



Written by [Joe Wolverton, II, J.D.](#) on April 3, 2014

NSA Admits Directly Targeting Americans for Warrantless Surveillance

After years of denial — much of which likely constituted perjury — officials of the National Security Agency (NSA) admitted to having conducted unwarranted surveillance of Americans, a violation of the protections against such searches provided by the Fourth Amendment.

Previously, NSA chiefs have confirmed only that the conversations of foreigners had been caught in the surveillance web, but the letter from Director of National Intelligence James Clapper to Senator Ron Wyden, released Tuesday by Wyden's office, revealed that in fact Americans were directly targeted for monitoring.



Citing a recently declassified document, [Clapper confirms](#) that “there have been queries, using U.S. persons identifiers.”

In a joint statement issued by Wyden and Senator Mark Udall (D-Colo.) accompanying the publication of Clapper's letter, the senators pointed out the NSA's perfidy:

Senior officials have sometimes suggested that government agencies do not deliberately read Americans' emails, monitor their online activity or listen to their phone calls without a warrant. However, the facts show that those suggestions were misleading, and that intelligence agencies have indeed conducted warrantless searches for Americans' communications.

Udall and Wyden are not new to the fight to protect the enjoyment of rights guaranteed by the Fourth Amendment. In an op-ed published last November in the *New York Times*, the pair wrote:

[The] framers of the Constitution declared that government officials had no power to seize the records of individual Americans without evidence of wrongdoing, and they embedded this principle in the Fourth Amendment. The bulk collection of Americans' telephone records — so-called metadata — by the National Security Agency is, in our view, a clear case of a general warrant that violates the spirit of the framers' intentions. This intrusive program was authorized under a secret legal process by the Foreign Intelligence Surveillance Court, so for years American citizens did not have the knowledge needed to challenge the infringement of their privacy rights.

Despite his admission of knowingly targeting innocent Americans for surveillance of their private communications, Clapper claims that such activities are authorized by applicable law. “These queries were performed pursuant to minimization procedures approved by the FISA Court as consistent with the statute and the Fourth Amendment,” Clapper wrote.

Such justifications are meaningless when viewed through a constitutional lens. The FISA Court is a



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creation of the Constitution (purportedly) and cannot, therefore, be greater than that document. What the Constitution establishes, the FISA Court cannot destroy.

Moreover, this secret court is little more than a sieve, allowing every single government request for exception to the Fourth Amendment warrant requirement.

As [The New American reported last May](#):

As required by provisions of the Foreign Intelligence Surveillance Act Amendments of 2008 (FISA) and the Patriot Act (as amended in 2005), the Department of Justice revealed to Congress the number of applications for eavesdropping received and rejected by the FISA court.

To no one's surprise (least of all to the architects and builders of the already sprawling surveillance state), the letter addressed to Senator Harry Reid (D-Nev.) reports that in 2012, of the 1,789 requests made by the government to monitor the electronic communications of citizens, not a single one was rejected.

That's right. The court, established specifically to judge the merits of applications by the government to spy on citizens, gave a green light to every government request for surveillance.

Not content to be a mere formality for electronic surveillance, the FISA court also held the coats of the FBI while that agency carried out the searches and seizures set out in 212 applications.

Speaking specifically of the "minimization procedures" mentioned by Clapper in his inculpatory letter, one attorney quoted in the *New York Times* article said, "It seems that at the same time the government has been touting the minimization requirements to the public, it's been trying behind closed doors to weaken those requirements."

Behind closed doors is a place for secret courts, not for hearings designed to protect the constitutional rights of citizens. The abuse and anonymity is reminiscent of another secret tribunal — the Star Chamber.

The Star Chamber was an English court of the 14th to 17th centuries that met in secret, with no record of indictments, no identification of witnesses, and no transcript of the proceedings.

Eventually this court was used as a political weapon, a way for the king and Parliament to secretly bypass the ancient English constitution and prosecute their enemies, keeping the dirty details hidden from the public.

Wyden and Udall see this secrecy for what it is: de facto appeal of the Fourth Amendment. "If a government agency thinks that a particular American is engaged in terrorism or espionage, the Fourth Amendment requires that the government secure a warrant or emergency authorization before monitoring his or her communications," the senators wrote in their statement.

For its part, the NSA claims that such surveillance is necessary to keep Americans safe. Consider a headline from a Fox News story reporting on statements by former NSA director General Keith Alexander: Referring to Edward Snowden, the former NSA subcontractor who obtained and subsequently leaked NSA documents detailing the breadth of the agency's surveillance programs, the headline reads: "NSA Director Gen. Keith Alexander Says Future Snowden Leaks Could Lead to Deaths."

In another story published by the *Washington Post*, the expansion of the surveillance by the NSA was directly credited with the elimination of terrorists in the Obama administration's death-by-drone



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program. “NSA Growth Fueled by Need to Target Terrorists,” the *Post* reported in July 2013.

Finally, regarding just how robust and technologically advanced the NSA’s monitoring capabilities really are, the *Los Angeles Times* recently reported:

In Iraq, for example, the National Security Agency went from intercepting only about half of enemy signals and taking hours to process them to being able to collect, sort and make available every Iraqi email, text message and phone-location signal in real time, said John “Chris” Inglis, who recently retired as the NSA’s top civilian.

Now we know that the NSA purposefully violated the Fourth Amendment by targeting the communication of Americans without a warrant and we know that these communications can be collected, cataloged, and read by agents “in real time.”

Reporting on Clapper’s admission, *Bloomberg Business* reports, “The disclosure is significant because it potentially opens up a new line of public and congressional scrutiny into NSA spying.”

Americans can only hope that this is the case and that their federal representatives will immediately exercise aggressive oversight of the NSA and its unconstitutional endeavors and that they will finally demonstrate fidelity to the oath they swore to “preserve, protect, and defend the Constitution of the United States.”

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