

THE MEDIA: DISTORTING INFLUENCES AND REDEEMING EFFORTS

Quentin Dempster

On June 5, 2013 *The Guardian* published revelations about the US National Security Agency's mass surveillance of civilian populations worldwide.ⁱ In alleged breach of Congress's *USA Patriot Act* constraints, and assuredly in breach of the United Nations' convention of an individual's inviolate right to privacy, the NSA, with its *Five Eyes* partners (the UK, Australia, New Zealand and Canada) had been establishing real time access to the mobile phones and computers of everyone accessing digital networks through service providers. Since the foundation in 1989 of the computer-to-computer linked world wide web by programmer Tim Berners Lee, the internet has transformed communications and is now fundamental to information, media, politics, trade, commerce, finance, industry, defence, diplomacy, government, health, education, sport, entertainment and social engagement as well as crime, terrorism and espionage.

The 'digital revolution' and the limitless storage capacity of cyberspace has, since 1989, introduced what is now called 'the information age'. It has many upsides in making vast knowledge instantaneously and universally accessible to everyone. It has many downsides through criminality, scams and money laundering and the exploitation of the vulnerable, gullible and unwary. By 2010, 68 percent of the world's population were using digital mobile telephony; 26 per cent were using the world wide web.ⁱⁱ

When NSA contractor Edward Joseph Snowden went public in 2013 through the exposure facilitated by his selected journalists, *The Guardian* and other supportive media outlets, he did us a great service. He reminded us of George Orwell's warnings about a population controlled through fear and the contrivance of a perpetual war in the contemporary context of our perpetual war on terror. 'The problem with mass surveillance is that when you collect everything, you understand nothing,' Snowden said. 'Government spying on its citizens changes the balance of power between the citizen and the state.' Today in 2016 Edward Snowden is still facing charges under the US Espionage Act and, if convicted, would be imprisoned indefinitely.

Such was the trauma suffered by the American people after the September 11, 2001 aeroplane suicide attacks on the Pentagon and the twin towers in New York that a counter terrorism imperative was used to justify the whatever-it-takes practices in national security. At the same time 'enhanced interrogation techniques' were deemed legal as was the use of drone warfare to eliminate targets ultimately approved through a legally devised check-list by the commander in chief.

In his recent movie *Snowden*, film director Oliver Stone has Snowden's national security mentor, a man the scriptwriters called Corbin O'Brian (actually a character from Orwell's 1984), justify illegal and unconstitutional conduct as the bastardry which must be accepted by true patriots in warfare.ⁱⁱⁱ Terrorism was the political cover national security agencies needed to devise better systems with the stated sole purpose of keeping us safe and protecting our way of life. But, the O'Brian character declared, terror was but a minor part, as were the 'sand and oil' wars of Afghanistan and Iraq. The real battle was for economic dominance through cyber warfare where entire systems could be crippled unless superiority could be achieved. Hence, the investment of billions of dollars of taxpayers' money in national security and encryption to protect the interests of the U.S. and its subsidiaries. NSA contractor Edward Snowden courageously told the citizens of the world what was really happening.

Usually this sort of information is anonymously leaked to intelligence writers and journalists and can so easily be denied, put down as conspiracy theory or simply ignored. Since 9/11 there has been a movement by legislators at the behest of security agencies to criminalise journalism. But Snowden made the tactical decision to identify himself to the world through selected documentary and film

makers, journalists and media outlets to establish the fact that he was acting alone and out of conscience.

Social media is now playing an increasingly influential role in diversifying the way people are finding out what is really going on. The so called 'corporate media' hate it because it empowers every user with a substantive story to tell. 'Corporate media' and government with tendencies to information control can be got around in an instant. On September 29, 2015 Edward Snowden joined the social media platform *Twitter* and tweeted 'Can you hear me now?' Within 24 hours he had two million followers and from his flat in Moscow can reach the world with 140 characters of pertinent facts and observations.^{iv}

In Australia the Snowden files contained embarrassing details of our Australian Signals Directorate tapping the mobile telephones of Indonesian president Susilo Bambang Yudhoyono, his wife and senior Indonesian Government officials.^v

The publication of this material by the ABC and *Guardian Australia* was used by incoming Foreign Affairs Minister, Julie Bishop, in part, to justify her decision to terminate the ABC's Australia Network contract, which resulted in the vandalising of Radio Australia and the withdrawal of *in situ* correspondents helping to engage Australia with the Asia Pacific region. The Minister was supported in her decision through a campaign of vilification of the ABC by the Murdoch Press.^{vi} For me it made public support for public broadcasting, with all its admitted faults, all the more important for the civilians of Australia. It made me reflect on the distorting influence of the Murdoch Press on political discourse in our country.

