

Why Political Plumbers Fail – Hypocrisy and Hyperbole in Leak Control

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In April 1994 in the tumultuous weeks leading up to South Africa's first democratic election, the *Citizen* published the identity of a key secret witness to the Goldstone inquiry into state-supported political violence. In the atmosphere of the times, publicly revealing the witness's name put his life at risk. The *Citizen*, an English-language newspaper secretly founded and initially funded by the apartheid National Party government, and still at the conservative end of the political spectrum, revealed the witness's name using a confidential source. The Media Monitoring Project, an NGO producing daily reports in the lead-up to the election, criticized the newspaper saying that there was more reason to protect the identity of the Commission's informant than of the newspaper's. If the newspaper's source wanted to reveal the witness's identity they should be prepared publicly to take responsibility for doing so and the newspaper should insist upon it.

The incident encapsulates some of the recurring dilemmas and disputes involved in leaks and public disclosure. When should the news media over-ride other institutions' views about what should remain secret and impose their own definition of what the public should know? When is it legitimate and helpful to use confidential sources as the basis for news stories? And frequently the two questions are linked, as the media use leaks to disclose information which the government or others say should remain secret.

The conventional lines of debate are well established. On the one side are those who view the disclosure of information through leaks as substantially damaging important public interests, such as national security or the integrity of the policy process, or the privacy of individuals. On the other are those who sees leaks as benefiting democracy, as holding power-holders to proper account and frequently disclosing official folly and wrong-doing.

In recent years, these debates have yet again been revived. In Britain, a BBC story based upon a leak led to a vigorous government counter-attack which resulted in the suicide of the source, Dr David Kelly, and subsequently a revealing judicial inquiry under Lord Hutton. In Australia, the Howard Government has launched several investigations into leaks, and has sought to intimidate any public servants who might reveal official information to the media. America, among the English-speaking democracies, has gone furthest in proposing and introducing legislation impacting upon leaks. In 2000 for the first time in history Congress passed a bill covering the unauthorized disclosure of all forms of classified information. Only frantic last-minute lobbying persuaded President Clinton to veto the measure. Although that measure was abandoned, after the tragedy of

9/11, measures such as the Patriot Act, the Homeland Security Information Act and the Homeland Security Act have all expanded government secrecy (Nelson 2002).

This paper explores the conflicts surrounding political plumbing, the hypocrisies and hyperbole of government leaders who rail against leaks while also indulging in them, and why the efforts to legislate to produce consistent, enforceable policies are bound to fail. They are bound to fail because leaking is intrinsic to contemporary democratic politics, and the politics surrounding their use is complex and diverse. Because the use of confidential sources in the news is likely to remain pervasive, and because they no doubt add to the total amount of information to the public, does not of course mean that it always has beneficial outcomes. So the following section examines some of the costs and pitfalls in the use of confidential sources in regard to news quality and the public interest. The middle part of the paper will examine two pairs of recent cases, which illustrate some of the complexities and pitfalls. The first pair involves two suicides by officials when authorities deemed that they had been guilty of improper disclosure of information. The second pair involves cases of authorities reluctantly being pushed into pursuing leakers, because they involved not leaks by dissenters but leaks against dissenters. The concluding section examines the determination of many government leaders to minimize the extent of unauthorized leaks, but also the hypocrisies and ineffectualness of most such attempts at leak control.

Disclosure Games in Contemporary Democratic Politics

Perhaps the most famous leak in history, and certainly the most extensive and one of the most dramatic, was the publication of the Pentagon Papers in 1971. Disillusioned military expert, Daniel Ellsberg, leaked a massive study, totaling thousands of pages, carried out by the Pentagon to examine policy-making in the Vietnam War. When this was published first by the *New York Times* (June 13) and later by several other newspapers, it led to a landmark legal showdown between the White House and the press, in which the press prevailed (Lewis 2005). By revealing in such graphic and authoritative detail the history of government deception in the war and the continuing pessimism about the military situation there (although not including any matters of contemporary operational significance), the Pentagon Papers no doubt strengthened anti-war sentiment. Certainly this was Ellsberg's aim. He had become an anti-war dissenter after years of internal travail, and finally decided his highest duty was not to his superiors but to democracy and to stop the fighting and dying.

The Pentagon Papers is thus the embodiment of the conventional view which frames the public debate about leaks. However in many key ways – in addition to their monumental size and importance – it is far from typical of leaking in contemporary democratic politics.

One aspect of the conventional view is that it pits the interests of the news media in disclosure against the wish of government for confidentiality and control: 'In the never-ending sparring match between the government and the news media, not subject produces more friction than the practice of leaking classified information' (Nelson 2002, p.2). However, framing the government as monolithic is misleading, as most leaks involve

conflicts within government. This focus is reinforced by the way that controversies about leaks are usually publicized. Take for example the way that Victorian Premier Steve Bracks reacted to a story on the ABC based upon the leaking of a police document about some police informers. Bracks criticized the ABC, rather than the leakers (Grayson 2004). But this was either or both a reaction to the political embarrassment the story caused him and/or an attempt to deflect attention away from the size of the problems in the police force. The story was so embarrassing because the leak to the media was the second and much less important leak of this information. The first leak was from corrupt police officers to criminals and resulted in the two people in the witness protection program, Terry Hodson and his wife, being murdered. Venting his anger at the ABC was an easier response for Bracks than acknowledging the scale and importance of corruption in his police force.

The Pentagon Papers image is of dissenters leaking against their superiors, but security agencies and defence bureaucracies are among the most assiduous of leakers, not to undermine national security but to advance their own policy agendas. In the lead up to the Iraq war, many American and British news media based reports on anonymous sources that put supported the case that Saddam had WMD (Calabrese 2005, Moeller 2004). In particular many stories, more than 100 according to a document presented to Congress, resulted from briefings set up the Iraqi National Congress, headed by Ahmad Chalabi. This group was formed by the Americans in the early 1990s. In the two years after Congress passed the Iraq Liberation Act in 1998 it received over \$17 million, and between March 2000 and May 2003, it received a further \$33 million. In the 108 stories which it said were based on information it supplied, 'the balance of the stories advanced almost every claim that would eventually become the backbone of the Bush administration's case for war, including Saddam Hussein's contacts with al Qaeda, his attempts to develop nuclear weapons, and his extensive chemical and bioweapons facilities – all of which are now in grave doubt' (McCollam 2004). Judith Miller, a New York Times reporter later criticized for her pre-war stories on Iraqi WMD told a colleague in an email that most of the front page stories in that paper had been provided by Chalabi (Howard Kurtz *WP* 17-2-2005). So stories based upon confidential sources played an important role in cultivating the political environment which made it more politically possible to go to war, a weapon of the hawks rather than doves, and of leaders and their allies driving their policy agenda without having to take full public responsibility for the dubious claims.

