

## **The Surveillance State and Journalism**

This paper attempts to illustrate how mass surveillance can adversely influence journalism, show how journalists and journalism have reacted to it, and depict the ramifications this has for our society and for our democracy. In doing so, I will first give an overview and show how federal laws can stifle news coverage. The second part of this paper focuses on recent events and incidents by means of which I depict measures by governments that presumably have detrimental effects on the press. Next, I will focus on the altercations within the establishment itself. The chapter on mass surveillance in other parts of the world is to illustrate the international scope of this trend; Subsequently, I will show how the public sees the press after the Snowden Leaks and depict theories and more implications. Finally, this paper points out ways to protect journalism. This treatise does not claim to offer a complete list of events or a comprehensive overview of the relationship between mass surveillance and journalism.

### ***Mass surveillance and journalism before Snowden***

Press coverage on matters concerning homeland security prior to the 2013 mass surveillance revelations seems to have been few and far between. One of the reasons, as Lieberman points out, is that journalists were (and are) having a hard time acquiring information due to a freeze on unclassified information. At the Environmental Protection Agency, for instance, citizens can no longer view environmental impact studies for chemical plants. Equally, risk-management plans detailing disaster preparedness have disappeared from government websites. This

has presumably become worse in the years following the publication of Lieberman's article.

The contributing writer of the Columbia Journalism Review suggests that the "sensitive security information" provision, which is part of the Homeland Security Act and passed in the wake of 9/11, "may well erect a larger barrier to reporting" (29). Intended to make it easier for state and local officials to share information about the risks of dilapidated infrastructure, the provision compels everybody to sign nondisclosure agreements. Ascertaining what sensitive information is unquestionably proves to be difficult, and a likely broad definition might keep the public from learning about cases such as the air quality in an area being dangerously low. Lieberman (29) argues against the statement that such provision can keep terrorists from learning about security loopholes by stating that

"it keeps government and industry immune from pressure to do something about the dangers. Journalists can't expose the problem, and the community can't agitate for change."

Another provision of the Homeland Security Act deals with "critical infrastructure information", which gives businesses protection from civil lawsuits and protection from reporters in exchange for providing the government with data. It is also exempt from the Freedom of Information Act<sup>1</sup> requirements, making the process to access information for journalists "far more onerous" (30).

"Secrecy, no matter how rationale", Lieberman argues, "makes it harder for news organizations to do their job." Luc Dalgish, who heads the Reporter Committee

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<sup>1</sup> The FOIA, which came into effect in 1967, allows for the full disclosure or partial disclosure of previously unreleased information and documents controlled by the U.S. government. For details see <http://www.foia.gov/> [last accessed 11.28.13].

for Freedom of the Press, says “the public’s ability to exercise oversight of government operations is being eviscerated” (Lieberman 30).

It is widely believed that the extensive coverage we have been witnessing starting this summer wasn’t always the standard. While the press was certainly hampered by regulations and provisions as the ones depicted above prior to the Snowden leaks, no law or ordinance said the press couldn’t cover the constraints *itself* that adversely affected journalists and the public. “We were slow to get to the point where information was being shut down”, admits Andy Alexander, Washington bureau chief for Cox Newspapers and chair of the Freedom of Information Committee for the American Society of Newspaper Editors (Lieberman 30).<sup>2</sup>

### ***A war on the press?***

It is widely accepted that governments have legitimate secrets and a legitimate interest in protecting those secrets. Some information must be kept out of the public domain. At the same time, however, the public has an interest in knowing about government misconduct and about knowing what the government policies are. Deputy legal director of the American Civil Liberties Union Jameel Jaffer says “we have gone far too far in one direction. We now have such blanket secrecy around those national security policies that we can’t say if they have any democratic legitimacy at all” (Jaffer).

Author Trudy Lieberman concurs, saying that “simply trusting the department to make the decision about what the public gets to know is not merely naïve, but dangerous” (26).

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<sup>2</sup> See Lieberman’s article, especially pp. 27 and 30 for examples.

