



Cost of Surveillance: What the IRS Scandal Means for NSA Snooping

Revelations that the IRS has thoroughly politicized its use of taxpayer information has ominous implications for the National Security Agency's attempts to collect a broader spectrum of data on American citizens.

The IRS scandal has expanded from its original focus upon the non-profit office in Cincinnati to presidentially appointed officials in Washington, and from the delay of Tea Party-related non-profit applications for 501(c)4 status to the release of tax information on political candidates.



Obama Appointee Supervised Tea Party Non-Profit Applications

The House Committee on Oversight and Reform [reported](#) July 17 that “testimony from career IRS officials in Washington, D.C. that Director of the IRS Exempt Organizations division Lois Lerner overruled the judgment of a career Washington, D.C. IRS lawyer and ordered Tea Party cases to go through a multi-layer review that included her senior advisor and the IRS Chief Counsel’s office. The IRS Chief Counsel’s office is led by William Wilkins, one of two Obama Administration political appointees at the IRS.”

Lerner had [pleaded her Fifth Amendment privilege](#) against self-incrimination when she refused to testify before Congress on the IRS scandal May 22. The senior tax attorney the committee referred to is Carter Hull, who has 47 years of experience on the IRS staff. Hull [testified](#) that he had never known 501(c)4 tax-exempt applications to be taken from the field offices to be reviewed in Washington, and that the Tea Party tax-exempt applications cases would be reviewed by the IRS chief counsel’s office.

[Hull’s testimony](#) contradicts Obama administration talking points for the past two months that the IRS scandal was limited to a few rogue agents in the Cincinnati office. White House Press Secretary Jay Carney had stressed in a [May 20 briefing](#) that the Obama administration had “found no evidence that anyone outside of the IRS had any involvement in the inappropriate scrutinizing of conservative groups who were applying for tax exempt status” and that IRS bias against conservative Tea Party groups was limited to “line IRS employees improperly scrutinizing what are known as 501(c)(4) organizations by using words such as ‘tea party’ and ‘patriot.’” In the face of the scandal in which conservative Tea Party groups were targeted by the tax collection arm of the federal government, the IRS continued to [claim](#) that “the IRS has found no indication of political bias.”

The delay in approving applications for non-profit status — a delay of years, and [in some cases still unresolved](#) after three years — is a way of starving the infant organizations for funds before the elections. Many foundations and corporations will not donate to organizations without a tax-exempt approval from the IRS.

With the revelations that the IRS chief counsel’s office was the cause of the Tea Party applications hold-



Written by [Thomas R. Eddlem](#) on July 22, 2013

up, Carney's statement has proven to be false.

The next likely line of defense by the Obama White House in stonewalling the congressional investigation will be that Hull's testimony linked the Tea Party targeting only to the chief counsel's office, not necessarily Chief Counsel William Wilkins himself. Indeed, IRS Chief Counsel Wilkins had denied back in May that he had knowledge of the targeting of conservative non-profit groups, in both IRS documents and a *Wall Street Journal* story. The *Journal* [reported](#) back on May 15 that "The IRS said the Aug. 4, 2011 discussion of tax exempt social welfare groups 'involved staff attorneys several layers below Wilkins.'"

This claim may be a tough sell, since the trail of IRS targeting has led to an unlikely end at Wilkins' office, and the president himself has made a very public and political issue of the then-growing Tea Party movement. For example, Obama [said](#) of the wave of Tea Party applications for 501(c)4 tax exempt status in the wake of the Supreme Court's *Citizens United v. FEC* decision that "this ruling opens the floodgates for an unlimited amount of special interest money into our democracy. It gives the special interest lobbyists new leverage to spend millions on advertising to persuade elected officials to vote their way — or to punish those who don't.... I can't think of anything more devastating to the public interest." Does the White House really believe that the most "devastating" influence on the American public would go unexamined by his appointees, especially in the extraordinarily unusual cases where they were taken to the IRS chief counsel's office?

