

Governments Pwn the Web: A Constitutional Right to IT-Security?



Co-Creating An Agenda for Research, Policy and Activism

Berkman Luncheon Series 18.03.14

<https://www.axelarnbak.nl>

2013/14 Fellow Berkman Center & CITP

#berkman

“In almost every issue of weekly [Computerworld] is an article detailing a case of computer fraud, embezzlement or sabotage (...). Over 100 different articles from mid 1971.”

1. P. Browne, *Computer security: a survey*, ACM SIGMIS, vol. 4/3, 1972
2. A. Westin, *Databanks in a free society; computers, record-keeping, and privacy*, New York: Quadrangle Books 1972.

Socio-technical Change

THE CRYPTO WARS

FBI/NSA:
“GOING DARK”

crypto



How the Code Rebels Beat the Government—
Saving Privacy in the Digital Age

STEVEN LEVY

AUTHOR OF HACKERS

1110 Coachella Canal Road

92259

WE REMEMBER FREEDOM

SLAB CITY

INTERNET

CAFE

WE LOVE YOU

NEWS

How the NSA Plans to Infect ‘Millions’ of Computers with Malware

By Ryan Gallagher and Glenn Greenwald

12 Mar 2014, 9:19 AM EDT

122

TOP SECRET//COMINT//REL TO USA, AUS, CAN, GBR, NZL//20291123



TOP SECRET//COMINT//REL TO USA, AUS, CAN, GBR, NZL//20291123

One presentation outlines how the NSA performs “industrial-scale exploitation” of computer networks across the world.

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ABOUT THE AUTHORS



Ryan Gallagher
Reporter: [Read more](#)



Glenn Greenwald
Editor: [Read more](#)

FBI's search for 'Mo,' suspect in bomb threats, highlights use of malware for surveillance

By [Craig Timberg](#) and [Ellen Nakashima](#), Published: December 6

“The most powerful FBI surveillance software can covertly download files, photographs and stored e-mails, or even gather real-time images by activating cameras connected to computers, say court documents and people familiar with this technology.”

Plausible deniability is gone. We know:

“It’s happening”

“It’s increasing”

“It’s problematic”

Today's talk about 'Western' Governments:

How to understand their hacking efforts?
How to respond to them?

*Goal: co-create an agenda for
research, policy and activism*

TODAY: NOT DIRECTLY ABOUT..

HACKING TEAM RCS

Suspected Government Users Worldwide

Citizen Lab 2014

Bill Marczak, Claudio Guarnieri, Morgan Marquis-Boire & John Scott-Railton



21 SUSPECTED GOVERNMENT USERS

AMERICAS	EUROPE	MIDDLE EAST	AFRICA	ASIA
Mexico Colombia Panama	Hungary Italy Poland	Oman Saudi Arabia UAE	Egypt Ethiopia Morocco Nigeria Sudan	Azerbaijan Kazakhstan Malaysia Thailand South Korea Uzbekistan

CAUSE FOR CONCERN



*World Bank 2012 WGI

History of dual-use regulation / Great work being done / Easy to condemn for hegemons

Check at the fantastic Citizen Lab: <https://citizenlab.org/>

OUTLINE

Hacking Cases by 'Western' Governments

11+ Problems with Government Hacking

A Constitutional Right to IT-Security?

Elements of a Research Agenda: Discussion!

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YALE LAW SCHOOL

The Information Society Project

Law Enforcement & Hacking: When Cops Control your Webcam



1:10 pm
Tuesday, Feb. 18
Levinson Auditorium
Law School

Panel 1: The Hacking Technologies Used by Law Enforcement

Kevin Poulsen, Investigations Editor, Wired (moderator)
Christopher Soghoian, Principal Technologist, ACLU
Morgan Marquis-Boire, Citizen Lab
Ashkan Soltani, Independent Consultant
Matt Blaze, Associate Professor, University of Pennsylvania
Axel Ambak, Researcher, Institute for Information Law, University of Amsterdam

Panel 2: The Legal and Policy Implications of Hacking by Law Enforcement

Jennifer Valentino-Devries, The Wall Street Journal (moderator)
Magistrate Judge Steve Smith
Professor Laura Donahue, Georgetown University Law Center
Stephanie Peil, Principal, SKP Strategies LLC
Justin Rood, Senate Committee on Homeland Security and Governmental Affairs
Ahmed Ghappour, Clinical Instructor, The National Security Clinic, UT Law School

3 Cases of Government Hacking

1. Law Enforcement Investigation

2. Botnet prosecution and mitigation

3. Ubiquitous Intelligence Gathering

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1. Law Enforcement Investigation

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE WARRANT TO SEARCH A TARGET §
COMPUTER AT PREMISES UNKNOWN § CASE NO. H-13-234M
§
§

MEMORANDUM AND ORDER

The Government has applied for a Rule 41 search and seizure warrant targeting a computer allegedly used to violate federal bank fraud, identity theft, and computer security laws. Unknown persons are said to have committed these crimes using a particular email account via an unknown computer at an unknown location. The search would be accomplished by surreptitiously installing software designed not only to extract certain stored electronic records but also to generate user photographs and location information over a 30 day period. In other words, the Government seeks a warrant to hack a computer suspected of criminal use. For various reasons explained below, the application is denied.