The disclosures seem to have animated a plethora of media outlets to do in-depth reports and dedicate many of their staff and resources to the effort to inform the public. Whether most of them feel genuinely convinced that this topic deserves all the attention or if they merely jumped on the bandwagon is certainly debatable; Nonetheless, all the reports enable readers and viewers to educate themselves about the surveillance activities.

CEO of the Associated Press Gary Pruitt recently said that there has been a “chilling effect on newsgathering” thanks to an assault that seems “tailor-made to comfort authoritarian regimes that want to suppress their own news media” (Sirota). Reporters who are covering national security issues in particular have expressed discomfort and concerns after the Snowden revelations. It has been pointed out that the NSA capability of easily gathering details about who a reporter phoned or emailed sends a signal to whistleblowers that their anonymity can no longer be protected (MacAskill et al.).

Columnist, journalist and author David Sirota asserts that those “chilling effects” – events never reported, scandals never revealed and people not informed – won’t be visible. He argues that the resulting “news vacuum” leads to the official story becoming the only story – even when it is “inaccurate, deliberately misleading or completely untrue” (Sirota).

It was Sirota who revealed how U.S. President Barack Obama prevented a Yemeni journalist from being pardoned by calling Yemen’s leader. After Abdulelah Haider Shaye exposed his government’s cover-up of a U.S. missile strike that reportedly killed “dozens”, he was sentenced to five year in prison. Saying that this is not an isolated incident, Sirota claims that “the President’s move to criminalize the

reporting of inconvenient facts is sadly emblematic of his administration's larger war against journalism", adding that "war" is no overstatement (Sirota).

On October 25th, the N.S.A.'s director, General Keith Alexander, accused journalists of "selling" his agency's documents and called for an end to the steady stream of public disclosures of secrets. In a roughly 30-minute interview<sup>3</sup>, Alexander says "it's wrong that newspaper reporters have all these documents, the 50,000 – whatever they have and are selling them and giving them out as if these – you know it just doesn't make sense." He added: "We ought to come up with a way of stopping it" (Greenwald).

New York Times media correspondent David Carr says that "suggesting that there is a war on the press is less a hyperbole than simple math" (Sirota).

In the middle of October, British prime minister David Cameron accused the British newspaper The Guardian of damaging national security by publishing documents leaked by Edward Snowden, warning that if it did not "demonstrate some social responsibility it would be very difficult for government to stand back and not to act" (McAskill). Cameron also said that "in many ways" the Guardian admitted damaging national security when they destroyed "the files they had", pointing out that The Guardian knows that "what they're dealing with is dangerous for national security." In a response to Cameron's statement, a Guardian spokesman, calling Cameron's request 'prior constraint', said that

"the prime minister is wrong to say the Guardian destroyed computer files because we agreed our reporting was damaging. We destroyed the computers because the

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<sup>3</sup> The full video is available under this link: <https://www.techdirt.com/articles/20131024/18093325010/keith-alexander-says-us-govt-needs-to-figure-out-way-to-stop-journalists-reporting-snowden-leaks.shtml> [last accessed 11.28.2013].

government said it would use the full force of the law to prevent a newspaper from publishing anything about the NSA or GCHQ” (Mason).

Guardian editor Alan Rusbridger is to be questioned by British lawmakers in December over the publishing of the files. In this statement, he describes the way government officials treated him:

“I was contacted by a very senior government official claiming to represent the views of the prime minister. There followed two meetings in which he demanded the return or destruction of all the material we were working on. The tone was steely, if cordial, but there was an implicit threat that others within government and Whitehall favored a far more draconian approach. The mood toughened just over a month ago, when I received a phone call from the center of government telling me: “You’ve had your fun. Now we want the stuff back”” (Cohen).

On August 18, David Miranda, partner of Guardian interviewer of whistleblower Edward Snowden, was detained for nine hours and questioned at Heathrow airport. A controversial British law, which applies only at airports, ports and border areas, allows officers to stop, search, question and detain individuals. Miranda was released, but officials confiscated electronics equipment including his mobile phone, laptop, camera, memory sticks, DVDs and games consoles (Guardian staff).

