Your on the Street Reporter

Uyless Black

Methods of Surveillance

Methods of Surveillance

March 15, 2014

Hello from Your on the Street Reporter. This report continues the series on Internet privacy and security specifically, and privacy and security in America generally. The focus of this essay is about the nature (and success or failure) of the NSA metadata surveillance program. It amplifies Report X: "NSA Metadata Surveillance: Worth the Cost?"

Figure 1 shows a pie chart prepared by The New America Foundation, a liberal to middle-of-the-road think tank located in Washington, D.C.[1] The blue pieces of the pie chart pertain to Section 215 of the PATRIOT Act (50 U.S.C. 1861) and PRISM (SIGAD US-984XN.) These acts and rulings empower the government to direct any American company or individual to disclose records of national security interests (as determined by duly appointed legal gurus). In addition, the NSA has used these tools as the legal basis for its metadata gathering program.

Here is a synopsis of this study (Comments preceded by a check mark are mine):[2]

♦ The Foundation asserts the NSA "bulk" surveillance of phone and email communications records is having no effect on keeping Americans significantly safer. The organization states NSA's claims of the program being effective are "overblown and even misleading." These statements were released before Gen. Keith B. Alexander (chief of the NSA) testified before Congress. The general eventually conceded that the program had uncovered one or two plots. (Again, see Report X). Thus, the Foundation's claims are correct, which was the deciding factor for my placing their report in this series.

♦ As depicted in Figure 1, an analysis of 225 individuals charged in the United States with an act of terrorism since 9/11, reveals that traditional investigative methods (use of informants, tips from local communities, targeted intelligence operations…Joe Friday stuff), provided the foot in the door that lead to these indictments.

♦ The contribution of NSA's metadata surveillance programs to these cases was at most, 1.8 percent of these cases. Also: "NSA programs involving the surveillance of non-U.S. persons outside of the United States under Section 702 of the FISA Amendments Act played a role in 4.4 percent of the terrorism cases we examined, and NSA surveillance under an unidentified authority played a role in 1.3 percent of the cases we examined."

✓ Back to the conundrum discussed in Report X. Do these admittedly small figures reflect an ineffective program? Was the 1.8 percent of the people in the sample planning on leveling the White House? It is not just the quantity of the traps that matters, it is the quality of what was trapped that is more important. The little fish – big fish idea.

