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America's Edward Snowden problem

By Peter Lee

6/28/2013

The main problem for Edward Snowden is that he ran away. That's not Edward Snowden's problem; it's America's problem. The idea that Edward Snowden decided to flee overseas in order to deliver his revelations of massive US government surveillance is awkward for the United States politically, and difficult for a lot of Americans on the emotional level.

Some complain that Snowden did not do what might be characterized as "the full Ellsberg", bravely and patriotically staying in the United States to face the legal music as did Daniel Ellsberg, the leaker of the Pentagon Papers, did in 1971. Tim Weiner, a former national security reporter for the New York Times, made the case in a Bloomberg op-ed:

Snowden should have the courage to come home, to fight in court, under the law. He has damaged his cause by fleeing to China, then to Russia. Why seek refuge in bastions of repression? Why contemplate asylum in Ecuador, a country with one of the worst records on free speech and free press in the Western Hemisphere? Why does he act like a spy on the run from a country he betrayed?

He does his cause no good by hiding. If he stood trial, as Daniel Ellsberg did after leaking the Pentagon Papers, he could try to justify his disclosure of national-security secrets. He conceivably might even win, if only a moral victory. [1]

This is apparently not an opinion that Daniel Ellsberg himself shares.

Speaking on the Scott Horton show on June 20, Ellsberg said:

But meanwhile, the treatment of him, and the pronouncements by everybody here, like - I'm talking about Snowden now - have convinced Snowden, and I think very realistically, that if he wanted to be able to tell the public what he had done and why he had done it and what his motives were and what the patterns of criminality were in the material that he was releasing, it had to be outside the United States. Otherwise he would be in perhaps the same cell that Bradley Manning was, and that's a military cell.

The NDAA, National Defense Authorization Act, permits military custody indefinitely of an American citizen who's a civilian, and Snowden could very well find himself at Quantico, naked perhaps like Bradley was for a while, and be really incommunicado, as Bradley has been for three years with the single exception of being allowed to make a statement when he pled guilty to 10 charges. And that's the only chance he had to speak out. So I think Snowden has learned from that example. [2]

It might be pointed out that it is still not too late for Snowden to win the grudging respect of the nation's national security pundits with some post-revelation self-immolation. After all, Daniel Ellsberg did not fling himself into the fire of US justice at the first opportunity.

Ellsberg, a distinguished member of the national security establishment who routinely hobnobbed with senators, Henry Kissinger, and a sympathetic cohort of reporters who shared his first-hand experience and revulsion with the Vietnam War, at first declined to identify himself as the source of the leak. Instead, he went into hiding for 13 days after the New York Times broke the Pentagon Papers story in order to evade "the largest FBI manhunt since the Lindbergh kidnapping", avoid questioning, achieve the maximum publicity for his disclosures, and circulate the Papers to as many media outlets as possible.

After the Justice Department finally collected enough evidence (from Ellsberg's ex-wife) to justify issuing an arrest warrant, Ellsberg held off surrendering for another two days to make sure he could finish distributing the last of the Pentagon Papers copies in his possession.

So Edward Snowden still might have a chance to redeem himself in Tim Weiner's eyes - after he's milked his laptops for all they are worth.

Weiner also makes the argument that Snowden is discrediting "his cause" by "seeking refuge in bastions of repression".

This argument was echoed by Ken Roth, the Executive Director of Human Rights Watch, who did his organization no favors by peppering Snowden's travels with a series of dismissive tweets and retweets: ian bremmer @ianbremmer 23 Jun: Edward Snowden, martyr for online freedom and privacy, now passing thru Moscow? Say hi to Alexei @Navalny while you're there.

Retweeted by Kenneth Roth @KenRoth, 23 Jun: If Snowden's reported itinerary is true, China-ussia-Cuba-Venezuela is hardly an archipelago of free expression.

[Snowden] had a fight-or-flight moment. He fled. I don't think he is a traitor. But I do think he may be a coward.

It seems rather perverse to demand that Snowden, in addition to the difficulties he has already experienced, eschew any potential haven and offer himself up as a human sacrifice in an attempt to demonstrate the worthiness of himself and his cause to his most determined critics.

Some people also have a problem with Snowden's statement that he took employment with the consulting firm Booz Allen for the purpose of collecting more documents. It appears that for some observers Snowden's whistleblowing are understandable and forgivable only as ungovernable moral outrage, a spasm of uncontrollable insanity, and not a calculated effort to document for the US public the almost unimaginable reach of the US surveillance apparatus.

