

# Behind the Curtain of America's Security State

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*Sen. Ron Wyden, D-OR: "Does the NSA collect any type of data at all on millions or hundreds of millions of Americans?"*

*Director of National Intelligence (DNI) James Clapper: "No, sir."*

On March 12, 2013, the Director of National Intelligence apparently committed perjury in his sworn testimony to the Senate Select Committee on Intelligence. There is little likelihood of his being criminally charged, but we'll get back to that.

*If it doesn't matter to you (1) that your government can maintain a massive data bank on your life and the lives of everyone you know, and (2) that there is no effective control on how the government uses its data, and (3) that your government lies about its capabilities, then there's no point in reading further.*

## **Does Anyone Know the Full Scale and Scope of the U.S Surveillance State?**

This issue is not just about the NSA, which is not the only surveillance agency within the Department of Defense, which is not the only federal cabinet department that gathers intelligence. Intelligence-gathering agencies also exist within the Justice Dept., Treasury, Energy, State, and Homeland Security, as well as the CIA.

Officially, the United States Intelligence Community comprises the Office of the Director of National Intelligence ([www.dni.gov](http://www.dni.gov)) and 16 other intelligence entities, most of them military, a re-organization established in 2005. The stated mission of the Director of National Intelligence is to "lead intelligence integration" of the other entities "that work both independently and collaboratively" to gather intelligence.

There is no easily available, reliable figure for the number of personnel in the intelligence community. In addition to the unknown number of intelligence personnel, there is an unknown number of outside contractors with an unknown number of personnel.

## **Top Secret Security Clearance Held By 1.4 Million People**



According to Office of DNI report on security clearances in January 2013, almost 5 million people held one of three levels of security clearance as of October 2012. Access to the highest level of top secret information is limited to 1.4 million people.

In 2010, the Washington Post published a series of articles titled "Top Secret America" which described the intelligence community as "a hidden world, growing beyond control,"

written by Dana Priest and William Arkin after a two-year investigation:

*“The top-secret world the government created in response to the terrorist attacks of Sept. 11, 2001, has become so large, so unwieldy and so secretive that no one knows how much money it costs, how many people it employs, how many programs exist within it or exactly how many agencies do the same work.”*

Describing the intelligence establishment as “so massive that its effectiveness is impossible to determine,” the Post found that it comprised at least 1,271 “government organizations” and 1,931 private companies, operating at some 10,000 locations in the U.S. alone, with top-secret security clearances held by an estimated 854,000 people in 2010 (about three times the population of Washington, D.C.).

So the federal surveillance state is still growing, but that’s not all.

### **The American Security State Has an Office Near You**

Beyond the federal government there are more than 16,000 state, local, and tribal law enforcement agencies, as well as perhaps 100 “fusion centers,” all playing “a critical role on securing the homeland,” according to a 200-page report in 2011 by the National Institute of Justice at Michigan State University. Before 9/11 there were about 3,000 such agencies.

Among the many findings of the 2011 report was: “Also, they were aware of key civil rights and privacy issues, but respondents reported there is considerable work that needs to be done in their agencies to ensure agencies are fully compliant.”

With unknown numbers of people on unknown numbers of agencies spending unknown billions of dollars on programs and products that are kept secret, with limited coordination or control, it’s little wonder government officials lie about it so often. The truth might be too appalling.

That’s one way of understanding DNI Clappers March 2013 testimony:

**Wyden: Does the NSA collect any type of data at all on millions or hundreds of millions of Americans?**

**Clapper: No sir.**

Wyden: It does not?

Clapper: Not wittingly. There are cases where they could, inadvertently perhaps, collect—but not wittingly.

Sen. Wyden is not asking a simple question here, he’s a member of the Senate Intelligence Committee, he’s been briefed, and he presumably knows the answer to the question before he asks it. But Wyden also objects to how much data the NSA collects on Americans, and was trapped by the secrecy laws that prevent him from telling the truth without risking prosecution. So when he had the chance, he asked a question to which the only honest answer was, “Yes.”