In May of this year, news broke that the Department of Justice reportedly obtained two months of phone records from journalists working for the Associated Press. Interestingly, the Department sent the Associated Press a letter stating that it secretly spied on 20 phone lines, some of which were used by five AP reporters and an editor working on a foiled Yemeni bomb plot.<sup>4</sup> AP CEO Gary Pruitt objected “in the strongest possible terms to a massive and unprecedented intrusion by the

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<sup>4</sup> This bomb plot has nothing to do with the U.S. missile strike in Yemen described on page four.

Department of Justice into newsgathering activities of the Associated Press” (Cohen) in a letter to Attorney General Eric Holder.<sup>5</sup> One paragraph in particular is worth being quoted in full since as it exemplifies the mindset of many journalists whose privacy has been infringed:

“There can be no possible justification for such an overbroad collection of the telephone communications of The Associated Press and its reporters. These records potentially reveal communications with confidential sources across all of the newsgathering activities undertaken by the AP during a two-month period, provide a road map to AP’s newsgathering operations, and disclose information about AP’s activities and operations that the government has no conceivable right to know” (Cohen).

Bearing similarities to the AP incident, another intrusion into a journalist’s privacy made the headlines in the month of May. Fox News reporter James Rosen was named “an aider, abettor and/or co-conspirator” in a leak investigation (Marimow). According to Marimov, court documents show how investigators scrutinized the private communications of the journalist which makes one ask the question “how often journalists have been investigated as closely as Rosen was in 2010.” The Washington Post reporter says that the findings raise

“new concerns among critics of government secrecy about the possible stifling effect of these investigations on a critical element of press freedom: the exchange of information between reporters and their sources.”

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<sup>5</sup> The letter can be found here: <http://de.slideshare.net/keri1/letter-to-eric-holder-from> [last accessed 11.29.2013]. For details on the bomb plot see <http://usatoday30.usatoday.com/news/washington/story/2012-05-07/al-qaeda-bomb-plot-foiled/54811054/1> [last accessed 11.29.2013].

This concern seems to be one of the most prevalent ones among those believing that ubiquitous surveillance has a detrimental effect on journalism. As a matter of fact, the Review Group on Intelligence and Communication Technologies say that mass surveillance “presents a grave threat to the effectiveness of an independent press” in a public comment to President Obama. In the 15-page letter, the group, which consists of scholars, journalists and researchers from the Columbia Journalism School and the MIT Center for Civic Media, argues that there is a “discrepancy” between the NSA’s eavesdropping activities and the existing law and policy designed to protect the confidentiality of journalist-source communications. What’s more, a “climate of secrecy” established by mass surveillance methods is itself “harmful” to journalism, as sources aren’t able to find out when they might be spied on, or how “intercepted information might be used against them.” As the letter shows, the NSA does not have to adhere to the policy of the Department of Justice. The double standard is not only “intolerable”, but endangers the communications between journalists and their source. The review group calls for “one set of rules.”

Furthermore, the authors reject the logic of the Foreign Intelligence Surveillance Court<sup>6</sup>, which asserts that collecting information on everyone is no different than doing the same on specific individuals. “The surveillance of essentially everyone has effects far beyond the surveillance of journalists alone. [...] For a free press to function we must also protect the *means of communicating* with a journalist.” The comment also says that sources have become nervous about talking to reporters, as reported by journalists from various news organizations including the

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<sup>6</sup> The Foreign Intelligence Surveillance Court, established with the Foreign Intelligence Surveillance Act (FISA) in 1978, oversees the procedures for the collections for intelligence. FISA provides the foundation for foreign intelligence surveillance and has been amended by the 2001 Patriot Act sections 214-16, amongst others, “to allow for increased warrantless surveillance”. See <http://www.theguardian.com/world/interactive/2013/nov/01/snowden-nsa-files-surveillance-revelations-decoded#section/5> [last accessed 11.29.2013] for details.



New York Times and the Washington Post. Summing their appeal up, the groups states that “mass surveillance is a serious threat to the constitutionally protected function of a free press, and therefore to democracy itself, because it impinges on the ability and confidence of every *possible source* who might talk to a journalist.”

