

EXTRACT

JOURNALISM AND THE NSA REVELATIONS

PRIVACY, SECURITY AND THE PRESS

EDITED BY RISTO KUNELIUS,
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Published by I.B.Tauris & Co. Ltd in association with
the Reuters Institute for the Study of Journalism, University of Oxford

About the Book

Edward Snowden's revelations about the mass surveillance capabilities of the US National Security Agency (NSA) and other security services triggered an ongoing debate about the relationship between privacy and security in the digital world. This discussion has been dispersed into a number of national platforms, reflecting local political realities but also raising questions that cut across national public spheres. What does this debate tell us about the role of journalism in making sense of global events? This book looks at discussions of these debates in the mainstream media in the USA, United Kingdom, France, Germany, Russia and China. The chapters focus on editorials, commentaries and op-eds and look at how opinion-based journalism has negotiated key questions on the legitimacy of surveillance and its implications to security and privacy. The authors provide a thoughtful analysis of the possibilities and limits of 'transnational journalism' at a crucial time of political and digital change.

This volume assembles a first-rate team of scholars to explore the global media debate over the NSA revelations. Their insightful, well-integrated studies make a major contribution to understanding this key event in the history of communication society and the state.

Dan Hallin, Professor of Communication,
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What follows is a short extract from this book.

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The Reuters Institute would like to acknowledge the assistance of Matthew Powers and John Lloyd as readers on behalf of the Institute.

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Published in 2017 by
I.B.Tauris & Co. Ltd
London • New York
www.ibtauris.com

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References to websites were correct at the time of writing.

ISBN (HB): 978 1 78453 675 6

ISBN (PB): 978 1 78453 676 3

eISBN: 978 1 78672 189 1

ePDF: 978 1 78673 189 0

A full CIP record for this book is available from the British Library

A full CIP record is available from the Library of Congress

Library of Congress Catalog Card Number: available

Typeset by Riverside Publishing Solutions, Salisbury, SP4 6NQ
Printed and bound in Great Britain by T.J. International, Padstow, Cornwall

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Acknowledgements

This book has been in the works almost as long as Edward Snowden has been in exile. Throughout the process of researching and writing, we have greatly benefited from the generous support of a long list of people and institutions.

The Finnish Helsingin Sanomat Foundation is an exceptional backer of international research and reflection on the role of journalism in the changing world. Thanks to past and current presidents Heleena Savela and Ulla Koski, whose support of the project has been both steady and flexible. Thank you for skilled editorial guidance to Rasmus Kleis Nielsen and Alex Reid at the University of Oxford's Reuters Institute for the Study of Journalism, and also to the Institute's editorial board and reviewers. Thank you to Sara Magness at I.B.Tauris for making the final stretch of production smooth. And we are grateful to the Tampere Research Centre for Journalism, Media and Communication (COMET), the home base of this project, for the skill of Heli Heino and the patient support of the its research directors Pentti Raittila and Katja Valaskivi.

During the research, reflection and writing, a wide network of colleagues have offered invaluable expertise. Nick Couldry and Damian Tambini in London and Andreas Hepp in Bremen were crucial to getting the project off the ground. Arne Hintz and the broader Cardiff University 'Digital Citizenship and Surveillance Society' research group offered input and advice throughout the project. Thanks to John Tomasic and Matt Tegelberg for talented language editing. Jennifer Filipetti in Boulder and Jeremy Deaton in Washington were instrumental in the US analysis. And, of course, we are grateful for the commitment of all authors in the book.

Finally, our collective gratitude also goes out to all of those involved in bringing the Snowden revelations to light. In particular, we wish to

thank Ben Wizner and Alan Rusbridger, who shared their insights with us at a crucial stage of writing this book. Their work on behalf of the public interest is an inspiration.

**Risto Kunelius, Heikki Heikkilä,
Adrienne Russell, Dmitry Yagodin**

1

The NSA Revelations as a Prism

*Risto Kunelius, Heikki Heikkilä, Adrienne Russell,
and Elisabeth Eide*

The story of Edward Snowden, the National Security Agency (NSA), and US government global surveillance operations has been told many times and in many ways – in news articles and television spots, in documentary films, investigative books, academic works, as the subject of popular culture products and web-hosted ‘live chats’. In the public eye, it began on 5 June 2013, when the *Guardian* ran a piece by Glenn Greenwald and Ewen MacAskill, which revealed the fact that major telecommunications company Verizon had been forced by the government to provide the NSA with access to the phone records of millions of Americans. On the following day, Barton Gellman and Laura Poitras published an exposé in the *Washington Post* in which they reported that the NSA had collected private digital information from major companies through a programme code-named PRISM. The stories were the first drops in a downpour of revelations about secret government programmes designed around mass surveillance or systematic snooping and spying.

Reactions to the leaked information issued from political, legal, and social institutions around the world. The name of the notorious programme singled out in the *Washington Post* exposé became an appropriate metaphor for an unfolding media event: the leaks worked like a ray of light passing through the prism of public discourse, raising disturbing questions about the trade-offs and tensions between security and privacy.

On 7 June, Snowden appeared in a video, first posted on the *Guardian* website and later circulated on news and social media platforms across the web. In the 12-minute interview, he described the scope and pervasiveness of digital surveillance, and asked for the public – rather than the

intelligence community or obscure secret courts – to determine whether or not the following practice is legitimate.

The NSA specifically targets the communications of everyone. It ingests them by default. It collects them in its systems, it filters them, it analyses them, it measures them, it stores them for periods of time simply because that is the easiest, most efficient, and most valuable means to achieve these ends. ... Any analyst at any time can target anyone. ... Not all analysts have the ability to target everything, but I sitting at my desk certainly had the authority to wiretap anyone from you or your accountant to a federal judge or even the President. (Guardian, 11 June 2013)¹

The initial revelations set in motion an unfolding event that garnered massive media attention around the world.² Consecutive scoops drawn from the Snowden files published in several news outlets kept the case close to the heart of the international news agenda. Towards the end of 2014, the high peak of media attention had passed, but the issue had become a sustained news topic and Snowden a routine cast member of the global debate on security, privacy, and surveillance. At the same time, the NSA had become the subject of constant online inquiry and had been introduced into people's everyday vocabulary.

