

## **Being Smart About Intelligence**

By Paul Heinbecker, published in the Globe and Mail

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Few things can get a government leader into hot water with important international partners faster than getting caught intercepting their mail, literally or electronically, as both President Barack Obama and even Prime Minister Stephen Harper can attest. Similarly few things can be as seductive to government officials as intelligence, and few things more politically risky. What governments can do technologically should not dictate what they will do politically; capacity unbounded by a well-managed overarching political strategy can lead to errors in judgment with serious and far-reaching consequences. The reality is that the value of intelligence can be and frequently is over-rated

The revelations by Edward Snowden keep coming, undermining trust of the United States among its allies. The US National Security Agency (NSA), one of reportedly 15 American intelligence agencies with an estimated cumulative budget of \$75 billion, has been outed for gathering data from friend and foe alike. In France, the NSA apparently vacuumed up 70 million digital communications in a single month. In Spain, the number was reportedly 60 million electronic communications. The UN Secretary General has been a target as have Mexico's current and former Presidents and the German Chancellor.

The Germans, who long endured the espionage predations of the old East German Stasi, and who considered themselves a steadfast ally of Washington, are particularly distressed that Chancellor Angela Merkel has been an NSA target. What kind of ally would bug the German Chancellor's mobile phone for a decade? In what respect exactly was Chancellor Angela Merkel a security risk to the Americans? If Presidents Bush and Obama wanted to know what she thought, why did they not just pick up the phone and ask her, or meet with her at any of the numerous summits they attended together? The alleged bugging of the communications of 34 other leaders around the world that Snowden claims happened will doubtless produce more unhappy surprises. In Brazil the US was revealed to be spying both on the communications of President Dilma Rouseff and on the Brazilian national oil company Petrobras. Meanwhile, Canada's Communications Security Establishment (CSEC) was revealed to be spying on the Brazilian Ministry of Mining and Energy.

The repercussions are potentially very serious. The sheer scale of electronic eavesdropping and the audacity with which it is undertaken have hit nerves worldwide. Consumers in this digital age, who paradoxically are more ready to tolerate the pervasive incursions of foreign corporations into their lives than the snooping of foreign governments, are up in arms. Allied governments, whose outrage appears partly but not wholly tactical, are threatening a range of retaliations. The European parliament is threatening to delay US-EU free trade negotiations and contemplating privacy legislation that would force American

internet companies like Google and Yahoo on the pain of heavy fines to get EU approval before complying with US warrants seeking emails and search histories of EU citizens. The Parliament has sent a delegation to Washington seeking explanations. The Germans, who want to be removed from the NSA targets list, as do others, have dispatched their intelligence chiefs to Washington this week to seek cooperation . Germany and Brazil are promoting a resolution at the UN that would call on states to respect privacy rights under the 1976 International Covenant on Civil and Political Rights particularly as regards the extraterritorial surveillance of private communications of citizens in foreign jurisdictions. Perhaps the most significant cost of the Snowden revelations is that American (and Canadian) policy to promote multi-stakeholder governance of the Internet and to limit its regulation by governments is in serious jeopardy. NSA meta-data dragnets around the world have made the case for greater national control of the Internet more persuasively than the Chinese, Russians and Iranians ever could. Meanwhile, Deutsche Telekom among others is launching a new encrypted service using only data centres located on German soil. The Balkanization of the Internet looms.

The gap between American words and American deeds has grown too wide for foreign governments and their publics to ignore. This week's protestations by American leaders that American spying saves lives, including European lives, are seen as self-serving piffle. No lives were at stake in the German Chancellor's office, nor were there any terrorists, as one Brazilian legislator observed, at the bottom of any Brazilian oil well. The excuse that "they all do it" is equally unpersuasive. Although the French Direction Générale de la Sécurité Extérieure, the German Nachrichtendienst and the Brazilian Agência Brasileira de Inteligência do do it, the point is not who else is dissembling but how effective intelligence is and at what political, financial and moral costs it is purchased. In Washington, after initially blowing off others' concerns, the Obama administration and Congress are having second thoughts about the wisdom of spying on allies.

There are many lessons we can draw from all this for Canada. Here are five.

**First**, secrets are hard to keep in the digital world. The intelligence leadership and their political masters should presume that they will see their decisions on the front page of the Globe and Mail one day.

**Second**, intelligence is a means not an end, and not all its purposes —national security, counter-terrorism, communications security, commercial secrets and economic advantage-- are equally compelling. Mature judgment is a must if sound decisions are to be made about the risks that are worth running -- or not. For example, at a time when our Governor General, Prime Minister, Foreign Minister, Trade Minister and other ministers had visited Brazil to court the government, was it really worth spying on the Brazilian Ministry of Energy and Mines, as we are alleged to have done?

**Third**, membership in the Five Eyes intelligence-sharing group (the US, UK, Canada, Australia and New Zealand), which dates from the end of World War II, entails costs as well as benefits and needs to be kept under sober review. Rubbing shoulders with the American intelligence community can be intoxicating, a poor condition in which to make important judgments.

**Fourth**, intelligence can be and frequently is over-rated. Spending on intelligence and diplomacy needs to be re-balanced. While intelligence operates beyond the pale of international law, diplomacy is both legally sanctioned and uncontroversial, and effective in its creation of trusting relationships,. It does not make sense at a time when intelligence expenditures have grown dramatically, and CSEC is erecting a billion dollar building in Ottawa, that the Foreign Affairs department is selling off assets abroad to cover a shrinking budget.

**Finally**, leadership matters. The key challenge is not so much to do things right as it is to do the right things. Oversight to ensure that Canadian laws are not being broken is important and needs reinforcement, but coherent, strategic policy leadership that ensures that the intelligence tail never wags the foreign policy dog is crucial. Technological capacity should never trump political judgment.

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