

STATEMENT OF WITNESS

(Criminal Justice Act 1967, ss 2,9/M.C. Rules, 1968, r.58)

STATEMENT OF: GARETH PEIRCE

Age of Witness: Over 18

Occupation: Solicitor

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This statement consisting of 7 pages is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Dated the 21st February 2020

Signed G Peirce

Signature witnessed by IM (ILARIA MINUCCI)

1. I make this fifth statement in order to respond to three assertions in the Skeleton Argument on behalf of the United States of 17th February 2020;
- (i) Circumstances surrounding the issuing of the US warrant on 21st December 2017.
 - (ii) Surveillance/intrusion into legally privileged meetings.
 - (iii) Extract from New York Times Magazine 26th January 2011.
- i) Circumstances surrounding the issuing of the US warrant on 21st December 2017.

Signed G Peirce

Signature witnessed by IM

2. The Skeleton Argument characterises the circumstances in which Mr Assange was meeting the Ecuadorian Consul on 21st December 2017 in respect of a grant of diplomatic status as *"a plan (or a device) to help Mr Assange to escape the Embassy for having breached the conditions of his bail in the Swedish extradition proceedings"*. It comments that if this is the nexus between the surveillance and the extradition request, it is in the context of *"Mr Assange escaping from the Embassy"*, his arrest being referred to later in the skeleton as an appropriate wish for outcome by the respective governments involved.

Chronology 2017

3. I set out a brief chronology of events in 2017 known to me as the lawyer representing Mr Assange in relation to the matters below.
4. On 26th May 2017 an announcement was published of the withdrawal of the Swedish European Arrest Warrant for Mr Assange. Following that announcement, I met with Metropolitan Police Officers from the Extradition Squad to discuss Mr Assange's position. I was informed there was no other warrant in existence other than that issued by Westminster Magistrates' Court for breach of bail. I expressed Mr Assange's concern nevertheless, that he believed a US warrant for his extradition would be waiting in the wings; it was in relation to that fear that he had applied for and been granted asylum in the Ecuadorian Embassy in 2012.
5. In a second meeting with the Metropolitan Police officers I informed them I intended to communicate with Westminster Magistrates' Court in relation to the outstanding warrant; I notified the police directly as the CPS no longer had locus following the withdrawal of the warrant.
6. On 18th October 2017 a written application was made to the Senior District Judge at Westminster Magistrates' Court for the outstanding warrant for Mr Assange's arrest to be cancelled. (A submission by Counsel, Mark Summers

Signed ...*G. Pene*.....

Signature witnessed by ...*[Handwritten Signature]*.....

QC, was forwarded to the Court; the background to Mr Assange's entry to the Ecuadorian Embassy on 19th June 2012 summarised in the submission thus; *"The reason for so doing related to the defendant's fear of being surrendered to the USA by Sweden and being subjected to treatment there, including persecution and indefinite solitary confinement, relating to his involvement in WikiLeaks' publication of sensitive US military and diplomatic materials, in violation of Article 3 ECHR (such as the UN Special Rapporteur had concluded happened to Chelsea Manning)"*

7. The initial application settled by Mr Summers raised the question as to whether the warrant might no longer be lawfully executed since it had been issued under Section 7 (1A) to (1B) of the Bail Act 1976 for the defendant to be brought before the Court for consideration of the issue of whether he should be remanded in custody or on bail in the extradition proceedings. Those extradition proceedings, it was submitted, were now concluded and it was submitted that neither Section 7 nor the arrest warrant had independent life outside of those proceedings.
8. On the 26th October 2017 a response from the Court indicated the Chief Magistrate was seeking the view of the CPS; their response received on the 23rd October 2017.
9. On the 7th December 2017, a further submission settled by Mr Summers was provided to the Court. This submission outlined a number of factors that might lead the Court to conclude that any public interest in maintaining the warrant had now been spent. There was an expectation that the Chief Magistrate would make a decision on the papers or order an oral application to be made during the course of December.
10. On 8th December an email was received from Mr Marballie at the Court to confirm safe receipt of the hand delivered letter indicating that he would be in touch as soon as the Chief Magistrate had seen the letter.

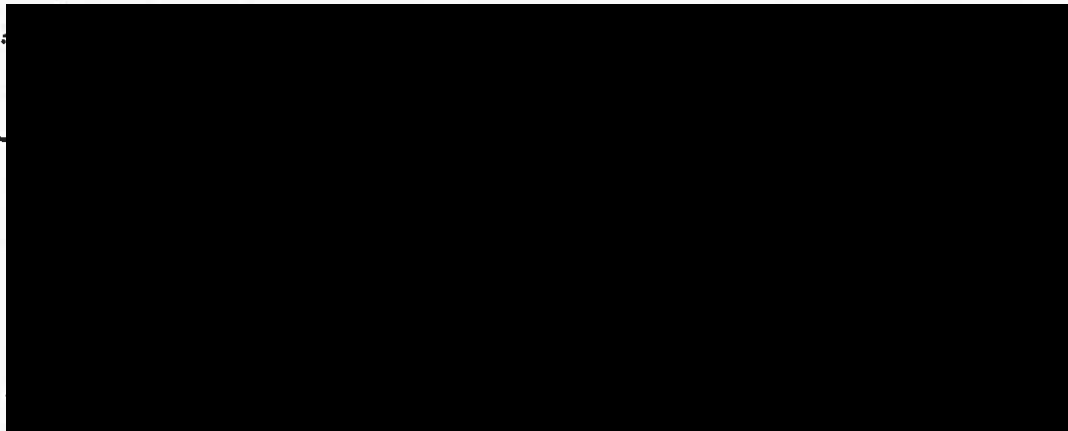
Signed *A. Lee*.....

Signature witnessed by *H.M.*.....

11. On the 19th December 2017 a communication was received from the Court to say that the Chief Magistrate had not seen the letter of 7th December until the 14th December, that she would consider the matters raised over the holiday period and that the Court would be in touch with our firm and with the CPS in January.

12. On 26th January 2018, a hearing was listed for oral arguments on the issue of the validity of the Section 9 Bail Act warrant.

13.



14. During this period I was conducting legal meetings with Mr Assange at the Embassy. And on occasion so too was his Spanish lawyer, Mr Martinez meeting him. In parallel, I was aware that Mr Assange was meeting with the Ecuadorian consul in respect of the grant of diplomatic status. (I was informed that the UK authorities would be notified of the grant of diplomatic status and have had it confirmed subsequently by the Ecuadorian consul that this occurred).

ii) Surveillance/intrusion into legally privileged meetings

15. In May of last year I was informed by the law firm of Baltasar Garzón of evidence from first one and then a second witness in Spain, both of whom I and a colleague Mr Lyon, subsequently interviewed. The first witness, a former employee of UC Global, described his own actions in providing surveillance material to his employer David Morales and what he knew of its onward transfer.

Signed *A. Pene*.....

Signature witnessed by *[Handwritten Signature]*.....

I was shown that material, and saw that saw that my legal meetings with Mr Assange in the Embassy (for reasons described above at paragraphs 5 to 14 above) in December and January of 2017 and 2018 were the subject of surveillance, and that records of those meetings were provided, the witness stated, to "US intelligence" by Mr Morales. The records included surveillance conducted on the 6th and 19th December and the 14th January 2018 when I attended the Embassy for legal meetings. I was wholly unaware of that surveillance, although I was aware that Mr Assange maintained suspicions throughout that period, fearing intrusion. I do not comment here upon my own reactions to the discovery, but comment only generally, that there has prevailed as a consequence, an exceptionally high level of anxiety and fear that legal interviews with Mr Assange are continuing to be monitored [REDACTED] This fear, triggered by the clear evidence that had been taking place over a number of years has had a chilling effect upon preparation for these extradition proceedings. The further evidence that Mr Assange's senior Spanish lawyer, Baltasar Garzón, was not only followed and photographed, but his office the subject of a burglary after discussion (reported by one of the Spanish witnesses) of such an eventuality continues to affect the confidence of Mr Assange's lawyers as a whole as to the confidentiality of their work on his case.