Political Candidates Also Targeted by IRS

But the IRS political persecution of Tea Party and 9/12 groups was almost certainly not limited to the non-profit office of the IRS. Political candidates were targeted as well, according to a letter from the IRS inspector general to Senator Charles Grassley (R-Iowa). The IRS Inspector General J. Russell George reported in a [July 3 letter](#) that there were at least three suspicious uses of IRS information of political candidates. One had been referred to the attorney general's office for prosecution (and the attorney general declined to prosecute), and the other two instances are still under investigation by the IRS.

One of those candidates may have been the 2010 Tea Party-favorite U.S. Senate candidate Christine O'Donnell, who, according to a [report](#) in the *Washington Times*, had been informed that the IRS had leaked her personal information to political opponents. According to the July 17 *Times*, O'Donnell received the following voice mail from the IRS in January of this year: "Ms. O'Donnell, this is Dennis Martel, special agent with the U.S. Department of Treasury in Baltimore, Md.... We received information that your personal federal tax info may have been compromised and may have been misused by an individual." The *Times* [added](#): "On March 9, 2010, the day she revealed her plan to run for the Senate in a press release, a tax lien was placed on a house purported to be hers and publicized. The problem was she no longer owned the house. The IRS eventually blamed the lien on a computer glitch and withdrew it." In O'Donnell's case, the *Times* [reported](#) two days later, it may have been state officials who improperly accessed IRS information and released the candidate's financial records.

Implications for Wider Information NSA Surveillance

The IRS scandal is instructive about how the federal government could — and likely eventually would — use the broader spectrum of information being collected by the NSA. The IRS scandal involves only tax records, but the NSA collects the full spectrum of electronic information. And officials in charge of the NSA programs already have the same pattern of administration lying and stonewalling that has been



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revealed in the IRS scandal. The claims by Obama administration officials with regard to warrantless surveillance have a history of dubious reliability at best. Director of National Intelligence James Clapper [denied](#) in a March 12, 2013 Senate Select Intelligence Committee hearing that the NSA was collecting data on millions of Americans, perjuring himself on the issue of government surveillance of Americans. Clapper's office, the Office of National Intelligence, issued a [press release July 19](#) noting that a secret FISA court renewed the NSA's warrantless wiretapping program — the same program he flatly denied had existed five months earlier.

Although the Obama officials currently claim that it is not collecting the audio of telephone calls, and only call “metadata” unrelated to the audio transcript, there is [virtually no limitation](#) on the Internet traffic being seized by the NSA — e-mails, web traffic, video conferencing, chats, etc. — are all snared.

Even assuming it's true that the NSA's PRISM program is not collecting the contents of telephone calls, and the Obama administration is no longer lying to Congress and the public about its surveillance, the NSA may still be collecting the content of telephone calls. Edward Snowden's revelations to the London *Guardian* revealed that the NSA had other warrantless surveillance programs besides PRISM. The [Snowden Powerpoint describes an NSA effort called “Upstream”](#) in addition to PRISM, the former including several wiretapping programs that were named: Fairview, Stormbrew, Blarney, and Oakstar. Any one of those could also involve the collection of the kind of audio and/or transcript of telephone conversations that PRISM does not officially collect. In other words, because these other programs — and not PRISM — may be the programs collecting telephone audio, it's technically true to claim publicly that PRISM doesn't collect the audio or transcripts of telephone calls.

The NSA's obfuscation of both the public and congressional oversight on surveillance may have created a backlash in Congress. Congressman Justin Amash — chairman of the House Liberty Caucus — has [introduced legislation to cut off funds for NSA surveillance](#). And even Wisconsin's Jim Sensenbrenner, the author of the USA Patriot Act in 2001, got testy with Deputy Attorney General James Cole in a House Judiciary Committee hearing over the extending of NSA surveillance authority. After Cole said that unlimited surveillance was necessary for national security, Sensenbrenner threatened the Obama lawyer. “Unless you realize you've got a problem,” Sensenbrenner [said](#), cutting off Cole's statement to the House Judiciary Committee, “that is not going to be renewed.”



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