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# “COMPARATIVE SILENCE” STILL?

## Journalism, academia, and the Five Eyes of Edward Snowden

**Felicity Ruby, Gerard Goggin and John Keane**

*This paper revisits the longstanding debate about journalism, academic scholarship, and their connections with the powerful forces of surveillance that shape the lives of contemporary democracies. Drawing critically on the practical findings of Edward Snowden and others, we offer an analysis of the “Five Eyes” intelligence collection and sharing arrangements between the United States, United Kingdom, Australia, New Zealand, and Canada, and the responses it has elicited from journalists and academic researchers. We show how and why journalists and academics have been deterred from researching and reporting on the significance of Five Eyes activities to the public. The paper provides a new account of the Five Eyes project, helped along by the findings of journalists, including the NSA data-gathering schemes exposed by Edward Snowden. Then we examine the uneven outputs of journalists and academics. Finally, we will show why Edward Snowden’s revelations must be seen as just one contribution to our understanding of a much longer historical trend; and we show why the work of other, less well-known journalists is vital for explaining and understanding a surveillance programme that arguably has profound threatening implications for the future of journalism, university scholarship, and the ideals and institutions of democratic citizenship.*

**KEYWORDS:** Edward Snowden; Five Eyes; intelligence; journalism; National Security Agency (NSA); surveillance

### **Introduction: It’s as if ECHELON Didn’t Happen**

What Snowden disclosed wasn’t information. He disclosed how we collected information. In other words, he didn’t reveal a bucket of water; he revealed the plumbing, he revealed how we gather, process and distribute water. (Michael Hayden, former Director of the US National Security Agency (NSA) and Central Intelligence Agency (CIA), quoted in Goetz and Heilbuth 2015)

At the time of the leaks I was simply thinking, alright the government—and this isn’t a single government now—we’re actually talking about the Five Eyes intelligence alliance [United States, United Kingdom, New Zealand, Australia, and Canada] forming a pan-continental super-state in this context of sharing, they’re going to lose their minds over this. (Edward Snowden, quoted in Bell 2016)

Edward Snowden's June 2013 revelations, in partnerships with journalists, have made the US NSA a household name. What has largely escaped public notice is the term "Five Eyes."

Five Eyes refers to the longstanding intelligence collection and sharing arrangements among the United States, United Kingdom, Australia, New Zealand, and Canada that began in the 1940s. Telltale signs of the Five Eyes—such as the classification "AUS/CAN/NZ/UK/US EYES ONLY" or "FVEY"—appear often in Snowden cache documents. These indications underscore the fact that mass surveillance conducted by the NSA is only possible with the combined surveillance infrastructure, facilities, labour, and procedures for analysing raw data shared by the intelligence institutions in all Five Eyes jurisdictions, which is supplemented by arrangements with up to 30 Third Party countries. This underpinning, decisive, and enduring role of the Five Eyes is overlooked in media coverage, as well as in the fields of international relations, surveillance studies, and media, communication and journalism research. Hence this paper seeks to explain causes for the paucity of public, media, and academic engagement with the existence or significance of the Five Eyes intelligence alliance.

It is important to place the Snowden affair and its aftermath in this context of the wider intelligence arrangements that Five Eyes centrally supports. Among other things, such a contextualization and analysis helps us understand why, amid the noise arising from the Snowden revelations, there has been very little haste towards reform. For example, despite the outcry over the Snowden leaks, judicial, legislative, and executive power over the internet remains where it essentially was in mid-2013. Attempts at policy reform have conclusively failed. While the states responsible were rattled, the response in the jurisdictions of the Five Eyes state parties—United States, United Kingdom, Canada, Australia, and New Zealand—has actually been to accelerate legislative mandates through their respective parliaments, with the effect of actually increasing mass surveillance and its legitimacy.

For instance, the New Zealand Government Communications Security Bureau has been given increased powers of surveillance in the Countering Terrorist Fighters Legislation. For its part, the Australian parliament passed the Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015, instituting mandatory data retention and the National Security Legislation Amendment that imposes jail terms of up to 10 years for journalists reporting on special operations. In the Attorney General's own words, this was, "primarily intended to deal with an Edward Snowden-type situation."

