Obama advisory committee whitewashes US spying programs

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A report released Wednesday by the Obama administration's hand-picked presidential advisory panel on the National Security Agency's (NSA) spying programs consists of minor reforms intended to preserve and legitimize the government's illegal operations, while strengthening safeguards against leaks like those from whistleblower Edward Snowden.

The administration's decision to expedite the public release of the report, which was presented to the president over the weekend, comes in the wake of a US federal court decision earlier this week that referred to one of the principal domestic spying programs as "almost Orwellian." Judge Richard Leon said that the bulk collection of telephone records of almost all US citizens is an "indiscriminate" and "arbitrary" invasion of privacy rights. The program was initiated under the Bush administration and has been strongly defended by Obama.

While the report is being presented in the media as a call for major constraints on the National Security Agency (NSA), a core recommendation of the advisory panel is that this program should continue, if in a somewhat altered form. It calls for Congress to enact legislation to "end such storage [of telephone records] and transition to a system in which such meta-data is held privately for the government to query when necessary for national security purposes." This transition should be carried out "as soon as reasonably possible."

It suggests a "general rule" that any programs involving the government collection and storage of "mass, undigested, non-public personal information about individuals" should be "narrowly tailored to serve an important government interest."

In other words, mass data collection in violation of Constitutional rights, including the telephone records program, should be carried out when possible by private companies working for the government, and the government should collect this information directly only when it is in its "interest" to do so.

"Mass surveillance is still heinous, even if private company servers are holding the data instead of government data centers," commented Kurt Opsahl of the Electronic Frontier Foundation.

The secretive Foreign Intelligence Surveillance Court would approve government requests for data only if it can show there are "reasonable grounds" to believe that the information is "relevant to an authorized investigation," a completely vague requirement. The panel also suggests that Congress create a "public interest advocate" to argue before the FISC to give the illusion of due process.

The panel, known formally as the President's Review Group on Intelligence and Communications Technologies, was established in the wake of the initial revelations by Snowden of massive and illegal spying operations this past summer. Its implicit charter of whitewashing NSA operations is clear in its composition.

The five-person panel consists of former intelligence officials (including former Deputy Director of the CIA Michael Morell and former counter-terrorism official Richard Clark) and close personal associates of Obama. The latter group includes two individuals associated with the University of Chicago School of Law, where Obama once taught: Geoffrey Stone (who has publicly attacked Snowden) and Cass Sunstein. The fifth members is Peter Swire of the Democratic Party-aligned Center for American Progress.

The group was assembled under the direction of James Clapper, the Director of National Intelligence, who has repeatedly lied about the extent of the NSA spying programs. The panel's report has no binding power, but some proposals may be adopted by the Obama administration.

The more than 300-page report ("Liberty and Security in a Changing World") takes as its basic premise that the police-state apparatus that has been expanded under the

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Obama administration is aimed at protecting the "security" of the American people. The authors insist that "the United States must continue to collect signals intelligence globally in order to assure the safety of our citizens at home and abroad and to help protect the safety of our friends, our allies, and the many nations with whom we have cooperative relationships."

Its recommendations are aimed at promoting "public trust" in the intelligence agencies—i.e., countering the overwhelming popular hostility to the violation of democratic rights revealed by Snowden. This doesn't means ending the spying programs, but making available more general and undefined information about the extent of these programs—in effect, institutionalizing them in an effort to give them greater legitimacy.

In addition to the recommendations relating to the telephone records program, the panel proposes a series of essentially meaningless measures relating to spying outside the US. Snowden has helped expose a spying apparatus that sucks up billions of communications (telephone, Internet, and cell phone) all around the world on a daily basis.

The panel urges that all such programs be "authorized by duly enacted laws or properly authorized executive orders" and suggests that "the President should create a new process, requiring highest-level approval of all sensitive intelligence requirements and the methods that the Intelligence Community will use to meet them."

Responding to outrage from the German government over the exposure of US spying on Chancellor Angela Merkel, the panel proposes that "with a small number of closely allied governments, meeting specific criteria, the US Government should explore understandings or arrangements regarding intelligence collection guidelines and practices." By implication, spying in these countries would continue on a "collaborative" basis, while the monitoring of the governments and population of all other countries would remain completely unrestrained.

One recommendation from the panel has already been explicitly rejected by the Obama administration. It calls for separating the NSA from the US military's cyber command, and placing a civilian at the head of the NSA. This proposal has been rejected by the military-intelligence apparatus, including current NSA Director General Keith Alexander.

To address the concerns of telecommunication companies, the panel makes a series of additional proposals relating to international encryption standards and commercial encryption. At a meeting with Obama on Tuesday, leading technology executives expressed concern over the revelations of government theft of massive data troves.

One of Snowden's exposures was of a joint program of US and UK intelligence agencies that directly accessed communications from Google and Yahoo, unbeknownst to the companies. The panel proposes that such "backdoor" programs aimed at cracking encryption be halted.

The executives are worried these revelations are undermining their own business operations globally, as governments, corporations and individuals are reluctant to use their services due to security concerns.

Many of these companies are working closely with the government to spy on the population. Summing up the attitude of the technology companies, one industry official told the *Guardian* that their message to the White House was: "Are you really hacking into the infrastructure of American companies overseas? The same American companies that cooperate with your lawful orders and spend a lot of money to comply with them to facilitate your intelligence collection?"

The *Guardian* commented that "several participants acknowledged that the White House had to balance the companies' business concerns against national security considerations."

One of the main components of the presidential panel's recommendations relates not to the spying programs themselves, but to their unauthorized exposure. In response to Snowden, the panel proposes "a series of steps to reduce the risks associated with 'insider threats'" and stresses the fundamental government principal that "classified information should be shared only with those who genuinely need to know."

That is, not only should the illegal spying programs be continued, but the ability of the public to know what the government is doing should be restricted as much as possible.

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