



# WTH is going on with Edward Snowden? Discussing the greatest theft of US secrets in history with author and Snowden confidant Barton Gellman

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Danielle Pletka: Hi, I'm Danielle Pletka.

Marc Thiessen: I'm Marc Thiessen.

Danielle Pletka: Welcome to our podcast, What the Hell Is Going On? Marc, what the hell is going on?

Marc Thiessen: Well, what the hell is going on is we've got the author of a fascinating new book with us. It's Bart Gellman. He's the author of "Dark Mirror: Edward Snowden and the American Surveillance State." We're talking about the Snowden revelations. Bart Gellman was the main journalistic contributor to this story, along with Glenn Greenwald and Laura Poitras, who are activists, but he was writing this for "The Washington Post." He worked with Edward Snowden and helped in the process to bring to light the largest and, I would say, most destructive leak of classified information in American history.

Danielle Pletka: Right. Of course, his argument and Snowden's argument is largest, but not destructive, because the American people have a right to know. I don't want us to give any spoilers because we're going to have a fascinating conversation with Bart, but just to get people back into this... By the way, such a pleasure not to be talking about COVID.

Marc Thiessen: Coronavirus. Though, you brought it up.

Danielle Pletka: I know. I did bring it up.

Marc Thiessen: You had to bring coronavirus into it, Dany.

Danielle Pletka: Yeah, because it's all we think about and talk about. But it is a pleasure not to be talking about it today.

Danielle Pletka: For people to remember, there was an enormous amount of outrage at the beginning, at these revelations that the National Security Agency was theoretically, supposedly, listening in on Americans. Of course, it's not listening in-

Marc Thiessen: Not true.

- Danielle Pletka: ... on Americans. It's just collecting data about who calls whom, how long those calls last, what goes on. But that metadata program became the object of enormous outrage during the Obama administration. A lot of these were portrayed as excesses of the Bush administration in the prosecution of terrorists, that, in fact, we were implicating Americans, that we had a police state. It was interesting because it brought together the libertarian right — those people who believe that government should do much, much less and should be less in our lives — and the paranoid left — the group that believes that the government is always out to get you, that the government just wants to know so it can follow you around and listen in on your calls with your mom. Because apparently that's what the government does. It brought together this group, and there was a lot of sympathy for Edward Snowden. You wrote a ton about this.
- Marc Thiessen: I did. Why did we have this program? This grew out of the post-9/11 period when we realized that we had not connected the dots to stop the 9/11 attack. The Bush administration started something called the Terrorist Surveillance Program, which was criticized as warrantless wiretapping. Later on, that was amended to require FISA warrants from the FISA Court to do this.
- Marc Thiessen: The person who defended this most vigorously was Barack Obama. Let me read you what Barack Obama said at a speech in the Justice Department justifying this program. First of all, he said, "The program does not involve the content of calls, the names, or people making the calls. Instead, it provides a record of phone numbers and the times and lengths of calls, metadata that can be queried, and when we have reasonable suspicion that a particular member is linked to a terrorist organization." This was the purpose of the... I could've written those words for George W. Bush.
- Marc Thiessen: But, he said, "Why is this necessary?" He said, "The program grew out of a desire to address a gap identified after 9/11. One of the 9/11 hijackers, Khalid al-Mihdhar, made a phone call from San Diego to a known al Qaeda safe house in Yemen. NSA saw that call, but it could not see that the call was coming from an individual already in the United States. The telephone metadata program under Section 215 was designed to map the communications of terrorists so we can see who they are and who they may be in contact with as quickly as possible."
- Marc Thiessen: This program was created after 9/11 because if we had been able to know that Mihdhar was in the United States and making that call from San Diego, we would've been alerted to the fact that the hijackers were already in the United States. I'm not saying that would've stopped 9/11, but the fact that we didn't have that information certainly hindered us from stopping the 9/11 attacks, and we wanted to get that information in the future to make sure we didn't miss critical intelligence about an attack on the homeland.
- Danielle Pletka: Right. What's interesting about Gellman's new book is that... Obviously, Gellman is a journalist. He agrees a lot, clearly, with Edward Snowden, but not completely. What's interesting-
- Marc Thiessen: Says he did more good than harm.
- Danielle Pletka: Says he did more good than harm.
- Marc Thiessen: Which I think is wrong.

- Danielle Pletka: What's interesting to me is this. You and I both spent time in the government, you in both the Executive and in the Congress, at DoD and at the White House and on the Hill, me just on the Hill, but we've all had experiences with whistleblowers, all of us. I think that's how Edward Snowden saw himself. He saw himself as somebody who was making a call for transparency to the American people who didn't know how it was that their government was peeking in their back doors.
- Danielle Pletka: My experience, and you don't have to sign off to this, Marc, but my experience with whistleblowers is that while they may provide some useful information, and they often do, invariably there's something else going on there. That risk is something that I think a lot of people who believe in the virtue of Edward Snowden simply do not understand. They want to take the good, "Thank goodness that he told us about this thing," and ignore the fact that he betrayed American allies, American supporters outside this country, people who were aiding our intelligence service, foreign journalists, foreign nationals, all of the people who make our intelligence system work and protect the American people. He wants to ignore that part.
- Marc Thiessen: I agree with you about whistleblowers in general, but here's why he's not a whistleblower. Take the case of the "whistleblower" in the Ukraine case with President Trump. What did he do? He went to the intelligence community inspector general and said, "I have filed a whistleblower complaint." Edward Snowden went to Bart Gellman and Glenn Greenwald. That's not a whistleblower. That's a leaker. That's a crime. Who appointed Edward Snowden to decide what could hurt national security and what can't?
- Danielle Pletka: Those were the two things. Obviously, on the facts of it, I was enormously troubled, but those are the two things that stick with me, is, A, that judgment call about a whistleblower, in other words, that this is obviously a person who has many other issues other than his desire to let people know that the NSA is collecting metadata.
- Danielle Pletka: The second part of it is this, that we are in a country of rule of law. Now, there are plenty of nutjobs out there who want to suggest that our country is no longer a democracy because Donald Trump is president, but let me underscore to all of you out there, Donald Trump wasn't president when this happened. This is a country of rule of law, and notwithstanding that fact, some people seem totally comfortable with this self-appointed guy and the three journalists he picked to reveal this information. I don't get that. That is the very definition of what rule of law is meant to uphold.
- Marc Thiessen: I couldn't agree with you more. The amount of information... Bart says that he didn't reveal most of the information he possessed. Our enemies have that information. The Russians have that information. The Chinese have that information.
- Marc Thiessen: These people released information that had nothing to do with American civil liberties at all: how we collect information on the Russian presidency, how we collect information on the Chinese government. It's intelligence porn. It has no redeeming purpose. It has no civic virtue to it whatsoever. It's just titillating information that sells newspapers and that harms national security in the process.
- Danielle Pletka: Okay. Well, I can't think of a better lead-up to an interview than all of those extremely fiery adjectives, including the word titillating, which I believe that's the first time we've introduced that particular one into the podcast. Bart Gellman was gracious enough to join us. He's been on and off with "The Washington Post" for many years.

