

Statement of Jesselyn Radack

LIBE Inquiry meeting of 30 September 2013

Thank you to the European Parliament for inviting me to contribute to this significant and historic series of hearings. I commend the LIBE Committee for their attention to the secret and illegal surveillance operations that National Security Agency whistleblower Edward Snowden brought to light. It is my hope that similar political bodies around the world will follow your example.

Without courageous whistleblowers like Mr. Snowden, the world would not know the enormity of the NSA's surveillance activities in my country or in member states. Instead, the public would rely on half-truths and outright lies from U.S. government officials. Mr. Snowden's disclosures have brought to the forefront a much-needed public debate about the U.S. government's exorbitant, expansive, and often ineffective surveillance apparatus.

I head the National Security & Human Rights program at the Government Accountability Project, the leading whistleblower protection organization in the United States.

As a whistleblower attorney, I have seen the workplace retaliation that happens to whistleblowers time and again—the scathing performance reviews, demotions, and, often, termination, when employees reveal gross fraud, waste, abuse and illegality. It was in 2010, however, when I was first introduced to the clandestine world of the National Security Agency. This was the year I began representing NSA whistleblower Thomas Drake, from whom you heard earlier.

I myself am a whistleblower. I blew the whistle on government misconduct in the United States' first terrorism prosecution after 9/11. I learned first-hand that the Bush administration was willing to escalate retaliation against whistleblowers —destroying not only their jobs, but their careers, by going after their security clearances and professional licenses, and putting them on terrorist watch lists.

But when President Obama's administration indicted Thomas Drake, *and did so under the Espionage Act*—the most serious charge you can level against an American—I knew we had descended to new depths by criminalizing the truth. Although the prosecution of Mr. Drake collapsed, the United States government continued to indict national security and intelligence community whistleblowers for espionage. Employees in these communities have no whistleblower protection, and have been specifically excluded.

The fact remains that in less than a year, President Obama indicted more people under the Espionage Act than all previous presidents combined. This witchhunt intensified with the historic, earth-shattering revelations of WikiLeaks, a publishing organization committed to transparency, which published the largest trove of secret documents in the history of the world—those disclosed by Private Chelsea Manning. Under the extraordinary leadership of Julian Assange, himself under a sealed U.S. indictment and his own virtual imprisonment in the Ecuadorian Embassy in London, WikiLeaks has literally changed the face of journalism, been an unfailing supporter of all whistleblowers, and redefined transparency in the digital age. The U.S., however, has tried in myriad ways to criminalize this organization, and those

associated with it, in order to send a chilling message to anyone thinking of speaking truth to power.

What the U.S. Government calls espionage, I call having the moral courage to expose some of the most egregious, tightly-held illegalities of the past decade, including torture, war crimes, and mass surveillance on an unprecedented scale. The brave souls who exposed these things are individuals earnestly committed not to a President, or an agency, or a boss, but to the interest of their country, and humanity at large. Historically, such people were forced to choose between their conscience and their careers, but now the stakes are much higher. They risk their freedom and their lives.

We are in the throes of an asymmetrical war on whistleblowers in the United States. And yet the war on whistleblowers has metastasized into a war on journalists. The Reporters who seek to publicize whistleblower disclosures are not only the subject of surveillance, but also now the subject of criminal subpoenas, search warrants, and threats of prosecution for simply doing their jobs. What is emerging from the war on whistleblowers, journalists, hacktivists, and dissidents is a larger, more insidious, war on information. Why? Because we live in an information age, and information is the currency of power. What we are witnessing is a global power grab on a scale the world has never seen. You heard earlier today the facts we now know to be true because of Mr. Snowden's revelations, including:

(1) NSA increasingly engages in massive cyber operations to hack into foreign computer networks of both friend and foe to steal information, sabotage infrastructure, and spy in citizens.

And

(2) The US has spent more than \$500 billion on intelligence since 9/11 and has now exceeded equivalent Cold War spending levels.

In a breathtaking act of civic courage, one man pried open the most powerful secret intelligence agency in the world to benefit the global populace. In a cascade of revelations started by Glenn Greenwald and Laura Poitras, each revelation more disturbing than the one before, journalists around the world have been publicizing the information Mr. Snowden risked his life to release. This Honourable body recognizes the significance of these revelations to an informed public.

I respectfully request that the Committee strengthen laws to protect whistleblowers, laws to protect privacy, and laws to protect the rights of publishers in the European Union to publish such revelations without fear of criminal penalty. I hope this investigation can be expanded even further as more revelations emerge.

As United States President Lincoln said 150 years ago, "worse than traitors in arms are the men who pretend loyalty to the flag, feast and fatten on the misfortunes of the Nation . . . [leaving] their countrymen mouldering in the dust." That is what the surveillance profiteers have done since 9/11. In an orgy of greed, they have created a Surveillance State the former East Germany would have envied. I hope my words today can do a small part in calling it out

and reigning it in. Having to choose liberty versus security is a false dichotomy. We could have had both before 9/11 if NSA had listened to earlier whistleblowers like Mr. Drake and Mr. Wiebe, and implemented their lawful, inexpensive, and privacy-protecting programs. NSA may be willing to trade democracy for despotism and surrender freedom to fear. I am not.

Mr. Snowden wishes he could attend these hearings, but for obvious and, frankly, deplorable reasons, he cannot. Instead, I will be reading his words to you, which is only possible due to two of the unsung heroes in his harrowing saga: Julian Assange and WikiLeaks journalist Sarah Harrison, who literally rescued him from Hong Kong, orchestrated his safe passage to Russia, helped him obtain asylum, and who—in the case of Sarah Harrison—have literally been by his side every step of the way at great personal risk to herself. They have been not just stops on this 21st-century-version of the Underground Railroad, which liberates information from the shackles of secrecy and transports it into the bright sunlight of freedom. They have been the guardian shepherds who have kept him safe on this difficult journey. It's a tragic irony that, in an effort to preserve your liberties and mine, they all have given up so many liberties of their own. Their treatment, and the example being made of them and all other whistleblowers, IS the ultimate chilling effect on speech.

Statement of Edward Snowden

I thank the European Parliament and the LIBE Committee for taking up the challenge of mass surveillance. The surveillance of whole populations, rather than individuals, threatens to be the greatest human rights challenge of our time. The success of economies in developed nations relies increasingly on their creative output, and if that success is to continue, we must remember that creativity is the product of curiosity, which is in turn the product of privacy.

A culture of secrecy has denied our societies the opportunity to determine the appropriate balance between the human right of privacy and the governmental interest in investigation. These are not decisions that should be made for a people, but only by the people after full, informed, and fearless debate. Yet public debate is not possible without public knowledge, and in my country, the cost for one in my position of returning public knowledge to public hands has been persecution and exile. If we are to enjoy such debates in the future, we cannot rely upon individual sacrifice. We must create better channels for people of conscience to inform not only trusted agents of government, but independent representatives of the public outside of government.

When I began my work, it was with the sole intention of making possible the debate we see occurring here in this body and in many others around the world. Today we see legislative bodies forming new committees, calling for investigations, and proposing new solutions for modern problems. We see emboldened courts that are no longer afraid to consider critical questions of national security. We see brave executives remembering that if a public is

prevented from knowing how they are being governed, the necessary result is that they are no longer self-governing. And we see the public reclaiming an equal seat at the table of government. The work of a generation is beginning here, with your hearings, and you have the full measure of my gratitude and support.