

NSA DIRECTOR KEITH ALEXANDER: THE FBI DOES THE DOMESTIC COLLECTION

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Congressman Hank Johnson asked NSA Director Keith Alexander about James Bamford's Wired article describing the data storage and analysis center in UT. Unfortunately, rather than ask Alexander about these activities—storage and analysis—Johnson asked Alexander about data collection. Here are excerpts of the exchange:

Johnson: Does NSA have the ability to identify Cheney bashers based on the content of their emails?

Alexander: No. Can I explain? NSA does not have the ability to do that in the United States. In the United States we would have to go through an FBI process—a warrant—to serve it to somebody to actually get it.

Johnson: But you do have the capability to do it?

Alexander: Not in the United States. We're not authorized to collect nor do we have the equipment in the United States.

Johnson: "NSA's signals intercepts include eavesdropping on domestic phone calls and inspection of domestic emails." Is that true?

Alexander: No, not in that context. I think what he's trying to raise is are we gathering all the information on the United States? No, that is not correct.

Johnson: What judicial consent is required for NSA to intercept

communications and information involving American citizens?

Alexander: Within the United States, that would be the FBI lead. If it was foreign actor in the United States the FBI would still have the lead and could work that with the NSA or other intelligence agencies as authorized. But to conduct that kind of collection in the United States it would have to go through a court order and a court would have to authorize it. We're not authorized to do it nor do we do it.

Note that Alexander never denies that such capabilities exist. Rather, he says that FBI would intercept communications—with a court order—and FBI would search for certain content—with a warrant.

Also note, all of Alexander's responses were in the present tense: he doesn't say the NSA hasn't done these things. Only that the NSA is not now authorized to do them and does not do them.

We know several things about the government's collection in the US. First, the telecoms own the equipment—they're the ones that do the intercepts, not FBI or NSA. Second, the FBI can and does get bulk data information from telecoms and other businesses using Section 215 of the PATRIOT Act.

I will have more to say about this later—until then, read this post and this post as background.

There is a great deal of circumstantial information to suggest that after the 2004 hospital confrontation—which was in part a response to Congress prohibiting any DOD use of data mining on Americans—chunks of the illegal wiretap program came to be authorized under Section 215 of the PATRIOT Act, which authorizes FBI data collection.

There's nothing General Alexander said in this

non-denial denial that would conflict with the
notion that FBI collects data the telecoms
intercept using Section 215 of the PATRIOT Act.