As Snowden stepped into the spotlight, the narrative gained momentum, but it also split into two. On the one hand, the story inevitably became about him: his motives, background, and movements from Hong Kong to the Sheremetyevo airport outside Moscow and to his 'temporary' asylum in Russia. A stream of interviews, more video appearances, some public smearing, and occasional moments of international public recognition added new chapters to the story. As a result, many people see Snowden as a traitor; many others see him as a heroic spokesman for transparency and the public's right to know.

The line between noble whistle-blowers and irresponsible leakers has always been fraught. It is not surprising that Snowden, too, is the subject of deeply divided opinion, often depending on the political views and vested interests. Nevertheless, whether or not Snowden did the right thing, few would agree that the debate, centred around Snowden – on his motives and the facts he revealed – has been futile or that we would have been better off without having engaged in the debate at all. On the whistle-blowing side, the revelations have been greeted as a major breakthrough, a 'single act of conscience' that 'literally altered the course

of history', as Glenn Greenwald (2014: 253) concludes his narrative. On the other side, the former director of both the NSA and the CIA closes his account on the matter with a reflection on the 'peculiar gift' of Snowden: making visible the dilemma between the effectiveness and legitimacy of surveillance that tries to serve national interests (Hayden, 2016: 416, 421–4). Beside their profound disagreements, Greenwald and Hayden tend to agree that the Snowden case raises fundamental questions about the rules and functions of states, political institutions, and businesses in the digital age.

The starting point of this book is that the Snowden revelations and the public debate that followed those revelations provide a unique opportunity to study ways we think about privacy and security and how our views on those topics relate to broader assumptions about society, citizenship, and democracy. The complexity of this debate does not merely stem from the fact that it drew very distinct groups of actors together: heads of state, intelligence experts, politicians, internet company CEOs, civic activists, and everyday internet users. In addition, it is apparent that, given the distinct roles these actors play in society, and its division of labour, they come at the debate with certain perspectives.

In regard to privacy, for instance, intelligence experts tend to emphasise that privacy is historically a nation-based privilege, a secondary value constrained by state security. Whereas for liberal political institutions, privacy is primarily a source of political legitimacy, as the will of the people is supposed to emanate from reflection both public and private, and expressed in the solitude of the election booth. Partly coinciding with this, political activists identify privacy as an essential ingredient in a democracy, as privacy acts to safeguard political pluralism and serves as fuel for dissent and a check on power.

Within the realms of business and consumption, digital privacy gains somewhat different meanings. For internet service providers and digital businesses, privacy is recognised for its value in calculating how to serve up deeply personalised communication and laser-sharp, targeted advertising. This has turned privacy into a commodity to be traded in the market for audiences. For digital everyday living, privacy increasingly becomes a form of currency with which we pay for better services – be they commercial or public. For individuals, privacy also denotes a psychological necessity, a sense of authenticity, of being able to experience the difference between you and everyone else (Heikkilä and Kunelius, 2017).

The way privacy is variously understood (cf. Vincent, 2016) today demonstrates the importance of contextual judgement: what is reasonable and acceptable depends on the situation (Solove, 2011; Nissenbaum, 2010). If, indeed, ‘context is all,’ as Garton Ash (2016: 291) reminds us, the unique context of Snowden’s revelations demonstrates that, where information is made digital, all data related to its production, distribution, and consumption can be collected, tracked down, and harnessed for use. Of course, many ways we use private information – in the form of actual contents or metadata – enhance our lives and so are legitimate, as Nick Couldry writes.³ At the same time, he adds, we should be aware of the fact that data collection facilitates the emergence of practical (political and economic) order and that the power of that order to change our lives are to a great extent unexplored (see also Couldry & Hepp, 2017).

Journalism is intensively implicated in this changing terrain (Lloyd, 2017). This book explores what Snowden’s actions and the discourse that has attempted to make sense of the reactions to and repercussions of his actions can tell us about today’s journalism and about the political, technological, and cultural environments in which journalism is developing. In exploring public discourse, we can map out some of the dominant reactions to the leaks across the world and pin down plausible consequences for journalism and journalists. Our study focuses on the relationship between journalism and the state. How is journalism drawn into the orbit of national political interests, and in what ways is the autonomy of journalism being addressed and defended? A broader international perspective on the issue leads us to probe the role of domestication and transnationalism in the Snowden debates. Are there nationally distinct debates being waged on surveillance and/or to what extent are transnational principles of justification shaping those debates?

Ambiguity prevails

Snowden’s revelations have been more consequential than merely pointing attention to the new material realities of the global digital world. They have had real-world effects. The US government, for instance, has publicly stepped back from some of the surveillance techniques exposed by Snowden as courts ruled them unconstitutional.⁴ Still, many members of the security community continue to believe the techniques are effective and necessary – and many journalists largely agree. The responses of

journalists to Snowden and the leaks, like those of the public and lawmakers, have been varied, as illustrated by the evidence analysed in this book.

In January 2014, seven months into the controversy, the *New York Times* summarised its position on the moral balance of the case:

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. ... 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. (New York Times, 1 January 2014)

This assessment of Snowden's actions as justified has been echoed by prestigious civil rights and good government organisations, reflecting a view of Snowden and his collaborators as champions of the public interest and of the most valuable sort of journalism. In 2014, the *Washington Post* and the *Guardian* were awarded Pulitzer Prizes for their coverage of NSA surveillance. That same year Glenn Greenwald, Laura Poitras, Ewen MacAskill, and Barton Gellman, the journalists closest to the story, were awarded the George Polk Award for National Security Reporting. In their acceptance speeches, Poitras and Greenwald also paid tribute to their source: 'Each one of these awards just provides further vindication that what [Snowden] did in coming forward was absolutely the right thing to do and merits gratitude, and not indictments and decades in prison.'⁵ Since the revelations, Snowden has also emerged as an active speaker and expert commentator in the global privacy–security debate. He is extremely active and popular on Twitter, attracting 2.7 million followers.