In Canada, Bill C-51 grants spy agency extra powers including to operate overseas for the first time. In addition, the Protecting Canadians from Online Crime Act was rushed through the parliament, providing immunity from civil liability for service providers disclosing data to law enforcement voluntarily and without a warrant. Without debate permitted, the UK government pushed the Data Retention and Investigatory Powers Bill through the parliament in 2014, reinstating data retention measures the European Court found to be illegal, compelling companies outside the United Kingdom to execute a UK interception warrant, and legalising UK government access to submarine cables that do not go through the United Kingdom or its territorial waters. In addition, the UK Investigatory Powers Bill currently before the parliament will legalise highly intrusive surveillance powers.

Last but not least, the USA Freedom Bill, while the first signal action in the US Congress that diminishes rather than expands surveillance powers, has been criticised as inadequate and largely symbolic because it does not alter the NSA's power to scan internet traffic in and out of the United States or restrict in any way its spying on non-US citizens. Some of the intermediary companies have been embarrassed enough to attempt protection of clients and users through increased security and encryption. For instance, Google, Yahoo, Facebook, WhatsApp, and Apple all sought to ensure clients of efforts to enhance security and end-to-end encryption of their social media products and email services, with Facebook making their site https (Hyper Text Transfer Protocol Secure; effectively encrypting communication between browser and website).

As these powerful legal and technical measures of the Five Eyes states show, the surveillance apparatus and practices Snowden exposed continue unabated. Indeed, former NSA chief Michael Hayden mocked the pace of reform at a June 2015 *Wall Street Journal* event, celebrating the failure of resistance with the comment, "And this is it after two years? Cool!" (Froomkin 2015).

So, how might we explain this lack of will on the part of governments to respond to unprecedented concern from citizens but also others (for instance, some of the technology corporations unhappy with the surveillance requirements)? Before the Snowden revelations, Richard Tanter used the term "comparative silence" to explain the neglect of academic scholarship in this field (Tanter 2012b, 8; see also Tanter 2012a), a lacuna that has left the task of examining the power, facilities, and methods of the Five Eyes alliance to a handful of scholars and journalists. Rather than "comparative silence," this paper argues that the *combined* silence of secret states, anxious academics, and complicit media organisations has diminished sources of public information, analysis, and knowledge about the Five Eyes to a trickle—and, in turn, has ensured that the potential democratic opening that the Snowden breach in data gathering and surveillance represents, has not been able to effect a change for the good. This amounts to a "produced" silence (Keane 2013), an organised and deliberate public silence, all the more striking, given that the analysis of intelligence in public and media discourse has increased in recent years, after the spectacular intelligence failure of 11 September 2001 and the distortion of intelligence to serve as a pretext for the 2003 invasion of Iraq (Chilcot 2016). Instead, the limited attention given by researchers and journalists to the role of the Five Eyes as the premier Western intelligence relationship among English-speaking democracies has served to reinforce the opacity of its secret and arbitrary power. In what follows, we develop this argument about the "comparative silence" of researchers and journalists, especially concerning the reach, operation, and implications of the Five Eyes. Firstly, we review the development of the Five Eyes intelligence partnership, charting how its existence and role was only belatedly and gradually revealed to the public. Secondly, we discuss the scant research available on Five Eyes, and offer an explanation why there remains so little research and critical discussion concerning it—despite the emergence of surveillance studies, and, more recently, a renewed and widespread focus on data gathering and use in systems of control across public and private life. Thirdly, we discuss the dearth of journalism concerned with Five Eyes, and why, even given the advent of new digital platforms, journalism, and news, covering such intelligence gathering faces profound challenges, because of the redoubling of controls, penalties, and profound obstacles (not least in fortified security laws).

