

Facilitating Tyranny? Glenn Greenwald and the creation of the NSA's 'Panopticon'

Citizenseven

No Place to Hide: Edward Snowden, the NSA and the Surveillance State

Glenn Greenwald

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Since becoming the conduit for the trove of classified documents from former National Security Agency (NSA) contractor Edward Snowden, Greenwald's public profile has increased immeasurably.¹ In 2013 he was joint winner of the George Polk Award for National Security Reporting and in 2014 the *Guardian* received a Pulitzer prize for the reporting he led on the Snowden revelations.² Curiously, for someone who once wrote a book taking issue with the emergence of a judicial environment that clearly favours the rich, Greenwald has partnered with billionaire Pierre Omidyar, the former founder and chairman of Ebay (and \$250 million of his money), to establish First Look Media.

The contention presented by Greenwald in *No Place to Hide* (2014), at the TED talk he did on 'Why Privacy Matters' in

1 Previous to being involved in the Snowden revelations he had a reasonable, though limited, following as a relatively minor news commentator and author, principally covering the civil liberty erosions experienced under the administration of George W Bush.

2 Even Hollywood has reached out to Greenwald. In 2014 it was reported that Sony had bought the film rights to *No Place to Hide*. In a separate production, Greenwald will be played by Zachary Quinto for Oliver Stone's film 'Snowden' due out in September this year. And when Laura Poitras' film about Snowden won the Best Documentary Feature at the 2015 Academy Awards she specifically name checked Greenwald, who appeared alongside her when she accepted her Oscar.

October 2014,³ and in a recent article in *The Intercept*,⁴ that the real purpose of NSA mass domestic surveillance is to foster conformity and compliance amongst the citizenry and not to monitor for potential terrorist threats.

Greenwald's argument includes an analogy to Jeremy Bentham's prison concept, the Panopticon, at the heart of which was a surveillance tower that enabled prison wardens to watch any prisoner at any time, with the prisoners unable see into the tower to tell if they were being watched. This was intended to enforce obedience and compliance. Greenwald explains in *No Place to Hide*, that the NSA mass surveillance program operates in a similar fashion, presenting US citizens with an 'implicit bargain':

'.....pose no challenge and you have nothing to worry about. Mind your own business, and support or at least tolerate what we do, and you'll be fine. Put differently, you must refrain from provoking the authority that wields surveillance powers if you wish to be deemed free of wrongdoing. This is a deal that invites passivity, obedience, and conformity. The safest course, the way to ensure being "left alone", is to remain quiet, unthreatening, and compliant.' (p. 195, emphases added)

However the examples Greenwald uses to support his case, and his own account of receiving Snowden's information, show that he has misunderstood the Panopticon concept and misapplied it to the NSA's mass surveillance program.

Life under the all-seeing eye

Although Greenwald recognises that there is a strong link between a self-censoring effect and people being aware of surveillance, he never actually addresses how that awareness comes about. We can see this in his rather odd treatment of the evidence he cites as proof of the adverse impact mass

³ <https://www.ted.com/talks/glenn_greenwald_why_privacy_matters/transcript?language=en>

⁴ Glenn Greenwald, 'New Study Shows Mass Surveillance Breeds Meekness, Fear and Self Censorship', *The Intercept*, 29 April 2016 at <<https://theintercept.com/2016/04/28/new-study-shows-mass-surveillance-breeds-meekness-fear-and-self-censorship/>>.

surveillance has on society.

Referring to literature, he cites George Orwell's *1984*, and argues that the similarities with Orwell's fiction are 'unmistakable'.

