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Resisting NSA Surveillance: Glenn Greenwald and the public sphere debate about privacy

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RESISTING NSA SURVEILLANCE: GLENN GREENWALD AND THE PUBLIC SPHERE
DEBATE ABOUT PRIVACY

By

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Abstract

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In May of 2013, National Security Agency contractor Edward Snowden flew to Hong Kong with thousands of classified NSA documents. He contacted Glenn Greenwald, blogger, activist, and journalist for *The Guardian.* Greenwald and several other reporters flew to Hong Kong, where they spent a week interviewing Snowden. Greenwald began reporting on the documents in *The Guardian*, publishing many articles that demonstrated that the US government was spying on US citizens without court warrants. The leak was considered the biggest in NSA history. One year later, Greenwald published *No Place to Hide: Edward Snowden, The NSA, and The U.S. Surveillance State.* In this book, he discussed his meeting with Snowden, the NSA documents, and his concerns about the US surveillance state.

In both Greenwald's *Guardian* articles and *No Place to Hide,* the journalist discusses the implications of NSA surveillance. He explains technical means of surveillance and encourages the public to resist these tactics. Analyzing Greenwald's rhetoric, I find that he takes a Foucauldian perspective on surveillance. NSA surveillance, Greenwald argues, leads citizens to self-discipline and suppress their own dissenting thoughts because of the possibility of being watched at any time.

Additionally, Greenwald's case can be analyzed through Goodnight's three spheres of argument. Many scholars express concern that the technical sphere, which is open to only elite members with specialized knowledge, is eclipsing the public sphere, or the arena in which citizens discuss matters of common concern. This case demonstrates the effects of a public sphere pushback on isolated, technical arguments. Greenwald calls for the public sphere to deliberate as an antidote to surveillance. He characterizes the NSA as an isolated technical community which does not consider public concerns. Central tenets of the public sphere include public *access* and *openness*, and central tenets of surveillance power include public *inaccessibility* and technical *closure*. Greenwald's rhetoric juxtaposes these competing values to encourage public sphere resistance of surveillance. He asks his readers to resist the NSA by continuing to discuss NSA surveillance.

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Chapter One: Introduction

Many people have written, spoken, and blogged about growing privacy concerns. A chorus of voices discuss data mining, corporate information gathering, and government observation. The development of surveillance technology has far outpaced the development of legal protection against it, and the modern world has bought into the convenience of the digital world without a discussion of the consequences. This discussion has finally caught up. In the wake of Chelsea Manning's military trial[i], Julian Assange's creation of WikiLeaks[ii], and Edward Snowden's revelations about the National Security Agency (NSA)[iii], the time has come for a national and international discussion. But some worry that the public is past concerns about privacy.

Glenn Greenwald attracted much attention in May of 2013 when he began writing about Edward Snowden's NSA documents. This was not Greenwald's first discussion of privacy. He is a constitutional lawyer who started a blog, Unclaimed Territory, to discuss privacy concerns, in 2005 (Greenwald, 2006). In 2006, he published his first book, *How Would a Patriot Act?,* criticizing President George W. Bush's policies about surveillance and torture. He later became a blogger for *Salon* and a writer for *The Guardian.* Greenwald continues to reveal new information in newspapers, on his personal blog, and on his new news service, *The Intercept.* His most recent book, *No Place to Hide,* about his contact with Edward Snowden, was published in 2014.

A strong voice in the current privacy debate, Greenwald writes about the erosion of privacy and the effects this has on the American people. Snowden himself said that he only wished to release his documents to the public so that they could decide for themselves if the NSA's spying was justified (Greenwald, 2014). Greenwald's rhetoric calls attention to Snowden's

revelations, and may create a public demand for more checks on surveillance, if Americans choose to take up this discussion. In the following chapters, I argue that Greenwald characterizes the public discourse about surveillance as one marked by silence or confined to the technical sphere. He argues that discussion about the NSA should take place in the public sphere, and, in doing so, he encourages resistance to surveillance. He believes this must occur on a macro-level through a widespread discussion of the NSA in the public sphere.

In what follows, I offer background on the National Security Agency, Edward Snowden's leaked documents, and Glenn Greenwald. Next, I describe Greenwald's writings, which will be analyzed in subsequent chapters. Third, I provide a theoretical background of the public sphere, G. Thomas Goodnight's spheres of argument, Foucault's writings on surveillance, and resistance to surveillance.

Context and Background

Founding the NSA

The National Security Agency (NSA) started as a group of code breakers who intercepted enemy radio message during World War Two. President Harry Truman declared the group a national agency in 1952 (National, 2012). The NSA has assisted the United States with intelligence operations throughout every conflict since the 1950s, and the organization has grown with each passing decade. The NSA uses signals intelligence (SIGINT) to intercept electronic communication and gain information. Signals intelligence uses sensors which intercept signals intended for other receivers. Transmissions intercepted can include vocal communication or electronic signals, such as those produced by a radar or missile system. Notable contributions, according to the NSA's own website, include SIGINT support during the Cuban Missile Crisis, Desert Storm, and the operation that killed Osama Bin Laden (National "60th", 2012).

After World War Two, government trust was high, and the NSA was relatively unknown to the public. However, starting in the 1960s, a time of unrest prompted changes for the agency. In the early 1970s, reporters uncovered a series of scandals about US intelligence activities. First, two of the Watergate burglars were found to be CIA veterans (DeYoung & Pincus, 2007). Then in 1974, reporter Seymour Hersh revealed that the CIA had attempted to infiltrate anti-war groups from the 1950s through the 1970s (DeYoung & Pincus, 2007). As a result of these revelations, the Senate voted to establish an independent investigative committee in 1975. Led by Senator Frank Church, and nicknamed the Church Committee, this group investigated wrongdoing by various US intelligence agencies (United States Senate). Though the committee's findings were jumbled, it effectively demonstrated the need for oversight of the intelligence community (United States Senate). The committee uncovered transgressions by the CIA, FBI, and NSA, including that the NSA had monitored every overseas cable sent by an American from 1947-75 (Johnson, L., 2004). The Church Committee increased mounting pressure for intelligence reform, which came in the 1978 Foreign Intelligence Surveillance Act (FISA). The committee proposed that surveillance of communication should only be authorized through a judicial warrant. This recommendation became law under FISA, which established the FISA court to review wiretap requests (Johnson, L., 2004). The FISA court is a secret court to which the NSA sends its warrant requests, where they can be approved or rejected by a federal judge.

After FISA passed, the NSA returned to the background of government business. It did not receive much media attention again until the 9/11 attacks[iv]. However, the 1980s and 90s were a time of technological development, including new surveillance technologies, for the NSA. In the 1980s, the NSA made a few headlines during the trial of Ronald Pelton, an NSA intelligence analyst who sold secrets to the Soviet Union and compromised "Operation Ivy Bells." William Casey, then-Director of National Intelligence, called for the prosecution of NBC, which reported

on the compromised mission (Engelberg, 1986). Though NBC was not prosecuted, Pelton was charged and convicted of violating the Espionage Act (Engelberg, 1986). Several other NSA employees were tried and convicted of selling information to the Soviet Union during this tense period in history[v]. These incidents show that the NSA has been concerned about leaks for much of its history, and the organization's relations with journalists have been tense before.

In the 1990s, the NSA developed the Clipper Chip, an encryption device that was developed with a "back door," or security vulnerability. The NSA contended that the government would not listen in to conversations unless the government presented its case and received a warrant, in which case it would be granted access. Privacy advocates expressed concern that there was potential for abuse and unchecked surveillance (Daly, 1993). The Clipper Chip plan generated negative press and "Big Brother" comparisons about the NSA. Though the Clipper Chip was abandoned by the agency in 1996, it was an indication of the NSA's focus on developing new technology in the name of security. The NSA was particularly concerned with cyber espionage during the 1990s, and warned that enemy states and terrorists could use advanced technology to disrupt communications (Messmer, 1997). As the agency looked toward the new millennium, it created goals to keep up with technological changes. For example, in 2000, the NSA wrote in an internal report that in order to keep up with rapidly changing technology and threats, the agency should build a diverse workforce of contractors to respond to challenges, develop new access to communications of interest, and "continuously modernize the cryptologic system by using advanced technology" (National, 2000, p. 5). The NSA was working to develop new technology in the 1990s to respond to new threats. The September 11th, 2001 terrorist attacks further motivated the agency to fulfill their mission.

Increased Surveillance Post-9/11

The terrorist attacks of September 11th, 2001 greatly impacted the NSA's operations and power. The NSA itself summarized that "since the 1980s, NSA had been involved in counterterrorism efforts, but after the 9/11 attacks, NSA and the rest of the Nation would examine its readiness to deal with such an unconventional enemy" (National "60th Book," 2012, p. 98). In 2002, President George W. Bush authorized the creation of the 9/ll Commission, an independent commission created to provide recommendations to prevent further terrorist attacks. The commission had many suggestions for government agencies, and specifically mentioned the NSA, saying "while the NSA had the technical capability to report on communications with suspected terrorist facilities in the Middle East, the NSA did not seek FISA Court warrants to collect communications between individuals in the United States and foreign countries, because it believed that this was an FBI role" ("National," 2004, p. 87-88). Confusion about jurisdiction, the commission decided, led to an oversight by the NSA and other intelligence agencies. Several steps were taken to ensure the "readiness" to thwart further terrorist attacks. In 2001, US Congress passed the PATRIOT Act by an overwhelming margin[vi]. The stated goal of the act was to give law enforcement new tools to prevent terrorist attacks (Department of Justice). Most crucially to my discussion, the act relaxed the rules about surveillance. For example, the NSA could spy on Americans for up to seventy-two hours, while the previous limit was twenty-four, before going to the FISA court. The act also expanded the duration of FISA warrants, and attempted to make the information discovered more shareable among government agencies (USA Patriot, 2001). The act was controversial and produced some protests from American citizens. Though the PATRIOT Act made it easier for government agencies to acquire and share intelligence information, opponents feared that the law would lead to the acquisition of large

amounts of data about civilians and violate privacy (Abramson & Godoy, 2005)[vii].

Another blow to the agency's reputation came in 2005, when James Risen and Eric Lichtblau reported that the NSA was spying on civilians without warrants. Risen and Lichtblau revealed in *The New York Times* that the NSA had been spying on Americans since September 11th, 2001 without going through the FISA court at all. Americans were surprised, because though the NSA was expected to collect foreign intelligence, no one suspected the scope of information gathered on domestic targets (Risen & Lichtblau, 2005). The Bush administration responded by saying that the safeguards put in place over the NSA were sufficient, and the spying was necessary so the agency could move quickly and track terrorist threats. Officials also said that warrants were still required on completely domestic communication (Risen & Lichtblau, 2005). The article caused uproar, but no major reforms of the PATRIOT Act or NSA policies were undertaken. Though eventually the discussion died down, it was rejuvenated when Edward Snowden leaked more information several years later. This new information will be discussed in the following section. Risen and Lichtblau's 2005 article, and the government response, are also of great interest to Greenwald, who writes about the scandal extensively in *How Would a Patriot Act?,* and mentions the issue again in *No Place to Hide.*

In 2012, to commemorate the sixtieth anniversary of the agency's founding, the NSA published a historical book and timeline. Looking back at the history, Keith Alexander, the then-chief of the organization, wrote, "while the mission to defend the Nation against all adversaries has not changed, the adversaries have changed considerably" (National "60th Book," 2012, p. 3). The NSA's focus has shifted from Axis powers during World War Two to the Soviet Union during the Cold War, and now to terrorists and hackers post-9/11. Alexander himself wrote that "today our greatest threat may be a lone person using a computer," an indication of the agency's latest interest in Internet surveillance (National "60th Book," 2012, p. 3). The NSA now reports

having over 30,000 employees, largely in their headquarters of Fort Meade, Maryland. This

increase in staff includes a large number of contract employees, who work for outside security

and technology companies. After the September 11th attacks, the NSA received a large amount of

funding from Congress. In an effort to keep up with increased demands for surveillance, the

NSA announced plans to hand over support jobs to private technology companies, who competed

for contracts (National "60th Book," 2012). This new organizational climate set the stage for

Edward Snowden to deliver another blow to the agency's reputation.

Edward Snowden becomes a Whistleblower

Edward Snowden was a hired U.S. government contractor who worked for Booz Allen

Hamilton, a company contracted by the NSA. Concerned with what he saw as privacy violations,

Snowden secretly copied files from the NSA. He tried to contact several journalists, asking each

to install cryptographic systems so they could speak privately over email. One of these

journalists was Laura Poitras. She and Snowden conversed, and he began sending her NSA

documents to report on. Snowden also tried to reach out to Glenn Greenwald, but found him

skeptical. Greenwald dragged his feet and simply did not find the time to install encryption

programs. Eventually, Poitras contacted Greenwald and encouraged him to talk with a source

about leaked documents. Together, the two flew to Hong Kong to meet their anonymous tipster

(Greenwald, 2014).

In April of 2013, the journalists met with Snowden. He gave them classified documents

related to United States surveillance programs. Holed up in his hotel room in Hong Kong, the

journalists interviewed Snowden for hours, and he explained many of the surveillance programs

to which the documents referred. After a week, Greenwald and Poitras began publishing articles

about the leaks in *The Guardian*. The first leak reported by Greenwald and Poitras was a

slideshow about PRISM, a program that allows the NSA to access Americans' Google and Yahoo accounts (Greenwald "N.S.A.," 2013). Later revelations exposed Boundless Informant, a program that allows the NSA to gather metadata from millions of telephone calls. Metadata does not include the content of communication, rather, it is data about that communication, including information about the caller's location and the amount of time spent corresponding (Greenwald "N.S.A.", 2013). A third program, XKEYSCORE, was dubbed "the widest-reaching program for developing intelligence from the internet [sic]," because it allows NSA agents to look at online chats and email correspondence without going through any court to gain authorization (Greenwald "XKEYSCORE," 2013). This information came as a shock, even to U.S. legislators, because it was commonly thought that to retrieve information, the NSA had to go through the FISA court (Greenwald "XKEYSCORE," 2013). The revelation of these programs and others continued during Snowden's time in Hong Kong. Aside from the leaks, the reporters released a video of Snowden explaining his actions, thus revealing his identity to the world, on June 9th. On June 15th, the United States charged Snowden with a violation of the Espionage Act for undertaking "unauthorized communication of national defense information" and "willful communication of classified communications intelligence information to an unauthorized person" (as cited in Finn & Horwitz, 2013).

Reactions to Snowden varied. Internationally, many countries and political leaders expressed outrage at the reach of U.S. spying programs, including German Chancellor Angela Merkel, whose personal phone was wiretapped under a clandestine program (Allam & Landay, 2013). Central figures in the United States government incriminated Snowden. Senate Majority Leader Harry Reid, House Speaker John Boehner, and former Vice-President Dick Cheney each called Snowden a "traitor" (Cohen, 2014), and President Barack Obama stated that Snowden's leaks could damage U.S. security for years to come (Gerstein, 2014; Knickerbocker, 2014).

Conversely, some congressional leaders expressed concerns about the NSA, most notably Ron Wyden, a Senator from Oregon. On the Senate floor, Wyden said "These violations are more serious than those stated by the intelligence community, and are troubling" (Greenwald "XKEYSCORE," 2013). Wyden was among several other government officials who were surprised by the reach of the NSA's surveillance programs. Just as governmental leaders released mixed messages about Snowden, the American public was divided in their opinion. According to *The Huffington Post,* in October of 2013 fifty-one percent of Americans viewed Snowden as more of a hero, while forty-nine percent perceived him as a traitor (Edwards-Levy & Freeman, 2013).

