

An illustration on a purple background. A large hand in a black suit sleeve holds a magnifying glass over a person sitting at a desk with a computer. The person is wearing glasses and a light blue shirt. The magnifying glass is focused on the person's face.

1st Place Essay Contest Winner
Graduate Student Category

PRIVACY VS. SECURITY

Does a tradeoff really exist?

Demelza Hays

The recent disclosure of the National Security Agency's (NSA) "PRISM" program by Edward Snowden has sparked a debate concerning the trade-off between privacy and security. Proponents of government surveillance argue that security is more important than privacy, and that these programs enable the

government to stop terrorism before it happens. However, this claim cannot be substantiated. Government surveillance programs function under an implicit assumption: surveillance is the best method for preventing terrorism. In order to investigate this assumption, the costs and benefits of surveillance must be compared with the costs and benefits of alternative

strategies. The remainder of this paper demonstrates that an analysis of the monetary and nonmonetary costs and benefits of government spying cannot be conducted with sufficient precision. Therefore, the assumption that public safety requires the curtailment of privacy is unfounded.

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In response to the Parliament Hill shootings in Ottawa last year by Michael Zehaf-Bibeau, Prime Minister Stephen Harper pledged to expand government surveillance (Northam, 2014). However, he failed to explain why the current level of spying was insufficient to prevent Mr. Zehaf-Bibeau from committing a terrorist act or how expanding surveillance will prevent future attacks. Government websites and official speeches do not reveal specifically how these programs work, what types of data they collect, or what results have been achieved. The bulk of the information available has surfaced thanks to whistleblowers such as Edward Snowden, Thomas Andrew Drake, and William Binney.

Opponents of government surveillance claim that bulk data collection infringes upon individual rights. On June 6, 2013, the *Guardian* reported on an NSA court order to a Verizon subsidiary to disclose the phone records of millions of domestic customers (Greenwald, 2013). The next day, the *Guardian* and the *Washington Post* reported

As you have watched the developments in news stories about government monitoring programs over recent months, would you say that you have become more confident or less confident that the programs are serving the public interest?



Pew Research, 2015

that the NSA accessed details of customer conversations from at least nine companies including Google, Yahoo, and Microsoft (Gellman and Poitras, 2013). Slides released by Edward Snowden show that the NSA collects data ranging from live communications to stored information such as emails, videos, photos, and Skype calls too. In the US, court cases such as *Jewel v. NSA* have accused the government of overseeing an “illegal and unconstitutional program of dragnet communications surveillance” (Jewel, 2008). Although, the government has dismissed these claims, the US district court judge for the District of Columbia, Richard Leon, stated that bulk data collection probably does violate the Fourth Amendment (Klayman et al., 2013).

Although the legality of bulk data collection is still being debated, the assumption that surveillance is the best method for abating terrorism is unwarranted. The theoretical tools used by central planners to conduct cost-benefit analyses are structurally unsound because they function under the assumption that interpersonal and intrapersonal comparisons of utility are possible. Even the most careful analyses can therefore only yield tentative figures that do not include nonmonetary valuations. The twentieth century economist, Ludwig von Mises, explained that governments couldn't distribute resources rationally in an economy without a free market for the means of production (Mises, 1990). Although Mises described the calculation problem in the context of socialist countries, any government that operates outside of the free market cannot conduct truthful cost-benefit analyses. The price mechanism on the free market is the only institution that encompasses the subjective valuations of individuals.

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This paper investigates two separate strategies for measuring the costs and benefits of government surveillance. First, an analysis of the objective, or financial, costs and benefits is presented. The second method involves an analysis of the subjective, or personal, costs and benefits that each individual incurs. Both methods

conclude that the government cannot vindicate the surveillance of citizens.

For purposes of this paper, objective costs and benefits are factual expenditures and revenues that were generated by the operation of a government surveillance program. It is difficult to precisely measure objective benefits from surveillance because the subverted plots will not occur; any attempt to estimate the damage subverted would be hypothetical. If a surveillance program stopped a terrorist act from being implemented, analysts could estimate the number of lives saved and the monetary cost of the damage prevented. However, the Justice Department's Inspector General, Michael E. Horowitz, admitted that FBI agents had not stopped any terrorist acts because of snooping powers granted by Section 215 of the Patriot Act (Office of Inspector General, 2015). During a press meeting with German Chancellor Angela Merkel, President Obama announced, "We know of at least 50 threats that have been averted because of this information not just in the United States, but, in some cases, threats here in Germany. So lives have been saved" (Office of the Press Secretary, 2013). However, an independent report commissioned by the White House does not cite a single example where the NSA's data collection actually stopped a terrorist attack (Clarke, Morell, Stone, Sunstein, and Swire, 2013, Dec. 12).