'In *1984*, citizens were not necessarily monitored at all times; in fact *they had no idea whether they were actually being monitored*. But the State had the *capability to watch them at any time*. It was the *uncertainty and possibility of ubiquitous surveillance* that served to keep everyone in line... (*No Place to Hide*, p. 174, emphases added)⁵

Greenwald also includes quotes from *1984* about the 'telescreen' that watches and listens, that cannot be turned off, though one is never sure when the surveillance is occurring.⁶ The lesson that Greenwald draws is that 'what makes a surveillance system effective in controlling human behaviour is the *knowledge* that one's words and actions are susceptible to monitoring'. (*No Place to Hide*, p. 175, emphasis added)

He then goes on to illustrate this further with the example of Bentham's Panopticon concept, a model for prison architecture that makes it possible for all prisoners to be subject to surveillance through the Panopticon tower in the centre of the facility. The Panopticon's design ensures, however, that prisoners 'were not able to see into the tower and so could never know whether they were or were not being watched'. (*No Place to Hide*, p. 175) As Greenwald explained in his TED talk:

'...what made [Bentham] so excited about this discovery was that that would mean that the prisoners would have to assume that they were being watched at any given moment, *which would be the ultimate enforcer for obedience and compliance.*'

⁵ He made a similar claim in the TED talk:

'The warning that [Orwell] was issuing was about a surveillance state not that monitored everybody at all times, but where people were aware that they could be monitored at any given moment.'

⁶ 'The telescreen received and transmitted simultaneously.....*There was of course no way of knowing whether you were being watched at any given moment.*' (quoted in *No Place To Hide*, p. 175, emphasis added)

Greenwald also refers to philosopher Michael Foucault's book *Discipline and Punish* (1975), which considered the Panopticon, and notes how:

'[Foucault] explained that ubiquitous surveillance not only empowers authorities and compels compliance but also induces individuals to internalize their watchers. Those who *believe they are watched* will instinctively choose to do that which is wanted of them without even realizing that they are being controlled — the Panopticon induces "in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power".' (*No Place To Hide*, p. 176, emphasis added)

But none of this is relevant to the 'NSA surveillance state' because Greenwald unfortunately does not notice how his examples are fundamentally different from our real-world situation. In the examples he uses:

- the subjects have all been officially informed and are, therefore, *aware* they are under surveillance; and
- they know *how* this monitoring will occur, since it is physically obvious.

In 1984 the fact that everyone is under surveillance is openly stated by the Party, mainly through the ubiquitous 'BIG BROTHER IS WATCHING YOU' posters. The telescreen's purpose is also common knowledge. Everyone adjusts their behaviour around the telescreen because they *know* about its perpetual monitoring function which they are reminded of when the telescreens sometimes issue instructions.⁷

Bentham's Panopticon or 'Inspection House' also worked from the premise that its targets should both *know* they are

⁷ See George Orwell, *1984* (London: Penguin Books, 1949 [1989]), pp. 3-4 (Big Brother poster); 39, 230-231 and 238 (telescreen talking).

under constant surveillance and *how* it was being done.⁸ Greenwald attributes to Foucault the view that it is those who 'believe they are being watched' who will make the effort to conform. (*No Place To Hide*, p. 176) Yet Foucault's exact words were more specific:

'He who is subjected to a field of visibility, *and who knows it*, assumes responsibility for the constraints of power.... he becomes the principle of his own subjection.'

Foucault recognised that central to Bentham's Panopticon concept was that the inmates be aware of their surveillance.⁹

Greenwald conflates what he believes the NSA is doing with the surveillance visions proposed by Orwell, Bentham, and Foucault. Greenwald thinks *not knowing* you are under surveillance at all is somehow equivalent to *knowing* you are and will be watched, but *not knowing exactly when*.

A more appropriate analogy for the Big Brother telescreen would be the ubiquitous surveillance cameras in many cities across the world. These meet Foucault's criteria of being *visible but unverifiable*: people can see the cameras but they cannot be certain if the images are being examined in the control room or even if the cameras are on. (Studies have suggested this uncertainty has deterred criminal behaviour, though this has been contested.) The alleged NSA mass surveillance network, in contrast, was both *invisible* and *unverifiable* before Greenwald publicised Snowden's trove.

Ignorance is bliss

Greenwald also discusses how studies have demonstrated the 'pernicious controlling power of ubiquitous surveillance and

⁸ 'It is obvious that, in all these instances, *the more constantly the persons to be inspected are under the eyes of the persons who should inspect them, the more perfectly will the purpose X of the establishment have been attained.*' (emphasis added) At <http://www.ics.uci.edu/~djp3/classes/2012_01_INF241/papers/PANOPTICON.pdf> p. 4.

