

# Moral Responsibility and Protecting the Nation: Security vs. Individual Rights

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# A Historical Timeline



Who is watching and listening?

# **Recommendation 1:**

Allow the NSA and other government agencies to view private information for the sake of national security

## **Ethical Model:**

Teleological/Utilitarian

# Recommendation 1:

Allow the NSA and other government agencies to view private information for the sake of national security

## Strengths

- Telephone Records: Awareness of terrorism (Means, 2013)
- Google/Yahoo records: In a statement, the NSA said that it is “focused on discovering and developing intelligence about valid foreign intelligence targets only” (Gellman & Soltani, 2013, p. 2).
- National security agency acts ex ante, before a terrorist attack occurs and the agency takes prescriptive actions that directly affect the probability of an attack. Thus, the information that enables the detection of an impending attack may be scattered around the world in bits of information contained in phone call records, emails, banking accounts, etc. The government is entitled to that data but for the limited purpose of protecting national security (Posner, 2006, as cited in Dragu, 2011).
- Sweeping tools of surveillance lead to a more transitional, individualized approach if threats are found. Some argue that metadata approach reduces the need for invasive approach (Dragu, 2011).

# Recommendation 1:

Allow the NSA and other government agencies to view private information for the sake of national security

## Weakness

- Telephone Records: Would need a more specific search warrant to know specifics (Mears, 2013)
- Increasing the penalty for a crime has no effect on criminal behavior (Tsebelis, 1990, as cited in Dragu, 2011).
- The degree of violation (Friendersdorf, 2013)

“Acknowledging that ‘all of us spend more and more of our lives in cyber space,’ Obama said that some form of surveillance remains necessary. ‘If we’re gonna do a good job preventing a terrorist attack on this country, a weapon of mass destruction gettin’ on the New York subway system, et cetera, we do want to keep some eyes on some bad actors’” (Serwer, 2013).

Serwer, A. (2013, December 5). Obama: NSA leaks identified some areas of concern. Retrieved from <http://www.msnbc.com/hardball/nsa-leaks-raised-legitimate-concerns>

“...the security argument states that reducing traditional privacy protections reduces the constraints on antiterrorist agencies’ domestic intelligence activities. To prevent terrorist attacks, governmental agencies must be able to detect the slightest traces of terrorist activity, and detection becomes more likely as their intelligence efforts increase. Privacy protections—taking the form of restrictions on the interceptions of communication, on data retention and data mining, as well as on government’s access to such third-party information as financial records and transactions—constrain how governmental agencies can collect information and thus conduct their (counterterrorist) intelligence operations. Thus, when these privacy protections are reduced, antiterrorist agencies can more readily gain access to and collect information related to terrorism prevention, and they can also engage in more intelligence activities for the same, fixed amount of resources” (Dragu, 2011, p. 66).

Dragu, T. (2011, February). *Is there a trade-off between security and liberty? Executive bias, privacy protections, and terrorism prevention. American Political Science Review, 105(1), 64-78.*



## **Recommendation 2:**

If the NSA and other government agencies view my personal information without my permission, it is a violation of my individual rights.

## **Ethical Model:**

Deontological

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### **Strengths**

- Democratic governments emphasize individual freedoms (Dragu, 2011).
- NSA has received court approval (Mears, 2013).
- Protects people (Gellman & Soltani, 2013).

## Recommendation 2:

If the NSA and other government agencies view my personal information without my permission, it is a violation of my individual rights.