He's contributed to Pulitzer Prize-winning stories. He's also an author. I had forgotten that he wrote "Angler –"

Marc Thiessen: That's right; that's right.

Danielle Pletka: ...about Vice President Dick Cheney. Now he is the author of the book we're going to discuss today, which is "Dark Mirror," the story of secrets, surveillance, and Edward Snowden.

Marc Thiessen: He knows that I'm a critic of Edward Snowden and of his reporting, and so he's a really good guy to come on the podcast and talk to us.

Danielle Pletka: I feel like every guest is a good guy to come on the podcast and deal with you, Marc. Everybody knows my pain. On to our interview.

Marc Thiessen: All right. Well, Bart, welcome to the podcast.

Bart Gellman: Thanks for having me.

Marc Thiessen: You have this new book out about your collaboration with Edward Snowden. Tell us why you wrote the book.

Bart Gellman: Could I just rephrase that slightly?

Marc Thiessen: Sure.

Bart Gellman: Ed Snowden was a source of mine, and I was the reporter. Collaboration is close enough to the word accomplice that it raises my hackles, because I was called an accomplice, which has legal meaning, by top US government officials. I was also called an agent. My relationship was arm's length, as a journalist.

Bart Gellman: What made me write the book was that it was an enormous global story that lasted over a year and still reverberates, and I felt as though there were parts of it I was never able to tell. I was frustrated that the newspaper format made it hard to understand these enormously complex stories, and I wanted something that had some narrative and storytelling in it that could bring the whole thing into context.

Danielle Pletka: Bart, obviously you want people to buy your book, called "Dark Mirror," out already; but perhaps for those who are listening who haven't had the opportunity yet, you can talk us through, first of all, a little bit about what you focus on in the book, but also maybe give us some backstory on the relationship and how it built and the whole story.

Bart Gellman: It's a fraught relationship with Snowden that had ebbs and flows, periods in which he was not talking to me at all, periods in which we were spending dozens of hours in back-and-forth, either on the keyboard through these anonymous encrypted channels or in two long visits I made to Moscow where we sat face-to-face. That's one of the storylines in the book, is the relationship with Snowden and how the story came to be.

Bart Gellman: Another storyline is who he is. Who is Ed Snowden? How did he pull off what he

pulled off? How did he manage to completely upend his relationship with the NSA, which is in the business of information dominance, which is to say, protecting its secrets and stealing other people's? How did he reverse that on the world's most capable surveillance agency?

- Bart Gellman: There's a third storyline that has to do with investigative reporting in general, and especially national security investigative reporting. I wanted to show step by step, moment by moment how it was done, because it's a real-life spy thriller. The relationship and the cloak and dagger parts of it and how all this was done; this is most of all a narrative.
- Danielle Pletka: But this isn't your first work with Snowden. You met him back in, I guess, just before 2013. How did you first meet? Obviously, love him, hate him, think he's a hero, think he's a traitor, everybody knows who he is. How did you end up meeting him?
- Bart Gellman: Well, he turned up in my inbox in an encrypted message signed only by the anonymous handle Verax, which I had to look up since I never took Latin, and it turns out to mean truth-teller. That was the name he assumed for himself. He said that he was a member of the intelligence community who could not identify himself as yet. He had a very important story for me which he could not identify as yet, but it was going to be a big deal and it had to do with the overreach in civil liberties in the intelligence community.
- Bart Gellman: My first reaction, to be honest, was "Oh, here we go again," because as a national security reporter, I get a lot of spooky tips in my inbox from people who range from mentally disturbed to just cranks or sincerely misled people or people who think they have gigantic stories but don't. The odds of a tip coming in from out of the blue, from out of nowhere, and dropping a stupendous story on your lap, that's just not the way it works usually.
- Danielle Pletka: Just step back a second and tell us exactly what it is, in broad-brush terms, that Snowden did and Snowden found.
- Bart Gellman: When you say did, do you mean literally that he took the documents and gave them to journalists?
- Danielle Pletka: Well, he worked-
- Marc Thiessen: What he found.
- Bart Gellman: Edward Snowden was a contractor and employee of the CIA and then a contractor for the NSA. He was a system administrator for most of the time. He worked his way up from Tier 1 to Tier 3, so he was the top level of system administrator responsible for managing the flow of classified documents, among other things, in the Kunia NSA station in Hawaii, which looks basically toward the Pacific. For another part of his career there, he was working for an organization that tried to detect and stop the incursion of foreign intelligence agencies into US secrets, mainly operating against China.
- Bart Gellman: During this period, he extracted some large quantity of documents over a period of months and saved them onto removable media, smuggled them out of his workplace at the NSA, and reached out to three journalists, myself, Laura Poitras,

and Glenn Greenwald. After a long period of time, during which he, in my case, vetted me to decide whether he could trust me with this material, and I vetted him to decide whether he knew what he was talking about, he handed over large caches of these documents to us, with the request that we take a look at them, decide what's newsworthy, and, if we think it's newsworthy, to publish.

