



National Journal: NSA Outsources Surveillance of Americans to British Intelligence

The *National Journal* [reported](#) that the NSA has given broad access to British intelligence to Americans' telephone calls and Internet traffic, possibly as a means of circumventing the Fourth Amendment and other legal prohibitions against domestic warrantless surveillance. British intelligence confirmed October 28 that it does receive raw intelligence data on American citizens and that it does not need warrants to search intelligence from foreign countries.



The *National Journal* reported October 27:

British authorities are capable of tapping into bulk communications data collected by other countries' intelligence services — including the National Security Agency — without a warrant, according to secret government documents released Tuesday.

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The agreement between the NSA and Britain's spy agency, known as Government Communications Headquarters or GCHQ, potentially puts the Internet and phone data of Americans in the hands of another country without legal oversight when obtaining a warrant is "not technically feasible."

GCHQ confirmed in a [press statement](#) to the *London Guardian* October 28 that "[A Regulation of Investigatory Powers Act] interception warrant is not as a matter of law required in all cases in which unanalysed intercepted communications might be sought from a foreign government." While British intelligence has some restrictions on surveillance of their own people under the Regulation of Investigatory Powers Act, they have no restrictions whatsoever on foreign intelligence. Likewise, the NSA is prohibited from recording telephone calls of Americans under the FISA act but has few restrictions on foreign intelligence. So if both countries surveil the other, and then report their findings back, they've essentially "laundered" the intelligence to become "foreign" and legal. And the surveillance state has become complete.

In essence, the NSA may have outsourced the job of being a nationwide peeping Tom to British intelligence. Likewise, GCHQ may have outsourced surveillance of Britons to the NSA.

The London-based *Guardian* newspaper [reported](#) back on June 21, 2013 that "British spy agency collects and stores vast quantities of global email messages, Facebook posts, internet histories and calls, and shares them with NSA, latest documents from Edward Snowden reveal." It also noted that GCHQ "produces larger amounts of metadata than NSA" that included some 600,000,000 "telephone events" every day by 2012. That amount has only increased with U.S. taxpayer aid to GCHQ amounting to at least \$100 million during the years 2010-13, according to a [separate Guardian report](#).

Granting the British government access to Americans' phone calls and Internet traffic has a host of risks, which includes industrial espionage against American corporations that compete against British



Written by [Thomas R. Eddlem](#) on October 30, 2014

corporations. Britain has a long history of mercantilism that goes back to the U.S. war for Independence, when British support for the British East India Company sparked the Boston Tea Party and the eventual separation from Britain. More recently, British intelligence has hacked Belgian telecommunications carrier Belgacom in what GCHQ called [“Operation Socialist.”](#) The U.S. government has also tilted the scales of economic justice toward its political favorites, such as the automobile companies in Detroit. The Clinton administration [used CIA intelligence to negotiate with the Japanese](#) in 1994 over the issue of automobile imports.

Non-denial Denial

For its part, the NSA issued a lawyerly non-denial denial: “Whenever NSA shares intelligence information, we comply with all applicable rules, including rules designed to safeguard U.S. person information,” the agency told *National Journal*. “NSA does not ask its foreign partners to undertake any intelligence activity that the U.S. government would be legally prohibited from undertaking itself.”

Note the lawyerly language: The NSA follows the “applicable rules” of protecting Americans’ privacy, which in the longstanding view of the executive branch is non-existent with respect to “foreign intelligence” and “foreign policy.”

The NSA claimed it didn’t “ask” GCHQ to surveil Americans. But it didn’t say that it doesn’t provide raw data to the British, or provide access to phone lines and Internet carriers to the British and other “Five Eyes” partners (an intelligence alliance originally called “Echelon” that includes the United States, UK, Australia, New Zealand, and Canada). Nor did it claim that the British aren’t surveilling Americans without a warrant. All it says is that the British aren’t asked to surveil Americans. But if the British happen to do that on their own, that’s okay. It’s even expected. As Director of Intelligence James Clapper [satirically announced](#) in an October 29, 2013 hearing before the House Select Committee on Intelligence:

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.

Nor does the NSA denial proscribe the possibility of exchange of British intelligence about its surveillance of Americans to the NSA. Indeed, there’s no indication in the denial that NSA liaisons with GCHQ are not directly looking at the British databases of Americans’ phone calls and Internet traffic. Once the British have possession of the intelligence, NSA analysts likely view it as instantly becoming “foreign intelligence” for the purposes of legal prohibitions against Americans.

The New American [suggested online back on October 13](#) that the NSA may be outsourcing espionage of Americans’ telephone calls in a “tag team approach to surveilling Americans” as an end-run around the Fourth Amendment to the U.S. Constitution:

It’s possible the NSA has an agreement with foreign intelligence agencies to spy on Americans in exchange for U.S. surveillance of 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



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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 *National Journal*'s confirmation that the NSA is providing private American communications to the British government makes matters almost unfathomable. It was bad enough when Americans were notified that their phone and Internet traffic would be accessible by NSA agents without a warrant. Now it appears that the person who may be listening to your phone call may be from Britain, or one of the other allied nations, and not the NSA.



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