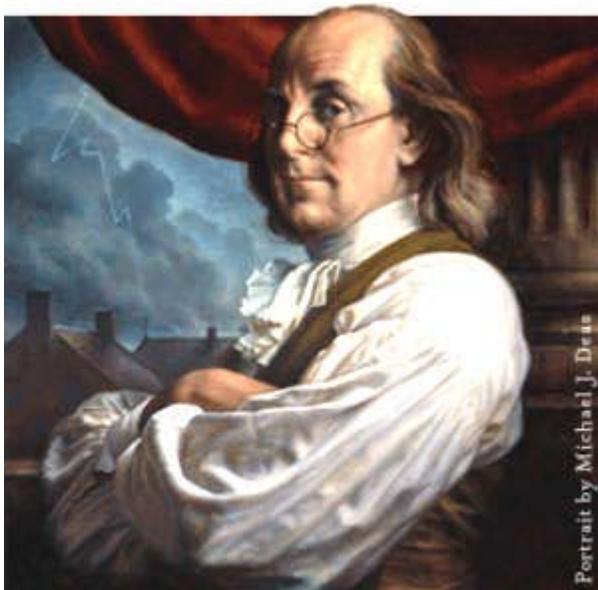
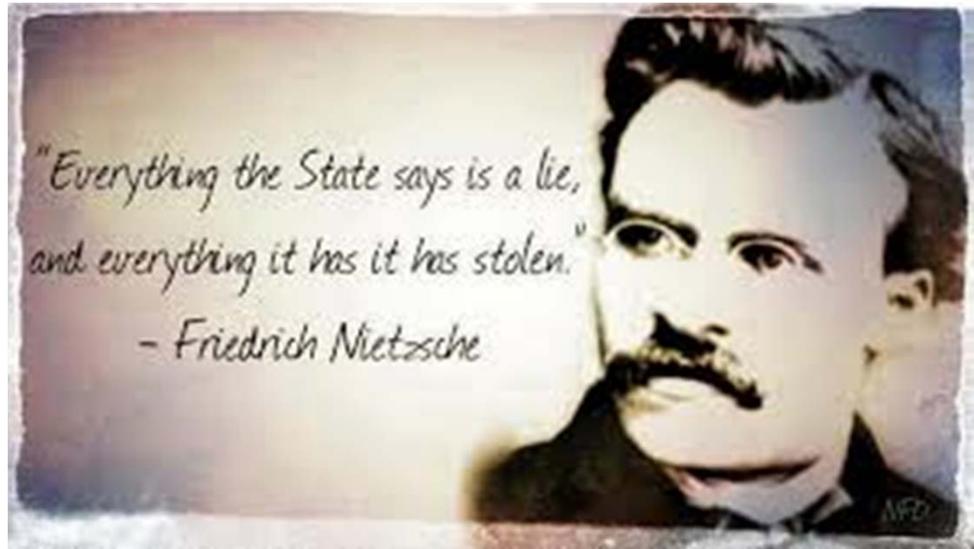
## Weakness

- Nearly every single law/ policy involving privacy depends upon a subjective understanding of what a privacy is. Plus, the government's intrusion in personal files constitutes the premise that a citizen is guilty until proven innocent which goes against our system of justice belief that one is innocent until proven guilty (Abdo, 2013).
- Information other people collect (Friedersdorf, 2013)
- ACLU argues that it breaches the first and fourth amendments as well as exceeding the authority Congress gave to the government through the Patriot Act (Rushe, 2013)

Abdo, A. (2013, August 2). You may have 'nothing to hide' but you still have something to fear. [Web log comment]. Retrieved from <https://www.aclu.org/blog/national-security/you-may-have-nothing-hide-you-still-have-something-fear>

“Although individuals consent to give over certain powers to government through the constitution, that limited transfer is perfectly consistent with natural sovereignty and the security of natural rights: government can regulate individual rights and liberties only to the extent authorized by the sovereign people via the constitution” (Zink, 2009, p. 445).

Zink, J. R. (2009, August). The language of liberty and law: James Wilson on America's written constitution. *American Political Science Review*, 103(3), 442-455.



*"Those who would give up essential liberty to purchase a little temporary safety, deserve neither liberty nor safety"* –Benjamin Franklin

## **Recommendation 3:**

The NSA and other government agencies can view or collect limited amounts of personal information as long as an ethical code is maintained

## **Ethical Model:**

Teleological/Utilitarian

## **Recommendation 3:**

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### **Strengths**

- The NSA defends its practices as legal and respectful of Americans' privacy. According to NSA spokeswoman Vaneé Vines, if American communications are "incidentally collected during NSA's lawful signals intelligence activities," the agency follows "minimization procedures that are approved by the U.S. attorney general and designed to protect the privacy of United States persons." (Gorman & Valentino-Devries, 2013)
- Much, if not all of the data, is discarded (Gorman & Valentino-Devries, 2013).
- Incidentally acquired data on Americans is eliminated (Gorman & Valentino-Devries, 2013)

## **Recommendation 3:**

The NSA and other government agencies can view or collect limited amounts of personal information as long as an ethical code is maintained

## **Weakness**

- “Technology is moving us into a world where the only barriers to this kind of dragnet surveillance are the protections enshrined into law” (Gorman & Valentino-Devries, 2013)
- Everybody has something to hide--not all personal information, but only to the data the government is likely to collect (Solove, 2011)
- Only allowed to intercept communications if at least one end of the conversation is outside the US. (Stray, 2013).

“...one may argue that explicit consent should be required before a person’s information is released or stored—people should “own” information about themselves, and their permission would be needed before it could be used...Or one could take the position that to protect privacy, one must limit surveillance and the assembling of dossiers on individuals...unless special circumstances prevail and special authorization has been granted (say, if the subject of tracking is suspected of a crime, as demonstrated to a judge)” (Etzioni, 2013, p. 52)

Etzioni, A. (2013). The bankruptcy of liberalism and conservatism. *Political Science Quarterly*, 128(1), 39-65.

Thank you!

