

Why isn't the NSA a hot topic in the US elections?

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Just ahead of the presidential election mayhem in the United States, a survey by the Pew Research Center in May of last year showed that nearly 55 percent of Americans disapproved of National Security Agency (NSA) surveillance. That poll came ahead of the passage of the USA Freedom Act, which ended the mass collection of phone records, but which still left many of the agency's spying powers intact.

Nearly a year later, media attention has turned to a draft bill that would see encrypted data unencrypted by court order. The so-called Feinstein-Burr legislation follows public outcry over the FBI's demanding Apple to unlock the phone of Syed Rizwan Farook, who had shot dead 14 people in San Bernadino, California late last year.

Yet, in a year when Americans will choose a new president - a person who could unquestionably expand NSA powers, as George W. Bush did in 2001, or President Barack Obama has over his two terms - this isn't a burning issue for voters.

But, why?

'Not a lot of leading going on'

Americans might, in theory, disagree with the NSA's warrantless eavesdropping in the past, but, the complexity of the issue has left voters and politicians alike stumped.

"They don't know what to do," Bruce Schneier, a fellow at Kennedy School of Government at Harvard University and cryptographer who helped "The Guardian" newspaper review Edward Snowden's documents, told DW.

"They look to their leaders to tell them and there's not a lot of leading going on. So right now a lot of this is playing out in the courts," he said.

The stance of the top four presidential candidates varies widely. On the Democratic side, Bernie Sanders wants to end surveillance, while frontrunner Hillary Clinton favors finding a balance that would see more cooperation between businesses and government.

Republican Ted Cruz opposed the metadata program, but both he and Donald Trump have expressed support for monitoring Muslims. In fact, Trump has gone so far as to say that security in a world that "would like to destroy us as quickly as possible" was more important than privacy.

Powerless against the Constitution?

The NSA scandal poses multiple problems for the stock-standard speeches on the campaign trail.

For one, it's fraught with complexities that don't translate into soundbytes. When tech insiders raise concerns, for example, about the NSA having "back-door" access to software, the argument quickly snowballs: they're talking about Americans' privacy rights, but also the ability of cybercriminals to take advantage of the NSA's invasive strategies, paradoxically making the US more vulnerable to hacking.

Taking a position on the fourth amendment of the Constitution - the main law at the heart of privacy and security - also poses problems for candidates who know the legal system is warily navigating new territory as technology grows exponentially.

"You have the right against unreasonable searches and seizures, which means by implication that you don't have the right against reasonable searches and seizures," Roger Pilon, the vice president of the Washington-based Cato Institute, told DW, offering the law in a nutshell and underscoring the difficulty of its interpretation.

Even though Pilon said both privacy advocates and proponents of state security had good arguments, the presidential campaign won't spark a huge public debate. That's in part because the public can't look to an example of someone's privacy rights being violated - because the government doesn't tell people when they're being watched.

This hits on the a key legal problem in the US. "You can't bring a case before the court saying, 'I might have had my call intercepted, I don't know, but I think you ought to find the program unconstitutional,'" Pilon said.

Germany curious about outcome

The absence of the NSA scandal from the US presidential debates has been noticed in Germany, where Snowden's revelations have had enormous consequences for both the government and its intelligence agencies.

Not only did he reveal that the US had tapped Chancellor Angela Merkel's phone, but his information leak also led to the formation of parliamentary investigative committee which seeks to establish to what extent Germany's foreign intelligence agency, the BND, cooperated with the NSA.

The high-level investigation has led to the discovery of an extensive BND-NSA partnership. With the memories of human rights violations by East German spying and, longer ago, by the Gestapo, Germans take their right to privacy very seriously.

Thorsten Wetzling, who heads the Privacy Projects at the foundation *Neue Verantwortung* ("New Responsibility") said the NSA investigation had resonated strongly in business, politics, and civil society - and this debate could intensify "depending on who wins the US election."

But, Wetzling admitted that not every German was so concerned, a fact with which journalist Markus Beckedahl also agreed, saying the Snowden revelations led to Berlin's not curbing, but instead, strengthening its own foreign and domestic Internet surveillance.

Beckedahl and his colleague Andre Meister were investigated for treason last year after publishing confidential information on their website Netzpolitik.org that the German government was planning to increase online spying.

The charges were eventually dropped amid a public uproar. Beckedahl said the evidence they uncovered showed Merkel's government had benefited from many people ignoring the NSA scandal. In contrast to the US media, however, the German media has not forgotten the story so quickly.

"The government knows it doesn't have to be too afraid of the general public, but we're really lucky in Germany that many journalists focus on mass surveillance again and again anyway," Beckedahl told DW.

NSA issue not 'salient'

The vast majority of American adults use computers. Within the past five years, the rate of smart phone use has doubled to 68 percent - among adults 18-29, that rate is 86 percent, according to the Pew Research Center in 2015. Nearly half the country uses electronic tablets. Complacency over online surveillance, however, won't change soon, according to cryptographer Bruce Schneier.

The fact that the NSA can "interpret the law in a process that no one can see is fundamentally terrifying," he said. The implications of surveillance, however, were not a "salient issue like unemployment or crime or healthcare, things that matter to someone everyday, viscerally."

Certainly, the winner of the US presidential elections could affect surveillance policies, but as Schneier put it, "it's hard to know how much."