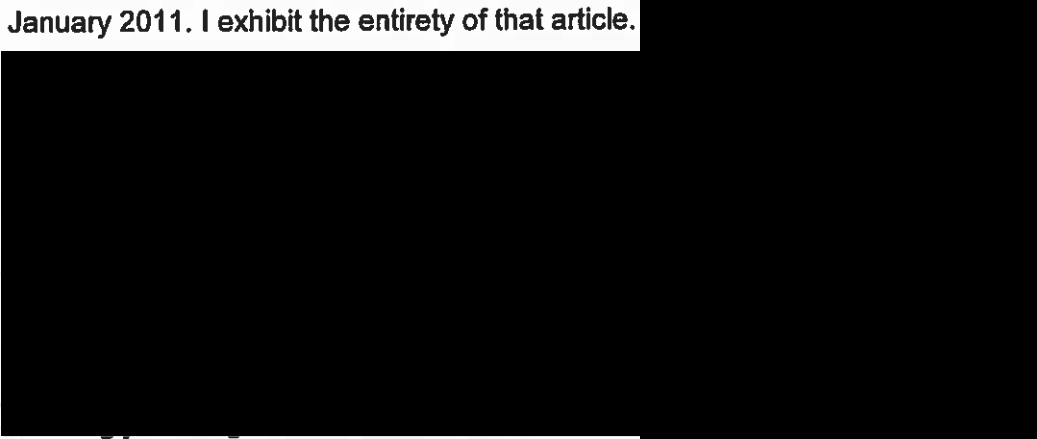
16. I have previously set out in my second statement, the history of seizure of Mr Assange's legally privileged material and of the failure to have any explanation as to its whereabouts or potential return. The affidavit of Mr Kromberg states only that any such material would be the subject of a "taint team" excision from the prosecution of any future trial in the USA. However no suggestions have been made for the return of that material by the DoJ in these proceedings, even though attention has been drawn to the existence of recordings of meetings that could play an evidential part in the extradition hearing. Nor has any reassurance been given that the ongoing representation of Mr Assange has not been, is not being and will not be the subject of lawful intrusion by US agencies. [REDACTED]

Signed *G. Puzo*.....

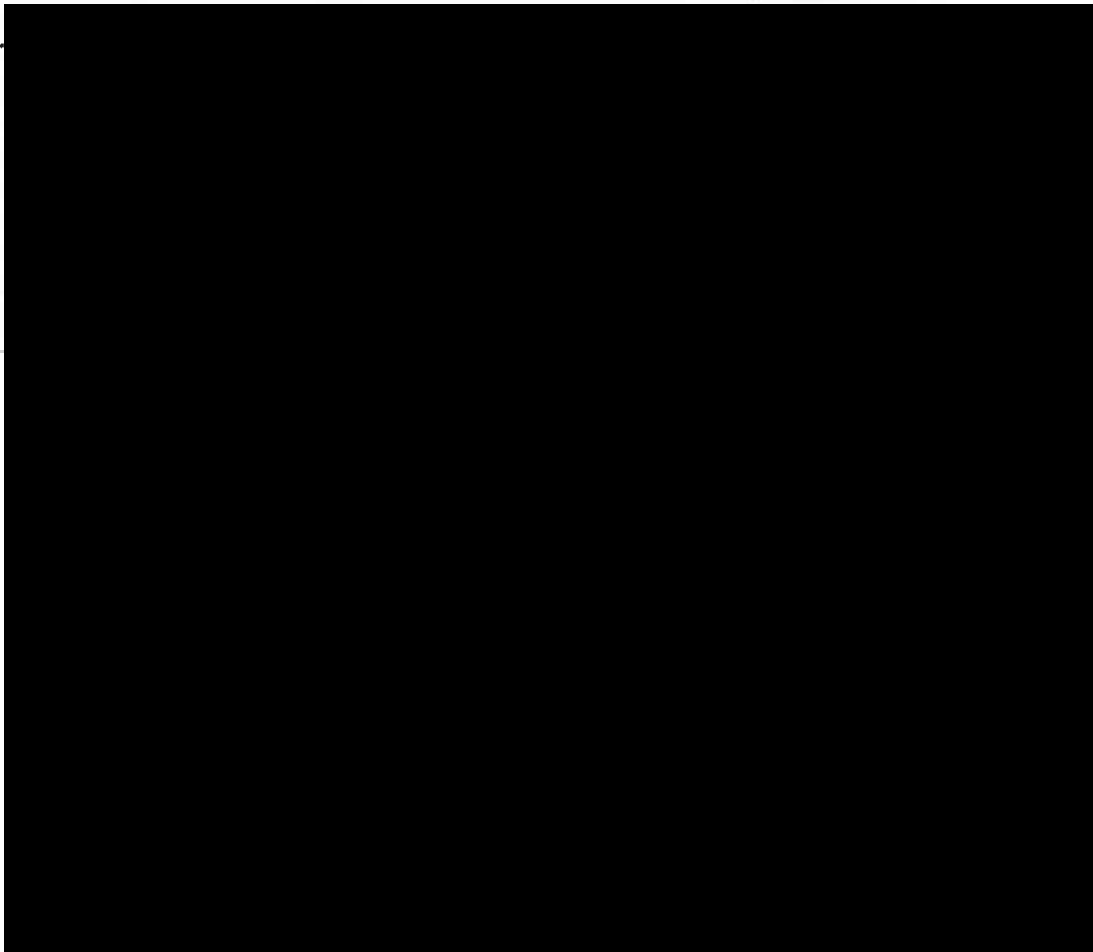
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iii) Extract from New York Times Magazine 26th January 2011

17. The US skeleton argument quotes from the New York Times magazine of 26th January 2011. I exhibit the entirety of that article.

