MLRC Media Law Conference
Sept. 29-Oct. 1, 2021
Lansdowne Resort Hotel, Leesburg, VA

PLENARY 3 Sept. 30th 2:45-4:00pm

The 50th Anniversary of the Pentagon Papers featuring New York Times journalists who worked on the project: Fox Butterfield, Hedrick Smith, Linda Amster, and Janny Scott. Moderator: George Freeman, MLRC.

**Linda Amster** was part of the New York Times’ Pentagon Papers team that was awarded the Pulitzer for public service. Amster worked at the Times for close to 40 years. During that period, she led the news research desk and wrote the Saturday News Quiz. Amster currently works as a freelance researcher

**Fox Butterfield** served as New York Times bureau chief in Saigon, Tokyo, Hong Kong, Beijing, and Boston and as a correspondent in Washington and New York City. During that time, he was awarded the Pulitzer Prize as a member of the team that published the Pentagon Papers and won a 1983 National Book Award for Nonfiction for *China: Alive in the Bitter Sea*, an account of his experience as the first Times reporter allowed in China after the revolution.

**Janny Scott** is a journalist and author. She was a reporter for The New York Times for fourteen years, writing about race, class, demographic change, and ideas. She was a member of the Times reporting team that won the 2000 Pulitzer Prize for national reporting for the series “How Race Is Lived in America.”

**Hedrick Smith** is a Pulitzer Prize-winning former New York Times reporter and Emmy award-winning producer and correspondent. After 26 years with The New York Times from 1962-88 as correspondent, editor and bureau chief in both Moscow and Washington, Smith moved into television in 1989, reporting and producing more than 50 hours of long-form documentaries for PBS over the next 25 years on topics from the inside story of the terrorists who mounted the 9/11 attacks and Gorbachev’s perestroika to Wall Street, Walmart and The Democracy Rebellion of grassroots citizen reform movements.

**George Freeman** is Executive Director of the Media Law Resource Center. He was most recently Of Counsel to the law firm of Jenner & Block. He is a former Assistant General Counsel of the New York Times Company, where he was at the forefront of numerous high-profile cases for the company and its affiliated businesses. George is a well-known speaker on media and First Amendment issues. He is the William J. Brennan Visiting Professor at the Columbia Journalism School and also teaches at New York University and CUNY’s Graduate School of Journalism. He has led or participated in many media groups and is the founder and Co-chair of the American Bar Association’s Forum on Communications Law annual conference.

* **What legal and ethical considerations did the New York Times reporters face in publishing the Pentagon Papers?**
* **How and when did the reporters realize the gravity of the disclosures?**
* **How were they able to verify the information? Protect their source(s)?**
* **Did potential criminal liability affect their reporting?**
* **What is the legacy of the Pentagon Papers on government secrecy and transparency?**

**‘We’re Going to Publish’: An Oral History of the Pentagon Papers**

New York Times, June 9, 2021

 <https://www.nytimes.com/interactive/2021/06/09/us/pentagon-papers-oral-history.html>

Excerpts:

**FOX BUTTERFIELD***Newark bureau chief for The Times*

My phone rings and it’s Abe Rosenthal’s secretary, and she says: “Fox, Abe wants to see you in his office right away. Can you get here in an hour?” He called me into his office, closed the door, and he said, “Fox, do you have any objection to working with classified government documents?” Finally, I said, “Well, Mr. Rosenthal, I guess if you don’t have any objection to working with those classified government documents then I don’t.” He said: “That’s a good answer, Fox. I’d like you to go over to the New York Hilton Hotel right now. Neil Sheehan has gotten a hold of this big secret inside history of how we got into Vietnam.”

**HEDRICK SMITH**
*Chief diplomatic correspondent for The Times*

We started working on it. And I mean, it was just mind-blowing. I mean, Neil is going crazy: “Look at this, here’s this message from Saigon military command to the White House. Was it true? Was the United States administration really involved, and behind the coup that overthrew [the South Vietnamese president] Ngo Dinh Diem in 1963?” Yeah, it was. There were one after another sort of startling disclosures. But in all honesty, initially it was just overwhelming: There was so much material. I mean this was, in journalistic terms, a nuclear weapon. It was way beyond a bombshell, because of the documents that backed up the narrative.

**LINDA AMSTER**
*Head researcher at The Times*

The Times had a news research staff — the first that any American newspaper ever had. There were five of us initially — all young women in our 20s — and when we were hired we might have doubled the number of women in the newsroom. We were at the back of the newsroom, which was a huge space of about an acre. James Greenfield came over to me and said, “Follow me.” That’s all he said. So I followed him. He turned his back on me and walked to the front of the newsroom, which was a long walk — didn’t say a word. We got to the front, where all the newsroom executives were — including Peter Millones, who was an assistant to the managing editor in charge of news administration. Jim presented me at his desk. Peter got up. Without saying a word, Jim got on my right side; Peter got on my left side. And they walked out of the newsroom, to the elevators, down to the lobby, through the lobby — not a word said — and got into a cab. Peter told the driver, “Hilton Hotel.” And the driver took us to the Hilton Hotel. Not a word was said. We got to the hotel, went through the lobby to the elevators, to the 11th floor. And Peter did a secret knock on the door, just the way they do it in all the spy movies. I was beyond flabbergasted. The door opened, and in the room I noticed a few people that I knew from the newsroom. Finally, I think it was Peter who said, “Well I guess you want to know why you’re here.” I said, “Yes.” And he said: “Well, we have obtained a secret history of the war in Vietnam commissioned by [former Secretary of Defense Robert S.] McNamara. It’s top secret. We can all be arrested and imprisoned because we have it, and we’re planning to publish it. And we need research, and we wonder if you will do it.” And I said, without blinking an eye, “Show me the papers.”

**AMSTER**
*Head researcher*

What they needed was to ensure that everything that was published by The New York Times was accurate, because if there were even one slip-up, the whole project could be undermined. So my job became to verify or discredit information in the Pentagon Papers. If I couldn’t verify it, then it couldn’t be used. And actually, when we went and looked at the footnotes to see which sources the authors of the papers had used, those sources were often The New York Times, which made it easier to dismiss the question of, “Would our publishing this pose a danger to national security?” Not only was it public knowledge, but it was public knowledge from The Times’s own reporting. The other responsibility I had was to determine whether the documents themselves were actually being published for the first time or not. We wanted to make sure that, if we were saying these were secret papers, we weren’t misinforming the public.

**BUTTERFIELD**
*Newark bureau chief*

I think we were all concerned that one of the maids would notice something, because we brought over all these big steel file cabinets from The New York Times and the big typewriters. But after several weeks and then a month, almost two months, it just didn’t happen. The men who brought in the room service trays on their little folding tables with wheels, they didn’t ask either. After a while, we just said: “Well, apparently they’re not interested. Who knows what goes on in hotel rooms in Manhattan?” We were just doing another strange thing in a hotel room in Manhattan.