



Written by [Thomas R. Eddlem](#) on July 7, 2014

## 400k Americans' E-Mails, Texts Read by NSA Without Warrant

The *Washington Post* [reported](#) July 5 that 400,000 or more innocent Americans have their intimate e-mail and text messages read by the NSA every year without the constitutionally-required warrant and probable cause. Those Americans were caught up in a nexus of surveillance where the NSA collects data on people who have some innocent connection with a foreign target of surveillance.



The *Post* noted that since the Obama administration has admitted to searching the accounts of nearly 90,000 foreign persons, it means that "at the 9-to-1 ratio of incidental collection in Snowden's sample, the office's figure would correspond to nearly 900,000 accounts, targeted or not, under surveillance." Perhaps more importantly, the *Post* noted that "Nearly half of the surveillance files, a strikingly high proportion, contained names, e-mail addresses or other details that the NSA marked as belonging to U.S. citizens or residents." Therefore, 400,000 or more innocent Americans have their texts and e-mail messages read without a warrant or probable cause by NSA analysts annually.

The *Post* surveyed some 11,000 accounts surveilled by the NSA without a warrant provided by the former NSA systems analyst, and found the following:

Nine of 10 account holders found in a large cache of intercepted conversations, which former NSA contractor Edward Snowden provided in full to *The Post*, were not the intended surveillance targets but were caught in a net the agency had cast for somebody else.

This "foreign" surveillance program is different from the equally unconstitutional telephone metadata program, where the NSA collects the numbers, duration, and times of every Americans' telephone calls and stores them for at least five years in a central database.

Among the samples of "foreign" surveillance of Americans obtained by the *Washington Post* from Edward Snowden are examples of "files, described as useless by the analysts but nonetheless retained, [which] have a startlingly intimate, even voyeuristic quality. They tell stories of love and heartbreak, illicit sexual liaisons, mental-health crises, political and religious conversions, financial anxieties and disappointed hopes. The daily lives of more than 10,000 account holders who were not targeted are catalogued and recorded nevertheless."

The *Post* continued:

Among the latter are medical records sent from one family member to another, résumés from job hunters and academic transcripts of schoolchildren," matters that are hardly considerations of national security. "In some photos, men show off their physiques. In others, women model lingerie, leaning suggestively into a webcam or striking risque poses in shorts and bikini tops.

The abuse of such warrantless surveillance for sexual and romantic purposes by NSA staff has already been admitted by the NSA inspector general in a [September 11, 2013 letter](#) to Senator Charles Grassley



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(R-Iowa), where the NSA acknowledged 80 different incidents of abuse of information for varied reasons. The illicit surveillance of NSA staff members' wives, girlfriends, and would-be girlfriends spawned the intelligence [neologism](#) "LOVEINT."

Former NSA systems analyst Edward Snowden said he released the data to the *Washington Post* because the information had been retained by the NSA even after it had been deemed useless for intelligence purposes. "Even if one could conceivably justify the initial, inadvertent interception of baby pictures and love letters of innocent bystanders," the whistleblower told the *Post*, "their continued storage in government databases is both troubling and dangerous. Who knows how that information will be used in the future?"

The *Washington Post* revelations come just two days after the U.S. Privacy and Civil Liberties Oversight Board — a non-partisan executive branch [board formed in 2007](#) after the first civil liberties concerns about NSA surveillance were reported — cast its imprimatur over the warrantless surveillance policies of the NSA in a July 2 report. Board member Elisebeth Collins Cook explained at a July 2 hearing that the Privacy and Civil Liberties Oversight Board would err on the side of letting the NSA do what it pleases over following the Fourth Amendment. "Our recommendations should not be viewed as an indication of concern about the current operation of the program. Instead, they are targeted and focused recommendations for relatively slight changes at the margins of the program." Revealingly, the Fourth Amendment phrases "probable cause" and "warrant" appear nowhere in the transcript of the July 2 hearing. To the board's credit, however, the bipartisan group condemned the telephony metadata surveillance program as blatantly unconstitutional.

The *Post* noted that some of the surveillance did produce "fresh revelations about a secret overseas nuclear project, double-dealing by an ostensible ally, a military calamity that befell an unfriendly power, and the identities of aggressive intruders into U.S. computer networks." But the *Post* concluded that this information could be acquired through the constitutionally acceptable method of obtaining a probable cause warrant from a court.



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