In his article on The Guardian’s homepage, Chris Chambers describes how one worrisome implication of the trade between civil rights and security is that citizen will presumably lose trust in government and authorities because spying on your own people creates an aura of general suspicion. Consequently, people are going to be more careful about what say or do, which might in turn make potential sources think twice if they want to share some potent information with a member of the press. Apart from that, ubiquitous eavesdropping can severely hamper creativity and freedom of expression and will presumably result in less discourse and exchange of ideas. What’s more, mass surveillance can lead to conformity to social norms, which can stifle critical thinking, according to the article.

### ***Journalists turning against each other***

As journalists and news organizations around the world are covering the revelations about ubiquitous eavesdropping, some members of the profession have been criticizing their peers for disclosing sensitive data. One of the most prominent examples is “Meet the Press” host David Gregory, who not only said to former Guardian journalist Glenn Greenwald that he “aided and abetted” whistleblower Snowden but demanded of Greenwald: “Why shouldn’t you be charged with a crime?” Subsequently, *New York Times* business reporter Andrew Ross Sorkin called for Greenwald’s arrest (Sirota).

Former Independent editor Chris Blackhurst criticized The Guardian's publication of the leaks, arguing that they're not much of a story and that if government authorities contend that they're not in the public interest, "who am I...to disbelieve them?" Glenn Greenwald responded in an article on his own, attempting to refute Blackhurst's arguments. He said Blackhurst's opinion and "subservient" sentiment is a "predominant mindset among many in the media class", adding that journalists who talk this way "do us a service, as it lays so vividly bare just how wide the gap is between the claimed function of establishment journalists and the actual role they fulfill" (Greenwald).

In August, senior national correspondent at Time magazine Michael Grunwald tweeted that he "can't wait to write a defense of the drone strike that takes out Julian Assange", the founder of Wikileaks. The ensuing backlash by journalists caused Grunwald to apologize and delete his tweet (Goyette).

Jeffrey Toobin, who works for both CNN and The New Yorker, called whistleblower Edward Snowden "a grandiose narcissist who belongs in prison." Shortly afterwards, he called David Miranda the equivalent of a "drug mule". Toobin says that no story justifies journalists' abetting legal acts, arguing that "journalists are not above the law" (Carr).

### ***Mass surveillance: a global phenomenon?***

The detrimental effects mass surveillance can have on journalism do not merely pertain to the United States or the Western World. Efforts to dumb down journalism seem to take place in many parts of the world. For instance, in Asia the internet has become a target for censorship, regulation and control in the wake of

9/11 (Gomez 145). Furthermore, Gomez states that to a large extent “the cyber security measures resulting from the ‘war against terrorism’ are simply an extension of existing censorship laws and surveillance strategies. According to the author, the repressive tendencies have far-reaching consequences (145):

“Democracy requires a public culture of participation, but the stringency of post September 11 internet-related legislations seems to generate the opposite tendency. People are more reluctant to conduct political communication online if it can be monitored by state agencies with the cooperation of commercial service providers. Hence, people prefer to keep important information confidential and communicate in a low-tech or no tech manner. This is especially so under authoritarian regimes such as Burma, Vietnam and Singapore.”

That these trends have an international scope became visible this summer at Istanbul’s Taksim Square, where “political pressure and legal restraints on news-reporting are visible in an unprecedented scale”, according to Akser et al. It is widely believed that the media in Turkey is under siege. In a paper from 2012, scholars Murat Akser and Banu Baybars-Hawks describe how Turkish newsmakers are experiencing five different systemic kinds of “neoliberal government pressures” to dumb down their voices in a “media autocracy”: conglomerate pressure, judicial suppression, online banishment, surveillance defamation, and accreditation discrimination. Since this paper deals with the effects surveillance has on journalism, I will focus on eavesdropping.

