

NSA violations compared to Obamacare website ills

November 19 2013, by Eileen Sullivan



A sign stands outside the National Security Administration (NSA) campus on Thursday, June 6, 2013, in Fort Meade, Md. Another release of declassified government surveillance documents is underway as part of an ongoing civil liberties lawsuit. The Obama administration published more than 1,000 pages of once-secret court opinions and National Security Agency procedures on the website of the Office of the Director of National Intelligence on Nov. 18, 2103. (AP Photo/Patrick Semansky)

The U.S. intelligence community's top lawyer on Tuesday defended the surveillance violations by staff of the National Security Agency by comparing programs that collect mass amounts of information on Americans to problems with the troubled health care website.

"Complicated technology systems frequently don't work as they expect them to," Robert Litt, general counsel for the Director of National Intelligence, told a conference at the Georgetown University Law Center. "Using the word 'abuse' in the context of the operation of the surveillance program is a little bit like saying the Department of Health and Human Services is abusing people because of the fact that the Obamacare websites don't work properly. They are complicated."

In 2011, after the government disclosed what it said were technical problems with its computer systems, a court found the NSA had violated the U.S. Constitution for three years. Litt's statement on Tuesday could be read as significantly playing down the constitutional violations cited by the court or as highlighting the politically sensitive problems with the health care website.

The Obama administration on Monday declassified another round of secret documents, showing that the NSA has made serious mistakes in collecting American communications records. The documents also show that agency reported those errors and took action to prevent future missteps.

According to court records released by Director of National Intelligence James Clapper Monday, the NSA admitted to gathering material improperly—in one case because of a typographical error, and in another case because of "poor management, lack of involvement by compliance officials and lack of internal verification procedures, not by bad faith."

The Obama administration published the heavily censored files as part of

ongoing civil liberties lawsuits challenging the constitutionality of the government's collection of U.S. communications records, which the White House has said is a crucial tool to track terrorists.

The latest release—with much of the documents heavily blacked out—reflects the administration's strenuous efforts to maintain its legal authority to collect Americans' phone records and some email data amid opposition on Capitol Hill. The administration has been under pressure to reveal more details about NSA operations since former NSA systems analyst Edward Snowden leaked top-secret documents detailing the agency's collection of millions of U.S. communications records.

In one of the newly released documents, the secret intelligence court judge, U.S. District Judge John D. Bates, expressed dismay in 2009 over the continuing errors after the government had repeatedly said it would fix the problems. "Those responsible for conducting oversight at the NSA had failed to do so effectively," Bates said, calling that the most charitable conclusion he could come to.

Litt said Tuesday the NSA had taken multiple steps since those documents were produced, including appointing a compliance officer and hiring a 300-person team to oversee operations—which he said has helped address the frequent "disconnect" between NSA operators and lawyers in the early days of the program, such that those doing the searching didn't always know the rules. He pointed out that NSA is now hiring a privacy officer who will further monitor whether Americans' civil liberties are being protected.

Similar documents about the U.S. collecting phone records were previously declassified and published in response to a lawsuit filed by the Electronic Frontier Foundation, and the Obama administration has revealed others to persuade Congress to allow it to continue collecting the phone records.

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Citation: NSA violations compared to Obamacare website ills (2013, November 19) retrieved 27 April 2024 from <https://phys.org/news/2013-11-nsa-violations-obamacare-website-ills.html>

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