Similarly, although the stereotype is of left-wing dissenters against a more conservative government, leaking is no respecter of the ideological spectrum, and in fact the opposite is at least as common. For example in 1999-2000, the leaks that were most upsetting the CIA were the passing of classified national security documents to Bill Gertz of the right-wing *Washington Times* and used in his book *Betrayal*. Gertz thanked these 'dissidents and patriots' in the intelligence community who were so angry at Clinton's 'betrayal of American security', that they 'responded in the only way they knew how: by disclosing some of the nation's most secret intelligence' (Nelson 2002 p.13-14).

Further, the Pentagon Papers stereotype is of leakers puncturing official falsehoods with a more truthful account, but leaking is not necessarily more reliable than the officially certified version. In the years between the launch of the Soviet sputnik in 1957 and the 1960 presidential election, a controversy developed in the United States about an alleged missile gap that made it vulnerable to Soviet attack. The criticism was particularly pursued publicly by Democratic presidential contender John Kennedy and columnist Joseph Alsop. An official Pentagon report concluded there was no basis for the concern, although the Air Force – which of course had most to gain by pressing the claim – had submitted a dissenting view. That view when it was leaked received far more dramatic publicity than the official view. After Kennedy became president, he was quickly convinced that there was no missile gap (Preble 2000).

Finally, the Pentagon Papers involved the leaking of material that was forever meant to remain secret, while many, perhaps most, leaks simply precede the public release of information, and are aimed not at affecting the substance of what becomes public, but its reception. This can be done both to soften damaging news and to prolong good news. A classic of this genre are the budget leaks which each year precede the Treasurer's presentation. In Victoria in 2005, however, the process somehow went a step further when Channel Nine reporter David Broadbent received the whole document before budget night. A former Treasury official, Richard McEnroe, said the news that the budget had leaked would have conjured 'feelings of raw horror' among the public servants involved in the budget process – 'fear, panic, dread and mistrust' (Age 6-5-2005).

The recipient of the leak, David Broadbent, enjoyed himself criticizing the various theories that were put forward in the subsequent frenzies speculation about where it had come from. Then he made some concluding observations downplaying the importance of the leak, because 'the Bracks Government has lifted the art of the authorized budget leak to a new level of sophistication'. In the weeks immediately before the budget the 'good news' budget measures are steadily farmed out to reporters 'with the Government's preferred spin', while the 'bad news' stories 'had been released early to get them out of the way'. He thought that he was the real victim of the budget leak, because it meant he had 'to read the budget twice'. Given this extensive cynical leaking, he thought the government's (unsuccessful) last minute attempt to stop his broadcast because of its claim that 'Channel Nine was somehow threatening the sanctity of the state's economic management was met with general amusement' (Age 8-5-2005). McEnroe rejoiced that 'I at least will remember this week as the budget when the media monster created by the Bracks Government sent down a "doosra" and clean-bowled itself' (Age 6-5-2005)

So while the conventional debate often assumes the Pentagon Papers type leak, in fact leaks are by authorities as often as dissenters, are not always more accurate than public statements, and don't always involve great secrets of state. It is necessary to appreciate just how various and intrinsic the practice of covert informational manoeuvres is in contemporary democratic politics, both to affect the policy agenda and to advance one's own side in political conflicts.

Leaks are very common in affecting policy agendas, and can be used for any of three contrasting purposes. One is to gauge reactions before committing firmly to a policy move; another is by premature disclosure to seek to veto a proposed policy move; and a third is by dramatizing a problem to seek to force government action in a policy area. A classic veto leak stopped the first Education Minister in the Howard Government, David Kemp, from pursuing his plan to charge university students the full costs of their courses. The Labor Opposition received the leaked documents and then ambushed Kemp in parliamentary question time. ‘They lured him into answering a couple of innocuous-sounding questions about previous statements on education funding then hit him with such specific and loaded questions that it was obvious the actual Cabinet document was in the hands of the Labor Opposition.’ By the following morning, the Prime Minister ‘was out with the fire extinguisher’ (*SMH* 16-10-1999), and the minister’s ideological zeal had been thwarted. This fits the common model of bureaucrats ‘sabotaging’ a political agenda they disapproved of, but the leak gained its potency because what the minister was planning in private was so at odds with what the government had been saying and promising publicly.

As well as seeking to affect policy, leaks are often moves in pursuing political conflicts. They are also particularly useful in pursuing conflicts, which cannot be acknowledged or pursued publicly, such as diplomatic conflicts or conflicts with political allies. Thus they are a common tool in internal party conflicts. After Labor’s loss in the 2004 election, there were several leaks against leader Mark Latham, who then risked his authority in an effort to make one of his factional critics. The subsequent ambiguous public statement by Senator Stephen Conroy showed the dangers of Latham having escalated the issue, while his accusations against another frontbench colleague Bob McMullan were probably misdirected and resulted in a severing of relations between the two, which further weakened Latham’s position in the party (*Age* 29-11-2004; *Austn* 11-12-2004; *Austn* 29-11-2004). In April and May 2005, the leadership tensions within the Howard Government were ignited when overseas in an interview the Prime Minister talked as if he looked forward to facing the new (recycled) opposition leader, Kim Beazley in the next election. This suggested that he would not be retiring before then, which produced an angry reaction from his deputy, Treasurer Peter Costello, who already felt that the Prime Minister had reneged on a promise to retire in the last term. A rash of stories attributed on background to Costello and his supporters appeared attacking this ‘unprovoked declaration of war’, this ‘destructive act of indulgence’ and signals that he was not prepared to remain as Treasurer until the next election, and that Costello supporters had set the Prime Minister a deadline (eg *Austn* 1-5-2005; 5-5-2005; *SMH* 5-5-2005; *Age* 4-5-2005). Everyone knew where these stories had come from, although Costello never confirmed then in any public statement. Because of his own stupid public boasting, Howard was powerless to discipline his deputy.