Magistrate Judge Smith, Apr. 2013, turns the FBI hacking request down:

- 1. Identity and location of device owner not known*
- 2. Search **for** and **of** computer*
- 3. 4th Amendment video surveillance criteria not met*

NB. Prof. Donahue (Georgetown):
dozens of cases from California to New York
sealed, no public scrutiny

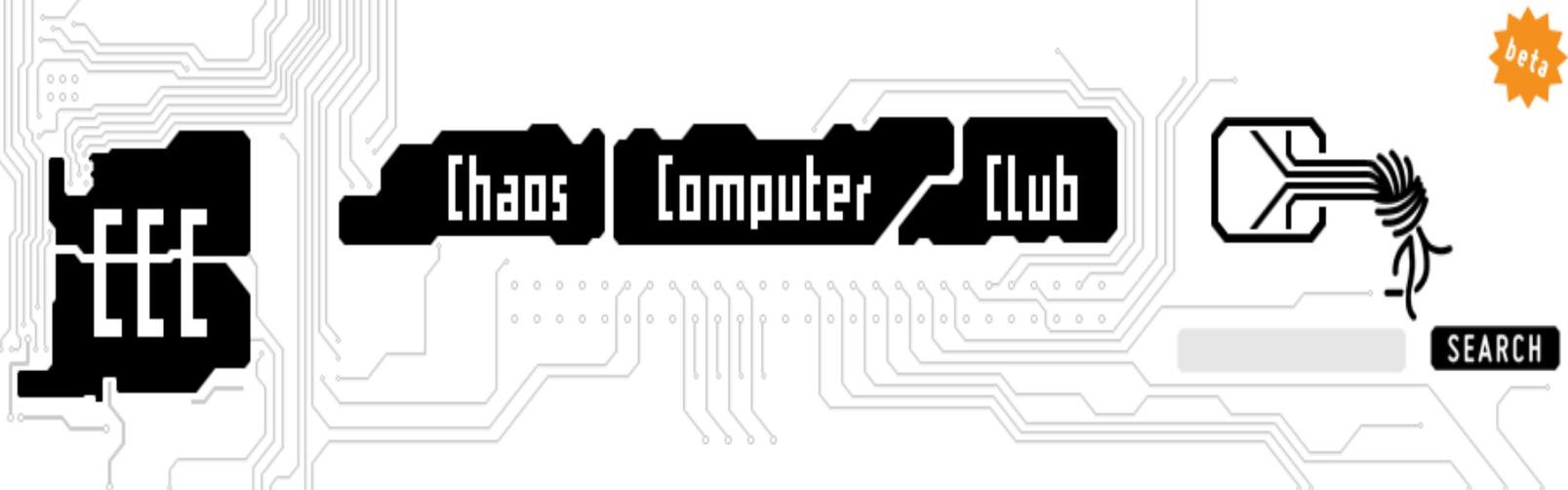


BUNDESTROJANER

BUNDESVERFASSUNGSGERICHT



German Cons



- home
- Topics
- Events
- Support
- Regional CCC
- Publications
- Contact
- Imprint
- Club

Deutsch

Chaos Computer Club analyzes government malware

2011-10-08 19:00:00, admin

The largest European hacker club, "Chaos Computer Club" (CCC), has reverse engineered and analyzed a "lawful interception" malware program used by German police forces. It has been found in the wild and submitted to the CCC anonymously. The malware can not only siphon away intimate data but also offers a remote control or backdoor functionality for uploading and executing arbitrary other programs. Significant design and implementation flaws make all of the functionality available to anyone on the internet.

Tags

- update
- pressemitteilung
- staatstrojaner

Featured



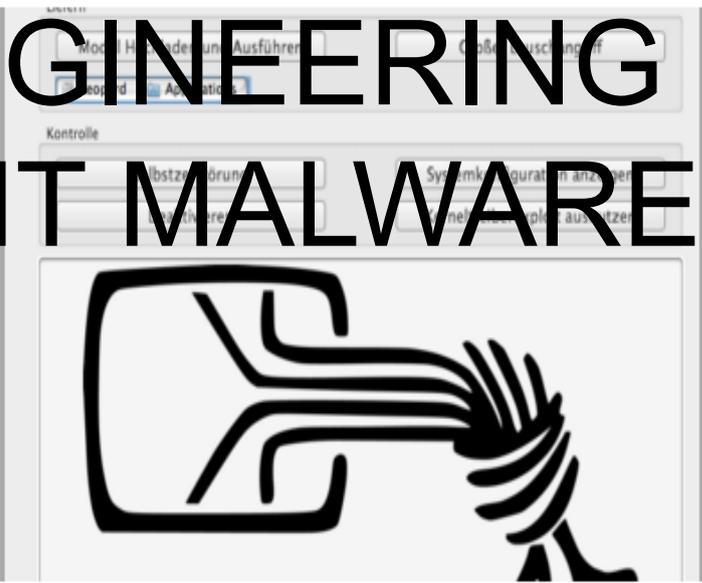
REVERSE ENGINEERING GOVERNMENT MALWARE

2014-02-27
CCC Köln:
OpenCircos

2014-02-27
Chaosradio

2014-03-05
C-RaDaR
Darmstadt

2014-03-18



3 Cases of Government Hacking

1. Law Enforcement Investigation

2. Botnet prosecution and mitigation

3. Ubiquitous Intelligence Gathering

BREDOLAB

Your computer is infected!

