

November 4, 2013

As U.S. Weighs Spying Changes, Officials Say Data Sweeps Must Continue

**By**[**DAVID E. SANGER**](http://topics.nytimes.com/top/reference/timestopics/people/s/david_e_sanger/index.html)

**1**WASHINGTON — The Obama administration has told allies and lawmakers it is considering reining in a variety of [National Security Agency](http://topics.nytimes.com/top/reference/timestopics/organizations/n/national_security_agency/index.html?inline=nyt-org) practices overseas, including holding White House reviews of the world leaders the agency is monitoring, forging a new accord with [Germany](http://topics.nytimes.com/top/news/international/countriesandterritories/germany/index.html?inline=nyt-geo) for a closer intelligence relationship and minimizing collection on some foreigners.

**2** But for now, [President Obama](http://topics.nytimes.com/top/reference/timestopics/people/o/barack_obama/index.html?inline=nyt-per) and his top advisers have concluded that there is no workable alternative to the bulk collection of huge quantities of “metadata,” including records of all telephone calls made inside the United States.

**3** Instead, the administration has hinted it may hold that information for only three years instead of five while it seeks new technologies that would permit it to search the records of telephone and Internet companies, rather than collect the data in bulk in government computers. Gen. Keith B. Alexander, the director of the N.S.A., has told industry officials that developing the new technology would take at least three years.

**4** Mr. Obama has said nothing publicly about specific steps he is weighing in response to the disclosures of the N.S.A. practices by Edward J. Snowden, the former contractor who downloaded and turned over to journalists tens of thousands of documents concerning the agency.

**5** But protests from business executives, who told Mr. Obama last week at a White House meeting that they feared the N.S.A. revelations would lead to billions of dollars in lost business in Europe and Asia — and angry responses to the revelations that the United States was monitoring the cell phone of Chancellor Angela Merkel of Germany — have forced a rethinking inside the White House.

**6** A spokeswoman for the National Security Council, Caitlin M. Hayden, said Monday that the reviews now underway are intended to assure “that we are more effectively weighing the risks and rewards of our activities.” That includes, she said, “ensuring that we are focused above all on threats to the American people.”

**7** In public testimony, General Alexander and the director of national intelligence, James R. Clapper Jr., have shown little willingness to make major changes, apart from agreeing to more oversight and public disclosure of some decisions by the Foreign Intelligence Surveillance Court. The White House has pressed for more. Nonetheless, the actions contemplated inside the administration seem unlikely to quell the protests in Europe or assuage critics at home.

**8** The details of an intelligence accord with Germany — which German officials seem more enthusiastic to negotiate than their American counterparts — are unlikely to be revealed publicly, or to end the suspicion that the American monitoring of scores or hundreds of German leaders has been discontinued.

**9** Similarly, the government has so far said little about whether it could treat some foreigners, presumably from a short list of allies, more as if they were American citizens, or in the legal language of the intelligence agencies, “U.S. persons.”

**10** “On the issue of U.S. person versus non-U.S. person, that’s an issue we’re giving a lot of thought to now,” Robert Litt, the general counsel to the director of national intelligence, told an American Bar Association conference last week. “That doesn’t mean that we have no protection for non-U.S. persons,” he said, noting that the main protection was that data had to be collected for “a valid foreign intelligence purpose.” But that is a standard the intelligence agencies can define for themselves in the case of foreigners.

**11** Mr. Litt said that the government is now “giving some thought to whether there are ways that we can both introduce a little more rigor into that requirement.” But another American official said there were concerns about whether a decision to effectively extend the constitutional protections of the Fourth Amendment to some foreigners would create a precedent the government might later regret.

**12** So far, the sharpest public criticism of the N.S.A. from within the administration has come from one of the chief clients for its intelligence reports: Secretary of State John Kerry. “The president and I have learned of some things that have been happening in many ways on an automatic pilot, because the technology is there and the ability is there,” Mr. Kerry said last week, adding that “some of these actions have reached too far.”

**13** A senior administration official said that Mr. Kerry’s “automatic pilot” reference “went beyond our talking points,” but added that the president agreed and “has already made some decisions,” which have not been announced.

**14** The administration’s reviews are being conducted in secrecy in part because of the secret nature of the N.S.A.’s operations. Initially, the reviews focused on domestic “bulk collection” programs begun after the Sept. 11, 2001, attacks, which eventually led to the N.S.A. program to collect the billing records of all calls, and, for a while, to collect a large volume of emails as well. (The email program ended, the N.S.A. says, in 2011.) In an interview last month, General Alexander said he was “open” to any alternative to having the government maintain that database of calls.

**15** But General Alexander’s deputy, John C. Inglis, who has spent nearly three decades at the N.S.A. focused on the technology of intercepting and decoding foreign communications, told Congress last week that so far there was no satisfying alternative to a government library of calls and, seemingly by extension, text messages and many Internet searches.

**16** “It needs to be the whole haystack,” Mr. Inglis said. If the United States was looking for the communications of a terrorism suspect, he said, “it needs to be such that when you make a query you come away confident that you have the whole answer.”

**17** White House officials say that changes to the foreign collection programs are easier.

**18** German officials came to the White House last week, and have returned to Washington this week, in hopes of negotiating a deal similar to the kind that Britain, Australia, New Zealand and Canada have with the United States. German officials emerged from last week’s meetings at the White House talking about striking a deal within two months that included a “no spying” accord and greater intelligence sharing.

**19** Discussions are continuing this week, also in Washington, between senior German and American intelligence officials. But a senior administration official said, “We are not talking about an across-the-board ‘no spy’ agreement.” Instead, he said, “we need to work towards updated understandings between our two countries.”

**20** Ms. Hayden and Senator Dianne Feinstein, a California Democrat and chairwoman of the Senate Intelligence Committee, both said that a major element of the current review is to reassess the “National Intelligence Priorities Framework,” which is how the White House instructs the intelligence agencies about what subjects it most needs to understand. Terrorism and nuclear proliferation are the highest priorities, and are examined in detail.

**21** The tapping of Ms. Merkel was a low-priority item for the United States, and subject to far less oversight, until it became public, and Mr. Obama declared the United States was not now monitoring her, and would not in the future. He has made no such commitment for other national leaders.

Retrieved from

<http://www.nytimes.com/2013/11/05/world/as-us-weighs-spying-changes-officials-say-data-sweeps-must-continue.html?ref=nationalsecurityagency&_r=0>