Perhaps paradoxically, in the conflicts which most dominate in news coverage – inter-party politics – leaks are less commonly used. Conflicts here are most often pursued by public attacks on the other party. However sometimes leaks are used to smear political opponents without having to attract the public opprobrium of being known as the smearer. Mainstream political journalists are usually properly cautious about such attempts,

although if they are convinced the information is true, may be willing to use it. Sometimes the whirl of rumour is such that normal standards of verification are lowered. A bizarre example happened in the lead-up to the 2004 Australian election. In the lead-up to the Federal election, there was considerable media interest in the new and young Opposition Leader Mark Latham, who had turned around Labor's position in the polls. It was well known that Channel Nine's weekly current affairs program, *Sunday*, was planning a profile on Latham and had been digging into his personal life. Nine had assigned its top investigative team to the story, and there was strong speculation that it would be a damaging expose, an expectation fanned by Nine's owner Kerry Packer's support for the Liberals. Most attention centered on the period preceding and following the break-up of Latham's first marriage. In the event the program proved to be balanced and broadly sympathetic to Latham. However in the week leading up to it, speculation reached a feverish pitch. Several press stories spoke confidently about the 'revelations' that were to come, especially a raunchy video of Latham's 'buck's night'. The extent to which these apparently inaccurate stories were the result of a spontaneous rumour and gossip mill among the journalists or of a deliberate whispering campaign orchestrated by the Liberals is difficult to discern.

Leaks occur in the myriad of other more idiosyncratic conflicts covered in the news as well. Indeed perhaps their use is growing. Doyle (1998), for example, contrasted the attitudes of special prosecutor during Watergate, Archibald Cox, with those of the Whitewater/Lewinsky special prosecutor, Kenneth Starr. Doyle, who worked for Cox, said that he was scrupulous about not leaking, and had a great respect for the legal proprieties of how a special prosecutor should behave. Instead the Starr office acted not as officers of the law, but as combatants in a political contest, and strategically leaked aspects of the prosecution case. A recent British scandal concerned an affair between Home Affairs Minister Geoffrey Blunkett and the publisher of the *Spectator* xx, which became very bitter because Blunkett wanted access to what he believed were his children. There was much speculation about how the story first became public, and the *Spectator* accused Blunkett of leaking details of the relationship, which he denied. Once in the news, there were many rumours about who was doing what 'off-the-record briefing for whom in an increasingly frenzied newspaper battle over the story' (*Guardian* 1-12-2004; 2-12-2004)

Typically the uncertainty of who was leaking what was part of the drama and impact of the leak. One of the few public confessions of leaking actually occurred within a media organization. Former BBC executive Will Wyatt later admitted he was the insider who leaked that Greg Dyke had raised 50,000 pounds for Tony Blair's election campaign in an effort to prevent Dyke being appointed Director-General of the BBC. It added to the campaign to stop Dyke on the grounds that he was too close to Labour, but he still got the job. In his memoirs, Wyatt wrote that he took 'professional satisfaction' in leaking information about Dyke without being fingered as the culprit. (*Guardian* 12-6-2003)

Finally it should be pointed out that not every use of confidential sources in the news is some Machiavellian master-stroke. Politicians, their staffs, and to a lesser extent bureaucrats live and work in relatively close proximity to a large group of journalists.

Inevitably there are grapevines and gossip, personal friendships as well as a large amount of casual interaction. Often leaks are inadvertent or compulsive. Occasionally the planting of a story with a particular journalist is also an act of patronage, using the leak to cement a relationship, or even induce a sense of obligation and gratitude.

So we need a very broad definition of leaks: ‘A leak can be defined as the unauthorized release of confidential information. However this umbrella covers many variations – that release may come from a dissident but also from someone in authority seeking political advantage, that confidentiality ranges from the very sensitive to the innocuous, from what was intended to be forever secret to the about-to-be announced’ (Tiffen 1989 p.97). This also leads us to recognize that the conventional moral debate about leaks is too narrow. While the two sides take directly opposing moral stances towards the phenomenon, whether it is a good or bad thing, in essence they are both addressing only one kind of leak – the subversive or dissident leak. Appreciating the variety and pervasiveness of leaks in contemporary politics allows us to approach the topic with an expanded moral compass, and helps us to understand why most efforts at leak control are doomed to futility.

The Costs of Confidential Sources

There is a paradox in the way journalists defend their use of confidential sources. One of their guiding occupational credos is that official secrecy is usually damaging to the public interest, that it is usually a cover for many sorts of social ills, from incompetence to patronage and skullduggery. Journalists are the most ardent proponents of Brandeis’s view that the best disinfectant is sunlight (Holmes 1990, p.27). Nevertheless, while deploring others’ secrecy and its social costs, they insist that the secrecy surrounding their interactions with sources is essential to their work, and greatly enhances the public’s knowledge and hence the quality of democracy.

However there is no reason to think that journalistic transactions alone are immune from the pitfalls and abuses which attend secrecy in other areas of social and political life. It is not plausible that journalists as an occupational group either are uniquely all virtuous or have foolproof methods for sifting out dishonest behaviour. The secrecy involving confidential sources can then be a cover for unscrupulous reporters to invent sources or quotes. In America in recent years, there has been a spate of resignations and firings for such offences (Kurtz 2005), beginning with the departure of Rayson Blair from the *New York Times*, who was exposed at having fabricated several feature stories.

Short of such outright invention, like secrecy elsewhere, the use of confidential sources can camouflage journalistic incompetence, and allow journalists to inflate the apparent number and quality of the sources on which the story’s claims are based. They make it hard for audiences to evaluate the quality and basis of the information in a story. A phrase like ‘sources close to the Prime Minister’ may mean one or multiple sources, may mean the Prime Minister himself or a lowly staff member who may or may not know the Prime Minister’s mind.

There are, of course, severe risks for journalists and their organizations if – especially on politically sensitive stories – they cannot find external supporting evidence that their claims are right, or worse still their story can be proved to be wrong. When a claim is publicly attributed it means that that person bears the primary responsibility for its accuracy. When a claim remains unattributed, the news organization takes on that responsibility. This can be greatly to its cost, as CBS and Dan Rather discovered in the lead-up to the 2004 American presidential election, when it transpired that the basis for their story that the young George Bush had received special treatment in his military service requirements was a forged document. This not only caused the organization great embarrassment, but led to an earlier than planned exit by its veteran news anchor.

The claims had been immediately subjected to close dissection by a variety of right-wing bloggers, who between them had pinpointed the details that showed the document could not have been from the early 1970s as purported. The bloggers were at work again after the media reported a leaked memo saying that it was good strategy for the Republicans to elevate attention to the case of Terri Schiavo, the woman who had been on life support for fifteen years (WP 30-3-05). Schiavo was the subject first of a prolonged and fierce family feud, between her husband who wanted to let her die, and her parents who wanted to keep her alive. They had battled each other through a series of courts, all of which had ruled in the husband's favour. Then a specially convened sitting of Congress urged for her to be kept alive, but a further court again ruled in the husband's favour, and soon afterwards feeding was stopped, and she died. The leaked memo called the controversy 'a great political issue' for the Republicans, and said their pro-life base will be excited by Congress debating the issue. After the document leaked to ABC News on March 18, Republicans charged it was a fake, a Democrat concoction. However a few weeks later, a Republican congressional staffer admitted writing it, and lost his job as a result (WP 7-4-2005).