Akser et al. argue that the Ergenekon investigation in 2008 was the beginning of widespread arrests of journalists (308). It

“targeted some journalists, along with military and civilian bureaucracy who were allegedly involved in illegal activities to overthrow the government. [...] The arrests

showed that the evidence was gathered through phone-tapping and Internet surveillance. [...] Police surveillance became so widespread that Prime Minister Erdoğan declared that even his phone was tapped.”<sup>7</sup>

In their overview, the authors argue that there is an “increased circulation of private information” in police circles, prosecutors, and also members of the media who “support government policies” (314). Generally speaking,

“surveillance defamation involves arrests based on phone tapping, Internet surveillance of journalists and dissenters, general voice surveillance and special mobile surveillance vehicles employed to follow dissenters. The unknown groups distribute damaging videos of the AKP’s political opponents. The complicity of the AKP government is evident in their refusal to block or ban such videos, making this, in effect, a passive tactic to shut down criticism. The change in the opposition party [...] during 2011 came as a result of the spread of such videos on YouTube” (316).<sup>8</sup>

The situation has likely worsened after this year’s protests against an urban development project at the Taksim Square in Istanbul in July. According to Simon, mainstream Turkish media ignored the protests, which spanned several weeks and left five people dead. While demonstrators were “furious” about Turkish news stations, Turkish authorities claimed the media were biased against them.

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<sup>7</sup> For more details on the Ergenekon investigation see page 312.

<sup>8</sup> The AKP (Justice and Development Party) is a center-right, social conservative Turkish political party. Its leader Recep Tayyip Erdoğan is the current Prime Minister of Turkey.

### ***A look at privacy, surveillance and transparency***

A recent study<sup>9</sup> revealed that the majority of Americans believe that the rights of U.S. citizens are more important than preventing terrorist attacks. Since the mass surveillance disclosures, Americans have become opposed to government surveillance that infringes on civil liberties such as freedom of speech and freedom of press.<sup>10</sup>

In the wake of 9/11, but especially since roughly two years, more U.S.-Americans see the press serving a political watchdog function than before. A Pew Research Center Poll from July of this year found that nearly seven-in-ten (68 percent) of people say “press criticism keeps them from doing things that should not be done”, a rise of ten points from 2011. Merely 21 percent say that press criticism keeps leaders from doing their job. The same survey found that news organizations protect (48 percent) rather than hurt (35 percent) our democracy; In 2011, the public was divided over the latter point (42 percent to 42 percent).

Never in history has so much personal information been stored in private and public data banks. By some estimates, mankind today produces the same amount of data in 24 hours it has produced since the beginning of humanity until 2004. Needless to say, the accumulation of information about each of us will only accelerate in the future. In his book *The Costs of Privacy*, Steven L. Nock states that modern society provides greater individual privacy than ever experienced in the past. Instead of seeing it as an invasion of people’s privacy, Nock argues that those databases are a necessary means of establishing trust among strangers. Without

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<sup>9</sup> The study was conducted by The Associated Press-NORC Center for Public Affair Research and can be found under <http://www.apnorc.org/projects/Pages/Civil-Liberties-and-Security.aspx> [last accessed 11.28.13].

<sup>10</sup> For detailed findings see <http://www.theguardian.com/world/interactive/2013/nov/01/snowden-nsa-files-surveillance-revelations-decoded#section/6> [last accessed 11.28.2013].

access to personal information, according to Nock, individuals would be unable to establish the relationships necessary for society to operate. If we are to maintain “some degree of predictable social order”, we have two choices: “we may have either privacy and surveillance, or have little privacy.”

It has been argued, however, that since measures such as mass surveillance are no longer only applied to terrorists but to all citizens, the real trade-off is not between our security and the alleged terrorists’ civil liberties, but between our rights and our security. One worrisome implication of this trade is that citizen will presumably lose trust in government and authorities, which I described on page nine.

