

# Comparing Two Secret Surveillance Programs

New details about two government programs used by the National Security Agency to gather telephone and Internet data provide insight into how surveillance programs that began under George W. Bush have been used under President Obama. [Related Article »](#)

## Phone records program

*A court order released by The Guardian was part of a program used by the N.S.A. to collect phone records.*

## Prism Internet surveillance program

*The Washington Post and The Guardian released details of an N.S.A. program used to gain access to data from Internet companies.*

*How long has it been going on?*

**About 7 years**, in its current form.

**About 6 years**, in its current form.

*Who are the targets of the surveillance?*

**Americans.** A court order called for logs of all calls “between the United States and abroad” or “wholly within the United States.”

**Foreigners.** But Americans’ data can be swept into the database when they communicate with people overseas.

*What data are collected?*

**“Metadata.”** The records consist of the time and duration of phone calls and the phone numbers involved. They do not include the content of calls.

**Online communications data and content.** According to a classified presentation, the data include e-mail, chat services, videos, photos, stored data, file transfers, video conferencing and logins.

*Which companies are known to be involved?*

The leaked court order involved a subsidiary of **Verizon Communications**. Sprint and AT&T have also reportedly received demands for data. A spokesman for Verizon said that if the company were to receive a federal court order in certain circumstances, it would be required to comply.

The leaked presentation listed:

- Microsoft**
- Yahoo**
- Google**
- Facebook**
- PalTalk**
- YouTube**
- Skype**
- AOL**
- Apple**

as companies currently involved. Companies are required to comply with directives for information, but there is evidence that some have been able to delay or resist; on Friday, Google’s C.E.O. and chief legal officer said, “Our legal team reviews each and every request, and frequently pushes back when requests are overly broad or don’t follow the correct process.”

*How are the data collected?*

The leaked court order **directs a phone company to submit all call log data** on a daily basis for the three-month duration of the order. Senator Dianne Feinstein, the top

The original reports said the presentation indicated that the government gained access to the companies’ servers directly, but several of the companies denied that was the case,

Democrat on the Intelligence Committee, said that the order appeared to be a routine reauthorization of a continuing program.

and people briefed on the arrangements said that technical means have been arranged for the government to gain access to only **specific data in response to court orders.**

### *How are the data used?*

James R. Clapper Jr., the director of national intelligence, said in a statement that the information is used to help “discover whether known or suspected terrorists have been in contact with other persons who may be engaged in terrorist activities.”

The presentation and other materials obtained by The Post claim that the program is the leading source of material for intelligence reports and the president’s daily briefs.

### *How does the government analyze the data?*

According to Mr. Clapper, the government may not sift through the data indiscriminately, but may query the data when “there is a reasonable suspicion, based on specific facts, that the particular basis for the query is associated with a foreign terrorist organization.”

The Post reported that analysts search the system using terms that predict a target’s “foreignness,” with at least 51 percent confidence. They will then sweep the contacts of someone suspected of being a spy or a foreign terrorist, and often their contacts’ contacts. Officials said that the program minimizes the collection and retention of information “incidentally acquired” about Americans.

### *What is the legal basis for the program?*

Section 215 of the **2001 Patriot Act** amended the “business records” section of the Foreign Intelligence Surveillance Act and made it easier to obtain a court order demanding business records (or “any tangible things”), so long as they are deemed merely relevant to a national security investigation. A 2008 law amending FISA shielded companies from civil lawsuits for complying with court orders.

Officials said the program’s legal basis was the **2008 FISA Amendments Act**, which was reauthorized in 2012 and allows the government to obtain an order from a national security court to conduct blanket surveillance of anyone “reasonably believed” to be outside the United States without individualized warrants even if the interception takes place on American soil. The law also shields companies from civil lawsuits for complying with court orders.

### *Who has oversight?*

The secret Foreign Intelligence Surveillance Court, Congress and the White House.

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