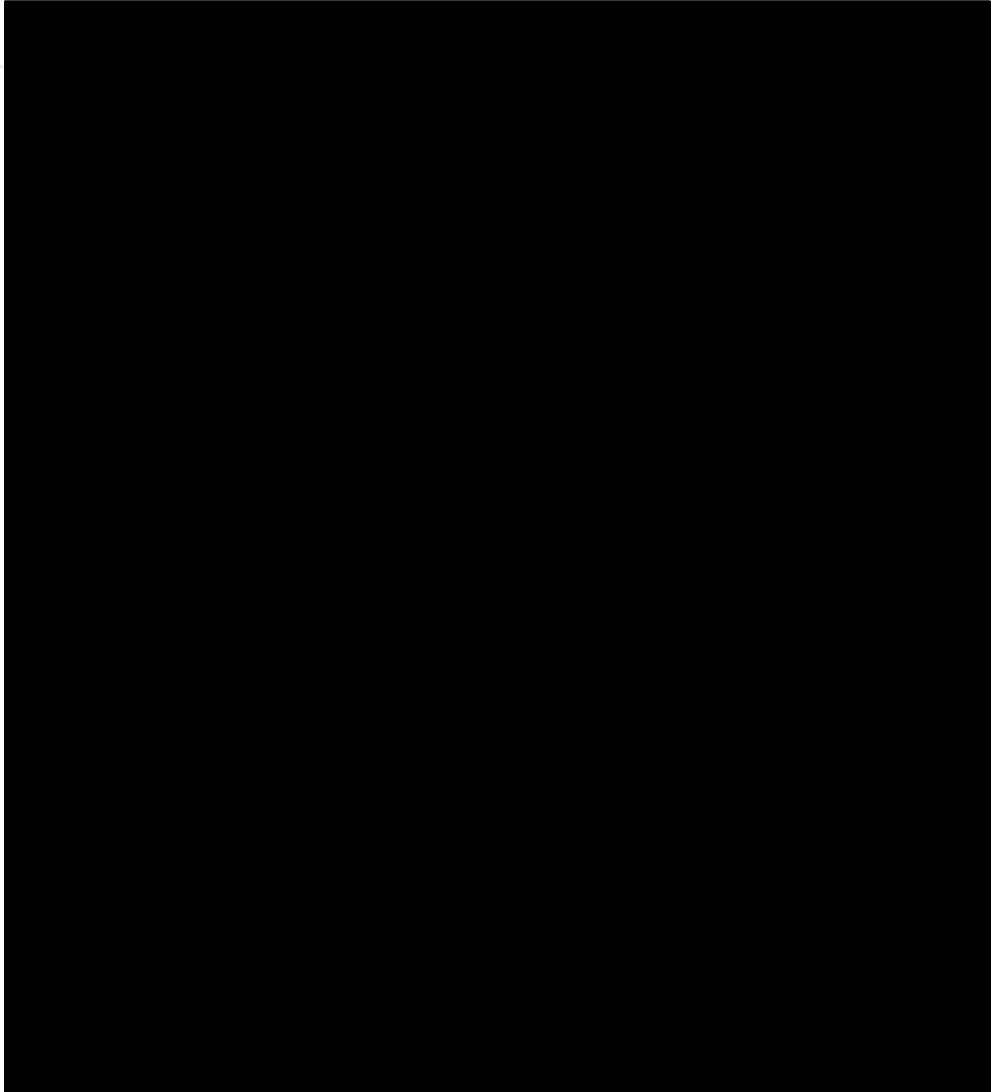


18.



Signed *G. Perri*.....

Signature witnessed by *AM*.....



19. Evidence relevant to the context of the separate quotation cited from the Guardian of 2nd September 2011 is referred to in my second statement dated January 14th 2020.

Signed *G. Foxe*.....

Signature witnessed by *AM*.....

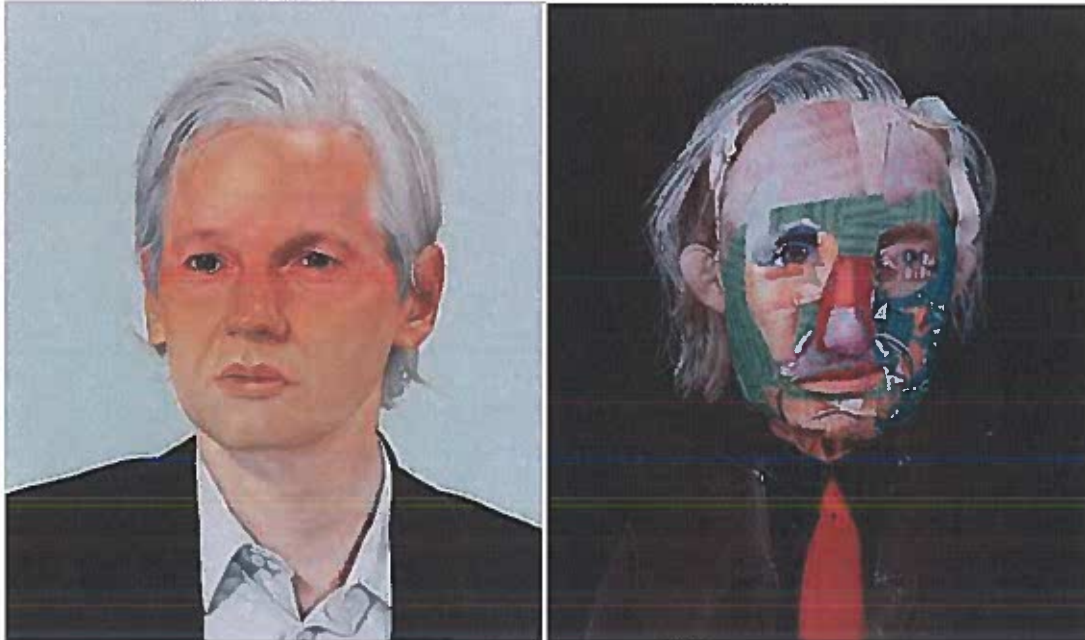


Dealing With Assange and the WikiLeaks Secrets

[nytimes.com/2011/01/30/magazine/30Wikileaks-t.html](https://www.nytimes.com/2011/01/30/magazine/30Wikileaks-t.html)

BILL KELLER

January 26, 2011



Artwork by Jenny Morgan (left) and Daniel Gordon (right)

This past June, Alan Rusbridger, the editor of *The Guardian*, phoned me and asked, mysteriously, whether I had any idea how to arrange a secure communication. Not really, I confessed. *The Times* doesn't have encrypted phone lines, or a Cone of Silence. Well then, he said, he would try to speak circumspectly. In a roundabout way, he laid out an unusual proposition: an organization called WikiLeaks, a secretive cadre of antisecrecy vigilantes, had come into possession of a substantial amount of classified United States government communications. WikiLeaks's leader, Julian Assange, an eccentric former computer hacker of Australian birth and no fixed residence, offered *The Guardian* half a million military dispatches from the battlefields of Afghanistan and Iraq. There might be more after that, including an immense bundle of confidential diplomatic cables. *The Guardian* suggested — to increase the impact as well as to share the labor of handling such a trove — that *The New York Times* be invited to share this exclusive bounty. The source agreed. Was I interested?

I was interested.

The adventure that ensued over the next six months combined the cloak-and-dagger intrigue of handling a vast secret archive with the more mundane feat of sorting, searching and understanding a mountain of data. As if that were not complicated enough, the project also entailed a source who was elusive, manipulative and volatile (and ultimately openly hostile to *The Times* and *The Guardian*); an international cast of journalists; company lawyers committed to keeping us within the bounds of the law; and an array of government officials who sometimes seemed as if they couldn't decide whether they wanted to engage us or arrest us. By the end of

the year, the story of this wholesale security breach had outgrown the story of the actual contents of the secret documents and generated much breathless speculation that something — journalism, diplomacy, life as we know it — had profoundly changed forever.

Soon after Rusbridger's call, we sent Eric Schmitt, from our Washington bureau, to London. Schmitt has covered military affairs expertly for years, has read his share of classified military dispatches and has excellent judgment and an unflappable demeanor. His main assignment was to get a sense of the material. Was it genuine? Was it of public interest? He would also report back on the proposed mechanics of our collaboration with The Guardian and the German magazine Der Spiegel, which Assange invited as a third guest to his secret smorgasbord. Schmitt would also meet the WikiLeaks leader, who was known to a few Guardian journalists but not to us.