Critics of Snowden – and those who advocate his indictment if he returns to the US – continue to question his motives. They argue that secret national security programmes are not excessive but, rather, necessary and justified, particularly given the ongoing conflict between the West and terrorist groups like Daesh/ISIS or Al-Qaeda. The pervasive threat of terror attacks has provided much support for such arguments. Thus, while posing critical questions concerning the legitimacy of internet surveillance, the leaks have also provided more fodder for calls demanding greater control of the internet. In such views – irrespective of whether these claims are made in the US or in Russia – privacy is essentially seen as a

secondary value; something that must ultimately be compromised in the name of security.

In the broad global frame, the NSA leaks are symptomatic of ambiguities in the political landscape resulting from the intersection of security discourses in the aftermath of the 9/11 terrorist attacks, a transparency culture emboldened by the internet, and a multi-polar geopolitical landscape in which many nations are vying for power. It is in this highly charged global political landscape that the Enlightenment notion of 'liberal privacy' is being renegotiated and tested. The debate around Snowden and his revelations, then, is in a sense a test case for political and symbolic power invested in the notion of privacy, in a situation where – as noted above – the material and historical conditions where it was coined (in different constitutional variations) are shifting and challenged. While we recognise that the liberal expectation of privacy can be construed as something fundamental for human life, we also bear in mind that it is a historical – and therefore evolving – achievement.

Media historian John Nerone (2015a) describes grand political conjunctures as 'tests of capacity' for journalism that can shape the profession for the future. As a dramatically intense public event where security, privacy, and civic rights intersect, the NSA case offers a chance to take stock of political and social forces that have a stake in shaping the role of journalism – nationally and globally. The core of journalism as a profession is its ability to sustain some measure of control over its own practices and thus social and political autonomy (Waisbord, 2013). A key aspect of journalism's influence stems from its ability to publicly defend its autonomy in the face of powerful actors and institutions that control other resources of power. The discussion about Snowden, inevitably, becomes a moment when many of these public, symbolic resources are judged and reconsidered. It is indeed the press that Ben Wizner, director of the American Civil Liberties Union's (ACLU) Speech, Privacy and Technology Project (and Snowden's lawyer), credits with the success of the leaks: 'Democratic oversight has been reinvigorated,' he has said, 'but the irony is that it took a dramatic act of law breaking, and a free press willing to defy the demands of the government' (Wizner, 2015a).

In a public letter two years after the leaks (*New York Times*, 4 June 2015), Snowden himself expressed relief that the debate had taken off and hope that it would bring positive change. He admitted being worried that 'the public would react with indifference, or practiced cynicism'. He went on to cite instances of the 'power of an informed public' mobilised for

local legal battles, global declarations, as well as developing counter-technologies for the self-protection of internet users. He concluded with decided optimism: 'For the first time since the attacks of Sept. 11, 2001, we see the outline of a politics that turns away from reaction and fear in favor of resilience and reason.'

In June 2015 Snowden was writing in the wake of the passage of the US Freedom Act, which – after a fierce political battle – introduced changes to the US legal framework of surveillance. At the same time, a major review on the 'investigatory powers' by David Anderson in the UK was published. The review suggested new, comprehensive legislation, emphasising the need to build a more coherent and functional framework to govern the interface between surveillance and privacy (Anderson, 2015). Alan Rusbridger summed up the situation:

I can't imagine a moment at which this ever becomes a settled issue. ... The public is on a vertical learning curve. There are bound to be lots of legal challenges. ... This [case] is a sort of metaphor for the 21st century, in which this particular issue, and the way that it's been brought into the public, dramatises lots of the issues that we're going to have to work out with technology. (Rusbridger, 2015)

The authors of this book view the revelations as a disruptive moment in which debate on these twenty-first-century issues was intensified. The leaks saw the vested interests of stakeholders come more sharply into the public view. This is not to claim that the NSA leaks will prove to be a decisive turning point. It is a claim that the leaks mobilise a considerable amount of transformative potential. The disclosure that resulted from the leaks demands a public working-through of how privacy, security, and surveillance are – or should be – balanced. While traditions of privacy serve as a resource in this debate, privacy itself is an object of this debate.

For journalism, the leaks raise a potentially transformative question, because in Western political discourse, the 'public' and the 'private' are mutually constitutive terms. Surveillance, digital tracking, and sorting highlight an increased inability of people to secure a space in which pluralist critiques of the political system can be safely articulated, let alone calls for limits on securitised politics. With a view towards everyday digital privacy, the leaks have suggested citizens must ultimately choose between exiting the digital world or accepting the life enhancements of the digital world while adopting an attitude of practised cynicism or ironic lightness,

as the 'I have nothing to hide' dictum suggests. No wonder opinion polls often suggest that people are simultaneously worried about privacy and aware of their inability to control personal information.

This book tracks the flow of the Snowden–NSA debate in six countries: the United States, the United Kingdom, France, Germany, China, and Russia, with close attention paid to interpretations of events and the arguments the story raised in opinion journalism – in editorials, columns, letters to the editor, etc. We emphasise national mainstream outlets because the question of political legitimacy tends to be evaluated against national settings, even while the topic of surveillance is transnational.

