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NSA Analysts Intentionally Abused Spying Powers Multiple Times

By Chris Strohm - Aug 23, 2013 11:52 AM ET

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Some National Security Agency analysts deliberately ignored restrictions on their authority to spy on Americans multiple times in the past decade, contradicting Obama administration officials' and lawmakers' statements that no willful violations occurred.

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The Threat Operations Center inside the National Security Agency in Fort Mead, Maryland, in this 2006 file photo. Photographer: Paul J. Richards/AFP via

"Over the past decade, very rare instances of willful violations of NSA's authorities have been found," the NSA said in a statement to [Bloomberg News](#). "NSA takes very seriously allegations of misconduct, and cooperates fully with any investigations -- responding as appropriate. NSA has zero tolerance for willful violations of the agency's authorities."

The incidents, chronicled in a new report by the NSA's inspector general, provide more evidence that U.S. agencies sometimes have violated legal and administrative restrictions on domestic spying, and may add to the pressure to bolster laws that govern intelligence activities.

The inspector general documented an average of one case per year over 10 years of intentionally inappropriate actions by

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people with access to the NSA's vast electronic surveillance systems, according to an official familiar with the findings. The

incidents were minor, the official said, speaking on the condition of anonymity to discuss classified intelligence.

The deliberate actions didn't violate the 1978 Foreign Intelligence Surveillance Act or the USA Patriot Act, the NSA said in its statement. Instead, they overstepped 1981 Executive Order 12333, issued by President [Ronald Reagan](#), which governs U.S. intelligence operations.

The actions, said a second U.S. official briefed on them, were the work of overzealous NSA employees or contractors eager to prevent any encore to the September 11, 2001, terrorist attacks.

Defending NSA

The agency has taken steps to ensure that everyone understands legal and administrative boundaries, whom to consult when questions arise, and the consequences of violations or willful ignorance, said the official, who spoke on the condition of anonymity because the inspector general's report is classified. The report was provided to the congressional intelligence committees, according to administration officials.

The compilation of willful violations, while limited, contradicts repeated assertions that no deliberate abuses occurred.

Army General Keith Alexander, director of the NSA, said during a conference in [New York](#) on Aug. 8 that "no one has willfully or knowingly disobeyed the law or tried to invade your civil liberties or privacy."

Senator [Dianne Feinstein](#), a California Democrat who heads the Senate Intelligence Committee, and Republican Representative Mike Rogers of Michigan, chairman of the House Intelligence Committee, have defended the NSA.

Careful Distinctions

Feinstein said in an Aug. 16 statement that her committee "has never identified an instance in which the NSA has intentionally abused its authority to conduct surveillance for inappropriate purposes."

Rogers said on CBS Corp.'s "Face the Nation" television show on July 28 that there were "zero privacy violations" in the agency's collection of phone records of Americans.

The lawmakers' staffs since have parsed the comments by their bosses, distinguishing between violations of the law governing electronic surveillance and the deliberate violations of the 1981 executive order.

Susan Phalen, a spokeswoman for Rogers, said in an Aug. 16 statement that Rogers meant there hadn't been "willful and intentional violations of law."

Feinstein meant there hadn't been any intentional violations of the NSA's authority under the Foreign Intelligence Surveillance Act, according to her office.

Violating FISA

John DeLong, the NSA's director of compliance, first referred to abuses of the 1981 executive order on Aug. 16, telling reporters there had been rare instances of "willful violations" of legal authority and the privacy rights of U.S. citizens. He said there had been "a couple over the past

decades," according to a transcript provided by the agency.

"When they do occur, right, they are detected, corrected, reported to the inspector general and appropriate action is taken," he said.

Intelligence officials have attributed most abuses of the FISA restrictions on the NSA's surveillance of domestic phone calls, e-mails and other communications to technical or inadvertent errors.

Legal opinions declassified on Aug. 21 revealed that the NSA intercepted as many as 56,000 electronic communications a year of Americans who weren't suspected of having links to terrorism, before a secret court that oversees surveillance found the operation unconstitutional in 2011.

In a declassified legal opinion from October 2011, the court said the agency substantially misrepresented the scope of surveillance operations three times in less than three years.

A May 2012 internal government audit found more than 2,700 violations involving NSA surveillance of Americans and foreigners over a one-year period. The audit was reported Aug. 16 by the Washington Post, citing documents provided by former NSA contractor Edward Snowden.

To contact the reporter on this story: Chris Strohm in Washington at cstrohm1@bloomberg.net

To contact the editor responsible for this story: John Walcott at jwalcott9@bloomberg.net

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Mark 0 minutes ago

What a disgusting disgrace this country is becoming with this jerk in the White House.

GIMPGIMP 1 minute ago

Unless there's a technical restriction, there's no restriction. Nobody in NSA is going to do adhere to what's on a piece of paper. Same goes for everything. You have all kinds of rights on paper, but the police don't have to respect them and they don't. Nobody can enforce your rights until you're in a courtroom. For all practical purposes you have no rights. The US Constitution doesn't mean anything to a cop on a street, in an interrogation room, or with any law enforcement agency. The rights you supposedly have (1st, 2nd, 4th amendment, etc.) you don't have because you can't protect yourself from the police. You must comply. Period. If you're totally innocent, you can't run or you can be shot to death.

People in power can and will do whatever they want unless doing it is actually physically impossible. It's that simple. The US Constitution is meaningless and you have no rights. That's a fact.

That's not to say they're out to get you. There are too many people to go after for no reason. Don't give people

in power trouble and you'll be fine, but if you must be a gadfly, realize you can and may be spied upon by the NSA, audited by the IRS, or murdered by the CIA, FBI, Secret Service, or local police force. That's the way it is all over the world and we're no different. If you intend to live a normal life don't go around giving people in power trouble and you'll be fine. Be a big mouth and you're going to get it.

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Albert Barnett 1 minute ago

I'm not sure any of this matters to the american people. I personally am concerned about my privacy and security but not really sure what to do about it. Dropping out seems extreme, I'm not ruling it out at some point but I am old enough to remember what it was like when your phone was connected to a wire! It seems to me that an opportunity exist for someone who could create a security protocol that would make NSA spying irrelevant. Maybe we need an extra national entity that was like google and not subject to american law and coercion.

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