The most interesting expression of the "impulsive dingbat" meme is the one that accuses Snowden of almost criminal naivete in carrying his four laptops of US government secrets into the lair of America's enemies (of course, we are not at war with China or Russia, but that is a complication that the press has largely chosen not to address).

As the China newsletter Sinocism reported, identical language was deployed in two backgrounders designed to place the onus on Snowden to prove he was not a spy:

Regardless of how Snowden came to land in Hong Kong and then Moscow, US intelligence agencies must assume that China and Russia have debriefed Snowden and now have all the digital information he brought with him, said one of the officials. Such a debriefing could have been direct or through intermediaries that Snowden may not have known were giving what they learned to a foreign intelligence agency, the official said. [3]

Considering that the US government does not even know where Snowden is, let alone to whom he is talking, this exercise in pre-emptive accusation achieves Bush-in-Iraq levels of factless innuendo that must be a source of perverse pride to the Obama administration.

In its invocation of "all the digital information" (as opposed to "all the documents"), the White House talking points also slide over the interesting issue of encryption, something that Snowden, as a former NSA employee, is presumably well-aware of, but does not fit in with the public framing of Snowden as an impulsive, destructive, and self-destructive naif.

The successful 1990s battle against US attempts to curb the export and extensive use of encryption technology is one of the few instances in which, depending on your point of view, the public was able to fight the surveillance state to a draw-or the bad guys won. Today, 256-bit encryption is good enough for US government Top Secret classification data. It's also probably good enough for Snowden's laptop.

Breaking encryption is one of the NSA's holy grails. Currently, there is reportedly no computer fast enough to handle brute force decryption - though the NSA is working on that, too, thanks to several billion of America's tax dollars. NSA decryption gets help from "side-channel" attacks

that pick up information leakage from the encryption process and use it to assist the massive NSA computers.

In the area of dirty pool, there is keylogging, surreptitious entry, and even rumors that the US government has corrupted the open source software commonly used to generate the random numbers used in the encryption process, thereby reducing the universe of used numbers to make cracking more feasible. If one has access to the physical person of the encrypter, there is also the less elegant "rubber hose cryptanalysis" - using coercion to obtain the encryption key from somebody who knows it.

Long story short, if Snowden has encrypted his laptops, even if the Russian and Chinese security services were able to copy the hard drives (access "all the digital information") and get to work on them (and there is no evidence as yet that this has occurred), it is unlikely that they would be able to decrypt them (retrieve "all the documents") unless they have sustained access to, and active cooperation from, Snowden.

If the United States is really concerned about this happening, that might be a good reason to make some deal with Snowden to bring him home, not to let him continue to hang around Sheremetyevo Airport in Moscow under the interested eyes of Russia's FSB.

The good news is, Snowden has encrypted the data on the insurance files he has salted around the Internet, and it is a safe assumption that he has done the same for his hard drives.

Per the Daily Beast:

The former NSA systems administrator has already given encoded files containing an archive of the secrets he lifted from his old employer to several people. If anything happens to Snowden, the files will be unlocked... [Glenn] Greenwald [the journalist with Britain's Guardian newspaper who broke the news of Snowden's flight with secret information] added that the people in possession of these files "cannot access them yet because they are highly encrypted and they do not have the passwords." But, Greenwald said, "if anything happens at all to Edward Snowden, he told me he has arranged for them to get access to the full archives." [4]

This information provides an interesting perspective on Snowden's travails in Hong Kong. Apparently, he left Hong Kong because it appeared he would be detained for a prolonged period of time while his extradition and/or asylum case wound its way through the courts, and he could not be assured of access to his laptops during this period.

According to [Hong Kong lawyer Albert] Ho, Snowden was upset to learn that he may have to spend years in prison during litigation over whether he would be granted asylum in Hong Kong or be sent to the United States. He was particularly scared that he could lose access to his computer.

"He didn't go out, he spent all his time inside a tiny space, but he said it was OK because he had his computer," Ho said. "If you were to deprive him of his computer, that would be totally intolerable." [5]

One of Snowden's critics on the liberal side of the blogosphere sneered at Snowden's anxieties: going offline - it's the new waterboarding.

If Snowden were separated from his laptops, he would not be able to control the pace and content of the document releases. He would have to provide the decryption key to a partner, thereby putting his fate in the hands of Greenwald or, if Greenwald got hit by a truck or whatever, whoever was left to pick up the pieces.