In Chapter 2 we outline the theoretical and methodological framework of the study. Chapter 2 also briefly reports key findings from the six countries and identifies key threads in the transnational discourse. Generally speaking, in the dominant, mainstream media outlets, the NSA disclosures often prompted public discourse that defended existing practices and institutions. These reactions were frequently critical and suspicious of Snowden. Many media commentators concluded that systematic evidence of digital surveillance should not have been revealed. Supportive arguments for the leaks and institutional and policy reforms were more prominent in national media environments that enjoy a diversity of news outlets and well developed networks of civic activism. We also clearly noted that the explicit global outlook and readership policy of some news organisations (e.g. the *Guardian* and *Le Monde*) contributed to more critical debate. News environments that include networks of civic activists and communities of technology developers were also more likely to include criticism of surveillance practices. Where such networks have weaker presence and reach – as in Russia – the debate seemed decidedly less robust and consequential.

Beginning with Chapter 3, authors elaborate on the discussion by focusing on particular aspects of the debate as it was articulated in the countries where they live. Thus, instead of offering a sequence of strictly comparative country reports, this book aims to provide contextually anchored analyses on how discussions on security, privacy, and legitimacy highlight specific developments for journalism. To begin with, Katy Jones and Karin Wahl-Jorgensen look into the polarised public discussion the revelations caused in the UK. They show how relations between journalism and the state became a significant part of the story, and how questions about the autonomy of news organisations divided the journalistic field. In Chapter 4, Adrienne Russell and Silvio Waisbord analyse the dynamics of

the US debate by focusing on symbolic exchanges between established media institutions and commentary coming from a broader swath of the digital and alternative news landscape. In their analysis, situated in the advanced hybrid media environment in the US, the authors introduce the explanatory concept of *news flashpoints*.

Chapters 5 and 6 present readings of the Snowden–NSA case in Continental Europe. Olivier Baisnée and Frédéric Nicolas pay particular attention to the intimate interplay between public opinion and the politics of surveillance. They analyse the dynamics of French public discourse against the aftermath of two terrorist attacks in 2015. They argue that this connection effectively downplayed debates on privacy and paved the way to a straightforward politics of securitisation. In Chapter 6, Johanna Möller and Anne Mollen look at Germany through the lens of public discourse on the politics of technology. Their analysis suggests that, while focus on national and international politics was vibrant, key political challenges related to digital technology were downplayed.

Chapters 7 and 8 explore contexts of state-controlled mainstream media where the NSA revelations were forcefully framed as issues of international controversy and national sovereignty. In Chapter 7, Haiyan Wang and Ruolin Fang analyse how interpretations in China of the Snowden–NSA event were mobilised to endorse Chinese public diplomacy. While highlighting the control mechanisms applied in the debate, their analysis suggests that a rhetoric linked to reputation becomes a viable and complex currency in contestations of international relations. Internet governance (Mueller, 2002; Balleste, 2015) is the central theme of Chapter 8, where Dmitry Yagodin analyses how alternative policies developed to challenge US domination of the internet emerged before Snowden’s revelations and how such an initiative was fostered and exploited in Russian public debate.

These nationally anchored but transnationally relevant thematic analyses are not meant to provide exhaustive elaborations of domestic debates. They point to local conditions that made it possible for particular kinds of articulations to rise, but at the same time they suggest a list of key themes at play elsewhere. For instance, contesting the role of journalists politically and through arguments about national security was not unique to the UK. Understanding the networks of internationally operating newsrooms suggests ideologically similar fields of journalism across the sample. Hard-line arguments about security in France after the terror attacks have some similarity with those in UK.

Before venturing into the narrative of themes sketched above, we will use the rest of this introductory chapter to expand on key themes and concepts from media and journalism scholarship that inform our work. Below, we look at the leaks as an example of a global media event, an illustration of the emerging global culture of transparency, and as a moment that opens up crucial contestations about journalism. These themes help tease out the limits and possibilities of journalism's discursive power and situate the events and debates in historical context.

A particular kind of global media event

The Snowden–NSA affair seems intuitively to provide a notable example of a global media event where twists and turns unfold more *in* the media than anywhere else. Initially, Dayan and Katz (1992) developed the notion of media events to emphasise the role played by media in creating exceptional moments of concentrated public attention. They were particularly interested in ritualistic moments where the attention of large populations came together through media. For Dayan and Katz, the key focus was on all-nation encompassing moments in which the mass media were regarded as instrumental in connecting large populations to the imagined centre of society (cf. Couldry, 2003). In their initial theory, media events were pre-planned and their effects were amplified through the electronic mass media, radio, and television.

A quarter of a century later, the notion that media events rely on a distinction between spectacle and spectators and the emphasis on media event as mass mediated public ritual are still useful. Indeed, the media still enchant us with variations of 'conquests, competitions and coronations', as Dayan and Katz named the main genres. At the same time, in the contemporary networked media era the dynamics of media events have become more complicated. Attention-grasping events cannot be easily managed or orchestrated by individual producers. The audience is constantly courted to become part of the event through commenting, linking, sharing or other thus-far-unnamed practices (Couldry, 2012; Jenkins et al., 2010). Indeed, through new modes of communication and a wider range of communicative registers, the engaged audience can sometimes become a driving force of the event (cf. Papacharissi, 2015).

Media events, then, have become more volatile and potentially more disruptive of the social order. They are no longer simply moments of

restoration and celebration of social order but sometimes momentary breakdowns of that order. As media events tied to terror attacks clearly show, the logic and dynamics of the media event can become a part of a moment of disruption.

The Snowden–NSA event illustrates these new conditions in several ways. It clearly escapes the initial national and ritualistic frameworks of traditional media events. The focus of attention it creates is global from the outset. Also, the questions it poses are transnational, as is the ‘public’ the event concerns; that is, the people *affected* by the US security surveillance and future surveillance (cf. Fraser, 2014). The story of digital snooping is instrumental in articulating suspicion of the government not merely nationally but also internationally. The Snowden story does something more complicated than mainly reinforcing unifying national identities. The tension between the national and the transnational cuts through this book, suggesting that global media events need to be studied as moments where publics are introduced into arenas and into debates that are simultaneously national and transnational.

