



Written by [Thomas R. Eddlem](#) on December 27, 2013

## Snowden Says He “Won” Contest With Obama

After six months of silence, National Security Administration (NSA) whistleblower Edward Snowden has begun speaking publicly about how he “won” a debate over massive warrantless surveillance of Americans by their government. Earlier this year, the former Booz-Allen-Hamilton contractor for the NSA provided reporter Glenn Greenwald documentation of universal surveillance of Americans’ telephone records by the NSA without the constitutionally required warrant and probable cause under the Fourth Amendment.



In the past week, Snowden — accused of espionage by the Obama administration — granted an [interview](#) with the *Washington Post* and sent a [video “Christmas Message”](#) posted across the Internet. “For me, in terms of personal satisfaction, the mission’s already accomplished,” Snowden told the *Washington Post* December 23. “I already won.”

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The former Hawaii-based contractor has become one of the most-talked about persons of 2013. “Great Britain’s George Orwell warned us of the danger of this kind of information,” Snowden [said](#) in the Christmas message to the world, echoing the words of U.S. District Court Judge Richard J. Leon. Leon had [termed](#) the program “almost Orwellian” in a December 16 decision that declared the NSA program unconstitutional. Snowden — who fled to Hong Kong, and then to Russia, which offered him temporary asylum — [noted](#) that “We have sensors in our pockets that track us everywhere we go. Think about what this means for the privacy of the average person.”

While supporters of the NSA’s big government surveillance have sometimes [labeled](#) Snowden a “traitor,” constitutionalists have cheered Snowden’s revelations. While the Obama administration has [charged](#) Snowden as a criminal, the real issue is whether the criminal is the person who exposed the crime against the U.S. Constitution, or the people committing the crimes against the Constitution. Conservative activist, blogger, and radio talk-show host Jack Hunter [wrote](#) on his Facebook page: “Every conservative or libertarian who takes the concept of limited government seriously owes Edward Snowden a big thank you.”

Journalist Glenn Greenwald — who was the first to publish Snowden’s revelations — continues to defend Snowden, [stating](#) on Fox News December 25 that “He stepped forward in order to inform people about what was taking place so that they can make the choice about what kind of state they want to live in.”

But Greenwald has become controversial as well, and has run [afoul of both British authorities](#) (who are in league with the NSA) and American supporters of Obama. Harvard University Professor Alan Dershowitz [commented](#) on Greenwald after his Fox News appearance:



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As far as Greenwald is concerned, he's an ideologue. I don't think he would have revealed this information if it had been critical of Venezuela or Cuba or the Palestinian Authority. You know, he doesn't like America. He doesn't like Western democracies. He's never met a terrorist he didn't like. So he's a very hard-left ideologue that uses this to serve his political agenda — not simply to reveal information in a neutral way. That makes him very different from WikiLeaks, I think.

"Alan Dershowitz excels at discrediting himself," Greenwald [tweeted](#) in response. "It's like being attacked by a cartoon just arrived in a time machine from McCarthy era: you hate America & lov The Terrorists!"

The real issue is the meaning of the Constitution's Fourth Amendment. The [Fourth Amendment to the U.S. Constitution](#) explicitly restricts the U.S. government's surveillance powers:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The first part of the Fourth Amendment, the preamble, sets out the purpose of the amendment, i.e., to prohibit "unreasonable searches and seizures" of people or people's personal things. The second part defines a four-part test to determine what is a "reasonable search." These requirements include: 1. a warrant from a judge, 2. evidence amounting to "probable cause" (more than 50 percent chance they'll find what they are looking for), 3. an oath on the warrant signed under penalties of perjury. 4. specificity, describing on the warrant what/who is expected to be found and where, and what/who will be seized.

The NSA surveillance program satisfies none of these four requirements, thus violating the U.S. Constitution. Leon's court summarized the government's position on the surveillance program, saying that it allows "NSA analysts to draw connections, across telecommunications service providers, between numbers reasonably suspected to be terrorist activity and with other, unknown numbers." But the Obama administration makes no attempt to get a warrant with an oath, establish probable cause, or limit the searches to the particular terrorists they are looking for. Nor are they looking for any particular document, so far as the world knows.

The Obama administration stressed in its brief before the court case that there is no expectation of privacy in telephone records. "People assume that phone companies are recording phone numbers and how long the call lasted," Assistant Attorney General Stuart Delery [argued](#) in court back in November, asking the case to be dismissed. "We know that because all of us get the bills with those details." But on the other hand, the Obama administration also stressed that they seriously limit use of the data collected. "The FISC orders governing the Bulk Telephony Metadata Program specifically provide that the metadata may be accessed only for counterterrorism purposes," Delery also [claimed](#). But if there is no reasonable expectation of privacy, as the Obama administration asserts, then why should the program be limited only to anti-terrorist law enforcement actions? Why should it not be put to other useful purposes?

The *New American's* legal correspondent Joe Wolverton [wrote](#) of Leon's December 16 decision: "Although the ruling is a victory for the Constitution and for civil liberties, it is not nearly the end of the government's spying operations that some outlets are proclaiming it to be. Leon himself stayed the injunction against the NSA pending a review (a process that could take at least six months according to



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Leon's estimation)."

Snowden's revelations to the public are not yet finished. Greenwald [told](#) Fox News that he is still going through Snowden's documents and has more to report. "There's definitely big stories, and more stories, coming — and coming soon."

*Photo of Edward Snowden: AP Images*

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