

## A NEW PARADIGM OF CLASSIFIED DISCLOSURES

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In the aftermath of Edward Snowden's unauthorized release of classified information, the Director of National Intelligence, the Director of the National Security Agency, and other officials in the Intelligence Community described Mr. Snowden's actions as irresponsible and as having a long-term and irreversible negative impact on our nation's security and the security of our allies. Those officials asserted that Mr. Snowden has damaged the Intelligence Community's ability to keep our country safe, has put the lives of Americans at risk, and has helped terrorists whose aim is to kill us.

I do not think that these claims are hyperbolic. Therefore, I would like to begin our discussion of whether Mr. Snowden and PVT Manning having created a new paradigm for illicitly disclosing stolen classified information with an explanation of the damage Mr. Snowden has done (to the extent that I can in an unclassified setting).

Several years ago, I read an article in *Der Spiegel*, the German equivalent of *Time* magazine. The article claimed to reveal how NSA was intercepting the communications of top Al-Qaeda leadership, including Osama bin Laden. These terrorists, according to *Spiegel*, believed that the NSA could not intercept e-mail that had not been sent. Consequently, when bin Laden wanted to instruct his agents, he did so in an email that he did not send. Instead, he saved it in his Draft folder. The agents, the magazine asserted, knew the password to bin Laden's e-mail account. They would open the folder, respond to bin Laden's instructions, and likewise save to Draft, nary a message sent. *Spiegel* went on to claim that the NSA had cracked into bin Laden's e-mail account and secured access to the back-and-forth in the Draft folder, thereby thwarting several terrorist plots.

I cannot comment on the accuracy of the *Spiegel* article, but I can say that if NSA was intercepting Al-Qaeda communications the day before the article was published, using the method the magazine described, it was not doing so the day after. Our adversaries are not Luddites living in Afghan caves. They are technically very sophisticated, and they read *Der Spiegel*, the *New York Times*, the *Washington Post*, and the *Guardian*.

So, the first way Mr. Snowden damaged national security is by revealing several once powerful tools that the United States had deployed in the war against terrorism. We deployed these weapons on behalf of our own security and our allies' security. Once terrorists learned about them, they became useless.

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There's a second way that Mr. Snowden has done us grievous harm. He has disclosed details about NSA's current strategic posture and how it intends to proceed in the future. Mr. Snowden was an IT systems analyst; he had no background in intelligence, and he grossly misunderstood many of the documents he stole. His claim that NSA analysts could "tap" the telephones of every American, including President Obama, shows that. However, those documents make a world of sense to intelligence professionals, many of whom serve our adversaries, and all of a sudden they had unheard-of access to NSA's strategic thinking. This also caused the Nation great harm.

In deciding whether Snowden has created a "new paradigm" for the unauthorized disclosure of classified information, it might be worthwhile to compare his misconduct to the espionage of a senior FBI official, Supervisory Special Agent Robert Hanssen. In a 2002 report, a presidential commission declared that Hanssen had perpetrated "possibly the worst intelligence disaster in US history." In a sentencing memorandum, federal prosecutors described Hanssen's crimes as "surpassing evil" and as "almost beyond comprehension."

Hanssen's career in espionage spanned 23 years, during which he gave first to Soviet and later to Russian agents reams of documents and dozens of computer diskettes containing what was, according to the presidential commission, "national security information of incalculable value." Hanssen compromised, for instance, the plan the United States would put into effect to save its political and military command structures in the event of a Soviet nuclear strike. This particular betrayal occurred at a time when key elements within the Soviet oligarchy were advocating a first strike against the United States, fearing that America was about to take advantage of ongoing chaos in the crumbling Communist empire by itself launching a preëemptive nuclear attack.

Hanssen and Snowden were alike in that they used well honed IT skills to steal and disclose classified information vital to our national security, but the similarities end there.

Hanssen's motives were venal --- a desire for cash --- or perhaps psychological --- a desire to play an intensely dangerous and, therefore, exciting game. Snowden presents himself as acting out of more noble motives. At the end of his career, Hanssen had almost thirty years of experience in intelligence and counterintelligence. He knew exactly what was of value to his spy handlers, and he was very specific in choosing documents to steal. Hanssen knew how to control his handlers much better than they could control him.

Snowden was manic in his thievery, which was exponentially larger than what Hanssen stole over three decades. Hanssen's theft was in a sense finite; Snowden's is open-ended, as his agents decide daily which documents to disclose. As I said, Snowden has no background in intelligence and is likely unaware of the significance of the documents he stole. Given the volume, it is unlikely that he even read most of them. In contrast to Hanssen, Snowden's

apparent confidence that he could control others who were interested in his documents, for whatever reason, is astonishingly naïve, ignorant, and egotistical.

In sum, if there is a new paradigm in Snowden's treachery – and Manning's as well – it is of young, inexperienced, unknowledgeable people, claiming to act out of noble intentions, making sweeping collection of material vital to national security, and transferring possession to other parties who control its distribution.