



Written by [Thomas R. Eddlem](#) on November 3, 2014

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## Is the NSA Grabbing All Americans' Phone Call Content?

The NSA and the National Director of Intelligence have consistently denied that they listen to the content of Americans' telephone calls, but the history of intelligence agency claims about the scope of its spying on Americans is one of lies and more lies. So the question must be asked: Are they lying again with respect to recording the content of Americans' phone calls?



The answer to that question may be "yes," and it may be "no." But there's also a possible "technically, no" response to that question that's even more frightening, for which there is a substantial amount of circumstantial evidence. First, here are a few of the blatant lies the U.S. intelligence apparatus has publicly told to the American people:

### **Lie #1: We are not keeping Americans' phone data.**

During a March 12, 2013 Senate hearing, Senator Ron Wyden [asked](#) U.S. Intelligence Director James Clapper: "Does the NSA collect any type of data at all on millions or hundreds of millions of Americans?" Admiral James Clapper replied: "No, sir."

Several months later, NSA contractor Edward Snowden [revealed](#) to the American people that Clapper's statement was a bold-faced lie. The NSA had, in fact, been collecting data on hundreds of millions of Americans under a program named PRISM, a program NSA documents revealed that also collected Internet traffic "directly from the servers of these U.S. Service Providers: Microsoft, Yahoo, Google, Facebook, PalTalk, AOL, Skype, YouTube, Apple." And copies of that database, it was later learned, are [sent to the U.S. Drug Enforcement Agency](#). James Bamford over at The Intercept likewise [revealed](#) on October 2, 2014 a 40-year history of the NSA releasing documented lies to both the American people and to Congress.

### **Lie #2: We can't grab Americans' e-mails.**

NSA Director General Keith Alexander [told](#) U.S. House investigators on March 20, 2012, that the NSA didn't have the "ability" to wiretap Americans' telephone calls:

**Representative Hank Johnson** (D-Ga.): General Alexander, if Dick Cheney were elected president and wanted to detain and incessantly waterboard every American who sent an email making fun of his well-known hunting mishaps, what I'd like to know is, does the NSA have the technological capacity to identify those Cheney bashers based upon the content of their emails? Yes or no.

**General Alexander:** No. Can I explain that?

**Representative Johnson:** Yes.

**General Alexander:** The question is where are the emails and where is NSA's coverage. I assume by your question that those emails are in the United States.

**Representative Johnson:** Correct.



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**General Alexander:** NSA does not have the ability to do that in the United States.

The reality is that the NSA does possess the technical ability to record Americans, and former NSA contractor Edward Snowden's revelations proved that hundreds of thousands of Americans' telephone conversations have been "legitimately" recorded by the NSA because one party of the call was abroad. Moreover, [thousands of innocent Americans' e-mails have been monitored by the NSA](#), according to information provided by whistleblower Edward Snowden. Indeed, the capacity to wiretap American's phone lines and record the full audio from them is present on a widespread basis, as the NSA program SOMALGET [wiretaps the full audio from every call in and out of the nation of the Bahamas](#) (and the NSA grabs metadata from the same program from all calls in Mexico, Kenya, and the Philippines).

### **Lie #3: CIA wouldn't hack into U.S. Senate computers.**

As the U.S. Senate conducted its oversight of the Bush-era detention policies under the CIA, Senator Dianne Feinstein (D-Calif.) charged the CIA with spying on Senate computers and deleting material on those U.S. Senate computers. "As far as the allegations of the CIA hacking into Senate computers, nothing could be further from the truth," CIA Director John Brennan [told](#) Andrea Mitchell at a Council on Foreign Relations forum March 11, 2014. It later came out that Feinstein's charges were the precise truth, and Brennan had told a bold-faced lie.

### **Lie #4: NSA wiretapping authority has never been abused.**

"There is no abuse," former NSA Director Michael Hayden [told](#) NBC's *Meet the Press* on December 15, 2013. President Obama himself [denied](#) the NSA had abused its surveillance capabilities in an address to the nation on August 9, 2013: "If you look at the reports — even the disclosures that Mr. Snowden has put forward — all the stories that have been written, what you're not reading about is the government actually abusing these programs and listening in on people's phone calls or inappropriately reading people's emails. What you're hearing about is the prospect that these could be abused. Now, part of the reason they're not abused is because these checks are in place, and those abuses would be against the law and would be against the orders of the FISC."

But it soon came out that there have been [thousands of cases of abuse](#) of that intelligence on American citizens from internal NSA reviews of the information. In some cases, this involved taking audio from telephone calls of Americans by suspicious lovers in the employ of the NSA, according to [a summary provided to Senator Charles Grassley](#) (R-Iowa): "In 2004, upon her return from a foreign site, the subject reported to NSA Security that, in 2004, she tasked a foreign telephone number she had discovered in her husband's cellular telephone because she suspected that her husband had been unfaithful. The tasking resulted in voice collection of her husband."

So in light of the many lies of our intelligence officials and the politicians overseeing them, it's quite possible that the NSA could be lying — again — with respect to its gathering, retention and search of Americans' conversations as it did with phone records "metadata."

