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SIDEBAR

New Look at an Old Memo Casts More Doubt on Rehnquist

By ADAM LIPTAK
Published: March 19, 2012

WASHINGTON — In 1952, a young [Supreme Court](#) clerk wrote a [memorandum that would come to haunt him](#).

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The court was considering [Brown v. Board of Education](#), the great school desegregation case. The question for the justices was whether to overrule [Plessy v. Ferguson](#), the 1896 decision that said “separate but equal” facilities were constitutional.

The memo, prepared for Justice Robert H. Jackson, was written in the first person and bore the clerk’s initials — “WHR,” for [William H. Rehnquist](#).

“I realize it is an unpopular and unhumanitarian position, for which I have been excoriated by ‘liberal’ colleagues,” Mr. Rehnquist wrote, “but I think Plessy v. Ferguson was right and should be reaffirmed.”

The memo was disclosed by Newsweek in 1971, on the eve of the Senate floor debate on Mr. Rehnquist’s nomination to the Supreme Court. It caused a firestorm, one that was

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rekindled when President Ronald Reagan nominated Justice Rehnquist to be chief justice in 1986.

Opposition to the Brown decision is a good way to doom a Supreme Court nomination. But Mr. Rehnquist had an explanation, which he sent to the Senate Judiciary Committee in a letter in 1971 and repeated under oath in 1986.

The opinions expressed in the memo, he said, were not his own. "I believe that the memorandum was prepared by me as a statement of Justice Jackson's tentative views for his own use," Mr. Rehnquist wrote.

Quite a bit of evidence has accumulated over the years to cast doubt on that explanation, and now there is more.

In [a new article in The Boston College Law Review](#), two scholars reconstruct and analyze another letter by Mr. Rehnquist, this one to Justice Felix Frankfurter in 1955, and they draw some stinging conclusions.

The story of the letter is itself something of a yarn. In 1972, somebody — probably a scholar — stole hundreds of pages from Justice Frankfurter's papers at the Library of Congress, and the Rehnquist letter to Justice Frankfurter seems to have been among them.

The columnist Jack Anderson [wrote about the thefts](#) the next year, quoting a library official who said the institution had been "robbed blind" of papers of "incalculable value."

The resourceful Mr. Anderson used his column to make a deal with the thief. "We have offered to act as an intermediary between the unknown scholar and the library," he wrote. "We will guarantee not to reveal his name or otherwise identify him if he will contact us."

It kind of worked. The thief [provided photocopies of some of the documents](#) to Mr. Anderson, who passed them along to the library. The Rehnquist letter was not among them. But a response to it solicited by Justice Frankfurter was, and it allowed the authors of the new law review article, Brad Snyder and John Q. Barrett, to reconstruct much of what Mr. Rehnquist had written.

Justice Frankfurter had made it a point to get to know the clerks in other justices' chambers, and he and Mr. Rehnquist got along well. After Justice Jackson died in October 1954, Justice Frankfurter published tributes in two law reviews and sent copies to many of Justice Jackson's friends and associates. Mr. Rehnquist, then in private practice, was probably on the list, and his 1955 letter was probably a response.

When Justice Frankfurter received the letter, he decided to share it with the law clerk who had succeeded Mr. Rehnquist. Over five pages, that clerk, E. Barrett Prettyman Jr., characterized and responded to Mr. Rehnquist's letter.

Mr. Rehnquist said his former boss "had a tendency to go off half-cocked," wrote opinions that "don't seem to go anywhere" and did not leave "a lasting influence on the court," Mr. Prettyman wrote in his own letter to Justice Frankfurter.

Mr. Prettyman called some of Mr. Rehnquist's points "foolishness." Others made him "slightly ill."

Mr. Prettyman would go on to an exceptionally distinguished career as a Washington lawyer. He worked closely with Chief Justice John G. Roberts Jr. when the two men practiced law together at the firm now known as Hogan Lovells. (Chief Justice Roberts

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had also been a Supreme Court clerk — to Justice Rehnquist.)

