

The *Staatsicherheitsdienst* (or Stasi) was the security services organisation under the operation of the German Democratic Republic (GDR) between 1950 and 1990. In contrast, the Federal Republic of Germany (FRG) formed the *Bundesnachrichtendienst* (BND) in 1953, and its existence has continued into the present day. Both organisations were formed in order to observe and keep the general population of their respective states safe; however, this essay will explore how this may not have been the case. Particularly in the GDR, many people's basic right to privacy was violated on a daily basis. As a totalitarian regime, the GDR intended to exercise as much control over the general population as possible, and the Stasi was the crucial instrument in this surveillance. However, in combatting and attempting to out-compete the Stasi, the BND also used mass surveillance. Often working in concert with the American National Security Agency (NSA), the BND spied not only on its eastern counterpart, but also on its Western allies¹. This essay is intended to inform about the operations of both the Stasi and the BND. It will discuss methods of surveillance used by both agencies, and in turn, will describe which human rights were violated in the process, and how they were violated. Finally, an attempt will be made to compare the severity of the operations on the intended, and unintended, targets, and the lasting impact of both agencies.

The initial and most important task of the GDR's Stasi group was to survey and provide intelligence on East German citizens and their activities. At the end of 1989, when the GDR under the rule of the Socialist Unity Party (*Sozialistische Einheitspartei Deutschlands*, SED) collapsed, the Stasi had files on approximately six million GDR citizens, and on two million FRG

¹ Michael Sontheimer, Andy Müller-Maguhn, Klaus Eichner. "Interview with Ex-Stasi Agent: 'The Scope of NSA Surveillance Surprised Me' translated by Chris Hawley- SPIEGEL ONLINE. June 18, 2014. <http://www.spiegel.de/international>

citizens². At the height of the GDR, the Stasi's numbers were approximately "one member...per 166 citizens,"³ which translates to 91, 015 employees in 1989.⁴ A case study of Perleberg District in the state of Brandenburg, northern GDR, reveals an insight into the every-day surveillance operations undertaken by the Stasi officials in preventing dissent and emigration. Particularly concerning those who were considering emigrating, there were two main categories of operation. The most extensive were called the *Operativer Vorgang* (Operational File-OV), utilising a comprehensive array of secret informers and telephone or mail observation. The second, less comprehensive were the *Operative Personenkontrolle* (Operational Individual Control-OPK). These only monitored the actions of suspected persons; there was no real reason to put the target under an OV order, but this could be done should the individual initiate events, which would require more surveillance on the side of the Stasi.⁵ As well, there were three types of employees or collaborators of the Stasi. The first were the *Hauptamtliche Mitarbeiter* (full-time employees), who were directly employed by the Stasi. Second were the *Inoffizielle Mitarbeiter* (secret informants), and these were directly placed or recruited to spy on specific individuals. Lastly, there were the *Gesellschaftlicher Mitarbeiter für Sicherheit* (GMS), and these people were not recruited at all; rather they reported on general attitudes in a factory or workplace, for example.⁶

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The main focus of all these different operations and individuals within the Stasi network was primarily surveillance, then subverting all dissidence in secret. In the destruction of

² Richard Popplewell. "The Stasi and the East German Revolution of 1989." JSTOR. March 1, 1992. Accessed March 26, 2015. <http://www.jstor.org.proxy.lib.sfu.ca/stable/pdf/20081425.pdf?acceptTC=true>.

³ "The DDR and The Stasi." Rabble.ca. <http://rabble.ca/toolkit/on-this-day/ddr-and-stasi>.

⁴ "Stasi." Wikipedia. March 10, 2015. <http://en.wikipedia.org/wiki/Stasi>.

