

The Fundamentals of US Surveillance: What Edward Snowden Never Told Us?

By [Janet Phelan](#)

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Former US intelligence contractor Edward Snowden's revelations rocked the world. According to his detailed reports, the US had launched massive spying programs and was scrutinizing the communications of American citizens in a manner which could only be described as extreme and intense.

The US's reaction was swift and to the point. "“Nobody is listening to your telephone calls,” President Obama said when asked about the NSA. As quoted in The Guardian, Obama went on to say that surveillance programs were “fully overseen not just by Congress but by the Fisa court, a court specially put together to evaluate classified programs to make sure that the executive branch, or government generally, is not abusing them”.

However, it appears that Snowden may have missed a pivotal part of the US surveillance program. And in stating that the “nobody” is not listening to our calls, President Obama may have been fudging quite a bit.



In fact, Great Britain maintains a “listening post” at NSA HQ. The laws restricting live wiretaps do not apply to foreign countries and thus this listening post is not subject to US law. In other words, the restrictions upon wiretaps, etc. do not apply to the British listening post. So when Great Britain hands over the recordings to the NSA, technically speaking, a law is not being broken and technically speaking, the US is not eavesdropping on our each and every call.

It is Great Britain which is doing the eavesdropping and turning over these records to US intelligence.

According to John Loftus, formerly an attorney with the Department of Justice and author of a number of books concerning US intelligence activities, back in the late seventies the USDOJ issued a memorandum proposing an amendment to FISA. Loftus, who recalls seeing the memo, stated in conversation this week that the DOJ proposed inserting the words “by the NSA” into the FISA law so the scope of the law would only restrict surveillance by the NSA, not by the British. Any subsequent sharing of the data culled through the listening posts was strictly outside the arena of FISA.

Obama was less than forthcoming when he insisted that “What I can say unequivocally is that if you are a US person, the NSA cannot listen to your telephone calls, and the NSA cannot target your emails ... and have not.”

According to Loftus, the NSA is indeed listening as Great Britain is turning over the surveillance records en masse to that agency. Loftus states that the arrangement is reciprocal, with the US maintaining a parallel listening post in Great Britain.

In an interview this past week, Loftus told this reporter that he believes that Snowden simply did not know about the arrangement between Britain and the US. As a contractor, said Loftus, Snowden would not have had access to this information and thus his detailed reports on the extent of US spying, including such programs as XKeyscore, which analyzes internet data based on global demographics, and PRISM, under which the telecommunications companies, such as Google, Facebook, et al, are mandated to collect our communications, missed the critical issue of the FISA loophole.

Under PRISM, said Snowden, the US has “deputized” corporate telecoms to do its dirty work for them. PRISM, declared Snowden was indeed about content, rather than metadata.

However, other reports indicated that PRISM was not collecting telephone conversations and was only collecting targeted internet communications. The most detailed description of the PRISM program was released in a report from the Privacy and Civil Liberties Oversight Board (PCLOB) on July 2, 2014. The report disclosed that “ these internet communications are not collected in bulk, but in a targeted way: only communications that are to or from specific selectors, like e-mail addresses, can be gathered. Under PRISM, there’s no collection based upon keywords or names.”(Privacy and Civil Liberties Oversight Board, Report on the Surveillance Program Operated Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, July 2, 2014).

U.S. government officials have defended the program by asserting it cannot be used on domestic targets without a warrant. But once again, the FISA courts and their super-secret warrants do not apply to foreign government surveillance of US citizens. So all this sturm and drang about whether or not the US is eavesdropping on our communications is, in fact, irrelevant and diversionary.

Section 215 of the USA Patriot Act, which authorized extensive surveillance capabilities, expired in June of 2015. Within one day, it was replaced by the misnamed USA Freedom Act. In a widely disseminated tweet, President Obama stated “Glad the Senate finally passed the USA Freedom Act. It protects civil liberties and our national security.”

In fact, the USA Freedom Act reinstated a number of the surveillance protocols of Section 215, including authorization for roving wiretaps and tracking “lone wolf terrorists.” While mainstream media heralded the passage of the bill as restoring privacy rights which were shredded under 215, privacy advocates have maintained that the bill will do little, if anything, to reverse the surveillance situation in the US. The NSA went on the record as supporting the Freedom Act, stating it would end bulk collection of telephone metadata.

However, in light of the reciprocal agreement between the US and Great Britain, the entire hoopla over NSA surveillance, Section 215, FISA courts and the USA Freedom Act could be seen as a giant smokescreen. If Great Britain is collecting our real time phone conversations and turning them over to the NSA, outside the realm or reach of the above stated laws, then all this posturing over the privacy rights of US citizens and surveillance laws expiring and being resurrected doesn’t amount to a hill of CDs.

The NSA was contacted with a query about the GB listening post, as was British intelligence.

A GCHQ spokesperson stated: "Our response is that we do not comment on intelligence matters." The NSA also declined to comment.

Janet C. Phelan, investigative journalist and human rights defender that has traveled pretty extensively over the Asian region, an author of a tell-all book [EXILE](#), exclusively for the online magazine "[New Eastern Outlook](#)".

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