Facing a criminal charge and a flurry of media coverage, Snowden applied for political asylum, sending applications to many countries. Ecuador granted him a travel visa, but revoked it after U.S. Vice President Joe Biden warned the Ecuadorian president that granting Snowden asylum would harm relations between the two countries (Forero, 2013). Snowden then met with Russian diplomats in Hong Kong, and was permitted to travel through Moscow on his way to Cuba. However, he could not continue on to Cuba, as the U.S. canceled his passport while he was traveling (Radia & Bruce, 2013). Snowden then spent forty days in a transit zone of a Russian airport, in limbo as he waited to see if any countries would grant him entrance (Luhn, 2013). Finally, Russia gave Snowden a one-year visa in August of 2013. After leaving the airport, Snowden took up residence in Russia. Since then, he has granted interviews with several news outlets. Throughout his ordeal, Snowden continues to speak about why he leaked classified documents. In August of 2014, Russia renewed Snowden's visa, granting him a three-year residency permit (Sonne, 2014). Snowden's leaks kept him in the public eye for an entire year, and coverage of his story continues. The United States and the world continue to assess his motives as more documents come to light.

Summary of Artifacts

Though Snowden stirred an international discussion, he himself has not written as prolifically about the NSA leaks as his chosen reporter, Glenn Greenwald. Greenwald's coverage of the NSA did not end with Snowden, and he continues to write about privacy violations. In the following chapters, I analyze newspaper articles written by Glenn Greenwald, as well as his 2014 book, *No Place to Hide: Edward Snowden, The NSA, and The U.S. Surveillance State.* Between May and July of 2013, Greenwald wrote nine articles about the NSA and Edward Snowden for *The Guardian.* In May of 2014, he expanded upon these articles and provided new information in his book. Through these artifacts I seek to examine how Greenwald demonstrates the significance of state surveillance, and argues that surveillance is a topic worthy of discussion in the public sphere.

Greenwald's articles in *The Guardian*

On Wednesday, June 5th, 2013, Greenwald published the breaking news in *The Guardian*: through a secret source he and Laura Poitras had discovered a court order which allowed the NSA to collect American's metadata through Verizon, one of the largest phone service providers in the country. The story was picked up by many other news agencies and shared around the web, going viral overnight. On June 6th, Greenwald proved that he was not done. He reported on PRISM, a program which allowed the NSA to access data online from Apple, Google, Yahoo, and other electronic communication providers. The revelations continued with a new article published every few days, each from a top secret NSA file. Many screenshots of the files were displayed in the articles themselves. On June 9th, Greenwald revealed Edward Snowden's identity, writing an article that included an interview filmed by Poitras. Greenwald gave Snowden's background, told the story of how he obtained so many NSA documents, and reiterated why these findings were significant. The articles continued, amounting to nine in all by

the end of July. After this, Greenwald stopped reporting about NSA documents. Though the news of NSA surveillance was picked up by almost every news network, Greenwald was the first to deliver the scoop, and provided all of the information reported by other channels.

No Place to Hide: Edward Snowden, The NSA, and The U.S. Surveillance State

In *No Place to Hide: Edward Snowden, The NSA, and The U.S. Surveillance State (NPTH),* Greenwald talks about his meeting with Edward Snowden and the documents Snowden gave him. The book tells the story of how Greenwald obtained the documents, and the time leading up to his first *Guardian* publication. The title of the book comes from a quote by Senator Frank Church, the head of the famous Church committee which investigated NSA abuses. Church said that the U.S. intelligence capabilities were useful against enemies, but "we must know, at the same time, that capability at any time could be turned around on the American people, and no American would have any privacy left. Such is the capability to monitor everything—telephone conversations, telegrams, it doesn't matter. There would be no place to hide" (Greenwald, 2006). In this book, Greenwald specifically focuses on surveillance, narrowing his purpose from post-9/11 security concerns to the NSA.

Greenwald first tells the tale of his meeting with Snowden. Though Snowden attempted to reach Greenwald months earlier, it was not until Laura Poitras, a documentary filmmaker, invited Greenwald to cover a story on the NSA that the two actually communicated. Greenwald tells the story of his trip to Hong Kong to meet Snowden and report on his documents. Next, he includes a section of documents leaked from the NSA. First, he uses the NSA's own slides to show that their philosophy is to "collect it all," or as much information as possible. Then he discusses the repercussions of surveillance, including a loss of individualism. "What makes a surveillance system effective in controlling human behavior is the knowledge that one's words and actions are susceptible to monitoring," he explains (p. 175). Finally, Greenwald says that the

mainstream media has been complicit in these abuses, and by refusing to report on them, they fail to perform a crucial check on the government.

No Place to Hide was well received by critics and became a *New York Times* Bestseller. *The Los Angeles Times* called Greenwald's work "a vital discussion on Snowden's revelations" (Ulin, 2014). Predictably, large media outlets disliked his attack on the media. Michiko Kakutani, reviewing for *The New York Times,* said "many of Mr. Greenwald's gross generalizations about the establishment media do a terrible disservice to the many tenacious investigative reporters who have broken important stories on some of the very subjects like the war on terror and executive power that Mr. Greenwald feels so strongly about" (2014). I analyze Greenwald's book and *Guardian* articles in subsequent chapters.

Literature Review

While the NSA scandal is a newer revelation, many scholars have focused on post-9/11 security rhetoric. Much of this work examines President George W. Bush's rhetorical moves toward greater surveillance, the invasion of Iraq and Afghanistan, and the passage of the PATRIOT Act. Scholars conclude that Bush's rhetorical framing of 9/11 allowed him to pass new laws and expand executive power, all in the name of defending the country against terrorists. Bush's strategy of preemptive war justified invasions of Iraq and Afghanistan as a form of self-defense (Bostdorff, 2003; Dunmire, 2009), his "othering" of terrorists justified torture though it was not compliant with national and international laws (Johnson, R., 2002), and the fear of terrorists justified an increase in government secrecy (Davis & Albert, 2011; Domke et al., 2006). Bush's use of exigence and fear appeals also allowed him to dramatically expand executive power and decrease oversight of surveillance (Hasian, 2006). He spoke on behalf of the American people, reframing 9/11 as a war that the U.S. would win, not because it was easy,

but because it was the morally correct path (Johnson, R., 2002; Murphy, 2003). His focus on the United States as good and terrorists as evil resonated with Americans, who gave him a great amount of support in the immediate aftermath of the attacks (Bostdorff, 2003; Johnson, R., 2002; Silberstein, 2002). Scholars have found that Bush's post-9/11 rhetoric allowed him a great exercise of power.

Bush's policies themselves are also the subject of rhetorical study. Simone (2009) looked at the rhetoric surrounding the renewal of the PATRIOT Act, finding that the government justified surveillance by emphasizing individual benefit, collective welfare, danger posed by crime, and threats to national security. By emphasizing the threat of terrorism, the government was able to create a complacent citizenry which was willing to subject itself to surveillance (Hall, 2007). However, the use of national security to justify secrecy about government actions is not a new argument. Taylor (2007) traces this reasoning back to the Cold War. Taylor (2007) finds that nuclear deliberation is an oxymoron, and there is "a fundamental incompatibility between nuclear weapons and the ideals of the democratic state" (p. 671). U.S. officials claim to serve the interest of citizenry with nuclear development and war waging, but they simultaneously silence deliberation and dissenting voices. Taylor's (2007) findings about nuclear deliberation echo post-9/11 discussions of Bush's creation of exigence, or what Taylor calls a "permanent emergency," which excuses the lack of citizen deliberation, because it takes too much time (p. 671). Greenwald characterizes discussions about post-9/11 security in the same way, and tries to argue against this official silence.

These studies are a natural precursor to the study of security leaks, which are often executed in protest of governmental policies. After the increase in surveillance post-9/11, an aftershock of leaks of state secrets occurred. Other so-called "leakers" have been the subject of rhetorical analysis. Hindman and Thomas (2014) studied the mainstream media's framing of

WikiLeaks, concluding that the "old" media criticized the "new" as not showing proper maturity toward news stories. The media had to communicatively manage the tensions between the public's "right to know," and the use of secrets to preserve national security. Cloud (2014) looked at the media portrayal of whistleblower Chelsea Manning, a transgender woman who leaked army documents to WikiLeaks. Cloud (2014) found that Manning failed to start a public conversation about security because of the "re-secreting" of the information she revealed. By citing her gender identity and linking it to confusion and loneliness, the government and press were able to invalidate her reasons for leaking information. Both Hindman and Thomas (2014) and Cloud (2014) focused on media framing and the debate of leaking. Greenwald, too, is part of the media. However, his rhetorical tactics used to introduce Snowden vary from those used by WikiLeaks and popular media outlets. For example, Cloud (2014) found that the mainstream press framed Chelsea Manning in negative terms, while Greenwald discussed the importance of Snowden's actions, framing him in a positive way. Hindman and Thomas (2014) found that the traditional media disliked WikiLeak's methods of disclosure, which often include "data dumps," or large amounts of documents posted to the website with no comment. Greenwald did not "dump" Snowden's documents, and instead carefully read through them. In this way, he fulfilled more of a traditional journalistic role. There is much room for communication scholars to look at the media portrayal of leakers still. In Greenwald's case, I will use G. Thomas Goodnight's spheres of arguments and Foucault's idea of surveillance and resistance to examine Greenwald's rhetorical choices.

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Publics and Spheres of Argument

      The public sphere. Habermas (1974) reignited scholarly interest in the public sphere. He

traced the history of the public to bourgeois society during the 1600 and 1700s. This group gained a political consciousness and began to oppose absolute sovereignty, speaking to rulers about their demands. Building from this historical starting point, scholars define the contemporary public sphere as an arena in which citizens debate public policy separate from state apparatuses. Asen and Brouwer (2001) characterize the public sphere as having three qualities: "access is guaranteed to all citizens; citizens debate openly; and citizens debate matters of general interest" (p. 4). In the ideal public sphere, all citizens participate as equals, resulting in the "bracketing" of inequalities. However, Asen and Brouwer (2001) push back on these assumptions, arguing, for example, that the "bracketing" of class inequality actually serves to hide class privilege, subsequently blocking the topic from discussion. Their reconfiguration of Habermas's idea posits multiple, dialectical public spheres. Asen and Brouwer (2001) also question the rigid separation between the state and public sphere, citing scholars who say that the state should be part of the public sphere, for it can ensure access for citizens. Are not legislatures themselves "privileged public spheres," the authors ask (p. 15)? I will explore Greenwald's discussion of state involvement in the public sphere, as he pushes back against Asen and Brouwer's (2001) assumption that the state can ensure equal access into the debate about surveillance. Warner (2002) also attempts to clarify the definition of a public. He said that a public is self-organized, "exists by *virtue of being addressed"* (p. 413, emphasis in original), and is completely separate from the state. Though scholars have attempted to find some external marker of a public, Warner (2002) disagrees with these attempts, saying that publics are discursively constructed and called into being by being addressed. Greenwald calls an audience into being and characterizes their ideal concerns and behaviors, so Warner's (2002) discussion of the public sphere will be useful in subsequent chapters. This understanding of the public sphere helps illuminate Goodnight's (1982) other spheres of argument, which, I argue, are useful when

examining Greenwald's arguments about surveillance.

Goodnight's Spheres of Argument

G. Thomas Goodnight (1982) posits three spheres in which public inquiry can occur and to which rhetors can appeal, and I will argue that Greenwald tries to move the debate about surveillance from one sphere to another. The first appeal is invoked with identification, or the private sphere, the second is an appeal to partisanship, which is part of the public sphere, and the final is an appeal to work in a special occupation, or the technical sphere (Goodnight, 1982). Each sphere requires different types of grounds and has different communicative norms, and arguments in one sphere table concerns of other spheres, which are no longer "in play" (Goodnight, 2012b, p. 260). Reasons put forth in the private sphere may be more casual or personal than they are in either other sphere, and jargon that works in the technical sphere must be made more familiar for the public sphere. As Goodnight quipped, "one's dentist does not have to be a good friend or a Democrat; just a competent dentist" (2012b, p. 260). Goodnight (1982) notes that the spheres are not stagnant, and what is considered an appropriate sphere for discussion can shift over time. He particularly highlights aspects of public deliberation, which occurs as the public tries to resolve uncertainty by sharing in a hypothetical construction of the future. Through the process of public deliberation, people create shared social knowledge in order to resolve shared social problems (Goodnight, 2012b). Goodnight's updated essay about spheres of argument focuses on deliberation, including how the groundings of an argument can change. This information will be useful as I examine Greenwald's attempt to change the groundings of arguments about surveillance. Goodnight is not the only scholar to study this shift in spheres of deliberation.

Changing groundings of arguments. Goodnight's (2012a) interest in how the grounds

of arguments change is especially relevant to this research, as I argue that Greenwald's rhetoric can be interpreted as an attempt to shift discussions of surveillance from technical reasoning to public deliberation. Goodnight (2012a) says that a transition from the technical to the public sphere can occur when experts disagree and take to public forums to fight for resources, leadership, and control. If the governing forums of the discipline fail to satisfy them, they may appeal to the public. As Goodnight (2012a) says, the arguments must then be made congruent with public deliberation practices. The proof and reasoning of the public sphere is more formal than that of personal disagreements, but less specialized than reasoning of a professional setting. In the public sphere, speakers will use "common language, values, and reasoning so that the disagreement could be settled to the satisfaction of all those concerned" (Goodnight, 2012a, p. 202).

      Infiltration of the technical sphere. Goodnight (1982) is concerned about the diminishing public sphere and the infiltration by private and technical reasoning. In particular, the specialization of technology has made the public sphere less accessible, because "questions of public significance themselves become increasingly difficult to recognize, much less address, because of the intricate rules, procedures, and terminologies of the specialized forums" (2012b, p. 225). As I will argue, Greenwald is also concerned with the infiltration of the technical sphere, which constrains public debates about surveillance. While revisiting his 1982 essay, Goodnight weighs the changes in technology. He says that on the upside, technology decreases the time and cost required to participate in the public sphere, but the Internet has also created "intrusions into privacy, government surveillance, and the refined mechanisms of a control society" (2012b, p. 264). Greenwald, too, notes that technology, while opening new arenas of debate, also allows for more government surveillance.

      Several scholars describe the technical sphere as insulated from public concerns. Hauser

(1987) weighs the invasion of the technical sphere, and is particularly concerned with how language use reflects power structures. He says that institutional rhetors "often employ a technical language as coin of the realm, thereby denying social actors a common sense language to address their common problems" (Hauser, 1987, p. 440). Several other scholars trace this concern using specific cases (e.g. Farrell & Goodnight, 1981; Schiappa, 2012; Sovacool, 2009). Farrell and Goodnight (1981) noted that when an argument is contained in the technical sphere "its very logic precludes its practitioners from full social responsibility" (p. 296). This argument echoes Taylor's (2007) discussion of technical insulation within national security rhetoric. By containing discussions about national security within the technical sphere, Taylor (2007) argues, public arguments about ethics are restricted. Many communication scholars have found reasons to be concerned about the technical sphere's dominance of the public sphere. Greenwald similarly argues that ethical concerns have been suppressed through technical jargon and the bracketing of surveillance to the technical sphere.