## The Five Eyes Intelligence Alliance Revisited

We shouldn't actually perceive that the US, UK, Canada, New Zealand and Australia are different countries. They are at a deep structural level, in terms of intelligence agencies and diplomacy, the same country. It may come as a shock to you, but that is even a self-description. (Julian Assange 2015a)

The first-ever, open acknowledgement of the existence of the Five Eyes came from Australia on 23 May 1999 when Martin Brady, the director of the Defence Signals Directorate (since renamed Australian Signals Directorate) stated on a Sunday news television programme that the Defence Signals Directorate, "does cooperate with counterpart signals intelligence organisations overseas under the UKUSA relationship" (Campbell 1999). That secret took 52 years to emerge.

The genesis of the Five Eyes intelligence collection and sharing arrangement occurred during the Second World War, well before the creation of the NSA, when the United Kingdom and United States shared technology, decryption techniques, and intelligence derived from breaking German and Japanese diplomatic and military codes. While the technical achievements were kept secret for decades, decoding signals intelligence (SIGINT) provided insight into enemy weapons capabilities and battle plans; it gave strategic advantage to the western allies, changing the operational course of the war. The sharing of secrets in the crucible of war formed habits, relationships, and reliance that led to an enduring military intelligence and technical exchange.

In their 1985 inventory of the technology, infrastructure, and administrative arrangements within and among the Five Eyes, Jeffrey Richelson and Desmond Ball describe the alliance as:

one of the largest bureaucracies in the world ... a truly multinational community, with its numerous organisations and agencies bound together by an extraordinary network of written and unwritten agreements, working practices and personal relationships ... able to shroud itself in secrecy and to invoke the mantle of "national security" to an extent unmatched by even the national defence establishments. (Richelson and Ball 1985, 301)

According to Bamford, the Five Eyes pact is "quite likely the most secret agreement ever entered into by the English-speaking world" (Bamford 1982, 309). Others state that the Five Eyes is no more than a "relationship," or "alliance" between "conference partners" (Dutton 2015, 2131). Mark Rudner believes intelligence alliances are "among the most intimate and enduring international security relationships" (Rudner 2004, 571), a theme extended by Michael Fullilove when he suggested in the 2015 Australian Boyer Lectures that the Five Eyes was a "love that dare not speak its name" (Fullilove 2015).

For his part, Snowden dared to name and speak at length about the NSA. The NSA was a name kept secret for 23 years until unveiled in 1975 by the Senate Select Committee led by Senator Frank Church dealing with the scandal of Watergate, COINTELPRO, and various covert operations. While Snowden also named the Five Eyes, his initial and overwhelming preoccupation has been with violations by the US government towards US citizens. This may have resulted in the complicity of US alliance partners or impacts on the rights and liberties of non-US citizens, companies, and governments appearing as a secondary theme. However, since 1947, these English-speaking

countries have intercepted, collected, and analysed cables, calls, and data through radio, telephone, satellite, and fibre optic cables, co-ordinating the building and sharing of SIGINT technology and ever-growing quantities of information gathered as technologies have developed. They have together built a capacity to access enciphered and open communications as well as electronic emissions for decryption and analysis. By the end of the Cold War, the Five Eyes satellites, aerials, bases, and listening stations spanned the globe and could intercept signals intelligence through the ECHELON system that gathered communications through fax, radio, telephone, and the internet.

The first detailed description of the Five Eyes and its ECHELON surveillance system came from investigative journalist Nicky Hager's study of New Zealand's role, in which he found the Five Eyes to be "impregably secret" (Hager 1996, 17). The European Parliament elevated rumours about ECHELON to the political level when the Parliament's 2001 resolution confirmed the existence of the UKUSA Agreement as reality. It also confirmed the global reach of ECHELON through satellite, radio transmissions, cable transmissions, and underwater cable transmissions. The Parliament confirmed the economic espionage under way, in addition to the diplomatic and routine mass surveillance, and reaffirmed the public's right to know, the responsibility of governments to inform citizens of likely surveillance, and stated, "it is surprising, not to say worrying, that many senior Community figures, including European Commissioners, who gave evidence to the Temporary Committee claimed to be unaware of this phenomenon" (European Parliament 2001). What continues to be surprising is the enduring nature of such claims of ignorance or doubt about the Five Eyes mass surveillance phenomenon.

