

**National Security Agency Domestic and Corporate Surveillance:
To What Extent Has the National Security Agency Violated Civil and
Business Liberties While Protecting National Security?**

By

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Table of Contents

Abstract

Preserving individual freedoms and constitutional guarantees of liberty and privacy should trump national security concerns and should be the focal point of the National Security Agency's (NSA) mission. The purpose of this study is to examine the expanding

September 11th, 2001 and more importantly, the balance between civil liberties and national security in the United States. This study gained insights into the assortment of clandestine NSA information gathering techniques imposed on U.S. citizens, the role of U.S. companies in bulk NSA domestic surveillance activities, and a review of the associated impact on Fourth Amendment rights

SA has veered from its original mission of collecting foreign intelligence to essentially spying on American citizens and corporations, and propose that additional congressional oversight and greater transparency of the Agency is warranted to ensure that every citizen's Fourth Amendment rights are preserved and American businesses are not tainted by surveillance efforts.

Introduction

The National Security Agency (NSA) was established over 60 years ago with the primary mission to monitor, collect, and process foreign intelligence and protect the United States against espionage. It originated to decipher coded

electronic information gathering behemoth. It accomplishes its mission through a myriad of methods, including syphoning metadata from telephone records, monitoring individuals through internet company servers, tracking credit card purchases, and intercepting cellular messages and location data. Present-day NSA operations include an estimated 40,000 employees and a projected annual budget of \$12 billion.

Preserving individual freedoms and constitutional guarantees of liberty

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complete internet usage as easy as entering an email address into the system.

XKeyscore taps into the backbone of all internet traffic and stores emails, documents, usernames, and passwords for three to five days. Newly uncovered NSA documents have revealed that tens of billions of records are stored in this

patterns of questionable behavior. For example, it is possible to discern the online activities of people based on their location, nationality, and websites visited (Leha

and analyzing vast quantities of information. As mentioned, this includes nearly all the metadata for nearly all the telephone calls made in the United States, and massive amounts of Internet traffic processed at a network of over 150 data centers around the world. thing a user

Marquis-Borie, Greenwald, and Lee).

Balancing Security and Privacy

Proponents of enhanced NSA surveillance point to the increase in security it provides to American citizens. The intelligence collected provides detailed information on the activities of potential terrorists and threats to US interests. These measures provide enhanced security and wellbeing to the nation.

-in-ten Americans (61%) oppose the government monitoring

data as part of anti-

for the sake of s

most American citizens do not wish to be spied on in exchange for increased safety. Benjamin Franklin, one of the founding fathers of the United States,

essential liberty, to purchase a little

1755, and it still holds true today. Based on this survey, most Americans would likely agree with this quote.

Many U.S. companies facilitate surveillance efforts, including several companies that provide the backbone to U.S. communications systems such as AT&T, Verizon, and Global Crossing. Many of these companies facilitate tapping into undersea or land-based communications cables or providing consulting and enabling technologies that support international communications.

Privacy and national security. But right now, Americans aren't getting even the most basic information about what's going on with the NSA's surveillance programs, and whether

Given the apparent scope of the NSA program, the number of violations of the human right to privacy could easily climb into the millions, billions, or even trillions. The extensive and systematic nature of the program could thus compel the conclusion that the United States is violating the human

A meaningful balance between privacy and security in the information age requires that we generate, archive, transcribe, and publicize just about any so-called secret communication it wants. There are legitimate reasons to compile information on who might be calling whom and with what frequency. Yet it is also important to remember that

just because the government can do something which is often enough an excuse for them to do it

(Roff). This indicates that the balance is off kilter, with the government erring on the side of increased security at the cost of personal freedoms.

According to Keith Alexander, former director of the NSA, the efforts of the NSA have thwarted 54 terrorist attacks worldwide: 25 in Europe, 13 in the United States of America, 11 in Asia, and 5 in Africa (Elliott and Meyer). The NSA, President Obama, and members of congress claim these numbers are accurate; however, there is no substantial evidentiary support to validate this claim.