Although the flow of Snowden-related scoops was driven by a group of skilful and openly passionate journalists, it would be hard to claim that the event was orchestrated in advance. Rather, it was propelled by a sometimes odd combination of occurrences with trajectories of their own. These included, for instance, extraordinary episodes (the detainment of Glenn Greenwald’s partner David Miranda at Heathrow Airport, MI5 destroying the hard drive disks at the *Guardian’s* editorial office), unexpected contradictions (pitting close political allies in the US and Germany against each other), and uneasy alliances (Snowden’s asylum in Putin’s Russia). As discussed throughout this book, an event became many events, depending on the context of interpretation.

The NSA event is a particular kind of media event because it so deeply involves the media *as* media. As we point out above, it is a controversy about privacy, and therefore about conceptions of the public, which are key to providing journalism with its professional legitimacy. In covering Snowden and the NSA, the media build an event and a drama – inside which it also performs itself, providing self-commentary and meta-coverage on the role of journalism. It is also a story in which the field of journalism (cf. Benson and Neveu, 2005; Bourdieu, 1993) is contested and divided as people disagree over what news media ought and ought not to do.

Contestations of journalism

Snowden drew lessons from his immediate predecessors in the emerging digital-era culture of whistle-blowers and leakers, and his actions intensified already aggressive government reactions to the phenomenon (cf. Downie, 2013). Unlike Julian Assange from WikiLeaks, Snowden consciously chose to sustain the distinction between journalists and whistle-blowers. He also chose to align with journalists and news organisations that could not only reach a large audience but also could act as more complicated targets for immediate counter-measures.

So the idea I thought about here was that we need institutions working beyond borders in multiple jurisdictions simply to complicate legally to the point that the journalists could play games, legally and journalistically more effectively and more quickly than the government could play legalistic claims to interfere with them. (Snowden in Bell, 2016)

This strategy points directly to a key line of contestation that the case placed under the spotlight. The revelations exposed different ways in which media negotiate their relationship to the state. While most news organisations in the West claim to be critical and autonomous of politicians, their relationship to issues of national security – and thus their relationship to the *security state* rather than the *political state* – proved to be more complicated. The most dramatic stand-offs, in this respect, took place between the *Guardian* and the Government Communications Headquarters (GCHQ), which commanded the symbolic destruction of hard drives at the newspaper's headquarters. British intelligence also arrested and interrogated Glenn Greenwald's partner, David Miranda, at Heathrow Airport, confiscating and searching his computer. Many media outlets in the UK and the US chose to defend the claim made by security officials that the leaks and the journalists working on them had acted irresponsibly (see Chapters 3 and 4). These episodes demonstrate how the state–journalism relationship divided the field of journalism *internally*. As the privacy–security debate continues, this line is constantly renegotiated.

Given that the Snowden–NSA case set the focus on national security as a topic of journalism, it also created clear differences *between* media outlets in national fields of journalism. Often it moved right-leaning papers to emphasise views of the security community and provide less space altogether for the coverage. In some cases, it also showed lines of

demarcation inside newsrooms, between editors and reporters, such as in the case of the *Washington Post*. Even as the newspaper published key NSA revelations, an editorial signed by the 'editorial board' (1 July 2013) called for 'stopping damaging revelations or the dissemination of intelligence to adversaries.' It also suggested that Snowden was 'a naïve hacker' and should give himself up to US authorities.⁶ While such views can, of course, be well grounded, for Greenwald and Snowden this suggested the close proximity of mainstream editors to the established institutions and structures of power, and thus it marked a violation of the professional autonomy of journalism. In an interview three years after the leaks, Snowden expressed his highly critical view of the mainstream press:

anybody who's worked in the news industry, either directly or even peripherally, has seen journalists – or, more directly, editors – who are terrified, who hold back a story, who don't want to publish a detail, who want to wait for the lawyers, who are concerned with liability. (Snowden in Bell, 2016)

Snowden's words resonate with another distinction surfaced in the debate, one concerning varying ideals about reporting and articulated in an exchange between Greenwald and Bill Keller, former editor-in-chief of the *New York Times*. The exchange was preceded by the announcement in October 2013 that Greenwald would leave the *Guardian* and, together with Laura Poitras and Jeremy Scahill (and through financial support from the eBay founder Pierre Omidyar), found a new outlet, the *Intercept*. This prompted Keller to ask if the new platform would be a 'partisan endeavour'. In a much-circulated exchange, Keller claimed that Greenwald's background, first as a lawyer, then as a blogger and columnist, influenced his approach to reporting. He said 'Greenwald's writing proceeds from a clearly stated point of view,'⁷ and thus departs from journalism, which puts 'a premium on aggressive but impartial reporting' and leaves opinions to opinion pages. Greenwald (2014: 231) viewed the distinction as a fallacy. For him, the relevant demarcation line resides between 'journalists who candidly reveal their opinions and those who conceal them, pretending they have none.'⁸

This juxtaposition – neutral reporting and opinionated investigations – reflects a classic distinction in journalism history and attempts to problematise it. In the first line of criticism, it has been argued that 'neutrality' is not much more than a style of journalistic expression in

which the journalist distances himself or herself from a subject, and this effectively sustains dominant ideologies and the status quo in society. A more contemporary criticism lines up with contemporary observations that a viable, powerful challenge to the dominant mainstream journalism model could be emerging in the form of more aggressively assertive opinionated journalism (cf. Nerone 2015b). Indeed, Jay Rosen (2013), who took part in the work to build up the *Intercept*, argues that Greenwald embodies a developing model of journalism that fits better with the way communication, attention, and audience participation is organised in the web environment. In the digital age, the key to the profession for Greenwald or Snowden, as well as for many journalists, lies in demonstrating expertise and establishing a ‘personal franchise’ and the ability to create a following.