The new law review article makes the case that “Rehnquist’s disappointment with Brown provides the most plausible motivation for his harsh 1955 letter about Jackson.” The article supports this theory by, among other things, reviewing Mr. Rehnquist’s letters to Justice Jackson, which were admiring and supportive until Brown and ceased after the decision was issued.

The article also contends that the 1955 letter from Mr. Rehnquist to Justice Frankfurter “would have been a bombshell” had it been revealed at the 1971 or 1986 confirmation hearings.

Perhaps. But the new evidence only buttresses information available at the time that undermined the account offered by the future chief justice.

For starters, of course, Justice Jackson joined the unanimous opinion in Brown in 1954. And Justice Jackson’s secretary, Elsie Douglas, told John P. MacKenzie of The Washington Post in 1971 that Mr. Rehnquist had “smeared the reputation of a great justice.”

In an interview last week, Mr. Prettyman said “there is absolutely no doubt in my mind” that the 1952 memo represented Mr. Rehnquist’s views and not those of Justice Jackson. But Mr. Prettyman said he was not persuaded that the 1955 letter was motivated by unhappiness about the Brown decision as opposed to what he called a rocky relationship between the justice and the clerk.

Still, Mr. Prettyman said he welcomed the attention the new article brought to Chief Justice Rehnquist’s role in and reaction to the Brown decision.

“The fact that a justice and a chief justice lied in order to advance himself,” Mr. Prettyman said, referring to Chief Justice Rehnquist in his confirmation hearings, “the fact that he thought the way he did about Brown — which was that it would be a national disgrace — those facts alone justify an exploration of what happened.”

A version of this article appeared in print on March 20, 2012, on page A18 of the New York edition with the headline: Memo Adds to Doubt On Rehnquist’s Denials.

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Approval Rating for Justices Hits Just 44% in New Poll

By ADAM LIPTAK and ALLISON KOPICKI
Published: June 7, 2012 | 1079 Comments

WASHINGTON — Just 44 percent of Americans approve of the job the Supreme Court is doing and three-quarters say the justices' decisions are sometimes influenced by their personal or political views, according to a poll conducted by The New York Times and CBS News.

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Stephen Crowley/The New York Times
Chief Justice John G. Roberts Jr. and Justices Anthony M. Kennedy, Ruth Bader Ginsburg and Stephen G. Breyer of the Supreme Court.

Those findings are a fresh indication that the court's standing with the public has slipped significantly in the past quarter-century, according to surveys conducted by several polling organizations. Approval was as high as 66 percent in the late 1980s, and by 2000 approached 50 percent.

The decline in the court's standing may stem in part from Americans' growing distrust in recent years of major institutions in general and the government in particular. But it also could reflect a sense that the court is more political, after the ideologically divided 5-to-4 decisions in Bush v. Gore, which determined the 2000 presidential election, and Citizens United, the 2010 decision allowing unlimited campaign spending by corporations and unions.

"The results of this and other recent polls call into question two pieces of conventional wisdom," said Lee Epstein, who teaches law and political science at the University of Southern California. One is that the court's approval rating has been stable over the years, the other is that it has been consistently higher than that of the other branches of government, Professor Epstein said.

On the highest-profile issue now facing the court, the poll

Full Results

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found that more than two-thirds of Americans hope that the court overturns some or all of the 2010 [health care law](#) when it rules, probably this month. There was scant difference in the court's approval rating between supporters and opponents of the law.

Either way, though, many Americans do not seem to expect the court to decide the case solely along constitutional lines. Just one in eight Americans said the justices decided cases based only on legal analysis.

"As far as the Supreme Court goes, judgments can't be impersonal," Vicki Bartlett, 57, an independent in Bremerton, Wash., said in a follow-up interview. "When you make judgments, it's always personal. But the best hope is that they will do their job within the legal parameters."