The contrasting outcomes of these two recent American cases involving leaked documents demonstrate not only the high stakes for those involved, but that one cannot in general simply either accept or dismiss the veracity of claims based upon leaks. Because in some senses at least, a claim based upon a confidential source is an appeal to authority or established credibility rather than directly to evidence, it makes audience evaluation of the claims difficult. This allows both journalists to promulgate claims that are not as substantially based as they should be, and for solidly based, accurate stories to be disbelieved by the audience.

Apart from not allowing the audience full insight into the bases of the story, the secrecy shields from public scrutiny many potentially problematic aspects of the relationship between source and journalist. Both are in some ways vulnerable to the other, and especially if the relationship is not a regular or established one, trust can be betrayed. A spectacular example occurred in August 2004. The British press was in a characteristic lather about the sex life of the national soccer coach, Sven Goran Eriksson, who was having an affair with a secretary of the Football Association, Faria Alam, who it turned out had previously had an affair with the head of the FA, Mark Palios. The FA's director of communications, Colin Gibson, tried to divert the *News of the World* from exploring

the earlier relationship by offering them a deal involving more detail about the current relationship. Instead the *News of the World* ran a dramatic front page story describing Gibson's attempted deal. A Sunday tabloid reporter called it the turn over. If a deal wasn't working out the way the paper planned, you 'flip the story round and turn him over' (*Guardian* 3-8-04) As a result, the whole scandal was given another fillip, the Football Association was thrown into a new crisis and Gibson lost his job (*Guardian* 9-8-04).

The journalist is also vulnerable. Sources may use the guarantee of confidentiality irresponsibly and manipulatively. If the journalist does not discern that an account is partial or misleading before publication, it may be impossible to correct or contest afterwards, especially if they feel bound to maintain confidentiality. In extreme examples, they may be prepared to divulge what occurred. In a recent bizarre Australian example, Senator Ross Lightfoot, a maverick, conservative Senator from Western Australia, boasted to a News Limited journalist in Australia that he used a taxpayer-funded 'study trip' to Iraq to secretly take \$US20,000 in cash to Kurds for a local hospital in Northern Iraq on behalf of Woodside Petroleum. Once the story became public – and it did so with a front page photo of Lightfoot standing with a group of Kurds and holding an AK-47 assault rifle - Lightfoot denied it, and issued a proliferating series of contradictory public statements. After these denials, another News Limited journalist, their Middle East correspondent, Nicholas Rothwell, entered the fray. He said that Lightfoot had made the same boast to him off the record while in the Middle East, but that given the Senator's subsequent denial, he was now revealing the conversation (*ABC Mediawatch* 21-3-05).

The fact that such source manipulation only rarely becomes the subject of explicit news attention points to a final pathology to do with journalists' use of confidential sources. Although the popular image of leaks is of journalists intent on disclosure, often in fact they are associated with a very circumscribed curiosity by reporters. Sometimes the most interesting aspect of a story is who leaked it and why. One political journalist once told me that half the secret to operating in Canberra is to know who talks to whom. Sometimes this is visible at least to those who pay close interest. For example, it was widely believed that for a period one *Financial Review* reporter's stories always gave a clear view of Treasury's attitudes. Similarly in recent years, News Limited journalist Glenn Milne is seen as an accurate reflector of Treasurer Peter Costello's views, most especially in relation to his leadership rivalry with Prime Minister John Howard. So whenever Milne reported what Costello 'supporters' were thinking it was taken as an accurate political indicator, although on matters to do more with the inter-party struggle Labor supporters often saw his column as a Liberal mouthpiece. One reason some reporters receive leaks is that they won't reveal the machinations behind them. Their story will be reporting the content of the leak rather than its motives. They will not bite the hand that feeds them.

In sum, there can be no blanket judgement that stories using confidential sources, or based upon leaks, are always to the public benefit. The work done under the cover of secrecy in news, like the work done in other areas of social life where claims to confidentiality are made, has a mixture of benefits and costs. The costs are several and

important, but the key benefit is that the use of confidential sources results in far more information coming into the public domain than would be the case if news media relied entirely on public statements and official releases or on the willingness of their interviewees to say only what they are willing to be publicly identified with. Nevertheless this necessity of journalists relying on confidential sources has many ambiguities and problems, which occasionally can leave sources badly burnt.

Shifting Shades of Grey – The Tragedies of David Kelly and Merv Jenkins

One of the first concepts that newly inducted sociology students encounter is the idea of social norms, regularly occurring behaviour governed by shared expectations and mutual understandings. But the concept is inadequate to capture many of the recurring but fraught transactions of contemporary societies. For example, in some senses divorce is now a social norm in western societies. It occurs frequently, society is well equipped to handle it in terms of legal processes, property settlements, and child custody, while general social attitudes towards it are more relaxed compared with a couple of generations ago. However for the people directly involved it is far from normal. Almost everyone still gets married not expecting to be divorced, and most divorcees only get divorced once in their life. The road to divorce is almost accompanied by distress and uncertainty, and its aftermath is traumatic for many.

Similarly leaking is a common activity in contemporary politics, but for some of those involved, especially occasional, unauthorized leakers of secret information, it is surrounded by uncertainty and risk. Some get badly burnt by the process not sure of the 'rules', while those rules are often ill-defined and because of extraneous political factors may change radically with little warning. Most of the time the stakes in the political circus surrounding leaks involve temporary adverse impacts on reputations or partisan advantage. Occasionally they may substantially damage someone's career. Very occasionally the outcome can be tragic.

The suicide of Dr David Kelly in July 2003 came at the height of the furore, which followed a report on BBC morning radio by Andrew Gilligan, which in one broadcast said that the Government included the claim that Saddam could mobilize his WMD within 45 minutes, knowing it was false. In all other broadcasts Gilligan maintained the more limited claim that a well-placed source had said that the Government's Intelligence dossier of September 2002 had been 'sexed up' to make the case for war politically stronger. At the weekend in the *Mail on Sunday* Gilligan made the further claim that his source said the sexing up had been at the behest of the Prime Minister's press secretary and *eminence grise* Alastair Campbell. The furious reaction from the government, and most especially from Campbell, included the demand that the BBC retract the story and that Gilligan name his source. Eventually Kelly's identity became public, and the resulting stress led him to commit suicide. His death brought on the Hutton Inquiry, and so we know a very extensive amount about the key events. Analysts and commentators have mined those events to draw conclusions about the BBC and its journalism, about the Blair government and its spin, about the politicization and competence of the intelligence

services, and even about judicial inquiries themselves (Doig 2005, Phythian 2005). They also illuminate some aspects of leaking and confidential sources.

