

Your Right to Know: The Privacy Triangle*

Purpose:

In this lesson students will examine a scenario and then role-play the public, media and government. Students will then be asked to describe and analyze some of the conflicts that arise among media, government and individual needs regarding the right of the public to know. They will also explain the relationship of a free press to a democratic society.

Procedure:

1. Ask students the following questions regarding freedom of the press issues:
 - How much freedom should television, newspapers and the Internet have to report on the private lives of individual citizens?
 - Do some people have more right to privacy than others?
 - Could democracy work without a free press?
 - How should the media decide what stories to run?
 - How has the electronic age changed our perception of the public's "right to know"?
2. Tell students that they are going to read a scenario that illustrates how complicated issues of privacy and the right to know can be.
3. Distribute one of the scenarios at the end of the lesson. Two scenarios have been provided so that you can decide which one would be most appropriate for your class. Explain to students that they will need to consider the questions in number 1 as they play the roles of the public, the media and the government.
4. After students have read the scenario, assign them one of the roles – public, media or government. Arrange the room in a triangle and allocate one of the points of the triangle to each role. Distribute the handouts titled *The Media*, *The Government* and *The Public* that describe their roles.
5. Hand out the questions for each role to the group assigned that role. Give students time to discuss the answers to the questions. Then distribute the first late-breaking news flash to each group and ask students to consider the new information and decide if their original answers might change. Distribute the next late-breaking news flash after another few minutes of discussion.

* The idea of considering privacy vs. access decisions as a triangle was developed by Prof. George Trubow, director of the Center for Informatics Law, John Marshall Law School, in an address at a First Amendment Congress seminar on privacy, access and accountability.

6. Conduct a class discussion with students in each group sharing their answers to the questions for their roles. Let them question the students representing the other two roles and have them present their side if they disagree with what the members of another role say.

7. Conclude with a return to the questions in number 1 to see if students have changed their minds about some of their answers.

Enrichment/Extension

1. Invite a journalist to class to talk about how she/he makes decisions regarding what to write/air or not to write/air. The visitor could also address how editors and publishers of the newspaper/television news show influence what is written and what appears in the newspaper or on television. Students might ask the journalist how she/he would have handled the scenario.

The Media

You fill the role of watchdog. You have the right to investigate government and issues that are of interest to the public. You create a "marketplace" where ideas are exchanged.

To do your work, you must have the right to gather information from whatever sources are available. Through the Freedom of Information Act, you have the legal right to gather information from a variety of government sources.

The Government

You have been hired or elected to serve the people. You are responsible for protecting national security, as well as preserving individual rights. You have collected and classified millions of documents. You and other government officials are concerned about how this information could be used to harm the United States. The citizens you serve are increasingly fearful that the government will give unknown groups or individuals personal information that could be used in harmful ways.

The Public

What information do you need to be a responsible citizen? If a criminal is operating in your neighborhood, you need to know about it so you can take precautions. If the government is acting irresponsibly, you need to know so that you can vote people out of office. If the government is thinking of taking actions that will eliminate your job or threaten the environment, you have a right to know what is going on.

At the same time, you worry about all the information that the government and other agencies, including the press, are collecting about you. You are receiving calls from people you don't even know, even though you have an unlisted telephone number. After you opened a new bank account, several mailings from credit card companies arrived at your home. Such intrusions make you fearful.

Scenario: Murrah Federal Building Bombing

The Wednesday after the Easter holiday in 1995 dawned as beautifully as any spring day could. People in Oklahoma City went about their activities that April 19 just as they did on any other day—some went to work, some to daycare and school or appointments, some simply enjoyed a relaxing morning.

Shortly before 9 a.m. a yellow rental truck parks in front of the Alfred P. Murrah Federal Building in downtown Oklahoma City. The driver calmly exits the parked truck and walks across the street. At 9:02 a.m. an explosion rocks the Federal Building, Oklahoma City and the nation. The truck, rigged with a powerful fertilizer bomb, explodes, ripping off the entire north side of the nine-story building which includes a daycare. Other buildings in the area are also damaged. Downtown, previously filled with the sounds of traffic and birds, was suddenly engulfed in smoke, dust and chaos.

Unsure of the danger or extent of the disaster, people rush to the downtown area. Firefighters, police, emergency medical personnel, doctors, nurses, office workers, city and state employees, and citizens all rush to the scene to begin rescue efforts. Dazed survivors, caked in blood and mud, stumble from the devastation. Rescuers immediately entered the shambled remains of the building searching frantically for survivors, but more often than not they find lifeless bodies of people who did not survive.