⁹ 'Bentham laid down the principle that power should be visible and unverifiable. Visible: the inmate will constantly have before his eyes the tall outline of the central tower from which he is spied upon. Unverifiable: the inmate must never know whether he is being looked at at any one moment; but he must be sure that he may always be so.' At <<http://staff.washington.edu/cbebler/glossary/panoptic.html>>.

self-censorship that results...' (*No Place To Hide*, p. 178). This included a 1975 study that found that the 'threat or actuality of government surveillance may psychologically inhibit freedom of speech' (quoted in *ibid.* p. 180), and a Finnish study where participants were subject to a high level of surveillance in their homes. (quoted in *ibid.* p. 181) Yet in each of the studies Greenwald summarises, the signs of distress and the attempts at self-censorship only occurred because the subjects were made aware that they were being – or would be – watched by government representatives.

Greenwald knew that awareness is central to the adverse psychological impacts of mass surveillance before he ever met Snowden. At the Socialism 2012 conference in Chicago, in his speech on how the 'Surveillance State' creates a 'climate of fear',¹⁰ Greenwald had given a number of examples: the Occupy protesters fear of being infiltrated by the police and the 'incredibly pervasive climate of fear' in some American Muslim communities due to extensive FBI infiltration and surveillance and their knowledge they were being monitored:

'And the reason is that *they know* that they are always being watched. *They know* that they have FBI informants who are attempting to infiltrate their communities, *they know* that there are people next to them, their neighbors, fellow mosque-goers, who have been manipulated by the FBI to be informants. *They know* that they are being eavesdropped on when they speak on the telephone, *they know* that they are having their e-mails read when they speak or communicate to anybody.' (emphases added)

In his 2014 TED talk, Greenwald also makes much of this fact:

'There are dozens of psychological studies that prove that when somebody *knows that they might be watched*, the behavior they engage in is vastly more conformist and compliant.'

A number of these studies were summarised in an article in

¹⁰ <http://www.alternet.org/story/156170/glenn_greenwald%3A_how_america's_surveillance_state_breeds_conformity_and_fear>

The Guardian in 2013 which noted that science had collected a 'wealth of empirical evidence on the psychological effects of surveillance'. This evidence,

'leads to a clear conclusion and a warning: indiscriminate intelligence-gathering presents a grave risk to our mental health, productivity, social cohesion, and ultimately our future.'¹¹

But in a striking prelude to Greenwald's own argument, the author of the article seemed to overlook the key variable noted in most of the studies: the subjects had to *know* they were being monitored to display these ill-effects. One of the studies cited, for example, found that:

'....*secrecy* had a significant main effect on feelings of personal control...Workers had greater feelings of personal control *when monitoring was secret...than when monitoring was revealed.*'¹² (emphases added)

Greenwald's latest *Intercept* article, relating the findings of academic papers that examined the impact of Snowden's revelations on Google and Wikipedia searches, also evaded this crucial point. For Greenwald, these articles provided 'empirical evidence' that 'the mere existence of a surveillance state breeds fear and conformity and stifles free expression'. But neither article made that argument; instead they were about people's behaviour changing once they became *aware* of surveillance.

The first of these two studies, by Jonathon Penney, focuses on how the 'exogenous shock' of the publicity about Snowden revelations caused Wikipedia users to modify their

¹¹ <<https://www.theguardian.com/science/head-quarters/2013/aug/26/nsa-gchq-psychology-government-mass-surveillance>>

¹² This same study, based on the responses from 108 participants, also noted that:

'....workers who were not aware of exactly when monitoring was happening reported *greater feelings of personal control than those with exact knowledge of monitoring...* That is, *knowledge of the monitoring event may itself be a stressor that workers prefer to avoid if possible.*' (emphases added)

searches.¹³ The second study by Alex Marthews and Catherine Tucker, examined how Internet use changed in response to the leaking of 'new information' about the US Government's 'mass electronic surveillance data mining program' in 2013.¹⁴ As they stated in their conclusion: '....our results are focused on the *effects of revelations about government surveillance* as opposed to the direct effects of government surveillance *per se*.'¹⁵ (emphases added)

