

Meet the Arab-American Lawyer Who the NSA Spied On - Back in 1967

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Abdeen Jabara was spied on by the NSA in the late 1960s. (Photo: ACLU/Tracked in America)

Abdeen Jabara was hardly shocked when the scandal over the National Security Agency's global surveillance dragnet broke in June.

"I was not at all surprised by the Snowden revelations about the NSA," Jabara, a prominent lawyer and a founder of the American-Arab Anti-Discrimination Committee, told me in a phone interview. "The United States has this huge, huge international surveillance apparatus in place and after 9/11 they were going to use it as much as they could as part of the war on terror. It was just too tempting."

He would know—he's lived it. Jabara is one of many Americans to have been personally spied on by the NSA decades ago. A court battle that started in 1972 eventually forced the secretive surveillance agency to acknowledge that it pried into the life of an American in an effort that began in August 1967. The disclosure was the first time the U.S. admitted it had spied on an American.

Jabara's story lays bare the deep roots of the NSA's surveillance. Today, [with the NSA operating under the ethos of "collect it all,"](#) there's much more surveillance of Americans when compared to prior decades. But the current spying occurs in a less targeted way.

Documents [published by The Guardian](#) have revealed that virtually every American's communications are swept up by phone and Internet surveillance, though the government is not targeting individual Americans. Instead, the NSA is targeting foreigners but has retained—and sometimes searched—information about Americans in communication with foreign subjects of spying. In contrast, Jabara was working as a lawyer at a time when the NSA was specifically targeting domestic dissidents.

In 1972, Jabara filed suit against the government for prying into his life. A young Detroit-based attorney at the time, Jabara represented people from the Arab-American community caught up in legal trouble. He also took on the cases of people harassed by the Federal Bureau of Investigation, which had stepped up efforts to surveil Arab activists in the aftermath of the 1967 war, when the U.S. alliance with Israel was solidified. Jabara was caught up in what was called "Operation Boulder," a Nixon administration-era program that put Arabs under surveillance. "Operation Boulder," which was sparked by the murder of Israeli athletes at the Munich Olympics in 1972, went after domestic activist groups and was instrumental in the deportation of hundreds of people on technical irregularities.

Jabara was spied on without a warrant, albeit incidentally—the U.S. government never

targeted him, but surveilled phone calls and telegrams from his clients. His case forced the government to disclose that Jabara was spied on and that non-governmental domestic groups shared information on Jabara with the U.S. The FBI was the primary agency tracking him, but it was the NSA that furnished the federal law enforcement agency with records of Jabara's phone conversations.

In 1979, a federal district court judge handed Jabara and his legal team a victory with a ruling that said the U.S. had violated Jabara's Fourth Amendment and privacy rights. The federal government appealed, and a separate court delivered a setback to Jabara. In 1982, [an appeals court ruled](#) that the government can intercept conversations between U.S. citizens and people overseas—even if there is no reason to believe the citizen is a “foreign agent.” The final step in the case came in 1984, when the FBI agreed to destroy all the files on Jabara and stipulated that the lawyer did not engage in criminal activity.

The timeline of Jabara's case traverses a changing legal landscape governing surveillance. When Jabara first filed suit, there was no legal framework prohibiting the government from spying on Americans without a warrant. But in the wake of disclosures about the [NSA keeping a “watch list” of some 1,650 anti-war activists](#) and other evidence of domestic surveillance, the Foreign Intelligence Surveillance Act was passed in 1979. The act required intelligence agencies to go to a secretive court—where the judges are handpicked by the Supreme Court's Chief Justice—in order to target Americans. It's an open question whether the secretive court, criticized for being deferential to government claims, would have denied the NSA's and FBI's bid to spy on Jabara. But it would have had to show probable cause that Jabara was an agent of a foreign power—an assertion that federal judges eventually rejected.

Parallels between current-day surveillance and the spying on Jabara are easy to come by. The U.S. government attempted to shield disclosing data on surveilling Jabara by asserting the “state secrets” privilege. The Obama administration used the [same argument](#) to try to dismiss a lawsuit against the NSA. Both surveillance efforts raise the question of how to square a secret spying regime with a Constitution that ostensibly protects privacy. And the government revealed that it shared information on Jabara with three foreign governments—a foreshadowing of revelations that the U.S. shares intelligence information with allies, including the Israeli government. (Jabara suspected that the U.S. shared data on him with Israel, [though the government denied that.](#))

Lee Tien, a senior staff attorney with the [Electronic Frontier Foundation](#), said that not much had shifted since the government spied on Jabara. “What has changed is that the intelligence community is doing even more surveillance,” Tien told me in an interview. “What didn't change? They're still surveilling people in the United States and they're doing it illegally.”

Now, the question is whether more legal checks will be put on the NSA's surveillance regime. The secretive agency is battling civil liberties groups in courts and could be reined in by new legislation proposed by elected officials. But Jabara's case—and the long history of NSA spying—shows that despite reform efforts, spying on Americans continues unabated.

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