



# THE IMPORTANCE OF SPEAKING OUT

Behind the scenes on Alex Gibney's Sundance hit *Going Clear: Scientology and the Prison of Belief*

BY MICHELLE ORANGE

**F**ILMMAKER ALEX GIBNEY had turned down an opportunity to make a Scientology documentary in the past. It didn't seem worth the hassle.

The prolonged silence of the media and other would-be critics, for fear of the hefty lawsuits and other harassments for which Scientology is famous, is in part due to a flaw in the U.S. legal system.

"If you have deep pockets, you can use the legal process as a kind of punishment," Gibney told me. In the wake of the 1991 *Time* cover story on the church, titled "The Thriving Cult of Greed and Power," Scientology filed a \$416 million defamation suit against the magazine; the case dragged out for years, and cost Time Warner several million in legal fees. "Sometimes people take a risk-

reward stance when it comes to lawsuits," and find it easier to stay quiet, Gibney said.

Yet Gibney and writer Lawrence Wright have together formed the public faces of new feature *Going Clear: Scientology and the Prison of Belief*. Friends since their first collaboration (Gibney's documentary adaptation of Wright's 2006 one-man play, *My Trip to Al Qaeda*), Gibney has again adapted one of Wright's works. This time, it's the 450-page investigation into the church of Scientology: its founder, its following, and its madness.

Wright's book, a meticulous portrait of a cult's formation and the mysteries of cult faith, changed Gibney's mind; the scope and vehemence of Scientology's threat had finally made speaking out a necessity. Shortly after the book's 2013 publication, HBO commissioned the documentary with

Gibney attached. Everyone involved had a clear sense of the risks: HBO Documentary Films president Sheila Nevins has said she had "probably 160 lawyers" vetting the film, a number I was told is exaggerated, but not by much. "I'm sure that HBO's legal tab is considerable," Wright said.

"I knew they would come after me," Wright said of writing his book. "It was to be expected that there would be legal assaults—and there were." He had no reservations about entrusting Gibney with his book: "We're kindred spirits." Gibney was willing and well-prepared. The secrecy Wright maintained while writing his book—he used disposable cell phones and encrypted email, for example—was imperative for Gibney, as well. The moviemaker avoided shooting his sources in their homes, and was careful not to be seen arriving at an interview location at the same time as a subject, lest they be photographed together.

Wright was critical in persuading some of his key sources to appear on camera, in the series of interviews that structure the film. "It was very hard [to shape the narrative] because the book is so rich," Gibney said. "Originally I was hoping to do much more." The book details the church's two major eras: that led by its founder, L. Ron Hubbard, and that led by Hubbard's successor, David Miscavige. "So many stories had to be cut. Ultimately, we opted for a structure that tried to tell that story in brief, but through the tales of individuals."

In the film, eight central figures—among them filmmaker Paul Haggis and several former members of the church's executive body, including Marty Rathbun and Mike Rinder—function as credible, first-person conduits for an otherwise vast and incredible story. Gibney conducted some of his own research to help support this approach, building up the story of Sara Northrup, Hubbard's first wife.

Rinder, at least, "jumped at the chance" to participate. In his role working with Miscavige, Rinder witnessed, suffered, and participated in all manner of abuse and harassment before leaving the church in 2009. Having recently watched *Mea Maxima Culpa*, Gibney's 2012 exposé of abuses within the Catholic Church, when Wright called asking for his help, Rinder understood that Gibney's Oscar-winning imprimatur, along with that of HBO, would help the story reach an even larger audience. As *Going Clear* illustrates, the church treats certain of its

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exiles to aggressive surveillance and harassment; Rinder once found a camera hidden in a birdhouse on his property. But he refuses to stop talking. "I could have walked away and hidden and lived a hermit's life of peace and quiet. But I didn't feel like that was the responsible thing to do."

Gibney looked for a way to reflect the importance of speaking out as it occurs both within Scientology (through extensive part-therapy, part-interview sessions known as "auditing"), and within the film itself. "My own filmmaking process...is a question-and-answer process," Gibney said. The documentary's visual reference to auditing—which uses a machine called an "e-meter," imbued with religious significance, to measure an interviewee's responses—"was a formal device. It was a way of giving the film an aesthetic focus."