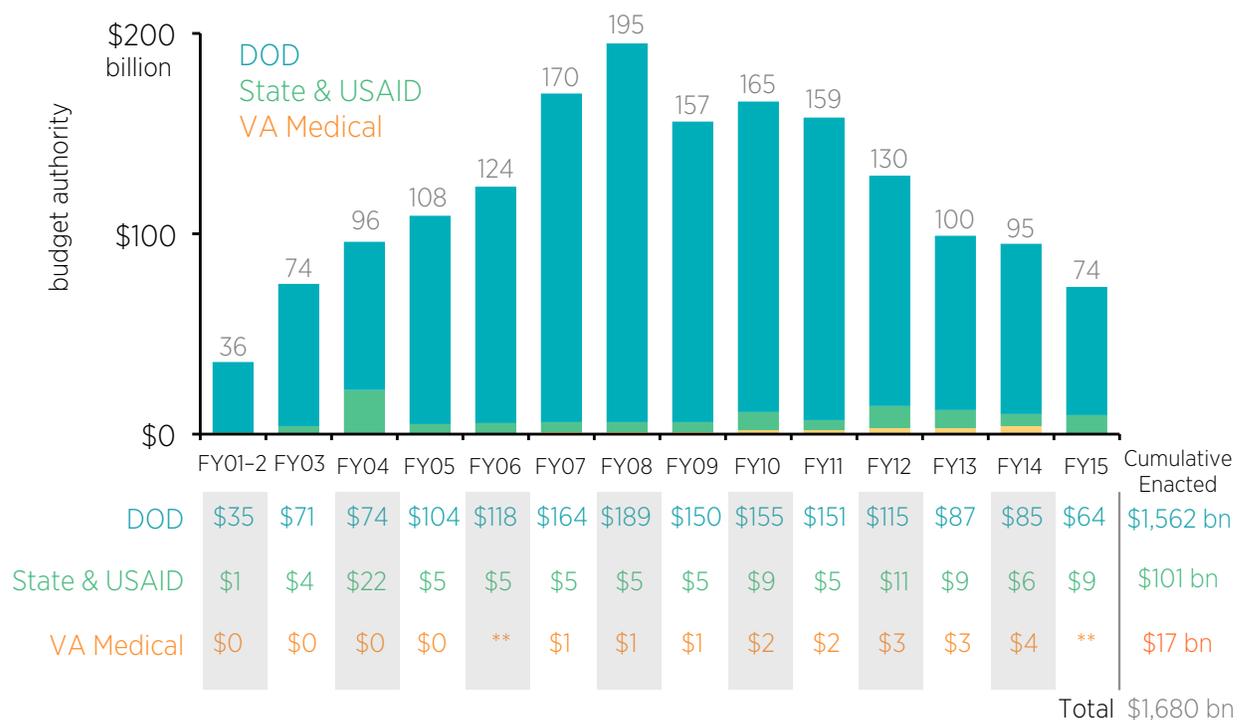
Since bulk data collection on citizens has not prevented any known attacks, the objective benefits are negligible. However, the objective costs of surveillance are quite substantial. An example of an objective cost

is the estimated CA\$4.2 billion to construct and maintain Canada's most expensive government building, the Communications Security Establishment (Weston, 2015). Other examples include the CSE's annual budget of \$829 million and Canada's Department of National Defence budget of CA\$24.495 billion (SIPRI, 2011). The objective costs of surveillance programs amount to transfer payments from productive sectors of the economy to public bureaucracies and government contractors. Instead of taxpayer funds supporting education, health, infrastructure, or simply not being extracted from the private sector in the first place, billions of dollars are being spent on opaque and apparently ineffective surveillance programs.

