



**ELECTRONIC FRONTIER FOUNDATION**

PROTECTING RIGHTS AND DEFENDING FREEDOM ON THE ELECTRONIC FRONTIER [eff.org](http://eff.org)

# End the NSA's Illegal Spying

## What's going on?

The National Security Agency is conducting widespread, untargeted surveillance on millions of ordinary Americans. Thanks to leaked documents, we now know of a host of once-secret surveillance programs and techniques, including:



- **Call detail records program:** Until the new provisions of the USA FREEDOM Act go into effect in November of 2015, the NSA continues to obtain the telephone records of every customer of telephone companies like Verizon—every call made, the time of the call, the duration of the call, and other “identifying information” for the phone and call, based on an outrageous interpretation of former Section 215 of the Patriot Act—which was rejected by the Second Circuit in *ACLU v. Clapper* on May 7, 2015.
- **PRISM:** The NSA obtains emails, videos, and other content from major Internet companies like Google, Microsoft, and Yahoo without a warrant. Although this type of surveillance must “target” those outside the United States, the NSA and other government agencies sweep up vast amounts of Americans’ communications in the process—all without a warrant.
- **Upstream:** The NSA is tapping into the fiber-optic backbone of the nation’s largest Internet Service Providers and intercepting, sorting, and searching vast amounts of domestic and international Internet traffic—all without a warrant.
- **Tailored Access Operations:** The NSA has implanted malware on thousands—potentially even millions—of computers.
- **Backdoors to encryption standards:** The NSA has engineered and implanted backdoors into encryption standards and other products and services, and continues to advocate for unfettered access to encrypted data.

## What we want

- An end to untargeted, mass surveillance and programs that undermine Internet security.
- A comprehensive, independent, public Congressional investigation into the NSA's powers and practices.
- The release of secret legal decisions of the Foreign Intelligence Surveillance Court, memos by the DOJ, Inspector General Reports, and any other reports about the legality, necessity, and effectiveness of all NSA programs.
- The public courts to determine the legality and constitutionality of all NSA programs.
- Surveillance by the United States must comport with international human rights law.

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Learn more at [eff.org/nsa](http://eff.org/nsa)

## Legislative Reform

The disclosures of the past two years have shown that it's time to roll back the PATRIOT Act and FISA and reinstitute protections for Americans' communications. This includes:

- End dragnet surveillance—no bulk collection of Americans' communications or records, no direct access to Internet datastreams, and serious consequences for any violation.
- Do not collect or access Americans' communications or records without a probable cause warrant.
- Purge all Americans' information from NSA databases.
- Prohibit NSA activities that undermine Internet security.

The USA Freedom Act passed on June 2, 2015, marking the first time in more than thirty years that Congress passed a bill increasing restrictions on and oversight of the NSA's surveillance powers. The legislation wasn't everything that EFF wanted, but it marks a first step towards reforming the NSA. Most importantly, no legislative change would have been possible without the voices of concerned people speaking out and pressuring lawmakers to end warrantless surveillance.

### ***The USA Freedom Act made the following major changes:***

- Limits collection of calling records under Section 215 of the Patriot Act by requiring "reasonable, articulable suspicion" that a "specific selection term" used to request call detail records is associated with international terrorism
- Creates an amicus position in the FISA Court. The amicus will advocate for the protection of civil liberties and privacy, educate the court on intelligence collection or communications technologies, and respond to requests for information from the court.
- Directs the government to conduct declassification review of "significant" FISA Court opinions and defines "significant" to include interpretations of "specific selection term" and novel interpretations of the law.

## Litigation to Stop the Spying

EFF has been suing the government to stop the NSA spying since 2008:

- ***Jewel v. NSA***: Filed in 2008, EFF sued on behalf of AT&T customers to stop the illegal, unconstitutional, and ongoing dragnet surveillance of their communications and records.
- ***First Unitarian Church v. NSA***: Filed in 2013, the plaintiffs are organizations that communicate to bring people together to work to change policy or law or culture, highlighting one of the most important ways that the government collection of telephone records is unconstitutional: it violates the First Amendment right of association
- ***Smith v. Obama***: EFF and the ACLU have joined a legal team representing Anna Smith, an emergency neonatal nurse and mother of two from Idaho, in her challenge to the constitutionality of the NSA's call records collection program.
- ***EFF v. Dep't of Justice***: EFF has sued the Department of Justice three different times to gain access to significant rulings of the secretive Foreign Intelligence Surveillance Court—a court that authorizes many of the government's surveillance programs. These lawsuits have led to the disclosure of hundreds of pages of once-secret court opinions and have provided important insights into the government's surveillance operations and the workings of the secret court.