It has been largely forgotten that David Kelly had been a serial briefer of the media. This was against various of the legal agreements he had made as an employee of the British defence bureaucracy, but it was neither necessarily discreditable or against his employer's wishes. Kelly probably felt safe in doing these briefings because he was not a dissenter. He believed that Saddam had WMD, and was a supporter of the war. The only area where he was critical of the government was on the quality of the intelligence dossier. His direct experience of Iraq and involvement in searching for WMD made him a valued source for journalists. He had given briefings in the past which traversed similar areas of national security and military secrecy, but clearly did not realize that this time he was trespassing into an area of such acute political sensitivity.

As with all leaks in which only two people were present, and then a dispute ensues about what transpired, the exact words between Gilligan and Kelly will never be known. Quite often, one suspects that the leaker is accurately quoted, but did not realize how phrases he or she used or claims they made would look when plucked from the flow of conversation and transformed into a prominent headline or dramatic story lead. We can know the broad parameters of what Kelly probably said because of what he said in a taped interview to BBC Newsnight reporter, Susan Watts, at around the same period, and we know the general outline of his beliefs about Saddam and the war (Glees 2005 p.147). But within those broad parameters we cannot know more. In particular, we cannot know exactly the status of the colourful phrase 'sexed up', although we know Kelly was worried about 'wordsmithing'. My guess (repeat guess) is that Gilligan used this phrase and Kelly then agreed with it, giving Gilligan licence to use it. From his later reaction that Gilligan may also have had other sources to make the claims he did, it is possible that he thought that Gilligan's story went beyond what he had said, although equally that could have been an effort at self-protection with his employers after the controversy had become so fierce.

After the original story two further episodes were revealing about leaks. One was the way in which Kelly's name came into the public domain. Once Kelly had confessed to his superiors that he had spoken to Gilligan, Campbell, in particular, but also Defence Minister Hoon and possibly Prime Minister Blair, were keen for Kelly to be publicly identified as the source of Gilligan's story. Campbell thought that because Dr Kelly did not fit the soubriquet senior intelligence official that Gilligan had used, this would discredit the story, in the delicate phrasing of his diary, that Gilligan would be fucked. In fact although Kelly did not have bureaucratic seniority, in terms of expertise he was a more authoritative source than conveyed by bureaucratic rank, among the best placed of Britons to comment on Saddam's WMD. By allowing the name to eke out after journalists guessed it, at the least they were, to put it colloquially, hanging Kelly out to dry, and this certainly heightened his sense of abandonment and isolation.

Finally Lord Hutton's report was leaked to the *Sun* the day before it was to be released. The judge had broadly exonerated the government on all allegations about its spin control,

so many of Hutton's critics thought the wholesale leaking of his report was poetic justice. Predictably the subsequent inquiry into the source of the leak proved fruitless.

Although not involving leaking to the media, an Australian case has several parallels. Merv Jenkins, Defence Intelligence Organisation Attache in Washington, committed suicide on his 48th birthday on June 13 1999, leaving behind a widow and three sons. A very successful military officer who had the respect of many people he had worked with, Jenkins became a victim of the ambiguity of information games when the ground changed beneath him.

Australian intelligence relies on co-operative arrangements with the USA and UK, Canada and New Zealand (ABC Four Corners 14-2-2000). This co-operation or burden sharing as the agencies call it gives each access to much more intelligence than any could gather or evaluate alone. This long-standing arrangement of intelligence sharing among the English-speaking democracies involves very high degrees of trust, but is overlaid by other complicating factors. Sometimes taking precedence over differing national perspectives is that all countries have a variety of agencies with overlapping mandates, which often leads to rivalries, territorial disputes and jealousies, which can translate into acute friction at the personal level.

When Jenkins arrived in Washington in 1996, he saw the posting as a great opportunity, although a challenging assignment. There were some existing alliance tensions in that the Americans thought that Australia was not doing sufficient analysis with the raw satellite data that they were providing and wanted improved precision in that area. In addition, there was some hard bargaining to be done as the arrangements surrounding the satellite base at Pine Gap.

Later other political pressures mounted, but their impact was heightened by a completely unrelated event. In the worst Australian security breach in a generation, a young DIO officer, Jean-Philippe Wispelaere had taken more than 1000 US satellite photographs and documents, and was trying to sell them. The FBI lured him to Washington and arrested him, but the incident sorely embarrassed Australian security, and heightened tensions in relations with the Americans.

Inside the Australian government, official policy was under stress because of the changes in post-Suharto Indonesia. Support for the Suharto regime – and a presumption of its continuation – had been a central pillar of Australian policy since the late 1960s. As the crisis in East Timor worsened – and as evidence mounted that the militia violence was actually being orchestrated and supported by the Indonesian military – the Australian government policy was torn between those wanting to confront the abuses and those wanting to minimize their importance (Tiffen 2001).

In particular the Foreign Affairs department was still tied to the acquiescent attitudes of the past. For a generation, all evidence of Indonesian atrocities had been unwelcome. In contrast the American intelligence agencies wanted accurate information and were increasingly frustrated by the apparent inability of the Australians to produce it in an area

of their primary responsibility. These political cross-pressures – strains within the alliance and contrasting attitudes in different parts of the Australian government – were further complicated by the way bureaucratic territoriality inside the embassy had infected personal relationships.

Like all officers in his position, Jenkins's information exchanges with the Americans often went considerably beyond legally certified transactions. Normally this was well within the bounds of close alliance relationships. However with the disarray inside the Australian Government, that normal behaviour was now re-defined. Eventually Foreign Affairs initiated an inquiry into whether Jenkins had given AUSTEO (Australian Eyes Only) material to the Americans. This was undoubtedly true, but he thought that he was doing so within the bounds of a broadly authorized relationship.

The inquiry severely depressed the already over-stressed Jenkins, especially as he felt that the consequence would be ruinous to his career and reputation and could even end in a jail term. After leaving notes and communicating with those closest to him, he hanged himself in his garage (ABC Four Corners 16-4-2001).