If this Browser has opened automatically then your computer has been infected with malware. Your computer has become part of a bot network.

This message has been sent to you by the High Tech Crime Team of the Dutch National Crime Squad and aims to notify all owners of infected computers.

Dutch National Crime Squad takes down infamous botnet

On October 25th 2010, the High Tech Crime Team of the Dutch National Crime Squad took down a very large botnet, containing at least 30 million infected computer systems worldwide since July 2009. These computers were infected with the malicious Bredolab trojan, through infected websites. Through these botnets, cybercriminals can spread large amounts of other viruses and create new botnets.

In close cooperation with a Dutch hosting provider, The Dutch Forensic Institute (NFI), the internet security company Fox-IT and GOVCERT, the computer emergency response team of the Dutch government, shut down 143 computer servers today.



More information:

For more information about removing Bredolab from your computer, visit:

<https://www.waarschuwingsdienst.nl/Risicos/Virussen+en+malware/Ontmanteling+Bredolab.html>





```
program OpenTHTCPage;
uses
  Window,
  ShellApi;
begin
  try
    ShellExecute(0, 'open',
      'http://teamhightechcrime.nationale-
        recherche.nl/nl_infected.php', nil,
      nil, SW_SHOWNORMAL);
  except
    // ignore
  end
end
```

FOIA SOURCE CODE

not encrypted, not signed!!

- Insert vulnerabilities, fx. phishing / new botnet

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ABOUT THE AUTHORS



Ryan Gallagher
Reporter: [Read more](#)



Glenn Greenwald
Editor: [Read more](#)

(U) There is More Than One Way to QUANTUM



TS//SI//REL

Name	Description	Inception Date	Status	Operational Success
CNE				
QUANTUMINSERT	<ul style="list-style-type: none"> • Man-on-the-Side technique • Briefly hi-jacks connections to a terrorist website • Re-directs the target to a TAO server (FOXACID) for implantation 	2005	Operational	Highly Successful (In 2010, 300 TAO implants were deployed via QUANTUMINSERT to targets that were un-exploitable by any other means)
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TS//SI//REL

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Hacking Cases by 'Western' Governments

11+ Problems with Government Hacking

A Constitutional Right to IT-Security?

Elements of a Research Agenda: Discussion!

1

no reliable data

2

no clear separation
wiretap/search

3

with lies, and no laws
oversight is hard

4

insecure malware
infosecurity disaster

5

hacking creates bad
security incentives

6

scope undebated:

user / device / router /

isp / botnet / world

7

jurisdiction: within /
across borders?

8

geopolitical tension:
cybercrime convention

9

constitution: protection
across borders?