The European Parliament's inquiry was a determined challenge but a temporary interruption in the organised silence surrounding the surveillance capabilities of the Five Eyes. The detailed resolution was finally adopted on 5 September 2001. Just days later, the pretext and context for greatly enhancing surveillance practices were provided by the events of 11 September 2001, after which much of the debate was stifled, and forgotten. The potential for reform fell away, while the power of intelligence agencies grew exponentially. Before Snowden's revelations, the European Parliament's inquiry was the most sustained global debate and media coverage about the Five Eyes mass surveillance activities. The reforms proposed then are very similar to those under discussion since Snowden re-blew the whistle: a combination of political negotiation of new agreements between states, new democratic oversight and reform of intelligence agency practices, and privacy-enhancing technical measures in the hands of citizens.

In summary, the Five Eyes is approaching its eighth decade, with deep roots in security concepts, infrastructures, and operations of the states involved, and their global interests and ambitions. If parliaments have faced great difficulties bringing the Five Eyes to account, not least because citizens have found it hard to learn about the arrangements, what has been the role of research?

### **Eyeing Academia**

While the trans-Atlantic "special relationship" between the United Kingdom and United States is often acknowledged in the literature of international relations, political science, and surveillance studies, the longstanding Anglophone Five Eyes intelligence-sharing arrangement has received less attention or scrutiny. Various commentators have

suggested that intelligence was the “missing dimension of diplomatic history” as former diplomat Sir Alexander Cadogan has put it (quoted in Dilks 1971, 21; cited in Andrew and Dilks 1984, 1), or “the least understood and most ‘undertheorized’ area of international relations” according to scholar James Der Derian (1992). Particularly pertinent to any study of the Five Eyes is the observation of historian Christopher Andrew that, the “great majority of histories of the Cold War do not refer to SIGINT at all” (Andrew 2004, 176). Given the core purpose of the Five Eyes arrangement is the collection of SIGINT, this tendency has compounded the secrecy and invisibility of the Five Eyes to researchers and citizens.

One explanation for this neglect is the technical complexity of SIGINT, which undoubtedly obscures and deters detailed ongoing study. Specialised knowledge and patience in deciphering voluminous acronyms is necessary to understand evolving technical equipment and capacities, as well as political and military infrastructures. However, such barriers do not appear to deter weapons specialists or regime theorists, scholars that have overcome the combining of technical acronyms about equipment with bureaucratic shorthand for structures, meetings, or treaty bodies.

Another possible explanation is the small amount of hard data available about the Five Eyes facilities and procedures that meets the higher standard of evidence required by scholars. For his part, Richard Tanter rejects this reason as invalid, noting: “A great deal of information and detailed background material is readily found by anyone who looks ... In fact the problem is often a matter of being swamped by data and analysis” (Tanter 2012a, 7). Instead, Tanter demands more powerful explanations for the public silence and “avoidance of the research field,” contending that academic and civil society researchers excused themselves due to feeling outside a “certain charmed circle of respectable insiders” to continue or critically assess the research of academics like Des Ball, Richard Aldrich, Rhodri Jeffreys-Jones, and a handful of others. In addition, Tanter suspects that academic researchers have perceived real or imagined risks to career prospects linked to “inquiring too closely into certain questions,” and a “preoccupation with theoretical questions and distaste for unfashionable technical and historically grounded empirical work” (Tanter 2012a, 8).

The threats to career prospects Tanter alludes to are more real than imagined when considering the strict legal penalties under the UK or Australian Intelligence Services Acts, or the US Uniform Codes of Military Justice, which prohibit the disclosure and communication of certain information and impose criminal penalties for identifying an intelligence officer. In Australia, non-disclosure provisions of the Intelligence Services Act also bind members of the Parliamentary Committee and the staff that support them. Under the Australian National Security Legislation Amendment Act of 2014, anyone disclosing information about a “special intelligence operation” can go to jail for five years, even if that person has not realised that the information disclosed was a special intelligence operation (Eltham 2015).

