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Dahl, Erik J.

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The NSA Revelations and the State of American Intelligence

 www.e-ir.info/2014/01/28/the-nsa-revelations-and-the-state-of-american-intelligence/

Erik J. Dahl ,

Most of the arguments swirling around the American intelligence community and the revelations by Edward Snowden focus on questions of ethics, morality, and right and wrong. Was Snowden a traitor to leak these secrets about the National Security Agency (NSA), or was he a hero for having revealed governmental wrongdoing?[1] Was the NSA wrong to be gathering vast quantities of information about American citizens and even about the leaders of allied nations, or was it doing what any nation's intelligence services do—only perhaps a little better?[2]

Questions about right and wrong are important. But an equally important question has generated much less discussion: what do these leaks and revelations tell us about the state of American intelligence in the world today, and about the future capabilities of the NSA and the other agencies of the American intelligence community? American officials have said that the leaks have greatly damaged the intelligence community, but this article argues that on the contrary, over the long run American intelligence will come out of this controversy stronger, with greater support from the American people and its leaders.

Great Harm?

American intelligence officials have argued strongly that Snowden's leaks have greatly damaged intelligence collection capabilities. FBI Director Robert Mueller testified before Congress that "These disclosures have caused significant harm to our nation and to our safety." [3] Michael Morell, former deputy director of the CIA and a member of the President's review panel that recommended major changes to the NSA's operations, said "it will cost billions and billions of dollars to repair the damage." [4] Michael Hayden, former director of both the CIA and NSA, has said that although he supports greater transparency about intelligence operations, "That will shave points off of operational effectiveness. There is no way to give the American people deeper knowledge without giving our adversaries deeper knowledge too." [5]

A number of scholars of intelligence and international relations have made similar arguments. Joshua Rovner argues that if the recommendations of the President's review panel are followed, the result would be great harm to American intelligence collection capabilities. [6] Others argue these revelations could harm American foreign policy, and make it more difficult to cooperate against terrorism. For example, Kiron Skinner of Carnegie Mellon University said, "If Washington undermines its own leadership or that of its allies, the collective ability of the West to combat terrorism will be compromised." [7] Henry Farrell and Martha Finnemore, writing in *Foreign Affairs*, argue that the leaks will damage America's ability to use soft power, because they have exposed America's hypocrisy—such as America complaining for years about Chinese computer hacking, but all the while secretly waging its own cyber offensive against China. [8]

It does seem likely that at least in the short term, the revelations about ongoing NSA programs will result in a reduction in intelligence collection, if only because America's adversaries are less likely than before to commit sensitive information to telephone calls or emails. It is also quite possible that some of Snowden's leaks, especially those concerning foreign intelligence operations, could put American sources and personnel in danger. House Intelligence Committee Chairman Mike Rogers said that according to a classified Pentagon report, U.S. troops are now at greater risk because of Snowden's revelations about current military operations. [9]

But what about the longer term? Here it is likely that the result for American intelligence will be positive. In announcing the changes he was directing in response to the Snowden leaks, President Obama said, "This debate will make us stronger." [10] His claim may have been little more than wishful thinking, but I believe he was right.

Stronger in the Long Run

This latest debate over the NSA and American intelligence is part of a broader development that is gradually, but dramatically, reshaping the role played by intelligence agencies and analysts in the modern world. Intelligence, the most classically secretive of government functions, is becoming a more openly discussed and acknowledged feature of national security and international relations. During the Cold War intelligence oversight within the United States was lax enough that Senator Leverett Saltonstall famously remarked, "There are things that my government does that I would rather not know about." [11] Today, however, intelligence activities are so widely discussed, and so many people do want to know about them, that former CIA officer Charles Cogan has said that "The CIA has now become part of the 'household' of American actions abroad." [12]

As with most other tools of government—most other capabilities that make up the standard household of a modern state—the tool of intelligence is improved and made more effective through open discussion. Intelligence is not and should not be subject to the same level of openness as most other government functions; secrecy is critical for most intelligence activities, and the successful operation to find and kill Osama bin Laden indicates that when it counts, the American intelligence system is able to keep secrets very well. But some level of openness and oversight is vital for the healthy functioning of the intelligence mission, and there are four main reasons why this is so.

