

**Does our butter stinketh?**

**By Curtis Seltzer**

**BLUE GRASS, Va.**—A simple rule seems to have emerged after 9/11 with the passage of the Patriot Act: any data that can be tracked, will be tracked—legally, in one way or another, sooner or later, by someone. This is just where we are, where computer programs -- like Hadoop -- have brought us.

The 2001 USA Patriot Act stands for Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism. Any terrorist who read it would immediately understand that the American government had the authority and the means to locate and search their electronic records.

The disclosure last week that the National Security Agency (NSA) was gathering and examining the phone records and digital footprints of most American citizens surprised most American citizens.

Edward Snowden, a 29-year-old employee with intelligence-contractor Booz Allen Hamilton, spilled a few of NSA's beans, but by no means the important ones. He seems to have kept the secrets that could, if known, harm us.

He revealed two programs for data-mining digital records, one directed at America's phone calls and the other -- PRISM -- focused on videos, photos, e-mails, documents and other Internet uses, principally involving foreigners. The latter is authorized under the Foreign Intelligence Surveillance Act (FISA); the former under the Patriot Act.

NSA routinely gets information on almost all domestic calls—number of caller, location of caller, number called, time and date of call and length of conversation. It does not get the caller's identity or the call's content. Accessing identity and content is available under other surveillance programs that impose some safeguards.

Public knowledge of these programs does not seem to have put our national security at risk. A June 11, 2013 editorial, "Snowden's 'Conscience'" in The Wall Street Journal describes his information as "...a few voyeuristic details about the NSA's antiterror technical capacity regarding programs that were already widely known to exist."

Whether Snowden's disclosure of the existence of two NSA tracking systems harms our national security remains to be seen. Harm can be hard to

prove, but the fact that he disclosed information that he was not supposed to is incontrovertible.

Competent terrorists don't communicate electronically, because they know these venues leave trails that can be followed. For that reason, Osama bin Laden's fortified compound in Abbottabad, Pakistan, had neither telephone nor Internet service. The people who didn't know about NSA's data-mining were ordinary Americans, like me, who were bystanders to what's going on.

Whether our government's data access and tracking is too broad, too invasive, too abusive, too inept, too ineffective, too costly, too corrupting, too secret, too unsupervised, too distasteful, too accessible, too unconstitutional and too far down the slippery slope—all of those questions remain unanswered. Snowden's disclosure did not expose any illegalities or specific abuses, just the capability -- the possibility -- for too much government too far into too much of our lives.

But Snowden's information has made me even more cautious about using phones, e-mail and the Internet. (On the other hand, I'm in favor of anything that discourages the use of cellphones, particularly in restaurant potties.)

I suppose you know you're living in a Big-Brother state when you start censoring what you say, to whom, where and how.

My uninformed guess is that more information about other FISA and Patriot Act surveillance systems will appear as a result of Snowden's act.

I think all Americans are wrestling with where the line should be drawn between too much surveillance in pursuit of security and not enough, between too much protected privacy and too little. We have some degree of protection by simply having that discussion on a reasonably regular basis.

Snowden will pay a price for his whistleblowing that is high and permanent. He may end up in federal prison for the rest of his life. Or, he may become stateless, penniless and a permanent exile. He may be killed.

Why did he do it? He said that he wanted Americans to know about the NSA's data-mining, because he thought it took away too much of our privacy and freedom. He was not paid for his information, and he was not acting as an agent for any anti-American interests. He was acting on his libertarian conscience.

Unlike other leakers -- Daniel Ellsberg, Mark (Deep Throat) Felt and Bradley Manning -- Snowden revealed his identity and explained publicly why he gave this information to reporters. But he fled to Hong Kong before the story broke to escape prosecution.

Civil disobedience in its traditional form accepts the consequences of illegal protests, even from government authority believed to be unlawful and illegitimate. Accepting punishment where law, not justice, demands it gives civil disobedience its power to persuade by moral example.

Among the most memorable of these voluntary acts were those of Alice Herz, an 82-year-old German refugee, and Norman Morrison, father of three, who burned themselves alive -- she in Detroit; he outside Robert McNamara's third-floor Pentagon window -- to protest America's actions in Vietnam in 1965.

No one will forget the still-unidentified Chinese student who temporarily stopped a column of tanks as they rolled toward Tiananmen Square on June 5, 1989, the day after Chinese authorities had massacred an unknown number of unarmed protesters there. Eyewitnesses reported Chinese tanks had been crushing vehicles and civilians on June 4<sup>th</sup>.

Thirty months ago, Mohamed Bouazizi, a Tunisian street vendor who protested the government's routine and ruinous confiscation of his wares through self-immolation, helped start the popular uprisings known collectively as Arab Spring.

Snowden's decision to expose NSA programs he believes endanger American freedom is not suicide by fire, but it does involve an enormous amount of self-sacrifice on behalf of what he considers to be the general good. It would have been a lot easier for him to shut up and switch jobs than to pick a fight with the awesome life-and-death powers of an aroused American government.

As I wrote this column about dissent, I recalled the Great Butter Rebellion at Harvard, which is thought to be the first student protest.

Harvard students had been griping about their meals for years, particularly rancid butter. Asa Dunbar, grandfather of Henry David Thoreau who wrote Civil Disobedience, got fed up on September 23, 1766. He jumped on his dining-hall chair and shouted to his classmates: "Behold, our butter stinketh!—give us therefore, butter that stinketh not."

Half the student body rose and followed him out. Harvard's president, Edward Holyoke, and its Board of Overseers defended Harvard's butter as it was, pat for pat. Holyoke suspended half the student body, which had initially rallied behind Dunbar and refused to rat him out. Holyoke eventually forced a confession from Dunbar, and the protest melted away.

Forty-one years later, Harvard students marched out of their dining hall over spoiled cabbage. Seventeen were dismissed; the cabbage remained.

Harvard is now known for its dreadful beets, rather than its rancid butter and rotten cabbage.

Occasionally, an individual still finds it necessary to announce to the world, "Behold, our butter stinketh!"

Opinions vary as to how much rancidness is acceptable, but if the butter served truly stinketh, it should be summarily pitcheth'd.

Is it unreasonable to expect that the American government will give us butter that stinketh not?

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