The public is skeptical about life tenure for the justices, with 60 percent agreeing with the statement that "appointing Supreme Court justices for life is a bad thing because it gives them too much power." One-third agreed with a contrary statement, that life tenure for justices "is a good thing because it helps keep them independent from political pressures."

Thirty-six percent of Americans said they disapproved of how the Supreme Court was handling its job, while 20 percent expressed no opinion. Though the court's approval rating has always been above that of Congress — which is at 15 percent in the latest poll — it has occasionally dipped below that of the president.

A Gallup tracking poll conducted at the same time as the new survey by The Times and CBS News had President Obama's approval rating at 47 percent, but about as many respondents disapproved of his performance.

The court's tepid approval ratings crossed ideological lines and policy agendas. Liberals and conservatives both registered about 40 percent approval rates. Forty-three percent of people who hoped the court would strike down the health care law approved of its work, but so did 41 percent of those who favored keeping the law.

The court was also expected to decide this month whether a tough [Arizona immigration law](#) conflicts with federal [immigration](#) laws and policies. Perhaps the most contested part of the state law is one that often requires the police there to check the immigration status of people they stop or arrest.

As a general matter, more than 6 in 10 Americans said both the federal and state governments should play a role in addressing illegal immigration. A quarter said the federal government should have sole responsibility, and 11 percent said only state governments should address the matter.

One-third of Americans said the part of the Arizona law allowing the police to question people about their immigration status "goes too far," and half said it was "about right." Coverage of Supreme Court arguments in the case in April did not seem to affect public attitudes on the question, which have not changed since 2010.

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Adam Liptak reported from Washington, and Allison Kopicki from New York. Marina Stefan and Dalia Sussman contributed reporting from New York.

A version of this article appeared in print on June 8, 2012, on page A1 of the New York edition with the headline: Approval Rating For Justices Hits just 44% In Poll.

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Approval Rating for Justices Hits Just 44% in New Poll

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The responses on immigration split along partisan and racial lines. About half of Democrats but only one in seven Republicans said the law went too far. The recent survey did not have enough black and Hispanic respondents to make fine distinctions among racial and ethnic groups, but 46 percent of those who identified themselves as nonwhite said the provision went too far, compared with 28 percent of non-Hispanic whites.

Full Results

DOCUMENT: Results of the New York Times/CBS Poll

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New Poll: The Supreme Court and the Health Care Law (June 7, 2012)

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Live Coverage of the Health Care Ruling

Asked about the health care case, 41 percent of those surveyed said the court should strike down the entire law, and another 27 percent said the justices should overturn only the individual mandate, which requires most Americans to obtain health insurance or pay a penalty.

Only 24 percent said they hoped the court "would keep the entire health care law in place."

These numbers have not changed much in recent months and appeared to be largely unaffected by the more than six hours of arguments in the Supreme Court in March.

Some respondents said their view of the court could drop, depending on how it rules.

"The government is mandating that you have to buy something, and that shouldn't be the case," said Chuck

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Eriksen, 80, an independent of Cardington, Ohio. "I don't like the whole thing in general. My opinion of the Supreme Court will diminish if they approve of it."

There was greater Republican opposition to the law than Democratic support. About two-thirds of Republicans in the recent survey said the entire law should be overturned, while 43 percent of Democrats said all of it should be upheld.

More than 70 percent of independents said they wanted to see some parts or all of the law struck down, with more of them saying they hoped to see the whole law overturned. Twenty-two percent of independents said they hoped the entire law would survive.

Responses varied by education, too. Nearly a third of respondents with a college degree said they would like to see the law upheld, compared with about 20 percent of those without a college diploma.

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Dr. Gerald Schall, 68, a San Francisco independent, said that he approved of most of the law, but not the mandate, and hoped that the court would follow suit. "If they overturn the whole thing," he said, "it'll be like seeing your mother-in-law go over a cliff in your new Lexus."

The nationwide poll is based on telephone interviews with 976 adults conducted May 31 through June 3 on landlines and cellphones and has a margin-of-sampling error of plus or minus three percentage points.

