

Obama rejects pardon for Snowden

Jerry White
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In an interview published Friday, President Barack Obama told *Der Spiegel* and German public broadcaster ARD that he would not pardon Edward Snowden before leaving office in January. The former National Security Agency contractor remains in exile for exposing the illegal surveillance operations of the NSA and other U.S. spying agencies, which target countless millions of people in the U.S. and around the world.

Obama's decision will leave Snowden in grave danger from the incoming administration of Donald Trump, who is putting together a far-right government committed to expanded spying, torture and militarism. Trump's pick for new CIA director, Kansas Republican Congressman Michael Pompeo, called for Snowden's execution in an interview with the C-SPAN public affairs network last February.

In his typically dishonest manner, Obama sought to conceal the political meaning of his denial of a presidential pardon to Snowden, well aware that the young man enjoys popular support in the U.S. and around the world for his heroic actions. A campaign initiated by the American Civil Liberties Union (ACLU) urging Obama to grant Snowden a pardon has won the support of prominent artists, academics and others.

The outgoing Democratic president reiterated the bogus argument that mass surveillance, a blatant violation of democratic rights, is necessary to defend the people of the U.S. and the world from "terrorism."

Asked if he was going to pardon Snowden, Obama said, "I can't pardon somebody who hasn't gone before a court and presented themselves, so that's not something that I would comment on at this point. I think that Mr. Snowden raised some legitimate concerns.

"How he did it was something that did not follow the procedures and practices of our intelligence

community. If everybody took the approach that I make my own decisions about these issues, then it would be very hard to have an organized government or any kind of national security system."

The claim that the president "can't pardon" Snowden is a lie. The U.S. Constitution confers on the president unlimited power to pardon anyone, except in cases involving impeachment. As several defenders of Snowden have pointed out, an 1866 Supreme Court ruling held that this power "extends to every offence known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken or during their pendency, or after conviction and judgment."

As Noa Yachot, who is leading the ACLU campaign, noted, "Richard Nixon hadn't even been indicted when Gerald Ford issued a 'full, free, and absolute pardon unto Richard Nixon for all offenses against the United States which he, Richard Nixon, has committed or may have committed or taken part in' over the course of his presidency." In January 2016, Yachot pointed out, Obama pardoned three Iranian-Americans charged with violating trade sanctions against Iran before they had stood trial. This was part of a prisoner exchange that helped seal the US-Iran nuclear deal.

Obama's claim that Snowden should have "followed procedures" is no less bogus. Previous whistleblowers, including Thomas Drake, a high-ranking NSA official who exposed illegal spying ten years before Snowden, were arrested, charged with crimes and financially and professionally ruined. President Obama has prosecuted more whistleblowers than all previous US presidents combined, and has repeatedly used the 1917 Espionage Act against government leakers and reporters.

In his remarks in Germany, Obama said, "At the point at which Mr. Snowden wants to present himself before the legal authorities and make his arguments or have his lawyers make his arguments, then, I think,

those issues [a pardon] come into play. Until that time, what I've tried to suggest—both to the American people, but also to the world—is that we do have to balance this issue of privacy and security.”

Despite Obama’s claims that Snowden would receive a fair trial in the U.S., the Espionage Act implicitly excludes Snowden’s main defense: that he was providing information to the media and the public to defend their democratic rights against the intrusion of the government. All the prosecution has to prove in an Espionage Act case is that the defendant disclosed classified defense information to someone unauthorized to receive it, such as a journalist, something Snowden has already admitted. Nothing else is admissible.

As Snowden’s lawyer, the ACLU’s Ben Wizner, explained, “When Daniel Ellsberg stood trial under the Espionage Act, his attorney asked him why he decided to leak the Pentagon Papers to journalists. The prosecution objected to the mere question, and the judge sustained the objection. No matter the egregiousness of the government’s actions, a whistleblower’s motivation has no place in an Espionage Act trial.”

Obama denounced those opposed to massive government spying, saying, “Those who pretend that there's no balance that has to be struck and think we can take a 100 percent absolutist approach to protecting privacy don't recognize that governments are going to be under an enormous burden to prevent the kinds of terrorist acts that not only harm individuals, but also can distort our society and our politics in very dangerous ways.”

He continued, “I want my government—and I think the German people should want their government—to be able to find out if a terrorist organization has access to a weapon of mass destruction that might go off in the middle of Berlin.

“That may mean that, as long as they do it carefully and narrowly, that they're going to have to find ways to identify an email address or a cell phone of a network... But we shouldn't assume that government is always trying to do the wrong thing.”

Trump’s pick for CIA director, Michael Pompeo, supports the lifting of virtually all restrictions on NSA spying. As a member of the House Intelligence Committee, he has called for the NSA to resume its phone records program and urged Congress to pass “a

law reestablishing collection of all metadata, and combining it with publicly available financial and lifestyle information into a comprehensive, searchable database.”

In an interview on C-Span last February, Pompeo said, “It's absolutely the case that we have not been able to secure all the American information that we needed to, and that we've had the traitor Edward Snowden steal that information. He should be brought back from Russia and given due process, and I think the proper outcome would be that he would be given a death sentence for having put friends of mine, friends of yours, who served in the military today, at enormous risk, because of the information he stole and then released to foreign powers.”

According to State Department sources, Hillary Clinton is reported to have said, “Can’t we just drone this guy,” during a 2010 internal discussion on WikiLeaks founder Julian Assange.

In December 2010, Democratic strategist and Clinton supporter Bob Beckel told Fox News: “The way to deal with this is pretty simple. We've got Special-Op forces. I mean—a dead man can't leak stuff. This guy's a traitor...I am not for the death penalty, so if I am not for the death penalty, there is only one way to do it... Illegally shoot the son of a bitch.”



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