Push back on the technical sphere. However, other scholars push back on this assumption, saying that simplification or under-reliance on experts is just as detrimental to the public sphere. Rowland (1986) found that after the Challenger Seven explosion, it appeared that NASA and the scientific community were at fault. However, the public put pressure on NASA to launch, and the technical sphere should have been listened to, rather than ignored, as experts did express concerns. Whidden (2012) studied debates over vaccines. She found that though physicians have knowledge in the technical sphere, their words are received by parents, who may evaluate messages based on personal sphere mantras like parental instinct. This can lead to public sphere consequences, like the choice not to vaccinate children, based on private, rather than technical, sphere reasoning. Paliewicz (2012) says that in the debate about climate change, the public sphere has usurped the technical sphere, invalidating good scientific arguments and

clouding them with economic interests. Though many studies have noted the technical push into the public sphere, the converse can also occur. Goodnight (2012a) uses several examples to trace how the grounds of an argument may shift between the technical and public sphere, and finds that they often overlap. He gives the example of the environment as a topic which has moved from the public sphere to the technical sphere with the advent of the 1970s environmental movement, which lead to an interested technical field, ecology. Though arguments can move from the public to technical sphere, Goodnight (2012a) also says that the public may influence technical communities. In particular, the government influences technical discussion through support, which may include funding or training. "The degree to which present defense efforts induce scientists away from other possible avenues of research is well known," Goodnight says (2012a, p. 204). While Greenwald's concern lies with the infiltration of the public sphere by the technical sphere, given the arguments made by the aforementioned scholars, I will be careful to consider the potential problems that might occur should Greenwald's suggestions be followed.

The mass media as rhetors. Several scholars have commented on the role of the media in the public sphere, which Greenwald also takes on, particularly in *No Place to Hide.* Habermas tracked the changing media, which began as a news bulletin, became a member of public debate, and finally became commercialized, reflecting the interests of special interest groups. This move concerned him, because the media and the welfare state ceased to represent the role of the public as a whole, rather reflecting the interests of certain lobbying groups (Habermas, 1974). Bitzer (1987) takes a more optimistic stance, saying that the media represents the interests of the public by upholding rigorous professional standards and asking difficult questions to gain access to information otherwise inaccessible to the public. However, he is concerned about the unbalanced access to the public sphere, in which air time disproportionately goes to the media and the wealthy, making it difficult to refute mass media claims (Bitzer, 1987). Hauser (1987) also

concerns himself with fair access to the public sphere. He suggests that the media should

transmit public sphere information, or "the citizenry can neither conduct intelligent discussions

nor form balanced opinions" (p. 439). Though these articles may seem dated, Greenwald is still

concerned with the disproportionate power of the wealthy and the technocratic elite to have

access to the media. For Bitzer (1987), Habermas (1974), and Hauser (1987), the media was a

new, yet essential, actor in the public sphere. Greenwald agrees, but finds that the media is not

always a positive contributor to the public sphere in today's conversations. Just like the technical

elite, he views the media to be too sympathetic to government surveillance. As I demonstrate,

Greenwald criticizes the media's role in the public sphere. He finds the mainstream media's

discussion of surveillance to be inadequate.

Foucault, Surveillance, and Resistance

Greenwald's analysis of the NSA also leads him to the effects of surveillance. In many

ways, he echoes Foucault's (1995) arguments from *Discipline and Punish.* Greenwald expresses

the concern that surveillance leads to self-discipline and the censorship of dissent. He encourages

the public to deliberate about surveillance and NSA policy as the antidote to this problem. In

doing so, he encourages resistance at the macro-level. Previous scholarship about resistance

often focuses on micro-practices, and, as I argue in later chapters, this is what makes

Greenwald's rhetoric an interesting addition to this literature.

Foucault and the panopticon. In *Discipline and Punish,* Foucault (1995) gives a

genealogy of the modern prison system. He is specifically interested in discipline, which he

considers to be a technique which hones the efficiency of power. Foucault first traces the history

of punishment through three phases: torture, humanist reform, and normalized detention. Public

torture was once a ritual. It represented the overt power of the ruler over the citizen. However,

torture could lead to riots and other threats to power. As Dreyfus and Rabinow (1983) say, "public executions frightened less and incited more than they were intended" (p. 147). During the 1700s, reformers called for criminal justice systems to punish, not take revenge. As a criminal breached the social contract, society had an obligation to right the wrong using punishment. These humanists called for a uniform standard of punishment that should be knowable by citizens and have the effect of deterring the crime (Foucault, 1995). Finally, in the late 1700s, a new shift in punishment occurred. Foucault calls this shift the normalizing of detention, or the birth of prisons and other total institutions with surveillance capabilities.

Using detention, the goal of modern-day discipline is to create docile, productive bodies through control. Foucault says that observation and examination are the key instruments of power through this technique. Dreyfus and Rabinow (1983) clarify that this control is achieved through compartmentalization of the body and complete control of space and time. Foucault demonstrates that modern total institutions use this technique to maintain power. He gives the example of Jeremy Bentham's panopticon as the ideal form of efficient control. In the panopticon, prisoners are perfectly observable, as they are situated around a central tower. They are illuminated while the tower windows are obscured, so that they could be watched at any time and have no way of knowing when observation occurs. The prisoner "is seen, but he does not see; he is the object of information, never a subject of communication" (Foucault, 1995, p. 200). Additionally, discipline makes power invisible while making the subject visible. The minutiae of everyday life is "scrupulously recorded," in dossiers (Dreyfus & Rabinow, 1983, p. 159). The panopticon works to "induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power" (p. 201). It creates total control by making the exercise of power unnecessary, as the prisoner, or anyone else being surveilled, self-disciplines. Greenwald characterizes the NSA's surveillance as constant and overzealous. He explicitly links

the NSA to Foucault's discussion of the panopticon in *No Place to Hide.* This link demonstrates

the seriousness of the NSA's actions, which Greenwald then uses as a warrant for resistance.

  Microresistance. In his work, Foucault maintains that resistance is essential for power to

operate. Through resistance, power spreads, but is also disrupted. Foucault labels some forms of

resistance "transversal struggles" (1983, p. 211). Transversal struggles do not resist a specific

institution or actor, but a form of power as a whole. Transversal struggles have six

characteristics: 1) they are international, 2) they criticize power for its effects, 3) they focus on

an immediate enemy and are anarchistic, 4) they struggle with state control over the individual,

5) they struggle against privileges created by knowledge or secrecy, and 6) they focus on

individual identity. Foucault (1983) labels this type of resistance as a struggle against subjection,

or "subject to someone else by control and dependence, and tied to his own identity by a

conscience or self-knowledge" (p. 212). Several of these characteristics fit specifically with

micro-acts of resistance, particularly the idea that resistance is anarchistic and an individual

struggle. In these aspects, Greenwald's ideas do not necessarily fit with Foucault. However, other

tenets, like the criticism of power for its effects, do fit well with Greenwald's suggested

solutions. I will compare Greenwald's ideas to Foucault's definition of a transversal struggle,

demonstrating that in this case, resistance to surveillance can occur on a larger scale coupled

with individual actions.

  Another form of microresistance Foucault addresses is something he calls "critique."

Foucault conceptualizes critique as "the art of not being governed quite so much" (1997, p. 45).

We can undertake critique by subverting power in small ways which slightly alter relationships

of power. Though resistance often feeds into the disciplinary power it tries to resist, through

critique, we can make small changes. Critique gives the subject the right to question the truth and

the relationship between truth and power (Foucault, 1997). Foucault's ideas of resistance through

these small critiques do fit with Greenwald's ideas for change, then, because though these actions do not occur on simply a personal level, they subvert power in a small way through deliberation. Deliberation allows us as subjects to discuss surveillance and have a say in the ways we are governed.

Although Foucault's discussion of transversal struggle and critique are useful, they do not go into great detail (Wendt, 1996). Communication scholars have taken up this criticism to continue Foucault's work by looking at resistance. However, like Foucault, most of their examinations look at calls for microresistance, or individual acts of resistance, while Greenwald asks his audience to do something much bigger: to come together as a public sphere and resist as a whole, or to resist on a macro-level. For example, Wendt (1996) offers a useful genealogy of scholarship about resistance. He gives many examples of microresistance. These include using the body to resist imprisonment through graffiti, piercings, and self-harm. Microresistant practices can also include silence (Wagner, 2012), social media use (Penney & Dadas, 2014), and sousveillance, or watching the watchers (Fernback, 2012). In each of these cases, resistance is encouraged through individual action. Groups can suggest small steps for people to take to resist surveillance. As noted, however, Greenwald is not as interested in individual steps. He encourages readers to participate in a larger-scale public sphere discussion of surveillance.

Macroresistance and counterpublics. Greenwald's suggestion, that the public un-brackets surveillance by engaging in a discussion about it, is a form of macroresistance. Several scholars have studied macro-level resistance. Reeves and Packer (2012) suggest that protestors learn how to harness the media in the way police often do. By gaining media attention, resistors can spread their message. There is some overlap between practices of macroresistance and counterpublics, so counterpublics can aid in our understanding of Greenwald's messages. Fraser (1994) characterizes counterpublics as subordinate groups, which allow the circulation and

invention of counterdiscourses within the group, and express these needs to the larger public. Discursive contestation is necessary to determine what qualifies as worthy of public deliberation. Felski (1989) first characterized the feminist counterpublic as one that oscillated between collective identity and individual or other alliances which led to differing struggles. Similarly, counterpublics must oscillate between internal and external needs (Felski, 1989). Squires (2002) expanded on this idea, offering three responses a marginalized public can enact: enclave itself to avoid sanctions; create a counterpublic which debates and challenges the public; or satellite, in which the marginalized public engages with the wider public occasionally, but is largely self-contained. A counterpublic can challenge public discourse while also building counterpublic rhetoric within the enclave. In Greenwald's case, macroresistance is very similar to the external role of a counterpublic. Just as a counterpublic challenges the public, Greenwald asks his readers to circulate a new message about surveillance which challenges the dominant discourse.

Many scholars have looked at identity-based counterpublics, or groups that gather together to challenge the majority based on the treatment of their race, gender, or sexual orientation (e.g. Dunn, 2010; Felski, 1989; Squires, 2002). However, Squires (2002) suggests a focus not on common identity but on response. The counterpublic response is one that engages with the public sphere in order to voice interests or persuade the public. This definition of a counterpublic closely parallels what Greenwald tries to persuade his audience to do. Asen (2000) cautions that scholars should not reduce counterpublics to persons, places, or topics as necessary markers. He suggests looking at collectives which are created out of recognition and articulation of exclusion. In Greenwald's case, then, everyone but high-up government employees and technicians could potentially recognize their exclusion from deliberation about surveillance. Who Greenwald calls on to recognize this exclusion and how he asks them to resist will be a subject of greater discussion.

Limits of resistance. Several scholars have noted that forms of resistance can inadvertently support the dominant power structure. For example, a delinquent, or someone acting out against the dominant group, can become an example and object of knowledge for other subjects under the gaze of surveillance (Wendt, 1996). Thorburn (2014) found that live streaming video was an important form of resistance for the Occupy movement, but these videos could also be used by the police to watch protestors. Similarly, states can and often do regulate online spaces in order to control and monitor dissent (Rahimi, 2011). These studies echo Dreyfus and Rabinow's observation (1983) that "one of Foucault's main points is that the discourse of law as legitimation found a form which is still in use. He points out that even the opponent of a political regime speaks the same discourse regarding the law as the regime itself" (p. 131). Resistance still functions within dominant frameworks, which can keep it from truly succeeding. This may have implications for Greenwald's ideas about how to resist surveillance. Though Greenwald encourages public discussion, this discussion will still use the dominant framework set forth by the government. Greenwald's rhetoric could provide new tools and ways of thinking to advance the surveillance debate, but without legal change, the NSA will continue with their current programs.

Precis of Chapters

Greenwald's reporting about the NSA is a ripe area for rhetorical study, as he attempts to persuade Americans and the world to be concerned about surveillance. Using Goodnight's spheres of argument and Foucault's discussion of discipline and surveillance as lenses, I examine his book and newspaper articles. In chapter two, I discuss Greenwald's characterization of the surveillance debate and proposed solutions. Greenwald's observations about the NSA closely parallel Goodnight's idea of the insulated technical sphere. Greenwald advocates for public

sphere discussion of surveillance. Greenwald's ideas of surveillance also draw on Foucault and Bentham's panopticon to explain the effects of surveillance. After analyzing these appeals, I offer a discussion in chapter three, examining the interaction between Foucauldian ideas of surveillance and public deliberation as an antidote. In chapter four, I conclude with broader implications for surveillance rhetoric and especially rhetoric of resistance.

My work contributes to the discussion about Goodnight's spheres of argument by demonstrating another debate in which the technical sphere has eclipsed the public sphere. Greenwald's coverage of the NSA does not just observe this phenomenon, it fights back to preserve public deliberation. While many scholars have noted that the technical sphere is usurping the public sphere (e.g. Farrell & Goodnight, 1981; Hauser, 1987; Schiappa, 2012; Sovacool, 2009), Greenwald's rhetoric looks at the recognition and pushback against this phenomenon. This discussion contributes to Goodnight's spheres of argument through the examination of an attempt to move an argument from one sphere into another. Additionally, this study hopes to contribute to studies about resistance. Though scholars have examined personal acts of resistance, or microresistance, large-scale acts of resistance are typically considered only in the form of social movements or counterpublics. Greenwald's call for discussion functions as a way to resist surveillance as a public, yet at this point his work cannot be considered in terms of the two categories rhetoric scholars typically utilize when studying resistance. As such, this study can contribute to scholar's understanding of a form of resistance that is typically not studied, which I term resistance through the public sphere.

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i   Chelsea Manning (formerly Bradley Manning) was a U.S. Army private. In 2010, Manning began sending military documents to WikiLeaks, a website which compiles leaked documents. These documents became known as the Iraq and Afghanistan "War Logs" (Tate, 2013). Manning leaked the largest number of classified documents in U.S. history. Of particular note was a classified video of a 2007 military operation, in which U.S. soldiers gunned down a group of men from their helicopter over Iraq. It was later revealed that they were civilians, and two of them worked for international news companies. Other leaked documents revealed embarrassing diplomatic cables and mistreatment of civilians in Iraq and Afghanistan (Goodman, 2011). During

the discussion of these leaks, Manning stepped forward and revealed that she identified as a woman, wished to be called Chelsea, and wanted to undergo gender reassignment treatment (Connor, 2014). In 2013, Manning was sentenced to thirty five years in military prison for violating the Espionage Act. This was the longest sentence ever handed down for leaking classified documents (Tate, 2013). Manning remains in prison, where there is an ongoing conflict about her gender reassignment. The military has thus far refused to provide treatment (Connor, 2014).

ii Julian Assange is the founder and editor-in-chief of WikiLeaks, a website which publishes leaked documents and secret information from anonymous sources. WikiLeaks functions using the same interface as Wikipedia, meaning anyone can edit and contribute to the site. WikiLeaks specifically says its mission is to expose oppressive regimes, but "we also expect to be of assistance to people of all regions who wish to reveal unethical behavior in their governments and corporations" ("Wikileaks: About"). U.S. Attorney General Eric Holder said that there was an ongoing criminal investigation into WikiLeaks in 2010 (Yost, 2010). After the Chelsea Manning trial and sentencing, there was some talk about prosecuting WikiLeaks, but this has not occurred.

iii The case of Edward Snowden's NSA leaks is a focus of this paper and will be elaborated on in greater detail.

iv Humorously, many news articles about the NSA during this time reported on the NSA's decision to ban Furby toys from the agency's offices. Furbys were children's toys that could repeat up to 100 words, and the NSA was concerned that Furbys would accidentally record and reveal secret information (Borger, 1999).

v For a more extensive list of NSA employees accused of spying for the Soviet Union during the Cold War, see CNN's timeline ("Imprisoned," 2014).

vi The US Senate voted 98-1 to pass the PATRIOT Act, while the House of Representatives vote was 357-66 (Department of Justice).

vii For a more extensive list of controversies surrounding the PATRIOT Act, see Abramson and Godoy, 2005.