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Adam Liptak reported from Washington, and Allison Kopicki from New York. Marina Stefan and Dalia Sussman contributed reporting from New York.

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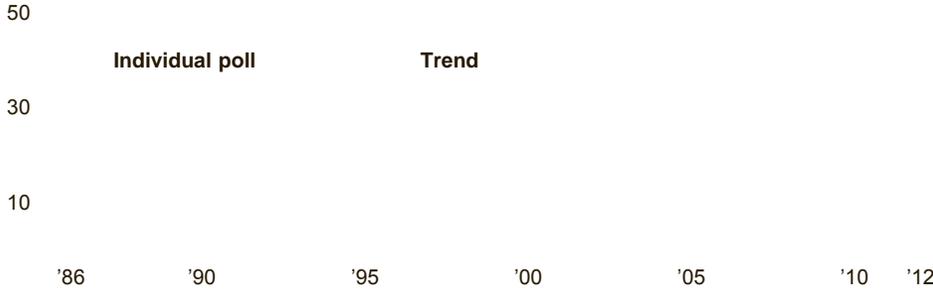


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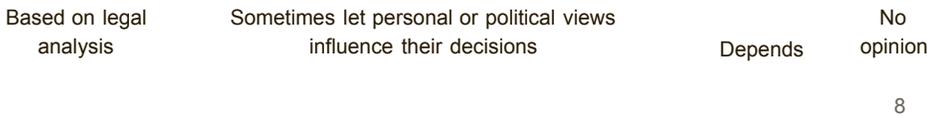
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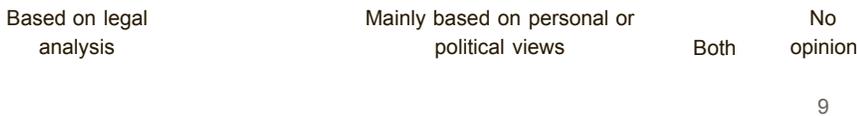
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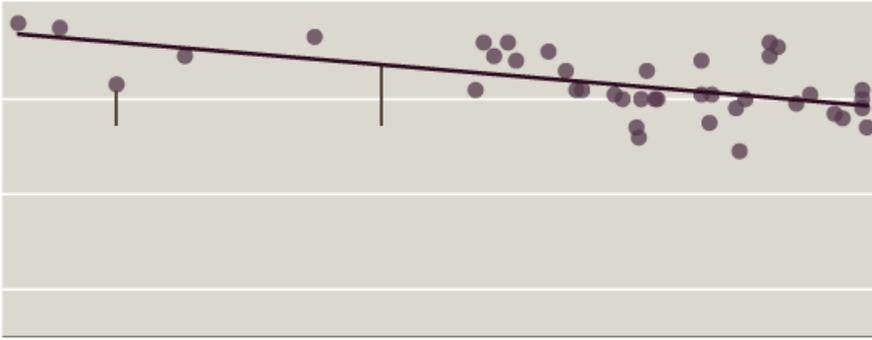


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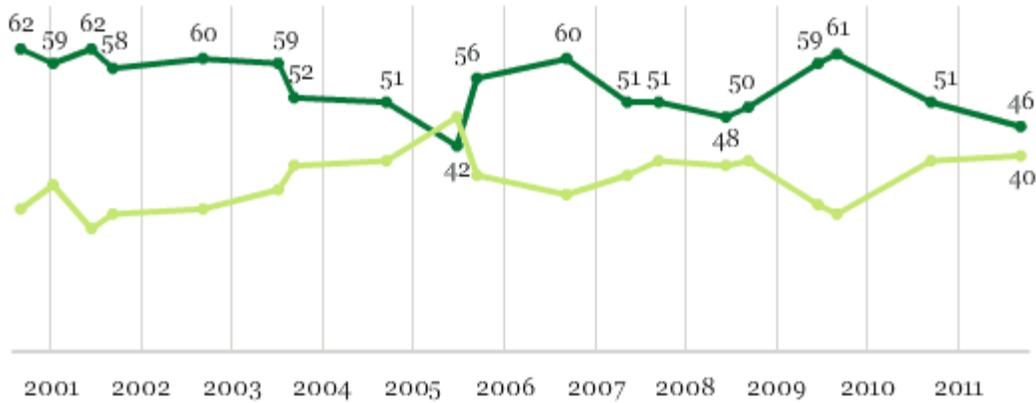
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Supreme Court

