

ODNI Review Group Comments

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"Our world is made up of computers. Our cars and homes are computers into which we insert our bodies; our hearing aids and implanted defibrillators are computers we insert into our bodies. The deliberate sabotage of computers is an act of depraved indifference to the physical security and economic and intellectual integrity of every person alive."

- Cory Doctorow

Dear Members of the NSA Review Group:

Thank you for providing this opportunity for the public to comment on the National Security Agency's technical capabilities and policies. It is past time we re-examined the direction taken in reaction to the events of September 11, 2001 and corrected our course. In the haste to prevent another terrible attack like 9/11, the National Security Agency and other federal agencies were given too much power without effective oversight. Recent revelations have shown the NSA to be completely out of control and fundamentally incompatible with the values of our democracy. Their actions have undermined national and international trust in our technical, business, and political institutions. The United States now requires a complete shift in thinking in how we handle threats to our national security.

The NSA's current approach of mass surveillance is flawed on many levels and doesn't seem to procure the results we expect or desire. From the recent example of the Boston bombing, to continued violence in Iraq and elsewhere, they do not seem to be targeting the right individuals in order to prevent terrorism. Blanket surveillance presents an attention conservation problem - where should they look when they have targeted everyone? Over-snooping additionally breeds enduser secrecy, undermining our ability to observe. People who are determined to do us harm may not plan openly in advance, will not use a common communication infrastructure, and will obscure their intentions.

The implementation of these programs has been poorly managed and subverts our rule of law. We have an over-classification problem, and as a result, a transparency problem. We overuse outside contractors, increasing the likelihood of leaks and abuse. Our Congress is either not willing or not able to effectively manage oversight, and the FISA court is seemingly making secret law in direct conflict with the principles of our democracy. The NSA lied to Congress and the American people and violated the secret orders of the FISA court. The systems they created are seemingly so complex they are beyond understanding and oversight. We have created tools and methods that cannot be controlled.

It is completely outrageous that the NSA has been collecting information on individuals, without a warrant, storing that information, and then sharing it with agencies like the DEA and the IRS, thus bypassing due process and rules of evidence. It is completely unacceptable that these programs have been abused by agents to retrieve information on love interests as shown in the "LOVEINT" scandal. What else has been done about

which we know absolutely nothing? Have these program been used for blackmail and other purposes? An open democracy simply cannot function under threat of subversion by secret law and secret programs that can used be against our citizens and elected officials.

An open democracy also cannot function when its citizens are not able to express themselves or associate freely. Mass surveillance has been shown to suppress dissent through a "chilling effect" that triggers self-censorship. I encourage you to read the following study if time allows:

<http://www.harvardlawreview.org/symposium/papers2012/richards.pdf> The NSA is in a position to carry out unchecked targeting and abuse of activists or anyone with an unpopular opinion, and I believe we are all aware of this, and may keep a close watch on what we say and do in public. Not only are we censoring ourselves but we are also policing each other's speech, as in the recent case of the university professor who blogged about the NSA and was asked to remove his post by his dean.

(<http://www.theguardian.com/commentisfree/2013/sep/10/nsa-matthew-green-takedown-blog-post-johns-hopkins>) This repression of freedom of speech and assembly cannot continue.

The NSA seems particularly focused on protecting us from risk, from the possibility that someday, someone might do something, hence the need to collect and store our communications perhaps indefinitely. Just like companies who store their data on computers connected to the internet must come to terms with the risk of doing so, we must also recognize that we likely will never be able to totally prevent terrorism. We might however, reduce the motivations to carry out terrorism and thereby reduce the number of attacks. Carrying out and spending outrageous portions of our budget on mass surveillance is questionable when it would seem to be more effective to mitigate the social causes of terrorism through direct aid efforts, diplomacy, and education.

From a purely practical standpoint the NSA has acted to harm the interests of the United States. They have, completely outrageously, apparently shared the personal information of Americans with countries like Israel. Our international relationships have been damaged by revelations that we have been spying on the embassies of our allies. The NSA has harmed our businesses by coercing or forcing them to cooperate with surveillance, and people are now migrating away from US-based technical services. The NSA has undermined trust in private transactions - from financial transactions, to the storing of health records, and attorney-client communications. We rely on secure encryption to protect our private information. Not only are we subject now to overreach from the NSA, the NSA has opened our secure transactions to vulnerabilities exploitable by other parties. The additional factor of storing our information in centralized databases puts us all at risks of leaks.

The NSA has in actuality harmed the structure of the internet itself. These systems were created based on trust, and if they are no longer trustworthy people will start seeking out alternatives. By undermining the internet, and inviting replacement, the NSA has directly harmed our ability to maintain supremacy in communications.

It is time NOW for a change. The NSA has become so corrupted from its purpose of protecting the United States and its citizens that it may actually need to be disbanded. Barring that, the following must occur:

- Blanket mass surveillance, whereby our communications are collected and stored without a warrant, must end.
- The NSA must be required to establish firm cause BEFORE they begin surveillance of any individual.
- We must open the FISA court to public scrutiny and establish a truly adversarial process in hearing surveillance requests. Rather than simply relying on information given to them from the NSA, the court must also hear arguments from an advocate empowered with access to the same information as the government.
- We must PROSECUTE those at the highest levels who oversaw programs directly in violation of FISA court orders. Keith Alexander and James Clapper must answer for their abuses of power.
- The NSA should implement an anonymous system for its employees to report abuse or violations of the law and hold abusers accountable for their actions.
- We need to decrease our use of outside contractors to reduce the likelihood of leaks, and prevent overspending.
- Information sharing agreements with foreign governments, domestic agencies, and private businesses should be overhauled on the basis of protecting the privacy and due process of American citizens.
- We must end immediately any efforts by the NSA to insert backdoors into software or hardware, or remove encryption from innocent private communications.
- We need to remove immunity for telecoms. It is in their, and our, best interest that they be vested in the privacy rights of their customers.
- The classification system needs a complete overhaul in light of the public interest in transparency and accountability.

Thank you for your time and consideration in reading my comment. It is my hope that you will start to turn the tide of years of Constitutional abuses. You have a difficult job ahead of you and I thank you for your service.