Schmitt's first call back to The Times was encouraging. There was no question in his mind that the Afghanistan dispatches were genuine. They were fascinating — a diary of a troubled war from the ground up. And there were intimations of more to come, especially classified cables from the entire constellation of American diplomatic outposts. WikiLeaks was holding those back for now, presumably to see how this venture with the establishment media worked out. Over the next few days, Schmitt huddled in a discreet office at The Guardian, sampling the trove of war dispatches and discussing the complexities of this project: how to organize and study such a voluminous cache of information; how to securely transport, store and share it; how journalists from three very different publications would work together without compromising their independence; and how we would all assure an appropriate distance from Julian Assange. We regarded Assange throughout as a source, not as a partner or collaborator, but he was a man who clearly had his own agenda.

By the time of the meetings in London, WikiLeaks had already acquired a measure of international fame or, depending on your point of view, notoriety. Shortly before I got the call from The Guardian, The New Yorker published a rich and colorful profile of Assange, by Raffi Khatchadourian, who had embedded with the group. WikiLeaks's biggest coup to that point was the release, last April, of video footage taken from one of two U.S. helicopters involved in firing down on a crowd and a building in Baghdad in 2007, killing at least 18 people. While some of the people in the video were armed, others gave no indication of menace; two were in fact journalists for the news agency Reuters. The video, with its soundtrack of callous banter, was horrifying to watch and was an embarrassment to the U.S. military. But in its zeal to make the video a work of antiwar propaganda, WikiLeaks also released a version that didn't call attention to an Iraqi who was toting a rocket-propelled grenade and packaged the manipulated version under the tendentious rubric "Collateral Murder." (*See the edited and non-edited videos here.*)

Throughout our dealings, Assange was coy about where he obtained his secret cache. But the suspected source of the video, as well as the military dispatches and the diplomatic cables to come, was a disillusioned U.S. Army private first class named Bradley Manning, who had been arrested and was being kept in solitary confinement.

On the fourth day of the London meeting, Assange slouched into The Guardian office, a day late. Schmitt took his first measure of the man who would be a large presence in our lives. "He's tall — probably 6-foot-2 or 6-3 — and lanky, with pale skin, gray eyes and a shock of white hair that seizes your attention," Schmitt wrote to me later. "He was alert but disheveled, like a bag lady

walking in off the street, wearing a dingy, light-colored sport coat and cargo pants, dirty white shirt, beat-up sneakers and filthy white socks that collapsed around his ankles. He smelled as if he hadn't bathed in days."

Assange shrugged a huge backpack off his shoulders and pulled out a stockpile of laptops, cords, cellphones, thumb drives and memory sticks that held the WikiLeaks secrets.

The reporters had begun preliminary work on the Afghanistan field reports, using a large Excel spreadsheet to organize the material, then plugging in search terms and combing the documents for newsworthy content. They had run into a puzzling incongruity: Assange said the data included dispatches from the beginning of 2004 through the end of 2009, but the material on the spreadsheet ended abruptly in April 2009. A considerable amount of material was missing. Assange, slipping naturally into the role of office geek, explained that they had hit the limits of Excel. Open a second spreadsheet, he instructed. They did, and the rest of the data materialized — a total of 92,000 reports from the battlefields of Afghanistan.

The reporters came to think of Assange as smart and well educated, extremely adept technologically but arrogant, thin-skinned, conspiratorial and oddly credulous. At lunch one day in The Guardian's cafeteria, Assange recounted with an air of great conviction a story about the archive in Germany that contains the files of the former Communist secret police, the Stasi. This office, Assange asserted, was thoroughly infiltrated by former Stasi agents who were quietly destroying the documents they were entrusted with protecting. The Der Spiegel reporter in the group, John Goetz, who has reported extensively on the Stasi, listened in amazement. That's utter nonsense, he said. Some former Stasi personnel were hired as security guards in the office, but the records were well protected.

Assange was openly contemptuous of the American government and certain that he was a hunted man. He told the reporters that he had prepared a kind of doomsday option. He had, he said, distributed highly encrypted copies of his entire secret archive to a multitude of supporters, and if WikiLeaks was shut down, or if he was arrested, he would disseminate the key to make the information public.

Schmitt told me that for all Assange's bombast and dark conspiracy theories, he had a bit of Peter Pan in him. One night, when they were all walking down the street after dinner, Assange suddenly started skipping ahead of the group. Schmitt and Goetz stared, speechless. Then, just as suddenly, Assange stopped, got back in step with them and returned to the conversation he had interrupted.

For the rest of the week Schmitt worked with David Leigh, The Guardian's investigations editor; Nick Davies, an investigative reporter for the paper; and Goetz, of Der Spiegel, to organize and sort the material. With help from two of The Times's best computer minds — Andrew Lehren and Aron Pilhofer — they figured out how to assemble the material into a conveniently searchable and secure database.

Journalists are characteristically competitive, but the group worked well together. They brainstormed topics to explore and exchanged search results. Der Spiegel offered to check the logs against incident reports submitted by the German Army to its Parliament — partly as story research, partly as an additional check on authenticity.

Assange provided us the data on the condition that we not write about it before specific dates that WikiLeaks planned on posting the documents on a publicly accessible Web site. The Afghanistan documents would go first, after we had a few weeks to search the material and write our articles. The larger cache of Iraq-related documents would go later. Such embargoes — agreements not to publish information before a set date — are commonplace in journalism. Everything from studies in medical journals to the annual United States budget is released with embargoes. They are a constraint with benefits, the principal one being the chance to actually read and reflect on the material before publishing it into public view. As Assange surely knew, embargoes also tend to build suspense and amplify a story, especially when multiple news outlets broadcast it at once. The embargo was the only condition WikiLeaks would try to impose on us; what we wrote about the material was entirely up to us. Much later, some American news outlets reported that they were offered last-minute access to WikiLeaks documents if they signed contracts with financial penalties for early disclosure. The Times was never asked to sign anything or to pay anything. For WikiLeaks, at least in this first big venture, exposure was its own reward.

Back in New York we assembled a team of reporters, data experts and editors and quartered them in an out-of-the-way office. Andrew Lehren, of our computer-assisted-reporting unit, did the first cut, searching terms on his own or those suggested by other reporters, compiling batches of relevant documents and summarizing the contents. We assigned reporters to specific areas in which they had expertise and gave them password access to rummage in the data. This became the routine we would follow with subsequent archives.

An air of intrigue verging on paranoia permeated the project, perhaps understandably, given that we were dealing with a mass of classified material and a source who acted like a fugitive, changing crash pads, e-mail addresses and cellphones frequently. We used encrypted Web sites. Reporters exchanged notes via Skype, believing it to be somewhat less vulnerable to eavesdropping. On conference calls, we spoke in amateurish code. Assange was always "the source." The latest data drop was "the package." When I left New York for two weeks to visit bureaus in Pakistan and Afghanistan, where we assume that communications may be monitored, I was not to be copied on message traffic about the project. I never imagined that any of this would defeat a curious snoop from the National Security Agency or Pakistani intelligence. And I was never entirely sure whether that prospect made me more nervous than the cyberwiles of WikiLeaks itself. At a point when relations between the news organizations and WikiLeaks were rocky, at least three people associated with this project had inexplicable activity in their e-mail that suggested someone was hacking into their accounts.

From consultations with our lawyers, we were confident that reporting on the secret documents could be done within the law, but we speculated about what the government — or some other government — might do to impede our work or exact recriminations. And, the law aside, we felt an enormous moral and ethical obligation to use the material responsibly. While we assumed we had little or no ability to influence what WikiLeaks did, let alone what would happen once this material was loosed in the echo chamber of the blogosphere, that did not free us from the need to exercise care in our own journalism. From the beginning, we agreed that in our articles and in any documents we published from the secret archive, we would excise material that could put lives at risk.