- Marc Thiessen: Tell us the main breakthrough story you had, which was about the NSA metadata program. Tell us what that revealed and what you found out.
- Bart Gellman: There were several large disclosures - big picture. One was that the NSA was collecting records of every telephone call made by every American, whether local, national, or international call. If you dialed your best friend, if you dialed your workplace, if you dialed a friend overseas or a colleague overseas or a conspirator overseas, there was a record of each of these calls, who called whom, when, how long they spoke.
- Danielle Pletka: But not the actual dialogue, right? Just the fact of the call.
- Bart Gellman: Not the words. Right. Not the words of the call.
- Bart Gellman: That's called metadata. When there's a large-enough quantity of information and it's subjected to big data's analytic techniques, it is remarkably revealing. There's a professor of computer science that I quote in the book who says, "Just imagine a situation in which a woman gets a call from her doctor, then she calls her mother, then she calls a man who she has been talking to frequently late at night, and then she calls a reproductive services clinic. You get a very clear picture of what just happened, just from the metadata."
- Marc Thiessen: So did you uncover any evidence that the NSA did that to Americans that were not connected to a terrorist in any way?
- Bart Gellman: The answer is no. There is no evidence that the NSA abused this power. The question is whether Americans knew that they were subjected to this kind of scrutiny. They not only collected this, but they did a kind of analysis called contact chaining, which means that they prepared an instant social network on every telephone number. I think the latent power of that, the assumption of that kind of power over information, is something that is worth a public debate. As a citizen, I'm creeped out by it, and I don't want the government to do that with me.
- Danielle Pletka: Bart, I completely hear what you're saying, and I think, obviously, there are many Americans who share that sentiment. Let me just try and bring what you just said into 2020. Are you equally creeped out by the data that we've been reading in "The New York Times" derived from cell phone information about how many people are leaving their homes to go out in the 10th week of lockdown, and equally creeped out about the tracking system that's being used for the coronavirus, which basically can track the same thing? You go to the drugstore; you make a call to your mom. Are you equally creeped out by that? I'm curious.
- Bart Gellman: The answer is conditional. There are subtle questions about this that make a huge difference. The location tracking data that's being used is being released only in the aggregate. It's not only anonymous, but there's no individual tracking point that is being released. The companies that are releasing this data are simply saying the

number of people in each place at each time-

- Danielle Pletka: You trust Apple and Verizon and AT&T and all those guys that they're not actually keeping the backstory on this. They're giving us what they've got.
- Bart Gellman: No, I don't. That's not the case. The phone companies know at an individual level where everyone was at every time — that is also disturbing to me. People sometimes say to me, "Why are you talking about the NSA when Facebook knows so much about you?" The answer is you could be worried about both and consider them both to be important public policy questions. I just happen to write about one of them in this book.
- Marc Thiessen: You said this is like a spy thriller. Tell us, what is the most spy thriller-esque story that you tell in the book?
- Danielle Pletka: Bart Gellman is James Bond.
- Bart Gellman: Well, I am not James Bond. I'm sort of the hapless porter in this. I don't know, if James Bond had a bumbling assistant, that would be me.
- Bart Gellman: I'm conflicted and overwhelmed a lot of the time by this thing. No one has ever had... In "The Washington Post" newsroom, I'm pretty sure it's true that no one has ever had a Top Secret code word classified document in their hands that was a contemporary document in near real time. We find out classified information all the time because so much is classified that it's hard to write about defense or foreign policy or intelligence gathering without straying into classified information, but having the document itself is a different story, and suddenly I was loaded down.
- Bart Gellman: I tell the story of the moment when I realized I've got 50,000 documents classified at that level and I don't know what to do with them. I don't know how to protect them. I don't know how to get the right kind of advice in the right order. I was a freelance reporter at that time. I was based at the Century Foundation in New York. I was not associated with a news organization, or I was not an employee in any case. So I'm sitting there figuring out whether it's safe to back it up and how I would hide it, how I keep it from being stolen.
- Bart Gellman: The most tense moment came when Snowden asked that I publish not only a document but a cryptographic signature that went along with that document. A cryptographic signature is a tiny little file that uses math to prove that the document has been signed by someone specific and that it has not been altered since it was signed. He wanted me to post that online along with the document itself. I asked him why, and he was dodgy about it for a while. Eventually, he told me. He wanted that signature because he could use it when he went to various foreign embassies in Hong Kong and asked for asylum. He wanted to be able to prove that he was my source for the story as a way of saying, "I'm the one who did this. I'm going to be subject to political prosecution. I want asylum." He was asking me to play a role in his own escape from American justice.
- Bart Gellman: I had already agreed that I was going to keep his identity anonymous as long as he wanted, that's typical for a reporter, in order to bring information to the public. He was asking me to disclose his identity, prove his identity to a private audience of a foreign diplomat and probably a foreign intelligence service, in order to make his



escape from American law. That was something that, frankly, kind of freaked me out and I had to say no.

Danielle Pletka: So you didn't do it.

Bart Gellman: I didn't do it.

Danielle Pletka: Interesting. What was it that stopped you? Was it the classified nature of the key? Was it the fact that he was trying to make you complicit in his, I guess the right word isn't defection, but certainly escape from almost certain prosecution in the United States? What part of it was where you said, "Uh-uh, this is where I step over the line from journalism into advocacy and, to use the phrase that Marc used at the outset, collaborating"?

Bart Gellman: It's more the latter. He was asking me to be an instrument of his action plan, the same way that I could not have assisted him in making off with the documents. If he had said, "Can you help me crack this code? Can you ship me some hardware I need? Can you hide this encrypted disk for me?" I could not have been a co-conspirator in his action as he stole the documents. The way the law works, I can receive the documents and it's not considered, for example, unlawful receipt of stolen goods. That's well-established law. A source can tell a journalist something, and the journalist can use it as long as the journalist doesn't participate in the hacking, for example.

Marc Thiessen: That's not actually true. The publication of signals intelligence is a crime.

Bart Gellman: Publication of signals intelligence-

Marc Thiessen: Publication appears in the law. Anyone who receives or shares information or publishes classified signals intelligence, it's a crime.

Bart Gellman: I was talking about a different stage of the process, but we could go to that. We could go to publication. It is, arguably, a crime, and most clearly in 18 U.S.C. 798.