There is also evidence to suggest that Tanter is right to imply that unwanted or unfriendly attention and surveillance is drawn to those researching or teaching about intelligence arrangements. Reputation and funding implications are faced by any scholar accused of activist or politically motivated research, but the risks differ depending on subject matter; poking around secret agencies draws different attention and has different consequences to acts of poking around other policy institutions. The chill factors were certainly more explicit during the Cold War, when science professors appeared

before the Canadian Spy Trials and university boards of trustees dismissed academics invoking the Fifth Amendment when hauled before the US House on Un-American Activities (Lee 2014).

As to Tanter's accusation of "distaste for unfashionable technical and historically grounded empirical work," we observe that even if there was an appetite, there have been direct and indirect political constraints placed on historically grounded empirical research. Historians did not imagine the risks of exposing and explaining the important role of SIGINT in breaking Nazi code and changing the course of the Second World War; the Joint Intelligence Subcommittee issued instructions to historians regarding the "Ultra" secret, indicating that it would "NEVER be disclosed," an edict that lasted until 1974 (Moran and Murphy 2013). Today, barriers to empirical work include Five Eyes SIGINT facilities being declared prohibited areas, such as under the 2009 Australian law that decrees that facilities cannot be photographed on threat of imprisonment for up to seven years.

These are among the real practical and legal challenges in academic research of intelligence agencies.

It is important to note that the tendency to prohibit academic research into SIGINT was not really loosened until after the Cold War ended, with the CIA starting to promote intelligence studies in the 1980s, organising seminars and conferences, declassifying documents, and sponsoring institutes. Richard Aldrich and John Kasuku noted that this "had the unintended effect of promoting a monoculture in which there is an absence of intellectual challenge." They suggest that with such sponsors or overt censorship in the West, it has been easier to imagine and examine the technology and surveillance excesses of the Stasi and the Soviet Union as opposed to the western intelligence alliance (Aldrich and Kasuku 2012, 1018).

In addition to the disincentives to research and publish listed above, there is evidence that students and academics have been advised against informing themselves through primary source documents found on sites such as WikiLeaks. In 2010, several US universities warned their student bodies via email that future careers might be jeopardised by looking at "sensitive material" on the WikiLeaks website. The School of Law at Boston University, the School of Foreign Service at Georgetown University, and the School of International and Public Affairs at Columbia University all warned students about making comments or sharing links to documents available via WikiLeaks.org via social media (Grinberg 2010). In 2015, former US Senator Cynthia McKinney was forced to remove all references to WikiLeaks-derived materials in order to complete her dissertation from Antioch University (Cuthbertson 2015). Indeed, in his introduction to *The WikiLeaks Files*, Julian Assange discusses the implications of the policy of the International Studies Association (ISA), publisher of the premier foreign relations journal in the United States, to never accept manuscripts that reference WikiLeaks-derived materials, "even quotes or derived analysis." Given the ISA is the largest scholarly association in the field, this policy has,

banned the single most significant US foreign policy archive from appearing in its academic papers ... which calls into question its entire output, an output that has significantly influenced how the world has come to understand the role of the United States in the international order. (Assange 2015b, 10)

As we argue, there are a set of reinforcing reasons why the Five Eyes have not been the subject of sustained, widespread scholarly study and research—when clearly given its extent and significance, it surely deserves it. The material disincentives—in terms of legal proscription, potential loss of liberty, and damage to careers—are major factors. The complexity of the technical, security, military, and policy layers of Five Eyes, and the difficulties in studying its infrastructures, are also notable. Finally, there are perhaps more subtle ways that potentially supportive and enriching theoretical and research trends, such as surveillance studies, or, more recently, the focus on data research, could greatly assist in gaining overdue attention to the study of Five Eyes; yet, for various reasons, this has not occurred. So, if research is somewhat missing in action, what then of the other critical domain of disclosure and publicity, analysis, ideas, and debate—the media?