A discussion of individual privacy and liberties would not be complete without acknowledging the constitutional protections afforded by the Fourth Amendment to the United States Constitution. s the principle constitutional protection against government spying. The first ten amendments of the U.S. Constitution were ratified in 1791, and are known collectively as The Bill of Rights. It Fourth Amendment reads:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be

violated (b) (6) (A) (a) (1) (s) (3) (a) (7) (c) (9) 1201207(a) (ra) (a) (7) (b) (T) (6) (7) (c) (6) (7) (t) (c) (6)

In the current vernacular, it prohibits unreasonable searches and seizures and sets out requirements for search warrants based on probable cause as determined by a neutral judge or magistrate. These protections were eroded by provisions in the Patriot Act following the 9/11 terrorist attacks on the World Trade Center and the Pentagon, and the attempted attack on the White House. Specifically, Section 215 authorizing the NSA's mass phone data collection program which allowed targeted searches of individual Americans telephone data without the permission of the federal courts. This controversial domestic surveillance program on all American citizens was superficially amended in mid-2015 to the USA Freedom Act, which directs telecommunications companies to provide individual, targeted data directly to the NSA with the federal permission, potentially eroding these privacy protections provided by the Fourth Amendment. In its quest to secure the American populous, the NSA has garnered both support and opposition to its data collection methods.

Arguments Supporting and Rejecting NSA Domestic Surveillance

The National Security Agency's domestic surveillance apparatus has both defenders and detractors. The defenders acknowledge the role the NSA plays in safeguarding Americans from another September 11th-like terrorist attack, and justify the additional data gathering powers granted this Agency by pointing to the terrorist attacks that were intercepted and thwarted as a result of spying on millions of American citizens. According to General Keith B. Alexander, former

was only one or perhaps two - far smaller than the fifty-four originally claimed by

Alexander left his position at the NSA after revelations of the extent of the NSA spying, and the effectiveness of those efforts, were revealed during congressional hearings.

The detractors, however, posit that the surveillance authority given to the NSA has not made Americans any safer from terrorist attacks because the probability of an attack is so low. NSA leaker Edward Snowden stated that,

Statistically, a U.S. citizen is 55 times more likely to be killed by a police officer than a terrorist... and a citizen stands a better chance of dying from brain eating parasites, texting while driving, and falling out of bed than a terrorist attack on American soil (McCarthy). Daniel Benjamin, former Coordinator for Counterterrorism at the United States Department of

he operations of these small terrorist groups

terrorists Internet usage and phone calls, as the last resort to prevent attacks on the United States. The NSA monitors communications to potentially save lives and thwart terrorist activities. The NSA admits that, in their quest to curtail the possibility of future terrorist attacks, U.S. citizens communications are inadvertently collected resulting in their privacy being disregarded.

Total individual privacy is achievable; total national security is achievable; however, the two cannot exist conterminously. National security can be surrendered in exchange for individual rights and privacy, and vice versa. The true enemy is not the disconcerting amount of government involvement in the personal information of American citizens; it is the terrorist threats against

are concerned about their government becoming too entangled in their private lives by surveilling personal phone calls, emails, etc., but few seem to realize just how harmful these surveillance programs

primary objective of espionage is to stop foreign or domestic terrorists from causing destruction on the soil of America and that of its allies. Therefore, the proponents of the NSA contest that the agency is not actually paying any attention to the matters of honest American citizens it is surveilling; instead, it is targeting the suspicious keywords and phrases used by potential terrorists in the hopes of foiling their plots of destruction.

In a recent national survey by the Pew Research Center and the
most Americans (56%) say the
acceptable way for the government to investigate terrorism. Additionally, 62%

say the

of American citizens is justified if national security is guaranteed.

Arguments Against NSA Surveillance

The NSA collects massive amounts of unwarranted information on the vast majority of internet-using Americans in order to broadly sweep over the information and

are generally regarded as benevolent by the public at large, the specific programs of espionage used on Americans are often regarded as an infringement on individual rights.

According to a 2014 Pew Research Center survey, a majority of
and internet data as part of anti-terrorism efforts, with 74% indicating that they should not give up privacy and freedom for the sake of safety. Further, according to the survey, only 9% of Americans say they have a lot of control over how

much information is collected about them, with only 6% of respondents indicating that they are confident that the government agencies can keep their records private and secure, and 25% changing the way they use the Internet since the Snowden allegations of NSA spying on American citizens.

There is also the question of how much power should be given to the government, and more specifically, to the secret courts that oversee the NSA. The Foreign Intelligence Surveillance Court (FISC), which was established in 1978 by Congress, monitors and approves the actions of the NSA. This secret approval of electronic surveillance, physical search, and certain other forms of

36,000 requests submitted for warrants over 35 years, FISC only denied 12 requests (EPIC - FISA Court Orders). Clearly, FISC is not reluctant to cooperate with the efforts of the NSA. This harkens to the predications of the dystopian society described by George Orwell in his perennial classic entitled *1984*.

The New America Foundation, a nonprofit think tank, investigated the 227 Al Qaeda-affiliated supporters that have been charged with committing an act of cases were credited to NSA surveillance, and just one conviction came out of the

Accordingly,

massively intrusive surveillance activities ha26m36()JTJETQq0.00000912 0 612 792 reW*nBT/F2

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