US Spy Court: NSA to Keep Collecting Phone Records

Kimberly Dozier, Stephen Braun, Associated Press

WASHINGTON (AP) — A secretive U.S. spy court has ruled again that the National Security Agency can keep collecting every American's telephone records every day, in the midst of dueling decisions in two other federal courts about whether the surveillance program is constitutional.

The Foreign Intelligence Surveillance Court on Friday renewed the NSA phone collection program, said Shawn Turner, a spokesman for the Office of the Director of National Intelligence. Such periodic requests are somewhat formulaic but required since the program started in 2006.

The latest approval was the first since two conflicting court decisions about whether the program is lawful and since a presidential advisory panel recommended that the NSA no longer be allowed to collect and store the phone records and search them without obtaining separate court approval for each search.

In a statement, Turner said that 15 judges on the U.S. Foreign Intelligence Surveillance Court on 36 occasions over the past seven years have approved the NSA's collection of U.S. phone records as lawful.

Also Friday, government lawyers turned to U.S. Court of Appeals for the District of Columbia Circuit to block one federal judge's decision that threatens the NSA phone records program.

The opposing lawyer who spearheaded the effort that led to the ruling said he hopes to take the issue directly to the Supreme Court.

The Justice Department filed a one-page notice of appeal asking the appeals court to overturn U.S. District Judge Richard Leon's ruling last month that the program was likely unconstitutional. The government's move had been expected.

Larry Klayman, who filed the class-action suit against President Barack Obama and top administration national security officials, said he intends to petition the federal appeals court next week to send the case directly to the Supreme Court. Klayman said the move was justified because the NSA case was a matter of great public importance.

"There are exigent circumstances here," Klayman said. "We can't allow this situation to continue. The NSA's continuing to spy on everybody."

Turner said U.S. intelligence agencies would be willing to modify the phone records surveillance program to provide additional privacy and civil liberties protections as

long as it was still operationally beneficial. He said the Obama administration was carefully evaluating the advisory panel's recent recommendations.

Judges sitting on the secretive spy court have repeatedly approved the program for 90-day periods. They also have repeatedly upheld the constitutionality of the program — a judicial bulwark that held strong until Leon's surprise decision last month.

Leon said the NSA's program was "almost Orwellian," a reference to writer George Orwell's futuristic novel "1984," and that there was little evidence the operation had prevented terrorist attacks. He ruled against the government but agreed to postpone shutting down the program until the government could appeal.

In a separate case involving the same NSA phone records program, a district judge in New York last month upheld the government's data collection as lawful. The American Civil Liberties Union, which lost that case, said this week it will appeal to a federal appeals court in New York.

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