---

[1] The New America Foundation, 1899 L Street N.W., Suite 400, Washington, DC 20036.
[2] "Do NSA's Bulk Surveillance programs Stop," http://natsec.newamerica.net/nsa/analysis.
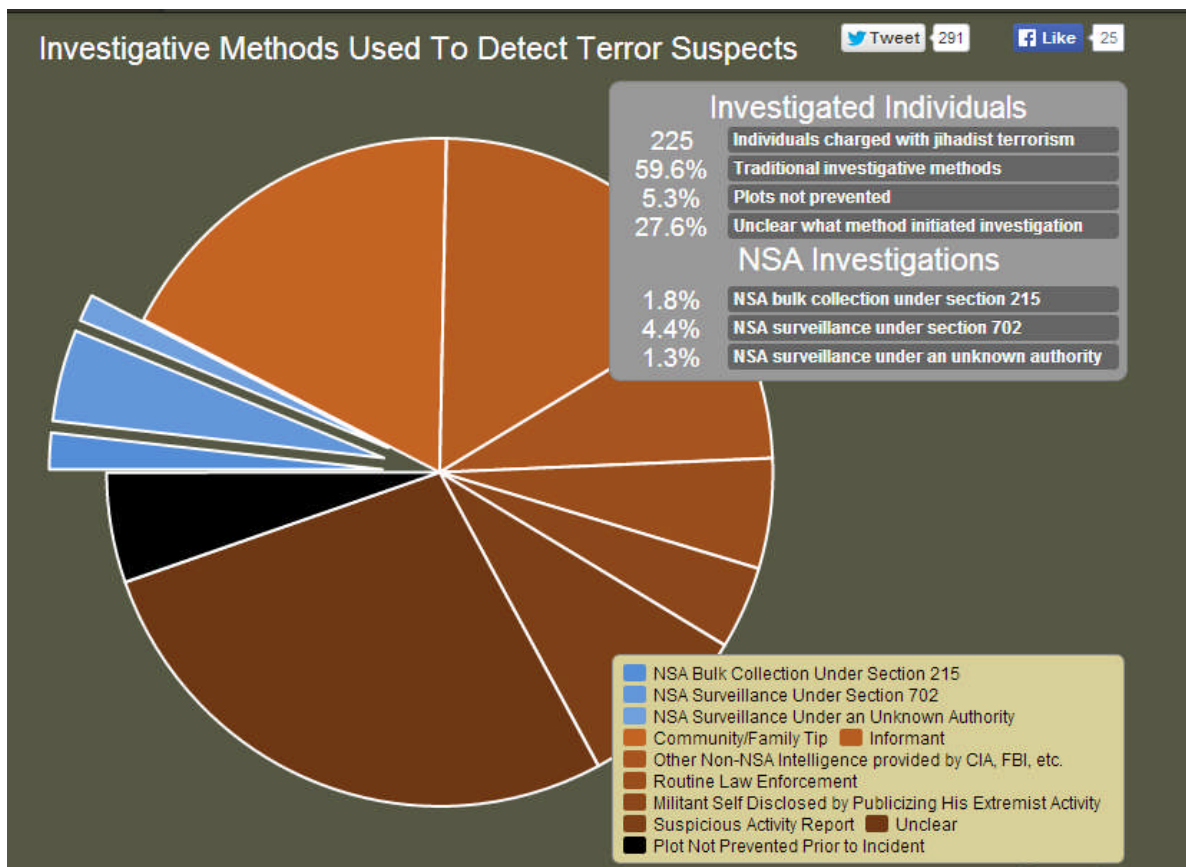
Figure 1. The New America Foundation study.

♦ One major conclusion based on the Foundation study: The United States counterterrorism system does not need "vaster amounts of information." The [people in the system] do not sufficiently understand or efficiently share the information they possess. The study cites examples of these claims.

✓ This last claim is identical to my conclusions made while stationed at DIA 45 years ago! (As written in Report X.) It is a dismaying conclusion, especially in view of the money and resources spent on America's spy apparatus. (However much that may be.) We hear that coordination is improving among the various intelligence components. We can only hope some people from private industry (the insurance industry could help) are involved in doing cost/benefit modeling of these programs.

This writer has made the point several times in this series (and will continue to do so) that the system should be changed so that the success and failure rates on these programs are reviewed by a third party (a citizens' privacy and security ombudsman [*not* a congressional panel]). The information would be subject to review by experts in intelligence and law, and then Congress.

Should the *general* success/failure profiles of these programs be made available to the public? I use the word *general*. The long time success of such a program, with the "war on terror" likely

stretching out for decades, will depend on an informed and supporting populace. I will take this to the bank: Americans will not support a *long-term* secret program such as this one, especially now that it is known to exist. It goes against our grain.

General information will not give away the intelligence community's company store. The intelligence personnel will not be required to reveal their bag of tricks to those who do not have proper clearances. They *will be required* to justify if the bag's contents are legal and effective.

We must remember that the men and women in the American intelligence community have the best interest of America at heart. We must also remember the adage, "Where one stands, depends on where one sits." The very nature of their jobs will likely lead them to over-react. It is human nature.

The danger of this situation is that secret over-reach tends to build on itself because it lacks restraints. The Law of Creeping Momentum in action. First, foreigners. Next, private citizens. Who knows what or who is next? Senators?

I am confident that practical and effective solutions exist. I have thought about them for a while, and with the next report, I will begin to lay them out for your consideration. Some of these ideas are common sense, ones any of us can come up with. Most of them are published in papers written by legal and inteligence experts. I'm neither, so maybe my distillations, written as a private, layman citizen, will be readable to other private, layman citizens.

3