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The judicial branch, headed by the U.S. Supreme Court

	Great deal	Fair amount	Not very much	None at all	No opinion
	%	%	%	%	%
2011 Sep 8-11	12	51	28	8	1
2010 Sep 13-16	14	52	28	5	2
2009 Aug 31-Sep 2	18	58	18	4	2
2008 Sep 8-11	14	55	23	6	3
2007 Sep 14-16	15	54	23	6	1
2006 Sep 7-10	15	54	21	7	3
2005 Sep 12-15	13	55	25	6	1
2004 Sep 13-15	14	51	27	6	2
2003 Sep 8-10	13	54	27	5	1

2002 Sep 5-8	17	58	18	5	2
2001 Sep 7-10	17	57	20	4	2
2000 Jul 6-9	23	52	18	6	1
1999 Feb 4-8	29	51	13	5	2
1998 Dec 28-29	27	51	16	4	2
1997 May 30-Jun 1	19	52	22	5	2
1976 Jun	16	47	26	6	4
1974 Apr	17	54	20	5	5
1972 May	17	49	24	7	4

In general, do you think the current Supreme Court is too liberal, too conservative, or just about right?

	Too liberal	Too conservative	About right	No opinion
	%	%	%	%
2011 Sep 8-11	31	20	42	7
2010 Jul 27-Aug 1	32	19	43	6
2009 Aug 31-Sep 2	28	19	50	3
2008 Sep 8-11	21	30	43	6
2007 Sep 14-16	21	32	43	5
2006 Sep 7-10	21	31	43	6
2005 Sep 12-15	25	25	45	5
2004 Sep 13-15	28	27	40	5
2003 Sep 8-10	31	25	39	5
2001 Sep 7-10	22	25	46	7
1995 Jul 7-9	31	20	41	8
1993 Jun 18-21 ^	22	24	45	9

^ Asked of a half sample

Trends for comparison: *In its recent rulings, do you think the Supreme Court has been too liberal, too conservative, or just about right?*

	Too liberal	Too conservative	About right	No opinion
2003 Jul 7-9	31%	15	48	6
2000 Aug 29-Sep 5	27%	16	49	8
1991 July 11-14	20%	25	39	16

Now I am going to read you a list of institutions in American society. Please tell me how much confidence you, yourself, have in each one -- a great deal, quite a lot, some, or very little? First, ... Next, [RANDOM ORDER]

The U.S. Supreme Court

	Great deal	Quite a lot	Some	Very little	None (vol.)	No opinion	Great deal/ Quite a lot
	%	%	%	%	%	%	%
2011 Jun 9-12	17	20	41	18	2	2	37
2010 Jul 8-11	15	21	43	16	2	3	36
2009 Jun 14-17	15	24	41	17	1	3	39
2008 Jun 9-12	13	19	44	17	1	5	32
2007 Jun 11-14	14	20	41	21	2	2	34
2006 Jun 1-4	14	26	41	15	1	3	40
2005 May 23-26	16	25	38	18	1	2	41
2004 May 21-23	16	30	37	14	2	1	46
2003 Jun 9-10	20	27	38	12	1	2	47
2002 Jun 21-23	22	28	35	13	*	2	50
2001 Jun 8-10	22	28	31	13	3	3	50
2000 Jun 22-25	18	29	35	14	1	3	47
1999 Jun 25-27	20	29	35	13	1	2	49
1998 Jun 5-7	24	26	34	12	1	3	50
1997 Jul 25-27	25	25	32	14	2	2	50
1996 May 28-29	17	28	39	14	1	1	45
1995 Apr 21-24	20	24	39	14	1	1	44