The tragedies of Kelly and Jenkins have in common that both had broken formal rules about information exchange while thinking that they were being faithful to their larger institutional mandates. All institutions have rules about information disclosure which are either routinely bent or else leave large areas undefined. Indeed it would be a totalitarian dystopia which sought to define all relationships, all information exchanges. Personal relationships lubricate the workings of institutional machinery beyond formal procedures. People in intelligence agencies engage in such information exchange at least as much as do those in other institutions, but the heightened atmospherics of secrecy relating to national security greatly raise the stakes for transgressors. Both Kelly and Jenkins were victims of a fluid political situation where the changing environment retrospectively produced dangers and re-definitions which they had not foreseen at the time.

Backfiring Revenge Leaks – Joseph Wilson and Andrew Wilkie

The conservative governments in Australia and America share a propensity to respond to criticism by attacking the critic. Both have used smearing leaks to dampen the impact of critics who are playing a politically unwelcome role. Twice, however, such leaks partially misfired, eventually leading to inquiries to trace the leaker.

One of the most curious claims about Weapons of Mass Destruction in the lead-up to the Iraq war was the tale of Iraq seeking uranium from Niger. In February 2002 Vice President Cheney asked the CIA to investigate. The Agency was skeptical, and sent former ambassador Joseph Wilson to the country to look into the claims. Wilson exposed some of the documents as crude forgeries, calling the intelligence 'bogus and unrealistic'.

Despite this, the claim seemed to keep its political currency. In December 2002, it was included in a State Department 'Fact Sheet' about Iraqi treachery, and in the countdown

to war, President Bush used the claim in his state of the union address as did Colin Powell in his February 2003 address to the United Nations.

After President Bush's proclamation of victory, and as controversy over the failure to find WMD sometimes spluttered to life, Wilson wrote an op-ed article for the *New York Times* (6-7-03) about his trip 16 months earlier, and complaining about misleading information used as part of the case for war. Wilson's article prompted an admission from the White House on July 8 that the claim should not have been included in the President's speech. They blamed 'flawed intelligence' and three days later CIA director George Tenet admitted responsibility for allowing the claim to be included in the speech.

After this week of political discomfort for the Republicans, the conservative columnist Robert Novak revealed that Wilson's wife was Valerie Plame, an agency operative on weapons of mass destruction. In fact she was an undercover agent, and according to American law any official disclosing the name of such an operative faced a criminal conviction. Wilson was very indignant about the outing of his wife, and some Democrats called for an investigation. After a brief but intense flurry, the incident disappeared from the media agenda.

It was revived in late September, by which time CIA Director Tenet, facing considerable anger inside the Agency about the leak, had officially requested the Justice Department to investigate. The day after this was announced the White House staff were instructed not to destroy any relevant documents, although this order did come a couple of months after the first controversy.

This period of late September, early October 2003 was the peak of attention to the leak. Wilson was still publicly pursuing the matter. He had been briefed by several journalists to whom the Administration leakers had talked, and from them he had learnt that the essence of the White House message being conveyed to several journalists was: The story is not the sixteen words in the President's speech referring to the African uranium; the story is not what Wilson found in Niger; the story is Wilson and his wife. Wilson counter-attacked colourfully, saying that he looked forward to an investigation into the leak resulting in Karl Rove, Bush's pivotal political strategist, being frog-marched out of the White House in handcuffs (eg *Pittsburgh Post-Gazette* 30-9-03). Wilson later retreated, saying he had no proof that Rove was directly involved, only that he was sure that he had orchestrated the leaks (*WP* 26-11-04). He also charged that the leaks were 'clearly designed to intimidate' criticism of the US decision to invade Iraq. 'It was a shot across the bow to anyone who comes forward ... a sign that "we'll come after your families as well"' (*USA Today* 29-9-03).

The announcement of the official inquiry coincided with a story in the *Washington Post* which revealed that two White House officials had called six different journalists with the same information about Wilson and Plame, and saying that she had pressed for him to be given the mission. This story plus Wilson's information showed that the leak was a deliberate White House effort, as several commented a transparent effort to devalue Wilson's findings, although only Novak had chosen to publish a story based upon it.

Novak returned to the fray defending his original story, and claiming that Wilson's wife's intervention 'looked like the missing explanation of an otherwise incredible choice by the CIA for its mission' (*Chicago Sun-Times* 1-10-03). The premise of Novak's article is a symptom of just how deeply tribal partisanship has replaced substantial debate in Washington. The implication seems to be that a real Bush loyalist would not have discovered, or would not have been bothered by, the forgeries in Niger. It should be noted that Wilson had not only been an ambassador to Niger, but deputy ambassador to Iraq in the run up to the Gulf War, and senior director of African affairs on the National Security Council in the Clinton Administration. He and George Bush senior also enjoyed mutually high regard.

After this intense publicity, the White House promised its full co-operation and stressed how seriously it took the case, and soon after it disappeared again from the media agenda. It re-emerged just before New Year when closely Bush political ally, the Attorney-General John Ashcroft, finally recused himself from the investigation and Patrick Fitzgerald, Chicago's top federal prosecutor, was appointed, to the applause of leading Democrats.

The inquiry then largely disappeared from public view, except for one ironic development. Two of the reporters who did not write about their briefings – Judith Miller of the New York Times and Matthew Cooper of Time – were threatened with jail for their refusal to reveal their sources. Fitzgerald also tried to subpoena all of Miller's telephone records. This led to several legal battles. In February 2005 (*Guardian* 17-2-2005) their appeal was rejected, and the matter is still unresolved. Other journalists agreed to testify about a narrow range of questions, after Fitzgerald negotiated with Vice Presidential chief of staff Lewis Libby to grant journalists a limited release from their confidentiality pledge (*WP* 3-2-2005).

The reporter at the centre of the affair, Robert Novak, has refused to make any public comment. It is unthinkable that Fitzgerald, who interviewed many administration officials, up to and including an hour with President Bush, did not interview Novak. It is very unlikely that Novak agreed to testify about his sources, and yet he is not threatened with jail like the other two reporters. One line of speculation is that Novak exercise his right not to testify on the grounds that it would incriminate him, although this too seems hard to believe.

As of May 2005, Fitzgerald has not made a public report. A *Washington Post* report in April (7-4-2005) said that apart from his wish to question the two reporters who have refused to testify, he completed the investigation months ago, and is unlikely to recommend any indictments.

A somewhat parallel case occurred in Australia a year earlier. An officer of the Office of National Assessments, the co-ordinating Australian intelligence agency, and one charged with briefing the Prime Minister, Andrew Wilkie, resigned in protest against Australian participation in the Iraq War. Admittedly Wilkie did make his protest in a very public

way. However he observed all the proper forms. He first informed the head of ONA he was resigning, then walked out of the door to exclusively give his story to the doyen of the Canberra press gallery, the Channel Nine correspondent, Laurie Oakes. He made a series of public criticisms, and later in the year he stood as a Greens candidate in Prime Minister John Howard's electorate (Wilkie 2004).