Guided by reporters with extensive experience in the field, we redacted the names of ordinary citizens, local officials, activists, academics and others who had spoken to American soldiers or diplomats. We edited out any details that might reveal ongoing intelligence-gathering operations, military tactics or locations of material that could be used to fashion terrorist weapons. Three reporters with considerable experience of handling military secrets — Eric Schmitt, Michael Gordon and C. J. Chivers — went over the documents we considered posting. Chivers, an ex-Marine who has reported for us from several battlefields, brought a practiced eye and cautious judgment to the business of redaction. If a dispatch noted that Aircraft A left Location B at a certain time and arrived at Location C at a certain time, Chivers edited it out on the off chance that this could teach enemy forces something useful about the capabilities of that aircraft.

The first articles in the project, which we called the War Logs, were scheduled to go up on the Web sites of The Times, The Guardian and Der Spiegel on Sunday, July 25. We approached the White House days before that to get its reaction to the huge breach of secrecy as well as to specific articles we planned to write — including a major one about Pakistan's ambiguous role as an American ally. On July 24, the day before the War Logs went live, I attended a farewell party for Roger Cohen, a columnist for The Times and The International Herald Tribune, that was given by Richard Holbrooke, the Obama administration's special envoy to Afghanistan and Pakistan. A voracious consumer of inside information, Holbrooke had a decent idea of what was coming, and he pulled me away from the crowd to show me the fusillade of cabinet-level e-mail ricocheting through his BlackBerry, thus demonstrating both the frantic anxiety in the administration and, not incidentally, the fact that he was very much in the loop. The Pakistan article, in particular, would complicate his life. But one of Holbrooke's many gifts was his ability to make pretty good lemonade out of the bitterest lemons; he was already spinning the reports of Pakistani duplicity as leverage he could use to pull the Pakistanis back into closer alignment with American interests. Five months later, when Holbrooke — just 69, and seemingly indestructible — died of a torn aorta, I remembered that evening. And what I remembered best was that he was as excited to be on the cusp of a big story as I was.

We posted the articles on NYTimes.com the next day at 5 p.m. — a time picked to reconcile the different publishing schedules of the three publications. I was proud of what a crew of great journalists had done to fashion coherent and instructive reporting from a jumble of raw field reports, mostly composed in a clunky patois of military jargon and acronyms. The reporters supplied context, nuance and skepticism. There was much in that first round of articles worth reading, but my favorite single piece was one of the simplest. Chivers gathered all of the dispatches related to a single, remote, beleaguered American military outpost and stitched them together into a heartbreaking narrative. The dispatches from this outpost represent in miniature the audacious ambitions, gradual disillusionment and ultimate disappointment that Afghanistan has dealt to occupiers over the centuries.

If anyone doubted that the three publications operated independently, the articles we posted that day made it clear that we followed our separate muses. The Guardian, which is an openly left-leaning newspaper, used the first War Logs to emphasize civilian casualties in Afghanistan, claiming the documents disclosed that coalition forces killed "hundreds of civilians in unreported incidents," underscoring the cost of what the paper called a "failing war." Our reporters studied the same material but determined that all the major episodes of civilian deaths we found in the War Logs had been reported in The Times, many of them on the front page. (In fact, two of our

journalists, Stephen Farrell and Sultan Munadi, were kidnapped by the Taliban while investigating one major episode near Kunduz. Munadi was killed during an ensuing rescue by British paratroopers.) The civilian deaths that had not been previously reported came in ones and twos and did not add up to anywhere near "hundreds." Moreover, since several were either duplicated or missing from the reports, we concluded that an overall tally would be little better than a guess.

Another example: The Times gave prominence to the dispatches reflecting American suspicions that Pakistani intelligence was playing a double game in Afghanistan — nodding to American interests while abetting the Taliban. We buttressed the interesting anecdotal material of Pakistani double-dealing with additional reporting. The Guardian was unimpressed by those dispatches and treated them more dismissively.

Three months later, with the French daily *Le Monde* added to the group, we published Round 2, the Iraq War Logs, including articles on how the United States turned a blind eye to the torture of prisoners by Iraqi forces working with the U.S., how Iraq spawned an extraordinary American military reliance on private contractors and how extensively Iran had meddled in the conflict.

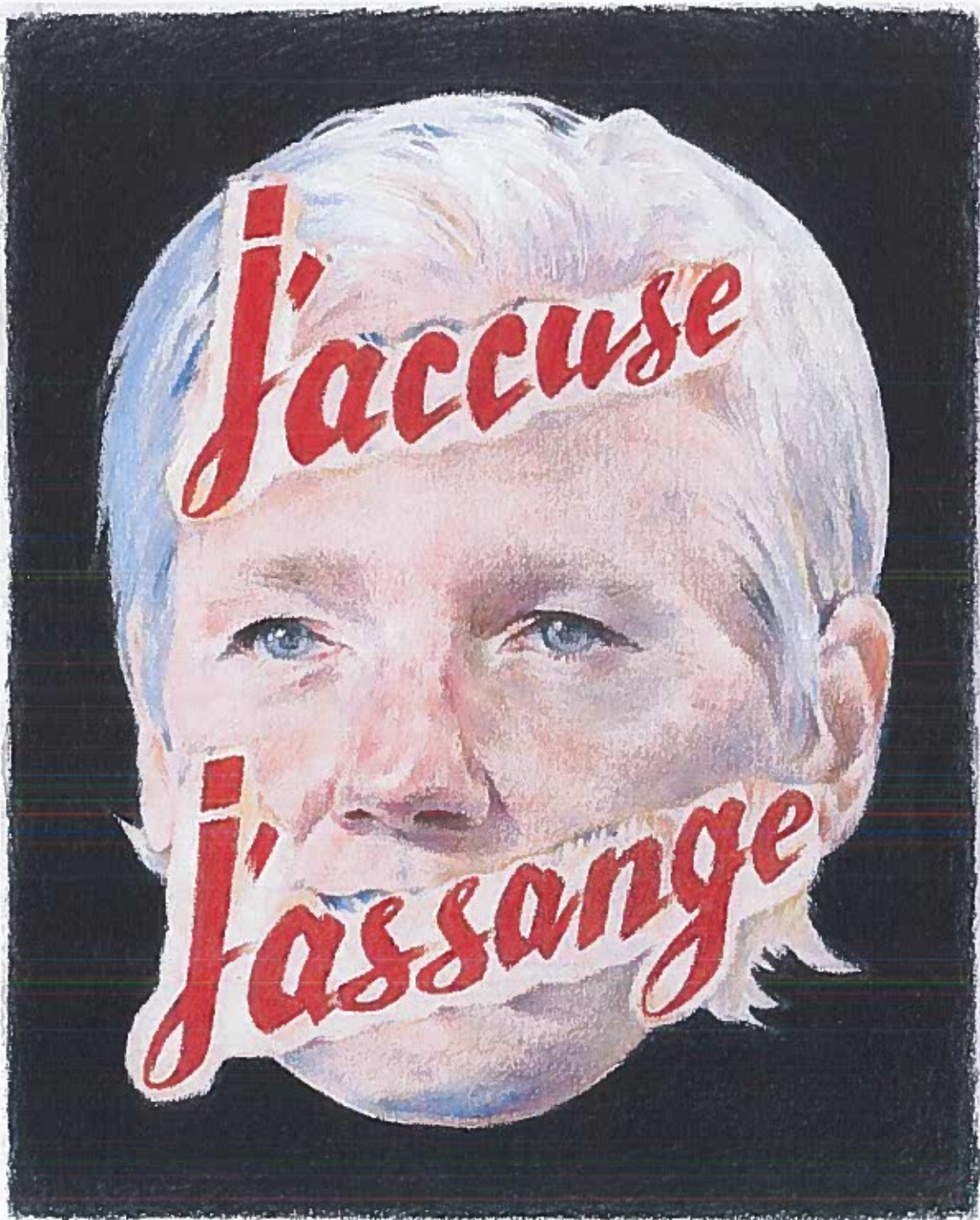
By this time, The Times's relationship with our source had gone from wary to hostile. I talked to Assange by phone a few times and heard out his complaints. He was angry that we declined to link our online coverage of the War Logs to the WikiLeaks Web site, a decision we made because we feared — rightly, as it turned out — that its trove would contain the names of low-level informants and make them Taliban targets. "Where's the respect?" he demanded. "Where's the respect?" Another time he called to tell me how much he disliked our profile of Bradley Manning, the Army private suspected of being the source of WikiLeaks's most startling revelations. The article traced Manning's childhood as an outsider and his distress as a gay man in the military. Assange complained that we "psychologicalized" Manning and gave short shrift to his "political awakening."