1994 Mar 25-29	18	24	38	16	1	3	42
1993 Mar 22-24	18	25	37	15	2	3	43
1991 Oct 10-13	16	23	39	15	2	5	39
1991 Feb 28-Mar 3	21	27	36	10	1	5	48
1990 Aug 16-19	19	28	31	16	2	4	47
1989 Sep 7-10	21	25	33	17	2	2	46
1988 Sep 23-26	21	35	30	11	1	2	56
1987 Jul 10-13	13	39	36	8	*	4	52
1986 Jul 11-14	19	35	32	10	1	3	54
1985 May 17-20	18	38	30	9	1	5	56
1984 Oct 6-10	22	29	28	15	--	6	51
1983 Aug 5-8	14	28	34	16	1	7	42
1981 Nov 20-23	18	28	32	13	4	4	46
1979 Apr 6-9	18	27	31	19	1	4	45
1977 Jan 7-10	17	28	29	16	2	8	45
1975 May 30-Jun 2	22	27	28	16	1	6	49
1973 May 4-7	20	25	28	12	5	11	45

* Less than 0.5%

(vol.) = Volunteered response

Do you approve or disapprove of the way John Roberts is handling his job as chief justice of the U.S. Supreme Court?

	Approve	Disapprove	No opinion
2010 Jul 27-Aug 1	48%	27	25

Over the past five years, do you think the Supreme Court has become more liberal, more conservative, or stayed about the same?

	More liberal	More conservative	Stayed the same	No opinion
2010 Jul 27-Aug 1	36%	16	43	5

As you may know, Solicitor General Elena Kagan is the person nominated to serve on the Supreme

Court. Would you like to see the Senate vote in favor of Kagan serving on the Supreme Court, or not?

	Yes, vote in favor	No, not	No opinion
	%	%	%
<i>Elena Kagan</i>			
2010 Jul 27-Aug 1	46	36	18
2010 Jul 8-11	44	34	22
2010 May 24-25	46	32	22
<i>Sonia Sotomayor</i>			
2009 Jul 17-19	55	36	9
2009 Jul 10-12	53	33	13
2009 May 29-31	54	28	19
<i>Trend for other Supreme Court nominees</i>			
<i>Samuel Alito</i>			
2006 Jan 20-22	54	30	16
2006 Jan 6-8	49	30	21
2005 Dec 9-11	49	29	22
2005 Nov 7-10	50	25	25
<i>Harriet Miers</i>			
2005 Oct 21-23	42	43	15
2005 Oct 13-16^	44	36	20
<i>John Roberts</i>			
2005 Sep 16-18 †	60	26	14
2005 Sep 8-11 †	58	27	15
2005 Aug 28-30	52	26	22
2005 Aug 5-7	51	28	21
2005 Jul 22-24	59	22	19
<i>Ruth Bader Ginsburg</i>			

1993 Jun 18-21 ‡	53	14	33
------------------	----	----	----

Clarence Thomas

1991 Oct 14	58	30	12
1991 Oct 10-13	53	30	17
1991 Sep 13-15	54	25	21
1991 Aug 8-11	56	23	21
1991 Jul 11-14	52	17	31

Robert Bork

1987 Sep 1-13 • ♠	38	35	26
1987 Aug 24-Sep 2 •	31	25	44

^ Asked of a half sample

† WORDING: As you may know, John Roberts is a federal judge who has been nominated to serve as chief justice on the Supreme Court. Would you like to see the Senate vote in favor of Roberts serving as chief justice on the Supreme Court, or not?

‡ WORDING: Ruth Bader Ginsburg is a federal judge who has been nominated by President Clinton to serve on the United States Supreme Court. Would you like to see the Senate vote in favor of Ginsburg serving on the Supreme Court, or not?

• WORDING: Robert Bork is a federal judge who has been nominated by President Reagan to serve on the U.S. Supreme Court. Would you like to see the Senate vote in favor of Bork serving on the U.S. Supreme Court, or not?

