

Siegel Teitelbaum & Evans, LLP
Attorneys at Law
260 Madison Avenue, 22nd Floor
New York, New York 10016

Telephone:
(212) 455-0300
Facsimile:
(212) 455-0301

February 11, 2013

The recent controversy over the film "Zero Dark Thirty" implicates free expression, artistic freedom, and public policy issues that are of great concern to us.

Many, if not most, of us who have signed this letter, do not take second place to anyone in our opposition to torture. And many, if not most, of us are persuaded by the evidence we have seen, including the evidence cited in the letter from United States Senators Dianne Feinstein, Carl Levin and John McCain, that torture is generally not a reliable producer of useful information. But the three Senators telling the producers of "Zero Dark Thirty" that their film was "factually inaccurate" and that Sony Pictures had "an obligation" to conform its film to the Senators' view of what was "factually accurate" as well as their request for Sony Pictures to alter the film's content, crosses the line of appropriate and constitutional action. History demonstrates, in particular the 1950's McCarthy period, that government officials should not employ their official status and power to attempt to censor, alter, or pressure artists to change their expressions, beliefs, presentations of facts or political viewpoints. This bedrock principle is on point here where the Senators wrote the following to Sony Pictures: "Please consider correcting the impression that the CIA's use of coercive interrogation techniques led to the operation against Usama Bin Laden."

A letter from United States Senators to a private citizen that includes the words "please consider correcting..." has an inevitable chilling, coercive and intimidating effect on citizens, including a private film company, a screenwriter and a film director. It is an inappropriate and uncalled for effort by government officials to control viewpoints expressed by private citizens, and to conform those viewpoints to what government officials think is correct.

If the Senators want to investigate what role CIA officials played in the making of the film, they have a right to investigate the CIA. If they want to issue a public report designed to persuade the public that torture did not, and does not generally, produce reliable or critically useful information, and to cite what evidence they can to support that view, they can certainly appropriately do that. But they should not be "requesting" that artists or any other private citizens conform their views to what the Senators believe, nor should they be investigating, or even threatening to investigate the film makers. Once allowed to do that, they and all other government officials would, now and prospectively, gain the authority to pressure other filmmakers, as well as book, newspaper and magazine publishers on other issues. How this would differ from the pressures brought upon Hollywood during the fifties is

difficult to discern. One need only imagine similar moves made against a wide range of historical films and books, whose implications displeased some government officials, to see where this would lead.

We, as a nation committed to open and robust freedom of expression, should have learned by now that the concept of an open marketplace of ideas means that we allow all viewpoints to be expressed in the belief that the good ideas defeat the bad ideas. We have learned that censoring ideas or artistic expression that some find offensive, inappropriate, or wrong-minded is antithetical to democratic principles, and that utilizing the power of government to alter such expression is always mischievous and short-sighted. If the First Amendment means anything, it means that.

Very truly yours,

Norman Siegel, Partner, Siegel Teitelbaum & Evans, LLP; former Executive Director, New York Civil Liberties Union (1985-2000)

Saralee Evans, Partner, Siegel Teitelbaum & Evans, LLP; former acting Justice, New York State Supreme Court

Alan Dershowitz

Floyd Abrams, author: "Friend of the Court: On the Front Lines with the First Amendment"

Nadine Strossen, Professor of Law, New York Law School; former President, American Civil Liberties Union (1991-2008)

Stuart Gottlieb, Columbia University; author, "Debating Terrorism and Counter Terrorism"

Letty Cottin Pogrebin, author, and co-founder, Ms. Magazine

Joel Gora, Professor of Law, Brooklyn Law School

David Goldberger, Professor Emeritus, Ohio State University College of Law

Ruth J. Abram, Founding President, Lower East Side Tenement Museum; founder, International Coalition of Sites of Conscience

Miriam Hyman, Partner, Duane Morris, LLP

Ira Glasser, former Executive Director, American Civil Liberties Union (1978-2001)

Herbert Teitelbaum, Civil Rights Lawyer; Partner, Siegel Teitelbaum & Evans, LLP

Laurence Tribe, Carl M. Loeb University Professor and Professor of Constitutional Law, Harvard Law School

Tony Kushner, playwright and screenwriter

Steven Hyman, Partner, McLaughlin & Stern, LLP; former Chair, New York Civil Liberties Union (1997-2003)

Hon. Emily Jane Goodman, Justice New York State Supreme Court (ret)

Wendy Kaminer, author and lawyer

Harvey Silverglate, attorney and writer

Nancy Rosenblum, Senator Joseph Clark Professor of Ethics in Politics and Government, Department of Government, Harvard University

Steven Teitelbaum, Professor, Washington University School of Medicine

Cal Snyder, author and editor

Hussein Ibish, Board Member, Defending Dissent
Foundation

Sue Udry

Edward Tivnan, author and TV writer

Woody Kaplan, Board Member, Defending Dissent
Foundation

Richard Stayton, journalist

Tom Gerety, Collegiate Professor of Law and Humanities,
New York University

Affiliations noted for identification purposes only