The final straw was a front-page profile of Assange by John Burns and Ravi Somaiya, published Oct. 24, that revealed fractures within WikiLeaks, attributed by Assange's critics to his imperious management style. Assange denounced the article to me, and in various public forums, as "a smear."

Assange was transformed by his outlaw celebrity. The derelict with the backpack and the sagging socks now wore his hair dyed and styled, and he favored fashionably skinny suits and ties. He became a kind of cult figure for the European young and leftish and was evidently a magnet for women. Two Swedish women filed police complaints claiming that Assange insisted on having sex without a condom; Sweden's strict laws on nonconsensual sex categorize such behavior as rape, and a prosecutor issued a warrant to question Assange, who initially described it as a plot concocted to silence or discredit WikiLeaks.

I came to think of Julian Assange as a character from a Stieg Larsson thriller — a man who could figure either as hero or villain in one of the megaselling Swedish novels that mix hacker counterculture, high-level conspiracy and sex as both recreation and violation.

In October, WikiLeaks gave The Guardian its third archive, a quarter of a million communications between the U.S. State Department and its outposts around the globe. This time, Assange imposed a new condition: The Guardian was not to share the material with The New



Artwork by Eric Yahnker

York Times. Indeed, he told Guardian journalists that he opened discussions with two other American news organizations — The Washington Post and the McClatchy chain — and intended to invite them in as replacements for The Times. He also enlarged his recipient list to include El País, the leading Spanish-language newspaper.

The Guardian was uncomfortable with Assange's condition. By now the journalists from The Times and The Guardian had a good working relationship. The Times provided a large American audience for the revelations, as well as access to the U.S. government for comment and context. And given the potential legal issues and public reaction, it was good to have company in the trenches. Besides, we had come to believe that Assange was losing control of his stockpile of secrets. An independent journalist, Heather Brooke, had obtained material from a WikiLeaks dissident and joined in a loose alliance with The Guardian. Over the coming weeks, batches of cables would pop up in newspapers in Lebanon, Australia and Norway. David Leigh, The Guardian's investigations editor, concluded that these rogue leaks released The Guardian from any pledge, and he gave us the cables.

On Nov. 1, Assange and two of his lawyers burst into Alan Rusbridger's office, furious that The Guardian was asserting greater independence and suspicious that The Times might be in possession of the embassy cables. Over the course of an eight-hour meeting, Assange intermittently raged against The Times — especially over our front-page profile — while The Guardian journalists tried to calm him. In midstorm, Rusbridger called me to report on Assange's grievances and relay his demand for a front-page apology in The Times. Rusbridger knew that this was a nonstarter, but he was buying time for the tantrum to subside. In the end, both he and Georg Mascolo, editor in chief of Der Spiegel, made clear that they intended to continue their collaboration with The Times; Assange could take it or leave it. Given that we already had all of the documents, Assange had little choice. Over the next two days, the news organizations agreed on a timetable for publication.

The following week, we sent Ian Fisher, a deputy foreign editor who was a principal coordinator on our processing of the embassy cables, to London to work out final details. The meeting went smoothly, even after Assange arrived. "Freakishly good behavior," Fisher e-mailed me afterward. "No yelling or crazy mood swings." But after dinner, as Fisher was leaving, Assange smirked and offered a parting threat: "Tell me, are you in contact with your legal counsel?" Fisher replied that he was. "You had better be," Assange said.

Fisher left London with an understanding that we would continue to have access to the material. But just in case, we took out a competitive insurance policy. We had Scott Shane, a Washington correspondent, pull together a long, just-in-case article summing up highlights of the cables, which we could quickly post on our Web site. If WikiLeaks sprang another leak, we would be ready.

Because of the range of the material and the very nature of diplomacy, the embassy cables were bound to be more explosive than the War Logs. Dean Baquet, our Washington bureau chief, gave the White House an early warning on Nov. 19. The following Tuesday, two days before Thanksgiving, Baquet and two colleagues were invited to a windowless room at the State Department, where they encountered an unsmiling crowd. Representatives from the White House, the State Department, the Office of the Director of National Intelligence, the C.I.A., the Defense Intelligence Agency, the F.B.I. and the Pentagon gathered around a conference table. Others, who never identified themselves, lined the walls. A solitary note-taker tapped away on a computer.

The meeting was off the record, but it is fair to say the mood was tense. Scott Shane, one reporter who participated in the meeting, described "an undertone of suppressed outrage and frustration."

Subsequent meetings, which soon gave way to daily conference calls, were more businesslike. Before each discussion, our Washington bureau sent over a batch of specific cables that we intended to use in the coming days. They were circulated to regional specialists, who funneled their reactions to a small group at State, who came to our daily conversations with a list of priorities and arguments to back them up. We relayed the government's concerns, and our own decisions regarding them, to the other news outlets.

The administration's concerns generally fell into three categories. First was the importance of protecting individuals who had spoken candidly to American diplomats in oppressive countries. We almost always agreed on those and were grateful to the government for pointing out some we overlooked.

"We were all aware of dire stakes for some of the people named in the cables if we failed to obscure their identities," Shane wrote to me later, recalling the nature of the meetings. Like many of us, Shane has worked in countries where dissent can mean prison or worse. "That sometimes meant not just removing the name but also references to institutions that might give a clue to an identity and sometimes even the dates of conversations, which might be compared with surveillance tapes of an American Embassy to reveal who was visiting the diplomats that day."

The second category included sensitive American programs, usually related to intelligence. We agreed to withhold some of this information, like a cable describing an intelligence-sharing program that took years to arrange and might be lost if exposed. In other cases, we went away convinced that publication would cause some embarrassment but no real harm.

The third category consisted of cables that disclosed candid comments by and about foreign officials, including heads of state. The State Department feared publication would strain relations with those countries. We were mostly unconvinced.

The embassy cables were a different kind of treasure from the War Logs. For one thing, they covered the entire globe — virtually every embassy, consulate and interest section that the United States maintains. They contained the makings of many dozens of stories: candid American appraisals of foreign leaders, narratives of complicated negotiations, allegations of corruption and duplicity, countless behind-the-scenes insights. Some of the material was of narrow local interest; some of it had global implications. Some provided authoritative versions of events not previously fully understood. Some consisted of rumor and flimsy speculation.