Not all potential subjects were as eager as Rinder. Those who wouldn't speak to Gibney, including Katie Holmes and Nicole Kidman, were prevented from doing so by non-disclosure agreements, he suspects. "I reached out to Katie, but I wasn't able to get her to talk. Through her reps she said she wanted to talk but couldn't. Same thing with Nicole." Both women, of course, were once married to Tom Cruise, who along with Miscavige and fellow Scientology figurehead John Travolta, receives the film's

harshest scrutiny. "I think it's time," Gibney explained. "We really call out Tom Cruise—not to victimize him but just to make him aware of his responsibility." According to the film, under the church's auspices Cruise enjoys protection, the procurement of girlfriends, and gifts rendered by what Wright calls "near-slave labor."

The pressure is strategic: "The celebrities inside Scientology who are being used to promote Scientology are the people who have the most responsibility for demanding reform inside the church," said Wright.

Perhaps most disappointing to Gibney was the refusal of every major network to license their Scientology-related footage for use in the documentary. "We used it anyway, via fair use," Gibney said. "But I found that staggering." The same networks had no problem licensing footage for *Mea Maxima Culpa*. To Wright, it's "an indication of the residual chilling effect that the church still casts over our reporting community."

Another of the film's ambitions is to shed light on the scandal of how Scientology came to be considered a religion at all. In the early '90s, under the threat of a ruinous tax audit, Miscavige devised a campaign to cow the IRS into granting Scientology the tax-exempt status that all federally recognized religions enjoy. He

deployed a barrage of lawsuits designed to hamstring the IRS, as well as hunts for information that might publicly embarrass the agency. The crazy part: It worked! In the

ensuing 20 years, Scientology amassed a fortune estimated at \$3 billion. When asked if the film might prompt the IRS to take another look at Scientology, Gibney sighed: "I sure hope so."

Journalist Tony Ortega, who functions as a voice of the media in *Going Clear*, suspects Gibney's hope will be realized: "It's going to take an enormous amount of pressure from the government or the media or the public. But recently we've seen some stirrings that the IRS may be interested again. This film could push that."

A related but more abstract concern, for Gibney, involves understanding the process by which a person sacrifices their money, their wellbeing, their dearest relationships, and finally their dignity in order to remain faithful to the church. "One of the things that was most important about Larry's book is this idea of the prison of belief. Rather than do an attack on Scientology, [I wanted] to understand what people got out of it, and how they then got imprisoned by a kind of blind faith," Gibney said. "Understanding that actually made the whole story deeper, more human, but also more universal, because I think all of us get blinded by certain belief systems that allow us to do things that we might not otherwise do."

Contemplating how otherwise normal, healthy Americans might willingly submit to years of suffering in "the hole," the facility where Scientologists suspected of giving offense are effectively incarcerated and sentenced to hard labor, the comparison Gibney draws from his own work is not to the Catholic Church but to his 2005 examination of corporate corruption, *Enron: The Smartest Guys in the Room*.

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Former Enron employees, he said, “some of whom did sort of appalling things...and told the most tremendous lies,” described starting out telling very small lies, and then slightly larger lies, inching closer to a moral line. “And then maybe [they would] nudge the line, and then they would look back and realize the line was miles behind them. I think that’s how it works.”

*Going Clear* works by opening a conversation that Gibney and Wright hope will continue until Scientology is held to account. “The point is, it’s time to stop being afraid of Scientology,” said Wright. “There’s a chilling effect only if you accept being chilled, and if you don’t, there are even more people who are willing to write straightforwardly about it.” So that the next time someone makes a Scientology documentary, more will be willing to speak, and fewer bodies will refuse to cooperate. “That would be a step forward.”

Shortly after the film’s January premiere, an eight-minute video popped up on YouTube, designed to refute the claims made by *Going Clear*. The tone is incredulous, even sneering; the video, produced under Scientology’s “Freedom Media & Ethics” banner, calls Gibney “HBO’s propagandist in chief,” and compares parts of *Going Clear* to Nazi propaganda. Everything about the church’s rebuttal fits the film’s portrayal, from the menacing language to the fixation on real estate to the pagodas of cash it must have taken to make this ad the number one Google search result for all relevant keywords. Separate videos have been made which criticize the film’s sources, including Haggis and Rathbun. Almost certainly, there has never before been a movie that has been on the receiving end of so much offensive maneuvering—before it even premiered.

