

# Edward Snowden, Whistle-Blower

By [THE EDITORIAL BOARD www.nytimes.com](#) JAN. 1, 2014

2259 Comments

Seven months ago, the world began to learn [the vast scope of the National Security Agency's reach into the lives of hundreds of millions of people](#) in the United States and around the globe, as it collects information about their phone calls, their email messages, their friends and contacts, how they spend their days and where they spend their nights. The public learned in great detail how the agency has exceeded its mandate and abused its authority, prompting outrage at kitchen tables and at the desks of Congress, which may finally begin to limit these practices.

The revelations have already prompted two federal judges to accuse the N.S.A. of violating the Constitution (although a third, unfortunately, [found the dragnet surveillance to be legal](#)). A panel appointed by President Obama [issued a powerful indictment](#) of the agency's invasions of privacy and called for a major overhaul of its operations.

All of this is entirely because of information provided to journalists by Edward Snowden, the former N.S.A. contractor who stole a trove of highly classified documents after he became disillusioned with the agency's voraciousness. Mr. Snowden is now living in Russia, on the run from American charges of espionage and theft, and he faces the prospect of spending the rest of his life looking over his shoulder.

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Mr. Snowden is currently charged [in a criminal complaint](#) with two violations of the Espionage Act involving unauthorized communication of classified information, and a charge of theft of government property. Those three charges [carry prison sentences of 10 years each](#), and when the case is presented to a grand jury for indictment, the government is virtually certain to add more charges, probably adding up to a life sentence that Mr. Snowden is understandably trying to avoid.

[The president said in August](#) that Mr. Snowden should come home to face those charges in court and suggested that if Mr. Snowden had wanted to avoid criminal charges he could have simply told his superiors about the abuses, acting, in other words, as a whistle-blower.

“If the concern was that somehow this was the only way to get this information out to the public, I signed an executive order well before Mr. Snowden leaked this information that provided whistle-blower protection to the intelligence community for the first time,” Mr. Obama said at a news conference. “So there were other avenues available for somebody whose conscience was stirred and thought that they needed to question government actions.”

In fact, [that executive order](#) did not apply to contractors, only to intelligence employees, rendering its protections useless to Mr. Snowden. More important, [Mr. Snowden told The Washington Post earlier this month](#) that he did report his misgivings to two superiors at the agency, showing them the volume of data collected by the N.S.A., and that they took no action.

(The N.S.A. says there is no evidence of this.) That's almost certainly because the agency and its leaders don't consider these collection programs to be an abuse and would never have acted on Mr. Snowden's concerns.

In retrospect, Mr. Snowden was clearly justified in believing that the only way to blow the whistle on this kind of intelligence-gathering was to expose it to the public and let the resulting furor do the work his superiors would not. Beyond the mass collection of phone and Internet data, consider just a few of the violations he revealed or the legal actions he provoked:

- The N.S.A. broke federal privacy laws, or exceeded its authority, [thousands of times per year](#), according to the agency's own internal auditor.
- The agency [broke into the communications links](#) of major data centers around the world, allowing it to spy on hundreds of millions of user accounts and infuriating the Internet companies that own the centers. Many of those companies are now scrambling to install systems that the N.S.A. cannot yet penetrate.
- The N.S.A. systematically [undermined the basic encryption systems of the Internet](#), making it impossible to know if sensitive banking or medical data is truly private, damaging businesses that depended on this trust.
- His leaks revealed that James Clapper Jr., the director of national intelligence, [lied to Congress](#) when testifying in March that the N.S.A. was not collecting data on millions of Americans. (There has been no discussion of punishment for that lie.)
- The Foreign Intelligence Surveillance Court [rebuked the N.S.A.](#) for repeatedly providing misleading information about its surveillance practices, according to a ruling made public because of the Snowden documents. One of the practices violated the Constitution, according to the chief judge of the court.
- A federal district judge [ruled earlier this month](#) that the phone-records-collection program probably violates the Fourth Amendment of the Constitution. He called the program "almost Orwellian" and said there was no evidence that it stopped any imminent act of terror.

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When someone reveals that government officials have routinely and deliberately broken the law, that person should not face life in prison at the hands of the same government. That's why Rick Ledgett, who leads the N.S.A.'s task force on the Snowden leaks, [recently told CBS News](#) that he would consider amnesty if Mr. Snowden would stop any additional leaks. And it's why President Obama should tell his aides to begin finding a way to end Mr. Snowden's vilification and give him an incentive to return home.