⁵ Gary Bruce. "'In Our District, the State Is Secure': The East German Secret Police Response to the Events of 1989 in Perleberg District." *Contemporary European History* 14, no. 2 (2005): 227. jstor.org

⁶ Bruce, "State is Secure," 220

dissidence, the Stasi would use interrogation techniques, similar to the rest of the Eastern Bloc's secret police forces, but would also use *Zersetzung* (decomposition, literally translates to "biological decomposition"), a method of slowly breaking down the target psychologically. *Zersetzung* would involve methods such as turning the children of the target against him or her, as well as the spouse being turned on him or her,⁷ as well as general methods of semi-covert police harassment and observation such as secret home invasions and rearranging objects within the target's home, with the objective of placing fear in the subject's mind. In the end, the target would most often have their will to resist broken, and would become neutralised.

The Stasi also undertook operations abroad, under the sub-department organisation of the *Hauptverwaltung Aufklärung* (Reconnaissance Directorate, HVA), which included extensive spying on and by FRG citizens. In 1988, 1,900 West Germans were recorded as informants to the GDR, and 542 of these lived in West Berlin. In the capital, Bonn, only 149 informants were recorded. The Stasi managed to infiltrate to the highest levels of West German government, most famously the Günter Guillaume case, where a Stasi informant became top aide to then-Chancellor Willy Brandt.⁸ The exposure of Guillaume led to the resignation of Brandt, and Guillaume's expulsion (or repatriation, in his opinion) to the GDR. Another notable West German who was spied upon is Joseph Ratzinger, who became Pope Benedict XVI. Another pastor in Münster spied upon him, and the spy was one of approximately 12,000 IMs in the FRG. Many of these informants were lured by the promise of monetary reparation by the Stasi, in return for their

⁷ Cornelius Janzen. "Subtiler Terror Die: Opfer von Stasi-Zersetzungsmethoden." *3sat*, 27th July 2009, Accessed 27th March 2015. <http://www.3sat.de/page/?source=/kulturzeit/themen/136072/index.html>

⁸ Latsch, Gunther, and Udo Ludwig. "Shocking New Research: Stasi Had Thousands of Spies in West Germany - SPIEGEL ONLINE." November 24, 2011.

information. So much so, the Stasi managed to infiltrate telecommunications companies, corporations, and the army of the FRG, the *Bundeswehr*.⁹

In contrast to the Stasi of the GDR, the BND was formed as the FRG's answer to the Stasi. The BND was formed out of the ashes of the Third Reich's *Abwehr* (Counter-intelligence); subsequently many operatives of this new organisation, dubbed the Gehlen Organisation were originally members of the *Abwehr* as part of the *Schutzstaffel* (SS), or the Gestapo. In 1956, the Gehlen Organisation became the *Bundesnachrichtendienst*, but retained many of the original *Abwehr* members, to much controversy.¹⁰

The original purpose of the BND was to provide surveillance on East German and Stasi activities, and to protect the public of West Germany from any Stasi aggression. Working closely with the American NSA in its operations, the BND knew:

[t]he carrying capacity of every bridge, the bed count of every hospital, the length of every airfield, the width and level of maintenance of the roads that Soviet armor and infantry divisions would have to traverse in a potential attack on the West. Almost every sphere of eastern life was known to the BND.¹¹

Armed with this information, the BND were very successful in warding off GDR threats.

Notoriously, the BND had such information, the BND were able to warn the American security forces of the Soviet missile transfers to Cuba in 1962.¹²

⁹ Latsch et al. "Spies in West Germany."

¹⁰ "Bundesnachrichtendienst." Wikipedia. March 19, 2015. Accessed March 30, 2015. <http://en.wikipedia.org/wiki/Bundesnachrichtendienst>.

¹¹ "Bundesnachrichtendienst.-Operations" p. 2

¹² "Bundesnachrichtendienst.-Operations" p. 6

However, in stark contrast to the GDR, a constitutional law binds the FRG, and its intelligence services are also bound by the constitution. Prior to 1968, “no legislation existed in the Federal Republic of Germany which authorized West German law enforcement agencies or intelligence services to employ wiretapping.”¹³ In response to threats by the GDR, the FRG had to pass legislation allowing wiretapping in FRG society. The FRG legal system had to approve the use of wiretaps individually for use by the BND, and this is despite the unambiguity of whether actual recording or amplification equipment is legal under the constitution. Despite this, the FRG courts approved thousands of wiretaps, with the highest amount in 1979 of 538 approvals.¹⁴ The constitution officially does not give any definitive say on when “bugs” can be used, only allowing for ‘necessary circumstances.’ These circumstances could be easily justified in the Cold War period, and despite the FRG eventually notifying those spied upon, people from both the FRG and the GDR were spied upon,¹⁵ although actual numbers are difficult to ascertain.

