www.wcl.american.edu/secleregistration. For further information, please contact:
Office of Special Events & Continuing Legal Education, 202.274.4075 or seclereg@wcl.american.edu.

Major support for this CGS program has been provided by the Open Society Institute’s Transparency and Integrity Fund and National Security and Human Rights Campaign.