For Rinder, it’s all worth it. *Going Clear*, he believes, “is going to embolden a lot of people to feel it’s safe to speak and safe to report. The more voices there are speaking out about the abuses, the less likely the abuses are to continue.”

I asked Rinder what his life is like now, clear of the church but devoted to exposing its abuses, birdhouse cameras be damned. He paused, his eyes widening for a moment. “Happy,” he replied. **MM**

*Going Clear: Scientology and the Prison of Belief* opened in selected theaters on March 13, and premiered on HBO on March 29, 2015.

# STAYING CLEAR

The First Amendment can help protect you and your documentary from lawsuits—for the most part

BY DAVID ALBERT PIERCE, ESQ.

**I**F THERE’S ONE thing both Alex Gibney and Scientology should agree upon, it’s the value of the First Amendment: freedom of speech, religion, and the press (in addition to the freedom to assemble and petition the government). The constitutional right that permits Scientology to act in the name of its religion without government interference is the same constitutional right that permits Gibney and co. to publicly examine those acts.

A documentary can take a critical look at a subject without its consent. This occurs with impunity because documentarians have substantial First Amendment protections derived from those accorded to the press. Though any disgruntled entity can sue a documentarian, winning that lawsuit is an entirely different story. That said, for moviemakers who would like to avoid lawsuits and the costs associated with having them fought, here are seven tips to keep you in the clear—particularly when you have a volatile subject who might be out for your blood:

→ **Read the Society of Professional Journalists’ Code of Ethics.** The First Amendment may permit you to say whatever you like, but ethically speaking, *should* you? The watchwords of the SPJ Ethics Code ([spj.org/ethicscode.asp](http://spj.org/ethicscode.asp)) are (a) seek truth, (b) minimize harm, (c) act independently/disclose conflicts of interest, and (d) be accountable and transparent.

→ **Avoid Defamation Lawsuits.** Do not communicate false statements that can cause

actual damage, impugn integrity or imply criminality or perversity. Cause for action exists only around a false statement of fact, not opinion. Also, if the false fact was rendered about a public figure, it must be shown that the false statement was made with “malice.” Under the landmark case of *New York Times v. Sullivan*, “malice” exists when the statement is made either with knowledge that it is false, or with reckless disregard as to whether it is false. If, as HBO touts, 160 attorneys reviewed *Going Clear*, you can be certain the bulk of their time was devoted to attempting to verify every statement rendered in the film.

→ **Don’t Violate National Security.**

Historically, the only time courts permit the government to outright censor a work is when national security is at stake. This can lead to both civil and criminal penalties.

→ **Know the Difference Between Reportage and Participation.** Documentarians must not aid, abet or encourage illegal conduct to occur for the benefit of the camera. When documentarians become investigators, ethical issues can arise over what should be turned over to law enforcement. Of course, if you are working in conjunction with law enforcement to expose criminality, you should comply with law enforcement guidelines.

→ **Clear Copyrights as Often as Possible.** If a copyright holder is hostile to the subject of your documentary, fair use may be adopted as a means of using the amount of a work necessary to convey your film’s message. Remember, though, that fair use is not a type of consent; it’s a defense to claims raised in litigation. Want to avoid litigation? Avoid reliance on fair use.

Fair use best practices are a complex concept, for which skilled clearance counsel should be consulted. The Stanford Copyright and Fair Use website ([fairuse.stanford.edu](http://fairuse.stanford.edu)) is dedicated to informing the public about what the law permits in the balance between the First Amendment and protection of copyrighted proprietary works.

→ **Remember, Controversy Breeds Controversy.** Litigation risks are always heightened when your film acquires a reputation of being an “exposé.” The more controversial your subject, the more you should consider whether incidental uncleared items really need to be in the shot. If it’s not part of the story, consider removing or pixelating, in the interest of avoiding having an otherwise neutral party become a disgruntled one. **MM**