The media descend on the scene immediately and word of the disaster quickly spreads across the city, state, nation and world. A staging area is established for the media. A medical triage is set up nearby and by 10:15 a.m. blood drives begin. Rescuers are ordered to leave the building about 10:30 because of fear of another bomb. Bomb-sniffing dogs, surgeons, equipment and body bags are quickly brought to the scene. Over 12,000 people work nonstop for days in the search and rescue efforts.

Panicked families gathered to learn the fate of their loved ones in the mass of confusion. Periodic news briefings help sort rumors from fact. Lines form at blood drives around the city, and people drive with headlights on in a show of support. Requests of anything needed by rescuers are immediately fulfilled.

Law enforcement quickly begin searching for clues and suspects in the crime. Terrorism is suspected.

Murrah Bombing - Government Issues:

1. Law enforcement and rescuers have many issues over jurisdiction but they must act quickly to establish who will be in charge and who will deal with the media. The local agencies include the police and fire departments and civil defense. Because it is a federal building, the FBI and Federal Emergency Management Agency are soon on the scene. You are the OKC fire chief and your department is the first responder. As a government official, who do you think should be in charge of the overall operation and why and how will you get these other agencies to agree?
2. You have to deal with both the local and national media. The area is secured and the media is kept at a distance but the public is desperate for information. How much information and how often will you provide it to the media. How do you balance not interfering with the investigation with providing the public what they want to know?
3. You trust the local media because you have worked with them for years. Do you allow them more access to information?
4. How do you deal with the national media who will do anything to get to the survivors and families? For example, one national anchor dons a doctor's coat and tries to slip into the hospital with a hidden camera. Keep in mind that the First Amendment allows freedom of the press. In this case, however, can you restrict access and what precedent will you set for your actions?

Murrah Bombing - Public Issues:

1. You know you had a family member in the building. At this point, law enforcement is not providing any information. What are your rights in determining whether your loved one is dead or alive? You have tried to go to all the hospitals to see if your family member has been admitted, but you are being turned away. Is that a violation of your rights? How does HIPPA (federal privacy rules) affect the information you can receive?
2. As the rescue effort continues for days, do you want the media to provide photos of dead bodies being brought out of the building? What photos do you expect to see on the front page of your newspaper and on your online news source? Is there a point at which you believe that the media has gone too far in providing coverage?
3. At this point, law enforcement is not saying who they think is responsible. How quickly would you expect this information to be given to the public? Rumors are flying that this is the work of middle east terrorists. Do you expect your media sources to publish or broadcast or post online these rumors?
4. As a family member, would you grant an interview to the media, even if law enforcement has told you not to talk to the media? If you do, are there penalties for disobeying what you consider to be a direct order from law enforcement?

Murrah Bombing - Media Issues:

1. Your job is to provide the public with the most complete information possible as quickly as possible. If law enforcement has blocked off access to the site but medical workers are offering to disguise you as one of them, will you take them up on that offer? Could this land you in jail? If you think it could, would you do it anyway?
2. An amateur photographer has gotten one of the first photos and/or video from the scene and is offering to sell it to the highest media bidder. As an editor or news director, will you pay the price to have a photo or video before your competitors?
3. You were the first photographer at the scene before law enforcement blocked access. You have very graphic photos of victims and survivors. How will you and your editor or news director choose which ones to print, broadcast or post online? List five standards you think all media should consider in visuals in this case or any similar events.
4. A law enforcement officer has given you a tip that there is an Edmond man who is originally from the Middle East that they are looking at closely as the possible suspect in this bombing. Do you print, broadcast or post this information or do you try to find an additional source for confirmation?

Murrah Bombing – Late-breaking news #1:

A news conference has been called to announce the arrest of a man whose name is Timothy McVeigh as a suspect in the bombing. As law enforcement, how much information will you reveal on why you have arrested this man? As a member of the public, what do you want to know about this person? As a member of the media, how are you going to find out more about McVeigh and what public records do you have access to so that your story will be more complete?

Murrah Bombing – Late breaking news #2:

Three months after the bombing, a group of state officials and some media have developed a conspiracy theory. They state publicly that McVeigh and another man charge with this crime, Terry Nichols, were not alone but had help from Islamic fanatics. As a member of the FBI who has been involved in the investigation from the beginning and who does not believe this is true, how are you going to dispute this theory? As a member of the public, how do you know what to believe? As a member of the media who has been given the FBI's information in confidence, how do you dispute the theory while protecting your source?

Scenario: Webbers Falls Bridge Collapse

It's a typical Sunday morning in Webbers Falls, OK, a tiny resort town of less than 1,000 population along the Arkansas River which serves as a navigation channel for barges from the Port of Catoosa near Tulsa. The only difference is that it is Memorial Day weekend and the town is bulging with visitors enjoying the first three-day holiday of the summer.

