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# National Security

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## U.S. charges Snowden with espionage



Video: U.S. defense contractor Edward Snowden discusses his motivation behind the NSA leak and why he revealed himself as the whistleblower behind the major story. Courtesy of Laura Poitras and Glenn Greenwald.

4273

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By Peter Finn and Sari Horwitz. Published: June 21, 2013 E-mail the writers

Federal prosecutors have filed a criminal complaint against Edward Snowden, the former National Security Agency contractor who leaked a trove of documents about top-secret surveillance programs, and the United States has asked Hong Kong to detain him on a provisional arrest warrant, according to U.S. officials.

Snowden was charged with theft, "unauthorized communication of national defense information" and "willful communication of classified communications intelligence information to an unauthorized person," according to the complaint. The last two charges were brought under the 1917 Espionage Act.

### Gallery

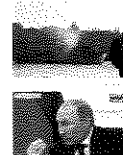


The complaint, which initially was sealed, was filed in the Eastern District of Virginia, a jurisdiction where Snowden's former employer, Booz Allen Hamilton, is headquartered and a district with a long track record of prosecuting cases with national security implications. After The Washington Post reported the charges, senior administration officials said late Friday that the Justice Department was barraged with calls from lawmakers and

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reporters and decided to unseal the criminal complaint.

A Justice Department spokeswoman declined to comment.

Snowden flew to Hong Kong last month after leaving his job at an NSA facility in Hawaii with a collection of highly classified documents that he acquired while working at the agency as a systems analyst.

The documents, some of which have been published in The Post and Britain's Guardian newspaper, detailed some of the most-secret surveillance operations undertaken by the United States and Britain, as well as classified legal memos and court orders underpinning the programs in the United States.

The 30-year-old intelligence analyst revealed himself June 9 as the leaker in an interview with the Guardian and said he went to Hong Kong because it provided the "cultural and legal framework to allow me to work without being immediately detained."

Snowden subsequently disappeared from public view; it is thought that he is still in the Chinese territory. Hong Kong has its own legislative and legal systems but ultimately answers to Beijing, under the "one country, two systems" arrangement.

The leaks have sparked national and international debates about the secret powers of the NSA to infringe on the privacy of Americans and foreigners. Officials from President Obama on down have said they welcome the opportunity to explain the importance of the programs and the

safeguards they say are built into them. Skeptics, including some in Congress, have said the NSA has assumed the power to soak up data about Americans that was never intended under the law.

There was never any doubt that the Justice Department would seek to prosecute Snowden for one of the most significant national security leaks in the country's history. The Obama administration has shown a particular propensity to go after leakers and has launched more investigations than any previous administration. This White House is responsible for bringing six of the nine total indictments ever brought under the 1917 Espionage Act. Snowden will be the seventh individual when he is formally indicted.

Justice Department officials had already said that a criminal investigation of Snowden was underway and was being run out of the FBI's Washington field office in conjunction with lawyers from the department's National Security Division.

By filing a criminal complaint, prosecutors have a legal basis to make the detention request of the authorities in Hong Kong. Prosecutors now have 60 days to file an indictment, probably under seal, and can then move to have Snowden extradited from Hong Kong for trial in the United States.

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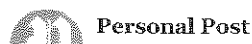
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Snowden, however, can fight the extradition effort in the courts in Hong Kong. Any battle is likely to reach Hong Kong's highest court and could last many months, lawyers in the United States and Hong Kong said.

The United States has an extradition treaty with Hong Kong, and U.S. officials said cooperation with the Chinese territory, which enjoys some autonomy from Beijing, has been good in previous cases.

The treaty, however, has an exception for political offenses, and espionage has traditionally been treated as a political offense. Snowden's defense team in Hong Kong is likely to invoke part of the extradition treaty with the United States, which states that suspects will not be turned over to face criminal trial for offenses of a "political character."

Typically in such cases, Hong Kong's chief executive must first decide whether to issue a warrant for the accused's arrest. But the extradition treaty also says that in exceptional cases a provisional warrant can be issued by a Hong Kong judge without the chief executive's approval. The judge must give the chief executive notice, however, that he has issued the warrant.

A spokesperson at the office of Hong Kong chief executive Leung Chun-ying said there was no information on Snowden's case. The police department did not respond to calls or e-mails. At the police station for Central District in Hong Kong Island, police officers on duty said they had not heard anything about Snowden.

If Snowden is arrested, he would appear before a judge. Bail would be unlikely and, instead, Snowden would be sent to the Lai Chi Kok maximum-security facility in Kowloon, a short drive from the high-end Mira Hotel, where he is last known to have stayed in Hong Kong.

Snowden could also remain in Hong Kong if the Chinese government decides that it is not in the defense or foreign policy interests of the government in Beijing to have him sent back to the United States for trial.

Another option would be for Snowden to apply for asylum with the United Nations High Commission for Refugees, which handles most asylum requests in Hong Kong. The UNHCR was closed Saturday morning and did not immediately respond to requests for comment via e-mail and phone. The asylum application process can take months or even years because Hong Kong has a severe backlog. The Hong Kong government cannot formally surrender individuals until their asylum applications have been processed.

Snowden also could attempt to reach another jurisdiction and seek asylum there before the authorities in Hong Kong act.

*Jia Lynn Yang in Hong Kong contributed to this report.*

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Discussion Policy




issamho8 wrote: 6/21/2013 6:43 PM EDT

Edward Snowden was spying for the American people. The American people are the enemy of the government. The government does not understand the Constitution that it is supposed to protect. These people accusing

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Snowden of being a traitor are the most unamerican people in the country because they think its better to give some kind of false sense of security that to preserve our rights. Al Qaeda never had the power to destroy America or our Constitution. Our government has destroyed the Constitution.



**Saitaina Moricia-Malfoy** responds:  
6/21/2013 6:45 PM EDT

Edward Snowden is a traitor, pure and simple. He exposed programs that now give the true enemies of America (not it's people, you twit) information they did not have on how investigations are done. By doing so he fulfilled the 'role' of a traitor in providing aid and comfort to the enemy.

Anyone who read the Patriot Act under which these programs fell knew what was going on. the rest were just to blind to pay attention and are now flipping out when they find out the Government is doing exactly what they said they would.



**Everyday Ingenuity** responds:  
6/21/2013 7:03 PM EDT

those that wanted to take our rights away but never got a chance because our government did it first.

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