Global investigative journalism

The varied and often clashing reception that greeted the NSA scoops underlined long-building divisions and tensions in the field of journalism. Reporters working the story were criticised as activists and even traitors in some quarters, but they were also awarded Pulitzer Prizes. The tensions tied to the reception of reporting within the field raises a question about whether the Snowden–NSA reporting might be different from earlier forms of investigative journalism to a significant degree.

The history of investigative journalism stretches at least as far back as the twentieth-century idea of journalism as a profession (Waisbord, 2013). The muckrakers of the early 1900s in the US were a product of the progressive belief in the power of information and independent journalism. Investigative journalism rose to its zenith in the 1970s during the ‘high modernism’ period (Hallin, 1992). In the West, investigation became a lofty bearer of the demanding values of journalism and it balanced journalists’ structural dependency on bureaucracies as their primary sources. Watergate, the story that led to the impeachment of the world’s then most powerful politician, President Richard Nixon, marked the mythical and celebrated high point.

The Snowden–NSA affair captures a critical moment against this history. First, investigative journalism – capable, committed, and backed by sufficient resources to follow vague leaks and peruse piles of documents – seems to be passing, at least at many legacy news organisations. Due to

new economic and technological realities, fewer newsrooms can afford to allocate their resources to assignments that cost more money than they generate in revenue and reputation in return. In the fast-paced digital environment, economic and symbolic rewards brought by investigative scoops seem smaller and more short-lived than before. As a response, some investigative journalists have reportedly left large newsrooms to try and seize opportunities in the niche news market operated by start-up companies or flexible cooperative projects (Anderson et al., 2013). Greenwald's migration from the *Guardian* to the *Intercept* is a potential example.

Concern about the withering mainstream resources of investigative journalism and the moral limits of its professional critique shed light on the Snowden story, particularly as it relates to investigative journalism. The Greenwald–Poitras partnership, in this respect, is very different from that of Woodward–Bernstein. Greenwald and Poitras were selected by Snowden due to their previous political advocacy relating to government surveillance policies. They had already developed a public moral stance on the issue as part of their 'brand', and their reputation as investigative journalists was built mostly at a distance from traditional mainstream media. Yet Greenwald and Poitras were both connected to major news organisations: Greenwald to the *Guardian* and Poitras to the *Washington Post* and *Der Spiegel*.

This professional alliance proved organisationally effective and strategically useful; it helped pool resources and decentralise the analytical work to people working in different time zones and political contexts. This enabled them to produce continuous rounds of news stories, and the network structure helped fend off institutional and legal pressures from national governments. Despite the mutual benefits, this alliance also created internal tensions, as Greenwald's (2014) version of the story clearly describes. Given their suspicions towards their allies at mainstream outlets, Greenwald and Poitras finally chose to break away and start the *Intercept*.

The cooperation seems to represent an evolutionary phase in the recent globalisation of journalistic investigations, as it directly or indirectly paved the way for the release in 2016 of the Panama Papers. In that case, an enormous trove of documents from the law firm Mossack Fonseca revealed a web of offshore shell companies designed for clients, mostly members of the global elite, seeking in many cases to evade taxes and hoard wealth. The evidence for the disclosure was obtained from an anonymous source by the German newspaper *Süddeutsche Zeitung*, which

shared the documents with the International Consortium of Investigative Journalists (ICIJ). The ICIJ then distributed the materials to a large network of international partners. More than 370 journalists in more than 100 news outlets from eighty countries used encryption technology to work on the leaks for months without exposing their source.

A general rationale of investigative journalism suggests that disclosures fuel public moral outrage, prompting legitimate controversy and calls for reform. In the case of the Panama Papers, the outrage emanated from the fact that global businesses make use of exclusive practices that enable companies and individual investors to profit at the taxpayer's expense. This observation in turn would trigger public debate on opposing practices designed expressly for the purpose of dodging taxes. In the Snowden affair, however, the lines tying the story to moral outrage and action appear more ambiguous. For those who are concerned with civil liberties, the massive surveillance constitutes a breach of the public trust. From the viewpoint of those who designed the surveillance systems, however, there was no breach because the system protected the citizens. By drawing from transnational interpretations concerning the key values of journalism – publicity, accountability and solidarity (Ettema and Glasser, 1998) – globally positioned investigative journalists highlighted such contradictions.

In the aftermath of the Snowden revelations, the US authorities' responses ranged from blunt and offended to sophisticatedly nuanced. An example of the former was provided by Director of National Intelligence James R. Clapper:

Many of the recent articles based on leaked classified documents have painted an inaccurate and misleading picture of the Intelligence Community. The reality is that the men and women at the National Security Agency and across the Intelligence Community are abiding by the law, respecting the rights of citizens and doing everything they can to help keep our nation safe. (Clapper [2013] quoted in Fidler, 2015: 173–4)

President Barack Obama's *Remarks on Review of Signals Intelligence*, from January 2014, introduced a more cautiously weaved narrative to the post-9/11 world, and the need for more public oversight of surveillance capacities. First, he pointed to the inherent role of secrecy in intelligence work.

Intelligence agencies cannot function without secrecy, which makes their work less subject to public debate. ... In the absence of institutional

requirements for regular debate and oversight ... the danger of government overreach becomes more acute. (Obama [2014] quoted in Fidler, 2015: 321)

He then went on to bring in a more human and moral element to surveillance.