First, and most obvious, as with any other power or tool of government, the tool of intelligence can be corrupted or misused if not subject to effective oversight. This risk is especially acute in the case of intelligence, not because intelligence officials are any more or less prone to corruption than any other public servants, but because the secretive nature of intelligence work can encourage a type of "mission creep" under which well-meaning officials go too far and violate laws or civil liberties in the name of national or homeland security. Many of the American domestic intelligence programs that were exposed as unconstitutional in the 1970s had begun as smaller-scale, legitimate efforts to ensure national security, but they mushroomed into massive, intrusive collection efforts focused largely on citizens' legal activities. [13] The NSA's database of calling records on millions of Americans is currently intended for the narrow purpose of preventing terrorist attacks, but a future administration, facing perhaps a new threat, could see it as a tempting target to use in other ways. As the U.S. government's Privacy and Civil Liberties Oversight

Board noted, “once collected... information is always at risk of being appropriated for new purposes.”[14]

Second, intelligence agencies, like any other large bureaucracies, can benefit from being kicked in the pants once in a while in a way that shakes them out of their typically insular mindset. The secrecy inherent in intelligence organizations makes intelligence agencies even more resistant to change than most bureaucracies. As Amy Zegart has written, “The nature of organizations, rational self-interest, and the fragmented federal government make intelligence agencies exceptionally impervious to reform, even after catastrophic failure.”[15] This is not to argue that intelligence agencies cannot be innovative, or that they do not try to bring in outside opinions occasionally. But the NSA surveillance programs appear to be a clear case of this insular mindset at work, as intelligence community leaders do not seem to have realized how controversial these programs would be, and the risk they would represent to America’s reputation around the world, if they got out.

Third, leaders and decision-makers become better consumers and users of intelligence, the more they learn about the intelligence they receive. The American military has learned this lesson in the decades since the Vietnam War, when pilots and commanders often complained that they were not cleared to know the sources of the intelligence they were relying on. It took many years, but the military has found that it can safely open the “green door” of intelligence to more officers and operators. In my own experience teaching at the Naval War College, senior military officers benefited the most from receiving a “warts and all” education about intelligence, learning about the limitations as well as the capabilities of the intelligence they would be receiving in future assignments. The American intelligence community needs to implement such an education program for decision-makers at all levels of government—federal, state, and local—and the widespread surprise that greeted the Snowden revelations suggests that a lack of understanding about intelligence among leaders in Congress and elsewhere contributed to the crisis American intelligence now finds itself in.

Fourth and perhaps most important, the intelligence function works best when it is broadly supported by the people it serves. This is true in all areas of intelligence, including the most sensitive areas of foreign intelligence and covert operations. But it is especially true when it comes to domestic and homeland security intelligence, where the “dots” that are being collected are about the very people they are intended to protect. Americans are frequently urged that if they “see something, say something,” and the history of failed terrorist plots within the United States since the 9/11 attacks demonstrates that tips from an alert public can be one of the most effective tools in counter-terrorism.[16] Those tips are less likely to come in to law enforcement and intelligence agencies if the public fails to trust those agencies.

Conclusion

What is all this likely to mean for the future of the NSA and American intelligence? Clearly, there will be more aggressive oversight and monitoring of the intelligence community by Congress and other bodies such as the newly vigorous Privacy and Civil Liberties Oversight Board. The challenge here will be to ensure that this increased oversight is constructive, and not destructive. The most desirable oversight is intended to make the intelligence function of government more effective as well as more accountable, and while the American intelligence community does need a kick in the pants, it does not need to be kicked while it is down.

The early indications are that the increased oversight and attention will, in fact, be constructive rather than destructive for American intelligence. Some changes in leadership, such as have been announced at the NSA, will be useful in bringing in new thinking, but no wholesale overhaul of top officials appears necessary or beneficial. It may take some time for intelligence agencies to repair the damage the controversy has caused to their reputations, but the continuing fascination the American public has with intelligence and spies suggests that the task of reestablishing trust will not be impossible.[17]

The revelations about the NSA do mean significant changes are in the works for the way American intelligence agencies operate, both within the United States and overseas. In the words of Doyle McManus, a perceptive observer of the intelligence community at the *Los Angeles Times*, the changes announced by President Obama “signal the end of an era of unfettered escalation in U.S. intelligence-gathering.” [18] But in this age of global information sharing, it is unlikely that the American intelligence community could have kept such a vast array of controversial programs secret for long. As Michael Hayden has said, “the debate was coming.” [19] The good news for American intelligence, and for America’s allies, is that the end result of this debate is likely to be an even more capable intelligence community, more open to outside influence and innovation, and more strongly supported by the leaders who guide it and the people it protects.