And DNI Clapper said, “No.” Presumably he understood the question, presumably he knew

the right answer, presumably he chose to lie – and all these presumptions are supported by his later comments.

“It does not [collect any type of data at all...]?” Wyden asks, throwing Clapper a potential lifeline, a chance to expand his answer beyond its apparent raw perjury.

Clapper grabs the line and says, “Not wittingly.” He tries to explain. But “not wittingly,” we now know, is another lie. There was nothing unwitting about the warrants the NSA sought from the secret court or the NSA’s secret orders to most of the major internet data companies.

**“What I said was, the NSA does not voyeuristically pore through U.S. citizens’ e-mails. I stand by that.” - DNI Clapper, June 6 interview with National Journal**

This, too, is false, easily demonstrated by a review of the transcript or video of the March hearing, where Sen. Wyden chose not to pursue further questions. By claiming that the NSA was not a voyeuristic snooper, Clapper’s comment was substantively irrelevant and, at the same time, a version of the misleadingly reassuring meme that others, including the President, are also using.

Two days later, in an interview with NBC’s Andrea Mitchell, Clapper concluded a non-answer to a non-question with another version of the meme. Mitchell had referred only to the NSA collecting phone numbers.

**“So the notion that we’re trolling through everyone’s emails and voyeuristically reading them, or listening to everyone’s phone calls is on its face absurd. We couldn’t do it even if we wanted to, and I assure you, we don’t want to.”**

While it’s probably technically true that the NSA could not read *everyone’s* emails or listen to *everyone’s* phone calls, Clapper’s answer is obfuscating, since the NSA most likely does have the ability to voyeuristically troll through *anyone’s* emails and phone calls. But Mitchell didn’t ask about that.

When Mitchell asked Clapper about his exchange with Wyden, Clapper characterized the inquiry, complete with Freudian slip, as a “when are you going to start-stop beating your wife kind of question,” which is a clear mischaracterization. More credibly, Clapper said Wyden’s question was not answerable with a simple yes or no. Rather than explaining what the right answer should have been, Clapper basically admitted that he lied:

**“I responded in what I thought was the most truthful or least most untruthful manner, by saying, ‘No.’ ”**

The lengthy interview was considered friendly enough to the intelligence community that the full transcript is posted on the DNI website. Mitchell does an admirable job of seeming to ask the tough questions while avoiding holding Clapper accountable. She established this pattern at the beginning, first expressing concern for the intelligence community feeling “besieged” by “all these leaks” and then asking: “How has it hurt American intelligence?”

She doesn’t ask, “Has it hurt American intelligence,” she asks *how*. Now that really is a when-did-you-stop-beating-your-wife construction that assumes a fact not in evidence – that American intelligence was actually damaged. Even Clapper doesn’t go there. He only says, “it *potentially* has” and Mitchell seeks no further clarification. That’s how a safe interview

works.

On June 7, President Obama used a familiar meme in talking about the NSA's data storing:

**“When it comes to telephone calls, nobody is listening to your telephone calls. That’s not what this program is about. As was indicated, what the intelligence community is doing is looking at phone numbers and durations of calls. They are not looking at people’s names, and they’re not looking at content.”**

Regarding the central issue of data storage on everyone, the President would have been just as responsive had he denied the NSA was painting American children blue.

And while it may be true that “they are not looking” at names or content now, it’s misleading - because they could do that any time they want to.

Four-star General Keith Alexander not only runs the NSA, he is also the commander of the U.S. Cyber Command (USCYBERCOM), which includes elements of the Army, Navy, and Air Force, and became fully operational October 31, 2010. USCYBERCOM is designed to have “full spectrum military cyberspace” capability.

NSA expert James Bamford on Democracy NOW! expressed a dark view of Gen. Alexander:

“... he’s a very mysterious person, but he’s the most powerful person that’s ever existed in the American intelligence community. First of all, he runs the largest intelligence agency and the most secret intelligence agency on Earth, probably, which is the NSA, in charge of enormous numbers of people that do just amazing electronic spying, as we could see in the revelations just in the last week.