According to Allen, the idea of transparency gained popularity within society and the U.S. news media over the last decade. At the same time, government surveillance of the activities of citizens (Allen uses the term surveillance society) has increased. Long before this summer’s disclosures, journalists called for more transparency as a way to “increase legitimacy with citizens” as a response to traditional media outlets being the focus of this surveillance. Allen points out that transparency is central to “conflicts between traditional journalism and its newer forms”. Interestingly, transparency has caused concern and even criticism within traditional journalistic communities, because being transparent can increase “social pressure while hindering journalistic autonomy”. Drawing upon the teaching of Habermas and Foucault, who have different notions of transparency, Allen advocates a new form of transparency that is a good in itself. He says journalists should avoid adopting transparency

“as a way of improving public standing or increasing legitimacy because it probably will not work. Legitimacy is maintained not through transparency, but rather by making difficult ethical decisions that often involve difficult story decisions. [...] It

ought to be adopted not in an attempt to resolve some problem, but rather because it is believed that being transparent will aid in the establishment of a democratic discourse. But we also need to understand that transparency comes with a price. That as journalists become more transparent, they are subjected to forces of discipline and surveillance that might, in the end, run counter to the very goals that they seek” (336).

### ***Protecting Journalism***

This chapter depicts laws that protect journalists in the United States. By no means is this chapter an in-depth analysis or a comprehensive list. It rather serves to show what rights members of the press have, how they are protected and how they can protect themselves.

The most important law that governs information and the press is the Freedom of Information Act (FOIA)<sup>11</sup>, which began as the 1966 Federal Public Records Law and was intended to curtail undue government secrecy. The law mandates that “federal agencies in the executive branch provide information to the public” (Keller 91). Although effectively all information somebody asks for must be provided, there are exceptions. Documents pertaining to national security, internal personal issues and trade secrets, among other things, can be withheld. Each agency is required by law to respond to requests within 20 days “either by providing the requested information or by explaining its delay or refusal to provide it” (Keller 92).

Shield laws are designed to protect reporters’ privilege, or the right of news reporters to refuse to testify about where they obtained their information. 49 states

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<sup>11</sup> Federal agencies in the executive branch include the departments of Agriculture, Commerce, Defense, Education, Homeland Security and many more. The website of the FOIA is <http://foia.state.gov/> [last accessed 11.30.2013].

currently have shield laws that vary in scope and application.<sup>12</sup> Although there are no national shield laws, the federal government has been considering the Free Flow of Information Act, which was introduced to the U.S. Senate back in 2007 and passed through the Senate Judiciary Committee in September of 2013.<sup>13</sup> After years of criticism<sup>14</sup>, particularly concerning who would be regarded as a journalist, the definition as of September of last year (“covered journalist”) now effectively includes college journalists, freelancers and bloggers – just about everyone who is gathering information and disseminating it for the public good. Moreover, a judge would decide whether the law applies in case of a disagreement (Cuillier).

However, Josh Stearns and Chris Palmer say that the new law would create national security loopholes:

“Most problematically, disclosure can be compelled when the information in question would assist the federal government in stopping or mitigating “other acts that are reasonably likely to cause significant and articulable harm to national security.” This language could be construed to apply to any number of circumstances, so long as the government argues there is some threat to the limitless concept of “national security.”

According to Keller (72), shield laws often offer limited protection. For instance, the law “does not protect the reporter if information relates to a violation of the law, [...] or if the court finds there is a public interest in the information that overrides the need of the reporter to protect the source.”

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<sup>12</sup> For an overview of all 50 states see <http://www.firstamendmentcenter.org/state-shield-statutes-leading-cases> [last accessed 11.29.2013].

<sup>13</sup> The progress of this federal shield law can be tracked here: <http://www.spj.org/shieldlaw.asp> [last accessed 11.29.2013]. A recent, more detailed report on the progress, controversies, and alleged drawbacks around the bill can be found here: [http://www.huffingtonpost.com/tricia-todd/dismantling-the-first-ame\\_b\\_3918368.html](http://www.huffingtonpost.com/tricia-todd/dismantling-the-first-ame_b_3918368.html) [last accessed 11.29.2013].

<sup>14</sup> Critics said that the law would have effectively excluded freelance journalists, bloggers and other non-salaried journalists (i.e. not “professional” ones), which could have potentially hampered investigative reporting by small and independent media sources (Weiland).



