

US Drug Enforcement Agency conceals use of information from NSA mass surveillance programs

Niles Williamson
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A report by Reuters published over the weekend reveals that the US Drug Enforcement Agency (DEA) utilizes information in criminal investigations that is culled from the National Security Agency (NSA) mass surveillance programs, other intelligence spying operations and a massive telephone records database, and conceals the source of evidence so obtained from judges, prosecutors, and defense lawyers.

The report describes how federal law enforcement agencies that utilize evidence obtained from illegal and unconstitutional domestic spying operations are trained to “recreate” the investigative trail in a manner that violates defendants’ constitutional right to a fair trial.

Reuters quoted Tampa, Florida attorney James Felman, a vice chairman of the criminal justice section of the American Bar Association, who said of the secret program, “That’s outrageous. It strikes me as indefensible.”

Lawrence Lustberg, a New Jersey defense lawyer, told Reuters that any systematic government effort to conceal the circumstances under which cases begin “would not only be alarming, but pretty blatantly unconstitutional.”

Former federal prosecutor Henry E. Hockheimer, Jr. said, “You can’t create this subterfuge. These are drug crimes, not national security cases. If you don’t draw the line here, where do you draw it?”

Information gathered by the NSA and other agencies is disseminated to the DEA through the Special Operations Division (SOD), an inter-agency department comprised of agents from at least two dozen federal agencies, including the NSA, the Federal Bureau of Investigation (FBI), the Bureau of Immigration and Customs Enforcement (ICE), the Internal Revenue

Service (IRS), and the Department of Homeland Security (DHS). The SOD has been in operation since 1994, when it was founded in an effort to counter Latin American drug cartels.

In addition to disseminating to federal agencies information gathered by NSA and other surveillance programs, the SOD passes on evidence gathered through court-ordered wiretaps, wiretaps from foreign governments, and the DEA Internet Connectivity Endeavor (DICE) database. DICE is an electronic database of approximately one billion records, primarily phone log records gathered by the DEA through wiretaps or search warrants. According to DEA officials, records are purged from the DICE database after one year.

Approximately 10,000 federal, state and local law enforcement officials have access to the records held in the DICE database. The DEA has openly boasted about the effectiveness of the SOD and the DICE database in coordinating multi-jurisdictional and international investigations. The most promoted benefit of the SOD is “deconfliction,” ensuring that undercover agents don’t unwittingly arrest each other and that agents in separate jurisdictions do not duplicate investigations.

Despite public boasts about its utility, the location and operation of the SOD is officially classified. Accordingly, agents who utilize information provided by the SOD are trained not to reveal the real source. Agents are directed to omit the SOD’s involvement from investigative reports, affidavits, discussions with prosecutors and courtroom testimony. They are told to use “normal investigative techniques” to “recreate” the information provided by the SOD, thereby covering up its involvement in a given case.

Federal agents in the DEA are trained to use a process termed “parallel construction” to recreate their investigations so as to cover up the true source of information, especially when the information comes from the SOD.

In an interview with Reuters, a former federal agent detailed how the SOD and parallel construction work: “You’d be told only, ‘Be at a certain truck stop at a certain time and look for a certain vehicle.’” And so, we’d alert the state police to find an excuse to stop that vehicle, and then have a drug dog search it.”

Agents would then “recreate” the trail of evidence to hide the fact that they were tipped off, pretending instead that the investigation began with a random traffic stop.

A dozen former or current federal agents interviewed by Reuters confirmed that they had utilized the parallel construction technique at some point in their career. While most defended the practice, one former DEA agent, Finn Selander, hinted at its illegal nature, saying, “It’s just like laundering money—you work it backwards to make it clean.”

The Reuters report states: “One current federal prosecutor learned how agents were using SOD tips after a drug agent misled him, the prosecutor told Reuters. In a Florida drug case he was handling, the prosecutor said, a DEA agent told him the investigation of a US citizen began with a tip from an informant. When the prosecutor pressed for more information, he said, a DEA supervisor intervened and revealed that the tip had actually come through the SOD and from an NSA intercept.”



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