Chapter Two: Analysis

Greenwald's Appeals to the Public Sphere

Greenwald explains the current NSA surveillance strategies in his articles in *The Guardian* and *NPTH*. Greenwald's characterizations are similar to Goodnight's definition of the technical sphere, or discussion which appeals to work in a special occupation (1982). Government officials and technical workers are part of special occupations with exclusive knowledge about surveillance, thus, they constitute a technical sphere. Greenwald often mentions these occupations, and specific actors with this knowledge, in his characterizations of the NSA. Additionally, Greenwald says that the discussion of the NSA's tactics has been stifled using fear appeals. He says that the government invokes the fear of terrorism to keep citizens complacent with surveillance. This idea parallels Taylor's (2007) state of "permanent emergency," which allows the government to stifle public discussion because it takes too much time. Greenwald identifies terrorism as the permanent emergency which keeps the American public from discussing the NSA. After demonstrating that surveillance is confined to the technical sphere, Greenwald presents the solution: public deliberation. Greenwald's own writings constitute a move toward publicly grounded arguments, which he encourages readers to continue developing by participating in the public sphere. Using Goodnight's writings on the three spheres of argument, I analyze Greenwald's appeals.

Surveillance and the Technical Sphere

In his *Guardian* articles and *NPTH,* Greenwald describes the NSA and US government surveillance. Using Snowden's leaked documents, Greenwald explores the NSA's motivations. Overall, Greenwald finds that the NSA collects information because the organization desires control and power. Greenwald lists members of the surveillance community, which range from

governments to technology companies. This elite, secluded group has similar characteristics to Goodnight's definition of the technical sphere, but beyond having specialized knowledge, Greenwald claims that the surveillance community uses their specialized knowledge to maintain control.

First, Greenwald says the NSA is insulated within the technical sphere, and the agency favors technical reasoning, shifting control over who makes decisions about surveillance from the FISA court to the NSA operatives themselves. "The vast amount of discretion vested in NSA analysts is also demonstrated by the training and briefings given to them by the agency," Greenwald says as he reports on the FISA courts to *The Guardian* (2013d, p. 8). He cites a leaked NSA memo which instructs analysts to use their own judgment and creativity to determine if a target is inside or outside of the United States. Though the FISA court is supposed to be consulted if a surveillance target could be within the US, Greenwald says "the decisions about who has their emails and telephone calls intercepted by the NSA is made by the NSA itself, not by the FISA court" (2013d, p. 9). Though there are legal limits which keep the government from examining the content of these communications, "there are no technical limits on the ability of either the agency or its analysts to do so" (2013d, p. 9). The NSA analysts have specialized, technical knowledge. Here, the groundings of the argument are not legal (as Greenwald says the FISA court does not review the NSA's decisions), but technical, and insulated within the NSA. Greenwald's description of the NSA parallels Goodnight's idea of the technical sphere. Goodnight (2012b) says that within the technical sphere, "technical arguments are stamped with procedure and rule where state of the art practice is always at issue" (p. 260). Greenwald similarly argues that within the NSA, technical capabilities are favored over ethical arguments against spying.

Greenwald also portrays the NSA and its partners as insulated and secretive, or separated

from the public sphere. Greenwald argues that the surveillance community is a revolving door of government officials and large defense companies who work together to produce lucrative and powerful results:

> The post-9/11 era has seen a massive explosion of resources dedicated to surveillance. Most of those resources were transferred from the public coffers (i.e., the American taxpayer) into the pockets of private surveillance defense corporations...Companies like Booz Allen Hamilton and AT&T employ hordes of former top government officials, while hordes of current top defense officials are past (and likely future) employees of those same corporations. Constantly growing the surveillance state is a way to ensure that the government funds keep flowing, that the revolving door stays greased (p. 168).

Greenwald names the actors in the surveillance state frequently in his articles and book. These actors include high-up government officials and government contractors. He says that the groups work together to control information and remain insulated.

Large technical companies are also complacent in this surveillance, according to Greenwald. In his articles in *The Guardian,* Greenwald begins introducing these figures. In his first article, about PRISM, Greenwald names Microsoft, Yahoo, Apple, Facebook, Skype, and AOL as companies that participate in the NSA's information-sharing programs (2013a). He says that "collectively, the companies cover the vast majority of online email, search, video, and communications networks" (2013a, p. 3). In *NPTH,* Greenwald reflects that Snowden's documents reveal "a slew of secret negotiations between the NSA and Silicon Valley about providing the agency with unfettered access to the companies' systems" (2014, p. 112). These companies control a large share of online communications, and they cooperate with the NSA. Greenwald links the NSA together with other technical experts to demonstrate the vast power of the technical elite. These groups have access to most communications, and can spy on the

majority of online messages. This is a specialized skill unique to the technical community.

Greenwald also emphasizes the breadth of surveillance, and links it to the power of the NSA. Reflecting on the Snowden documents in *NPTH,* Greenwald says

Even as someone who had spent years writing about the dangers of secrecy US surveillance, I found the sheer vastness of the spying system genuinely shocking, all the more so because it had clearly been implemented with virtually no accountability, no transparency, and no limits. The thousands of discrete surveillance programs described by the archive were never intended by those who implemented them to become public knowledge (2014, p. 91).

Greenwald notes the link between power and the breadth of power. He says that the NSA collects a vast amount of data simply because it can. "The mere fact that it (the NSA) has the capability to collect those communications has become one rationale for doing so" (2014, p. 95). Greenwald says that the NSA uses a "collect it all" philosophy, and "the agency is devoted to one overarching mission: to prevent the slightest piece of electronic communication from evading its systemic grasp" (2014, p. 94). Not only is the surveillance community isolated, the community is corrupt: the NSA collects data not to prevent terrorism but to contain its power. Displaying many internal NSA memos and presentations, Greenwald demonstrates that the NSA celebrates the gathering of information, and more information is always considered better. In one presentation, Greenwald says, the NSA writes that XKEYSCORE is valuable because "the program captures 'nearly everything a typical user does on the internet'" (2014, p. 153). Greenwald also displays unflattering NSA memos, which demonstrate what he calls the agency's "ego." He points to the title of one presentation designed internally for NSA personnel: "The Role of National Interests, Money, and Egos," and says that "these three factors together...are the primary motives driving the United States to maintain global surveillance domination" (2014, p.

167). By discussing the extent of surveillance gathered, Greenwald characterizes the NSA as greedy—the agency grasps at data and hoards it away from the public. Using the "collect it all" philosophy, Greenwald gives the surveillance community, and in this case the technical sphere, a new connotation: the community is not just isolated because of its specializations, but because of its interest in power. Greenwald says the NSA has a "contemptuous and boastful spirit of supremacy behind them" (2014, p. 94). As Farrell and Goodnight (1981) say, arguments grounded in the technical sphere preclude practitioners from social responsibility (p. 296). Greenwald argues that the NSA is not interested in the ethics of surveillance, but solely in its technical capabilities to spy.

Greenwald furthers this characterization by discussing oversight of surveillance. He says that the so-called checks on surveillance are ineffective, because they, too, are shrouded in secrecy. Commenting on the FISA court, which issues warrants for NSA surveillance, Greenwald says

> The uselessness of this institution as a true check on surveillance abuses is obvious because the FISA court lacks virtually every attribute of what our society generally understands as the minimal elements of a justice system. It meets in complete secrecy; only one party—the government—is permitted to attend the hearings and make its case; and the court's rulings are automatically designated 'Top Secret' (2014, p. 128).

Again, Greenwald demonstrates that the surveillance community is isolated from the public. No outside parties may review FISA rulings, and the government controls every aspect of the review process. Greenwald says that the FISA court is a "rubber stamp," which only rejected eleven applications between 2002 and 2012, while approving 20,000 requests (2014, p. 128). By comparing the FISA court to standard procedure in the US justice system, Greenwald emphasizes the isolation of the court. The FISA court, too, is characterized as part of the

technical sphere. The court is run by the government and only hears arguments from the technical elite with access to information about surveillance.

Greenwald's description of the NSA and its colluding partners functions similarly to Goodnight's technical sphere. Goodnight describes an elite group with specific, professional knowledge. This community is isolated. Arguments based in public sphere appeals, like ethics and law, are not valued, and arguments based in technical capabilities are favored. If the NSA can collect information, it should, according to Greenwald's description of the "collect it all" philosophy. The technocratic elite move through a revolving door of government and private positions, which work closely with each other to share information. However, this information is not shared with, or explained to, the public, so that they may appraise the programs. Greenwald says that this secrecy is used to maintain power. Goodnight (2012) warns in his revisitation of his 1982 essay that changes in technology can lead to "the refined mechanisms of a control society" (p. 264), an argument Greenwald supports by emphasizing power and control as he discusses the NSA.

Creation of a Permanent Emergency

Greenwald also explores how the surveillance community stifles discussion. He says that the community draws on appeals to fear, particularly of terrorism, to keep the public complacent. These fear appeals confine debate to technical experts and keep debate away from the public sphere. This idea functions similarly to Taylor's (2007) discussion of the creation of a "permanent emergency" which prevents deliberation about US nuclear policy. Taylor (2007) says that "secrecy limits public knowledge of nuclear matters, and this limitation is in turn used to justify excluding an 'uninformed' public from subsequent deliberation. Additionally, "'national security' is commonly invoked to discourage public debate of nuclear policy on the assumption

that such debate might damage national security itself" (p. 173). Greenwald attributes squelched

discussion to claims of national security as well, and asserts that these claims are unjustified.

First, Greenwald says that surveillance advocates have repeatedly cited prevention of

terrorism as justification for the NSA's power. "The post-9/11 American veneration of security

above all else has created a climate particularly conducive to abuses of power," Greenwald

writes as he introduces his encounter with Snowden (2014, p. 2). In *NPTH,* Greenwald says

"Surveillance cheerleaders essentially offer only one argument in defense of mass surveillance: it

is only carried out to stop terrorism and keep people safe. Indeed, invoking an external threat is a

historical tactic of choice to keep the population submissive to government powers... Ever since

the 9/11 attack, US officials reflexively produce the word 'terrorism'" (2014, p. 202). Linking

surveillance to a powerful fear appeal, like terrorism, keeps citizens complacent, according to

Greenwald. Greenwald says the government often claims there is a need for secrecy surrounding

these programs in order to protect national security. "Every time a lawsuit is brought contesting

the legality of intercepting Americans' communications without warrants, the Obama DOJ raises

claims of secrecy, standing and immunity to prevent any such determination from being made,"

he writes in an article for *The Guardian* (2013d, p. 5). Taylor (2007) says that the US

government often cites the need for secrecy and exigency as reasons to limit public discussion on

nuclear weapons. Post-9/11, the Bush administration linked these arguments to rogue states and

terrorists (Taylor, 2007). Greenwald says that the threat of terrorism is invoked to keep

surveillance away from public scrutiny. The threat of terrorism, along with the secrecy of

proceedings previously discussed, allow the government to maintain the state of permanent

emergency with little evidence of the effectiveness of surveillance.

Greenwald, however, finds these claims to be exaggerated. He says, "What is perhaps so

remarkable about the bottomless exploitation of the threat of terrorism is that it is so plainly

exaggerated. The risk of any American dying in a terrorist attack is infinitesimal, considerably

less than the chance of being struck by lightning" (2014, p. 205). Greenwald finds that

statistically, the threat of terrorism is low. Responding to the argument that the NSA could

prevent the next 9/11, Greenwald says "the implication is rank fearmongering and deceitful in

the extreme" (2014, p. 204). He points out that the CIA had several reports about al-Qaeda

before 9/11, but failed to act on the warnings. Therefore, collecting more information will not

solve the intelligence problems (2014). Additionally, revealing NSA programs does not threaten

national security. When writing his first article based off of Snowden's documents, Greenwald

says he contemplated any threats to national security, but believed "the idea that 'terrorists' would

benefit from exposing the order [to authorize Boundless Informant] was laughable: any terrorists

capable of tying their own shoes would already know that the government was trying to monitor

their telephone communications" (2014, p. 66). Greenwald argues that the fear of terrorism is

overblown, and that reporting about the NSA would not harm national security because terrorists

are already on guard against surveillance. Greenwald also says that many NSA programs are not

being used to prevent terrorism. Greenwald says that "a substantial number of the agency's

activities have nothing to do with antiterrorism efforts or even with national security. Much of

the Snowden archive revealed what can only be called economic espionage" (2014, p. 134). This

refers to NSA documents that revealed economic spying on foreign energy companies. This

spying takes place in order to "gain enormous advantage for American industry" by providing

economic and trade information, which the NSA has supplied to the State Department and others

during negotiations with other countries (2014, p. 138-139). Greenwald argues that terrorism is

an exaggerated threat, and is not the sole motivation for NSA surveillance. These arguments call

into question the NSA's main justification for their unchecked power. Greenwald makes the first

move toward dismantling the technical sphere isolation of surveillance by claiming that

arguments in favor of this isolation are invalid. The creation of a permanent emergency stifles public discussion, keeping surveillance within the realm of technical deliberation. Greenwald thus spends time dismantling the illusion of the constant threat of terrorism, which he sees as created to protect and expand governmental power.

Moves Toward Publicly Grounded Arguments

After characterizing the current state of surveillance, Greenwald says that average Americans should begin to discuss the government's policies. This can be viewed as a call to move the debate into the public sphere. Greenwald bases his arguments in public (not technical) appeals, particularly by talking about ethical concerns and the impact on democracy. Greenwald demonstrates the significance of the leaked information and frames public deliberation as the appropriate public response to this information. Throughout his writings, Greenwald changes the groundings of arguments about surveillance. While he previously characterized the debate as confined to technical appeals requiring specialized knowledge, jargon, and questions of capability, he now uses public appeals. These appeals use common language and center around questions of ethics.

Greenwald makes the case for public deliberation by arguing that Snowden's leaked documents are significant, and Snowden wanted the leaks to be discussed by the public. He describes Snowden as brave, and says that the leaks can change the course of United States history. These portrayals tell the public to view the leaked documents as serious and worthy of discussion. Greenwald says that Snowden "will go down in history as one of America's most consequential whistleblowers, alongside Daniel Ellsberg and Bradley Manning. He is responsible for handing over material from one of the world's most secretive organisations [sic]—the NSA" (2013b, p. 1). Snowden's motivations for leaking these documents, Greenwald says, were "a

belief in the dangers of government secrecy and pervasive spying; I instinctively recognized his

political passion" (2014, p. 14). Greenwald also quotes Snowden's own explanation of why he

leaked the documents. Snowden said "I want to spark a worldwide debate about privacy, Internet

freedom, and the dangers of state surveillance" (2014, p. 18). Greenwald first demonstrates the

significance of the leaks in his articles in *The Guardian,* and then expands on Snowden's

motivations in *NPTH.* He links these motivations to public discussion and knowledge of

surveillance.