**The views expressed in this article are the author’s own, and are not necessarily those of the Naval Postgraduate School or the U.S. government.*

[1] See for example, “Room for Debate: Has Snowden Been Vindicated?” *New York Times*, December 19, 2013, at <http://www.nytimes.com/roomfordebate/2013/12/19/has-snowden-been-vindicated>.

[2] Paul Pillar has written that much of the controversy over the NSA has arisen “*because it is very good at doing what it is supposed to do*” (italics in original); Paul R. Pillar, “The Highly Competent NSA,” *The National Interest*, January 14, 2014, at <http://nationalinterest.org/blog/paul-pillar/the-highly-competent-nsa-9707>.

[3] Mueller testimony before the House Judiciary Committee, quoted in David Ingram and Patricia Zengerle, “FBI Says U.S. Will Hold Snowden Responsible for NSA Leaks,” Reuters, June 13, 2013.

[4] Face the Nation, January 19, 2014, transcript at <http://www.cbsnews.com/news/face-the-nation-transcripts-january-19-2014-rogers-udall-donilon-morell/>.

[5] Interviewed by Judy Woodruff on PBS NewsHour, December 26, 2013. At http://www.pbs.org/newshour/bb/government_programs/july-dec13/surveillance2_12-26.html.

[6] Joshua Rovner and Austin Long, “Reckless Reforms,” *Foreignpolicy.com*, January 2, 2014, at http://www.foreignpolicy.com/articles/2014/01/02/reckless_reforms_nsa.

- [7] Deb Riechmann, "NSA Spying Threatens to Hamper US Foreign Policy," Associated Press, October 26, 2013.
- [8] Henry Farrell and Martha Finnemore, "The End of Hypocrisy: American Foreign Policy in the Age of Leaks," *Foreign Affairs*, November/December 2013.
- [9] Jeremy Herb, "Intel Panel: DOD Report Finds Snowden Leaks Helped Terrorists," TheHill.com, January 9, 2014, at <http://thehill.com/blogs/defcon-hill/policy-strategy/194937-intel-panel-dod-report-finds-snowden-leaks-helped>.
- [10] The White House, "Remarks by the President on Review of Signals Intelligence," January 17, 2014, at <http://www.whitehouse.gov/the-press-office/2014/01/17/remarks-president-review-signals-intelligence>.
- [11] Mark M. Lowenthal, *Intelligence: From Secrets to Policy*, Fifth ed. (Los Angeles: CQ Press, 2012), 231.
- [12] Charles G. Cogan, "Intelligence: The Times They Are A-Changing," Huffingtonpost.com, June 4, 2013, at http://www.huffingtonpost.com/dr-charles-g-cogan/intelligence-the-times-th_b_3385375.html.
- [13] On the experience of Department of Defense intelligence collection programs experienced mission creep, see "History of the Department of Defense Intelligence Oversight Program," at [http://atsdio.defense.gov/AboutATSD\(IO\)/History.aspx](http://atsdio.defense.gov/AboutATSD(IO)/History.aspx), and Kate Martin, "Domestic Intelligence and Civil Liberties," *SAIS Review* 24, no. 1 (Winter-Spring 2004), 9.
- [14] Privacy and Civil Liberties Oversight Board, *Report on the Telephone Records Program Conducted under Section 215 of the USA PATRIOT Act and on the Operations of the Foreign Intelligence Surveillance Court*, January 23, 2014, 160.
- [15] Amy B. Zegart, *Spying Blind: The CIA, the FBI, and the Origins of 9/11* (Princeton, NJ: Princeton University Press, 2007), 170.
- [16] I discuss the importance of public tips and other relatively mundane sources of intelligence in *Intelligence and Surprise Attack: Failure and Success from Pearl Harbor to 9/11 and Beyond* (Washington, DC: Georgetown University Press, 2013), 168-169.
- [17] For example, in a new American television series, "Intelligence," the hero is an agent of the U.S. Cyber Command, which in real life is closely linked with the NSA.
- [18] Doyle McManus, "A New Day at the NSA," *Los Angeles Times*, January 19, 2014, at <http://www.latimes.com/opinion/commentary/la-oe-mcmanus-column-obama-surveillance-nsa-20140119,0,6874114.column#axzz2qwNM2y9U>.
- [19] Meet The Press, December 15, 2013, transcript at <http://www.nbcnews.com/video/meet-the-press/53837084#53837084>.