

Europe's response to the NSA spying scandal has been a substantial overreaction

*Allegations surrounding the activities of the United States' National Security Agency (NSA) have provoked controversy in several European countries. **Anthony Glees** argues that the European response to the scandal has been largely overstated, in part because it overlooks the existing limits within which intelligence agencies operate. He writes that good intelligence gathering has generally produced positive effects in western countries, and that the most damaging actions have been conducted by those responsible for publishing the allegations.*



There's no doubting now that Edward Snowden's revelations, hyped and exploited by [the Guardian](#), are having a major impact not just on how the public regard intelligence activity, but also on international affairs and the relations between the United States and its most important European partners.

Initially, in mid June 2013, it was just [the NSA](#) that the Guardian put in the dock, explaining how an operation called *Prism* allowed it to record activity on Google's and Facebook's servers. Then, a few days later, it revealed the existence of *Tempora*, a [joint operation](#) between the NSA and the British security agency GCHQ, to collect vast quantities of digital material being carried across the world on fibre optic and other cables. Most recently, the Guardian told us that the NSA and GCHQ also work together, intimately, on *Tempora* with [other agencies](#), in particular the German intelligence service, the BND.

Publishing details of intelligence operations was previously always considered, properly, a no-go area on national security grounds. The Guardian's justification is that Western intelligence agencies engage, or so the paper claims, in the mass surveillance of each other's populations (and therefore, thanks to exchange agreements, also their own citizens) and that since 2005 the NSA has been accessing Chancellor Angela Merkel's personal mobile phone. President Obama has been forced to respond, stating that the NSA are not doing this now and will not do so in the future: implying that up until this point the allegations were accurate.



NSA headquarters, Fort Meade, Maryland

Yet the charge of mass surveillance is in essence quite different from the hacking of a major political leader and close ally of the US, even though the Guardian clearly regards them as two sides of the same, oppressive coin that is the wickedness of all western intelligence agencies. In fact, for more than sixty years every political leader of every major power has ordered their secret services to provide them with intelligence about their foreign counterparts, friend or foe. It follows, logically, that each of today's leaders must know that they are also someone else's target. The [fury](#) vented by the Germans, but also the French and the Spanish, is either wholly synthetic or wholly ignorant of how intelligence is gathered. Spying on your colleagues may not be savoury if one is squeamish, but it is not 'illegal' and keeps the world safer than it would be if it did not happen.

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exactly what the intentions and capabilities were of those they confronted? Good intelligence also helped keep the peace in Europe during the Cold War. Eric Schlosser's recent book '[Command and Control](#)' illustrates several occasions when without intelligence we might have had Armageddon – for example when a bright moon rise over Siberia showed up on radar as a missile attack from the USSR. It was only after the Cuban missile crisis that a hotline between the US and the USSR was installed.

Nor is there any reason to doubt that the NSA was able to collect the personal phone numbers of 34 other world leaders (as easily, one suspects, as the Sun newspaper's royal correspondent got his hands on the Queen's personal telephone book). Humans love communicating with each other and today we all do so more than ever before. Increasingly we do so using electronic means, producing some thirty million internet-based messages each day in the UK alone, generating vast quantities of easily collectable digital data. Some of these communications will inevitably prove a rich source of intelligence.

Angela Merkel's genuinely hurt reaction to Snowden's spy stories is to be explained not just by her own experience of East Germany (which truly was an odiously repressive mass surveillance state) and the awful history of secret police activity in Germany more generally, but also by the demands of coalition politics in her new government, which will likely include Social Democrats who don't trust their spies. But it is impossible to believe she did not think her mobile phone (or any of her other digital communications) were not at risk. If she genuinely did not know, it was because she did not want to know, not because her own secret services won't have warned her, repeatedly.

The news that Germany has teamed up with a Latin American state, Brazil, in order to draw up a code of practice to try to force the NSA, GCHQ (and presumably the BND) to stick within agreed spying guidelines, is but a further bizarre twist to an already utterly bizarre over-reaction. While not generally understood in any operational detail before Snowden stole our secrets, the practice has been known to be taking place ever since the secret of [Bletchley Park](#) was first revealed in the 1970s.

Perhaps the most damage that the Guardian has done is longer term. It has attempted, with no little success, to convince many Europeans and Americans that *everyone* is being spied on by the NSA and GCHQ. Al Gore has insisted 'the evidence of secret blanket surveillance is obscenely outrageous'. Tim Berners-Lee has warned of 'the destruction of human rights'. The Guardian itself has suggested 'the secret state is just itching to gag the press'. Even the director of 'Liberty' has chipped in, writing under the headline 'the state wants to spy on you in your own home' she calls for the suspension of 'the snooping state'. Glenn Beck, the right-wing American radio jock, is fighting on their side: he said recently 'they've been capturing your phone conversations, they have your whole life'.

But they don't. This is not what the secret agencies are doing. They do not 'spy on everyone' (this would be impossible, given their size, even if they wanted to) but are using the data that exists to investigate some people, exploiting probes in their search, all of which have to be legally sanctioned. The data may be vast, but the investigations are very small – hundreds, not millions. Collection is not analysis. What's more doing so, in the way it is being done at present, is not illegal. Neither Snowden nor the Guardian (nor, indeed, Julian Assange and Bradley/Chelsea Manning) have revealed any criminal activity apart from their own. They are not actually 'whistleblowers' at all. They're spies and unlike intelligence officers, they are breaking the law.

Intelligence gathering must, of course, be lawful or at any rate compliant with the laws governing secret activity, just as intelligence agencies must be subject to stringent and strong democratic oversight. Unless they are fully accountable they will not be trusted, it's as simple as that. It is deeply ironic that when the UK government, earlier this year, attempted to introduce a bill to introduce lawfulness into the wild west of the internet (at the agencies' suggestion) it was the right-wing libertarians in the Conservative party who joined forces with the Liberal Democrats and the civil liberty lobbyists to prevent this. Civil liberties are not undermined by lawful data mining, they are protected by it. Germans should understand better than anyone else what happens when liberal democracies are subverted by extremists and terrorists.

When Andrew Parker, head of MI5, [states](#) that the Guardian's stories are 'the gift the terrorists need to evade us and strike at will' and that they have 'eroded the margin of advantage vital to the security of the UK', it is hard to understand why the British government have not used official secrets legislation to bring this damaging situation

to a proper and lawful conclusion. As Parker says, 'the idea that we either can or would want to operate intensive scrutiny of thousands is fanciful. We are not East Germany or North Korea, thank Goodness'. Why would we not want to believe him? Why should we believe [Alan Rusbridger](#) knows more about this country's security interests than Andrew Parker?

The real issue is how lawful it is to sell the secrets of the West to the Guardian, how lawful it is for the Guardian to make a profit from undermining our national security, and why the government won't act to stop it.

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