

# ACLU Report: Obama administration expands domestic spying

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Under the Obama administration, there has been a 60 percent increase in warrantless electronic surveillance by the Department of Justice, according to a report Thursday by the American Civil Liberties Union. According to the report, the DoJ monitored 37,616 phones in 2011 alone.

“The report shows a dramatic increase in the use of these surveillance tools... [m]ore people were subjected to pen register and trap and trace surveillance in the past two years than in the entire previous decade,” the ACLU explains, making reference to two tactics used by the Department of Justice (DoJ) to monitor and track phone calls, email messages, and social networking website use.

The 37,616 phones being tapped by the DoJ alone is a staggering figure. The sharp increase over the past two years, and the huge number of people being monitored, give the lie to any claim that this spying is related to ordinary criminal investigations. Without a doubt, this figure includes political activists, members of left-wing political groups, and other opponents of government policy.

The ACLU report serves as a further indictment of Obama administration, which came to power in 2008 by riding a wave of popular hatred of the Bush administration’s expansion of police state measures. The Obama administration has not only kept Bush’s domestic spying programs intact—it has also greatly enlarged them.

It is worth noting at the outset that the ACLU report only takes into account surveillance figures obtained from the Justice Department. Given the absence of figures from the Department of Homeland Security, Immigration and Customs Enforcement, the Secret

Service, and state and local police forces, the ACLU states that “the reports likely reveal only a small portion of the use of this surveillance power.”

During the same time period, the DoJ increased its tracking of email and social networking data by 361 percent. Though tracking email and social networking is still much rarer than phone tracking, the exponential increase seen over the past two years likely foreshadows further expansion.

Dean Boyd, an Obama administration spokesman, told NBC News that “as criminals increasingly use new and more sophisticated technologies, the use of orders issued by a judge and explicitly authorized by Congress to obtain non-content information is essential for federal law enforcement officials to carry out their duty to protect the public and investigate violations of federal laws.”

The ACLU report only covers wiretapping that the government claims is “non-content” related. In other words, the statistics cited above do not include content-related spying. The dubious distinction between “content” and “non-content” related spying is that, allegedly, “non-content” related spying only reveals *who* an individual is in communication with—not *what* the content of the communication is. However, there is no meaningful oversight over what the government does with information it obtains through supposedly “non-content-related” spying.

Irrespective of the content/non-content classification, the massively expanded domestic spying in either form is a blatant violation of the constitution’s Fourth Amendment, which protects the population from warrantless searches and seizures, as well as the First Amendment, which protects free speech.

The existing legal threshold for so-called “non-

content” wiretapping is strikingly low. According to the ACLU report, the government needs only to “submit certification to a court stating that it seeks information relevant to an ongoing criminal investigation.” There is no requirement for a judge to actually “consider the merits of the request.”

The Eighth Circuit Court of Appeals explained that its role in the process is “ministerial in nature” in a 1995 ruling. The historic requirement of “probable cause” is no longer required for the government to tap into the phones or personal emails of a US citizen.

The government initially refused the ACLU's request under the Freedom of Information Act to release DoJ tallies of wiretapping from 2009 to 2011. The records were only released after the ACLU filed a lawsuit to compel the release of the records.

The ACLU report is only the latest confirmation of the massive increase in domestic surveillance launched by the Obama administration. Over the past year, it has been revealed that the Obama administration has authorized armed surveillance drones to begin flights over the US mainland, and it has constructed “bottomless” databases to house all of the information it has begun collecting on the American public.

In 2009, the *New York Times* revealed that the National Security Agency - an entity independent of the DoJ - was also intercepting personal communications between citizens.

In 2011, Obama signed a four-year extension of the PATRIOT Act, explaining, “It's an important tool for us to continue dealing with an ongoing terrorist threat.” Democratic Senate Majority Leader Harry Reid backed the president, warning at the end of the extension deadline that “when the clock strikes midnight tomorrow, we would be giving terrorists the opportunity to plot attacks against our country, undetected.”

*The New York Times* reported that the administration made 1.3 million requests for subscriber information from cell phone companies in 2011 alone.

The administration has constantly sought to block all legal challenges to domestic surveillance programs by means of the authoritarian “state secrets” doctrine and references to the president's so-called “Commander in Chief” wartime powers. Earlier this year, a federal judge threw out a case that challenged domestic spying on the grounds that “any practice, no matter how

abusive, may be immunized from legal challenge by being labeled as 'counterterrorism' and 'state secrets'.”



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