

FORMER PROFESSIONAL JOURNALIST SUGGESTS NYT SHOULDN'T PAY ITS JOURNALISTS

I'm working on a more substantive response to this Ben Wittes post claiming that the NYT's latest Snowden story doesn't mean the NSA spies on lawyers.

But I wanted to note how it begins.

Unless the public is really tiring of matters Snowden, the *New York Times's* latest is going to stir up the hornet's nest. "Spying by N.S.A. Ally Entangled U.S. Law Firm," blares the headline of the story by reporter James Risen and freelancer Laura Poitras—from whom the Times (which insists it never pays for information) sometimes procures Snowden-leaked documents and to whom it gives a byline when it does so. [my emphasis]

The apparent subtext here is that the NYT is paying Laura Poitras not to do journalism on a story she has covered in depth for the last 8 months, but instead for access to documents in her possession (or to use Mike Rogers' formulation, Poitras is fencing stolen property).

The comment is odd not just because Wittes has not (as far as I know) complained that the NYT also got (or may have in this case – I frankly don't claim to know these arrangements) Snowden documents directly from the Guardian in a necessary attempt to bypass the UK's crackdown on press freedom.

Odder still, according to Wittes' Brookings bio, he worked as a professional journalist for at least a decade, both as a WaPo staffer and as an independent contributor.

Between 1997 and 2006, he served as an editorial writer for *The Washington Post* specializing in legal affairs. Before joining the editorial page staff of *The Washington Post*, Wittes covered the Justice Department and federal regulatory agencies as a reporter and news editor at *Legal Times*. His writing has also appeared in a wide range of journals and magazines including *The Atlantic*, *Slate*, *The New Republic*, *The Wilson Quarterly*, *The Weekly Standard*, *Policy Review*, and *First Things*.

Therefore I assume he is familiar with the tradition in journalism that when someone reports – even (especially) for a major newspaper as a freelancer – one gets paid.

Except he seems to want to make an exception **just in this one case** so as to insinuate certain things about Poitras' reporting.

I do hope all of Wittes' reporter friends remind him that their profession is still ... a profession, and that equating professional journalism with crime sort of puts a damper on the whole freedom of the press thing, not to mention their claim that they should be compensated for their labor.

Disclosure: Obviously, with my affiliation with First Look Media, I do have a tie with Poitras (though not with this story). As an EW post, however, this post has no tie to First Look, and I have talked to neither Poitras nor anyone else at First Look before writing it.

Update: Wittes explains himself at length here (though the *@^\$&*# hackers have brought Lawfare down again). It seems Wittes is nostalgic for the time when newspapers and the government had such a cozy relationship the NYT could lie us into catastrophic war in the service of the government.

I confess that I'm troubled by the power dynamics at work—for reasons that I'm

sure will not endear me to my Twitter critics: I believe in institutional media. I believe in editors. And while I also deeply believe in the proliferation of voices that new media has enabled, I don't like it that Greenwald, Gellman, and Poitras have such enormous leverage against big media organizations which I expect to make responsible publishing decisions. Put simply, I am uncomfortable with the unaccountable power that this arrangement gives people like Poitras over organizations like the *New York Times*.