So after his resignation Wilkie did enter the political fray and become a public campaigner against the policy he disapproved of, and naturally his actions soon produced a counter-attack from the Government. They argued that he had not been centrally involved in processing intelligence about Iraq, and criticized his claims. However whereas Wilkie was careful never to disclose any confidential material, the government now leaked a classified report Wilkie had prepared on the possible dangers of Iraqi WMD against invading forces. The report was used by a Liberal backbencher in parliament and a conservative Murdoch newspaper columnist, Andrew Bolt. Presumably this was leaked to suggest that Wilkie believed in the existence of the WMD and also to discredit him because the scenario had not eventuated during the successful allied push to Baghdad.

However this attempt to discredit Wilkie involved leaking intelligence material and so the leaker had committed an offence. The Labor Opposition insisted that the government find the leaker. Most speculation focused on a staff member of Foreign Minister Alexander Downer. However, predictably, the police investigation failed.

Both Wilson and Wilkes had exemplary records of service, both became critics of government policy, and both pursued their criticisms in an honourable way. Both then became victims of leaks by governments who sought to deflect their criticism by discrediting the critics. In both cases, the moves to some extent backfired, because attention came to focus upon the source of the leaks rather than the target of the leak. On both occasions, the governments were forced reluctantly and slowly to mount an official inquiry, because in both the content of what was leaked constituted a criminal offence. In neither case, however, did the subsequent inquiry achieve a resolution about the identity of the leaker, so that it caused their governments some embarrassment and discomfort but probably little substantive political damage. Finally it is important to note that in both these cases the conventional paradigm of dissidents leaking against authorities was reversed. Both these leaks involved leaks by the authorities against dissidents.

The Perils of Political Plumbing

The Howard Government has been more vigorous and assiduous in trying to track down leakers than any previous Australian government. Foreign Minister Downer initiated an investigation that cost nearly \$1 million over intelligence leaks during the 1999 East Timor crisis. In particular the government suspected that intelligence material, revealing that the situation had been much worse than the government was prepared to publicly acknowledge, came to the media via the office of Labor Foreign Affairs shadow minister Laurie Brereton. But despite the cost, the inquiry produced no result (Grattan 2005).

Grattan also reports on another expensive Downer-instigated leak investigation. Downer was determined to trace the source of a leaked record of conversation between himself and the New Zealand High Commissioner. It was the fact of the leak rather than its contents that so angered Downer. The minister's suspicions centered on a Foreign Affairs officer who had formerly been a Labor Party staffer, Trent Smith, who was subjected to official searches including of everything on his computer. This failed to implicate him in the leak at hand but showed that he had had other dealings with the Labor opposition. He was then put on to fully paid leave for more than two years, awaiting the resolution of the new charges. Meanwhile the investigations into him and their outcomes have so far cost more than \$360,000 (Grattan 2005).

Moreover such efforts seem to be increasing rather than diminishing. During the 2004 election campaign, the Labor Opposition had momentarily embarrassed the Government by producing an 18 month old document showing the Prime Minister had initially expressed reservations about a plan for family payments, which subsequently became a key selling point of its family benefits scheme. Later at a Senate Estimates Committee hearing, the Department of Finance admitted that it had ordered no less than four high-level reviews of the leak, although no tangible outcomes were apparent. The Department has also engaged the Australian Security Intelligence Organisation (ASIO) and the Defence Signals Directorate to stop future leaks (*SMH* 22-2-2005).

The nation's leading bureaucrat, Dr Peter Shergold, the head of the Department of Prime Minister and Cabinet, a month after the election ordered a police raid the office of the *National Indigenous Times*, after that newspaper published cabinet-in-confidence material about policy changes in aboriginal affairs. In a subsequent speech, Shergold reiterated his determination that police would investigate all leaks. He told a lecture: 'Some people are surprised that I called in the police – they shouldn't be, I always will. It's not just that theft is a criminal offence, it's also democratic sabotage. Leaking blows apart the Westminster tradition of confidentiality upon which the provision of frank and fearless advice depends' (*Austn* 17-11-2004).

These attitudes have had a chilling effect on public servants. In a recent speech looking back over her distinguished career, leading political journalist Michelle Grattan (2005) recalled:

When I arrived in Canberra in the 1970s, if you were armed with a Commonwealth Directory it wasn't hard to get to know a lot of bureaucrats and obtain basic background. Now ... the majority (of bureaucrats) will run a mile from the most innocuous media call. Most departments have strict rules that officers should report media contacts to the minister's office. Even the bureaucrats who will take the calls feel more constrained. Today's problem is not so much that the bureaucracy has been politicized, though there's that, but that it's had the fear of God put into it. Many professional men and women have been turned into mice, afraid of what should be a useful and non-controversial role in helping inform what the media convey.

In passing the measures taken by the CIA to minimize communications between its employees and journalists have been described by Gup:

The penalty for being discovered to have provided classified information to a reporter is not only career ending but grounds for prosecution. Some new recruits to the Agency report that when they are polygraphed, they are being asked if they know any reporters, whether they have had social or professional contacts with the media, and if so, with whom. That information may well find its way into a personnel file where, even years later, the information could resurface in an attempt to track down a leak. At the very least, it serves notice to incoming CIA employees that they are being watched, that their press contacts are known, and that there exists a record of such relationships (Gup 2004, p.33).

Dr Shergold's insistence on the sanctity of the policy process would be more convincing if there weren't a wealth of anecdotal evidence of how successive governments have politicized the advice processes. More importantly in the very same episode, the Government's restructuring of aboriginal organizations, involving the abolition of the elected organization ATSIC (Aboriginal and Torres Strait Islands Commission), the Minister Phillip Ruddock had been caught on tape briefing Queensland journalists about what the government was planning (Johnstone 2004), including the promise to the journalist that he looked after his friends. Soon afterwards Ruddock was promoted to Attorney General.

Moreover some prosecutions are decidedly less determined than others. The Australian Government's investigation of the leak against Andrew Wilkie lies at the other end of the spectrum. The document was a fairly recent one, and all copies were accounted for at ONA. A few days before the leak, a copy was requested by Foreign Minister Downer's office. When questioned in parliament about the leak and the possibility of his involvement or that of his staff, Downer has prevaricated and blustered. The police investigation failed, even though a senior security official commented to *Canberra Times* editor Jack Waterford that 'a cop who couldn't solve this one couldn't find his bum with both his hands' (Waterford 2004).