### Muting the Media

The security organisations in Australia do not give press conferences, but they do disclose their views through “leaks”... In Canberra, if you want the semi-official ASIO [Australian Security Intelligence Organisation] line you read the Canberra Times’ Special Correspondent. Another journalist, on the staff of the Bulletin, who also writes on security matters, reflects the view of a group within ASIO popularly known as the “Dr. Strangelove faction”, which runs its own extreme line. Another journalist, on the Sydney Morning Herald, reflects the view of the Joint Intelligence Organisation (JIO), the overseas intelligence co-ordinating and assessing body. (Richard Hall [1978, 3], journalist and federal political adviser)

If the security services insist something is contrary to the public interest and might harm their operations, who am I (despite my grounding from Watergate onwards) to disbelieve them? (Chris Blackhurst [2013], former editor of the UK *Independent*)

The longstanding practice of backgrounding particular media outlets to transmit particular views and facts publicly is known as “leaking.” As Richard Hall describes it above, official leaking is a practice that is routine and common knowledge. Surprisingly, as Vian Bakir notes, the disciplines of journalism, media, and communications have been “remarkably silent” on the activities and outcomes of manipulative agenda-building on the part of intelligence agencies (Bakir 2015). Her study found that the entire archive of 16 key journals in the field to December 2014 yielded a scant total of 23 articles or 0.1 per cent of the disciplines’ articles devoted to this subject. This lack of attention by researchers is noteworthy given how the long span of time over which manipulation of the press has been something that intelligence agencies have resourced as a function (Dover and Goodman, cited in Bakir 2015).

The long tradition of plausibly deniable briefings between UK intelligence and journalists over tea at the Ritz has been noted by journalist David Rose (2007). Former investigative journalist turned journalism scholar Paul Lashmar discusses and reviews Rose’s account in his pioneering analysis (Lashmar 2013). Noting the absence of frameworks within intelligence theory to analyse the institutional relationships between intelligence and media organisations, Lashmar turns to media theory, drawing on the similarities between crime reporting and police efforts to set news agendas and

suggests that intelligence agencies are following the police path in professionalising media contact. He concludes that the fourth estate grapples with particular difficulties when dealing with secret organisations. Such challenges include the difficulty of resisting career-enhancing insider information as well as the danger of drawing too close to intelligence contacts. The perils are well illustrated by the case of reporting on the existence of weapons of mass destruction in Iraq, which effectively saw much of the fourth estate speaking for the state (Goodman 2013).

The relationship between the media and the intelligence community, according to Ian Wilson, is well known: "journalism provides an easy cover for the spy" (Wilson 1997, 127). In his time as a spy for both the Soviet Union and the United Kingdom, Kim Philby, the most famous of the Cambridge Five, wrote for *The Times*, *The Economist*, and *The Observer*. In the 1970s, the Pike Select Committee on Intelligence acknowledged that in addition to stringers and freelancers collecting information and rumours as well as planting stories, "full time correspondents for major US publications have worked concurrently for the CIA, passing along information received in the normal course of their regular jobs and even, on occasion, traveling to otherwise non-newsworthy areas to acquire data" (*Village Voice* 1976).

The US House of Representatives passed a measure in 1996 to ban the use of journalists unless the President gives a waiver. This sparked an inquiry that saw CIA Director Deutch state that the CIA "should not be prohibited from considering the use of American journalists or clergy" (Hernandez 1996). US journalist Terry Anderson, who worked for Associated Press in the Middle East, and who was taken hostage for seven years, believes that journalists have been greatly endangered from the history and ease of using media outlets as covers for spies. "From both personal experiences and my duties as the director of the Committee to Protect Journalists," he notes, "I've known that journalists are in danger by the perception that they are connected to intelligence agencies" (Anderson 1996).

The assumption that war journalists could be spies continues to be held by the US Department of Defense, which likened war journalists to spies in the June 2015 "Law of War Manual," there indicating that in some situations journalists can be treated as "unprivileged belligerents." The manual states that "Reporting on military operations can be very similar to collecting intelligence or even spying. A journalist who acts as a spy may be subject to security measures and punished if captured" (Department of Defense, Office of General Counsel 2015, 173). Frank Smyth of the Committee for the Protection of Journalists was critical of the manual for increasing the persecution of journalists: "the manual is sending a disturbing message to dictatorships and democracies alike." An editorial in the *New York Times* was similarly critical, stating that journalists' work would be "more dangerous, more cumbersome and subject to censorship" (*New York Times* Editorial Board 2015).

