Protect sources, fight secrecy

MERION JONES, investigations editor at the Bureau for Investigative Journalism, spoke at LFB's April meeting on protecting sources. (We also heard from the Freelance's own Mike Holderness on methods to minimise surveillance: see below.)

Merion reminded us of the threat posed by the Law Commission review of the Official Secrets Act (OSA). Through Merion's work he's "only been to prison to visit people": under new OSA proposals, he "would be facing a decade in jail" for investigations to date.

Up until the 1970s, journalists had the "really powerful constraint" of a D Notice Committee serving "D Notices" (D for Defence). Publish after being issued one, you got prosecuted under the Official Secrets Act. The existence of GCHQ, set up in the 1940s, stayed secret until 1974.

There followed the ABC trial in 1977 and 1978 (the "C", Duncan Cambpell spoke about this in May 2016). Then came *Spycatcher*, with Government attempts throughout the late 1980s to stop ex-MI5 officer Peter Wright publishing his memoirs. "We are in danger of slipping back into that" with the latest OSA proposals, warns Merion.

The OSA review's not about protecting freedom of speech, but in its own words about "unauthorised disclosure", about people who "obtain or gather" information. It comes with an "underlying assumption" of no public interest defence.

It's been a long time since a successful OSA prosecution of a journalist. In the trial of civil servant Clive Ponting, charged for releasing the Falklands War-era *Belgrano* documents, the judge removed the public interest defence, but the jury still refused to convict. When it came to GCHQ whistleblower Katherine Gun, who revealed Iraq War shenanigans, "they had to drop charges against her after it became clear Blair had lied."

Now we're being told the "problems associated with the introduction of a statutory public interest defence outweigh the benefits". We face going back 40 years, when it was almost impossible to write about the "secret doings of the state".

Tradecraft tips? Merion once "found I was being followed… I did a double back in the (Tube) station" and spotted someone on his tail. A lot of these people who might be tailing you, including the ones hired by the big corporates, are "ex-State security, ex-Northern Ireland… you will not spot them."

Then there's how to get the story past the newspaper's lawyers. And "how much to tell your editor?" Never give your editor your notes. Tell them as little as you can about your source, to protect them. In the BBC in particular, if an editor knows anything, they will "be forced to reveal stuff up the chain."

Another difficulty is that "by nature whistleblowers are mad, bad and dangerous. If they were sensible they'd look to their pension." Merion described one source for a story around a "dangerous financial fraud… we set up a protocol, but within a day he was back sending swathes of data in his own name."

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Merion Jones: **photo © Hazel Dunlop**

Come all ye to the Freelance Salon

For a fun and informative evening of networking and journalism workshops with a special focus on diversification and new ways to make journalism pay, come to the London Freelance Branch Salon. Our speakers have made a living from all kinds of things, and attendees should come away with ideas on how to use their skills and experience to add an income stream. It's from 6.30pm til 9pm on **Thursday 13 July** in Central London and it costs £10 for NUJ members and £20 for non-members. Booking is essential and is open now: see **www.londonfreelance.org/fl/1706salo.html** Our speakers include **David Quantick**, who started as a music journalist (*Q*, *NME*) and now does a mixture of gag and script writing across TV and radio; and **Remona Aly**, a journalist, commentator and broadcaster with a focus on faith, lifestyle and identity who is a presenter of BBC Radio 4's *Something Understood*. Below: the crowd at the salon in October 2015: photo **© Hazel Dunlop**

Protecting your sources: a short guide

THE ABILITY to protect sources is essential to journalism that holds power to account. Sources must be seen to be protected. This isn't going to be technical: I am now taking seriously the joke conclusion of earlier advice – Bronze Age methods of organisation and communication *rock*!

The new Investigatory Powers Act doesn't change anything about the ways your sources can be unmasked. It provides a legal framework for what the security services are doing anyway. The Act includes warrants for interception, equipment interference and bulk communications data acquisition – gathering "metadata" – see below.

The Act recognises the need for journalists to protect sources. But Section 264(5) excludes such material "if it is created or acquired with the intention of furthering a criminal purpose." So no protections if your source is revealing something covered by the Official Secrets Acts.

You may eventually win a court ruling on these provisions being unlawful, but by then your source may have spent time in jail, or lost their job and their pension. Andrew Bousfield told the Branch in 2011: if you can't deal with someone who's on an emotional roller-coaster, "don't do whistleblower stories."

There's a difference between interception of content and of "metadata" – who's communicated with whom. Usually the authorities are more concerned with this than what you said. Listening to content is expensive. Programming a computer to build a map of who communicates with whom, and when, is cheap. If you take no precautions it can identify candidates for being your source.

In 2016 Ross Anderson – Professor of computer security at the University of Cambridge – suggested we avoid using computers. Meet in person. Take notes with a pencil. Do not take your own phone with you to a face-to-face meeting. Tell your source not to bring theirs.

Make sure you're not followed. Doubling back, rather than going to a meeting by the shortest route, may help. You can still buy a prepaid Oyster card for cash. Or cycle there. It's about pushing up the cost of tracking you. Digital surveillance is cheap. A 24-hour tail involves 9-20 salaries.

There are no magic technological fixes. Indeed, using an unusual and "secure" communication channel may draw attention to you and to your source.

There's more on how safe the communications system WhatsApp is, the Committee to Protect Journalists' advisory on taking your laptop to the US (don't), on "burner" phones bought for cash, on not backing up your devices on the "cloud" – all at **www.londonfreelance.org/fl/sources.html**

This is a discussion document. No guarantees are possible. Send comments to **sources@londonfreelance.org**

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