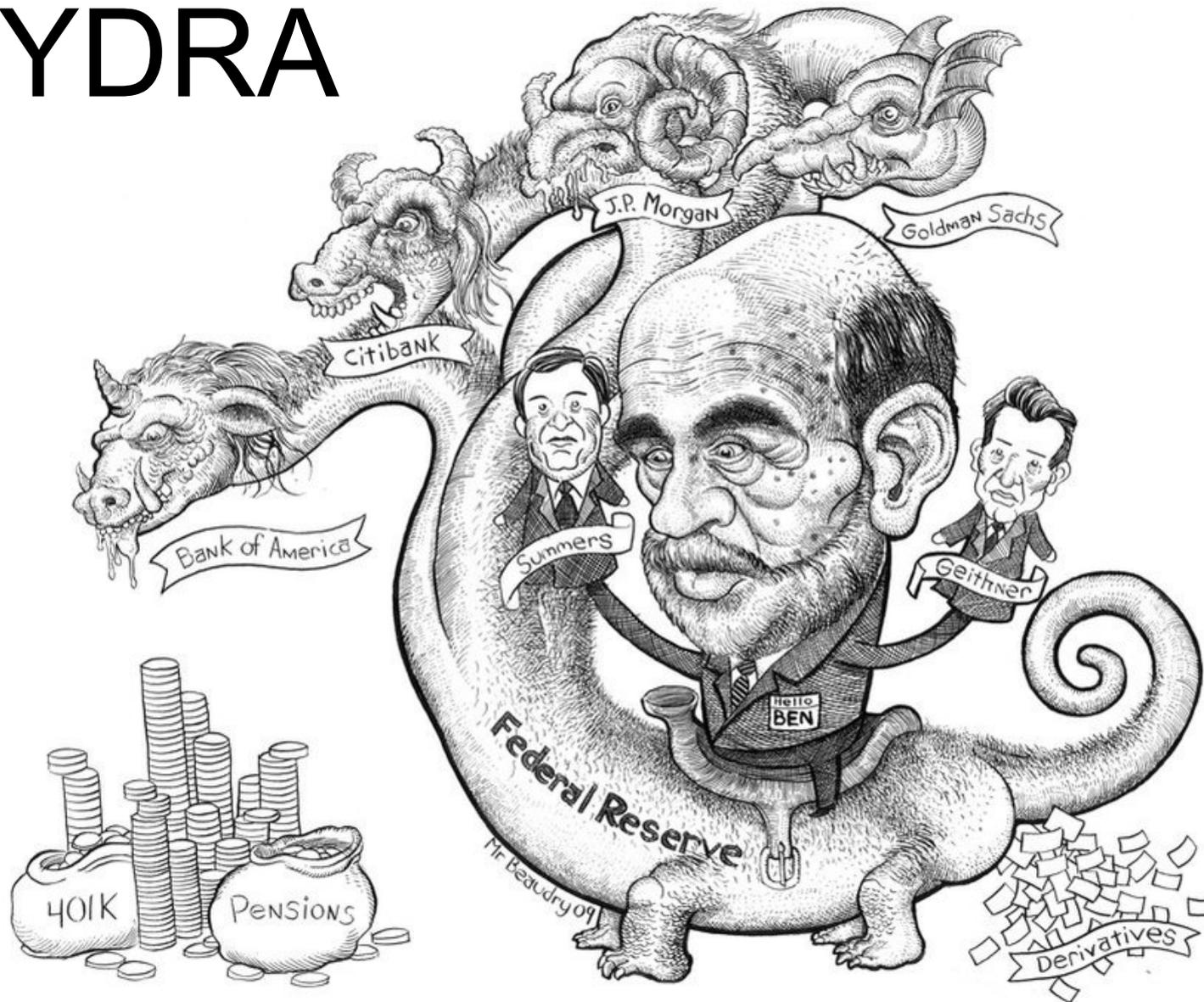
10

parallel construction:
NSA hack – FBI arrest

11

hacking necessary?
utopia: undercover job

GOVERNMENT HACKING HYDRA



For every apparent benefit, a problematic policy issue emerges

OUTLINE

Hacking Cases by 'Western' Governments

11+ Problems with Government Hacking

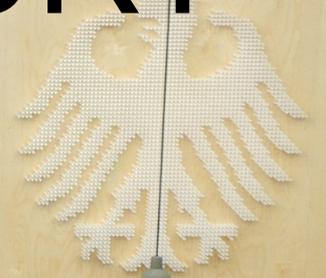
A Constitutional Right to IT-Security?

Elements of a Research Agenda: Discussion!



BUNDESTROJANER

CONSTITUTIONAL COURT GERMANY



According to BVerfG, NJW 2008, 822 (849).

- IT-systems particularly sensitive
 - Separates systems, communication, data
 - Systems deserve particular protection
 - We structure our life
 - All-stop-shop for government access
 - Network, 'cloud' exacerbates privacy intrusion
 - 3rd parties & data centralised
- Hacking IT violates core of privacy, personality
 - Beyond 'Communication', Beyond the Home

Human Right: Confidentiality & Integrity IT-Systems

- Broad scope: general storage device
 - Internet of Things, 'Cloud', RAM
 - Not on public device, but also on public wifi
 - Regardless of technical expertise user
- Integrity: manipulation of data also covered
- Not absolute, but strictest legal criteria
 - Stricter than house search
 - But: 'Foundations of the State'
 - And: 'Prevention' with 'High Probability'
 - Core of private life cannot be restricted
 - If such data found, immediate deletion!

EUROPEAN COURT OF HUMAN RIGHTS



Conclusion

The court finds that the Government's warrant request is not supported by the application presented. This is not to say that such a potent investigative technique could never be authorized under Rule 41. And there may well be a good reason to update the territorial limits of that rule in light of advancing computer search technology. But the extremely intrusive nature of such a search requires careful adherence to the strictures of Rule 41 as currently written, not to mention the binding Fourth Amendment precedent for video surveillance in this circuit. For these reasons, the requested search and seizure warrant is denied.

Signed at Houston, Texas on April 22, 2013.


Stephen Wm Smith
United States Magistrate Judge

OUTLINE

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RESEARCH

ROOT CAUSES OF CYBERCRIME? GAME THEORY: LARGE SCALE VULNS

Where Do All The Attacks Go?

Dinei Florêncio and Cormac Herley
Microsoft Research
One Microsoft Way
Redmond, WA, USA

“Many attacks cannot be made profitable, even when many profitable targets exist.”

