

Warring against sources: The security state and public interest journalism

By Binoy Kampmark

5 June 2019



The AFP raid on the home of Annika Smethurst signals another blow to journalism and freedom of speech, writes [Dr Binoy Kampmark](#).

A NEWS CORP [spokesperson said](#):

“What’s gone on this morning sends clear and dangerous signals to journalists and newsrooms across Australia. This will chill public interest reporting.”

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 29 April 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When the archaic official secrets provisions of the [Crimes Act 1914](#) (Cth) were repealed on 29 June 2018, leaving way for new regulations dealing with national security information, those dealing with publishing such material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 of 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"*.

My thoughts are with [@annikasmethurst](#) as her home is raided over a leak. I've been informed today I'm also the subject of a Home Affairs inquiry "which could lead to an AFP criminal investigation". It's related to this story -

<https://t.co/0A0Qm1tQwf> More details now on [@2GB873](#)

— BenFordham (@BenFordham) June 4, 2019

[Chris Merritt](#),

The other is the [spooking of journalists](#) and the [assumption of the public interest](#) in the [AFP's work](#) and [the law](#). Its [premise](#) is [privilege](#) against the [Government](#) your own [interest](#), but that [state](#), not the [Home Affairs](#).

So, we [work](#) with [Smethurst's](#) [Federal](#) with a [warrant](#) [AFP](#) had [residence](#) [Kingston](#) [matter](#) [the](#) [national](#) [referred](#) [allege](#) [these](#) [Australian](#) [investigative](#) [Oakes](#) [with](#) [Gaven](#) [The](#) [plots](#) [reveling](#) [Qalab](#) [top](#) [Australia](#) [off](#) [ended](#) [the](#) [potential](#) [Australian](#) [Security](#)

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[Australia](#) [2016](#) [@annikasmethurst](#)
going to let any alleged breach
of security go by. [@annikasmethurst](#)
a visit to the United Kingdom,
he [expressed little concern](#)
about the morning [@annikasmethurst](#)
journalist's home [@annikasmethurst](#)
*troubles me that [@annikasmethurst](#)
being upheld*". and

[@RendezView](#)

While News Corp [@annikasmethurst](#)
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disagree with the [@annikasmethurst](#)
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drawers."

<https://t.co/Hvs>

[@BWDs_E](#)
*"This raid demonstrates a
dangerous act [@annikasmethurst](#)
towards those committed to
telling uncomfortable [@annikasmethurst](#)
The raid was outrageous and
heavy-handed."*

— Peter Brown

The Federal Parliamentary
Press Gallery, [@annikasmethurst](#)
agreement, [@annikasmethurst](#)
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'*.

Statement from the
committee of the
Federal Parliamentary
Press Gallery on the
police raid on
[@annikasmethurst](#)
today:
pic.twitter.com/Oo6vH

[TfDzx](#)

— David Crowe
([@CroweDM](#)) [June 4,](#)
[2019](#)