

Warring Against Sources: The Australian National Security State, Journalism and the Public Interest

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“What’s gone on this morning sends clear and dangerous signals to journalists and newsrooms across Australia. This will chill public interest reporting.” — News Corp Australia spokesperson, [The West Australian](#), June 4, 2019

These are dark times for journalists and publishers. It did not seem coincidental that **Annika Smethurst**, a News Corp journalist and political affairs editor, would be a target of an Australian Federal Police warrant. **Chelsea Manning**, courtesy of [a ruling](#) by **Judge Anthony Trenga**, remains in federal custody in the United States. **Julian Assange** is [facing decline](#) in the maximum security abode that is Belmarsh prison in the United Kingdom.

The story supposedly linked to the AFP warrant had been published by Smethurst on April 29, 2018. More than a year had elapsed, with little in the way of public murmurings. Australians have, for the most part, fallen under the anaesthetist’s spell regarding intrusive, unnecessary and dangerous national security laws. Another set of them would hardly matter.

But since the story, titled “Let Us Spy on Aussies” broke last year, the security wallahs have been attempting to root out the source, mobilising the AFP in the process. The account detailed information on discussions between the Home Affairs and Defence departments on the possibility of granting the Australian Signals Directorate powers to monitor the emails, bank records and text messages of Australian citizens. Letters between **Secretary of Home Affairs Mike Pezzullo** and **Defence Secretary Greg Moriarty** featured.

When the archaic official secrets provisions of the *Crimes Act 1914* (Cth) were repealed in June 29 2018, leaving way for new regulations dealing with national security information, those dealing with publishing such material felt slight relief. A public interest defence, lodged in the [National Security Legislation Amendment \(Espionage and Foreign Interference Act 2018](#), had been introduced, protecting those “engaged in the business of reporting news, presenting current affairs or expressing editorial or other content in news media”.

The content in question might cover what the Act designates to be “inherently harmful information”: security classified information; information obtained by, or made by or on behalf of, a domestic intelligence agency or a foreign intelligence agency in connection with the agency’s functions; or information on “the operations, capabilities or technologies of, or methods or sources used by, a domestic or foreign law enforcement agency.”

It always pays, when reading such sections, to consider the exceptions. Conduct deemed a contravention of provisions regarding intelligence sources (the publication of names or identity of staff, for instance), does not satisfy the test, nor conduct deemed to assist, directly or indirectly, “a foreign intelligence agency or a foreign military organisation.” Logical, you might say.

The ineffectual nature of those provisions is borne out by how narrow the protection is. The Law Council’s efforts to convince the federal government to extend the public interest defence to suppliers of the information was rejected, leaving the way open for such cases as Smethurst’s: spare the journalist but attack the source. According to Law Council president **Arthur Moses**, [the protection](#) is shabby, a mere “mirage because it does not cover a journalist’s source.”

The other unspoken and unscripted assumption is how anaemic public interest defences work in Australian law. Its operation starts from a reverse premise from US analogues, privileging the necessity of ignorance against the dangers of revelation. The government keeps you ignorant for your own good; material published might be inimical to the public interest, but that “interest” is always that of the state, not the general citizenry.

So we come to the morning of June 4, with Smethurst readying to leave for work, only to witness Australian Federal Police bearing down heavily with a warrant. A [statement from the AFP](#) subsequently confirmed that it had “executed a search warrant at a residence in the ACT suburb of Kingston today (4 June 2019)” on a matter relating “to an investigation into the alleged unauthorised disclosure of national security information that was referred to the AFP.” The AFP “will allege the unauthorised disclosure of these specific documents undermines Australia’s security.”

The gravity of the allegations was affirmed [in an update](#):

“This warrant relates to the alleged publishing of information classified as an official secret, which is an extremely serious matter with the potential to undermine Australia’s national security.”

The incident in Canberra proved catching. Hours after the AFP’s move on Smethurst, radio 2GB Drive presenter and Sky News contributor Ben Fordham revealed that he had also been the subject of an investigation after [discussing the attempt](#) of six asylum seeker boats to reach Australia. The story piqued the interest of a Department of Home Affairs official, who proceeded to scold Fordham’s producer for discussing “highly confidential” material. “In other words,” [explained](#) the broadcaster bluntly, “we weren’t supposed to know about it.”

In the course of Wednesday morning, with no settling of dust in order, a second raid by the AFP was executed against the Sydney offices of the national broadcaster, the ABC. Those named in the warrant – investigative journalists Dan Oakes and Sam Clark, along with ABC director of news **Gaven Morris** – were linked to [The Afghan Files](#), a set of ghoulish stories in 2017 revealing allegations of unlawful killings by Australian special forces in Afghanistan. Australia’s national security state has gotten very busy indeed.

Australian **Prime Minister Scott Morrison**, when pressed about Smethurst’s case, was untroubled. Having played the role of fatherly minder of the Australian nation, he was not going to let any alleged breach of security go by. Currently on a visit to the United

Kingdom, he [expressed little concern](#) about the morning raid on a journalist's home: "it never troubles me that our laws are being upheld."

While News Corp has its demonic familiars (Rupert Murdoch's influence hangs heavily), it was hard to disagree with the premise advanced [by a spokesperson](#).

"This raid demonstrates a dangerous act of intimidation towards those committed to telling uncomfortable truths. The raid was outrageous and heavy handed."

The Federal Parliamentary Press Gallery, [voicing agreement](#), considered the police raid "an outrageous move that should concern all Australians who value their freedom in an open society." With confidence, the statement asserted that it was "in the public interest for us to know of any plan for greater powers to monitor our messages."

Chris Merritt, legal affairs editor of *The Australian*, [saw the raid](#) as an ominous signal to all investigative scribblers. "Welcome to modern Australia - a nation where police raid journalists in order to track down and punish the exposure of leaks inside the federal government". But such an Australia was also chugging along merrily before the raid on Smethurst's home. (Like the unsuspecting priest living in a dystopian surveillance state, the police finally came for them.)

Should Assange ever make a return to the country of his birth, he is unlikely to find peace in this US satellite state, with its flimsy public disclosure and whistleblowing laws, its mirage-like protections. Hunting publishers, journalists and their sources is de rigueur down under.

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