## Prosecute Snowden

by John Yoo June 10, 2013 3:39 PM

Edward Snowden should go to jail, as quickly and for as long as possible. This is a leak case that should be difficult for even Eric Holder to bungle. Snowden has already confessed in public to the crime of leaking classified information. He has said in public how he did it, that he did it with intent, and that he knowingly harmed our national security. Holder will finally find a leaker that he can prosecute. But given the Holder Justice Department's record on the other leak cases, who wants to take a bet that Snowden gets a generous plea bargain or even walks?

Snowden might be guilty of espionage, or even treason. If he is telling the truth that he leaked the existence of the PRISM program to inform the American public, then he should turn himself in. A trial would give him the opportunity to explain in public why he broke the law. If he is a spy — it is amazing that someone with such little education and background was given such extensive security clearance — he may well continue running abroad. It is telling that he immediately fled to Hong Kong; one wonders whether he will offer his services and knowledge to the Chinese security services next.

The NSA leak case will reveal if the Obama administration really means what it said about its foolish and unconstitutional pursuit of the AP and Fox News in other leak cases. Recall that the Obama Justice Department claimed that Fox News reporter James Rosen was a co-conspirator in the alleged leak of classified intelligence. If the Justice Department truly believed what it told the courts when seeking a wiretap on Rosen, then it should indict the reporters and editors for the Washington Post and the Guardian newspapers who published information on PRISM. They clearly “conspired” with Snowden to publish classified information, information that was much more harmful to the national security than in the Rosen case (on North Korea's predictable response to sanctions). Personally, I think that the Post is protected by the First Amendment, but Holder's Justice Department clearly doesn't think so.

So either the Justice Department will indict not just Snowden, but also the Post and Guardian reporters, or it will have been shown to have been untruthful to the courts in the Rosen case (which I think has become clear), in yet another demonstration of this president's incompetence in managing the core functions of the executive branch or his willful abuse of its executive authorities.

Read more at: <http://www.nationalreview.com/corner/350676/prosecute-snowden-john-yoo>

# Snowden, Defector

by The Editors of The National Review  
January 3, 2014 4:00 AM

The New York Times has called for the U.S. government to offer amnesty to Edward Snowden, the NSA contractor who broke his oath to that same government and has severely damaged the work it does to keep the U.S. safe.

A tiny proportion of Snowden's disclosures, if any at all, have concerned unequivocally illegal work by the U.S. government. Regarding the NSA's infamous metadata program, the Times relies on a federal judge's ruling that it is probably unconstitutional — but another federal judge has disagreed.

That metadata system is overseen by Congress and is regularly reviewed by a classified federal court. It is possible the Supreme Court will strike down the program, but the constitutional precedent from 1974's *Smith v. Maryland* regarding metadata is quite clear. The Times' favored ruling, which argues that *Smith* has been invalidated by technological advances, is much less convincing, and in any case has to be heard by the nation's highest court.

The other accomplishments the Times attributes to Snowden are even less impressive: He revealed that the NSA has exploited, for the sake of intelligence gathering, many of the systems private firms use to encrypt information, a practice “damaging [to] businesses that depended on this trust.” It is a strange day when the New York Times believes breaking the law is justified — laudable, even — if it might protect the competitiveness of American businesses. Similarly, the exposure that Director of National Intelligence James Clapper was less than honest with Congress about the NSA's gathering of data on Americans is important — but this revelation doesn't justify the gravest intelligence breach in U.S. history.

Snowden did expose several internal audits by the NSA that revealed isolated instances of mistakes and overreach, a minuscule number among the NSA's operations — and not ongoing illegal practices. At another point, the secret court that oversees the NSA reined in the agency's domestic work and criticized the agency for not being more honest about it. Both instances led to reforms at the NSA. If Snowden felt that those audits and reports should have been made public anyway, he could have taken them to the House and Senate Intelligence Committees rather than fleeing to Kowloon Bay and then Moscow.

What is most striking about Snowden's leaks is the sheer amount of them that have nothing to do with Americans' privacy at all. Snowden stole and has now helped publish documents that lay out the entirety of the U.S.'s classified budget, detail American-run intelligence programs abroad that have no effect on the privacy of those protected by our laws, and reveal the intelligence work of our allies, too. Regardless of the efficacy of the programs that may now be halted, exposing reams of data on the work of U.S. intelligence agencies sets their work back years, and leaves America less safe. (...)

Read more at: <http://www.nationalreview.com/article/367464/snowden-defector-editors>