So the worst effects of surveillance that Greenwald rails against, in particular self-censorship, only occur when we *know* it is happening. But the question Greenwald fails to answer in the case of the NSA's mass surveillance program, is *how do we know?*

What Greenwald didn't know

The claim is that the US government intended for the NSA's extensive collection activities to enforce obedience. If this were true, it would have *always* been public knowledge that the 'communications of everyone – not terrorists, not violent criminals, not arms dealers, but *everyone* – is subject to being read, listened to and otherwise monitored by unseen,

13 Jonathon W. Penney, 'Chilling effects: online surveillance and Wikipedia use' at <http://btlj.org/wp-content/uploads/2016/05/Penney_31APR2016.pdf>. Penney found 'evidence of immediate, substantial and potentially chilling effects due to *awareness* of government surveillance...'

14 See Alex Marthews and Catherine Tucker, 'Government Surveillance and Internet Search Behaviour', 29 April 2015, at <<http://papers.ssrn.com/sol3/papers.cfm?>>.

15 The studies by Penney and Marthews and Tucker also found a direct correlation between the Snowden revelations and a 'chilling effect' in Internet use. Marthews and Tucker found that following the release in June 2013 of 'new information about the surveillance activities of the US Government...by *Guardian* columnist Glenn Greenwald' there was a 'distinct fall in traffic', in the region of 10%, for Google searches on topics 'rated as being more likely to get you in trouble with the US government...'

Penney also observed a 19.5% drop in views of forty-eight Wikipedia articles that dealt with range of topics related to 'terrorism' following the June 2013 revelations. A drop of more than 25% was observed between May 2013 and June 2013 for a group of thirty-one 'terrorism-related' Wikipedia articles.

unchecked officials of the national security state.’¹⁶ But until he obtained access to the information provided by Edward Snowden, Greenwald *did not know* the full extent of the NSA’s capabilities, nor the wide range of its targets. That such programs were being concealed was a key point Greenwald himself made at the Socialism 2012 conference, when he referred to the ‘government’s one-way mirror’:

‘At exactly the same time...that the government has been massively expanding its ability to know everything that we’re doing it has *simultaneously erected a wall of secrecy around it that prevents us from knowing anything that they’re doing.*’ (emphasis added)

How then can Greenwald conclude that the purpose of the NSA’s collection activities is to enforce compliance and obedience? The NSA made an enormous effort to conceal its surveillance activities and also denied targeting US citizens *en masse*. There was a logic to this as the Office of the Director of National Intelligence’s General Counsel, Robert Litt, explained last year:

‘The public *does not know everything that is done in its name* – and that has to be so. If we reveal too much about our intelligence activities *we will compromise the capability of those activities to protect the nation.*’¹⁷

This need for concealment explains the intense secrecy which has historically surrounded both the capabilities and activities of signals intelligence agencies because ‘revelations about methods and successes would lead an adversary to change codes and ciphers and deny the codebreaker the ability to read the foe’s secret communications.’¹⁸

Essentially, while able to cope with targets suspecting they *might* be under surveillance, the NSA never wants them

16 <<http://www.munkdebates.com/MediaStorage/Debates/StateSurveillance/Docs/Greenwald-Summary.pdf?ext=.pdf>>

17 <<http://www.dni.gov/index.php/newsroom/speeches-and-interviews/208-speeches-interviews-2015/1171-odni-general-counsel-robert-litt%E2%80%99s-as-prepared-remarks-on-signals-intelligence-reform-at-the-brookings-institute>>

18 Jeffrey T. Richelson, ‘Foreword’ to *Secret Power* by Nicky Hagar, at <http://fas.org/irp/eprint/sp/sp_f2.htm>.

to *know for sure*. Neither do they want targets to know *how* their communications may be compromised. This is the difference between *overt* and *covert* surveillance. The overt form, such as the secret police who openly shadow foreign journalists in some dictatorships, is designed to intimidate and enforce compliance. The covert form is designed to discover what the subjects of the surveillance are trying to hide, to catch them out when they think no-one is watching and/or listening.