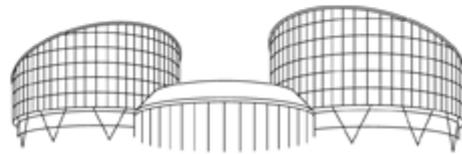
HUMAN RIGHT IT-SECURITY: AGAINST COMPANIES?



ethereum

THE ONLY LIMIT IS YOUR IMAGINATION

POSITIVE HUMAN RIGHT TO IT-SECURITY?



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF I v. FINLAND

(Application no. [20511/03](#))

JUDGMENT

(U) There is More Than One Way to QUANTUM

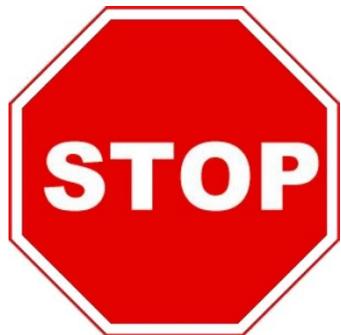


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TS//SI//REL

POLICY



“We Must Do Something.
Hacking Is Something.
Therefore, We Must Do It”

DEMAND RELIABLE DATA FOR INFORMED POLICYMAKING

Measuring the Cost of Cybercrime

Ross Anderson ¹ Chris Barton ² Rainer Böhme ³ Richard Clayton ⁴
Michel J.G. van Eeten ⁵ Michael Levi ⁶ Tyler Moore ⁷ Stefan Savage ⁸

“As a striking example, the botnet behind a third of the spam sent in 2010 earned its owners around US\$2.7m, while worldwide expenditures on spam prevention probably exceeded a billion dollars. We are extremely inefficient at fighting cybercrime”

his website has been seized



ggvow6fj3sehlm45.onion



Startpage



ALTERNATIVES TO HACKING?



This hidden service has been seized.

by the Dutch National Police

Just Weeks Ago: UTOPIA (undercover job)

TECHNOLOGY-SPECIFIC SURVEILLANCE LAWS



SURVEILLANCE LAW
NOT TECHNOLOGY-NEUTRAL

(U) There is More Than One Way to QUANTUM



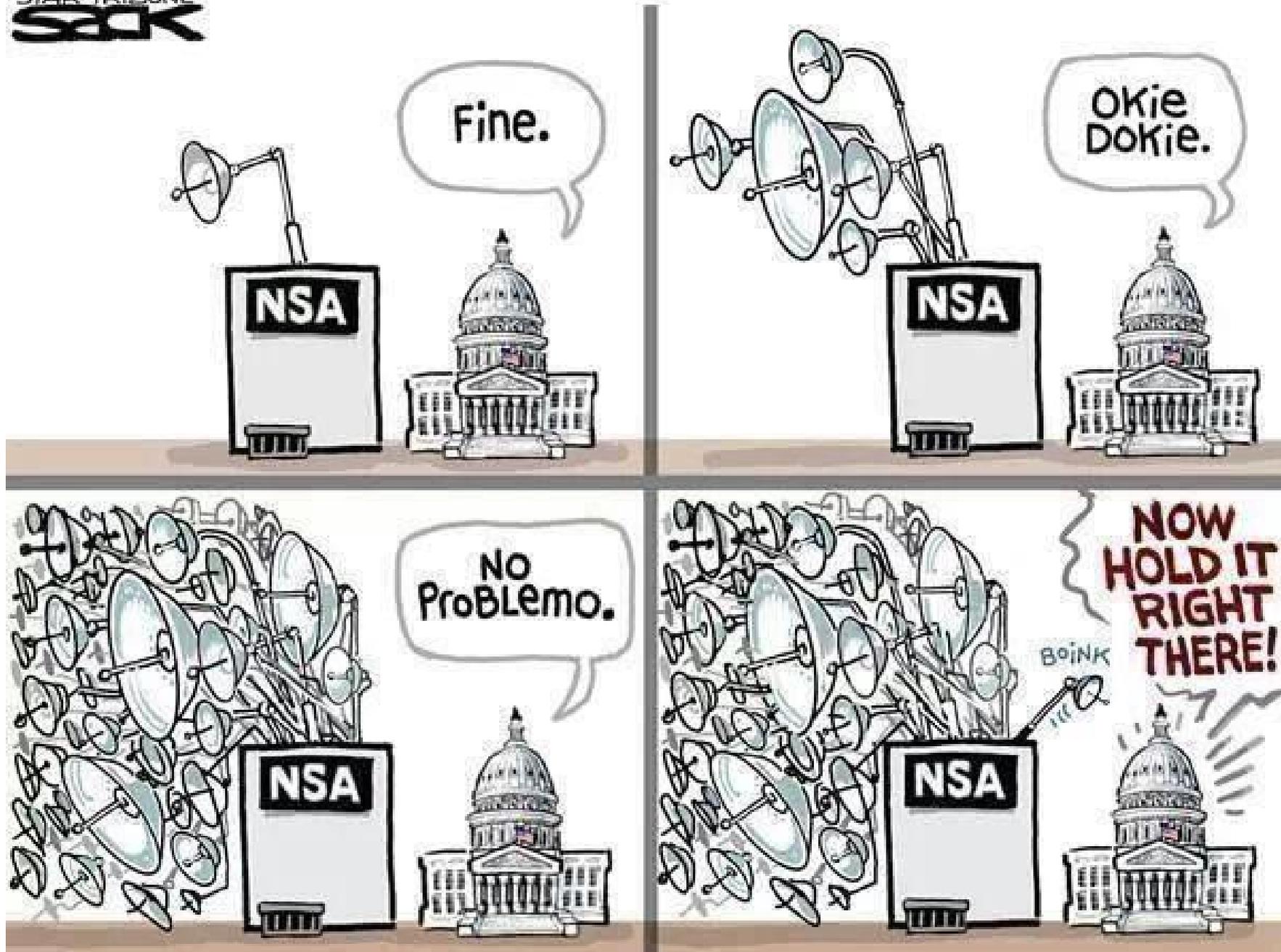
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TS//SI//REL

