

# Surveillance tweaks illustrate little change after Snowden

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The Obama administration has announced a series of modest changes in the use of private data collected for intelligence purposes, a move that underscores how little the Edward Snowden revelations have impeded the National Security Agency's exploitation of global Internet communications.

Eighteen months after the first Snowden-fueled news story and one year after President Barack Obama delivered a major speech calling for changes to NSA data collection, the White House on Tuesday said it had tightened rules governing how the FBI, CIA and other [intelligence](#) agencies use Internet and phone communications of foreigners collected by the NSA. But the bulk collection would continue as robustly as ever, the announcement made clear.

Where once the data could be used for any reason and held forever, now it must fall into six specific threat categories and irrelevant data is to be purged after five years. But the categories are broad enough that an intelligence officer could find justification to use a piece of information on a foreigner if he or she feels the need. The information need only have some relevance to counter-espionage, counterterrorism, counter-proliferation, cybersecurity, countering threats to U.S. or allied armed forces or personnel; and combating transnational criminal threats.

The new policy also imposed more supervision over how intelligence agencies use the communications of Americans they acquire without individual warrants, making clear, for example, that such data may only

be used to prosecute someone for "serious crimes" such as a murder or kidnapping, or [national security](#) crimes.

But the changes stopped well short of the recommendations of a presidential task force, including one that data collected by the NSA without warrants should never be used against an American in court, and another that such data should only be searched using the name of an American with a specific court order naming that person. Robert Litt, general counsel for the Office of the Director of National Intelligence, said in a conference call with reporters that those ideas were deemed too restrictive.

The result is that the private communications of Americans collected without warrants are still circulating around the government.

Moreover, Obama's most significant proposal in response to the Snowden leaks—to end the NSA's bulk collection of domestic calling records—has not been enacted. The president wants Congress to pass a law, and Congress has balked. The NSA is still collecting the records, even though Obama could stop the practice on his own.

"There's pressure to say we're doing something, and that leads to some symbolic changes or tweaks, but there would be a great reluctance to forswear access to intelligence like this," said Richard Betts, a professor at Columbia's School of International & Public Affairs and a former staffer in the 1970s congressional investigations of intelligence agencies.

"The reforms are far from sufficient and they really do tinker around the edges," said Neema Singh Guliani, legislative counsel for the American Civil Liberties Union. "It's clear the administration is going to continue to stand by a lot of the mass surveillance policies."

In a statement, White House counter terrorism adviser Lisa Monaco said

U.S. digital spying "must take into account that all persons have legitimate privacy interests in the handling of their personal information. At the same time, we must ensure that our Intelligence Community has the resources and authorities necessary for the United States to advance its national security and foreign policy interests and to protect its citizens and the citizens of its allies and partners from harm."

Snowden, a former NSA systems administrator who is avoiding federal prosecution by living in Moscow, disclosed a series of NSA bulk collection programs, including one known as PRISM, under which the NSA acquires digital communications from Facebook, Google, Microsoft, Apple and other U.S. Internet companies. The targets are foreigners, but the communications of Americans are incidentally collected and stored in NSA databases.

The NSA collected more than 250 million Internet communications under PRISM in 2011, according to a declassified decision by the Foreign Intelligence Surveillance Court, which approves the orders demanding the data.

The new policy "re-affirms" existing requirements that the government must delete communications to, from, or about U.S. persons if they lack intelligence value and were acquired under the statute that authorizes PRISM. The policy imposes new bureaucratic oversight over the process of whether to keep or purge Americans' communications.

Other changes include a three year limit on the so-called "gag order" imposed on recipients of FBI national security letters, a sort of secret administrative subpoena used in national security cases.

Litt called the policy a "good faith effort" at surveillance reform. He is scheduled to give a speech Wednesday outlining a new policy to calculate the costs and benefits of controversial eavesdropping

operations such as spying on allies. The U.S. already "has stopped collecting on certain targets," he noted, the details of which are classified.

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