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As the graph shows below, researchers at George Mason University estimated the cost of the American War on Terror to be US\$1.7 trillion since 2001. Although the American government releases information on the annual budget of intelligence spending, these reports do not describe how the full budget is used. The only information we have about the allocation of these funds comes from the "black budget" leaked by Edward Snowden in 2013. According to the black

Estimated War Funding by Agency, FY 2001 - FY 2015



Source: Amy Belasco, CRS, "The Cost of Iraq, Afghanistan, and Other Global War on Terror Operations Since 9/11," Dec. 8, 2014. FY 15 data comes from US Senate Committee on Appropriations, "Summary: Fiscal Year 2015 Omnibus Appropriations Bill," Dec. 9, 2014. Produced by Veronique de Rugy and Rizqi Rachmat, Mercatus Center at George Mason University.

budget, U.S. spy agencies received US\$52.6 billion in 2013 (DeLong, 2013). However, this document only pertains to one year, and it does not include all military surveillance expenditures.

Although it is difficult to compare the objective costs and benefits of surveillance, individuals can conduct an analysis of their own personal, subjective costs and benefits. Subjective valuation refers to the idea that the value of a good or service is determined by each acting individual instead of how much labor went into the good's production (Menger, 1950). Each individual desires a good or service according to their personal ranking of ordinal values (Mises, 2007). Subjective valuation makes it impossible for another party to precisely measure an increase or decrease in an individual's utility. Subsequently, it is impossible to compare changes in utility between individuals. Therefore, it is impossible for governments to quantify the subjective valuation that an individual gives to reducing his or her probability of death from a terrorist attack.

Researchers cannot quantify utility; however, individuals can decide how much they value surveillance based on their unique preferences. The innate human drive for survival will always generate demand for security. However, different individuals will demand different types of protection. Similarly, the costs that individuals will be willing to pay will vary, and furthermore an individual's demand and willingness to pay will also fluctuate throughout his or her life in response to new

information. Even if it could be shown that privacy violations increase public safety, people vary greatly in how they prioritize privacy or security. For example, some individuals could incur what Ludwig von Mises referred to as a "psychic profit" from surveillance (Mises, 2007). A psychic profit (or loss) is a concept that describes an increase (or a decrease) in an individual's utility or happiness. An individual may prioritize surveillance over privacy because surveillance provides a sense of safety. This is an example of a subjective benefit because the sense of security offered is not worth the same amount for everyone. In comparison, subjective costs include the value that each individual places on their loss of privacy due to unwarranted data collection, domestic drones, and intrusive law enforcement agents. Some individuals may be willing to pay their full salary for a reduction in terrorism. Others might prefer to fund the construction of new school instead.

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Since policy makers cannot measure the subjective valuations of their constituents, the subjective valuations of all of the citizens cannot be aggregated. The theoretical tools that central planners use to quantify and aggregate individual subjective valuations rely on the assumption that

the measurement, aggregation, and comparison of subjective valuations, or utility, is possible. Government agencies, such as the Department of Transportation (DOT), conduct quasi cost-benefit analyses of various programs by comparing the estimated number of lives saved to the objective cost of implementation (Thomson and Monje, 2015). The most common measurement that government agencies use to quantify the value an individual places on a marginal change in their likelihood of death is the Value of a Statistical Life (VSL). In 2015, the DOT estimated an individual's life to be \$9.4 million on average; however, this assumes that all lives have the same value and that each individual values their life to be worth \$9.4 million. VSL estimates are unreliable because they depend on Willingness to Pay (WTP) estimates, which vary according to the assumptions used in the economic model. For example, the DOT's WTP estimate assumes a linear relationship between risk and WTP for avoidance of the risk (Thomson and Monje, 2015). Since these tools are unable to accurately measure individual subjective preferences, governments cannot conduct thorough cost-benefit analyses. Without a cost-benefit analysis of government surveillance, governments cannot verify that surveillance effectively prevents terrorism.

