

Talking points about NSA mass surveillance in the form of Q&A, by Joe Nicholson in cooperation with Janet Weil: 01/29/2014

Question: I haven't done anything wrong, so why should I be worried about the government collecting my phone records and electronic communications?

Answer: There are two main reasons. First, your privacy is important regardless of whether you have any "secrets" to hide. Just because you don't think what you're doing is wrong by today's standards, you cannot predict where you might be in the future or whose standards, such as those of another political party, might apply. If the government has the power to peer into your private life, it inevitably empowers individuals to do so and they can abuse that power in unforeseeable ways over and above any institutional abuse from the government. Communications of an intimate or personal nature should not be available for individuals associated with or working for the government to know.

Secondly, but equally as important, you are indirectly impacted by the chilling of others' rights even if you yourself have nothing to hide. A democratic society requires the free flow of information to create a marketplace of ideas. Journalists, artists, activists and others depend on some measure of anonymity or privacy from which to gather information or express themselves. Society as a whole suffers when these individuals are prevented, because of fear of government surveillance, from advancing the public debate on critical issues. And society also suffers if elected leaders can be secretly manipulated based on information gathered through illegal surveillance.

Question: The NSA is just collecting metadata, not listening to my calls or reading my emails. So what's the problem?

Answer: It is not correct that only the NSA is spying on us and it's not correct that the government is only collecting metadata. We now know that several government agencies, including both the FBI and NSA, and private companies, are collecting data on Americans and that they share at least some of that information with a variety of other agencies or contractors. Also, we know that the information being collected is vast and includes the content of communications and what websites people visit. The government can activate your webcam and watch you without you knowing it and can track your location through your cell phone. Today, the government can obtain an unprecedented and virtually unlimited amount of information on anyone it chooses to target including tracking internet browsing and physical location. They can even listen in on you through your cell phone when it is turned off and watch you through the camera on your laptop without you knowing.

Question: I don't like the NSA data collection, but we do need protection from terrorist attacks. And there haven't been any more 9-11 type attacks, so this must be doing something, maybe in deterrence. We have to strike a balance between privacy and security, and government officials are aware of our concerns.

Answer: Senators Wyden, Udall and Heinrich have all indicated that there is no evidence that NSA unwarranted telephony metadata collection has prevented any terrorist attacks and that all the information sought is available from other sources. The president's own Review Group

reported that exactly zero terrorist plots have been thwarted by information obtainable only through the bulk telephony metadata collection. NSA insiders have recently explained in a letter to the president that the NSA had enough information pre-9/11 to thwart that attack, but didn't. There is absolutely no evidence that an unprecedented level of surveillance, which represents a sharp break with our constitutional traditions, is necessary to protect Americans at home. We can be safe and free. Those who think we should change the nature of our society have the burden of proving that it's necessary to do so, but they cannot.

Question: Doesn't the Leahy FREEDOM bill speak to concerns about privacy and overreach by the government?

Answer: No. The FREEDOM bill changes some of the language, but does not ultimately prevent NSA surveillance. In fact, government sources have already indicated that ongoing surveillance will not cease as a result of this legislation, if passed. It is, however, better legislation than Sen. Feinstein's FISA Improvements Act, which would actually attempt to legalize unconstitutional surveillance. This is one of the reasons we're calling for her to resign as chair of the Sen. Intel. Committee. A better bill is Rep. Holt's Surveillance State Repeal Act, which would return the law to pre-9/11 conditions.

Question: Look, it's hopeless, the game is over. We've more or less known about this for years - Snowden just filled in the blanks for us. What can we possibly do at this point?

Answer: While it is true that much of the information Snowden revealed was known or at least suspected for years, there is no doubt that we are at a historic moment where technology has fundamentally changed the nature of the government's ability to spy on its own citizens and, unfortunately, has created a role for private companies to participate in the process. Previous generations have resisted similar threats to civil rights and overcome and we can do the same. There is no "silver bullet" that will end the surveillance state, but progress can be made by working on many different fronts including through legislation and the courts. Ultimately, it will take a vast awakening of public consciousness to the extent of the surveillance as well as a renewed commitment to constitutional values before we can stop the powerful corporate and political forces that threaten our rights by keeping us involved in unnecessary wars and in a surveillance/police state. But each step on the way brings us closer to that goal and is worth taking. Our individual freedoms are not protected just by being written in the Bill of Rights, each generation must struggle to obtain and preserve them against the forces that would rather eliminate them.

A final thought from Joe about how to frame this, overall:

"...It's really important that people understand that domestic surveillance isn't just unconstitutional, it's a radical departure from our tradition of individual civil liberty -- particularly as reflected in the First and Fourth Amendments..."