A global chill

In his review of the Laura Poitras' Academy Award winning documentary 'Citizenfour', which documents when she and Greenwald first made contact with Snowden in Hong Kong, National Public Radio reviewer David Edelstein described it as 'one of the scariest paranoid conspiracy thrillers' he had ever seen. Edelstein included the text of one of the e-mails Snowden had sent to Poitras, under the name of 'Citizenfour', to explain what was at stake:

*'You asked why I picked you. I didn't; you did. The surveillance you've experienced means you've been selected, a term which will mean more to you as you learn about how the modern SIGINT system works. For now, know that every border you cross, every purchase you make, every call you dial, every cell phone tower you pass, friend you keep, article you write, site you visit, subject line you type and packet you route is in the hands of a system whose reach is unlimited, but whose safeguards are not. Your victimization by the NSA system means that you are well aware of the threat that unrestricted, secret police pose for democracies. This is a story few but you can tell.'*¹⁹

This depressing message could well be a declaration by Orwell's Big Brother rather than a warning from a 'whistle-blower'. Greenwald, though, apparently remains blithely unaware of his own role in this pernicious affair. Interviewed

¹⁹ <<http://www.npr.org/2014/10/24/358350193/citizenfour-a-paranoid-conspiracy-documentary-about-edward-snowden>>

by *Salon* in January 2014, Greenwald expressed the hope that, in time, people would be 'in upheaval over the surveillance state'. There has been a change, even 'upheaval', but it would seem the main legacy of the Greenwald-Poitras-Snowden trio is the intensification and broadening of the fear of surveillance across society.

In October 2013, for example, PEN America, a human-rights organisation, released its report, *Chilling Effects*,²⁰ which surveyed some 520 American writers to find out how 'awareness of far-reaching surveillance programs influences writers' thinking, research, and writing'. The report found that most US writers were 'worried about government surveillance' and were 'engaging in self-censorship as a result'. PEN America noted how *in a short span of time*, the United States has shifted from a society in which the right to privacy in personal communications was considered inviolate, to a society in which many writers assume they have already lost the right to privacy and now expect to be spied upon almost constantly.

With more curious myopia, Greenwald claims the PEN America report shows 'collective coercion and control is both the *intent* and effect of state surveillance' (emphasis added) and refers to the report as a survey of the 'effects of the NSA revelations on its members', completely overlooking his pivotal role in exposing that information in the first place. (*No Place to Hide*, p. 178)

That *awareness* of government surveillance programs would have such an impact had been obvious to a number of observers. In November 2013, for example, *Wired* reported that World Wide Web creator Tim Berners-Lee had warned that awareness of mass surveillance in the UK and US 'could potentially leave a trail of paranoia that in turn leads to a trend for self-censorship among citizens of the allegedly "free" West'. In early 2015 a second PEN America survey found that 42 per cent of respondents in countries otherwise ranked as 'Free' had 'curtailed or avoided activities on social media or seriously considered it, due to fear of government

20 <<https://pen.org/chilling-effects>>

surveillance'.²¹ A Pew Research Center report, released in late 2014, also found that in the year since the release of the Snowden documents, 'the cascade of news stories about the revelations continue to register widely among the public'. This included changes in behaviour, with at least 70% of respondents in its survey of Americans expressing concern about the ability of government to secretly access information they had placed on social media sites.²²

With Liberty To Monitor All, a joint report by Human Rights Watch (HRW) and the American Civil Liberties Union (ACLU), also documented how Snowden's revelations about the NSA's ability to 'scoop up personal information and the content of personal communications on an unprecedented scale' had impacted journalism. They found, for example, that journalists, felt government sources were more hesitant, partially due to the Obama Administration's aggressive prosecution of leakers, but also due to fears that all electronic communications could be traced.²³

21 This report, *Global Chilling*, again confirmed that this was driven by the Snowden revelations:

'The survey results are striking, and confirm that *the impact of mass surveillance conducted by the National Security Agency, other U.S. government authorities, and U.S. allies — including those in the "Five Eyes" surveillance alliance of Australia, Canada, New Zealand, the United Kingdom and the United States — is rippling outward to curtail freedom of expression around the world. Levels of concern about government surveillance in democratic countries are now nearly as high as in non-democratic states with long legacies of pervasive state surveillance.*' (emphases added)

22 'Americans' lack of confidence in core communications channels *tracks closely with how much they have heard about government surveillance programs.* For five out of the six communications channels we asked about, those who have heard "a lot" about government surveillance are significantly more likely than those who have heard just "a little" or "nothing at all" to consider the method to be "not at all secure" for sharing private information with another trusted person or organisation.'