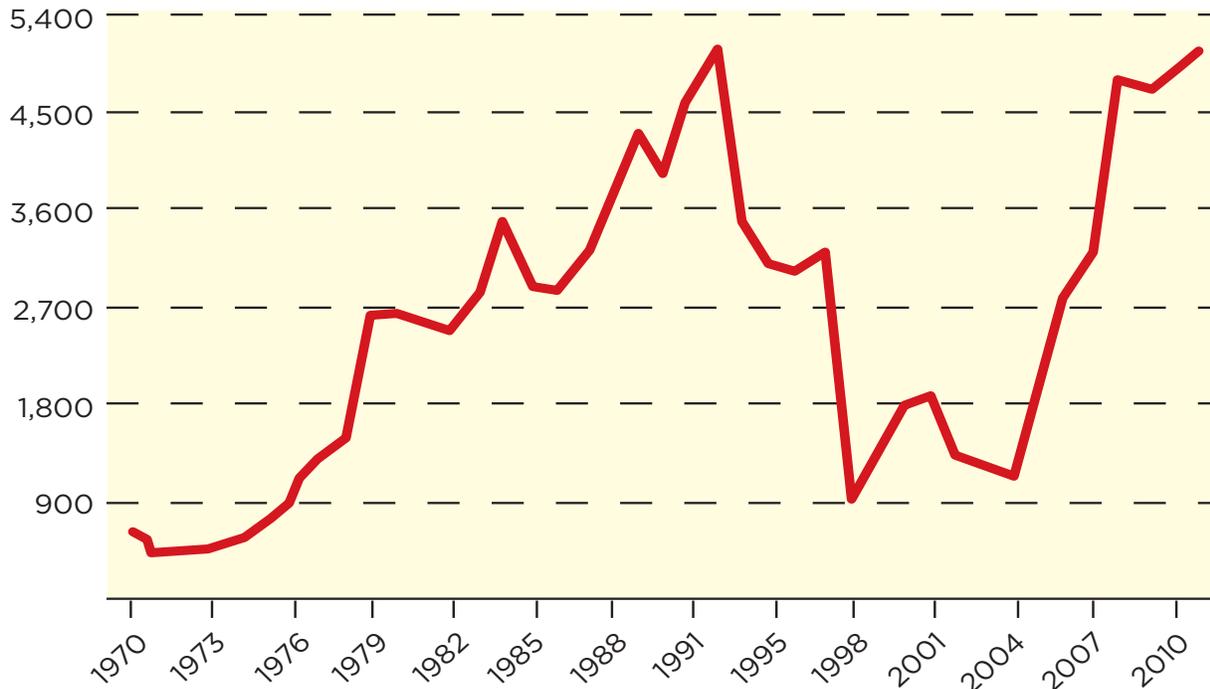
Since September 11, 2001, 67 Americans have died in terrorist-related acts on U.S. soil, yet billions of US taxpayer dollars are being spent on the War on Terror (University of Maryland, 2015). This illustrates that surveillance programs implicitly function under the assumption that all

lives should be saved from terrorism even at great cost to taxpayers. Furthermore, terrorism has increased since the "War on Terror" officially began in 2001. According to the Global Terrorism Database maintained by the University of Maryland, terrorist attacks worldwide initially plummeted from roughly 5,000 incidents annually during the 1980s to 900 incidents in 1998 before steadily increasing after 2004 to new record highs today. Although more research is required for understanding the triggers of terrorism, the data confirm that terrorism is increasing despite surveillance efforts worldwide.

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Independent researchers posit that cheaper and more efficient ways of combating terrorism are available. One solution may be to engage in "defensive defense" instead of "offensive defense." Political scientist Robert Pape studied the impact of military intervention by NATO or the US on the number of terrorists originating from the Middle East (Pape, 2006). Based on data from 315 suicide attacks between 1980 and 2003, Pape found that most terrorists were motivated by nationalism and occupation of their homeland instead of poverty or Islamic fundamentalism. Following this research, economist Jean-Paul Azam briefed the Obama administration on the impact of "boots on the ground" in oil producing countries. Azam made the simple suggestion that removing US soldiers

Terrorism Increased After Launch of War on Terror



University of Maryland (2015). Global Terrorism Database. Various database searches. <<http://www.start.umd.edu/gtd/>>, as of May 25, 2015.

from foreign countries could greatly diminish the probability of terrorist attacks targeted at the US (Azam and Thelen, 2014).

If terrorists were constantly attacking us and the only way to survive was to be monitored by government agencies, it might be worthwhile to trade privacy for security. However, the assumption that national security requires any abridgment of rights is obfuscated; that it requires vast invasions of privacy is without warrant given the existence of more effective alternatives, including removing troops from the Middle East. Although the government cannot conduct a proper cost-benefit analysis of bulk data collection, individuals can conduct an analysis of the subjective costs and

benefits that they personally incur. Each individual must decide if the sense of security that surveillance provides is worth the reduction in personal privacy endured. **C**



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