### **Tag-team Approach to Surveilling Americans**

But there's another possible explanation for the NSA following legal protocol, as claimed in public, where it nevertheless has indirect access to Americans' phone calls: It's possible the NSA has an agreement with foreign intelligence agencies to spy on Americans in exchange for U.S. surveillance of



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their populations, with an agreement to exchange the information. Consider the possibility that the NSA — which like the all-seeing eye of Sauron in the *Lord of the Rings* trilogy — is faced outward surveilling the world while the other two pairs of the “Five Eyes” partners (the U.K., Canada, Australia, and New Zealand) are focused inward on the NSA’s one blind spot: the United States. This may sound like a far-out conspiracy theory, but statements of partnership between the United States and its allies — especially its Anglo “Five Eyes” allies — make such an arrangement plausible in light of existing legal restrictions against surveilling American citizens.

The NSA has paid hundreds of millions of dollars to “Five Eyes” partner GCHQ in Britain because GCHQ is “less constrained by NSA’s concerns about compliance,” according to intelligence officials who [talked off the record with London’s \*The Guardian\*](#) for August 1, 2013. Of course, there are no restrictions whatsoever on NSA surveillance of foreigners; the only surveillance restrictions on the NSA are those against recording the audio of Americans’ phone calls. According to *The Guardian*, the federal funding of British intelligence “exploited to the full our unique selling points of geography, partnerships [and] the UK’s legal regime.” The chief benefit of geography is that Britain is not constrained by legal restrictions on spying on Americans. A British Cabinet official told *The Guardian* after the Edward Snowden revelations that “joint projects in which resources and expertise are pooled, but the benefits flow in both directions.”

GCHQ has already [acknowledged](#) collecting massive Internet information on British citizens under its blanket authority under U.K. law to collect “external communications.” What’s to stop them from also collecting the Facebook and Google traffic of Americans? Clearly, Americans’ phone calls and e-mails are “external” to the U.K. But without American assistance, the British government likely lacked the technical capability for such massive surveillance, or perhaps lacked the will to invest this level of funds to surveil the people of an ally. In this light, the massive NSA aid to GCHQ and the close partnership with the Five Eyes countries could be explained. Two pair of the Five Eyes are quite possibly charged with surveilling Americans, and then coordinating with their American counterparts in order to skate around what little is left of the Fourth Amendment to the U.S. Constitution prohibiting warrantless searches. In exchange, the NSA shares information on their people, as well as information on other nations where the United States surveils and our allies don’t have surveillance capabilities.

Similar relationships have been reported among America’s other allies. The *Washington Post* [reported](#) on October 30, 2013, “In France, the daily *Le Monde* reported Wednesday that France’s external intelligence agency collaborated with the United States starting at the end 2011 or beginning of 2012 to provide a window into Internet traffic flowing via underwater cables that surface in France.... The cables carry much of the Internet traffic that flows to Africa and Afghanistan, the newspaper said. In exchange for allowing access to the traffic, the NSA provided information about areas of the world where France has no intelligence presence, the newspaper reported.” What areas that involved, the article didn’t specify. Clearly there are many areas the massive resources of the NSA could help the French intelligence agencies. But if the French intelligence agencies are willing to sell out the privacy of their people in exchange for more intelligence sharing, why should American intelligence agencies be immune from such a deal?

Indeed, American intelligence officials have publicly expressed a rather blasé attitude toward foreign intelligence agencies spying on Americans. In an October 29, 2013, hearing before the House Select Committee on Intelligence, Director of Intelligence James Clapper [responded](#) to this question from



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Chairman Mike Rogers (R-Mich.):

**Mike Rogers:** Do you believe that the allies have conducted or at any time any type of espionage activity against the United States of America — our intelligence services, our leaders, otherwise?

**Clapper:** Absolutely.... And I have to say, Chairman Rogers, that some of this reminds me a lot of the movie *Casablanca*. “My God, there’s gambling going on here!” You know, it’s the same kind of thing.

The statement above proves that Clapper is aware of allied intelligence agencies spying on Americans, an activity the agencies he controls are prohibited from doing. But it also leaves open the question of how much of that spying (and sharing of that intelligence) is done on a formalized partnership basis, and how much is done on an ad hoc basis. If the NSA is lying about its restraint from collecting the audio of Americans’ phone calls, a vigorous partnership of “we’ll spy on you, if you’ll spy on us” would be unnecessary, as would hundreds of millions of dollars in aid to GCHQ. But if the NSA wants to surveil Americans while at the same time formally complying with their public pronouncements, focusing two pair of the “Five Eyes” back on Americans becomes a real possibility.

The extent of foreign surveillance of American phone calls is not known, and won’t be known without an Edward Snowden-like whistleblower from GCHQ or one of the other Five Eyes partners. But it’s clear that Congress should not take the NSA’s public pronouncements at face value, but should investigate the level of foreign surveillance of Americans.



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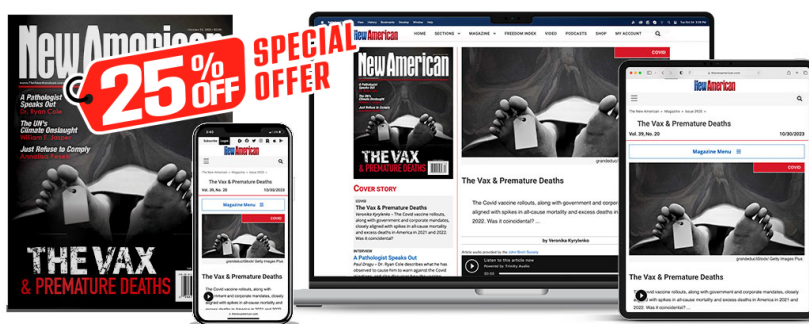
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