Rupert Murdoch is backing Donald Trump in the November US presidential election. Good luck to him. It's a free country with, through the first amendment, a constitutional guarantee of a free press. But it was bemusing to observe Mr Trump declare in his TV debates with Hillary Clinton that he, Trump, had always opposed the coalition of the willing's invasion of Iraq in 2003. 'It was a disaster,' Mr Trump asserted and exacerbated by the 2013 'untimely' US withdrawal creating the power vacuum which led to the creation of Islamic State or ISIS.^{vii}

Mr Murdoch, who dominates Australian media through capital city tabloids and regional outlets and through *The Australian* newspaper, has played intimidatory, stand-over games with our domestic politicians; just ask Tony Windsor and Rob Oakeshott. Mr Murdoch supported the Iraq invasion. He takes no responsibility for its consequences. There is, of course, no intellectual honesty displayed in his own twitter feed or Islamophobic pronouncements by his handpicked mouthpieces on Fox News or in any other outlet.^{viii}

Counter-terrorism analysts say it is foolish in the extreme for constituent politicians and shock-jock media to demonise Muslims within communities as it isolates them, producing psychological stressors among young men in particular, which can be exploited by jihadi recruiters.

And there on page 26 of his revealing memoir *Making Headlines*, former editor-in-chief of Murdoch's *The Australian*, Chris Mitchell, makes this stark acknowledgement of Murdoch power.

As has been widely acknowledged all major News Corporation titles around the world supported the (invasion of Iraq) ... Personally, I opposed the neo-conservative view of the war ... I believed the invasion was a mistake ..."^{ix}

Now Mr Mitchell tells us.

The Australian, the so called 'heart of the nation' did not have the courage of this editor-in-chief's personal convictions. It confirms my worst fears about Murdoch's distorting influence. Mr Mitchell will say the editorial line is the publisher's prerogative. Mr Mitchell seems to seek forgiveness by writing that he published opinion pieces in *The Australian* from analysts questioning the invasion of Iraq.

While he was happy to breach the personal confidences he shared with the hapless Kevin Rudd, Tony Abbott and Julia Gillard to draw voyeuristic attention to his book, he gave his readers no insight into Murdoch's telepathic control or any efforts he, as an editor-in-chief, might have made at editorial and internal strategy conferences about America's misjudgement. Did he ever say: 'Rupert, this Iraq thing is a big mistake for the US - and Australia?'

Robert McNamara (1916 - 2009), US Secretary of Defence in the Kennedy and Johnson administrations, at least had the intellectual honesty before his death to acknowledge the Vietnam War was a lethal folly, unjustified, a misreading of the post-colonial motivations of the Vietnamese people. In *Time* magazine's ten greatest recorded apologies McNamara was quoted as saying: 'We were wrong. Terribly wrong (on Vietnam). We owe it to future generations to explain why.'^x

We are still waiting for former Australian Prime Minister John Howard to acknowledge his own gross error of judgement. But no. All he will say is that he thought invading Iraq was the right thing to do given the available evidence at the time.^{xi} The Australian Parliament has not followed the lead of the British Parliament which established the Chilcot inquiry into intelligence failures in the lead up to the Iraq War.^{xii} There has been no effort by our Parliament to learn from this monumental folly.

One of Chris Mitchell's favourite Australian journalists, the foreign correspondent Michael Ware, did have the courage of his journalism. In his world-released documentary *Only the Dead* in 2015, Ware exposed the genesis of IS within Iraq itself after the invasion from about 2004. He showed exactly how IS evolved from Bathist elements of Saddam Hussein's army but is now escalating its methods by using videoed suicide bombings as part of the Iraqi insurgency and later through videoed beheadings to terrorise people worldwide, bringing with it the current phenomenon of jihadi recruitment online and lone wolf and copycat terror.^{xiii} Orwell's perpetual war is the result. The documentary shows that through the folly of the Iraq invasion the coalition of the willful - George Bush, Tony Blair and John Howard - created the psychopathy which has led to random but IS-branded acts of terror all over the world.

At least Chris Mitchell, promoting himself as one of this country's greatest newspaper editors, now says the invasion of Iraq was a mistake. We have to be grateful for this?

