TOLD YOU SO, FBI BACK DOOR SEARCH EDITION

For a long time, I've been noting that the October 3, 2011 John Bates Opinion and last August's Semiannual Report on FISA make it clear that the FBI, like the CIA and NSA, conducts back door searches off Section 702 collected data.

ODNI's response to Ron Wyden's request for actual numbers of how many back door searches the government conducts makes it clear that I was correct.

The report is even worse than I imagined. It shows the following:

FBI

FBI does back door searches for both foreign intelligence and criminal purposes. This means NSA's language about keeping data for evidence of a crime is fairly meaningless, because they're handing chunks of data off to FBI that it can troll for evidence of crime.

And the FBI doesn't count these queries. In fact, FBI doesn't even distinguish between when it is searching foreign and US person identifiers.They say only that "the number of queries is substantial."

CIA

I expected all that from the FBI. What amazes me is that the CIA — an Agency that is not supposed to conduct domestic intelligence collection — does not count how many metadata-only queries of US person data it does. So all those fears of NSA identifying whether you're visiting an AIDS clinic or a pregnancy counseling center? The NSA may not do that kind of analysis, but the CIA might be checking what foreigners you're talking to.

The CIA also conducts a bunch of content queries

— "fewer than 1900" — of which 40% are counterterrorism-related queries for other agencies. (Which leads me to wonder why neither NSA nor FBI are doing these queries, which would make more sense.) But that leaves 60% of 1900 — or around 1,100 queries a year of US person content that are for CIA's own purposes and may not even be terrorism related.

NSA

The NSA conducts the fewest. It conducts 198 US person content queries (that is, not all that much fewer than the 248 US persons queried in the phone dragnet or collected on using another Section 215 order). It conducts 9,500 queries of metadata only queries, of which some are duplicative.

Compared to CIA's uncountable number, that may not sound like a lot. But compare that to the phone dragnet, which also queried on fewer than 248 US person identifiers last year. That is, it is doing an order of magnitude more Internet metadata queries than it is phone queries.

One more thing: Last year's FAA report revealed that CIA and NSA also sometimes accidentally query US person data. So the numbers of Americans sucked in via FAA may be significantly larger.

PCLOB

One more note about this report. PCLOB is due to release their Section 702 report on Wednesday. That is sure to have recommendations about how to protect US person privacy; Patricia Wald was quite clear in the most recent PCLOB hearing she believes the government should use a warrant to access this data. So Ron Wyden finally got a response, but it almost certain is only because PCLOB was about to make much of this public on their own.

(KS linked to this version of the Doors, thanks!)