REAL OVERSIGHT NEEDED

STAR TRIBUNE
S&K





The best time to wage cyberwar

Maths model calculates whether it is worth waiting to hit enemies at their most vulnerable.

[Regina Nuzzo](#)

13 January 2014

[Rights & Permissions](#)

GAME THEORY: ESCALLATION

If you discover a way to hack into your enemy's computers, do you strike while the iron is hot, or patiently wait for a better opportunity to arise? Wait too long, and a vigilant enemy might spot its vulnerabilities and fix them. Strike too soon, however, and you will have blown your chance to wreak havoc when you might really need it.

A new mathematical model, built on analyses of double-agent spies and code-breaking during the Second World War¹, provides a way to calculate the ideal timing of a surprise cyberattack. The



Top Story



[The gravitational-wave revolution](#)

Results from a South Pole observatory unleash a new kind of astronomy that can peer all the way back to the Big Bang.

[E-alert](#) [RSS](#) [Facebook](#) [Twitter](#)

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Nature | 17 March 2014
2. [Pests worm their way into genetically modified maize](#)
Nature | 17 March 2014
3. [How astronomers saw gravitational waves from the Big Bang](#)
Nature | 17 March 2014

AUGUST 25, 200

CNN



EXCLUSIVE

LANCE ARMSTRONG SPEAKS OUT

CANCER SURVIVOR, 7-TIME TOUR DE FRANCE
CYCLING CHAMP DENIES DRUG ALLEGATIONS

CNN

WASH
Live

HACKING TEAM RCS

Suspected Government Users Worldwide

Citizen Lab 2014

Bill Marczak, Claudio Guarnieri, Morgan Marquis-Boire & John Scott-Railton



21 SUSPECTED GOVERNMENT USERS

AMERICAS

Mexico
Colombia
Panama

EUROPE

Hungary
Italy
Poland

MIDDLE EAST

Oman
Saudi Arabia
UAE

AFRICA

Egypt
Ethiopia
Morocco
Nigeria
Sudan

ASIA

Azerbaijan
Kazakhstan
Malaysia
Thailand
South Korea
Uzbekistan

CAUSE FOR CONCERN



52% (in bold) fall in the bottom 3rd of a World Bank ranking* of freedom of expression and accountability



29% are in the bottom 3rd for Rule of Law

*World Bank 2012 WGI

CHALLENGES DISARMAMENT (ALONG WITH ATTRIBUTION PROBLEM)



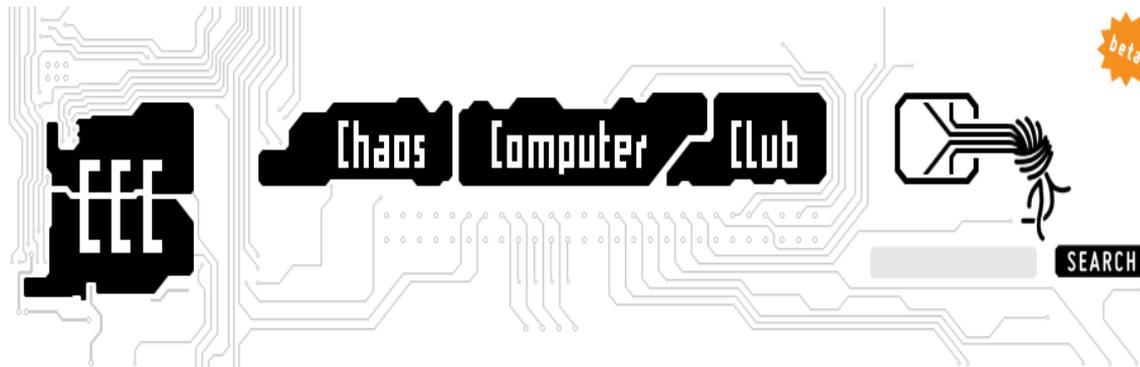
BUT NEEDED, ALONG WITH DUAL USE TRADE RESTRICTIONS

ACTIVISM

PRIVACY INTERNATIONAL



REVERSE-ENGINEERING TRACEROUTES PORT SCANS CONFERENCES WHAT'S GOING ON?