In his excellent book *Rupert Murdoch: A Reassessment* Australian, author Professor Rodney Tiffen, Emeritus Professor in Government and International Relations at the University of Sydney, looked at a Murdoch culture of criminality, phone hacking, unethical conduct, intimidation or duchessing or bankrolling of politicians, double crossing of business partners and rivals.^{xiv} The book, fully indexed and with all authorities and references, amounts to an excoriation. Professor Tiffen writes:

It is an ingrained habit of mind for us to think of the press as a protector of democracy rather than a threat to it. It is just as much a part of making democracy work better to make media power accountable as it is to make government power accountable. For American journalist Carl Bernstein, 'no other story eluded the American press as much as that "of Murdoch's destructive march across our democratic landscape".'^{xv}

Professor Tiffen concludes:

Murdoch is the largest employer of journalists in the English-speaking democracies but in many ways lacks sympathy for their professional ideals or impartiality and independent disclosure. He has been more intent on being a political player, and has often wielded power impressively to help his favoured politicians and his own commercial interests. His power, though, has more often diminished rather than benefited the quality of our democratic life.^{xvi}

I have reported that the distorting influence of Rupert Murdoch in this country has infected the public broadcaster itself through the practice of party-political stacking of the ABC Board. One Howard Government-appointed chairman, Maurice Newman, invited Rupert Murdoch to present the prestigious Boyer lectures on both ABC television and radio. This was akin to the Senate of the University of Queensland awarding the hillbilly dictator Johannes Bjelke-Petersen an honorary doctorate of laws and Her Majesty the Queen knighting Bjelke-Petersen for his services to the Westminster system.

More disturbingly Mr Newman, in his official capacity as chairman of the ABC and a climate change sceptic, tried to redefine journalism itself by insisting that ABC journalists had to be what he called 'agnostic' on the issue. The journalists' code of ethics and ABC editorial policies require practitioners to 'report and interpret honestly, striving for accuracy, fairness and disclosure of all essential facts ... do not suppress relevant available facts, or give distorting emphasis.'^{xvii} Yet here we had a partisan political player advising journalists to be agnostic in their reporting. Agnosticism defeats journalism. It can only produce what is called 'false balance' or 'he said/she said' claim and counter claim. Committed journalists are required to interpret, analyse and report news which orders and weighs the material through the application of editorial judgement. What is the lead? Why is the information we are about to publish so important? What's the story here?

That is why it was so reassuring to see so courageous an informant as Edward Snowden, who was putting his life and liberty on the line to warn the world about mass surveillance, place his trust in Glenn Greenwald and *The Guardian*. That is why it was so reassuring to see Andrew Wilkie, now the independent MP for Denison in Tasmania, place his trust in *Channel Nine's* Laurie Oakes when Wilkie became the only intelligence officer in the *Five Eyes* to resign in protest at the humanitarian consequences of the then proposed invasion of Iraq, which he said could not be justified through any professional analyst's risk assessment of Iraq's alleged possession of weapons of mass destruction.

That is why it was so reassuring to see the *Newcastle Herald* journalist Joanne McCarthy, herself a Catholic, build trust over 15 years of talking to the now adult victims of child sexual abuse within the Maitland-Newcastle diocese of her church.^{xviii} When then Prime Minister Julia Gillard saw the extent of the church and police cover-up she persuaded all the states to join the Commonwealth in a Royal Commission into ALL institutional responses to child sexual abuse - work which has taken years and which is bringing attitudinal, law enforcement and cultural change.

That is why it was so reassuring to see former *Australian Financial Review* journalist Gerard Ryle and his colleagues in the *International Consortium of Investigative Journalists* publish the *Panama Papers* downloaded from a still anonymous source from the holdings of Mossack Fonseca, the law firm and corporate service provider which set up tax avoidance or tax-haven structures for corporations and individuals worldwide.^{xix} The ICIJ assembled journalists from 107 media organisations in 80 countries to analyse a vast amount of data and began from April 3, 2016 to publish 150 documents. This exposure has given momentum to international tax reform at the G20 conference of nations so that, hopefully in future, multi-national companies and global corporations will pay fair tax directly in those countries where revenues are derived from its consumers.

That is why it was so reassuring to see journalist Seymour Hersch's publication, with *CBS News America* of the torture photographs from the Abu Ghraib prison in Baghdad in April 2004. Subsequent inquiries showed that brutalising mistreatment of prisoners was not isolated but infected detention centres in Iraq, Afghanistan and Guantanamo Bay. Investigative journalists later established that the US Department of Justice had authorised what were defined as 'enhanced interrogation techniques' or torture of foreign detainees. The exposure and a number of court cases has resulted in the re-application of the Geneva conventions in the humane treatment of prisoners of war (contemporarily that's our war on terror).