      Surveillance as a public problem. First, Greenwald links surveillance to its effects on

democratic freedom, and thus the public as a whole. "Even absent abuse, and even if one is not

personally targeted, a surveillance state that collects it all harms society and political freedom in

general," Greenwald says (p. 201). "Everyone," he argues, "even those who do not engage in

dissenting advocacy or political activism, suffers when that freedom is stifled by the fear of

being watched" (p. 201). Greenwald's specific discussion of the effects of surveillance will be

discussed in the following section. For now, Greenwald's concern with freedom creates a

question of ethics about surveillance. By using the value of freedom, Greenwald is able to link

this problem to public concerns. Goodnight says that "deliberative rhetoric is a form of

argumentation through which citizens test and create social knowledge in order to uncover,

assess, and resolve shared problems" (2012a, p. 198). Greenwald first demonstrates that the NSA

is a shared social problem that does not just affect outliers, because it impacts freedom as a

whole. Goodnight (2012a) outlines the many changes that occur when an argument moves from

the technical to public sphere. Most importantly, he says, "the interests of the public realm—

whether represented in an appropriate way or not—extend the stakes of argument beyond private

needs and the needs of special communities to the interests of the entire community"

(Goodnight, 2012a, p. 202). Greenwald argues that the entire community, and not just

individuals being watched, suffers the consequences of surveillance. He does so by pointing to public values that are compromised by surveillance.

Greenwald also shows that this is a public problem by focusing on the breadth of information acquired, and emphasizing that this information is collected from "average" citizens. In Greenwald's first article published about the leaks, he says that "The document shows for the first time that under the Obama administration the communication records of millions of US citizens are being collected indiscriminately and in bulk—regardless of whether they are suspected of any wrongdoing" (Greenwald, 2013a, p. 2). Greenwald furthers this argument in *NPTH*, saying, "Initially, it is always the country's dissidents and marginalized who bear the brunt of the surveillance, leading those who support the government or are merely apathetic to mistakenly believe they are immune" (Greenwald, 2014, p. 3). This shows that many people could be impacted by surveillance and average citizens are being surveilled. Greenwald makes arguments like this to demonstrate that many people have been impacted by the NSA and unchecked surveillance. "The perception that invasive surveillance is confined only to a marginalized and deserving group of those 'doing wrong'--the bad people—ensures that the majority acquiesces to the abuse of power and even cheers it on," Greenwald says (2014, p. 182). However, Greenwald says, the government watches many people for reasons beyond terrorist threats or illegal activity. He gives examples from history, saying that Martin Luther King Jr., the civil rights movement, and environmentalists have all been placed under government surveillance. Greenwald says that in the government's eyes, these people were doing something wrong, they were engaging in "political activity that threatened the prevailing order" (2014, p. 183). His argument clashes with a common argument by surveillance advocates: that those who are doing nothing wrong should not be concerned, because they are not being watched. Greenwald attacks the idea that "privacy is for people who have something to hide" (2014, p.

171). He emphasizes the scope of NSA surveillance, and links it to ordinary citizens, which refutes this argument. Because all citizens are impacted by surveillance, Greenwald can start to move toward his main argument: that debates about surveillance should occur in the public, not technical, sphere.

   Shifts from technical jargon to public appeals. Greenwald mentions his concerns about the technical aspects of surveillance and how to make these appeals to the public. He writes

> I knew from many years of writing about NSA abuses that it can be hard to generate
>
> serious concern about secret state surveillance: invasion of privacy and abuse of power
>
> can be viewed as abstractions, ones that are difficult to get people to care about
>
> viscerally. What's more, the issue of surveillance is invariably complex, making it even
>
> harder to engage the public in a widespread way. (2014, p. 19)

This shows that Greenwald attempted to draw the public's attention to this issue, but acknowledged technical aspects as barriers. Goodnight says that in the public sphere, "the forms of reasons would be more common than the specialized demands of a particular professional community" (2012a, p. 202). In a public forum, "speakers would employ common language, values, and reasoning so that disagreement could be settled to the satisfaction of all concerned" (2012a, p. 202). Greenwald uses some of these tactics as he writes about the NSA. Greenwald employs common language to explain technical issues. For example, Greenwald explains technical terms, like metadata, and what they could be used for, in order to explain the effects of surveillance to the American public. He often makes the argument in the articles and his book that metadata is invasive. In his article about Boundless Informant, which allowed the NSA to collect metadata in bulk from major cell phone service providers, Greenwald says "[metadata's] collection would allow the NSA to build easily a comprehensive picture of who any individual contacted, how and when, and possibly from where, retrospectively" (Greenwald,

2013c, p. 3). He gives another example of this in *NPTH:*

> Listening in on a woman calling an abortion clinic might reveal nothing more than
>
> someone confirming an appointment with a generic-sounding establishment...But the
>
> metadata would show far more than that: it would reveal the identity of those who were
>
> called. The same is true of calls to a dating service, a gay and lesbian center, a drug
>
> addiction clinic, an HIV specialist, or a suicide hotline (Greenwald, 2014, p. 133).

From metadata, Greenwald says the government can "create a remarkably comprehensive picture

of your life, your associations, and your activities, including some of your most intimate and

private information" (2014, p. 133). Greenwald explains metadata using common language.

Further, he uses specific examples that demonstrate the effects of surveillance. Greenwald begins

arguing that surveillance is invasive by defining terms and programs and providing common

examples. Writing about the technical sphere, Hauser (1987) says that technical discussions often

"employ a technical language as coin of the realm, thereby denying social actors a common

sense language to address their common problems" (p. 440). Greenwald takes this technical

language and starts supplying his readers with common language and examples, so that they can

participate in the discussion. These moves show the shift in argument groundings from the

insulated technical sphere to the more open public sphere.

   Emphasis on multiple voices. Greenwald also moves the groundings of the surveillance

debate by making it just that—a debate. He writes about the variety of voices discussing

surveillance, which demonstrates that surveillance is more than just a technical talking point. In

his early articles for *The Guardian,* Greenwald does this by quoting many technical experts,

government voices, and special interest groups. In his first article for *The Guardian,* revealing

the program PRISM, Greenwald takes statements from several US senators, including Ron

Wyden, who Greenwald says raised concerns about surveillance for years before the leaked

documents came to light (2013a). Greenwald also takes statements from Jameel Jaffer, the director of the American Civil Liberties Union (ACLU) Center for Democracy. Jaffer said that "the military has been granted unprecedented access to civilian communications" (Greenwald, 2013a, p. 6). Greenwald quotes public figures who state their concern about the effects surveillance could have on the public. These statements contrast with quotes from government officials, which are left without commentary. In his articles in *The Guardian,* Greenwald airs a variety of voices so that readers may begin to engage in the debate.

Greenwald also moves the debate into the public sphere by revealing information to which the government and technology companies must respond. For example, in *NPTH* Greenwald tells the story of writing an article for *The Guardian* about PRISM. He says that NSA documents showed that technology companies cooperated with the NSA, but the companies denied this when contacted. When deciding what to do, Greenwald chose to write both statements into his story:

> 'Let's not take a position on who's right. Let's just air the disagreement and let them work
> it out in public,' I proposed. Our intention was that the story would force an open
> discussion of what the Internet industry had agreed to do with their users'
> communications; if their version clashed with the NSA documents, they would need to
> resolve it with the world watching, which is how it should be (2014, p. 76).

This move parallels one way that Goodnight (2012a) says that technical arguments become public. If a technical argument becomes unreconcilable, "both groups may take to the public forum governing the technical community's business, each contesting for leadership and control of scarce resources. If one side or the other is dissatisfied with the verdict, then the boundaries of the special community are in jeopardy, as disgruntled advocates appeal to a more general public" (p. 202). Greenwald forces this eruption of appeals to the public by reporting that technology

companies are cooperating with the NSA. Because these reports damage technology companies' reputations, they must respond to their consumer base, or the public.

As Goodnight (2012a) says, "An arguer can accept the sanctioned, widely used bundle of rules, claims, procedures and evidence to wage a dispute. Or, the arguer can inveigh against any or all of these 'customs' in order to bring forth a new variety of understanding... In the variety of argument endeavors, this tension is expressed by attempts to expand one sphere of argument at the expense of another" (p. 200). Greenwald challenges the sanctioned forms of argument about surveillance. Using common examples mixed with technical evidence, he expands the argument into the public sphere at expense of the technical. Goodnight (2012b) says that "arguments engage social change when the systems of authority embedded in spheres not only fail to provide resolution but the expectations themselves (as implicit norms, conventions of propriety, or explicit rules) become part of the debate" (p. 260). Greenwald makes the technical sphere rules part of the debate by explaining the value of citizen deliberation. He presents the public with options, which serve as the antithesis to the NSA's secrecy, or lack of options, for public participation in their programs. Using these strategies, Greenwald moves arguments about surveillance out of the technical sphere and into the public sphere. Greenwald also discusses the effects of surveillance in more detail, and calls the public to resist surveillance. These appeals to privacy look less at the actors, or the technical sphere, and more at the surveillance apparatus itself.

Greenwald's Use of Foucauldian Ideas of Surveillance

Using Foucault's ideas of control and the Panopticon, Greenwald furthers his case that the public must rally to change the NSA's policies. Greenwald cites Foucault himself in *NPTH*. He only discusses the Panopticon briefly, but his appeals function similarly to Foucault's in several

ways. Greenwald often notes the irony of a surveillance apparatus that sees all but cannot be seen. Making this point, he begins to introduce his idea of an antidote to surveillance: public discussion. Greenwald addresses the public sphere, in which he includes average citizens, US politicians, and the press.

Surveillance and the Panopticon

Greenwald says that the NSA's "secrecy creates a one-way mirror: the US government sees what everyone else in the world does, including its own population, while no one sees its own actions" (2014, p. 169). The idea of a one-way mirror sounds similar to the Panopticon, which Greenwald introduces to readers of *NPTH* several pages later. He first explains the physical plan for the panopticon—a large, central guard tower surrounded by a circle of rooms, which would allow for monitoring. The inhabitants of the rooms would not be able to see into the guard tower, and would be unable to determine when they were being watched. Greenwald says that "those who believe they are watched will instinctively choose to do that which is wanted of them without even realizing that they are being controlled...with the control internalized, the overt evidence of repression disappears because it is no longer necessary" (2014, p. 176). Due to the omnipresence of the tower, "they would thus act as if they were always being watched, even if they weren't" (2014, p. 175). Greenwald introduces readers to Bentham and Foucault's ideas in *NPTH.* He explains the concept of the Panopticon in common language, just like he explained technical terms in common language.

After explaining the concept of the Panopticon, Greenwald spends time proving that surveillance affects our actions. In *NPTH,* he argues that people act differently when they are under surveillance. Greenwald cites Foucault's writings in *Discipline and Punish,* saying that Foucault writes about the Panopticon as a powerful tool because "this model of control has the

great advantage of simultaneously creating the illusion of freedom. The compulsion to obedience exists in the individual's mind" (2014, p. 176). Greenwald brings theoretical support to his idea that surveillance stifles free expression by showing that people self-discipline when they are being watched. He links this effect to self-censorship, which is harmful to a democratic society. Foucault (1995) writes in *Discipline and Punish* that "He [sic] who is subjected to a field of visibility, and who knows it, assumes responsibility for the constraints of power; he makes them play spontaneously upon himself; he inscribes in himself the power relation in which he simultaneously plays both roles; he becomes the principle of his own subjection" (p. 203). Subjects of surveillance discipline themselves, so that overt constraints need not be in place for the subject to obey. Similarly, Greenwald says that because we are aware of surveillance, we shy away from controversial thoughts or actions. The government does not need to punish us to maintain power, because surveillance leads subjects to discipline themselves.

Using Bentham and Foucault, Greenwald finally gets to the center of what makes the surveillance state problematic. By concealing the surveillance apparatus within the technical sphere, concerns about publicly based appeals—like ethics—are bracketed. In *Discipline and Punish,* Foucault (1995) says that observation and gaze are key instruments of power. Greenwald explains this in simpler terms as he characterizes the current state of surveillance. Identifying observation as a mechanism of power, he can next turn to encourage a public that engages in surveillance issues and watches the watchers. His appeals to public discussion function as a large-scale form of resistance against surveillance.

Resistance to Surveillance

Greenwald calls the public to resist on two levels: he asks readers to undertake small changes to resist surveillance on a micro-level, but he also calls for a larger discussion. These

larger acts of resistance include deliberation, legal reform, and a change for the role of journalists. Though "macro" level resistance is not typically discussed from Foucault's writings, I argue that Greenwald's large-scale changes do fit with some of Foucault's characterizations of resistance. The interplay between these microresistances and larger acts allow for a new reading and understanding of Foucault's idea of resistance by linking resistance to the public sphere.

  Calls for personal resistance. First, Greenwald asks readers to take personal steps to resist surveillance. These strategies fit with microresistance strategies typically extrapolated from Foucauldian ideas of disciplining the body, or what Foucault calls "transversal struggles". Greenwald says that "individuals also have a role to play in reclaiming their own online privacy. Refusing to use the services of tech companies that collaborate with the NSA and its allies will put pressure on those companies to stop such collaboration and will spur their competitors to devote themselves to privacy protections" (2014, p. 252). Individuals can boycott large technological companies which give information to the NSA and instead choose other service providers. "Additionally, to prevent governments from intruding into personal communications and Internet use, all users should be adopting encryption and browsing-anonymity tools...and the technology community should continue developing more effective and user-friendly anonymity and encryption programs," Greenwald suggests (2014, p. 252). Greenwald offers readers two small steps they can take to resist surveillance. These steps are against an immediate enemy, like the technological companies that cooperate with the NSA, and occur on a personal level, both of which parallel Foucault's idea of the transversal struggle (1983). Transversal struggles, according to Foucault (1983), are small acts of resistance to a form of power as a whole. Transversal struggles are critical of power for its effects, anarchistic and immediate, and struggle with state control of individuals. Through small personal steps, people can resist surveillance and protect their individual privacy. Though these microresistance tactics are mentioned briefly, they are

only a small part of Greenwald's ideas for resisting surveillance, most of which focus on the public sphere.

Public Sphere Resistance

Based on these critiques, Greenwald identifies several actors who can change US surveillance policies: the public, the government, and journalists. As discussed above, the first group Greenwald calls on is the public, which he encourages to deliberate to resist surveillance. Greenwald reminds his audience that "it is human beings collectively, not a small number of elites working in secret, who can decide what kind of world we want to live in" (2014, p. 253). However, aside from average citizens, who can come together to discuss surveillance, Greenwald also names special actors within the public sphere. In the epilogue of *NPTH,* Greenwald says that Snowden's leaks

> triggered the first global debate about the value of individual privacy in the digital age
> and prompted challenges to America's hegemonic control over the Internet. It changed the
> way people around the world viewed the reliability of any statements made by US
> officials and transformed relations between countries. It radically altered views about the
> proper role of journalism in relation to government power. And within the United States,
> it gave rise to an ideologically diverse, trans-partisan coalition pushing for meaningful
> reform of the surveillance state (p. 248).

These changes stem from the public sphere, and occurred through public discussion. Greenwald's "trans-partisan coalition" can be conceived of as a public, which he calls into being as he addresses this group in *NPTH.*

Greenwald's created public. Warner (2002) encourages scholars to frame publics discursively, saying they exist "by virtue of being addressed" (p. 413). Greenwald calls a

concerned public into being throughout *NPTH,* often by discussing his readers as a collective

"we." Greenwald's created audience is concerned about surveillance, and willing to take public

action to advocate for reform. Greenwald emphasizes the choice readers can make with

Snowden's leaked NSA documents. He says that Snowden's leaks can create a new discussion

about surveillance, or they can fade due to public apathy. In the introduction to *NPTH,* he writes

> That's what makes Snowden's revelations so stunning and so vitally important. By daring
>
> to expose the NSA's astonishing surveillance capabilities and its even more astounding
>
> ambitions, he has made it clear, with these disclosures, that we stand at a historic
>
> crossroads. Will the digital age usher in the individual liberation and political freedoms
>
> that the Internet is uniquely capable of unleashing? Or will it bring about a system of
>
> omnipresent monitoring and control, beyond the dreams of even the greatest tyrants of the
>
> past? Right now, either path is possible. Our actions will determine where we end up.
>
> (2014, p. 6).