These contrasting examples are sufficient to demonstrate the very differential zeal with which different leaks are pursued. Leak control measures lack credibility because they lack the basic ingredient of justice, namely consistency. If police only tried to arrest some robbers rather than treat all robbery as a crime, then the law would lack credibility. As the legendary *New York Times* columnist, James Reston said, the ship of state is the only ship that leaks from the top. Often efforts to clamp down on leaks are like anti-corruption campaigns in Suharto's Indonesia, efforts to control leaks are less attempts to eliminate than to centralize the behaviour. So there are some leaks whose source that the government or at least senior members of the government have no interest in being discovered.

Moreover we cannot naively take leaders' howls of protest as evidence of their real feelings. Once when Paul Keating was treasurer, there was a leak about proposed cuts in

the coming budget. Keating was immediately on television expressing how heinous the leak was, and how the leaker must be severely punished if caught. Despite his vociferous indignation, many members of the Canberra Press Gallery believed that Keating himself was the source of the leak. So expressed public outrage bears no necessary relation to the vigour with which the source of leaks will be pursued.

Similarly consider President Bush's threat 'to cut off intelligence briefings to all but ranking members in the wake of a press leak involving a CIA briefing' (Gup 2004 p.34). Parading his concern has several political benefits for the president. It deflects the public focus from the substance of the information to the act of leaking; it pre-emptively points the blame at Congress while picturing the White House as reliable; and it gives him an excuse to be more restrictive in future. Again the government has great discretion in how to respond. Later, after the publication of Bob Woodward's best-selling book Congressman Chris Shays asked why Woodward was not being questioned about his sources relating to the use of National Security Agency material whereas earlier use of this material had prompted a threat by the White House to withhold material and prompted an FBI probe (*The Hill* 5-3-2003). Perhaps they did not want to tackle such a high profile journalist; perhaps they knew the answer would be that an investigation would implicate very senior members of the government; or perhaps at that time they simply had no political interest in dramatizing the issue.

Even when investigations are serious, they have a low success rate. When the inquiry into the Novak-Wilson leaks was announced, the Washington Post media writer, Howard Kurtz, concluded that 'if recent history is any guide, federal investigators are unlikely to discover who the leakers are.' He then reviewed several cases such as attempts to prosecute Kenneth Starr and his staff for improperly leaking during his investigations against Bill Clinton, and the unsuccessful attempts to find out who leaked Anita Hill's sexual harassment allegations against Clarence Thomas during the congressional hearings into his nomination for the Supreme Court (*WP* 29-9-2003). According to Nelson (2002 p.7), the only American official ever to be imprisoned for revealing classified information to the media is Samuel Morrison, who was sentenced to two years in prison in October 1985 for giving three classified photos of a Soviet ship under construction to the British military journal, *Jane's Defence Weekly*. (The case against the Pentagon Papers leaker, former Defence Department official Daniel Ellsberg and his colleague Rand Corporation analyst Anthony Russo for leaking classified information failed. Even though on the substance of the law, Ellsberg would have been guilty, poetic justice and legal justice coincided as the case was dismissed on the grounds of prosecutorial misconduct, because the Nixon administration 'plumbers' had subjected the defendants to illegal break-ins and wiretaps (Nelson 2002, p.6).) The use of confidential sources has been more of a problem for American journalists, 25 of whom have gone to jail since 1961 for refusing to disclose their sources (*Independent* 28-2-2005).

Leak investigations either involve huge invasions of privacy reminiscent of the Big Brother state, or they lack the forensic power to pinpoint leakers in the absence of confessions. This is especially true if the leak is based on oral communication rather than documents or emails. However this also puts it in an ethically ambiguous area, as

essentially it often involves leakers escaping punishment by lying. There are very different moral connotations surrounding the labels whistle-blower and mole.

While frequently governments lack the evidence to bring a legal case, they may exercise non-legal sanctions without having to go through the rigours of a trial. The stakes for individuals caught up in leak investigations can be very high, and injustices are common, although few match the heights of hypocrisy witnessed by Washington lawyer Jeffrey Smith. When he was 'in the State Department during the Nixon administration, he had seen Secretary of State Henry Kissinger instruct a senior official to do a backgrounder with reporters and when the story came out and was criticized for including classified information, Kissinger wrote the official a letter admonishing him for leaking the information and made the letter a part of his file' (Nelson 2002, p.14).

Apart from inconsistency and ineffectiveness, the final point to note in the hypocrisies surrounding efforts at political plumbing. It is much more related to political control and political fortunes than to the substance of what is revealed. This was Dr Kelly's fatal mistake. He did not reveal anything sensitive about the substance of what was discovered or how it was discovered. Instead he trespassed into the much more dangerous area of political sensitivities.

The great increase in governments' determinations to control the interaction of their bureaucracies with journalists is not related to secrets having become more sensitive in content, or to bureaucrats becoming more subversive. Rather it is a measure of their increased determination to control their own 'spin'. Each successive government seems more determined than its predecessor. For example after the Clinton team moved from being campaigners and into the White House, several press accounts commented how they changed from being a media-accessible group to a more controlling one. Their relationship with the press became more constrained and in particular loathing any leaks (*National Journal* 13-2-1993). Then 'the George W Bush administration quickly established a reputation as a leak-proof boat after taking the helm from the undisciplined Clinton blabbermouths' (Shafer 2003).

The vigour with which leaks are pursued is most closely associated with the degree of political pain caused. Even in the Pentagon Papers, this was the core of Nixon's concern. In one taped passage, Haldeman says to Nixon, 'Rumsfeld was making the point this morning' that the real point of what is to 'the ordinary guy' all gobbledygook, but out of it 'the implicit infallibility of presidents, which has been an accepted thing in America, is badly hurt' because it shows 'the president can be wrong' (Ellsberg 2004). This is a considerable distance from most conventional notions of national security. Although legislation must be framed in terms of the content, the substance, of what is leaked, more often than not, the political reaction is responsive to how it impacts upon political relationships and fortunes.

In sum, leaks are too various to predict the social value of any particular leak. Some leaks are exercises in manipulation and misinformation; some disclose material which many will judge should remain confidential; others will make important matters public in

a way which benefits democratic accountability. Given the high levels of secrecy and of image engineering in contemporary politics, leaks will continue to be a recurring, often necessary but equally often problematic, phenomenon. An equally recurring and equally contentious phenomenon will be attempts to prevent and punish leaking.

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Abbreviations of newspaper titles used in text:

Austn *The Australian*
SMH *Sydney Morning Herald*
WP *Washington Post*