

## THE RIGHT TO KNOW<sup>©</sup>

So Judith Miller opines that journalists would be “intimidated” by court-mandated revelation of confidential sources [Journalism on Trial, *The Wall Street Journal*, 2/21/08, page A16]. Let me see if I have this reasoning straight: the public’s right to know is contingent upon blocking the public’s right to know!

In light of the recent *New York Times*’ attempted character assignation of John McCain (based on the *Times*’ unsubstantiated claim that the allegation is supported by two unnamed sources—protected by Ms. Miller’s reasoning), the case for journalists’ withholding essential information from an article appears particularly poorly reasoned. It is not unknown for journalists to be untruthful, or to expect special treatment from lawmakers.

As an economist and marketing researcher, I would be scorned by my peers, editors and clients were I to submit professional work without complete, objective, and clearly-communicated documentation. And rightly so. I, or any other scientist, cannot get away with withholding sources, nor would any competent journalist allow an interviewee to withhold such information from him/her.

And consider other professionals who claim the right to withhold essential information from the public: the attorney, priest and/or mental health practitioner who conceal knowledge of criminal behavior. Or even more egregiously, consider the “fruit-of-the-poison-tree” doctrine, under which knowledge of criminal behavior is concealed from the jury (i.e., the public) at trial because “the constable blundered.” In each case, including journalists, the public is potentially, if not actually, injured so that the professional (even the professional criminal!) can do his/her job. There has to be a better way.

Here is my suggestion: an objective panel of experts (including, but not limited to, working professionals in the field) which has total access to the information to be withheld, evaluates that information, determines whether the benefits of withholding exceeds its costs—to the public—and therefore withholds that information, or releases it. My strong preference here would be for a well-compensated private organization, rather than the government-operated judicial system (which perpetuates the poison-tree doctrine, among other displays of illogic, or corruption).

Now I can just hear the howls from affected professionals—how dare this guy challenge the *status quo*? Doesn’t he know that he’s messing with powerful special interests? After all, the majority of lawmakers are members of the bar, and they are ever-mindful of the power of the press. The priest reflects the will of God Almighty, and there are all-too-many examples of the power that criminals have over lawmakers and other professionals. So arguments by those professionals that confidentiality is essential to their job

performance, given the enormity of evidence of harm, potential and actual, to the public, require careful analysis.

I was taught on the second day of Accounting 101 that performers should not audit their own work—elementary logic, and the basis for the public-auditing profession. My proposal is analogous to that of public auditing: well-compensated, expert, private sector evaluators. It is simply not in the public interest that professionals decide for themselves, absent any public oversight, what information is to be shared with that public. Of course, this is merely a sketch of a different approach to the many complex issues involving professional confidentiality—a suggestion offered to engender argument and discussion.

But I am a scientist, always willing to revise my opinions/conclusions in light of additional information. No true scientist can be comfortable when information is withheld or ignored. So I would carefully consider calm, logical, well-reasoned refutation of this (to me) perfectly obvious truism: the public's (i.e., news consumer, juror or just plain citizen)'s right to know is—the public's right to know all, repeat all, information relevant to a given situation. Or to know that any information withheld is done in the public interest, as determined after full vetting by trusted representatives of that public.