Unlike most of the military dispatches, the embassy cables were written in clear English, sometimes with wit, color and an ear for dialogue. ("Who knew," one of our English colleagues marveled, "that American diplomats could write?")

Even more than the military logs, the diplomatic cables called for context and analysis. It was important to know, for example, that cables sent from an embassy are routinely dispatched over the signature of the ambassador and those from the State Department are signed by the secretary of state, regardless of whether the ambassador or secretary had actually seen the material. It was important to know that much of the communication between Washington and its

outposts is given even more restrictive classification — top secret or higher — and was thus missing from this trove. We searched in vain, for example, for military or diplomatic reports on the fate of Pat Tillman, the former football star and Army Ranger who was killed by friendly fire in Afghanistan. We found no reports on how Osama bin Laden eluded American forces in the mountains of Tora Bora. (In fact, we found nothing but second- and thirdhand rumors about bin Laden.) If such cables exist, they were presumably classified top secret or higher.

And it was important to remember that diplomatic cables are versions of events. They can be speculative. They can be ambiguous. They can be wrong.

One of our first articles drawn from the diplomatic cables, for example, reported on a secret intelligence assessment that Iran had obtained a supply of advanced missiles from North Korea, missiles that could reach European capitals. Outside experts long suspected that Iran obtained missile parts but not the entire weapons, so this glimpse of the official view was revealing. The Washington Post fired back with a different take, casting doubt on whether the missile in question had been transferred to Iran or whether it was even a workable weapon. We went back to the cables — and the experts — and concluded in a subsequent article that the evidence presented “a murkier picture.”

The tension between a newspaper's obligation to inform and the government's responsibility to protect is hardly new. At least until this year, nothing The Times did on my watch caused nearly so much agitation as two articles we published about tactics employed by the Bush administration after the attacks of Sept. 11, 2001. The first, which was published in 2005 and won a Pulitzer Prize, revealed that the National Security Agency was eavesdropping on domestic phone conversations and e-mail without the legal courtesy of a warrant. The other, published in 2006, described a vast Treasury Department program to screen international banking records.

I have vivid memories of sitting in the Oval Office as President George W. Bush tried to persuade me and the paper's publisher to withhold the eavesdropping story, saying that if we published it, we should share the blame for the next terrorist attack. We were unconvinced by his argument and published the story, and the reaction from the government — and conservative commentators in particular — was vociferous.

This time around, the Obama administration's reaction was different. It was, for the most part, sober and professional. The Obama White House, while strongly condemning WikiLeaks for making the documents public, did not seek an injunction to halt publication. There was no Oval Office lecture. On the contrary, in our discussions before publication of our articles, White House officials, while challenging some of the conclusions we drew from the material, thanked us for handling the documents with care. The secretaries of state and defense and the attorney general resisted the opportunity for a crowd-pleasing orgy of press bashing. There has been no serious official talk — unless you count an ambiguous hint by Senator Joseph Lieberman — of pursuing news organizations in the courts. Though the release of these documents was certainly embarrassing, the relevant government agencies actually engaged with us in an attempt to prevent the release of material genuinely damaging to innocent individuals or to the national interest.

The broader public reaction was mixed — more critical in the first days; more sympathetic as readers absorbed the articles and the sky did not fall; and more hostile to WikiLeaks in the U.S. than in Europe, where there is often a certain pleasure in seeing the last superpower taken down a peg.

In the days after we began our respective series based on the embassy cables, Alan Rusbridger and I went online to answer questions from readers. The Guardian, whose readership is more sympathetic to the guerrilla sensibilities of WikiLeaks, was attacked for being too fastidious about redacting the documents: How dare you censor this material? What are you hiding? Post everything now! The mail sent to The Times, at least in the first day or two, came from the opposite field. Many readers were indignant and alarmed: Who needs this? How dare you? What gives you the right?

Much of the concern reflected a genuine conviction that in perilous times the president needs extraordinary powers, unfettered by Congressional oversight, court meddling or the strictures of international law and certainly safe from nosy reporters. That is compounded by a popular sense that the elite media have become too big for their britches and by the fact that our national conversation has become more polarized and strident.

Although it is our aim to be impartial in our presentation of the news, our attitude toward these issues is far from indifferent. The journalists at The Times have a large and personal stake in the country's security. We live and work in a city that has been tragically marked as a favorite terrorist target, and in the wake of 9/11 our journalists plunged into the ruins to tell the story of what happened here. Moreover, The Times has nine staff correspondents assigned to the two wars still being waged in the wake of that attack, plus a rotating cast of photographers, visiting writers and scores of local stringers and support staff. They work in this high-risk environment because, while there are many places you can go for opinions about the war, there are few places — and fewer by the day — where you can go to find honest, on-the-scene reporting about what is happening. We take extraordinary precautions to keep them safe, but we have had two of our Iraqi journalists murdered for doing their jobs. We have had four journalists held hostage by the Taliban — two of them for seven months. We had one Afghan journalist killed in a rescue attempt. Last October, while I was in Kabul, we got word that a photographer embedded for us with troops near Kandahar stepped on an improvised mine and lost both his legs.

We are invested in the struggle against murderous extremism in another sense. The virulent hatred espoused by terrorists, judging by their literature, is directed not just against our people and our buildings but also at our values and at our faith in the self-government of an informed electorate. If the freedom of the press makes some Americans uneasy, it is anathema to the ideologists of terror.

So we have no doubts about where our sympathies lie in this clash of values. And yet we cannot let those sympathies transform us into propagandists, even for a system we respect.

I'm the first to admit that news organizations, including this one, sometimes get things wrong. We can be overly credulous (as in some of the prewar reporting about Iraq's supposed weapons of mass destruction) or overly cynical about official claims and motives. We may err on the side of keeping secrets (President Kennedy reportedly wished, after the fact, that The Times had published what it knew about the planned Bay of Pigs invasion, which possibly would have helped



Artwork by Barry Falls

avert a bloody debacle) or on the side of exposing them. We make the best judgments we can. When we get things wrong, we try to correct the record. A free press in a democracy can be messy. But the alternative is to give the government a veto over what its citizens are allowed to know. Anyone who has worked in countries where the news diet is controlled by the government can sympathize with Thomas Jefferson's oft-quoted remark that he would rather have newspapers without government than government without newspapers.

The intentions of our founders have rarely been as well articulated as they were by Justice Hugo Black 40 years ago, concurring with the Supreme Court ruling that stopped the government from suppressing the secret Vietnam War history called the Pentagon Papers: "The government's power to censor the press was abolished so that the press would remain forever free to censure the government. The press was protected so that it could bare the secrets of government and inform the people."

There is no neat formula for maintaining this balance. In practice, the tension between our obligation to inform and the government's obligation to protect plays out in a set of rituals. As one of my predecessors, Max Frankel, then the Washington bureau chief, wrote in a wise affidavit filed during the Pentagon Papers case: "For the vast majority of 'secrets,' there has developed between the government and the press (and Congress) a rather simple rule of thumb: The government hides what it can, pleading necessity as long as it can, and the press pries out what it can, pleading a need and a right to know. Each side in this 'game' regularly 'wins' and 'loses' a round or two. Each fights with the weapons at its command. When the government loses a secret or two, it simply adjusts to a new reality."

In fact, leaks of classified material — sometimes authorized — are part of the way business is conducted in Washington, as one wing of the bureaucracy tries to one-up another or officials try to shift blame or claim credit or advance or confound a particular policy. For further evidence that our government is highly selective in its approach to secrets, look no further than Bob Woodward's all-but-authorized accounts of the innermost deliberations of our government.