After the end of the Cold War, and the collapse and absorption of the GDR by the FRG, the BND became the umbrella intelligence agency of the unified Germany, still the FRG. Having had a very close relationship with the NSA during the Cold War, the BND maintained close ties to America, and developed stronger ties with the British intelligence agency, GCHQ. Recently, however, it was revealed the BND was able to exploit a constitutional loophole and were able to spy on German citizens. Under the law, the BND cannot spy on neither German citizens nor German companies. However, this law does not cover German citizens abroad working for non-

¹³ James G. Carr. "Wiretapping in West Germany." *The American Journal of Comparative Law* 29, no. 4 (1981): 607.

¹⁴ Carr. "Wiretapping." p. 608

¹⁵ Carr, "Wiretapping." p. 609-614

German companies, so the BND has been able to spy on this particular group of citizens.¹⁶ This revelation follows the NSA spying scandal in Germany, where it was revealed the NSA not only has been spying on Germans, but also has tapped into the private mobile phone of Chancellor Angela Merkel. In response to this, Germany uncovered two American moles (when Germany normally searches for Russian or Chinese agents) and arrested them.¹⁷ The co-operation goes even deeper, showing the compliance of the German government, by revealing the NSA operates sites all over Germany, especially as photographed by Der Spiegel in a meadow in Bavaria. In a report recovered by Der Spiegel, the NSA considers Germany to be the most important piece of Europe in regional security, thus warranting greater surveillance.¹⁸

Whilst both the Stasi and the BND claim to be the securer of rights for their respective publics, and the defender of their respective republics, it is clear both organisations have repeatedly violated human rights, across the spectrum. European and universally recognised human rights can be divided into three generations: 1st Generation deals with liberty and political participation; 2nd Generation deals with equality of all citizens; and 3rd Generation is ambiguous, as it pertains to economic, environment, and cultural rights.¹⁹

The GDR has grossly violated the 1st Generation of rights, by not allowing freedom of speech, fair trials, and, in excess, right to life. In contrast, it hard to find evidence the FRG and the BND have violated 1st Generation rights, but they did violate the right to privacy. Regarding

¹⁶ Chris Johnson. "German Loophole Allows BND Spy Agency to Snoop on Own People." The Guardian. November 29, 2014.

¹⁷ Phillip Oltermann. "German Spy Agency Searches for More Moles after US Breach." The Guardian. July 11, 2014.

¹⁸ Sven Becker, Hubert Gude, Judith Horchert, Andy Müller-Maguhn, Laura Poitras, Ole Reißmann, Marcel Rosenbach, Jörg Schindler, Fidelius Schmid, Michael Sontheimer, and Holger Stark. "Snowden-Dokumente: Hier Sitzt Die NSA in Deutschland - SPIEGEL ONLINE." June 18, 2014.

¹⁹ "Three Generations of Human Rights." Wikipedia. February 28, 2015. Sections 1-3.

2nd Generation, the Stasi and the GDR were excellent in ensuring the rights to employment, housing, and living standards were enforced, as all citizens, even those punished by the regime, were more often than not moved to a different job within society. In contrast, the FRG has not ensured all citizens were guaranteed employment or housing. Finally, 3rd Generation rights are harder to determine, as ecology only came to the forefront after the reunification of Germany.

In conclusion, the Stasi violated human rights throughout the existence of the agency, and knowingly violated these rights, in the belief doing so would protect the greater good of the revolution. In contrast, the BND violated the right to privacy, but generally protected the rights of citizens from being infringed upon, and defended their citizens from the GDR.

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