

Canada's government curtly dismisses concerns over blanket spying

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Canada's Conservative government and its intelligence agencies are vigorously defending the state's arrogation of the power to spy on Canadians' electronic communications.

For months they sought to obscure under an avalanche of disinformation, half-truths, and lies the fact that the Communications Security Establishment Canada (CSEC) has been collecting and analyzing the metadata of Canadians' telephone calls, text messages, and internet use since at least 2005.

But late last week they changed tacks after the Canadian Broadcasting Corporation (CBC)—based on a document leaked by US National Security Agency (NSA) whistleblower Edward Snowden—exposed a CSEC-NSA pilot metadata-surveillance program. In 2012, CSEC collected all Wi-Fi traffic at a Canadian airport then monitored the cellphone and computer use of those whose communications they had intercepted for up to two additional weeks.

In response to the public outcry provoked by the CBC report, the Conservative government and Canada's national-security apparatus are baldly asserting that the state has the unfettered right to collect and analyze Canadians' metadata. Such spying is a flagrant violation of Canadians' constitutionally-protected privacy rights, but they have loudly proclaimed it “lawful,” citing top-secret directives issued by the Defence Minister.

The government and CSEC officials have also angrily denounced Edward Snowden and the CBC, charging that their “unauthorized” and “illegal” leaks of classified information are undermining Canadians' security.

Prime Minister Stephen Harper's National Security Advisor, Stephen Rigby, told a meeting of the Senate security and intelligence committee Monday that it “is a well-known fact” that CSEC spies on Canadians' metadata. “It does not ... compromise (Canadians') private communications,” asserted Rigby. “It's data about data and so is well within the parameters of CSEC's operations.”

Rigby's “data about data” comment is an articulation of the pseudo-legal pretext the government and Canada's

national security apparatus have developed to circumvent the constitutional prohibitions on their spying on Canadians' electronic communications. They assert that person-specific metadata generated by every electronic communication is separate from its “contents” and can, therefore, be collected and scrutinized by the state at will—i.e. without suspicion of criminal wrongdoing and judicial authorization.

In fact, as numerous observers have noted, through the collection and analysis of metadata (which includes the signals regularly emitted by mobile devices), the state can rapidly assemble detailed profiles of an individual or an organization. This includes identifying daily patterns of behavior, friends and associates, workplaces, and political opinions.

Take the program used by CSEC for its airport Wi-Fi surveillance. It could readily be used to identify and trace the subsequent movements of anyone who attended a demonstration or anti-government rally or meeting.

Speaking before the same Senate committee as Rigby, CSEC head John Forster invoked spurious semantics to argue CSEC did not violate the law with its dragnet airport surveillance program. He claimed that CSEC had not “targeted” or “tracked” Canadians; it had merely followed the trail of their electronic devices!

While insisting on CSEC's need and unfettered power to collect the metadata of Canadians' communications, Forster also disingenuously argued that Canadians' metadata was an important tool in enabling the agency to “ensure our intelligence is directed at foreign targets.”

Forster claimed that CSEC is not in the business of using metadata to make “profiles” of Canadians. Appearing alongside Forster, Canadian Security Intelligence Service (CSIS) chief Michel Coulombe told the Senate Committee that his organization—the country's other major spy agency—does not engage in “mass surveillance.”

These assurances are worthless. As exemplified by their claim that metadata is not constitutionally-protected “communication” and Forster's contention that CSEC did not “target” or “track” Canadians whose Wi-Fi use it

monitored for two weeks, Canada's intelligence chiefs routinely twist the meaning of words, imparting to them the meaning that serves their purpose.

CSIS, it need be added, has a long, well-documented history of lying to the public and courts.

As for CSEC, which functions under ministerial directives that are known to at most a handful of ministers and a cabal of national-security operatives, it is one of the closest partners of the NSA in its illegal global spying operations. Indeed, the word "partner" hardly does justice to CSEC's integration with the NSA. Not only are the two spy agencies continuously sharing information, they share programs and personnel, and the NSA contracts out operations to CSEC.

Commenting on Monday's Senate hearing, *Toronto Star* columnist Thomas Walkom wrote, "The tone of the questioning was agonizingly deferential even as the spy chiefs acknowledged that they feel free to monitor the email and cellphone traffic of all Canadians and, in an unspecified number of cases, are doing exactly that."

In a House of Commons' debate Tuesday, the Conservative government mounted a full-throated defence of CSEC and its metadata spying. The government cavalierly rejected any questioning of the state's right to access Canadians' metadata: it is "lawful" because secret ministerial directives dating back to 2005 have pronounced it so and because the CSEC Commissioner, the government appointee ostensibly responsible for ensuring CSEC doesn't infringe on Canadians' rights, has concurred.

Conservative ministers and backbenchers alike were shameless in their contention that ministerial directives—never seen, let alone approved by parliament and untested in the courts—trump citizens' basic democratic rights.

They repeatedly accused the opposition parties of being "soft" on terrorism and public safety, for suggesting CSEC has engaged in "illegal activity" and denounced their big business political opponents as "fear-mongers" who were undermining public confidence in key institutions of the state.

Typical was a speech from Minister of Citizenship and Immigration Chris Alexander. In reply to a Liberal MP who had expressed concern that his movements could have been monitored after passing through Ottawa Airport, the Minister flippantly declared, "If he wants to get off the grid, he just needs to leave his phone at home." Alexander—like numerous other Conservative interveners in Tuesday's debate—mocked the Liberals for asserting that CSEC's metadata mining of Canadians' communications is illegal when it was a Liberal government in 2005 that first authorized CSEC to do so. He concluded his rant by attacking the Opposition for criticizing CSEC based on

documents supplied by Edward Snowden, Russian President Putin's "guest" and a "fugitive from American justice."

The government was adamant that the tight shroud of secrecy that surrounds CSEC—shielding it from any parliamentary, let alone public, scrutiny—must not be loosened. The Conservatives charged that the opposition parties want to weigh CSEC and CSIS down with bureaucracy and make their activities a subject of "partisan political" wrangling.

The Official Opposition, the trade union-supported New Democratic Party, and the Liberals, were, for their part, at pains to publicly affirm their support for the "valuable" work of Canada's intelligence agencies. They further insisted that their call for a special House of Commons Committee, comprised of MPs vetted by CSIS to receive top-secret intelligence briefings and sworn to secrecy, was aimed at restoring public confidence in the national-security apparatus. Significantly, they pointed to the US Congressional intelligence committees—committees that have rubber-stamped the NSA's spying operations, including its illegal blanket surveillance of Americans' communications—as a model to follow.

In June 2013 it first became public knowledge that CSEC has been systematically collecting and analyzing the metadata generated by Canadians' electronic communication. But until last week the opposition parties—and this includes the Bloc Quebecois and the Greens—refused to make an issue of it. The public outrage over the joint NSA-CSEC airport surveillance program has forced them to belatedly discover that metadata mining is illegal and a threat to Canadians basic rights. But they continue to assist the government and state in covering up the vast expansion of the powers and machinery of the national-security apparatus carried out since 2001 in the name of the "war on terror" and the fact that its true target is the working class. Thus in Tuesday's debate on CSEC, there was virtually no mention of its partnership with the NSA and the joint illegal operations they have mounted worldwide.



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