Marc Thiessen: Yep.

Danielle Pletka: Okay, I'm sorry, let me, on behalf of our audience, stop everybody and say, 18 U.S.C. 798 says?

Bart Gellman: Well, that's part of the Espionage Act. It's a more modern amendment to the Espionage Act, long after the 1917 act itself. It is the only part of the act which explicitly mentions publication. That has never been tested. It has not even been charged-

Danielle Pletka: And you were not prosecuted, were you, Bart?

Bart Gellman: I was not, but it was not out of the question. It was a subject that I had discussed at some length with the lawyers for "The Washington Post."

Marc Thiessen: Well, never has there been such a disclosure of classified information in history either. Your disclosure certainly tested that law, or pushed the government to test



that law possibly.

- Bart Gellman: Correct. A different aspect of the law, but a similar one, is being tested in the Julian Assange case because he's charged with a number of different things, but three counts of his indictment are solely on the ground of publication. I happen to think that's very dangerous. Because his is not about signals intelligence; it's just about national defense information, or in the words of the statute, "information relating to the national defense." As I say, that is something that's done every day in every newspaper that covers national and international affairs.
- Marc Thiessen: You're saying that what Julian Assange did is the same thing that "The Washington Post" does? I don't think that's even close to true.
- Bart Gellman: In the three counts of the indictment that I'm talking about, the sole crime that's charged is that he published for all the world to see, it uses the word "published," for all the world to see, information relating to the national defense. That's the whole crime. If he's convicted on those counts, that would be something that's never happened before.
- Marc Thiessen: I want to get back to Snowden, but what Julian Assange did was release thousands of unredacted diplomatic cables and intelligence documents that included the names of persons throughout the world who provide, this is the quote from the indictment, "included the names of persons throughout the world who provided information to the US government in circumstances which could reasonably be expected their identities would be kept confidential. These sources included journalists, religious leaders, human rights advocates, political dissidents who were living in repressive regimes and reported to the United States abuses of their own government and their political conditions within those countries at great risk to their own safety." The indictment cites specific examples of sources burned in China, Iran, Iraq, Syria. We know that he released the names of 100 sources in Afghanistan that the Taliban then went after. That's not what you do, is it?
- Bart Gellman: That's not. You're talking about other parts of the indictment. I'm talking about the narrow precedent that would be set by the three out of 17 or 18 counts in the indictment. I see you've come prepared-
- Marc Thiessen: Yeah. I've been writing about this for a long time, like you.
- Bart Gellman: I do not endorse the totality of what Julian Assange did, not by a long shot, and Snowden does not, by the way. If Snowden wanted to release the whole cache of documents, he could've given it to Wikileaks. Assange was angry at him that he didn't. Or he could've published it on the internet himself. He knows how to work his computer. He wanted reporters to filter and decide what was newsworthy and what would not be unduly damaging to the national security on balance against the news value of the story, so he wanted us to do it. As I said, there were 50,000. I didn't write 50,000 stories, or 500 stories. The great majority of what he gave me has never been published. Most of-
- Marc Thiessen: But you know who has it? China, Russia. He took classified laptops. Do you honestly think that Russia and China do not have every single thing that Edward Snowden carried on those laptops?

- Bart Gellman: That's actually not what was on the laptops. He had four laptops so that he could use them for different things as part of his communication security regime. The documents themselves were on a removable drive, and they were encrypted. Before he went to Russia, he destroyed the encryption key. Once he gave the documents to the journalists, he no longer had possession of them-
- Marc Thiessen: So you don't think Russia and China have them.
- Bart Gellman: ... in any meaningful sense. I don't think they got them from him. I wouldn't be surprised if they got them from somebody else that he gave them to.
- Danielle Pletka: That's interesting.
- Bart Gellman: I can't rule out that they got them from me. I kept my copy of the documents in a 400-pound safe on a machine that had its networking hardware stripped out, so that it couldn't touch the internet, encrypted, with the encryption key on a separate device which was not kept in the same vault or the same room. The room was locked and had video cameras. Nevertheless, I was an amateur playing against professionals. I think when a state-sponsored attacker is willing to spend significant resources going after an individual, it's very hard to be sure that you can protect against that.
- Marc Thiessen: Just so I'm clear, you think that if the Russians or Chinese got it, they probably didn't get it from Snowden, but they might've gotten it from you?
- Danielle Pletka: I hope not.
- Marc Thiessen: Your possession of those documents was more dangerous than Snowden's.
- Bart Gellman: I did every single thing that I could to prevent that. I don't know whether they got them-
- Danielle Pletka: No, it's hard to know, but you do have to assume.
- Marc Thiessen: Let's talk a little bit about the objections to the response to your concern and your criticism. You've acknowledged that no one is listening in on phone calls or reading emails. This was metadata, which is phone numbers, not content, right?
- Bart Gellman: No, not right. That's true of the one program I talked about.
- Marc Thiessen: That's this program we're talking about right now, the metadata program.
- Bart Gellman: Okay, right. Yeah, so there's no content in that.
- Marc Thiessen: There's no content in that. After 9/11, the criticism of the intelligence community was that they failed to connect the dots and stop the attack. One of the reasons they failed to connect the dots is because, for example, they intercepted phone calls between Khalid al-Mihdhar, who was in San Diego and talking to a known al Qaeda safe house in Yemen, and they didn't see that the call was coming from San Diego, so they didn't realize he was already in the United States.