Greenwald gives the audience two choices and links their actions to the two potential paths. In

this way, he begins the process of public deliberation, which Goodnight (2012a) describes as a

momentary pause in which we examine political paths, both taken and untaken. "As deliberation

raises expectations that are feared or hoped for, public argument is a way to share in the

construction of the future," he says (Goodnight, 2012a, p. 198). Greenwald shares his

interpretation of the choice the public must make with this information. He projects two

alternative futures based on the public's deliberation about privacy. This shared future is

emphasized through his use of the words "our," "everyone," and "we," which link readers

together as the American public. Greenwald's projected paths put the decision into the readers'

hand, emphasizing the public's ability to act and intervene in technical surveillance. Through

invitations to deliberate, Greenwald addresses his readers as part of a public sphere.

Greenwald also argues that deliberation is an effective way to resist surveillance and curb surveillance abuses. Greenwald offers an example from his own life. He says he first learned of the power of deliberation when he heard from Laura Poitras, another journalist who accompanied him on the trip to Hong Kong. She said that she had been detained in airports dozens of times as a result of her writing and filmmaking. Greenwald covered the interrogations of Poitras in a *Salon* article, which received substantial attention. In the months afterward, Poitras was not detained again. In *NPTH,* Greenwald writes "The lesson for me was clear: national security officials do not like the light. They act abusively and thuggishly only when they believe they are safe, in the dark. Secrecy is the linchpin of abuse of power, we discovered, its enabling force. Transparency is the only real antidote" (2014, p. 12). Greenwald generalizes this example to other abuses of power. He says that power without deliberation is "the ultimate imbalance, permitting the most dangerous of all human conditions: the exercise of limitless power with no transparency or accountability" (2014, p. 169). Greenwald presents public deliberation as the solution and antithesis to surveillance, which he calls for the public to undertake. After addressing readers as members of this public, Greenwald names special actors within the public sphere who can also help to effect change.

Government reform. First, Greenwald says the government must make changes in order to curb abuses from the NSA, and that readers should pressure the government to do so. Greenwald says that public branches of the government do not have enough control over the NSA. Giving examples of reform that occurred after his reporting, Greenwald says that he and Snowden were pleased by a bipartisan bill introduced to US Congress. This bill proposed defunding the NSA, which was "by far the most aggressive challenge to the national security state to emerge from Congress since the 9/11 attacks" (2014, p. 249). The bill did not pass, but only by a small margin, which Greenwald portrays as a hopeful sign of reform. Additionally,

Greenwald suggests "converting the FISA court into a real judicial system, rather than the one-sided current setup in which only the government gets to state its case, would be a positive reform" (2014, p. 251). Greenwald's suggestions for change go beyond individual acts to put pressure on government policy reform. By reforming the FISA court, the secrets of the NSA would be public knowledge. Though Greenwald writes about power from a Foucauldian perspective, he proposes large acts of resistance to the public problems created by surveillance in addition to small acts to resist the discipline of individual bodies. These ideas are compatible with Foucault's (1997) idea of critique, however, which he defines as "the art of not being governed quite so much" (p. 45). Greenwald asks the audience to resist through public sphere discussion in order to negotiate the way they are governed. He argues that discussion through the public sphere can alter power relations between citizens and the US surveillance state.

Though the government is considered completely separate from the public sphere by many scholars (Habermas, 1974), others push back on this idea (e.g. Asen & Brouwer, 2001). In the case of the NSA, other government branches are considered members of the public by Greenwald. Greenwald notes that many congressional members were unaware of the tactics used by the NSA, including spying on Congress itself (2014). For these reasons, Greenwald specifically calls on Congress to be part of the solution. This should occur through legislative reform spurred by public pressure. Greenwald's summoned public addresses politicians as well as average citizens.

Journalism as the fourth estate. Similar to his arguments about government reform, Greenwald critiques US journalism, which he says should be more active in the fight against state surveillance. First, Greenwald says that journalists have been too complacent about government secrecy in the past. He says that "especially since 9/11 (though before that as well), the US media in general had been jingoistic and intensely loyal to the government and thus

hostile, sometimes viciously so, to anyone who exposed its secrets" (2014, p. 79). Greenwald

says that the press has failed to report important leaked information because of their loyalties to

the US government. This intense loyalty gets linked to the "creation of a permanent emergency"

after 9/11 (Taylor, 2007). The culture of US journalism is also to blame in Greenwald's eyes.

"The culture of US journalism mandates that reporters avoid any clear or declarative statements

and incorporate government assertions into their reporting, treating them with respect no matter

how frivolous they are," he writes (2014, p. 55). This acquiescence prevents the press from doing

their intended job: providing a check on the government. Greenwald claims that "the US media

has frequently abdicated this role, being subservient to the government's interests, even

amplifying, rather than scrutinizing, its messages and carrying out its dirty work" (2014, p. 210).

Greenwald says that journalists have been complacent in government secrecy, especially since

9/11.

Journalists are also being prosecuted more frequently for revealing state secrets, a trend

that Greenwald portrays as extremely harmful to the public sphere. Greenwald draws on his own

experiences since reporting Snowden's leaked documents. Greenwald talks about being labeled a

blogger, lawyer, or something other than a journalist, by reporters. According to Greenwald, "the

media in full then got into a debate about whether I was in a fact a 'journalist' as opposed to

something else. The most commonly offered alternative was 'activist'" (2014, p. 212). He says

that "the designation had real significance on several levels. For one, removing the label of

'journalist' diminishes the legitimacy of the reporting. Moreover, turning me into an 'activist'

could have legal—that is, criminal—consequences" (2014, p. 212-213). Greenwald discusses the

significance of this labeling because of the current climate of government persecution of leaks.

The Department of Justice (DOJ) had recently secretly acquired the Associated Press's telephone

records, and had prosecuted Fox News journalist James Rosen for not revealing the identity of a

source. By labeling Rosen as a co-conspirator to the source, the DOJ was able to compromise his journalistic protection. The DOJ decided, Greenwald says, that "working with one's source to 'steal' classified information was beyond the scope of the 'reporter's job'" (p. 215). Creating boundaries on what counted as "legitimate reporting," the DOJ was able to prosecute a journalist. That the press labeled Greenwald as something other than a journalist could have legal consequences for his reporting. The press has been complacent in US surveillance, and doing so has impacted their freedom to report on information. Habermas (1974) expressed concern that the press was moving away from servitude to the public sphere and toward special interests. Greenwald also expresses concerns about the failure of the US press to provide a check on the government, but links this to a governmental abuse of power.

Greenwald links this trend to the government's desire to retain their power to spy. He says that after he reported on the Snowden story for *The Guardian* he was afraid to travel to the US because the government might "concoct a theory that the supposed crimes I had committed were outside of the realm of journalism" (2014, p. 220). Greenwald brings this up to prove again that the government wants to suppress dissent. "The government was no doubt desperate to punish someone for what had been called the most damaging leak in the country's history, if not to alleviate institutional rage, then at least as a deterrent to others," he writes (2014, p. 220). Greenwald shows that the American press is too complicit to the government's abuses, and the government is desperate to retain its power. These privileges are kept in place by US journalists.

Finally, Greenwald calls journalists to action. He says

The idea of a 'fourth estate' is that those who exercise the greatest power need to be challenged by adversarial pushback and an insistence on transparency; the job of the press is to disprove the falsehoods that power invariably disseminates to protect itself. Without that type of journalism, abuse is inevitable (p. 230).

He attacks the idea that journalists need to be objective, saying all news articles serve interests, and "the relevant distinction is not between journalists who have opinions and those who have none, a category that does not exist. It is between journalists who candidly reveal their opinions and those who conceal them, pretending they have none" (2014, p. 231). Greenwald encourages reporters to be honest about their opinions, and to strive for advocacy. He says that "from the United States' founding, the best and most consequential journalism frequently involved crusading reporters, advocacy, and devotion to battling injustice" (2014, p. 231). Greenwald frames his advocacy for surveillance reform as part of a reporter's duties. Greenwald supports the idea of the journalist's role in democracy, encouraging journalists to contribute information critical to public decision-making in the public sphere.

Greenwald's suggestions that politicians and journalists aid public deliberation fit with those of public sphere scholars. Bitzer (1987) conceives of the politicians and journalists as key actors in the public, because they have access to information that the public may not. After practicing rigorous inquiry to access this information, journalists should encourage communication which weighs truths, and determines courses of action as a public. Greenwald also focuses on the role of journalists, who are an essential tool for public deliberation. Similar to Hauser's (1987) idea that that media were a crucial new actor within the public sphere, Greenwald explains the importance of journalists as a check on surveillance power. Greenwald's addressed public includes average US citizens, politicians, and journalists. He argues that these groups should provide a check on government surveillance, which can occur through deliberation in the public sphere. Though Greenwald suggests several personal acts of resistance for readers to undertake, he spends much more time advocating for public discussion.

Chapter Three: Discussion

Greenwald's writings contribute to the studies of surveillance rhetoric and resistance by communication scholars. In this instance, public deliberation is conceived of as resistance to surveillance. Surveillance, in Greenwald's eyes, disciplines the body and democratic thought as a whole. In the past, scholars have focused on microresistance, which is small, personal and daily, but Greenwald conceives of a larger idea of resistance to that same form of power which disciplines the body. Surveillance harms democracy, therefore resistance must occur on a larger level. Greenwald encourages the public sphere to deliberate about surveillance, thereby denying the technical community the power that comes along with secrecy.

This case also has implications for the practices of journalism and whistleblowing. The NSA leaks have been called the largest leaks in the history of the US, and their success at starting a conversation should be analyzed. Greenwald avoids common pitfalls that are used to discredit leaked information using journalistic tactics to frame Snowden and the leaks. He must also grapple with being discredited himself, as other journalists sometimes labeled him in a way that excluded him from the profession. Greenwald also works to disprove that the US lives in a state of permanent emergency because of the threat of terrorism, as this rationale is used to suspend public deliberation. I first analyze the implications of the current study for work on the public sphere and resistance to surveillance, before moving on to implications for journalism and whistleblowing. Finally, a critique of Greenwald's rhetoric is offered.

Implications for the Public Sphere and Resistance

The study of Greenwald's rhetoric contributes to current literature on Goodnight's three spheres of argument and Foucauldian ideas of resistance. Greenwald's proposed solutions use

the public sphere to resist surveillance. These ideas clash because of competing practices within the United States, which functions both as a surveillance state and a democracy with an active public.

Public deliberation of previously technical arguments. Greenwald's rhetoric is an example of shifting the groundings of an argument from the technical to public sphere, even as he argues for readers to undertake this shift. Greenwald's *Guardian* articles and *NPTH* are examples of how arguments move from the technical to public sphere. Greenwald avoids technical jargon and explains technical concepts to move appeals from the technical to public sphere. Greenwald also uses public appeals, particularly to ethical concerns. Greenwald questions how surveillance power impacts democracy and freedom of expression. These concerns were bracketed in the technical sphere, which, Greenwald says, was only interested in the technical capability to "collect it all." Greenwald's rhetoric constitutes a shift in argumentative groundings. This rhetoric is an example of a debate moving from technical to public appeals.

Scholars have looked at technical arguments being brought to the public (e.g. Paliewicz, 2012; Rowland, 1986; Whidden, 2012), but Greenwald's NSA debate differs from these cases by focusing more on concerns about technical capability than scientific knowledge. Many of these cases have looked at examples of the public misconstruction of scientific evidence, for example in debates about vaccination, NASA space shuttle launches, and climate change. On one hand, Greenwald's case could be viewed in this light, particularly from the NSA's perspective. When *Guardian* editors went to meet with US government officials, the officials said that *The Guardian* did not understand the context of the documents they wanted

to publish (2014). In the NSA's eyes, then, *The Guardian* was misconstruing technical arguments, much like Whidden's (2012) observation that the public misconstrued technical evidence in favor of vaccines.

However, from Greenwald's perspective, this is not an example of the public debating topics that should be left to technical communities, but of deliberate cover-up by a technical community. The NSA debate differs from previous research about Goodnight's spheres because the concerns bracketed are political and ethical questions about democratic practices. Greenwald expresses concern that surveillance harms democracy, and thus the public sphere, by suppressing dissent. Greenwald's debate calls into question the "sanctioned, widely used bundle of rules" within the technical sphere of argument (Goodnight, 2012a, p. 200) by insisting that the public should participate in debates about government surveillance. Greenwald is not asking readers to assess scientific inquiry, but technical capability by the state.

Greenwald's concern focuses on state participation in an isolated technical sphere. This case differs from previous examples of technical-public sphere overlap, which several scholars have studied (e.g. Paliewicz, 2012; Rowland, 1986; Whidden, 2012). Rowland (1986) studied the Challenger Seven disaster, and found that though the technical community (NASA) ignored safety warnings, the public and press were also responsible for pressuring NASA to launch the shuttle. The shuttle launch had technical aspects, but was still a matter of public concern and policy. Similarly, NSA surveillance is tied to public problems, like terrorism, but is achieved through technical means. The justification for surveillance fits within the realm of public argument. Rowland (1986) encouraged scholars to see the public and technical spheres

as overlapping, and finds that in the Challenger Seven accident, competing experts helped the public to judge expert opinion in the aftermath. Greenwald can be viewed as a competing expert, with experience in law and surveillance. He has built his critique of the US government over the span of his career, and continues this discussion in *NTPH*. Greenwald has specialized knowledge, but uses it to include the public sphere in the conversation about surveillance.

While other scholars (Paliewicz, 2012; Whidden, 2012) have found that public arguments eclipse legitimate scientific arguments, this is not the case in the NSA debate, which combines technical and public concerns. Greenwald uses his own expertise to bring the debate to the public, and foregrounds public concerns like "what ought to be done" not "what can be done" (Rowland, 1986, p. 139). Greenwald's NSA debate is a specific type of public-technical overlap that is becoming more common as the government engages in surveillance with the help of technical contractors. This case contributes to work about the public and technical spheres by demonstrating a subject area that is both public and technical, and showing the tensions that these competing value systems create. In the next section, I discuss how Greenwald attempts to push the surveillance debate into the public sphere, and uses the public sphere to resist technical bracketing of ethical appeals.

The public sphere as resistance. The resistive subject Greenwald calls into being would be an active public sphere participant who questions the surveillance state through public discussion. Though this subject would take small steps to preserve online privacy, Greenwald spends much of *NPTH* explaining broader solutions to surveillance. *NPTH* constitutes an attempt to use the public sphere to resist NSA surveillance.

Resistance literature has often focused on small ways to resist surveillance power.

Foucault focuses on personal, transversal struggles against surveillance power, because surveillance power stems from compartmentalization and control over the body. The body is "approached as an object to be analyzed and separated into its constituent parts," forging the creation of a docile, useful subject (Dreyfus & Rabinow, 1983, p. 153). As a result, struggles against this control are often anarchistic, immediate, and focused on the individual (Foucault, 1983). Greenwald acknowledges this effect, and argues that surveillance leads to the internal suppression of dissenting thoughts as a result. However, Greenwald does not advocate for just a small, personal solution to this control over the body.