In his Columbia Journalism Review article “Identity crisis”, author Joel Simon says legal definition of journalism in the form of shield laws has “tradeoffs and potential consequences” and “could easily be used as a basis for licensing”.<sup>15</sup>

Another law designed to facilitate the work of the press and to create transparency is the Government in the Sunshine Act from 1976. It requires agencies to notify the public in advance about meetings and the affairs discussed. According to Keller (94), “reporters can challenge the closure of meetings by protesting to the governmental body”, and also have the right to “challenge the closure in court, and actions taken in the closed meeting can be overturned.” As with the Freedom of Information Act, in some cases a government body is allowed to conduct meetings behind closed doors.

Simon argues that journalists should drop the push for special protection and instead just defend freedom of expression and “keep open an information space that allows them to operate and accept that within that space there will be all sorts of others using information for different purposes.” He says that the reporters’ ability to do their job “depends less on defining a separate realm in which they operate and more on finding ways to ensure that freedom of expression is broadly defended and persevered.” He does not, however, point out how journalists are to defend freedom of expression nor does he give examples as to what the press can do to protect their sources.

Since journalists are subject to eavesdropping, pressure and even intimidation, they are forced to prepare accordingly. At an online news association conference in late October of this year in Atlanta, media professionals learned that they need to learn about secure and safe communication, meaning they have to use

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<sup>15</sup> According to the author, licensing is “a mechanism that would make it much easier to exclude critical voices from the public debate.”

encryption and good security practices, for sources may dry up otherwise. Participants were reminded that while encryption is vital, it doesn't protect the metadata, i.e. sender, recipient, time, and more. Jonathan Stray from Columbia University called journalists "targets" who are working in a "high-risk" profession, while media lawyer Nabiha Syed said that the bigger problem is that we are missing "clear and transparent procedures that protect their rights" (Gill).

In their interactive article about the mass surveillance disclosures, Chen et al. recommend a combination of TOR and PGP (Pretty Good Privacy) to encrypt one's data.<sup>16</sup> According to the online article, the TOR network is a "protective layer" between the user and the internet which provides an "anonymous path between you and the sites you visit." Similarly, PGP is a data encryption technology commonly used for encrypting files, particularly e-mails.

The authors note that we are living in a new state of "asymmetry" between how the government can access our info but we cannot access what it knows about us (Gill). Civil rights advocate Nadine Strossen concurs, stating that

"the information flow between the people and the government is exactly the opposite of what it should be. We should know what our government is doing but we don't because of undue secrecy and they shouldn't know what we do but they do because of undue surveillance."

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<sup>16</sup> For details on TOR and PGP see <http://www.theguardian.com/world/interactive/2013/nov/01/snowden-nsa-files-surveillance-revelations-decoded#section/4> [last accessed 12.14.2013].

## ***Conclusions***

As I have shown in this paper, the possibility for journalists' communication to be monitored everywhere and anytime poses new challenges for the profession. Although mass surveillance was common long before the 2013 mass surveillance disclosures, the discussion and calls for actions against ubiquitous eavesdropping with all its consequences has reached a new level. Although some journalists seem to think differently, the majority of news professionals sees a real danger in being monitored, mainly because potential sources might not speak up and journalists might shy away from reporting on controversial topics.

The Snowden leaks seem to have caused a shift in the public sentiment regarding the press, as a majority of citizens now are more concerned about their privacy than terrorist attacks.

While many call for a transparent government and press, we could see that complete transparency may be a disincentive for potential sources to reveal issues. The debate on privacy, civil rights and transparency is ongoing and far from being settled.

Although there are ways to protect yourself and your sources as a journalist, it seems to become increasingly difficult. A plethora of laws have been criticized and been the reason for heated debates. Journalist Josh Stearns identifies three ways in which journalism can be protected in regards to the Justice Department. Firstly, the Justice Department ought to implement a broad view of journalism for its general guidelines regarding the press. He argues that independent and citizen journalists play an essential role nowadays in the media landscape and need to be protected accordingly. Secondly, he calls for the disclosure of all subpoenas of journalists' records. These records would bring "much-needed transparency to the Justice

Department's actions and give advocates ways to monitor the agency and hold them accountable." Finally, he promotes the continuation and expansion of the conversation.

The discourse on the effects of mass surveillance on journalism has just begun and will likely become only more prevalent. It will play a crucial role in deciding how our media landscape will look like in the future.

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