The government surely cheapens secrecy by deploying it so promiscuously. According to the Pentagon, about 500,000 people have clearance to use the database from which the secret cables were pilfered. Weighing in on the WikiLeaks controversy in *The Guardian*, Max Frankel remarked that secrets shared with such a legion of "cleared" officials, including low-level army clerks, "are not secret." Governments, he wrote, "must decide that the random rubber-stamping of millions of papers and computer files each year does not a security system make."

Beyond the basic question of whether the press should publish secrets, criticism of the WikiLeaks documents generally fell into three themes: 1. That the documents were of dubious value, because they told us nothing we didn't already know. 2. That the disclosures put lives at risk — either directly, by identifying confidential informants, or indirectly, by complicating our ability to build alliances against terror. 3. That by doing business with an organization like WikiLeaks, *The Times* and other news organizations compromised their impartiality and independence.

I'm a little puzzled by the complaint that most of the embassy traffic we disclosed did not profoundly change our understanding of how the world works. Ninety-nine percent of what we read or hear on the news does not profoundly change our understanding of how the world works. News mostly advances by inches and feet, not in great leaps. The value of these documents — and I believe they have immense value — is not that they expose some deep, unsuspected perfidy in high places or that they upend your whole view of the world. For those who pay close attention to foreign policy, these documents provide texture, nuance and drama. They deepen and correct your understanding of how things unfold; they raise or lower your estimation of world leaders. For those who do not follow these subjects as closely, the stories are an opportunity to learn more. If a project like this makes readers pay attention, think harder, understand more clearly what is being done in their name, then we have performed a public service. And that does

not count the impact of these revelations on the people most touched by them. WikiLeaks cables in which American diplomats recount the extravagant corruption of Tunisia's rulers helped fuel a popular uprising that has overthrown the government.

As for the risks posed by these releases, they are real. WikiLeaks's first data dump, the publication of the Afghanistan War Logs, included the names of scores of Afghans that The Times and other news organizations had carefully purged from our own coverage. Several news organizations, including ours, reported this dangerous lapse, and months later a Taliban spokesman claimed that Afghan insurgents had been perusing the WikiLeaks site and making a list. I anticipate, with dread, the day we learn that someone identified in those documents has been killed.

WikiLeaks was roundly criticized for its seeming indifference to the safety of those informants, and in its subsequent postings it has largely followed the example of the news organizations and redacted material that could get people jailed or killed. Assange described it as a "harm minimization" policy. In the case of the Iraq war documents, WikiLeaks applied a kind of robo-redaction software that stripped away names (and rendered the documents almost illegible). With the embassy cables, WikiLeaks posted mostly documents that had already been redacted by The Times and its fellow news organizations. And there were instances in which WikiLeaks volunteers suggested measures to enhance the protection of innocents. For example, someone at WikiLeaks noticed that if the redaction of a phrase revealed the exact length of the words, an alert foreign security service might match the number of letters to a name and affiliation and thus identify the source. WikiLeaks advised everyone to substitute a dozen uppercase X's for each redacted passage, no matter how long or short.

Whether WikiLeaks's "harm minimization" is adequate, and whether it will continue, is beyond my power to predict or influence. WikiLeaks does not take guidance from The New York Times. In the end, I can answer only for what my own paper has done, and I believe we have behaved responsibly.

The idea that the mere publication of such a wholesale collection of secrets will make other countries less willing to do business with our diplomats seems to me questionable. Even Defense Secretary Robert Gates called this concern "overwrought." Foreign governments cooperate with us, he pointed out, not because they necessarily love us, not because they trust us to keep their secrets, but because they need us. It may be that for a time diplomats will choose their words more carefully or circulate their views more narrowly, but WikiLeaks has not repealed the laws of self-interest. A few weeks after we began publishing articles about the embassy cables, David Sanger, our chief Washington correspondent, told me: "At least so far, the evidence that foreign leaders are no longer talking to American diplomats is scarce. I've heard about nervous jokes at the beginning of meetings, along the lines of 'When will I be reading about this conversation?' But the conversations are happening. . . . American diplomacy has hardly screeched to a halt."

As for our relationship with WikiLeaks, Julian Assange has been heard to boast that he served as a kind of puppet master, recruiting several news organizations, forcing them to work in concert and choreographing their work. This is characteristic braggadocio — or, as my Guardian colleagues would say, bollocks. Throughout this experience we have treated Assange as a source. I will not say "a source, pure and simple," because as any reporter or editor can attest, sources are rarely pure or simple, and Assange was no exception. But the relationship with

sources is straightforward: you don't necessarily endorse their agenda, echo their rhetoric, take anything they say at face value, applaud their methods or, most important, allow them to shape or censor your journalism. Your obligation, as an independent news organization, is to verify the material, to supply context, to exercise responsible judgment about what to publish and what not to publish and to make sense of it. That is what we did.

But while I do not regard Assange as a partner, and I would hesitate to describe what WikiLeaks does as journalism, it is chilling to contemplate the possible government prosecution of WikiLeaks for making secrets public, let alone the passage of new laws to punish the dissemination of classified information, as some have advocated. Taking legal recourse against a government official who violates his trust by divulging secrets he is sworn to protect is one thing. But criminalizing the publication of such secrets by someone who has no official obligation seems to me to run up against the First Amendment and the best traditions of this country. As one of my colleagues asks: If Assange were an understated professorial type rather than a character from a missing Stieg Larsson novel, and if WikiLeaks were not suffused with such glib antipathy toward the United States, would the reaction to the leaks be quite so ferocious? And would more Americans be speaking up against the threat of reprisals?

Whether the arrival of WikiLeaks has fundamentally changed the way journalism is made, I will leave to others and to history. Frankly, I think the impact of WikiLeaks on the culture has probably been overblown. Long before WikiLeaks was born, the Internet transformed the landscape of journalism, creating a wide-open and global market with easier access to audiences and sources, a quicker metabolism, a new infrastructure for sharing and vetting information and a diminished respect for notions of privacy and secrecy. Assange has claimed credit on several occasions for creating something he calls "scientific journalism," meaning that readers are given the raw material to judge for themselves whether the journalistic write-ups are trustworthy. But newspapers have been publishing texts of documents almost as long as newspapers have existed — and ever since the Internet eliminated space restrictions, we have done so copiously.

Nor is it clear to me that WikiLeaks represents some kind of cosmic triumph of transparency. If the official allegations are to be believed, most of WikiLeaks's great revelations came from a single anguished Army private — anguished enough to risk many years in prison. It's possible that the creation of online information brokers like WikiLeaks and OpenLeaks, a breakaway site announced in December by a former Assange colleague named Daniel Domscheit-Berg, will be a lure for whistle-blowers and malcontents who fear being caught consorting directly with a news organization like mine. But I suspect we have not reached a state of information anarchy. At least not yet.

As 2010 wound down, The Times and its news partners held a conference call to discuss where we go from here. The initial surge of articles drawn from the secret cables was over. More would trickle out but without a fixed schedule. We agreed to continue the redaction process, and we agreed we would all urge WikiLeaks to do the same. But this period of intense collaboration, and of regular contact with our source, was coming to a close.

Just before Christmas, Ian Katz, The Guardian's deputy editor, went to see Assange, who had been arrested in London on the Swedish warrant, briefly jailed and bailed out by wealthy admirers and was living under house arrest in a country manor in East Anglia while he fought Sweden's attempt to extradite him. The flow of donations to WikiLeaks, which he claimed hit 100,000 euros