- Marc Thiessen: The reason we couldn't connect the dots is because we didn't have a field of dots. What the metadata program was doing was creating the field of dots that we would connect, and your dot wouldn't be touched unless you were connected to a terrorist. What's wrong with that?
- Bart Gellman: Two things that I'd say. I don't want to get sidetracked into a debate over 9/11, but my understanding of the 9/11 Commission's finding was that the US government had, in fact, all the information that it needed in order to detect and stop the plot. That it was walls inside the US government, and in particular, failures of communication within and among different offices at the FBI and CIA, that prevented the pieces from being assembled, that the dots were advanced to the US government, not the specific dots you're talking about, but enough-
- Marc Thiessen: Well, that's an important dot.
- Bart Gellman: ... to plot. Yes, of course.
- Danielle Pletka: You're suggesting that was not an information problem but a competence and transparency problem.
- Bart Gellman: It was a flow of information problem, not the lack of having sufficient evidence in hand. So it would be worth debating whether the government should be permitted to collect all this information about us, even if it were valuable information. It happens that, in this case, this program, according to the NSA itself, it turned out not to be valuable. In the early days, this telephone call records collection was described as vital and having stopped many plots, but on further reflection, on further digging, a presidentially appointed commission found that that was not the case, that it had not provided unique information, except on a very small matter on one or two cases.
- Bart Gellman: The NSA itself decided that the program was not worth continuing and does not call for its continuance right now. The authority for it, by the way, has lapsed. It lapsed in February. Congress, along with the President, are still arguing about whether to renew it, but the NSA itself is not interested in renewing it and voluntarily stopped-
- Marc Thiessen: After being beaten over the head and shoulders about it and having it constrained, having the metadata taken out of their hands and sent to the telephone companies, having it so restricted that it was basically unusable.
- Danielle Pletka: Okay, Bart. You said that your thinking about the metadata program is, while it's an enormous amount of power and a potential source of abuse for the US government and is something very much worth debating, but that you have no information it was actually used in a malign fashion. What about other revelations? Do you have a feeling that those other revelations made by Snowden were evidence of malign activity on the part of the US government?
- Bart Gellman: No. I'm pretty clear in the book that I believe the US government was doing its best to protect the country. Now, it's not all about terrorism. It's not even a majority of the intelligence that's collected. In fact, you would be surprised and distressed, I think, if you found out that the government was putting all its intelligence resources into terrorism. It's just the one they like to talk about the most. We need to know about the flow of weapons and secret alliances and foreign government intentions and

negotiating positions. Intelligence has a list of more than 1,000 high-priority topics that it's supposed to be gathering on, and they're ordered in order of preference in an endlessly intricate bureaucratic process that synchronizes the federal government's desires for information over the course of the year.

- Bart Gellman: I believe that the NSA was doing the job that it was given, that it was trying to follow the law, and that sometimes the scandal is what's legal. Sometimes you find a situation in which you've traveled such a distance, and traveled it in secret, that it's time for a public debate. If you reveal these programs and the public is shocked and horrified, not the whole public but enough of them, and demand change, and if you reveal programs that surprise Google and Facebook and Microsoft so much that they then spend tens of millions of dollars to thwart operations of their own government, which they did, then you've found a subject that's worthy of debate.
- Bart Gellman: Let me talk about one other set of programs, because these are about content, not just about metadata. The NSA obtained content in large quantities two ways. One was through secret classified channel it went to big companies like Google and said, "Give me all you've got on Dany and Marc." They did that, and I'm sure you guys are troublemakers enough-
- Danielle Pletka: Mostly Marc.
- Bart Gellman: I'm being facetious, because those targets were foreign targets, unless they had an individual warrant.
- Marc Thiessen: Yeah, we're American citizens, so they actually didn't do what you just said because we're American citizens.
- Danielle Pletka: Right. The Dany and Marc of Europe, let's say.
- Marc Thiessen: Okay. But that's completely lawful and legitimate, foreign targets.
- Bart Gellman: As I was saying, those targets were foreign. What I found was two things. They were doing this in very large numbers without individual warrants. They had convinced the Foreign Intelligence Surveillance Court that it would be okay to just approve a set of rules in which the NSA would say that it had good reason for asking for names and then the NSA could feed hundreds of thousands of names or email addresses to these companies and say, "Give me what you've got on them."
- Bart Gellman: When you get that information, you're getting, usually, gigabytes. You're getting photos and videos and business documents and five years of email and so on. Now, here's the crucial part of it. I was able to examine 160,000 actual communications that were obtained through this method, and we did a computer system analysis of it and found that, for every target in that big pile of information that was gathered, there were 10 times as many bystanders who had nothing to do with the foreign intelligence that they were trying to obtain, many of whom were American and who were incompletely minimized. That is to say, their identities were discernible from the file.
- Marc Thiessen: Sort of like Michael Flynn?
- Marc Thiessen: We've got a whole other podcast coming up on that one. You're not going to be

part of that.

- Danielle Pletka: Bart, can I just interject and ask you a question? You just said, "We used computer-assisted analysis." Who's the we here?
- Bart Gellman: That's me and my colleagues at "The Washington Post." I got "The Post" to hire a guy named Ashkan Soltani, who's an expert in security and privacy and a computer scientist. We subjected, when we were dealing with a very large quantity of documents or of information, there were probably tens of thousands of pages in this particular set of files, we went through to enable a computer-assisted count of targets and non-targets.
- Bart Gellman: So you've got this great big pile; they call it incidental collection. It's when you weren't aiming for it, but you got it anyway. But incidental doesn't mean accidental and it doesn't mean inadvertent, it doesn't mean undesired or-
- Danielle Pletka: What did they do with it?
- Bart Gellman: That's the thing. They kept it and they repurposed it. For this giant bucket of content that I'm describing, they were not allowed, literally, to say, when they first collected it, "Let's collect on Marc and Dany," because you are American citizens and you're not fair game, but you could've been swept up into this bucket. Many, many Americans were. The FBI later, for unrelated reasons, was allowed to trawl through there and then it could say, "What do you have on Marc? What do you have on Dany?" because they'd already collected it.
- Marc Thiessen: Without a warrant?
- Danielle Pletka: Could they do that without a warrant?
- Bart Gellman: Yes, without a warrant, without even a full field investigation. They could do it at the stage before they reached preliminary investigation to decide whether to take the next step against you, so they could see what was in there.
- Danielle Pletka: Was it used against Americans in prosecutions or in investigations?
- Bart Gellman: Well, that's a great question.
- Danielle Pletka: Thank you.
- Bart Gellman: It almost certainly was used to build cases, but only in a very, very few cases have they disclosed to Americans who are defendants in court that information about them was obtained through this particular set of authorities. What they usually do is known as parallel construction. They find out something through the intelligence gathering method and then they say, "We don't really want to talk about this in court. Let's now find another way of proving the same thing. Now that we know it's there, let's go look for other signs of it," and then they'll present those in court.
- Danielle Pletka: This country was founded by people who wanted to get away from an invasive, domineering, demanding monarch who had too much power over them. On the one hand, your story, and I would say even Snowden's story, resonates in that way.