The censorship mechanisms of D-Notices are a major reason for rare and limited reporting in the United Kingdom and Australia on the existence and activities of the Five Eyes. Under D-Notices, invented in the United Kingdom in 1912 and imported to Australia in 1952, media agree voluntarily not to publish stories on a list of sensitive issues deemed to threaten national security. The list encompassed UK atomic tests, ciphery, certain aerial photographs, technical information regarding weapons, equipment and communication systems, and ciphery and monitoring activities, many core Five Eyes activities. Only very occasional stories broke through the D-Notice list.

In 1973, the Australian *National Times* violated the D-Notice system to reveal the existence of the D-Notice system and the Defence Signals Directorate, the main Five Eyes agency in Australia (Sadler 2000). In 1977, stories pertaining to the Australian Secret Intelligence Service were added to the no-go list.

UK journalist Duncan Campbell experienced the consequences of breaking the gentlemen's D-Notice agreement on the Five Eyes. Campbell was charged under the UK Official Secrets Act for a 1976 article based on an interview with a former signals intelligence officer. The article printed the acronym GCHQ for the first time, revealing the Government Communications Headquarters as the UK FVEY partner (Campbell 1976). The following year, after his home was searched and threats of another prosecution under the Official Secrets Act loomed due to his BBC documentary series *Secret Society*, Duncan Campbell once again broke new ground by exposing the ECHELON system, revealing the mass surveillance operating through the global network of FVEY bases (Campbell 1988). For any journalist working in the United Kingdom at the time, the risks of following similar story lines outside the D-Notice boundaries were made clear by the treatment of Campbell.

Surveillance and use of laws such as the 1917 US Espionage Act have been used to punish those exposing information about the Five Eyes and to deter other individuals and organisations from taking similar actions. In a story documenting US government spying on *Der Spiegel* journalists, Ryan Devereaux of *The Intercept* stated:

The Obama administration has developed a reputation for aggressively investigating journalists and their confidential sources in cases involved [sic] leaked national security information—serving subpoenas for phone records linked to reporters at major news organizations investigating sensitive CIA stories, dragging a Pulitzer Prize-winning journalist through a multi-year legal battle in an effort to reveal an alleged government source, and applying the Espionage Act to target whistleblowers leaking to journalists more times than every previous administration combined. (Devereaux 2015)

Before Snowden's revelations, journalists and publishers were surveilled and persecuted for doing public interest journalism. Targets included staff, supporters, and alleged sources associated with WikiLeaks who have been aggressively surveilled, pursued, subjected to harassment, intimidation, and investigated for publishing documents, including materials on the existence and activities of the Five Eyes. The US Diplomatic cables (released in 2010), and the Global Intelligence Files (2012) placed many relevant documents in the public domain marked "REL TO FIVE EYES," or with designations such as: "This product shall not be disseminated beyond the Five Eyes partners." The 2011 Spy Files provided information as well on the unregulated trade in mass surveillance technologies on the part of western corporations, principally in Five Eyes countries. WikiLeaks has survived a US Grand Jury and Department of Justice investigation, and the largest ever investigation into a publisher in US history, which according to Australian diplomats was unprecedented in size and scope (Dorling 2011).

The consequences for journalists prior to Snowden's revelations include the sentencing of Barrett Brown, journalist and WikiLeaks supporter who initially faced over 100 years in jail, including for sharing a hyperlink to material passed to WikiLeaks already in the public domain. Brown, who is currently serving 8.5 years and has won two awards for his journalism from jail, created Project PM, a crowd-sourced investigation that openly analysed materials. Research called "Echelon2" delved into the

relationships between private companies and government agencies, and explained the extraordinary power of companies like Booz Allen Hamilton well before Snowden made that common knowledge. The consequences for journalists in the wake of Snowden's revelations include the apprehension of the partner of journalist Glenn Greenwald in Heathrow airport under Schedule 87 of the UK Terrorism Act 2000. Because David Miranda was believed by intelligence agencies to be acting for Glenn Greenwald and carrying Snowden materials, a mechanism designed to detain terrorists was used for the purposes of preventing journalism. Perhaps more disturbing and symbolic was the UK government forcing *The Guardian* to destroy hard drives containing the Snowden materials with angle grinders, all witnessed by GCHQ.