That is why it was so reassuring to see investigative journalist Kate McClymont and the *Sydney Morning Herald* be vindicated by the conviction in the so called 'real courts' - the jurisdiction of New South Wales - of Edward Moses Obeid, a once-feared power broker within the Labor Party's Sussex Street machine, on a charge of misconduct in public office.^{xx} That is why it was so reassuring to see a judicial inquiry be established so quickly after *Four Corners* this year exposed youth detention practices including full-face spit masks and strap restraints. It is expected that this royal commission will recommend that new methods be established Australia-wide in diversion strategies for so-called juvenile delinquents.

That is why it was so reassuring to see the work of education writers and investigative journalists expose the conflagration of taxpayers' money in the bipartisan catastrophe known as VET FEE-HELP, the student loan scheme (blowout to 2015 calculated at \$3 billion) introduced with the contestable vocational education model which has undermined the state-based TAFE systems.^{xxi} It seems this is another Commonwealth government implementation failure which industry leaders say has actually deskilled Australia.

The role of committed journalists, whether in a functioning democracy like Australia, or a country under a kleptocracy, totalitarian or politburo governance, is to tell the public what is really going on. This can involve the journalist in conflict from time to time where reporting can reflect adversely on government and its agencies and on corporations and regulators in scandals about corruption or the abuse of power.

Even if the journalist reports the available gathered facts and the conclusions fairly reached from those facts, I regret to report authority does not always like being exposed and brought to account. Journalists can be jailed. In Russia or the Philippines and other countries observed on the International Federation of Journalists' website, they can be murdered. In Malaysia, according to the recent *Four Corners*' expose of corruption at the highest levels of government, they can be silenced by intimidation and run out of the country.

In Australia, apart from the disappearance of Juanita Nielsen, the murder of journalists is unheard of. Here we can be sued for defamation. That is why the bigger media organisations have in-house or outsourced lawyers to vet contentious material before publication. Over the years a sort of tag team of journalists and lawyers has evolved in the exposure of corruption.

Media lawyers have to find public interest defences and apply a now well-known template to material being assembled before publication: fair comment, honest opinion, qualified privilege, the justification of truth. Litigation is very expensive and the reputational and occupational risk is high for the individual journalists involved. Journalists doing this sort of work in Australia are now very limited because of the digital revolution's disruption to print media's business model, the costs and the risks involved.

The other constraint on journalists is one the lawyers may call 'jurisdictional'. We have informants but no coercive powers. We can successfully be sued for defamation if we are unable to reasonably substantiate the imputations contained in the words published. Substantiation is the big challenge for journalists. We cannot demand documents. We have no search warrant powers as law enforcers do. We can FOI documents, including emails and papers, if they are not Cabinet-in-confidence or exempted by commercial-in-confidence considerations.

Documents can be leaked to us, of course. Our sources often seek anonymity because of the physical and occupational dangers involved in their activity. That is why we have been campaigning internationally for shield laws to prohibit the identification of the sources of journalists. We can seek answers to our questions but there is no obligation on anyone to answer. 'No comment' is the most courteous response, but an evidentiary roadblock nevertheless. We do not have phone-tap powers. We cannot legally access phone and bank records unless they are leaked to us by an informant. Rupert

Murdoch's UK outlets hacked the voicemails on mobile phones, but only for commercially exploitable, celebrity and voyeuristic tittle tattle.^{xxii}

Journalists rely on the sometimes courageous whistleblower or informant, some data and financial analysis where these additional investigative costs can be justified. But because we only have lawful access to publicly available information, ASIC, share register, land and property searches and other public source information, now including the publicly accessed pages of social media, you clearly can see we often only get a part of or the first evidentiary leads to the truth of the matter at issue.

This is why the phenomenon of the whistleblower has emerged. *Four Corners'* most recent expose of CommInsure insurance malpractice via files delivered to journalist Adele Ferguson by a CBA whistleblower, a medical practitioner, is the latest example.^{xxiii} The Fairfax/*Huffington Post* revelations of large scale bribery or 'facilitation payments' in the international oil industry to secure lucrative pipeline and other contracts were based on a drop of thousands of confidential emails. The journalists had their work cut out for them identifying the participants only listed by code names.^{xxiv}

Journalism has moved mountains. Journalism provoked the Fitzgerald inquiry in Queensland which helped to crack in that state what was a worldwide syndrome - a vicious code of silence within police culture. The cops would verbal and 'load up' suspects and frame any incorruptible colleagues to the point where their cabals organised the crime with their 'greenlighted' criminal associates - they did not fight it. Great public benefit ensued in the exposure of police culture in the 1980s, which helped to change attitudes by police, re-committing most of them to the honourable discharge of their duties. And journalism has moved politicians in other states to set up special commissions of inquiry from time to time: more evidence of the journalist to lawyer tag team in action.

