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NSA Caught Collecting Data of Americans in Violation of the Law

Just when you thought it was safe to start sending texts and emails without worrying about the NSA listening in, seems the surveillance state is still up to its old tricks.

Obviously no one really thought the NSA had unplugged their acres and acres of computers that record the electronic communications of Americans, but shouldn't the National Security Agency be a little better at hiding its efforts to deny millions of Americans the enjoyment of one of one of their most basic constitutionally protected liberties?

Based on documents obtained by the American Civil Liberties Union (ACLU) and a resulting story published by the *Wall Street Journal*, the Electronic Frontier Foundation (EFF) reports:

> The NSA collected information, including who phone-users were calling and for how long, after a telecommunications firm began sending the information to the NSA — despite the fact that it had received no orders that would have authorized them to do so. Although the name of the company is redacted, for years it has been widely reported that large telecommunication firms like AT&T and Verizon have worked with the NSA as part of BLARNEY, an NSA project that leverages "commercial partnerships" in order to gather intelligence.

"These documents only confirm that this surveillance program is beyond redemption and should be shut down for good," said Patrick Toomey, the ACLU's staff lawyer, as reported by the *Washington Post*. "The NSA's collection of Americans' call records is too sweeping, the compliance problems too many, and evidence of the program's value all but nonexistent. There is no justification for leaving this surveillance power in the NSA's hands."

This latest revelation of the reach of the NSA's negation of the Fourth Amendment comes only months after it was learned that the biggest of the surveillance state's "Big Brothers" had ignored a law limiting its authority and collected "over 500 million telephone records in 2017 alone." The agency blamed the massive "mistake" on "technical irregularities."

Based on their past and present behavior, the NSA considers the Constitution itself a "technical irregularity."

You would think that these two very public and very prohibited violations of the law by the NSA would put in peril the vote coming up in December to reauthorize the agency's authority to carry on the unwarranted collection of billions of bytes of personal electronic data of American citizens.

Think again.

The Trump administration has indicated that it is considering supporting "a permanent 'clean'

reauthorization" of the NSA's surveillance power.

One is reminded of the agency's admission declassified in 2014 that, regardless of explicit prohibition of such activity by the Fourth Amendment, then-NSA director James Clapper admitted "there have been queries, using U.S. persons identifiers."

At that time, Senators Ron Wyden (D-Ore.) and Mark Udall (D-Colo.) issued a statement accompanying the publication of Clapper's letter, where the pair 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.

Regardless of whether these massive assaults on the liberties of millions of Americans — liberties they and their ancestors have enjoyed for hundreds of years — are well-intentioned or not so well-hidden, purposeful contravention of constitutionally protected freedom from federal despotism is irrelevant.

The simple, irrefutable fact is that such abuses of power were one of the sparks that lit the fire of the American War for Independence. Here's a bit of history that the NSA and those in power who support their unwarranted surveillance of Americans should study and remember.

In order to recover from the debt incurred in fighting the French in the Seven Years War (Britain's national debt nearly doubled during that protracted global conflict), the king and parliament decided to impose a series of taxes on America. The colonists' opposition to these taxes was not based on the amount; rather they refused to submit to a scheme of revenue raising that directly violated their centuries-old rights as Englishmen, particularly those rights recorded in the Magna Carta.

Apart from the taxes, however, King George II (and his son and successor, George III) issued orders known as general writs of assistance. In simple terms, these writs authorized law enforcement and other representatives of the crown to enter buildings to search for contraband without obtaining a warrant. This did not sit well with American Englishmen, and they were bold in their determination to declare they would not to be subjected to searches that exceeded the constitutional authority of the king and parliament.

Another unconstitutional aspect of these writs was the fact that they were not specific — that is to say, they did not name the place to be searched, the things to be searched for, or the people who aroused the suspicion of illegal behavior.

Sound familiar? Warrantless searches and seizures? Unconstitutional "laws" authorizing these acts? Government documents that grant alleged authority to search and seize without specifying the name of the person being targeted, the things to be seized, and the place to be searched?

The Framers abhorred this practice, believing that "papers are often the dearest property a man can have" and that permitting the government to "sweep away all papers whatsoever," without any legal justification, "would destroy all the comforts of society."

In 1776, George Mason, the principal author of the Virginia Declaration of Rights — a document of profound influence on the construction of the federal Bill of Rights — upheld the right to be free from such searches, as well: "That general warrants, whereby any officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence [sic] is not particularly described and supported by evidence, are grievous and

oppressive, and ought not to be granted."

Thus, the Fourth Amendment:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The federal government's consolidation of control and cognizance reduces every American to the status of "suspect." Our ancestors rightly regarded this as a reason to unite in a struggle to save their liberties before they were lost forever.

As the influential French philosopher Jean-Jacques Rousseau warned: "Free people, remember this maxim: we may acquire liberty, but it is never recovered once it is lost."

For now, the NSA retains the power to put all Americans under surveillance without a warrant that passes constitutional muster.

As I reported above, though, much of that unconstitutional authority is up for reauthorization in December. Americans committed to continuing our ancestors' zeal for the protection of our precious liberty should contact their elected representatives in Congress and demand they deny the NSA the power to make suspects of citizens, and that these lawmakers live up to the oath they swore to uphold the Constitution.

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