Examining the potential of the fourth estate to live up to the democratic ideals of holding power to account through the threat of public exposure, Paul Lashmar's pioneering 2016 study of journalists in each of the Five Eyes countries reflects on the role of leaks, sources, and ethics after Snowden's revelations. The journalists interviewed recognised that their capacity to protect sources is diminished, with the threat of mass surveillance possibly preventing all but the most determined from speaking out, providing an incentive, if not an obligation, for utilising security and encryption tools in routine tradecraft. This study also concludes that what "both the Snowden and to some extent the Julian Assange affair have demonstrated is that states are among the greatest enemies of free open expression and accountable government," quoting Gavin MacFadyen of the Centre for Investigative Journalism lamenting "the inadequacy of the mainstream press, its embarrassing proximity to power and its refusal to embarrass power on the whole" (Lashmar 2016, 12–13).

What emerges from this discussion is that despite the advent of new models, practices, and possibilities for journalism associated with digital technologies—of which the most prominent and controversial has been Wikileaks—the kind of sustained, wide-ranging, critical journalism needed as a bedrock resource to foster and stimulate public discussion and governmental responses to Five Eyes, post-Snowden, has not transpired. State control via new security legislation has been central to discouraging journalism, and it has proven surprisingly difficult to combat—despite the many new media channels, and social and political movements that have arisen to contest surveillance, control, and data-gathering.

## Conclusion

A small handful of journalists and academics have laboured over decades to provide spasmodic coverage, fragments, and disparate accounts of the historical development, technical capabilities, and political power of the Five Eyes. Most of their efforts have been overpowered with silence; the intelligence agencies have simply waited out most exposés, refusing to confirm or deny any details. "The government does not comment on intelligence matters," or reporting unanimous positions among the major parties or dissent from predictable and marginalised voices, does not sustain the attention of editors, investigative journalists, or public debate. Snowden's cache inspired journalist Duncan Campbell, among the most athletic of the Five Eyes watchers, to tweet on 3 August 2013, "Echelon system confirmed in new Snowden documents out today. It's only taken 27 years!" Not many journalists or publications have that much

staying power. Thanks to the courage of some journalists, academics, and whistleblowers, they may no longer need it.

In this essay, we have attempted a new explanation for why the existence, mandates, and budgets of Five Eyes agencies have been rendered invisible to citizens of five democracies. Deliberate efforts have been taken to silence journalists and publishers, and legal and political barriers have been used to deter academic research, which together have produced a great silence that works in favour of the Five Eyes operation. Our contribution points to the need for more research on the sources of this silence, and what can be done to break its grip on public discourse. It is very encouraging to see important research emerging, such as the work of Bakir and Lashmar, that seeks to take a reflexive approach to examining research paradigms and theories, as well as using available information and evidence. Such work generates new kinds of empirical data, to help us understand the interlocking institutional links among media, intelligence, and research (including journalism, media, and communication research) that have led to such silence. A further agenda for research would be comparative studies, analyses, and conversations across different (though typically global-related) intelligence and surveillance systems—whether in Brazil, Europe, China, or other parts of Asia-Pacific. These might represent different global and regional axes and power dynamics, but they also have striking interdependencies and embedded, concealed collusion among data and surveillance, intelligence agencies, and old and new media.

Finally, we can also point to the fact that while there are continuing attacks against journalists and academics, there are also new sources of resilience (Benkler 2011, 11–34; Keane 2013) demonstrated by new forms of journalism that deserve ongoing research attention, as does the ongoing work of WikiLeaks, new outlets such as *The Intercept*, and collaborations between outlets working across multiple jurisdictions to advance public understanding of the Five Eyes, and the challenges it poses to the democracies of its partner states.

## DISCLOSURE STATEMENT

No potential conflict of interest was reported by the authors.

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