Investigative reports into alleged links between trade unions and some criminal elements in the construction industry; the practice of slush funding of political parties by vested interest individuals and industries; and the alleged infiltration of political parties by Mafia figures have sustained debate about the need for a federal anti-corruption commission. This is getting some traction now through the federal election campaign and the debate about the Turnbull Government's Australian Building and Construction Commission.

Even if substantially true, a journalist's initial reporting can simply be ignored or dismissed by government confident that in the 24-hour news cycle the public will move on, particularly if rival media simply ignores the issue and calculatedly omits to follow it up. If our informants quite reasonably seek anonymity to protect their future employability or their physical security, our reports can sometimes seem obscure or incomplete or what we journalists call 'heavily lawyered'.

So, to the point of the journalist-lawyer tag team. Formal follow-up to journalistic exposure in the form of judicial inquiries or, better, a standing national anti-corruption commission, is the next logical step to cover public administration, defence expenditure, social security, universities, health and education, police, judiciary, private sector corporate conduct, security and intelligence services.

The anti-corruption effort worldwide has required special commissions external to law enforcement and government but operating under procedurally fair protocols under the inquisitorial model - preferably through public hearings after preliminary inquiries. Any standing anti-corruption commission should have its fairness procedures subject to Supreme or Federal Court challenge. To me that is a necessary check and balance against the risk of abuse of power or the development of a star chamber or show trial. So as a journalist I fully acknowledge the constraints on the practice of journalism imposed by the law. We need the lawyers as back up.

The role and functions of the standing commission on corruption in New South Wales - the Independent Commission Against Corruption - has been under attack for about a year now. But its

coercive powers and public hearing procedures have survived a high level review by former chief Justice Murray Gleeson QC and leading lawyer Bruce McClintock SC.^{xxv}

The state of NSW with its rich colonial Rum Corps history has, through the ICAC, pressed the reform envelope in our sometimes battered Westminster democracy. The model which has evolved should, in my view, be exported. We need a federal ICAC.

Our institutions are made all the stronger by the intellectual honesty involved which can counter cynicism, restore or build trust in government. There can be no clearer public benefit.

What as independent academics can you do to help lift the quality of our journalism with its clear positive influence on the development of government policy? Let me show the way. You can engage with journalists directly. You can tip them off if you come into possession of facts the public should know about. You can constructively critique our work.

Better still through digital disruption, everyone is a journalist. You can write and publish material yourself. You can make videos and audios and post them yourself. As you know there is no Nuremberg defence for any of us. We cannot say we were just following orders. We have to stand up for ourselves and those who, for a variety of circumstances, cannot do so themselves. We must never get tired.

ⁱ *Guardian International* 5 June 2013

ⁱⁱ www.internetlivestats.com

ⁱⁱⁱ Snowden (the movie) released 2016 Director Oliver Stone

^{iv} @snowden www.twitter.com

^v ABC TV News www.abc.net.au/news/2013-11-18 3

^{vi} *The Australian* 24 November 2010

^{vii} Clinton-Trump presidential debates 2016

^{viii} @rupertmurdoch www.twitter.com

^{ix} *Making Headlines* by Chris Mitchell MUP published 2016

^x www.content.time.com Robert McNamara writing in his 1995 memoir *In Retrospect*

^{xi} John Howard interviewed by Tony Jones ABC Lateline 7 July 2016

^{xii} www.abc.net.au/news/2016-07-07/chilcot-inquiry-john-howard

^{xiii} Only the Dead - television documentary by Michael Ware - worldwide distribution 2015

^{xiv} *Rupert Murdoch: A Reassessment* by Emeritus Professor Rodney Tiffen (Newsouth 2014).

^{xv} *Rupert Murdoch: A Reassessment*, p 327.

^{xvi} *Rupert Murdoch: A Reassessment*, p 137.

^{xvii} www.alliance.org MEAA Code of Ethics

^{xviii} www.walkleys.com Gold Walkley winner Joanne McCarthy

^{xix} <https://www.icij.org>

^{xx} Eddie Obeid jailed for misconduct in public office 15 December 2015 www.smh.com.au

^{xxi} www.smh.com.au

^{xxii} Hack Attack by Nick Davies Vintage Books 2014 - How the truth caught up with Rupert Murdoch

^{xxiii} ABC TV Four Corners broadcast 3 March 2016

^{xxiv} www.smh.com.au huffingtonpost.com.au Unaoil - world's biggest bribe scandal

^{xxv} www.dpc.nsw.gov.au Review of the Jurisdiction of ICAC 30th July 2015