You never want government to have too much power, and that's been one of the things you've really been emphasizing, is not that you necessarily think these things in and of themselves are so terrible, but the American people need to know about them and deserve to debate them.

Danielle Pletka: Here's my question for you, though, and I want to be honest and say I don't agree with you. You were very honest in your book, and you said, I'm quoting here, "I think Snowden did substantially more good than harm." He also gave material to two other journalists that you mentioned, Glenn Greenwald and Laura Poitras. These are people I consider on the absolute fringes of American politics.

Marc Thiessen: I wouldn't even consider them journalists.

Danielle Pletka: I don't consider them journalists. These are extremists at that intersection of far left and far right that deserves to be expelled from the public sphere. Do you worry about that at all? Do you worry about this association with people who are fanatics and extremists?

Bart Gellman: Let's unpack that. First of all, not journalists? Come on. We have a very long tradition dating back to our very first days as a republic of journalism as advocacy. It wasn't always pretty, and it wasn't always nuanced or restrained. It could be pretty wild. That is part of our journalistic tradition in the commentary.

Danielle Pletka: Is Assange a journalist?

Bart Gellman: No. I don't think he is a journalist, and I don't care because... You're really fixed on Assange. For many of the things that he did, I don't agree with him, I wouldn't have done them, and I don't consider them to have been journalism. For some of the charges, and this is the part that really concerns me, he is charged with actions that are identical to what a journalist does. If they are made felonies, then there's big trouble for "The Wall Street Journal" and "The New York Times" and any publication you care to name that covers national security.

Danielle Pletka: Come back to the extremism question and community that this is-

Bart Gellman: My politics are not Glenn's. Laura is not as open about what her politics are. But they were competitors. I worked with Laura at the beginning. She introduced me to Snowden because she wanted help in understanding whether these disclosures were real, but she quickly went her separate way. She became a competitor. Glenn was a competitor from the start.

Bart Gellman: They had their own way of doing things. I didn't agree with everything they published. I wouldn't have published some of those things. I wouldn't have written them the way they wrote them. But they also made some, I think, very important disclosures. The telephone call records metadata story that we've been talking about until now, and which even Jim Clapper and Keith Alexander and President Obama all acknowledged was an important thing to be debated in public and should've been debated in public, that was a Glenn Greenwald story. He wrote it straight for "The Guardian" like a regular news story and did a lot of good work, along with a lot of stuff that I thought was over-the-top.

Marc Thiessen: You justify these disclosures because you say they were an important debate we



should have and have implications for civil liberties, right?

Bart Gellman: Right.

Marc Thiessen: Okay, so let's talk about a few Snowden disclosures that came out of this that probably don't fit that characteristic. He disclosed, for example, that the NSA developed the capability to access computers not connected to the internet, creating a covert channel of radio waves that can be transmitted from tiny circuit boards and USB cards inserted surreptitiously into computers, and a briefcase-size relay station that intelligence agencies can set up miles away from the target. That capability was exposed, never has been used against American citizens-

Bart Gellman: Where-

Marc Thiessen: That was in "The New York Times." I'm talking about Edward Snowden right now. Also, he exposed the fact that the NSA had infiltrated the computer network of Tsinghua University in Beijing, which houses China's six major backbone networks. That activity had no implications for civil liberties. He exposed that the NSA had intercepted communications between then Russian President Dmitry Medvedev and had changed the way the Russian leadership signals are normally transmitted, exposing how we were spying on the Russian presidency. He exposed the fact that the NSA had been using data from internet hubs in South and West Germany to monitor internet traffic in Syria and Mali to hotbeds of al Qaeda activity, which tipped off our enemies how the US was monitoring them. He exposed the NSA's Office of Tailored Access Operations, which finds ways to break into computers of United States adversaries and intercepts delivery of electronics and bugs in them.

Marc Thiessen: All those were focused on valid foreign intelligence targets. Mike Hayden calls that "intelligence porn." There is absolutely no value to the American people of knowing that those things are happening, and yet Edward Snowden exposed all that. Do you have any concern about the fact that you were cooperating with somebody who did so much damage to American national security?

Bart Gellman: I was using Ed Snowden as a source, and I was publishing what I thought ought to be published. I didn't publish those stories. Some of them, we'd have to go offline and delve into the detail in more time than we have here, I'm not sure were actually Snowden disclosures. There were at least two other sources for some of these stories that broke in Europe that were not Snowden, and that complicates the conversation.

Bart Gellman: Let me answer the big-picture question. Hayden and many others have argued that while Snowden's disclosure of the PRISM program, which we talked about earlier, which has to do with getting information about content from Google and other large companies, and the metadata program, they said maybe you could call them civil liberties stories of concern to Americans. But the stuff that happens overseas with foreign targets is just the intelligence porn. Here's why I disagree. In the course of collecting information overseas, it often taps into the high-volume circuits at the crossroads of the internet and pulls in everything you've got from there. The law of foreign intelligence overseas is almost exclusively set by an executive order, the 12333, which is the foundational document for intelligence powers. They are allowed to presume that anything they collect from an overseas collection point is a foreigner, and that used to be more or less true. It's not true in the age of the internet which respects no geographic boundaries.



