

Editorial: The Year of Edward Snowden, criminal and/or hero



13 HOURS AGO • BY THE EDITORIAL BOARD

On this last day of 2013, in an apartment in Moscow, living like an “indoor cat” and subsisting by choice on a diet of ramen noodles and chips, sits Edward J. Snowden, 30, who might well have been Time magazine’s “Person of the Year” if Americans had decided he is a hero instead of a criminal.

Certainly few Americans dominated the news the way that Mr. Snowden did. Beginning in June, The Guardian newspaper of Great Britain and the Washington Post began publishing one blockbuster story after another based on documents Mr. Snowden had stolen from the

National Security Agency. Mr. Snowden had worked for the NSA itself and later as a contract employee, holding top secret clearance and system administrator credentials that gave him access to just about anything he wanted to see.

He is believed to have accessed as many as 1.7 million NSA documents, none of which he now claims to hold. The Guardian, for which Glenn Greenwald, Mr. Snowden’s favorite leakee, worked until October, says it has 58,000 documents, of which it has published only 26.

The question of what other shoes are left to drop so concerns some top NSA officials that they are considering suggesting amnesty for Mr. Snowden in return for the rest of his trove. The idea is “worth having a conversation about,” Richard Ledgett, the NSA’s top civilian employee, told CBS News two weeks ago.

Such a conversation would have to include President Barack Obama, his State Department and probably top members of congressional intelligence committees. Mr. Obama seems unmoved by the NSA’s excess. The intelligence committee chairs, Sen. Dianne Feinstein, D-Calif., and Rep. Mike Rogers, R-Mich., have said Mr. Snowden should be prosecuted with no chance for clemency.

By extension, the conversation would have to include the American public. Until recently, polls showed the majority of Americans generally split on the question of whether the NSA’s methods are too intrusive. Recently more Americans have begun to question the extent of the surveillance, but there is little support for giving Mr. Snowden a pass on criminal charges. That could change if the NSA supported an amnesty deal.

The original argument that the Snowden leaks provided “aid and comfort to the enemy” — which led House Speaker John Boehner, R-Ohio, to label him a “traitor” — does not seem to have been borne out. NSA officials have said they’ve noticed terrorist targets changing tactics, but the fact that they’ve noticed means they’re still watching and listening.

No one ever argued that the NSA shouldn't spy on terrorist targets overseas, or on domestic targets who were aiding them, as long as judges signed off on the surveillance.

As Mr. Snowden himself put it in a pre-Christmas "mission accomplished" interview with the Washington Post, "I don't care whether you're the pope or Osama bin Laden. As long as there's an individualized, articulable, probable cause for targeting these people as legitimate foreign intelligence, that's fine. I don't think it's imposing a ridiculous burden by asking for probable cause. Because, you have to understand, when you have access to the tools the NSA does, probable cause falls out of trees."

The problem has been the NSA's arrogant assumption that it could, without judicial warrants, collect data in bulk on anyone it chose — Americans, foreign leaders, foreign companies — and keep it for years, just in case it was ever needed.

To which Richard A. Clarke, who was President George W. Bush's counterterrorism adviser and a member of President Obama's advisory group on NSA practices, had this to say: "Just because we can doesn't mean we should."

Because of Edward Snowden, Americans know today that Big Brother is, in fact, watching. We know that NSA collects and stores Americans' calling records. That it listens in to leaders of American allies. That it works diligently to defeat private encryption systems. That it tracks mobile phone users around the world. That it taps into fiber-optic lines used by companies like Google and Yahoo.

Americans are better off for knowing all of this. Mr. Obama must heed his experts and rein in these spies-gone-wild. And if, in the meantime, the NSA wants to talk about amnesty for Mr. Snowden, that conversation should begin.

