

STUDENT READING I: EDWARD SNOWDEN'S LEAKS TO THE PRESS

On June 6, 2013, 29-year old computer assistant Edward Snowden made public a collection of classified documents from the government's National Security Agency (NSA). The documents revealed details about government surveillance of U.S. citizens' phone records and internet histories. Under a program known as PRISM, which partners government with well-known technology and communications companies such as Verizon, Yahoo, Microsoft, Google, and Facebook, the NSA was able to obtain access to data about citizens' personal communications.

Glenn Greenwald, the journalist who broke the story for the British paper *The Guardian* [2], wrote an article on June 7 explaining the scale of the surveillance that Snowden's leak revealed. He wrote:

The National Security Agency has obtained direct access to the systems of Google, Facebook, Apple and other U.S. internet giants, according to a top secret document obtained by the *Guardian*. The NSA access is part of a previously undisclosed program called Prism, which allows officials to collect material including search history, the content of emails, file transfers and live chats, the document says.....The NSA access was enabled by changes to U.S. surveillance law introduced under President Bush and renewed under Obama in December 2012.

The program facilitates extensive, in-depth surveillance on live communications and stored information. The law allows for the targeting of any customers of participating firms who live outside the US, or those Americans whose communications include people outside the US. It also opens the possibility of communications made entirely within the U.S. being collected without warrants.

Disclosure of the Prism program follows a leak to the Guardian on Wednesday of a top-secret court order compelling telecoms provider Verizon to turn over the telephone records of millions of US customers. The participation of the internet companies in Prism will add to the debate, ignited by the Verizon revelation, about the scale of surveillance by the intelligence services. Unlike the collection of those call records, this surveillance can include the content of communications and not just the metadata.

Since the government documents were leaked, much of the public debate has centered not on the revelations themselves, but on Edward Snowden, the whistleblower who provided classified information to *The Guardian*. Snowden, who worked as a consultant to the NSA and several defense contracting firms, lived a comfortable life in Hawaii before he chose to release the government documents to the press. He has since fled to Hong Kong, and he is seeking asylum. In the article in *The Guardian* in which Snowden revealed his identity as a whistleblower, he explained, "My sole motive is to inform the public as to that which is done in their name and that which is done against them."

However, some commentators have questioned Snowden's actions and have cast doubt on his character. Jeffrey Toobin, a former CIA official himself, argues that Snowden showed a lack of judgment in disclosing the potentially dangerous information publicly. In an article for *The New Yorker*, published on June 10, Toobin called Snowden narcissistic and irresponsible. **Toobin wrote** [3]:

The American government, and its democracy, are flawed institutions. But our system offers legal options to disgruntled government employees and contractors. They can take advantage of federal whistle-blower laws; they can bring their complaints to Congress; they can try to protest within the institutions where they work. But Snowden did none of this. Instead, in an act that speaks more to his ego than his conscience, he threw the secrets he knew up in the air—and trusted, somehow, that good would come of it. We all now have to hope that he's right.

Despite the objections of critics such as Toobin, a diverse group of defenders has come forward to argue that Snowden is a hero for revealing government abuses at the cost of his personal well-being. On June 10, former Republican Congressman Ron Paul said in an interview on *Piers Morgan Live* [4]: "For somebody to tell the American people the truth is a heroic effort, and he knows that it's very risky, he knows he's committing civil disobedience, and he knows that he could get punished."

For his part, Snowden has said that he wants the story to focus less on him personally and more on the revelations of government misbehavior.

FOR DISCUSSION:

1. Do students have any questions about the reading? How might they be answered?
 2. According to the reading, what did the information leaked by Edward Snowden reveal about U.S. government activities?
 3. What sacrifices did Snowden make in revealing this information? What does he say his motives for doing this were? Do you think his explanation is credible?
 4. Jeffrey Toobin argues that Snowden should have gone through official channels rather than leaking information to a newspaper. What do you think of this argument?
 5. While some critics have attacked Snowden's character, his defenders hold him up as a hero. What do you think? Is Snowden's personal character relevant to the debate?
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STUDENT READING 2: NATIONAL SECURITY VS. THE PUBLIC'S RIGHT TO KNOW

Revelations about NSA surveillance raise many questions about the need for government to protect national security and how this might conflict with the interests of its citizens in maintaining civil liberties: Does the public have a right to know about the clandestine activities of its government? Are government violations of privacy ever justified? Is the government right to collect information about its citizens in order to prevent terrorism?

