

Blowing the Whistle

**An abbreviated version of this material was
published in the**



November 25, 2016:

“Blowing the Whistle: What would you do?”

November 26, 2016:

“Blowing the Whistle: Snowden’s Dilemma.”

Uyless Black

Blowing the Whistle: What Would You Do?

Part One

Situation: You work for the United States intelligence services. Your job entails the analysis of highly classified intelligence information.

During the performance of your assignments, you discover the U.S. government is engaged secretly in illegal activity; operations that are in violation of the Fourth Amendment of Bill of Rights, which includes the right to privacy and the forbidding of unreasonable searches. Such searches must be authorized with a warrant.¹ You know some of this material is undergoing warrantless searching.

You learn these secret activities have been authorized by high-level government officials. They are known only to a few individuals in the intelligence community and a handful of people in the White House and Congress. Yet the magnitude of the operation and the participants point to the existence of a conspiracy within the United States government. In spite of their scope, you hear these programs are mostly ineffective.²

You discover your government has harassed several large commercial enterprises to enter into this conspiracy by threatening them if they did not contribute to this illegal arrangement. You learn NSA has gained direct access to servers such as those run by Google, Microsoft, and Facebook.³

If left unchecked, you believe these increasingly intrusive programs into the private lives of America's citizens could set precedents for America becoming a surveillance state, taking on the Big Brother aspects of despotic governments; those who spy on their citizens. This concern is intensified because you learn the government is continuing to implement even more and varied spying programs.

Initially intended to monitor foreigners' communications, including their voice, video, and written communications, these programs are now targeting American citizens, but without going through the conventional legal channels for these kinds of operations. You observe the Law of Creeping Momentum: Incrementally and gradually, the Fourth Amendment's foundations are being compromised.

You fear for your own security and well-being. After all, you are a voluntary participant in activities that are breaking the law. Therefore, you are also breaking the law. You could serve jail time. You recall the financial meltdown, in which high-level officials never served time for what were clearly fraudulent practices, but one of their underlings was sentenced to prison. Because of the seriousness of what you might do, you could end up behind bars for the rest of your life.

You know that one high-level government official, the head of NSA, misled Congress about the existence of these programs.⁴ Later, it was revealed to the public that he had lied, and

¹ In May 2015, a federal appeals court ruled the systematic collections of millions of Americans' phone records was illegal. Circuit Judge Gerard Lynch wrote for a three-judge panel that the PATRIOT Act did not authorize the NSA to collect Americans' records in bulk. On November 9, 2015, the District Court for the District of Columbia, ordered the cessation of NSA's systematic collection of citizens' data, in apparent violation of unreasonable search and seizure.

² General Keith B. Alexander (chief of NSA), in testimony before Congress, conceded that the programs had uncovered one or two terrorist plots against the United States.

³ Luke Harding, *The Snowden Files* (New York: Vintage Books, 2014), 11.

⁴ James Clapper, March 2013, testifying before the Senate Intelligence Committee.

thus should have been indicted for perjury under U.S. Code sections 1621 and 1001 of Title 18. He escaped, Scot-free. He remains a major player in the intelligence community.

You learn that his successor, while speaking to a convention in Las Vegas, told his audience. "...the agency 'absolutely' didn't keep 'files' or 'dossiers' on 'millions or hundreds of millions' of Americans."⁵ You know this assertion to be untrue.

You consider using the government's whistleblower program, which is meant to protect government workers from retaliation by the government for a worker coming forth to proper authorities with grievances against the government. But other whistleblowers about this type of activity had their lives and the lives of their families disrupted by the government after they blew the whistle. Government intrusions and intimidations became part of their existence.

You are aware of Thomas Drake, a prominent example of the danger of whistleblowing. He was a respected senior executive of NSA, a decorated military man. He challenged the legality of one of NSA's systems (the Trailblazer Project) and was persecuted for questioning the program. To release Uncle Sam's throttle on his patriotic assertions, he had to plead guilty to a misdemeanor count for the unauthorized use of a computer.

Part Two

If you go public with this information, you will be branded as a traitor by the very government that is behaving as a traitor to its own citizens! You will be hounded, forced to go into hiding or wind up in jail.

You believe you can make known only the information that reveals the government's illegal acts without exposing individuals in these programs to danger. That is, you can keep secret the operational aspects of these programs.

However, you also know these revelations will expose many U.S. clandestine military, political, intelligence, and financial operations. The result will be the possible loss of allies and the encouragement of jihadists to mimic America. It will result in America's loss of face in the world and the world's loss of faith in America.

But you believe America's moral ship is floundering. You believe your releasing this information would help right the course of America's democracy and bolster its Fourth Amendment.

You know you could become rich by selling the unfiltered information in these files to America's adversaries. But you are not in this for the money. You could search for like-minded idealists or fellow traitors (reader, take your pick), who would guide and counsel you in making your decision.

The "You" is Edward Snowden

Like him or hate him, Edward Snowden chose to expose the warrantless spying operations of his own country. According to NSA officials, he compromised many aspects of America's spy operations. He also revealed the hypocritical accusations that America was making about China and Russia hacking America's systems, when America was doing the same to them, and even our allies. Indeed, he later became aware of Obama's Presidential Policy Directive 20 (issued October 20, 2012) in which senior government officials compiled a list of organizations and countries for the U.S. to conduct cyber-attacks. Not for defense, but for offensive operations.

⁵ Luke Harding, *The Snowden Files* (New York: Vintage Books, 2014), 119. This speech was made by Keith B. Alexander.

Snowden refused to consider selling this material. He has had to forsake his family and other loved ones. His country has issued a warrant for his arrest.

Pros and Cons

NSA claims Snowden did considerable damage to the United States intelligence system. Supporters of Snowden claim United States did considerable damage to United States citizens. Both broke the law. Who is right?

Snowden has said, "I had access to full rosters of anybody working at the NSA. The entire intelligence community and undercover assets around the world. The locations of every station we have, all of their missions. ...If I just wanted to damage the U.S., I would have shut down the surveillance system in an afternoon. That was never my intention."⁶

Yet, the former head of NSA, James Clapper said that Snowden did irreparable damage to America by his actions. Clapper was the individual who lied to Congress about the program in the first place, yet he was not indicted for violation of U.S. perjury laws. Is this man believable?

As an important aside, to be explored in more detail in other articles, this special treatment of protected government potentates is just one of many bricks being built in the populist movement wall.

On a personal level, what would you do if you were in Edward Snowden's shoes? Would you continue to perpetuate your crime and the crime of your country...at a salary of \$200,000 per year---to keep America's illegal spying system secret? Would you reveal the information to the public and find yourself branded as a pariah for the rest of your life, consigned to live in the guarded enclaves of nations unfriendly to America? Would you sell the information to the highest bidder and take on an anonymous life style of opulence in Monte Carlo? Would you just walk away, and find employment elsewhere?

Who is more dangerous to our country? A government that illegally spies on its citizens, or a person who illegally exposes this spying? It's your call.

⁶ Harding, 145.