



August 19, 2015

Ashton B. Carter, Secretary
United States Department of Defense
1400 Defense
Pentagon
Washington, DC 20301-1400

Dear Secretary Carter:

A country that protects its journalists, protects the truth. The Department of Defense's recently issued *Law of War Manual* fails to do that.

The document creates dangerous ambiguity around the collection of information for use in reporting. Section 4.24.4 states that “[r]eporting on military operations can be very similar to collecting intelligence or even spying. A journalist who acts as a spy may be subject to security measures and punished if captured.” The *Manual* does not explain the distinction between newsgathering and spying except to note vaguely that journalists should “act openly and with the permission of relevant authorities” and that they should present “identification documents” to prove they are journalists.

These statements are contrary to some basic principles of journalism ethics. First, journalists should not be required to be licensed or to carry “identification documents,” although many do carry press credentials of some form. More importantly, to maintain independence, journalists should not be obligated to have “permission” of “relevant authorities” to gather or disseminate news. Journalists generally “act openly,” although to protect their own security in a war zone, it may become necessary to take actions that could be interpreted as not being “open.” The statements in the *Manual* are very broad and encroach on what we consider to be basic press freedoms.

The *Manual*, as it is currently drafted, might be read to empower governments to judge for themselves whether a U.S. journalist's work is spying, and to punish the journalist accordingly. This ambiguity heightens the risk to journalists around the world, and gives aid and comfort to governments and regimes that seek to restrict independent journalism.

The ambiguities in the *Manual* are particularly concerning for NPR, which has a mission-based commitment to fact-based, on the ground reporting from the frontlines of some of the most volatile conflict zones. Our journalists, including those who cover conflict from our 17 international bureaus, are committed to one objective: telling an accurate story. They, and the American public that relies on their coverage to make informed decisions about their world, deserve better than what this *Manual* presents.



It has clearly become far more dangerous to be a journalist in recent years. There are non-state groups and repressive regimes that have intentionally driven out all independent journalism to prevent any observation or criticism of their activities. We condemn those practices and, equally, we condemn any use of journalists or journalistic credentials or identification to cover espionage or any other military-related activity.

We ask that the DOD reconsider the language in its *Manual*. Although both spies and journalists may gather information, the main difference between the two groups is that journalists seek to inform the public generally whereas spies seek to benefit one select group by disclosing secretly the information they collect. Section 4.17.2 defines a spy as one “(1) acting clandestinely or under false pretenses, (2) in the zone of operations of a belligerent, (3) he or she obtains, or endeavors to obtain information, (4) with the intention of communicating it to the hostile party.” That language should be changed to reflect that a spy intends to “communicate it ONLY to the hostile party.” A journalist would distinguish himself or herself by disclosing information to the general public.¹

We also ask that the DOD clarify section 4.24.4 to make clear the distinction between journalists and spies. The DOD *Manual* should be revised to avoid any suggestion that journalists who fail to obtain the permission of relevant authorities or possess adequate identification documents might reasonably be mistaken for spies. To adequately address the important press freedom issues at stake, the DOD should reach out to and work with journalists and journalism groups to craft language that will suit the DOD’s legitimate needs while protecting the independence of journalists.

One of the freedoms the American military defends is the right for independent journalism to thrive. We look forward to your clarifications.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michael Oreskes', is written over a horizontal line.

Michael Oreskes
Senior Vice President of News and Editorial Director

cc: Jon Hart
Peter Cook

¹ Although it is generally unethical for a journalist to act “clandestinely” or “under false pretenses,” it is conceivable that in a war zone, it may be necessary for a journalist to behave in a way that might be interpreted as being secretive in order to preserve his or her security. The DOD should be sensitive to that fact and not presume that secretive behavior itself necessarily suggests that a journalist is a spy.