23 '*Large-scale surveillance dramatically exacerbates those concerns by largely cutting away at the ability of government officials to remain anonymous in their interactions with the press, as any interaction — any email, any phone call — risks leaving a digital trace that could subsequently be used against them.*' (emphases added)

<<https://www.aclu.org/report/liberty-monitor-all-how-large-scale-us-surveillance-harming-journalism-law-and-american>>

This fear of mass surveillance was also impacting on journalists who felt that 'they may be viewed as suspect for doing their jobs'. They were, in turn, being forced to adopt elaborate steps to protect sources and information, and eliminate any digital trail of their investigations — from using high-end encryption and burner (disposable) phones, to abandoning all online communication and trying exclusively to meet sources in person.²⁴

'Journalists repeatedly told us that surveillance had made sources much more fearful of talking. *The Snowden revelations have "brought home a sense of the staggering power of the government"*, magnifying the fear created by the increasing number of leak investigations. Accordingly, sources are 'afraid of the entire weight of the federal government coming down on them.'²⁵ (emphasis added)

These studies expose that it was never, as Greenwald contends, the 'mere existence' of NSA's surveillance programs that has apparently caused this widespread paranoia, proliferation of self-censorship and behavioural modifications. In actual fact, the Snowden revelations about those programs *were the only cause*.

The dilemma of the self-accuser

In a vigorous polemic that appeared in *The Intercept* in mid-

²⁴ The interviews conducted for the report found that this increasingly paranoid behaviour was in direct response to the Snowden revelations. One 'national security reporter', for example, told Human Rights Watch that the Snowden revelations show that '[w]hat we're doing is not good enough. I used to think that the most careful people were not at risk, [that they] could protect sources and keep them from being known. Now we know that isn't the case.' He added, '*That's what Snowden meant for me. There's a record of everywhere I've walked, everywhere I've been.*' (emphasis added)

Peter Maass [now with Greenwald's *The Intercept*] voiced a similar concern: '*[The landscape] got worse significantly after the Snowden documents came into circulation. If you suspected the government had the capability to do mass surveillance, you found out it was certainly true.*' (emphasis added)

²⁵ <<https://www.aclu.org/report/liberty-monitor-all-how-large-scale-us-surveillance-harming-journalism-law-and-american>>

2015, Greenwald took the *New York Times* to task for using anonymous US government sources to claim that ISIS had 'studied the revelations from Edward J. Snowden' on the NSA's collection efforts against militants and modified their communications plans to avoid detection. Aside from disputing this claim, Greenwald was particularly incensed by what he saw as the *New York Times*' hypocrisy given its role in publishing numerous articles drawing on the Snowden files:

'But when it comes to uncritically publishing claims from anonymous officials that Snowden stories helped ISIS, the *New York Times* suddenly "forgets" to mention that it actually made many of these documents known to the world and, thus, to ISIS. What the *New York Times* is actually doing in this article is accusing *itself* of helping ISIS, but just lacks the honesty to tell its readers that it did this, opting instead to blame its source for it. In the *NYT*'s blame-its-source formulation: "The Islamic State has studied revelations from Edward J. Snowden."'

And yet, in exactly the same way, Greenwald's *No Place To Hide* fails to mention the agency of its author in disseminating Snowden's materials, thus contributing to the same 'Panopticon' it denounces.²⁶ Greenwald's cognitive dissonance on this would be amusing, were it not such a serious matter.

²⁶ Cem Paya at the Random Oracle blog <<https://randomoracle.wordpress.com/2014/10/02/nsa-panopticon-and-paradox-of-surveillance-exposed/>> and Mitchell Blatt at <<http://chinatravelwriter.com/blog/2014/06/25/greenwald-wrong-no-place-to-hide-review/>> spotted this.