

Wiretap Report Questions Effectiveness Of Illegal NSA Spying

Report Also Indicates White House Politicized "Threat Assessments"
That Provided Foundation For Illegal Program

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WASHINGTON – A report released today by several government agencies' Inspectors General concludes that little, if any, useful information was collected by the Bush administration's warrantless wiretapping program and the National Intelligence Agency (NSA). The report also indicates that the Bush White House politicized the "threat assessments" that it then relied upon as a foundation for the illegal program. Detailed findings of the report are listed below.

The report was mandated by the 2008 FISA Amendments Act (FAA) that effectively legalized the unlawful warrantless surveillance program approved by President Bush in late 2001. The FAA also gave the government new spying powers, including the power to conduct dragnet surveillance of Americans' international communications. News reports have since indicated that the NSA has exceeded the already overbroad limits granted to it under the FAA.

"It should be clearly understood by the American people that the power Congress authorized with the FISA Amendments Act is even broader than the illegal program the Bush administration was conducting, and is most likely just as ineffective. Giving up the Fourth Amendment for an ineffective program is a double slap in the face of Americans," said Michelle Richardson, ACLU Legislative Counsel. "We already know that the NSA has overstepped the overbroad bounds of the FISA Amendments Act, and it's time for Congress to take a thorough look at the surveillance powers it's handed our government."

In July 2008, immediately following the law's passage, the ACLU filed a federal lawsuit challenging the constitutionality of the FAA. The complaint was filed on behalf of a broad coalition of attorneys and human rights, labor, legal and media organizations. Oral arguments in that case are scheduled for July 22 in the U.S. District Court for the Southern District of New York.

"After the New York Times exposed the warrantless wiretapping program in 2005, Congress should have restricted the government's surveillance power, but instead it dramatically expanded it," said Jameel Jaffer, Director of the ACLU National Security Project. "The 2008 surveillance law allows the government to collect telephone calls and emails without obtaining a warrant, without demonstrating probable cause, and without even informing a court which individuals or facilities it intends to monitor. The Bush administration insisted that the law was directed at terrorists, but in fact it permits the government to engage in dragnet surveillance of Americans' international communications. The law should be struck down as unconstitutional."

Some of the most important points made by the report include:

- The White House asked the CIA to prepare independent "threat assessments" to determine whether the surveillance program was necessary, but then told the CIA to add a paragraph to the end of each threat assessment stating that

terrorists possessed the intent and capability to stage terrorist attacks within the United States (p. 7);

- Many officials, agents and analysts believe that “most PSP (Presidential Surveillance Program) leads were determined not to have any connection to terrorism,” and that “the mere possibility of the leads producing useful information” justified the program (p. 32), directly contradicting previous statements that the program was critical;
- Information derived from the PSP was “vague or without context,” leading analysts to rely on more useful tools (p.34);
- Agencies generally have no meaningful way to tag what information they used, and possibly are still using, that was collected under the illegal program as opposed to information collected by lawful means (pps. 32-35); and
- Former Attorney General Alberto Gonzales’ testimony before Congress claiming Justice Department attorneys did not express legal concerns with the program was found to be “incomplete,” “confusing,” and “inaccurate” (p. 37).

The last eight years have seen significant changes to U.S. national security surveillance policies and practices, which have been amended repeatedly in a piecemeal fashion without any top-to-bottom review of their interconnectedness. The ACLU is urging Congress to conduct a comprehensive review of national security laws this year.

A copy of today's report can be found online at: <http://bit.ly/2t8fy>

More information can be found online at: www.aclu.org/spying