



Written by [Warren Mass](#) on October 6, 2015

Snowden Offered to Make Plea Deal With U.S. Government, Including Prison Time

Speaking during an interview with the BBC conducted in Moscow on October 5, former NSA contractor and whistleblower Edward Snowden said that he has offered to go to prison “many times” if the U.S. government would offer him a plea deal that would allow him to return home. However, he is still waiting for the government to respond to his overtures.



“I’ve volunteered to go to prison with the government many times. What I won’t do is I won’t serve as a deterrent to people trying to do the right thing in difficult situations,” Snowden told the BBC reporter. “So far, they’ve said they won’t torture me, which is a start, I think, but we haven’t gotten much further than that.”

When BBC asked Snowden whether he and his lawyers were actively discussing a plea bargain deal with the U.S. government, he replied, “We’re still waiting for them to call us back.”

Snowden told the BBC that he didn’t think the way that charges of violating the Espionage Act are commonly adjudicated, particularly the government’s power under the Act to exclude most knowledge beneficial to the defendant’s case from a jury, are fair:

The Espionage Act finds anyone guilty who provides any information to the public, regardless of whether it is right or wrong. You aren’t even allowed to explain to a jury what your motivations were for revealing this information. It is simply a question of “did you reveal information?” If yes, you go to prison for the rest of your life.

In an article published by the Freedom of the Press Foundation in December 2013, Trevor Timm, the foundation’s co-founder and executive director, wrote:

If Edward Snowden comes back to the US to face trial, he likely **will not** be able to tell a jury why he did what he did, and what happened because of his actions. Contrary to common sense, there is no public interest exception to the Espionage Act. Prosecutors in recent cases have convinced courts that the intent of the leaker, the value of leaks to the public, and the lack of harm caused by the leaks are irrelevant — and are therefore inadmissible in court.

This is why rarely, if ever, whistleblowers go to trial when they’re charged under the Espionage Act, and why the law — a relic from World War I — is so pernicious. [Emphasis in original.]

When BBC Panorama, which conducted the interview with Snowden, asked former head of the NSA Michael Hayden what would happen to Snowden, he said: “If you’re asking me my opinion, he’s going to die in Moscow. He’s not coming home.”



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In June 2013, the U.S. Justice Department charged Snowden with two counts of violating the Espionage Act, shortly after the British-based *Guardian* newspaper published his reports exposing the NSA's illegal and abusive spying program and made his identity known to the public. The reports were based on classified documents Snowden provided to the paper. After seeking asylum from prosecution in several countries, Snowden eventually was given permission to reside in Russia. He remains there while his efforts to enter into a plea bargain with a reduced sentence if he returns to the United States have been unsuccessful.

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Snowden first made contact with the *Guardian's* reporter Glenn Greenwald in late 2012, but Greenwald at first found Snowden's data encryption demands to be burdensome, and was reluctant to cooperate. Snowden then decided to contact documentary maker Laura Poitras. Poitras met with Greenwald and asked him to become involved, after which Snowden began providing both journalists with the classified documents. In June 2013, he said, "All I can say right now is the U.S. government is not going to be able to cover this up by jailing or murdering me. Truth is coming, and it cannot be stopped."

The *Guardian* published his first documents on June 5, 2013, prompting a worldwide reaction as many large media outlets began disseminating the reports.

The day after the Justice Department charged Snowden with violating the Espionage Act, the State Department revoked his passport. Days later, he flew to Moscow, where he asked for asylum and has remained ever since, in self-imposed exile.

Last year, former U.S. representative and presidential candidate Ron Paul (R-Texas) announced his sponsorship of a petition to bring Snowden home. An explanatory note on Paul's website stated, in part:

Edward Snowden shocked the world when he exposed the NSA's illegal and abusive spying program. Instead of applauding him for his bravery and patriotism, the U.S. government labels Snowden a traitor.

In the video announcing the petition, Paul said:

On June 5th, 2013, Edward Snowden sacrificed his livelihood, citizenship, and freedom by exposing the disturbing scope of the NSA's worldwide spying program. Thanks to one man's courageous actions, Americans know about the truly egregious ways their government is spying on them. By signing this petition, you are telling the US government that Mr. Snowden deserves the right to come home without the fear of persecution or imprisonment.

In response to a petition — which received more than 167,000 signatures — Lisa Monaco, the president's advisor on Homeland Security and Counterterrorism, released a statement on July 28, saying:

[Snowden] should come home to the United States, and be judged by a jury of his peers — not hide behind the cover of an authoritarian regime. Right now, he's running away from the consequences of his actions.

If [Snowden] felt his actions were consistent with civil disobedience, then he should do what those who have taken issue with their own government do: Challenge it, speak out, engage in a constructive act of protest, and — importantly — accept the consequences of his actions

The stand-off will continue for the foreseeable future. Unless a future president decides to pardon Snowden, he may stay in self-imposed exile indefinitely. Not even Ron Paul's son, presidential candidate



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Rand Paul, has expressed the intention of letting Snowden off the hook if he were to be elected president. In an interview with the libertarian *Reason* magazine earlier this year, the interviewer asked Paul, “If on the day after inauguration, you get a phone call and it’s Edward Snowden saying, ‘Alright, I’m ready to come back,’ what are you going to do?”

While Paul was not obviously “out for blood” against Snowden — as so many of the whistleblower’s accusers are — he was not about to let Snowden off with a slap on the wrist, either. Here are a few of Paul’s comments:

- “I think justice is about making punishment proportional to the crime. And I think his intentions were to reveal something that he felt like the people in government were lying about. And it turns out they *were* lying. [Emphasi in original.]

“The director of national intelligence [retired Lt. Gen. James Robert Clapper, Jr.] committed perjury in front of the Senate committee. My understanding is it’s about a five-year sentence, but instead of getting any kind of sentence, instead of getting a slap on the wrist, or instead of even being fired, he’s been rewarded, and he’s still in charge of intelligence.”

- “On the other side of the coin, can you let people who have sensitive data just make the decision to reveal it to the world? I think you have to have laws against that. So I think there have to be laws against what Snowden did. Did he do it for a higher purpose? Does he have a high moral ground? All of that I think history will judge. But I’ve sort of tongue-in-cheek said that if I had the choice, I’d put Clapper and Snowden in the same jail cell for about the same period of time.”
- “I think that there has to be some punishment, but I think the other side’s been crazy over the top with people who say they want to shoot Snowden, or they want to hang him.... I think that one of the things we’ve tried to promote is a reform that would make things different. Snowden has said he would have tried official channels to reveal this to someone officially, but that the whistleblower statute doesn’t apply to contractors. So I actually have an amendment that would try to make that so. So if you’re a contractor doing business with an intelligence agency and you find that they’re breaking the law — and interestingly, the courts have now said the NSA is breaking the law.”

On the other hand, presidential candidate Donald Trump has been much more harsh on Snowden, calling the whistleblower a “total traitor” and claiming that if he were president he “would deal with him harshly.” “And if I were president, Putin would give him over. I would get along with Putin. I’ve dealt with Russia,” Trump said.

The limbo in which Snowden finds himself does not bode well for any future potential whistleblowers who might want to expose wrongdoing in our government.

Photo of Edward Snowden speaking via video feed at a live event in February 2015: AP Images

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