Greenwald's appeals are an example of using the public sphere *as a form of resistance to surveillance.* Though this idea differs from acts of microresistance, Greenwald's suggestions still fit with Foucauldian ideas of resistance, and show how the public sphere can play a part in that resistance. Greenwald argues that citizens can engage in public deliberation to negotiate with the surveillance state. This echoes Foucault's idea of "not being governed quite so much," or critique (1997, p. 45). Foucault (1997) says that critique is based on several anchoring points, including universal rights. The act of critique asserts that the subject does not want to accept laws because they are unjust. Critique asks "What are the limits of the right to govern?" (Foucault, 1997, p. 46). People may engage in critique to negotiate the way they are being governed if they find the rules of governance to be contrary to natural rights. Greenwald encourages critique through public deliberation about the limits of the surveillance state. He draws on American values like political freedom and freedom of expression, thus using American rights as a basis for critiquing surveillance. Greenwald's call to action echoes Foucault's idea of critique.

Greenwald's ideas also run parallel to Habermas's functions of the public sphere. Greenwald's solution is similar to the way Habermas (1974) describes the bourgeois public sphere, which was a medium through which private needs were communicated to the state. A key demand of this bourgeois public was that they "opposed the principle of supervision—that very principle which demands that proceedings be made public" (p. 52). This group was concerned with private autonomy and the restriction of state power to a few areas. Thus, Habermas argues that the public sphere can be used to negotiate private freedoms. This becomes the link between the public sphere and Foucauldian ideas of surveillance: using the public sphere, citizens can collectively negotiate to be governed less. Greenwald demonstrates that the NSA's surveillance is a public problem, calling on the American public to deliberate about the future of surveillance.

Greenwald links this solution to personal control, however, by explaining how surveillance impacts our individual thoughts and actions. In these ways, his solution does fit with some of Foucault's ideas of a transversal struggle, namely that his solution struggles with state control over the individual and critiques power for its effects (Foucault, 1983). Greenwald (2014) says that "people radically change their behavior when they know they are being watched" (p. 173) as he demonstrates the effects of surveillance power. He then links these behavioral changes to the suppression of free speech, saying that "mass surveillance kills dissent in a deeper and more important place as well: in the mind" (2014, p. 177-178). Greenwald argues that surveillance power controls the individual and critiques power for its effects. Though Greenwald is encouraging a public debate, he claims that this debate will help negotiate surveillance power that creates control over individual bodies, thus drawing on some

of Foucault's ideas of resistance as he talks about the public sphere.

This solution demonstrates the tension between the surveillance state and the democratic republic, as Greenwald wrestles with the US as both a security state and a democracy. He ponders this contradiction as he explains the panopticon, saying

Democracy requires accountability and consent of the government, which is only possible if citizens know what is being done in their name. The presumption is that, with rare exception, they will know everything their political officials are doing...conversely the presumption is that the government, with rare exception, will not know anything that law-abiding citizens are doing. That is why we are called private individuals, functioning in our private capacity. Transparency is for those who carry out public duties and exercise public power. Privacy is for everyone else (2014, p. 209).

The fact that the NSA knows more about US citizens than citizens know about the agency poses challenges to this model of government. As a result, Greenwald encourages the exercise of democratic rights to combat surveillance. The public sphere has the capability to put pressure on government officials and demand surveillance reform. Greenwald asks us to resist using the public sphere. This solution arises as a result of the rhetorical situation, which pits privacy against security. Greenwald encourages the audience to select privacy. He spends time deescalating the permanent emergency of terrorism to demonstrate that NSA surveillance is abusive and unnecessary, and then appeals to values which support public deliberation.

Public deliberation can be viewed as a form of resistance through Greenwald's rhetoric. Though many scholars have looked at microresistance to surveillance power, Greenwald asks

the public to resist through deliberation, which he considers an antidote to surveillance. This solution grapples with the contradiction of the US as surveillance state and the US as a democracy. The public sphere will continue to discuss these competing values, sharing in alternative projections of the future (Goodnight, 2012a). Greenwald encourages the public to create a shared vision of a state with transparency in the public sphere and privacy for citizens.

Implications for Journalism and Whistleblowing

Greenwald's rhetoric also has implications for the practices of journalism and whistleblowing. Though he argues that journalists should do more to question the US surveillance state, he finds himself constrained by journalistic expectations. These lead to a debate over the boundaries of journalism and how to portray whistleblowers.

Greenwald as journalist or advocate. Greenwald's critique of the media offers another path of resistive action for special actors within the public sphere. The media serves the public sphere by spreading information, as Habermas (1974) says, "in a large public body this kind of communication requires specific means for transmitting information and influencing those who receive it. Today newspapers and magazines, radio and television are the media of the public sphere" (p. 49). Greenwald's critique of the media calls for the media to uphold their public sphere function and transmit information, even state secrets, for public deliberation. However, differences between Greenwald's *Guardian* articles and *NPTH* show that even though Greenwald says journalists should be advocates, he himself is constrained by journalistic expectations.

Greenwald's writings in *The Guardian* fulfill less of an advocacy role than his writings in *NTPH.* Greenwald's newspaper articles often: 1) explain information about surveillance

programs in common language, 2) quote various organizations' standpoints and knowledge

about the programs and, 3) explain why these revelations are significant (e.g. they demonstrate

that the NSA concealed programs, they demonstrate that Americans are being spied on without

a court warrant). Importantly, many of Greenwald's stronger advocacy claims, like the

argument that the NSA functions as a panopticon, are not mentioned until *NPTH*. Other

functions of the book include: 1) demonstrating the negative private effects of surveillance, 2)

linking surveillance to the compromise of democratic ideals, and 3) suggesting possible

solutions. Though Greenwald encourages journalists to provide a check on the government and

advocate for change, his claims are tempered in his own newspaper articles. Greenwald

discusses this directly as he talks about trouble publishing with *The Guardian* throughout

NPTH. Greenwald prepared his first story about BOUNDLESSINFORMANT, but was told

that *The Guardian* editors would have to meet with their lawyers before publishing. Publishing

US government secrets, he was told, could be considered a crime under the Espionage Act.

The Guardian agreed to consult with the government to demonstrate that they did not intend to

harm national security. Greenwald waited impatiently in Hong Kong for three days as his

editor conferred with *Guardian* lawyers. He considered leaving and publishing the documents

independently, but admits that "doing it alone, without institutional protection, would be far

riskier" than publishing with a large newspaper (2014, p. 69). Though Greenwald says

journalists should be stronger critics of the US government, he himself struggled with

institutional and journalistic constraints as he reported the NSA stories.

Greenwald calls himself a journalist throughout *NPTH,* but the press debated this label.

Greenwald was called everything from a journalist to a blogger to an advocate. As Greenwald

explains, these terms could have legal consequences for him. Several scholars (Bitzer, 1987; Hauser, 1987) name journalists as special actors within the public sphere, who have the ability and duty to provide the public with information essential to decision-making. However, Hindman and Thomas (2014) find that today journalists engage in professional boundary-marking, labeling "new" media members as non-journalists through terms like "blogger." In Greenwald's case, the press reacted similarly, sometimes distancing him from the profession in their reporting. The implications of this debate are ongoing and challenging for journalists. The Obama administration has prosecuted more whistleblowers than any administration before it, and has started to go after journalists who publish this information by naming them as co-conspirators (Shane, 2010). Greenwald is right to say that labeling him as an outsider could have legal consequences for him. Greenwald's rhetoric demonstrates an increasingly difficult climate for journalists who report on leaks. This climate is reenforced by other journalists.

Effectiveness of the leaks. Greenwald's reporting about the NSA also begs the question: why did these leaks receive more coverage than others? Several low-profile leaks of NSA documents have occurred since 9/11, but none have received the coverage that Edward Snowden's documents received[viii]. Additionally, leakers like Chelsea Manning have revealed information about other clandestine programs to some response, but none as widespread as the Snowden leaks. Greenwald himself ponders the effectiveness of the leaks, and finds that Snowden's methods refute some preexisting arguments about leakers. Although Greenwald and Snowden wished to challenge the surveillance state, to do so they complied with some of the norms of US journalism. Greenwald also attempts to demonstrate that the leaks will not harm US security, another argument often voiced by the government after leaks.

First, Snowden insisted on leaking the documents to reporters, who could use their "journalistic judgment" (Greenwald, 2014, p. 53) to decide which documents to publish. Greenwald (2014) explains that Snowden did not want to publish the documents in bulk, a strategy used by Chelsea Manning and WikiLeaks, because working with reporters would "allow the public to process the revelations in a more orderly and rational way" (p. 53). Snowden insisted that Greenwald and other reporters select documents to publish based on the public interest, which would not allow the US government any arguments that the documents "endangered lives" (p. 53). Hindman and Thomas (2014) found that the traditional media disliked WikiLeak's methods of disclosure, which often included dumping large amounts of secret information onto the website with no commentary. The media also criticized "new" media, like WikiLeaks, for being immature and rash in their leaks of sensitive information. Greenwald did not "dump" Snowden's documents, and instead carefully read through them. He describes the process of vetting and deliberating about which documents to publish in *NPTH*. In this way, Greenwald fulfilled a more traditional journalistic role.

Snowden, Greenwald, and others involved in the NSA leaks were very careful to publish documents in a way that portrayed Snowden positively, as a past tactic to discredit whistleblowers has been to point out character flaws. Greenwald writes that upon meeting Snowden, he found him rational and likeable, and that "the two most favored lines of whistle-blower demonization--'he's unstable' and 'he's naive'--were not going to work here" (2014, p. 31). Cloud (2014) writes similarly that Chelsea Manning was discredited as a whistleblower using the arguments that Manning was an enemy of the state, or that Manning was sexually confused and seeking attention. In response to these typical attempts at discrediting

whistleblowers, Greenwald discusses Snowden's character in *The Guardian* and *NPTH*. He reports on Snowden's motivations for leaking the documents, and his hope that the public discusses the documents to preserve democratic transparency and the right to privacy. These characterizations refute that idea that Snowden is an enemy of the state. Some journalists did attempt to discredit Snowden along gendered and sexual lines[ix], an area ripe for study in this case. However, on whole, Greenwald and Snowden worked together to display transparency about Snowden's character and motivations. Greenwald mentions Snowden's calm disposition and intelligence as he describes him in *The Guardian* and *NPTH*. Though the media still questioned Snowden's character, Greenwald's preemptive efforts to describe Snowden may have prevented this discussion from taking hold, as it did in the case of Chelsea Manning.

Past scholarship on leakers has found that the press often invalidates or, to borrow a term from Cloud (2014), "re-secrets" leaked information by attacking the credibility of the source or journalist responsible. Greenwald grapples with these challenges and explains the strategies he and Snowden used to avoid such accusations in *NPTH*. The practical implications for journalists and whistleblowers are that taking care while presenting the whistleblower's image is essential to leaking information. Even as Greenwald critiques the US press, he must portray Snowden carefully to create a debate about the NSA documents. Based on previous research, Greenwald did this in a more successful way than other whistleblowers and journalists. As a result, Greenwald (2014) writes that "the effects of this unfolding story have been far greater, more enduring, and more wide-ranging than we ever dreamed possible" (p. 249).

Disproving the Permanent Emergency

An additional factor that could contribute to the effectiveness of the NSA leaks is

Greenwald's effort to downplay the threats leaks cause to US security. Greenwald emphasizes

in *The Guardian* articles and *NPTH* that the NSA leaks will not harm national security. He

tries to disprove that the US exists in a "permanent emergency" that calls for the suspension of

citizen deliberation because of threats to security (Taylor, 2007). Since 9/11, the US

government has invoked the threat of terrorists to justify greater government secrecy (Davis &

Albert, 2011; Domke et al., 2006). Hasian (2006) found that President George W. Bush's use

of fear appeals allowed him to greatly expand surveillance power. Bush also invoked familiar

binary oppositions reminiscent of Cold War rhetoric, invoking rogue terrorist states to justify

military force and surveillance (Taylor, 2007). Taylor (2007) identifies four "fault lines"

within the public which are sites of rhetoric and resistance about nuclear policy: secrecy,

centralization, repression, and distortion. Though Taylor (2007) identifies these fault lines as

places of rhetoric and resistance, he specifically focuses on rhetoric from the nuclear

community. I argue that Greenwald's arguments exemplify the use of these themes as tools for

resistance, and that these fault lines are applicable to surveillance rhetoric.

Secrecy. Greenwald frames secrecy of the surveillance community as problematic and

anti-democratic. The rhetoric of nuclear weapons includes a demand for extreme secrecy

which suppresses circulation of information to the public (Taylor, 2007). The public is denied

information necessary to make informed decisions, and this lack of knowledge is then used to

justify excluding the public from debate about nuclear weapon policy (Taylor, 2007).

Greenwald identifies similar problems which exclude the public from discussions of NSA

surveillance. As discussed in chapter two, Greenwald says the NSA conducts surveillance in total secrecy without any transparency or public oversight. He highlights the secrecy of NSA surveillance tactics and portrays secrecy as undesirable, because it leads to an abuse of power. Next, Greenwald contrasts NSA secrecy with the openness of the public sphere. Thus deliberation is framed as the antithesis and solution to secrecy. Taylor (2007) focuses on the rhetoric of the nuclear weapons community and finds that they cite a need for secrecy. Similarly, Greenwald takes the NSA's demand for secrecy and encourages resistance against it.

Centralization. Taylor (2007) finds that another key aspect of nuclear rhetoric is an emphasis on centralized knowledge and decision-making. Using centralization, the technical elite control information about nuclear information and make decisions without the public (Taylor, 2007). Greenwald's portrayal of the NSA as insulated, along with Goodnight's idea of the technical sphere, fit with the idea of centralization. Taylor (2007) says that technical elites are not interested in civilian control of the nuclear program, and emphasize their duty as "guardians" or "stewards" of the US nuclear weapon program. Contrasting this idea of stewardship, Greenwald's take on centralization attributes this argument to ego and power within the surveillance community. He first demonstrates that the NSA is insulated in its decision-making, and then reveals unflattering documents in which the NSA brags about this power. Greenwald's explanation of the reasons for centralizing US surveillance demonstrate a resistive reading of centralization, not as necessary to national security, but as vain and corrupt. This encourages the public to decentralize surveillance information and include more voices in the decision-making process. Greenwald exemplifies this move by quoting multiple, public voices as he discusses the NSA, which acts in defiance of centralization.

Repression. Third, Taylor (2007) says officials invoke repression of dissent through civil liberties. The nuclear state demands consensus and will discipline any threats to its order (Taylor, 2007). Nuclear weapon rhetoric attempts to contain the public sphere and reduce deliberation (Taylor, 2007). Similarly, Greenwald argues that Post 9/11, the government has suppressed dissenters using the panopticon, which creates self-censorship. After arguing that the government uses surveillance to suppress dissent, Greenwald asks his readers to resist. He calls for resistance through civil liberties, especially the freedom of speech and press. Greenwald critiques the NSA for its desire to repress civil liberties, and the natural solution to this is to continue using the public sphere and civil liberties to resist government surveillance.

Distortion. Taylor (2007) finds that nuclear rhetoric often employs distortion of threat levels and threat exaggeration to suppress deliberation. The insulated nuclear elite profits from the generation of public anxiety, which helps to preserve technocratic autonomy over nuclear decision-making (Taylor, 2007). Similarly, Greenwald critiques the US surveillance community for inflating the threat of terrorism to suppress discussion. Greenwald responds to this rhetorical situation by addressing the fear of terror head on. He argues that surveillance is used on US citizens (2013a; 2013d; 2013e), and that surveillance is being used to suppress dissent, bolster US egos, and gain economic advantages in trade (2014). Terrorism is not the main motivator or target for US surveillance, and the threat of terrorism should not lead to public exclusion from the discussion. Greenwald identifies the distortion of threats as one way the US government retains surveillance power, and works to disprove this argument.