[T]he men and women at the NSA know that if another 9/11 or a massive cyber-attack occurs, they will be asked, by the Congress and the media, why they failed to connect the dots. What sustains those who work at NSA and our other intelligence agencies through all these pressures is the knowledge that their professionalism and dedication play a central role in the defence of our nation. ... Our nation's defence depends in part on the fidelity of those entrusted with our nation's secrets. If any individual who objects to government policy can take it into their own hands to publicly disclose classified information, then we will not be able to keep our people safe, or conduct foreign policy. (Ibid. 321–2)

In regard to security, the state suggests that to some extent values such as privacy, individual freedom, and claims for transparency and accountability are a form of historical luxury. Ultimately, these values depend on the security function of the state. When the primary virtue is at peril, secondary virtues must stand back. This raises the question of whether transparency and public oversight can coexist with surveillance without undermining its utility. As a result, the category of national interest – and security as its core element – remains a powerful vehicle in controlling public discourse and disciplining (investigative) journalism. In the Snowden–NSA case, national interest sometimes translated as immediate legal pressure to break source protections and use diplomatic interventions to sanction and isolate individuals such as Snowden or Julian Assange. On a rhetorical level, this threat was also eminent when Rusbridger, editor of the *Guardian*, faced an official inquiry and was asked: ‘Do you love this country?’ (See *Guardian*, 3 December 2013).⁹

Event or transformation?

The most common criticism about me today – that I am too naïve, that I have too much faith in government, that I have too much faith in the

press. I don't see that as a weakness. I am naïve, but I think that idealism is critical to achieving change, ultimately not of policy, but of culture, right? Because we can change this or that law, we can change this or that policy or program, but at the end of the day, it's the values of the people in these institutions that are producing these programs. (Snowden in Bell, 2016)

In a radical reading, the moral outrage and vibrant public discourse raised by the NSA revelations suggest a possible newly found political energy and even the emergence of a 'global public'. In this spirit, recent disclosures instigated by leaks, the Snowden case among them, may be seen as part of the counter-struggle for new articulations of the boundaries between the private and public realms. In this sense, the NSA exposures are a good candidate for a *historical event*, a moment that can launch 'already dislocated' structures (institutions, actors, meanings) towards new articulations (see Sewell, 2005).

By bringing momentarily into the spotlight some of the contradictions between beliefs and practices and by forcing institutions and actors to justify their positions, the revelations have prompted important questions. A radical reading of the potential of the event would suggest that, in the decades to come, the NSA revelations will be referred to as an important milestone, that it encouraged relatively widespread development of personal encryption skills, politicised the role of large internet companies, sensitised consumers to their rights and led to incremental but important policy reforms in surveillance oversight. In addition, such a reading would see the NSA case enhance critical and self-reflective discussion about journalism, nationally and transnationally.

A more cautious reading of the event would perceive the evidence of change as less convincing. While there has certainly been a lot of debate, there are few clear signs of structural change. In the global power struggle, authoritarian governments have been able to discredit internet freedom and argue for more national and paternalistic control (see Chapters 7 and 8). Reforms of surveillance practices have not been dramatic, and in some contexts – for apparently different reasons but in a parallel way – surveillance powers have actually been enhanced (France and Russia, see Chapters 5 and 8). The process Snowden's revelations set in motion has, at best, been a volatile one, including for those involved in the exposé. Snowden's own immunity to legal and extra-legal pressures remains doubtful. The legal ground on which the newspapers cooperating

with Snowden have mounted what would seem traditional defences seems less solid than in times past – and ready to shift from day to day.

Against Snowden's optimistic opinion about the arrival of a productive cultural change, there are much more sober or pessimistic diagnoses. Many policy and law analysts, particularly in the US, argue that governmental activities like diplomacy, military action and intelligence operations are never conducted transparently and that the courts and Congress, the entities responsible for formal intelligence oversight, are unlikely to effectively perform those functions (Sagar, 2013).

Our strategy in this book is to take seriously the *possibility* that tensions dramatised in the NSA case are part of an ongoing structural renegotiation of the distinction between public and private spaces. This means that the case offers an entry point to the tensions and contradictions at the core of our political imagination and its discursive structures. The case is focused on security in an era that is predominantly cast as one of terror and the war on terror and where the notion of 'hybrid' war redefines resources and risks of security. This arguably takes the case to the core terrain of power and raises the stakes. The questions at play – institutional, material, and symbolic structures – have to do with a potential historical transformation. Even if we do not know where future developments will take us, the rearticulations of the private–public distinction can turn out to be transformative. In retrospect, we might come, theoretically but justifiably, to compare them to earlier transformations: the oft-romanticised emergence of the bourgeois public sphere or the consequent rearticulation of that idealised conversational public into the quantified and atomised notion of 'public opinion' in the poll democracies of the twentieth century. In this sense, the NSA revelations may come to be understood as a historical, singular, contingent but still 'historical' episode that contributed to consequences beyond its immediate context (cf. Sewell, 2005: 227–8).

In order to elaborate the dynamic between specific events and structural forces and the different pace of consequences events can engender, it is worthwhile to look for a moment at the role of large internet service providers in the controversy. As *The Economist* neatly put it in the midst of the Snowden revelations, 'Surveillance is Advertising's New Business Model' (13 September 2014),¹⁰ pointing out that the monetising logic of internet services relies on individual targeting and that the interests of internet service providers and tools available to them do not differ from those of intelligence agencies. There is no necessary reason that this should lead to a dramatic conflict between corporate and state actors but, in the

aftermath of the intensified security and privacy debate, it has. As giant internet service providers have branded themselves (and their audiences' trust) with ideas of individuality, creativity, and freedom, the NSA revelations about their data being harvested by the security apparatus presented potentially damaging revelations.

Business concerns prompted an open letter from US-based technology companies to President Obama in December 2013. It declared that the companies were preparing to deploy the latest encryption technology 'to prevent unauthorised surveillance of our networks and pushing back government requests to ensure that they are legal and reasonable in scope' (quoted in Fidler, 2015: 150).