At 7:45 a.m., the police dispatcher receives a 911 call from a crewmember aboard a tugboat pushing two barges up river. "We've hit the I-40 Bridge. It's down. There are vehicles falling into the river. We need help," the frantic crewman said.

Quickly, members of local law enforcement and emergency personnel converge on the scene. Fishermen involved in a tournament near the bridge rescue four people from the water but after the first hour, there are no more survivors. The death toll will eventually be confirmed at 14 after 10 vehicles including three tractor-trailer rigs dropped 60 feet into the river below.

Almost immediately, word goes out to Oklahoma and Arkansas media outlets and they scramble to find reporters and photographers, many of whom are also on vacation. Within a couple of hours, TV news helicopters hover over the site, transmitting the first shocking pictures a 500-foot span of bridge down in the water. Part of the debris has pierced one of the barges being pushed by the tugboat. Reporters and photographers also arrive and start their rounds, interviewing police officers, witnesses and trying to interview survivors.

Suddenly, all public access begins to close down. Reporters and photographers relay reports to their editors about national guardsmen, highway patrol officers and sheriff deputies running them out of any area near the river. Photographers are threatened with arrest if they go into Webbers Falls with a camera. The highway patrol sets up a media pool and arranges for a few media representatives to go to the scene, but when they get there, all rescue work is ordered stopped. The Webbers Falls police handcuff one reporter who goes to a public park in hopes of being able to interview a survivor. She is later released.

Meanwhile, families from all over the United States are calling media, the Red Cross, and law enforcement trying to determine if their loved ones are involved in the bridge collapse. Conflicting reports are circulating about whether this was a terrorist attack, whether there is some type of toxic material now in the river or whether the son of someone really important has died in the incident. Many of these reports are generated because of the actions of law enforcement in keeping the media and the public away from the scene. Even people who live along the river are forced to leave their homes.

Webbers Falls - Government Issues

1. A number of law enforcement agencies have converged at the scene. Which one has jurisdiction for securing the scene – the Army Corps of Engineers, the Oklahoma Highway Patrol or the Muskogee County Sheriff's Office? Explain why you picked one of these as the lead agency.
2. How are you going to handle getting information to the public about what has happened? How do you determine how much information you will share?
3. What public records are available to you to determine more information about the barge captain, what cargo the semi-trucks were carrying and the navigation schedules for the river?
4. You are the governor of Oklahoma. You have learned that the Oklahoma Highway Patrol is withholding information about possibly hazardous material in one of the trucks. Can you order them to release the information about possible contamination of the river?

Webbers Falls – Public Issues

1. As a resident of the Webber Falls area, what do you want to know about this incident? List the top five questions you want answered.
2. You live along the river near where the bridge collapsed. Law enforcement is asking you to leave your home but won't tell you why. Can law enforcement force you to leave without giving you a reason? What recourse do you have if you leave under protest?
3. You think you may have a family member who was traveling over the bridge at the time of the collapse. How do you want to be treated by law enforcement? Do you want to talk to the news media about your loved one? How would you react if the media wanted to talk to you but law enforcement was keeping members of the media away?
4. As a news consumer, what do you expect to be able to see on TV and read in the newspaper?

Webbers Falls – Media Issues

1. How do you behave if law enforcement officers in a public area confront you? What do you do if they threaten to confiscate your cameras? What do you do if you are arrested and taken to jail?
2. Where are you going to find the records about the barge company? What public records will you have access to? What other information do you expect to get from public records?
3. What will be your approach to finding survivors to talk to? Who else will you interview? If someone has been told by law enforcement not to talk to you, but they want to talk to you anyway, is that privileged communication?
4. What are the ethical considerations you should be aware of in covering this type of story? How do you weigh these considerations with your mission of protecting the public's right to know?

Webbers Falls – Late breaking news #1

Late breaking news: A rumor is rapidly spreading through law enforcement and the media that one of the victims is a CIA agent who was leading an investigative team looking at an alleged local terrorism cell in the area. If you are the government, how are you going to determine if this rumor is true? If you are the media, are you going to publish or broadcast this rumor without additional confirmation? If you are the public, what do you think the media should do? You have one minute to decide.

Webbers Falls – Late breaking news #2

Late breaking news: One of the local newspapers has gotten access to an area not restricted by law enforcement. Their photographer has a photo taken during the rescue effort that shows a car being pulled out of the river with a dead person hanging partially out of the window. As a member of law enforcement do you try to get the newspaper not to run the photo, as the newspaper's editor, do you run the photo, and as a member of the public, do you want to see the photo. You have one minute to decide.