



Written by [Joe Wolverton, II, J.D.](#) on July 1, 2014

## NSA Claims Massive New Surveillance Powers, Snowden Docs Reveal

The National Security Agency (NSA) is actively conducting wholesale surveillance of communication in nearly every country around the world, and a secret court has said it has the authority to do so.

Top secret documents released by former NSA subcontractor Edward Snowden reveal that the United States has what the [Washington Post described](#) in a June 30 exposé as “broad no-spying arrangements” with the governments of four nations: Great Britain, Australia, New Zealand, and Canada. With the United States, this select group is known collectively as the Five Eyes.



As of 2010, the new cache discloses, those restrictions have been loosened by the Foreign Intelligence Surveillance Court (the so-called FISA Court). Under the more liberal guidelines given the green light by the secret court, NSA can “intercept through U.S. companies not just the communications of its overseas targets but any communications about its targets as well.”

It’s no wonder the Obama administration considers the “War on Terror” to be a global operation, given that the Snowden revelations indicate that the NSA has marked 193 countries whose communications are of vital national interest.

Beyond the foreign countries targeted for NSA surveillance, the *Washington Post* reports that the agency asked for and received permission to collect communications to and from the World Bank, the International Monetary Fund, the European Union, and the International Atomic Energy Agency.

While the *Washington Post* points out that the NSA isn’t necessarily exercising the immense authority granted to it by the FISA Court, that is immaterial. It is anathema to the principles of limited government and personal liberty upon which this Republic is founded for any department of the federal government to possess power to deprive potentially millions of people of their right to be free from unreasonable searches and seizures.

There is an aspect of the *Post’s* latest Snowden disclosure that is being overlooked or dismissed by most mainstream news outlets: namely, that the FISA Court has determined that Section 702 of the Foreign Intelligence Surveillance Act grants the NSA power to cast this massive international surveillance dragnet.

Of course, most people are not surprised to learn that the NSA is spying on nearly every country in the world. That’s not the point, though.

For over a year now, various representatives of the federal surveillance apparatus have sworn that Section 702 contained certificates of surveillance in only three distinct areas: counterterrorism, counterproliferation, and cybersecurity. As of Monday’s revelations, however, we now know that these



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officials have been lying.

And the path of prevarication leads all the way to the White House. Last December, the President's Review Group on Intelligence and Communications Technologies [listed only the three certificates cited above](#), notably omitting any mention of the 193-country collection of communications. The group reported:

Section 702 authorized the FISC to approve annual certifications submitted by the Attorney General and the Director of National Intelligence (DNI) that identify certain categories of foreign intelligence targets whose communications may be collected, subject to FISC-approved targeting and minimization procedures. The categories of targets specified by these certifications typically consist of, for example, international terrorists and individuals involved in the proliferation of weapons of mass destruction.

Later in the document, the Constitution receives a perfunctory nod:

Section 702 requires that NSA's certifications attest that a "significant purpose" of any acquisition is to obtain foreign intelligence information (i.e. directed at international terrorism, nuclear proliferation, or hostile cyber activities), that it does not intentionally target a United States person, that it does not intentionally target any person known at the time of acquisition to be in the United States, that it does not target any person outside the United States for the purpose of targeting a person inside the United States, and that it meets the requirements of the Fourth Amendment.

Meets the requirements of the Fourth Amendment? Unlikely. The Fourth Amendment protects the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures," mandating that any warrant issued be based upon "probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Another disclosure found in the Snowden documents could be interpreted as threatening the First Amendment, specifically the freedom of the press. As the *Washington Post* reports:

An affidavit in support of the 2010 foreign-government certification said the NSA believes that foreigners who will be targeted for collection "possess, are expected to receive and/or are likely to communicate foreign intelligence information concerning these foreign powers."

That language could allow for surveillance of academics, journalists and human rights researchers. A Swiss academic who has information on the German government's position in the run-up to an international trade negotiation, for instance, could be targeted if the government has determined there is a foreign-intelligence need for that information. If a U.S. college professor e-mails the Swiss professor's e-mail address or phone number to a colleague, the American's e-mail could be collected as well, under the program's court-approved rules.

There is perhaps no profession more persecuted by Barack Obama than journalism. From the attempt by the administration to [uphold the enforcement of the NDAA](#) against Pulitzer Prize-winning reporter Chris Hedges, to the attempt to assume the role of arbiter of [who qualifies as a journalist](#) and thus for First Amendment protection, the president seems determined to silence all opposition to his regime's dictates.

[Whistleblowers beware, too.](#) With the formal filing of the charges against him, Edward Snowden becomes the eighth person to be charged under the Espionage Act by the Obama administration. This is



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especially deplorable given that in 2008, then-president-elect Obama declared, “We need to empower federal employees as watchdogs of wrongdoing and partners in performance. Barack Obama will strengthen whistleblower laws to protect federal workers who expose waste, fraud, and abuse of authority in government.”

Not that politicians have a habit of keeping campaign promises, but President Obama’s policy of zealously pursuing, prosecuting, and punishing those who report abuses in government is remarkable for its relentlessness.

Regarding the apparent absence of congressional oversight of the newly revealed scope of Section 702, the *Washington Post* reports that Senator Ron Wyden (D-Ore.) e-mailed them the following response: “When Congress passed Section 702 back in 2008, most members of Congress had no idea that the government was collecting Americans’ communications simply because they contained a particular individual’s contact information.”

Perhaps it’s time that Americans stop looking solely to Congress for help in dismantling the Panopticon whose walls seem to grow taller everyday. Americans committed to enforcing constitutional limits on federal power should focus on electing state legislators who will refuse to enforce any act of the federal government that exceeds the boundaries of its constitutionally granted powers, including global surveillance of otherwise private and protected communications.

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