- Bart Gellman: For example, here's a story I wrote that I absolutely would justify. The NSA went to overseas collection points, and in pursuit of legitimate foreign targets, I assume, I have no reason to doubt, broke into the private fiber-optic cables that linked Google data centers overseas. Here's the problem with that. If Marc sends an email to Dany from across the room, there's a high likelihood, almost a certainty, that that email is going to end up, if you're using Gmail, in a Google data center in Singapore or Bogota. Because that's the way that the distributed processing of this gigantic global machinery works. There's backups, and internet communications don't take the most direct path. When the NSA breaks into the main trunk lines of these large internet companies overseas, it is collecting on probably over 100 million Americans. It may not be aiming for them, but it knows it's getting them, and it's allowed to get them. That's something that we didn't know.
- Bart Gellman: That so-called incidental collection becomes such a gigantic loophole that it blows a hole in many of the civil liberties protections that we take for granted under the Fourth Amendment and under the applicable rules and regulations that give that force. I think the issue of incidental collection and the way they collect overseas, which is entirely unrestrained by the Foreign Intelligence Surveillance Court or by statute, is very much worthy of debate.
- Bart Gellman: The big problem here is that, after 9/11, the NSA shifted the boundaries very substantially, sometimes with and sometimes without the help of the FISA Court and Congress, but they shifted the boundaries of what intelligence is allowed to collect and they shifted the boundaries between our government and our people, and they did so in secret. The people can't vote on every intelligence operation. Many intelligence operations have to remain secret. I get all that. But the fundamental borderlines of what the agency is allowed to do ought to be subject to public debate, and it wasn't.
- Marc Thiessen: Last question from me. You've described in your book a lot of the extent to which you've gone to protect your sources and protect the intelligence that you possessed. As a journalist, you've talked to, I'm sure, hundreds of confidential sources, including people in foreign countries, people who were being oppressed by their governments, who were dissidents, people who were in the intelligence community. Would you have a problem with it if the government came in, hacked into your system, and exposed all those people to people who wanted to arrest them or do something about them? Why is it okay for you to do this to the federal government, which is basically stealing the American people's intelligence information, but it wouldn't be okay for the federal government to do that to you? Why would you be upset about that?
- Bart Gellman: Some of the things you're describing, I did not do, exposing agents and that sort of thing. In fact, for every story I published, I went to the US government and I said, "This is the story we're planning on publishing. I have questions about it. I'd like context for it, and I'd like to make sure I understand it." They got to say, "We don't want you to publish this or that part of the story" or "We hope you won't write the whole story at all." There are many cases in which their requests were well-considered and well-reasoned, and we did not publish. There were some cases in which we were not persuaded, and we did publish. I can give you an example of that if you like. But I was not indifferent to the national security implications. That's number one.
- Bart Gellman: Number two, in our form of government, the government is subject to the oversight

of the people. It's not the other way around. They work for us. We don't work for them. For the same reason that you don't have a privacy interest... If you're in government, you don't have a privacy interest that's personal to you in the policies that you make and the things that you say in secret. There is a public interest in, for example, free and uninhibited debate, and so sometimes you have privileges, for example, in Freedom of Information laws. But in general, we have privacy against the government; the government doesn't have privacy against us.

Danielle Pletka: Here's my wrap on this. I think this is all very thought-provoking. Reasonable people can disagree about a lot of the issues that you raise. No matter what, this is an extraordinarily interesting and challenging topic. For me, one of the nails in the coffin of a person like Snowden is that he, for all intents and purposes, defected to Russia-

Bart Gellman: I'll let you finish your question, but-

Danielle Pletka: Yeah. No, and that is actually my last question, because it just changes the prism through which one has to look at these revelations.

Marc Thiessen: After first defecting to China and then trying to defect to Cuba, right?

Danielle Pletka: Yes.

Marc Thiessen: Russia was not supposed to be the end point. He was supposed to be in Havana.

Danielle Pletka: Somewhere warmer, but anyway.

Bart Gellman: Defection is actually just simply not the accurate word.

Bart Gellman: There's no evidence that he transferred his allegiance to a foreign state that was hostile to the United States. He's stated publicly, for whatever it's worth, his stated reasons were he wanted to empower the American people to improve the American government, that his motives were public minded here. Now, you don't have to take them at face value. I didn't take them at face value. But just as a small factual correction, his through ticket was to Ecuador. His intent was to fly, to change planes in Moscow, change planes in Havana, and wind up in Ecuador. I've seen the ticket.

Marc Thiessen: Got it. Another friendly government.

Bart Gellman: Of course, he was not going to go to a friendly government. He was not going to go to a place that was going to extradite him, so he was looking for the least worst choice as far as he was concerned in terms of protection against extradition. He did not intend to be in Russia. He's in Russia because his passport was revoked while he was on this circuitous flying route.

Bart Gellman: There are lots of people who surmise and say, "Well, oh, of course, anybody who's in Russia is under Putin's thumb, and therefore must be cooperating with Russia." A, he didn't bring the documents. I know that. B, he doesn't need money from the Russian government. He is well-compensated as the employee of an American NGO, and he makes lots of money on the lecture circuit and his book. He got huge contributions from Silicon Valley from people who didn't like the things that he was exposing, so he's not dependent on the state. If Russia wanted to put a squeeze on him, I'm sure it could do all kinds of nasty things, but he has had continuous access

to the internet the entire time he's been there and the entire time he was stuck in the airport in the transit lounge in that interim period. It's not a normal thing to do, if you're trying to recruit someone and put the squeeze on them, to let them keep their computer and be communicating freely with the outside world every day.

Bart Gellman: Let me give you one other piece of circumstantial evidence, just as a thing to put into the mix. I went to visit Snowden in Moscow twice. Now, I had no intention of carrying classified information with me on that trip. I didn't carry anything. I did what you described earlier, Marc. I brought an empty computer and an empty phone and so on. But in the early preparation for that story as we were talking about my visit, Snowden said to me, "Listen, whatever you do, do not bring any of the documents with you. You have to assume that they'll be able to take anything that you bring."

Bart Gellman: If he was working for the Russian government, if he had their interests at heart, surely he would've said, "Listen, you should bring the stuff. I'm going to show you some secrets you never imagined that are in there that you probably haven't found, and I've got more to talk about with you." He would never have said, "Don't bring anything you don't want the Russian government to get." That just wouldn't make sense. There's a lot more than that that I don't have time to get into, but there's lots of circumstantial evidence that persuades me that his profile doesn't fit a plausible interpretation of being a spy.

Marc Thiessen: Well, Bart, you've been very generous with your time. Also, I know you know that I've been a very big critic of Snowden's and of the publication of these things, so I really appreciate personally that you were game to come on the podcast and have a friendly, if tough, debate on some of these issues.