- home
- Topics
- Events
- Support
- Regional CCC
- Publications
- Contact
- Imprint
- Club
- Deutsch

Chaos Computer Club analyzes government malware

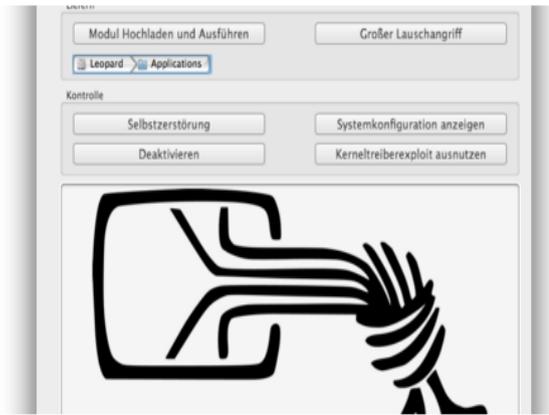
2011-10-08 19:00:00, admin

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- pressemitteilung
- staatstrojaner

Featured



Calendar

- 2014-02-27
CCC Köln:
OpenChaos
- 2014-02-27
Chaosradio
- 2014-03-05
C-RaDaR
Darmstadt





BITS OF FREEDOM

VERDEDIGT DIGITALE BURGERRECHTEN

► HOME ► DOE MEE ► ONS WERK ► OVER ONS ► CONTACT ► PERS **BLOG**

FACT-FINDING:
FOIA MALWARE
UNSEAL CASES
ROLE INDUSTRY
FIND WHISTLE-
BLOWERS

OPPOSE LAWS
11+ PROBLEMS
ALTERNATIVES

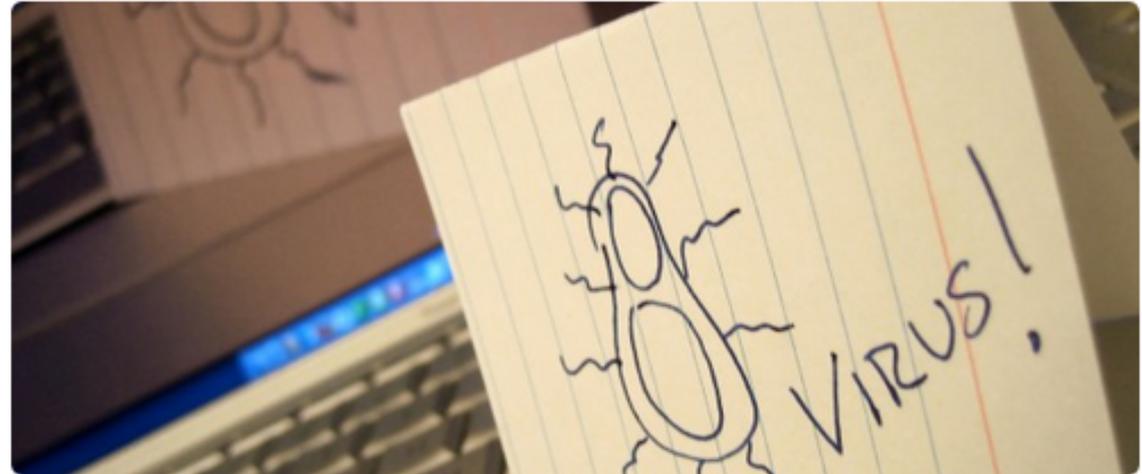


Image based on [Computer Virus](#) by [talksrealfast](#) (licentie: [CC BY-NC-SA 2.0](#))



25 oktober 2013 21:40
Door Ton Siedsma

English

EXPERTS CALL UPON THE VENDORS OF ANTIVIRUS SOFTWARE FOR TRANSPARENCY

An international coalition of more than 25 civil rights organizations and security experts is concerned about the level of security provided by antivirus software companies. "The users of this software should be able to rely on the security of their systems. We fear this might be a false feeling of security," says Ton Siedsma of the Dutch digital rights organization [Bits of Freedom](#).

According to the coalition, these companies have a vital position in providing security and maintaining the trust of internet users engaging in sensitive activities such as electronic banking. There should be no doubt that your antivirus software provides the security needed to maintain this trust.