Again, drawing on the case of Ellsberg, it is interesting that, according to his own account, Ellsberg hesitated so much about giving the New York Times control over the Pentagon Papers story that, after weeks of dithering, *he never gave them the papers*. After Ellsberg tipped off fabled NYT Vietnam correspondent Neil Sheehan to the papers, Sheehan and his wife surreptitiously

entered the apartment in Boston where the papers were stored, copied them all, and prepared the Times series without telling Ellsberg what was going on (I will admit this smells like a nod-and-wink stratagem concocted between Ellsberg and his close friend Sheehan to relieve Ellsberg of the legal onus of having actively passed the classified documents to the New York Times; nevertheless, that is the story he chose to tell 35 years after the fact - see p375 of Ellsberg's memoir *Secrets* - and his hesitation over handing the Papers over to the New York Times seems to have been genuine).

In considering the security issues involved, consider these remarks that Greenwald made to the Daily Beast (including the possibility that Greenwald's laptop got stolen because somebody thought it contained Snowden's trove, an item that has gotten remarkably little play):

For now, Greenwald said he is taking extra precautions against the prospect that he is a target of US surveillance. He said he began using encrypted email when he began communicating with Snowden in February after Snowden sent him a YouTube video walking him through the procedure to encrypt his email.

"When I was in Hong Kong, I spoke to my partner in Rio via Skype and told him I would send an electronic encrypted copy of the documents," Greenwald said. "I did not end up doing it. Two days later his laptop was stolen from our house and nothing else was taken. Nothing like that has happened before. I am not saying it's connected to this, but obviously the possibility exists."

When asked if Greenwald believed his computer was being monitored by the US government. "I would be shocked if the US government were not trying to access the information on my computer. I carry my computers and data with me everywhere I go." [6]

And, rest assured, Snowden also wishes to have access to his computers wherever he goes.

Beyond the need to keep control over the laptops, the story, and his future, one can also speculate that Snowden has to send out a safe message periodically, perhaps from his laptops, to prevent release of the decryption key that would allow the contents of the insurance files to be read.

The Obama administration has been less than sure-footed in its response to the Snowden shock.

Certainly, after 16 months of painstaking and systematic preparation of the Chinese cyber-espionage dossier, orchestration of a six-month campaign of public hysterics about the Chinese cyber-threat, and, just as he was about to present a lovingly prepared hit list of Chinese cyber villains to President Xi Jinping at Sunnylands in California this month President Obama's

campaign received a nasty and unexpected jolt courtesy of Edward Snowden.

President Obama had the opportunity to shrug off the Snowden revelations - or handle them as an element in the US domestic debate over intensive/extensive NSA surveillance - and manage America's cyber issues with the People's Republic of China as a separate matter.

Instead, the United States at first decided to make a big deal out of the patent disinterest of the PRC, Hong Kong, and Russia in detaining Snowden for return to the United States, and embarked on a whispering campaign apparently designed to use Snowden's Hong Kong/Moscow/? itinerary to push him out of the embarrassing whistleblower category and into the despised spy/traitor camp.

General Keith Alexander, the NSA troll who lives under your bridge in order to extract your metadata, your data, your audio, and who knows what else, appeared before a congressional committee to assert that Snowden had done "irreversible and significant damage" to the United States. Peter King called Snowden a defector. Dick Cheney called him a traitor.

The Obama White House apparatchiks (and Hillary Clinton) expressed the highest of dudgeon at China, Hong Kong, and Russia for not cooperating with the United States, in an effort to shift the framing from "US persecution of whistleblower" to "creepy tyrannies flouting the international rule of law".

Beating on China and Russia to relieve the Obama administration's Snowden-related embarrassment may be an understandable public relations strategy; however, for the PRC it merely affirms that the Obama administration's China policy is hostage to its confrontational policies and ostentatious moralizing, even on the sordid matter - in which President Obama might enjoy Xi Jinping's instinctive sympathy - of seeking the return of a whistleblower so his embarrassing revelations can be suppressed.

Greenwald tried to cut through the fool/defector/spy/traitor chaff being thrown around by the government and its supporters to distract attention from the content of Snowden's leaks and steer the narrative back to what Edward Snowden is: a whistleblower carefully revealing embarrassing secrets - but not vital operational details - in order to force a public debate on surveillance practices that the US government is desperate to keep private.

