



Written by [Thomas R. Eddlem](#) on December 30, 2013

NSA Unit “TAO” Seeks “Pervasive” Access to Internet

The German magazine *Der Spiegel* revealed extraordinary details about the NSA’s TAO program December 29, which is tasked with “pervasive” penetration of the Internet and global telephone traffic. This most aggressive division of the U.S. government’s National Security Agency directly hacks into computers and telephones and is focused upon foreign governments, perhaps differing from other NSA programs that [also harvest the data of American citizens](#).



Der Spiegel [quoted](#) one TAO analyst who wrote that the goal of the program was to attain “pervasive” access to computers globally. “To succeed in this, she wrote, TAO would have to acquire ‘pervasive, persistent access on the global network.’” While *Der Spiegel*’s story implied that the focus of the program was on foreign governments, it published no guidelines within the NSA that limited the program to foreign targets. The German investigative magazine [noted](#) that this aggressive and growing NSA branch was designed to deal the full range of federal government priorities:

According to internal NSA documents viewed by SPIEGEL, these on-call digital plumbers are involved in many sensitive operations conducted by American intelligence agencies. TAO’s area of operations ranges from counterterrorism to cyber attacks to traditional espionage.

Investigative journalist Glenn Greenwald [explained](#) — in reaction to the *Der Spiegel* article — that “this malware allows the NSA to literally watch every keystroke that you make, to get screen captures of what it is that you’re doing, to circumvent all forms of encryption and other barriers to your communications.”

The story [noted](#) that TAO has produced some odd side-effects for American citizens. “In January 2010, numerous homeowners in San Antonio, Texas, stood baffled in front of their closed garage doors. They wanted to drive to work or head off to do their grocery shopping, but their garage door openers had gone dead, leaving them stranded. No matter how many times they pressed the buttons, the doors didn’t budge.... Officials at the agency were forced to admit that one of the NSA’s radio antennas was broadcasting at the same frequency as the garage door openers.” Why the NSA was broadcasting at that frequency in suburban San Antonio was never explained.

The *Der Spiegel* article [implied](#) (but did not say directly) that the information was released by former NSA contractor Edward Snowden in this statement about how TAO was centrally involved in the [previously reported](#) hacking of the Mexican president’s e-mail accounts: “This operation, dubbed ‘Flatliquid,’ is described in a document leaked by whistleblower Edward Snowden, which SPIEGEL has now had the opportunity to analyze.” The computer hacking of the Mexican president’s account was labeled a “lucrative source” of information by NSA hackers.

The story also [revealed](#) that Brazil had been a key target of U.S. espionage activities as well, and the results have been damaged diplomatic relations, and plans by the Brazilian government for a new privacy law and electronic counter-measures. The magazine noted,



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Brazil now plans to introduce a law that will force companies such as Google and Facebook to store their data inside Brazil's borders, rather than on servers in the US, making these international companies subject to Brazilian data privacy laws. The Brazilian government is also developing a new encryption system to protect its own data against hacking.

A [separate article](#) published by *Der Spiegel* also outlined an equipment-based program supporting TAO called "ANT," which creates James Bond-style espionage equipment: "A document viewed by SPIEGEL resembling a product catalog reveals that an NSA division called ANT has burrowed its way into nearly all the security architecture made by the major players in the industry." *Der Spiegel* [described](#) a few of the items in that so-called catalog:

Some of the equipment available is quite inexpensive. A rigged monitor cable that allows "TAO personnel to see what is displayed on the targeted monitor," for example, is available for just \$30. But an "active GSM base station" — a tool that makes it possible to mimic a mobile phone tower and thus monitor cell phones — costs a full \$40,000. Computer bugging devices disguised as normal USB plugs, capable of sending and receiving data via radio undetected, are available in packs of 50 for over \$1 million." Another division of ANT is software-based espionage. One software program created by ANT allows seamless surveillance even if a computer's hard drive is wiped and a new operating system is installed.

The official response to these latest revelations has been muted. An NSA official [told](#) *Der Spiegel*, "We are not going to comment publicly on every specific alleged intelligence activity, and as a matter of policy we have made clear that the United States gathers foreign intelligence of the type gathered by all nations." But unofficially, NSA officials have taken a tough line on Snowden. NSA Director Michael Hayden termed the NSA "infinitely weaker" as a result of Snowden's revelations in a December 29 [interview](#) on the CBS program *Face the Nation*. Because of his claims to damaging the NSA, Hayden [labelled](#) Snowden a "traitor."

But Greenwald [noted](#) that Snowden had simply exposed crimes against the Constitution, while Hayden (along with Director of National Intelligence James Clapper) had been the men who engaged in the crimes against the Constitution and lied about them in a cover-up.

Here's Michael Hayden. He oversaw the illegal warrantless eavesdropping program implemented under the Bush administration. He oversaw torture and rendition as the head of the CIA. James Clapper lied to the face of Congress. These are felonies at least as bad, and I would say much worse, than anything Edward Snowden is accused of doing, and yet they're not prosecuted. They're free to appear on television programs. The United States government in Washington constantly gives amnesty to its highest officials, even when they commit the most egregious crimes. And yet the idea of amnesty for a whistleblower is considered radical and extreme. And that's why a hardened felon like Michael Hayden is free to walk around on the street and is treated on American media outlets as though he's some learned, wisdom-drenched elder statesman, rather than what he is, which is a chronic criminal.

Jameel Jaffer of the American Civil Liberty Union correctly [explained](#) to the leftist webcast Democracy Now! December 30 that "When the NSA has good reason to believe probable cause that a specific person is engaged in terrorism or something like that, it doesn't bother me that much that the NSA is surveilling that person. I think that's the NSA's job. The problem with a lot of these programs is that they are not directed at people thought to be doing something wrong. They're not directed at suspected terrorists or even suspected criminals. These programs are directed at everybody."



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The Fourth Amendment to the U.S. Constitution explicitly prohibits searches without a court warrant, probable cause, and specificity (describing on the warrant what they are looking for and where they will find it). But many people have claimed that the Fourth Amendment restriction on searches has traditionally been assumed to apply only to U.S. citizens, and not to foreign governments. That's an argument former NSA Director Michael Hayden repeated on *Face the Nation* this past weekend. "As long as it's done overseas against people not protected by the Fourth Amendment," Hayden [told](#) CBS' Major Garrett, "the Fourth Amendment doesn't enter into the conversation." Of course, critics have noted that Hayden showed zero respect for the Fourth Amendment's protection of American citizens' privacy under the Fourth Amendment as director of the NSA.

Moreover, the [text of the Fourth Amendment](#) makes no territorial exceptions to its requirements for a warrant with probable cause, an oath, and particularity:

Amendment IV: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

In sum, the official NSA line, as [explained](#) by Hayden on *Face the Nation*, is that Americans have no reason to expect that the NSA's TAO program will not hack into their Internet traffic:

Hayden: Well — well, I'm not a lawyer; I'm not a judge. I do know there is one controlling Supreme Court case, *Smith v. Maryland*, in which the court has said in a 5-3 decision that there is no reasonable expectation of privacy over this kind of data.

Garrett: Once you hand your data over to a third party?

Hayden: Right.

Of course, if there's never a reasonable expectation of privacy for any data once it's been turned over to a third party, then is Gen. Hayden being hypocritical for calling Snowden a criminal — a third party NSA contractor — for turning over to the public the information the NSA gave him?



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