In [the letter](#), the coalition asks the antivirus companies for transparency on whether there have been any requests by governments to not detect the

WARNING FOR DANGEROUS DYNAMIC HUMAN RIGHT TO LEGITIMIZE HACKING POST-SNOWDEN: “LAWFUL / AUTHORIZED”

DNI Statement on the Collection of Intelligence Pursuant to Section 702 of the Foreign Intelligence Surveillance Act

Saturday, June 08, 2013



**DIRECTOR OF NATIONAL INTELLIGENCE
WASHINGTON, DC 20511**

June 8, 2013

DNI Statement on the Collection of Intelligence Pursuant to Section 702 of the Foreign Intelligence Surveillance Act

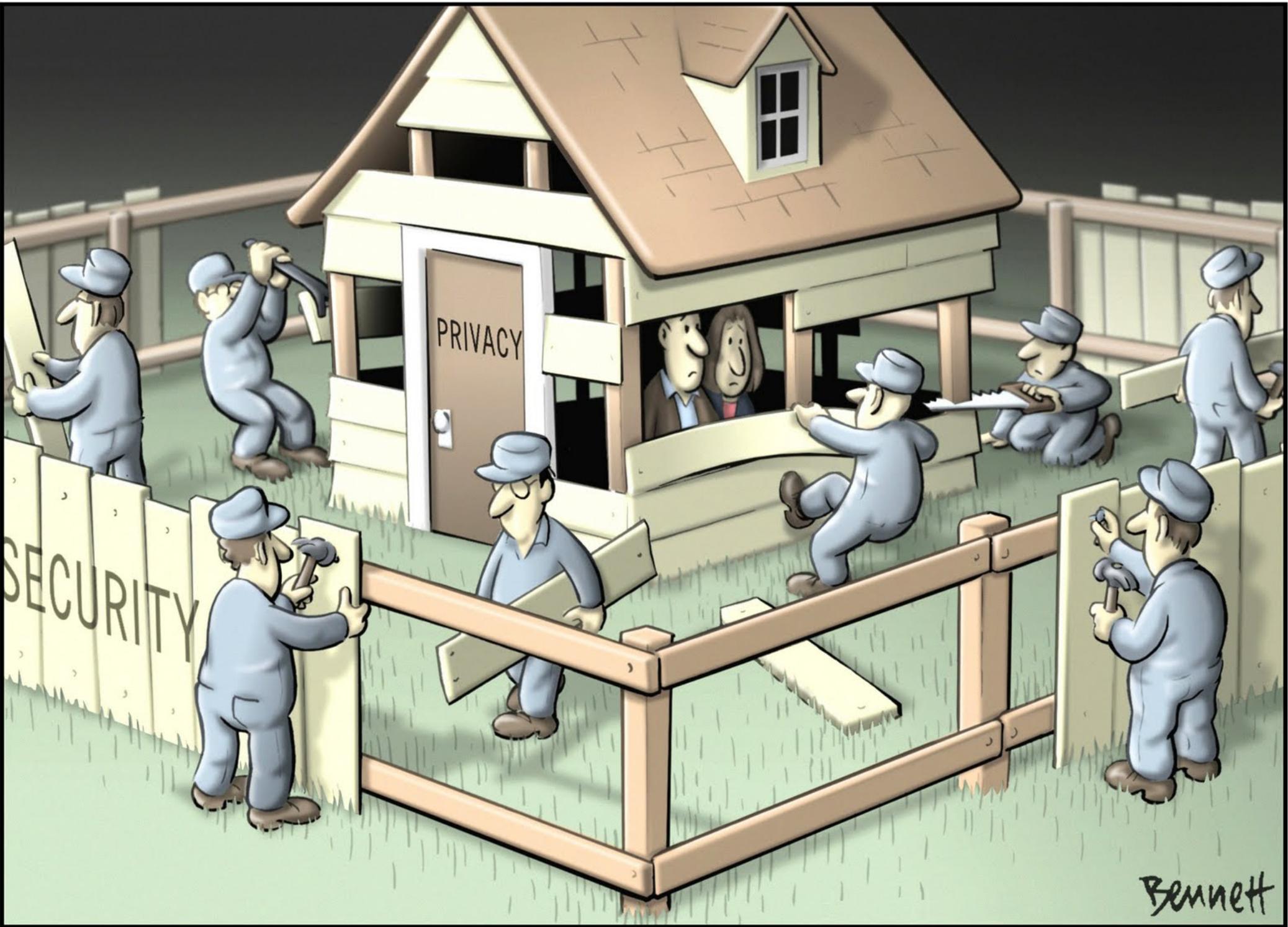
Over the last week we have seen reckless disclosures of intelligence community measures used to keep Americans safe. In a rush to publish, media outlets have not given the full context—including the extent to which these programs are overseen by all three branches of government—to these effective tools.

In particular, the surveillance activities published in The Guardian and The Washington Post are lawful and conducted under authorities widely known and discussed, and fully debated and authorized by Congress. Their purpose is to obtain foreign intelligence information, including information necessary to thwart terrorist and cyber attacks against the United States and its allies.

DEVELOP RICH VOCABULARY:
“BUNDESTROJANER” / “SABOTAGE”

DON'T ASSUME 'TARGETTED
SURVEILLANCE' IS MORE OKAY:
“ALL VPN CONNECTIONS
ORIGINATING IN A COUNTRY”

NEVER USE 'CYBERSECURITY':
IT'S A MILITARY CONCEPT



Bennett

Governments Pwn the Web: A Constitutional Right to IT-Security?



Co-Creating An Agenda for Research, Policy and Activism

Berkman Luncheon Series 18.03.14

<https://www.axelarnbak.nl>

2013/14 Fellow Berkman Center & CITP