Bart Gellman: Well, thank you for having me. I really believe people ought to talk to each other and not just-

Marc Thiessen: I agree with you 100%. I think it's great that you came on and that we had this discussion, and I think our listeners learned a lot.

Danielle Pletka: I certainly did.

Bart Gellman: Well, it's been my pleasure. Thanks for having me.

Marc Thiessen: Thank you.

Danielle Pletka: Thanks a ton, Bart.

Danielle Pletka: I've got to say, okay, maybe he did want to go to Ecuador via Hong Kong, Moscow, and Havana. Okay, Bart's seen the ticket. I believe it. Okay, but there's a theme here. The other people who Snowden leaked to are people, in particular, Glenn Greenwald, who find themselves often in sympathy with the perspective of the Putin government, who find themselves often arguing for Russia's side on a whole variety of issues. The big tell for me that this is about their sympathy with Russia is the fact that they defended Donald Trump when people accused him of being a Russian agent.

Marc Thiessen: Which he wasn't.

- Danielle Pletka: Duh.
- Marc Thiessen: But you make that out like even a blind squirrel finds an acorn once in a while.
- Danielle Pletka: For me, that was the giveaway. Snowden is a complex debate for a lot of people because of the libertarian strains, because there was this feeling that the US government had amassed too much power. But on the Russia side, the fact that people who otherwise find themselves on the far left, and I don't include Bart in this, by the way, that find themselves on the far left were out there defending Donald Trump against accusations that he was doing something illicit with Putin, and that Putin is not such a bad guy anyway, is the giveaway to me that, in fact, he may have bought tickets on the way to Havana, and he may have wanted to go via Hong Kong, but in fact, he is perfectly comfortable working for and aiding the Russians.
- Marc Thiessen: Well, I'm keeping Donald Trump out of this because I think that the-
- Danielle Pletka: Because you love him.
- Marc Thiessen: No, because I think the Russia collusion conspiracy theory that our country went through and actually took seriously, I think that no president has been treated more unfairly in terms of being investigated for something he never did-
- Danielle Pletka: Well, Glenn Greenwald agrees with you.
- Marc Thiessen: Like I said, even the blind hog finds an acorn once in a while. Look, the reality is that there's a reason Edward Snowden is in Russia, and it's not because he is a proud American patriot, I'm sorry. Bart makes the point that, well, if you're leaking on the American government, you have to go to countries that are not friendly. Well, sorry, no, you don't. If you're so brave, why don't you leak that information and then stand up and go in court and defend yourself? Why don't you go to the inspector general and reveal it through proper sources? Why don't you go to the Senate or House Intelligence Committees and do that? This guy is a criminal, and he's on the run-
- Danielle Pletka: He's a criminal, and he's a traitor.
- Marc Thiessen: And he's a traitor. He is hiding out, just like so many defectors have, the Kim Philbys of the world and all of the traitors who went over to Moscow during the Cold War. He's just the post-Cold War version of that.
- Danielle Pletka: One of the things that really grosses me out is the notion that Edward Snowden doesn't need money, that he's being supported by people in Silicon Valley. Bart said that, and we didn't really talk about it. Who the hell is giving Edward Snowden money living in Russia? Really?
- Marc Thiessen: Yeah, that's appalling.
- Danielle Pletka: Again, I think what you said is right. I know you don't like me bringing beloved Donald Trump into this, but the whistleblower from the agency on the Ukraine call is in this country. He hasn't defected anywhere. He hasn't moved anywhere, to use a less loaded term.

- Danielle Pletka: The other thing that I will say is that the notion that the Russians don't have this, Mike Hayden had a great quote about this, and you guys know that we talk about Mike Hayden often. Very fond of the former head of the NSA, former director of the CIA, and a wonderful-
- Marc Thiessen: Who managed this program.
- Danielle Pletka: ... and a wonderful man.
- Marc Thiessen: Knows it better than Snowden, than-
- Danielle Pletka: He said, "All I've got to say is that if the Russians and the Chinese don't have this," and I'm paraphrasing, "shame on them."
- Marc Thiessen: That's exactly right.
- Danielle Pletka: Because this is a treasure trove for them. The idea that somehow sticking stuff in a safe keeps it safe, that keeping the key elsewhere keeps it safe, I'm sorry, once these documents are out in the open, it's fair game.
- Marc Thiessen: Yeah. I'm struck by the fact that Bart acknowledged that they may not have gotten them from Snowden; they might've gotten them from him. The reality is he described for us how he's sitting at the Washington Post headquarters in a locked room with the safe with tens of thousands of pages of the most highly classified information in the US government. He shouldn't have that information. That shouldn't be sitting in the hands of a private citizen.
- Danielle Pletka: It was also given to two other "journalists." I'm sorry, they didn't share it with anybody? This guy whose honor we already know does not exist didn't give it to anybody besides these three guys? We have reason to believe that why? Because he's not a liar? Because he's not a thief? Because he's not a traitor? I'm sorry, what?
- Marc Thiessen: Nope. That's exactly right. Again-
- Danielle Pletka: It strains credulity.
- Marc Thiessen: So much of the stuff that he revealed, the NSA program got a lot of attention, but so much of the stuff he revealed was revealing tradecraft, how the United States government spies on our adversaries, on Russia, on China, on terrorists-
- Danielle Pletka: I thought you made that case very well on the podcast.
- Marc Thiessen: This guy is not a hero. He's a criminal, and he belongs behind bars. I hope we get the chance to prosecute him. I hope we extradite Julian Assange into this country and prosecute him, too, because we need to put a price on this kind of leaking.
- Danielle Pletka: Well-said. Agree, disagree, just want to learn more, it is certainly a book well worth reading. Bart Gellman, if nothing else, is a lifelong journalist. I read about his exploits as a journalist in high school when I was looking up his bio, a lifelong journalist, a fine writer, and always worth a read, and absolutely game because he was willing to come on a show with two people who disagree with him, and of course Marc is

really mean about these things. Thanks, guys, for being with us. Look forward to seeing you soon.