Since Snowden's revelations, the government has defended the NSA, claiming that its surveillance has helped foil more than 50 terrorist plots and has therefore saved American lives. Furthermore, government officials claim that the NSA's activity is sanctioned under the law and has been approved by courts. Writing for the newspaper *The Hill*, [5]reporter Carlo Muñoz quotes Congressman Mike Rogers (R-Mich), chairman of the House Permanent Select Committee on Intelligence:

Opponents of the programs simply "have no understanding of what the program is," Rogers said, adding it was easy to have "lofty rhetoric of what they think the [NSA] program does."

Those who understand the NSA programs know the agency's efforts have saved American lives, he added.

"There is somebody getting up every day, in some part of the world ... trying to determine a way they can kill U.S. citizens in America," Rogers said.

“If you can stop 10 [attacks] of that magnitude ... that’s huge,” he added. “Some are stopped overseas. Some are stopped here. I don’t really care where you stop it, if we stop them, that is an [advantage] I want in the tool kit.”

Rep. Dutch Ruppersberger (D-Md.) also defended the phone surveillance.

“This is a program that works. It’s a program that does not listen to your conversation. It’s a program that is overseen by the courts. And our role in government is to protect the country from these terrorist attacks,” Ruppersberger told CNN.

“If you want to find a needle in a haystack, which is a lot of what our intelligence community does, you need the haystack.”

This defense of government surveillance has been attacked by figures such as Daniel Ellsberg, who himself is a whistleblower. In 1971, Ellsberg leaked the Pentagon Papers, which demonstrated that the government was propagating misinformation about the Vietnam War. In a June 10, 2013, editorial for the *Guardian* [6], Ellsberg contends that, although secrecy can be important for national security, the NSA’s information collection is illegitimate and is so wide ranging that it could damage American democracy. Ellsberg wrote:

There are legitimate reasons for secrecy, and specifically for secrecy about communications intelligence. That’s why Bradley Manning [a soldier who released government documents in 2010] and I – both of whom had access to such intelligence with clearances higher than top-secret – chose not to disclose any information with that classification. And it is why Edward Snowden has committed himself to withhold publication of most of what he might have revealed.

But what is not legitimate is to use a secrecy system to hide programs that are blatantly unconstitutional in their breadth and potential abuse. Neither the president nor Congress as a whole may by themselves revoke the fourth amendment – and that’s why what Snowden has revealed so far was secret from the American people.

In 1975, Senator Frank Church spoke of the National Security Agency in these terms:

"I know the capacity that is there to make tyranny total in America, and we must see to it that this agency and all agencies that possess this technology operate within the law and under proper supervision, so that we never cross over that abyss. That is the abyss from which there is no return."

The dangerous prospect of which he warned was that America's intelligence gathering capability – which is today beyond any comparison with what existed in his pre-digital era – "at any time could be turned around on the American people and no American would have any privacy left."

In the wake of Snowden’s leaks, the American Civil Liberties Union [7] filed suit against the U.S. government, challenging the legality of NSA surveillance. The debate about this surveillance will likely intensify as more information about NSA activity becomes public.

FOR DISCUSSION:

1. Do students have any questions about the reading? How might they be answered?
2. Defenders of NSA surveillance contend that the program is necessary to prevent terrorism. What do you think of their argument?
3. What are some of the reasons that civil libertarians give for why the NSA’s activities are

damaging to American democracy?

4. What safeguards do you think should be in place to keep the government from intruding on the privacy of its citizens? In your view, do the NSA's activities meet these safeguards or violate them?
5. In the age of the internet, many Americans have grown accustomed to sharing personal information on websites and to having data about their online activity tracked by private companies. How do changing standards of privacy in the internet age affect the debate about government surveillance? Can you think of reasons why we should be particularly concerned about government surveillance?

- Research assistance provided by Meghna Chandra.

Source URL: <http://www.morningsidecenter.org/teachable-moment/lessons/nsa-surveillance-politics-whistleblowing>

Links:

[1] <http://www.morningsidecenter.org/users/mark-engler>

[2] <http://www.guardian.co.uk/world/2013/jun/06/us-tech-giants-nsa-data>

[3] <http://www.newyorker.com/online/blogs/comment/2013/06/edward-snowden-nsa-leaker-is-no-hero.html>

[4] <http://piersmorgan.blogs.cnn.com/2013/06/10/ron-paul-on-edward-snowden-for-somebody-to-tell-the-american-people-the-truth-is-a-heroic-effort-he-knows-its-risky/>

[5] <http://thehill.com/homenews/house/306381-nsa-chief-cites-50-foiled-plots-in-defense-of-spying-programs>

[6] <http://www.guardian.co.uk/commentisfree/2013/jun/10/edward-snowden-united-stasi-america?INTCMP=SRCH>

[7] <http://www.motherjones.com/mojo/2013/06/aclu-nsa-edward-snowden-surveillance-lawsuit>