

## NSA program stopped no terror attacks, says White House panel member

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Patrick Semansky / AP file The National Security Agency campus in Fort Meade, Md.

A member of the White House review panel on NSA surveillance said he was “absolutely” surprised when he discovered the agency’s lack of evidence that the bulk collection of telephone call records had thwarted any terrorist attacks.

“It was, ‘Huh, hello? What are we doing here?’” said Geoffrey Stone, a University of Chicago law professor, in an interview with NBC News. “The results were very thin.”

While Stone said the mass collection of telephone call records was a “logical program” from the

NSA’s perspective, one question the White House panel was seeking to answer was whether it had actually stopped “any [terror attacks] that might have been really big.”

“We found none,” said Stone.

Under the NSA program, first revealed by ex-contractor Edward Snowden, the agency collects in bulk the records of the time and duration of phone calls made by persons inside the United States.

Stone was one of five members of the White House review panel – and the only one without any intelligence community experience – that this week produced a sweeping report recommending that the NSA’s collection of phone call records be terminated to protect Americans’ privacy rights.

The panel made that recommendation after concluding that the [program was “not essential in preventing attacks.”](#)

“That was stunning. That was the ballgame,” said one congressional intelligence official, who asked not to be publicly identified. “It flies in the face of everything that they have tossed at us.”

Despite the panel’s conclusions, Stone strongly rejected the idea they justified Snowden’s actions in leaking the NSA documents about the phone collection. “Suppose someone decides we need gun control and they go out and kill 15 kids and then a state enacts gun control?” Stone said, using an analogy he acknowledged was “somewhat inflammatory.” What Snowden did, Stone said, was put the country “at risk.”

“My emphatic view,” he said, “is that a person who has access to classified information -- the revelation of which could damage national security -- should never take it upon himself to reveal that information.”

Stone added, however, that he would not necessarily reject granting an amnesty to Snowden in

exchange for the return of all his documents, as was recently suggested by a top NSA official. “It’s a hostage situation,” said Stone. Deciding whether to negotiate with him to get all his documents back was a “pragmatic judgment. I see no principled reason not to do that.”

The conclusions of the panel’s reports were at direct odds with public statements by President Barack Obama and U.S. intelligence officials. “Lives have been saved,” [Obama told reporters last June](#), referring to the bulk collection program and another program that intercepts communications overseas. “We know of at least 50 threats that have been averted because of this information.”

But in one little-noticed footnote in its report, the White House panel said the telephone records collection program – known as Section 215, based on the provision of the U.S. Patriot Act that provided the legal basis for it – had made “only a modest contribution to the nation’s security.” The report said that “there has been no instance in which NSA could say with confidence that the outcome [of a terror investigation] would have been any different” without the program.

The panel’s findings echoed that of U.S. Judge Richard Leon, who in a ruling this week found the bulk collection program to be unconstitutional. Leon said that government officials were unable to cite “a single instance in which analysis of the NSA’s bulk collection metadata collection actually stopped an imminent attack, or otherwise aided the Government in achieving any objective that was time-sensitive in nature.”

Stone declined to comment on the accuracy of public statements by U.S. intelligence officials about the telephone collection program, but said that when they referred to successes they seemed to be mixing the results of domestic metadata collection with the intelligence derived from the separate, and less controversial, NSA program, known as 702, to intercept communications overseas.

The comparison between 702 overseas interceptions and 215 bulk metadata collection was “night and day,” said Stone. “With 702, the record is very impressive. It’s no doubt the nation is safer and spared potential attacks because of 702. There was nothing like that for 215. We asked the question and they [the NSA] gave us the data. They were very straight about it.”

He also said one reason the telephone records program is not effective is because, contrary to the claims of critics, it actually does not collect a record of every American’s phone call. Although the NSA does collect metadata from major telecommunications carriers such as Verizon and AT&T, there are many smaller carriers from which it collects nothing. Asked if the NSA was collecting the records of 75 percent of phone calls, an estimate that has been used in briefings to Congress, Stone said the real number was classified but “not anything close to that” and far lower.

When panel members asked NSA officials why they didn’t expand the program to include smaller carriers, the answer they gave was “money,” Stone said. “They were setting financial priorities,” said Stone, and that was “really revealing” about how useful the bulk collection of telephone calls really was.

An NSA spokeswoman declined to comment on any aspect of the panel’s report, saying the agency was deferring to the White House. Asked Wednesday about the surveillance panel’s conclusions about telephone record collection, White House press secretary Jay Carney said that “the president does still believe and knows that this program is an important piece of the overall efforts that we engage in to combat threats against the lives of American citizens and threats to our overall national security.”

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