Declassified NSA oversight report shows illegal surveillance by US government continues unimpeded

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The government watchdog group set up to monitor the activity of the US National Security Agency (NSA) has once again found that the secretive intelligence organization has no intention of adhering to its own rules and continues to violate the democratic rights of the American population.

On Monday, the NSA's Office of the Inspector General (OIG) released its semiannual report to Congress for the period ending September 30, 2021. The 48-page report is the declassified result of "22 audits, inspections, evaluations, and other oversight products" carried out by the OIG over a "wide swath" of the NSA's work.

The report opens with a message from Robert P. Storch, the first presidentially appointed and Senate-confirmed inspector general of the NSA. He was initially appointed by Donald Trump in 2018 and is currently a nominee for the position by President Joe Biden. Storch states in his introduction that his oversight team "experienced no attempts by the Agency to interfere with our independence" and that the NSA "did not refuse to provide or attempt to delay or restrict access to records or other information."

The fact that Storch, an official appointed by the President and empowered by Congress to oversee the activities of the intelligence agency, is compelled to mention the fact that the NSA did not "interfere" with his audits indicates that what happened during the review period was quite the opposite.

In any case, the latest semiannual report is the eighth one issued to Congress by the NSA OIG and the eighth time that the oversight agency has reported that the agency is continuing to use sophisticated surveillance technologies to comb through the electronic communications of American citizens.

Amid the two dozen "concerns" and 469 "recommendations" across the vast array of functions and activities of the NSA, the paragraphs following a subhead entitled, "Evaluation of United States Person (USP) Identifiers Used to Query FISA Section 702 Data" proves this to be the case.

Section 702 of the Foreign Intelligence Surveillance Act (FISA) of 2008 permits the US government to conduct "targeted surveillance of foreign persons located outside the US" without a warrant. This means that the intelligence agencies can legally gather communications such as email and text messages and phone records of individuals who are not US citizens and are not inside the US without court approval for the purpose of gathering "foreign intelligence."

While Section 702 ostensibly prohibits the intelligence and law enforcement agencies from targeting US persons, it provides a loophole that allows the NSA and the CIA to query 702-gathered information for records of American citizens if "a query is reasonably likely to return foreign intelligence information."

According to the law, in order to perform this type of data query the NSA must follow a series of internally documented policies and procedures for conducting them. These rules have been put down on paper for purported purposes of protecting the privacy and constitutional rights of American citizens.

However, the Inspector General's report says, "USP queries performed against FISA Section 702 data did not always follow NSA procedural and policy requirements." Although the report does not say how many times FISA laws were violated and does not give

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any specific examples of the violations, it says that agency queries were performed on acquired “content and metadata” with “USP selectors” that “did not always follow” their own internal policies and procedures.

In other words, there is a massive database of worldwide electronic communications content and metadata that has already been gathered by the NSA and agency analysts are constantly querying this data with “selectors” (search terms) that include the information of “USP” (US persons).

The report then goes on to say, “While NSA has implemented both preventative and detective controls, the Agency has not completed the development of a preventative system control that performs pre-query validation to notify analysts of potential noncompliance with NSA query procedures or policy problems prior to query execution.”

And furthermore, “An NSA query tool did not prevent certain queries containing known USP selectors from processing.”

What this means is that more than eight years after the exposures by the former intelligence analyst and whistleblower Edward Snowden of criminal surveillance by the NSA of all electronic communications around the world, the claims by the US government that these activities have been halted are once again exposed as false. The agency has not even undertaken the most elementary software modifications to prevent its spying tools from being used illegally.

Snowden provided extensive proof of specific software tools being used by the NSA—such as XKeyscore which gathers everything an individual does on the internet including email messages, account credentials and web browsing and search activity—to monitor anyone and everyone at any time.

Referring to the OIG oversight program, Snowden responded via Twitter on Tuesday to the revelations of ongoing NSA spying, noting, “This has happened year after year since the program began.”

The NSA itself refused to confirm or deny that it is continuing to spy on US citizens. In answering a question from CNN about the OIG report, a spokesman said, the agency “remains fully committed to the rigorous and independent oversight” and “continues to employ measures to assist analysts in conducting their work compliantly with civil liberties and privacies protections.” This is not a commitment to stop the government agents from violating the US Constitution.

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