Greenwald's rhetoric provides an example of the use and appropriation of surveillance rhetoric for resistive purposes. Taylor (2007) identifies these four fault lines as opportunities

for resistance as well as themes of official nuclear rhetoric. Greenwald's appeals to resistance echo these four themes as critiques of the surveillance state. Greenwald highlights and argues against secrecy, centralization, repression and distortion of NSA surveillance policies. Greenwald argues that there is power in knowledge of NSA surveillance and tactics, and he labels NSA tactics for readers. Greenwald's identification of NSA strategies are similar to Taylor's (2007) four rhetorical themes of nuclear rhetoric. However, Greenwald's rhetoric provides an example of the use of these themes to generate modes of resistance for the public sphere.

Leaks without a reporter, like the Manning leaks or WikiLeaks, do not identify and argue against surveillance rhetoric, because they come without commentary. Greenwald responds to the permanent emergency and encourages the public sphere to deliberate anyway. Greenwald fulfills a more journalistic role as he reports the NSA leaks, and his argument against the permanent emergency may have encouraged the public to discuss the leaks. Greenwald's arguments may have contributed to the success of the Snowden leaks over other leaks in the past because of his arguments against the permanent emergency.

Critiques of Greenwald

Greenwald's rhetoric emphasizes the importance of the NSA leaks and provides readers with some solutions to state surveillance, however, the arguments are not perfect. I argue that Greenwald's present choices to the public are extreme, forcing the public to choose between two polar-opposite futures. Additionally, Greenwald's solution may be inaccessible to readers, and perhaps there are better solutions to temper the NSA's surveillance.

America's future as a false dilemma. Greenwald invites readers to imagine two

possible futures based on their actions after the NSA leaks, but these options are extreme and limiting. He asks "Will the digital age usher in the individual liberation and political freedoms that the Internet is uniquely capable of unleashing? Or will it bring about a system of omnipresent monitoring and control, beyond the dreams of even the greatest tyrants of the past?" (2014, p. 6). Greenwald's visions of a shared future are at either extreme of the spectrum, and may not be accurate portrayals of the choice the American public faces. Goodnight (2012b) notes both the positive and negative of changing technology and public deliberation, saying that the digital age leads to "the reduction of cost and time for message distribution" and "intrusions into privacy, government surveillance, and the refined mechanisms of a control society" (p. 264). He encourages scholars to engage in critical inquiry as revolutions in communication create upheaval in all spheres of argument. Goodnight encourages a nuanced view which examines the unsettling of conventions—both good and bad—in 21st century communications. Greenwald does not engage in these nuances, instead casting the NSA as extreme, abusive, and ineffective.

Presenting readers with two extreme options may undermine Greenwald's efforts to promote change. As Greenwald sees it, readers must either band together and reform surveillance entirely, or they must suffer under tyranny. Two years after Edward Snowden's leaked documents, the dramatic overhaul Greenwald envisioned has not occurred. Does this mean that small changes in US surveillance policy are worthless? Greenwald's suggestions may give readers the idea that without public sphere debate, small acts of resistance are ineffective and therefore not worth undertaking. This may be implied by the time Greenwald allocates to solutions. He mentions briefly several steps readers can take personal, but then

allocates two chapters to public acts of resistance that can occur through public discussion.

Erosion of the public sphere. Greenwald's solutions beg another question: does the public care about privacy? According to Mark Zuckerberg, Facebook founder, the answer is no, or at least that people are getting more comfortable with less privacy over time (B. Johnson, 2010). Greenwald does not seem to operate under this assumption, and argues that even though people say they don't care about privacy, they do. He says he asked a friend who claimed to not care about privacy to give him access to all of his online passwords, and the friend refused (2014). Through this extremely limited anecdote, Greenwald argues that everyone cares about privacy. This anecdote is similar to the extreme solutions Greenwald presents: though the vast majority of the public may not be willing to give out our passwords, that does not necessarily mean the same majority is opposed to broad collection of metadata. Greenwald ignores nuances within the privacy debate as he presents this anecdote. Greenwald insists that the public has a right to privacy, but his appeals may be ineffective if he has misjudged public opinion. Though most Americans would (in Greenwald's eyes) refuse to put video cameras in their home or give away their online passwords, they remain split on the uses of surveillance, as will be discussed in the following section.

Additionally, use of the public sphere to address privacy concerns may be ineffective because of the decline of the public sphere. Habermas (1974) expressed concern about the erosion of the public sphere by special interests and technical groups, and these barriers may make the public sphere an ineffective solution to surveillance. As Warner (2002) says, a public exists by virtue of being addressed. Greenwald, then, addresses every American citizen as part of that public. However, this address may be too broad to create any actual change.

Greenwald's rhetoric does not demand a social movement or a counterpublic, which could test

ideas in an insulated community before challenging the public. Rather, he asks that all

Americans band together to deliberate about surveillance.

Aftermath of the Leaks

The aftermath of the NSA leaks demonstrate slight progress and potential for reform,

but overall, these changes have been slow. Internet companies have fought to save their

reputation after Greenwald exposed their cooperation with the NSA, and some, like Google

and Facebook, now notify users of surveillance requests. Google especially has been active in

the petitioning and lobbying of the government to change surveillance policies (Timm, 2014).

Many companies have increased security service to protect ordinary user data, including

Yahoo (Timm, 2014).

Legal reform has been slow. Several bills have died in Congress, including one to

defund the NSA altogether (Ackerman, 2014). Most prominently, the USA FREEDOM Act,

which sought to end bulk collection of telephone records, passed the US House of

Representatives. In late 2014, the Senate voted not to take up discussion of the bill during their

session, but the bill could be discussed in 2015 (Savage & Peters, 2014). In late 2013,

President Obama appointed a special committee to recommend changes to the NSA. The

committee consisted of many former White House staff members and security officials, and

recommended 46 changes to the NSA, including that phone companies keep call records, but

not release them unless the NSA applies for a warrant (Nakashima & Soltani, 2013). Obama

said he would take this recommendation and transition to a system in which the NSA does not

retain bulk metadata from phone calls (Nakashima & Soltani, 2013), and announced the

reform official in March 2014 ("The White House," 2014). One year after Greenwald's first *Guardian* article about the NSA, however, *The Guardian* reported that ceasing the collection of phone records was the only reform the Obama administration had undertaken (Ackerman, 2014). In courts, judges have ruled against NSA practices. One judge ruled that the collection of phone records was unconstitutional, and another granted a defendant access to information gathered against him under the FISA court (Timm, 2014). Though some reforms have been undertaken, the sweeping changes Greenwald hoped for have not occurred. Again, this leads to a critique of his extreme choices. If a massive overhaul of the surveillance state has not occurred, Greenwald implies, US citizens will be subject to extreme tyranny. This would make Greenwald's vague suggestions for personal reform useless, as they do not protect privacy in a wide-reaching way, which is what Greenwald spends the most time attempting to solve.

Small, personal reform, on the other hand, seems to have occurred for some American citizens. According to the Pew Research Center, 87% of Americans surveyed were at least "somewhat aware" of surveillance programs after the Snowden leaks, and of that group, 36% had taken steps to increase their privacy online (Rainie & Madden, 2015). These steps include avoiding certain applications, changing passwords, and changing privacy settings on social media. However, of this 36%, very few knew about common tools to protect privacy, like PGP (pretty good privacy) email encryption, search engines which do not record history, and web browser plug-ins which prevent online trackers from recording data (Rainie & Madden, 2015). Much of the Pew's research data focused on personal behavioral changes. However, 61% of those surveyed said that after the NSA leaks they were not confident that surveillance served the public interest (Rainie & Madden, 2015). Overall, Snowden's leaks had some impact on the

American public, which overall displays less confidence in government surveillance. Additionally, a small portion of the public is now taking small steps to protect online privacy. These changes are of interest because Greenwald did not focus on small steps Americans can undertake. Though Americans are more aware and are now trying to protect privacy, their attempts to do so are ineffective against government surveillance, and they still demonstrate a lack of knowledge about how to prevent surveillance of their online activities.

Chapter Four: Conclusion

Greenwald's rhetoric in *NPTH* and *The Guardian* launched a massive conversation about NSA surveillance. His writings add to the rhetorical study of surveillance and security, specifically in the wake of 9/11.

Implications for Public Sphere Scholarship

Greenwald's case is itself an example of the groundings of argument shifting between Goodnight's three spheres of argument. Greenwald employed several tactics to move surveillance toward publicly-based appeals. These include demonstration of public effects, explanations of technical jargon, and the inclusion of multiple voices in the surveillance debate. Greenwald drafts proposed solutions which would engage US citizens, the US government, and journalists. Notably, these solutions focus on these groups rather than technical communities with the technical capabilities to alter surveillance practices. Thus, Greenwald refuses to contain surveillance within the technical sphere and instead encourages the public to deliberate. This example adds to previous case studies of overlap between the technical and public spheres of argument. Previous scholarship has often focused on the eclipse of the public sphere by the technical (e.g. Farrell & Goodnight, 1981; Hauser, 1987; Schiappa, 2012; Sovacool, 2009). Greenwald's case is an example of pushback on this infiltration, and shows that just as arguments can become insulated within the technical sphere, they can also be removed and placed back into the public. Journalistic activism may be an important part of this move, and will be discussed in a subsequent section.

Implications for Foucauldian Ideas of Surveillance

The key finding from Greenwald's case is that the public sphere can be used as resistance to surveillance power, though this solution may not satisfactorily solve the overreaches of surveillance power. Greenwald links Foucauldian ideas of surveillance to the NSA, and then poses the solution of public deliberation. The public sphere may be a strong form of resistance against surveillance because of the incompatibility of the technical values of surveillance with the public sphere: if, as Greenwald says, the NSA is successful in retaining its power because it is secret, a public sphere discussion strips away the NSA's power by removing its secrecy. Central tenets of the public sphere include public *access* and *openness* (Asen and Brouwer, 2001), and central tenets of surveillance power include public *inaccessibility* and technical *closure.* By framing surveillance as at odds with the public sphere, Greenwald makes the argument that only through the public sphere can we resist surveillance on a large-scale. Greenwald's rhetoric bridges the theoretical gap between public sphere scholarship and Foucault's idea of surveillance power, demonstrating how these conflicting values may overlap in ways that are productive for resistance.

One critique of Greenwald's rhetoric is that *NPTH* focuses on the problems of surveillance power but does not delve into the specifics of the solutions. Perhaps if Greenwald had allocated more time to specific, personal acts his readers could undertake to resist surveillance, these ideas would have gained even more traction. Though Greenwald conceives of the public sphere as resistance, perhaps more "traditional" modes of resistance, like social movements and counterpublics, would have created a stronger identified audience for Greenwald's rhetoric. However, his arguments is that surveillance impacts all US citizens, so

calling for specific identity-based groups or social movements is incompatible with Greenwald's own argument.

Implications for Journalism, Activism, and Resistance

Journalists play an important role in the display of leaked information, and Greenwald's case contributes to rhetorical scholars' limited studies of this process. Other scholars have found that "new media" or data dumps are framed as reckless breaches of national security (Cloud, 2014; Hindman & Thomas, 2014). Greenwald represents the most successful and high profile reporting of leaked information after 9/11. His navigation of common accusations against leakers has been successful for several reasons: 1) the debunking of the national emergency, 2) an emphasis on journalistic discretion, and 3) a careful portrayal of the agent who leaked information.

First, Greenwald spends much time demonstrating that the public sphere has time to deliberate about national security. Previous scholarship demonstrates that an emphasis on exigency has given the state great control of national security information (Davis & Albert, 2011; Domke et al., 2006; Hasian, 2006; Taylor, 2007). Fear appeals have controlled public deliberation during times of war, including nontraditional conflicts like The Cold War and The War on Terror. Greenwald's refutations of the need for secrecy are essential for public deliberation. However, his reporting may also be more successful simply because of timing, and this limitation is important to note. The NSA leaks are the most recent leaks and therefore have occurred the longest after the 9/11 terrorist attacks. Greenwald (2014) notes that "Americans now consider the danger of surveillance of greater concern than the danger of terrorism" for the first time since 9/11 (p. 197).

Second, an emphasis on journalistic judgment differentiates the NSA leaks from past "data dumps" of large amounts of information. Greenwald calls for journalistic discretion in the leak of classified information, but goes beyond that to encourage journalists to use their judgment to actively report this information to the public. Greenwald demonstrates a concern about the role of journalists in the public sphere. This concern contributes to the ongoing discussion of journalism by public sphere scholars. Greenwald supports the idea of journalists as special actors within the public sphere who should supply information to the public for debate (Bitzer, 1987; Hauser, 1987). On an activist level, this finding could help future journalists and whistleblowers to judge and release information in a way which does not harm national security and promotes robust public discussion.

Third, portraying Snowden carefully and with transparency contributed to the effectiveness of the NSA leaks. This study complements Cloud's 2014 examination of Chelsea Manning. Cloud (2014) found that the media depicted Manning as sexually confused or an enemy of the state. Manning's case differs from Snowden's because Manning did not employ a reporter to cover her leaked information. From a critical perspective, unfortunately, Snowden may have also reaped the benefits of being cisgender. Greenwald worked tirelessly to portray Snowden as a "normal guy," and accusations of sexual deviance did not gain much traction (though, notably, were still attempted to discredit Snowden, see footnote). Along with this advantage, Greenwald's coverage of Snowden was able to introduce some more successful narratives for leakers, for example that Snowden was courageous and patriotic.

Greenwald's case is one of many instances of resistance to security measures post-9/11, an area which warrants greater study by rhetorical scholars. Much work has focused on

security and government rhetoric, but less is focused on critical examination of and resistance to state surveillance. Scholars should continue to ask why some resistive messages gain traction and others do not.

Ultimately, Greenwald started a successful conversation about US surveillance, but this conversation has been slow to turn into reform. The documents Snowden leaked shocked many Americans and received ample news coverage from journalists worldwide, but few have taken up Greenwald's call to activism against the US surveillance state. Though American public opinion has changed slightly, no major legal reforms or social movements have occurred as a result of the NSA leaks. This inactivity reflects a flaw in Greenwald's rhetoric— which provides an extensive analysis of the problem, but vague solutions. However, Greenwald's solutions provide an important critique of surveillance, by pointing out that personal acts of resistance do not resolve systemic harms caused by mass surveillance, especially the control that surveillance creates over freedom of expression. Greenwald's focus on harms caused to democracy leads to a call to action for the public sphere, and a taking back of surveillance power from isolated technical communities. By highlighting the conflicting values of the public and the NSA, he demonstrates how the public sphere can be used to resist surveillance.

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viii In 2007, Thomas Drake, an NSA employee, leaked information about the NSA's internal struggles with "lagging technology" to *The Baltimore Sun.* Drake was indicted under the Espionage Act in 2007, but later pled guilty to a misdemeanor in exchange for all charges being dropped. Drake's leaked information received little fanfare, but later inspired Edward Snowden (Shane, 2010).

ix Richard Cohen wrote in *The Washington Post* that Snowden was "a cross-dressing Little Red Riding Hood," in response to the red hood Snowden reportedly wore over his head while typing passwords into his computer to avoid camera detection (2013).