As Greenwald told the Daily Beast (while offering the interesting observation that he, like legendary NSA whistleblower Bill Binney, believes that Snowden "wandered off the res" a little too far with his revelations to the South China Morning Post about the details of US hacks against China):

Greenwald said he would not have published some of the stories that ran in the South China Morning Post. "Whether I would have disclosed the specific IP addresses in China and Hong Kong the NSA is hacking, I don't think I would have," Greenwald said. "What motivated that leak though was a need to ingratiate himself to the people of Hong Kong and China."

However, Greenwald said that in his dealings with Snowden the 30-year-old systems administrator was adamant that he and his newspaper go through the document and only publish

what served the public's right to know. "Snowden himself was vehement from the start that we do engage in that journalistic process and we not gratuitously publish things," Greenwald said. "I do know he was vehement about that. He was not trying to harm the US government; he was trying to shine light on it."

Greenwald said Snowden for example did not wish to publicize information that gave the technical specifications or blueprints for how the NSA constructed its eavesdropping network. "He is worried that would enable other states to enhance their security systems and monitor their own citizens." Greenwald also said Snowden did not wish to repeat the kinds of disclosures made famous a generation ago by former CIA spy, Philip Agee - who published information after defecting to Cuba that outed undercover CIA officers. "He was very insistent he does not want to publish documents to harm individuals or blow anyone's undercover status," Greenwald said.

He added that Snowden told him, "Leaking CIA documents can actually harm people, whereas leaking NSA documents can harm systems."

Greenwald also said his newspaper had no plans to publish the technical specifications of NSA systems. "I do not want to help other states get better at surveillance," Greenwald said. He added, "We won't publish things that might ruin ongoing operations from the US government that very few people would object to the United States doing."

As to the issue of Snowden seeking a haven in nations that are more interested in embarrassing the United States than cooperating with it, I find myself on the same page with these passages from author Alex Berenson, who took to the New York Times op-ed pages to remark:

We have treated a whistle-blower like a traitor - and thus made him a traitor. Great job. Did anyone in the White House or the NSA or the C.I.A. consider flying to Hong Kong and treating Mr Snowden like a human being, offering him a chance to testify before Congress and a fair trial? ... If the masters of the apparatus were really ready to have an honest discussion about their powers, Mr Snowden might have wound up not in Moscow, but back in Washington, his girl by his side on the Capitol steps, headed for a few years in prison and then a job with the Electronic Frontier Foundation. [7]

The ironic thing is, there is probably still time for the United States to acknowledge Snowden as a whistleblower and perhaps even negotiate with him for his return to the United States.

But it doesn't look like that is going to happen. The Obama administration has apparently learned from the backlash to its scolding of China and Russia and widespread international indifference (or active hostility from the foreign subjects of US surveillance) to the US government's extravagant claims of grievance over the cyber-violation it has allegedly experienced at the hands of Snowden.

During a press availability in Senegal, Obama pooh-poohed the idea that he would be "scrambling fighters" to pursue a "29-year-old hacker" (in the process implying that, despite the anguished vaporings in the popular press about the contents of Snowden's laptops, the US government is confident, perhaps on the basis of information provided by Snowden himself, of the level of encryption protecting the data).

Meanwhile, quiet pressure on Ecuador has apparently elicited a repudiation of the provisional travel document that was somehow extracted from the Ecuadorian embassy in London. Current predictions are that Snowden may rusticate at the airport in Moscow for months, raising the possibility that Putin will eventually offer Snowden asylum, thereby giving the United States the perfect excuse to forget about Snowden and his awkward information.

Considering the steady drip of damaging revelations that Snowden and the Guardian seem prepared to provide (today, NSA collection of the e-mail metadata of US persons under Bush and Obama was added to the sizable list of questionable surveillance activities), for the next few weeks the Obama administration's best hope - and evolving strategy - is to get the American people, against their most visceral instincts, to stop caring about Edward Snowden.

Notes:

1. Come Home, Edward Snowden. Stand Up and Fight., Bloomberg, June 24, 2013.
2. See here.
3. The Sinocism China Newsletter, June 25, 2013.
4. Greenwald: Snowden's Files Are Out There if 'Anything Happens' to Him, The Daily Beast, June 25, 2013.
5. See here.
6. See note 4.
7. Snowden, Through the Eyes of a Spy Novelist, The New York Times, June 25, 2013.