“In addition to that, he runs basically his own military. It’s the U.S. Cyber Command, which was just placed under his authority. The U.S. Cyber Command is an extremely powerful organization that’s already launched aggressive, what they call ‘kinetic attacks.’ Kinetic attacks means destructive attacks using cyber to actually destroy things. And they destroyed the centrifuges in the Iranian nuclear development plant using cyber. So, as is—as being commander of U.S. Cyber Command, he’s also got three branches of the military under him. He’s got the 2nd Army, the 24th Air Force and the 10th Navy Fleet. So you’ve got an enormously powerful person who’s enormously secret and who can do things without even members of Congress knowing about it.”

The first NSA head to appear at a hacker convention, Defcon 2012, Gen. Alexander was asked something about the NSA keeping files on every U.S. citizen. He replied with a variation on the standard meme:

**“No, we don’t. Absolutely not. And anybody who would tell you that we’re keeping files or dossiers on the American people know that’s not true....**

**And I will tell you that those who would want to weave the story that we have millions or hundreds of millions of dossiers on people is absolutely false.”**

Also in 2012, Gen. Alexander told Fox News that the NSA does not “hold data on U.S. citizens,” which is clearly false. In May 2013 he told Reuters, “The great irony is we’re the only ones not spying on the American people.” On June 12, Gen. Alexander admitted to the Senate Appropriation Committee that “we create a set of data” about American citizens, but

promised that the NSA didn't look at it except under very special circumstances that are secret. "Then, given that, we can now look [at your phone records] and say, 'Who was this guy talking to in the United States and why?' " the general explained.

### **Whatever the NSA Wants to Collect, It Collects and Hoards**

Like a virtual hoarder, the NSA collects data compulsively, and when it runs out of space, it builds more space. The NSA has not only been amassing data on pretty much everyone who uses the internet or a mobile device, its building a one million square foot data storage facility for \$2 billion in Bluffdale, Utah. According to 40-year NSA veteran William Binney, that facility will have the capacity to hold 100 years or more worth of data on everyone, in a searchable database.

Maintaining the useful confusion of the basic meme, the President told Charlie Rose on June 17:

**"What I can say unequivocally is that if you are a U.S. person, the NSA cannot listen to your telephone calls, and the NSA cannot target your emails.... And have not. They cannot and have not, by law and by rule, and—unless they—and usually it wouldn't be 'they,' it would be the FBI—go to a court and obtain a warrant and seek probable cause...."**

In other words, the President was saying that the government couldn't do things that were against the law, and he was saying it on the anniversary of the Watergate Break-in of 1972. The President may or may not know what people in the field are doing on his behalf and in the name of American security.

The National Security Strategy put out by the Dept. of Homeland Security in May 2010 offers this definition of "Fusion Center Priorities" — "To prevent acts of terrorism on American soil, we must enlist all of our intelligence, law enforcement, and homeland security capabilities. We will continue to integrate and leverage state and major urban area fusion centers that have the capability to share classified information"

In March 2013, Richard Davis, director of the Arkansas State Fusion Center on Little Rock talked to KNWA-TV about fusion center training, including detailed explanations of privacy rights and civil rights:

**"There's misconceptions on what fusion centers are. The misconceptions are that we are conducting spying operations on US citizens, which is of course not the fact. That is absolutely not what we do."**

Davis explained that in Arkansas they haven't been called on to investigate international plots, but they do keep an eye on more local activity:

**"We focus a little more on that, domestic terrorism and certain groups that are anti-government. We want to kind of take a look at that and receive that information."**

Davis did not explain how they kept track of domestic terrorists and anti-government groups without "conducting spying operations on US citizens" and probably violating their First Amendment right to be anti-government at the top of their voices.

The implications of Arkansas policy would be serious if applied nationally. Given the low esteem of the U.S. Congress, for example, perhaps 90% of Americans would qualify as anti-government.

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