Tension between the security community and internet companies has a long genealogy. Ideas of counter-culture, creativity, and innovative entrepreneurship were forged prior to the internet (cf. Turner, 2006). As the breakthrough of the World Wide Web coincided with a temporary pause in the Cold War, 'technologies of freedom' became the core metaphor for describing the digitising world. Through popular technology writing and macro-sociological accounts, the image of the simultaneously destructive and liberating power of digitisation has become an essential part of our social imagination. It has developed into a dominant megatrend that seems to have a life of its own, reshaping thinking about economics and citizenship (e.g. Benkler, 2006; Papacharissi, 2010). As we have enthusiastically fastened our lives to the web, the faith that more freedom and prosperity will be delivered through digitisation has grown exponentially.

By dramatically pointing to the potential of digital communication technologies for surveillance and control, Snowden's revelations demonstrated for a much larger public that there is another side to open, interactive, personally gratifying internet usage, wherein users are secretly monitored by state and corporate actors. Snowden's main objective was to underline the link between digitised spheres of the market and the state. It is one thing to feel the flattering or disturbing effects of being addressed by advertisers in an overtly targeted manner. It is another thing to realise that this invasion of privacy is not only influencing your consumer choices but also gauging your loyalty to the state. This general awareness heats up debate about the 'trade-off' between privacy and security, and about how best to address concerns (Solove, 2011).

Tensions between internet companies and governments are real. The spring 2016 stand-off between Apple and the FBI on whether or not and

how to access a terrorist shooter's encrypted iPhone saw these two powerful forces butt heads publicly about what course of action best served the public interest. The Snowden–NSA case brought into sharper focus the ties that stretched between the government and technology giants and the way the two sides negotiated a back and forth balance of power. In June 2015, Ben Wizner, Snowden's legal adviser and Director of the American Civil Liberties Union's (ACLU) Speech, Privacy and Technology Project, argued that this tension might be an element in a new system of surveillance oversight. He also recognised the complexity of the role played by technology giants.

There are some people in the anti-surveillance movement ... who think essentially that we have picked the wrong target. [That] the bigger threat to free society, in the long term, will come from the corporations. ... The real hope for us is if those entities take on each other. We really will need the government's help to protect us as consumers. Only the government can really ensure that we will have fairness in due process in confronting the effects of big data which you already see. ... At the same time, there will be no legislative surveillance reform without Google and Facebook and Apple and those companies being in our coalition. Civil society doesn't have the power to get that change through legislatively without having them as allies. There's a strategic necessity in separating those battles rather than having them together. (Wizner, 2015b)

The controversy between the tech industry and government(s) is just one example of several structural tensions that shape the discussion about privacy and security and the consequent rearticulation of the journalism environment. This book analyses the Snowden–NSA affair as part of a larger exploration of public debate around privacy and security. Our overarching aim is not to explain what happened, nor to argue for any particular formula balancing freedom, security, privacy, and surveillance. Rather, the book aims to leverage study of the Snowden–NSA revelations as media event to advance thinking about global communication, media technologies, and democracy.

Notes

- 1 See Glenn Greenwald and Laura Poitras, 'Edward Snowden: "The US government will say I aided our enemies" – video interview.' *Guardian*,

- 8 June 2016. <http://www.theguardian.com/world/video/2013/jul/08/edward-snowden-video-interview>. 'NSA whistleblower Edward Snowden: "I don't want to live in a society that does these sort of things" – video.' *Guardian*, 9 June 2013. <http://www.theguardian.com/world/video/2013/jun/09/nsa-whistleblower-edward-snowden-interview-video>. Paul Lewis and Karen McVeigh, 'Edward Snowden: what we know about the source behind the NSA files leak' *Guardian*, 9 June 2016. <http://www.theguardian.com/world/2013/jun/11/edward-snowden-what-we-know-nsa> (accessed May 2016).
- 2 There are several versions of timelines highlighting the key episodes in this narrative (Gurnow, 2014: 285–91; Chadwick and Collister, 2014).
 - 3 <http://enhancinglife.uchicago.edu/blog/reassessing-the-price-of-connection> See also Couldry and Hepp, 2017.
 - 4 On 7 May 2016, a US Federal Appeals court ruled the NSA program that systematically collects phone records in bulk, revealed by Snowden, is illegal under the Patriot Act. *New York Times*, 7 May 2014. http://www.nytimes.com/2015/05/08/us/nsa-phone-records-collection-ruled-illegal-by-appeals-court.html?_r=0.
 - 5 "'This Award is for Snowden": Greenwald, Poitras Accept Polk Honor for Exposing NSA Surveillance.' Democracy Now. http://www.democracynow.org/2014/4/14/this_award_is_for_snowden_glenn (accessed May 2016).
 - 6 Roy Greenslade, 'Edward Snowden's leaks cause editorial split at the Washington Post.' *Guardian*, 5 July 2016. <http://www.theguardian.com/media/greenslade/2013/jul/05/edward-snowden-washington-post>. David Sirota, 'Meet the "Journalists Against Journalism" Club!' Salon, 2 July 2013. http://www.salon.com/2013/07/02/meet_the_journalists_against_journalism_club (accessed Dec. 2015).
 - 7 See Greg Mitchell, 29 Oct. 2013, *The Nation*. <http://www.thenation.com/article/glenn-greenwald-vs-bill-keller-future-journalism>. Bill Keller, 'Is Glenn Greenwald the future of news?' *New York Times*, 28 Oct. 2013. http://www.nytimes.com/2013/10/28/opinion/a-conversation-in-lieu-of-a-column.html?smid=tw-shareand_r=1and (accessed 22 Jan. 2016).
 - 8 Later, Snowden (in Bell, 2016), in fact takes the distinction even further, drawing a line between 'reporters' and 'journalists'.
 - 9 Alan Rusbridger, 'MPs' questions to Alan Rusbridger: do you love this country?' *Guardian*, 3 Dec. 2013. <http://www.theguardian.com/media/2013/dec/03/keith-vaz-alan-rusbridger-love-country-nsa> (accessed Aug. 2016).
 - 10 <http://www.economist.com/news/leaders/21616953-surveillance-advertising-industrys-new-business-model-privacy-needs-better> (accessed May 2016).

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