♠ Gallup for Times Mirror

Would you like to see President Obama nominate a new justice who would make the Supreme Court -- [ROTATED: more liberal than it currently is, more conservative than it currently is] -- or who would keep the court as it is now?

	More liberal	More conservative	Keep as it is now	No opinion
	%	%	%	%
2010 May 3-6	27	42	24	6
2009 May 7-10	28	41	26	5
George W. Bush				
2005 Sep 26-28	30	33	29	8
2005 Jun 16-19	30	41	24	5

Which of the following best describes your view about whether the next Supreme Court justice is [RANDOM ORDER] -- do you think it is -- [RANDOM ORDER: essential that the next justice is (a woman/Hispanic/black), is it a good idea, but not essential, does it not matter to you, (or do you think it is) a bad idea]?

A. A woman

	Essential	Good idea, not essential	Doesn't matter	Bad idea	No opinion
	%	%	%	%	%
2010 May 3-6	4	20	72	3	1
2009 May 7-10	6	26	64	3	1
2005 Oct 28-30	14	33	50	2	1
2005 Sep 26-28 ^	14	29	55	1	1

^ Asked of a half sample

B. Hispanic

	Essential	Good idea, not essential	Doesn't matter	Bad idea	No opinion
	%	%	%	%	%
2010 May 3-6	1	12	76	9	1
2009 May 7-10	1	21	68	8	1
2005 Sep 26-28	3	23	69	4	1

C. Black

	Essential	Good idea, not essential	Doesn't matter	Bad idea	No opinion
	%	%	%	%	%
2010 May 3-6	1	13	82	3	1
2009 May 7-10	1	21	74	3	1
2005 Sep 26-28	5	21	71	2	1

How closely are you following the news about Sonia Sotomayor's nomination to the U.S. Supreme Court -- very closely, somewhat closely, not too closely, or not at all?

	Very closely	Somewhat closely	Not too closely	Not at all	No opinion
	%	%	%	%	%
2009 Jul 10-12	14	39	27	19	1
2009 May 29-31	20	40	22	18	--

(Asked of a half sample) From what you know about Sonia Sotomayor, do you think she would be too liberal, too conservative, or just about right as a Supreme Court justice?

	Too liberal	Too conservative	About right	No opinion
	%	%	%	%
Sonia Sotomayor				
2009 May 29-31 ^	28	3	48	20
Samuel Alito				
2006 Jan 6-8 ^	6	29	49	15
John Roberts				
2005 Aug 28-30	8	24	48	20
Ruth Bader Ginsburg				
1993 Jun 18-21	14	4	47	35
Clarence Thomas				
1991 Jul 11-14	7	20	46	27

^ Asked of a half sample

(Asked of a half sample) Based on what you have heard or read about her, do you think Sonia Sotomayor's views on important issues are in the mainstream or do you think they are too extreme?

	Mainstream	Too extreme	No opinion
	%	%	%
Sonia Sotomayor			
2009 May 29-31 ^	49	30	21

Samuel Alito

2006 Jan 6-8 ^	52	30	19
2005 Nov 1	51	26	23

^ Asked of a half sample

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Supreme Court Favorability Reaches New Low

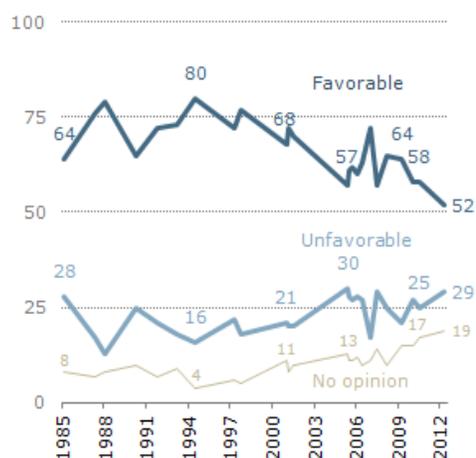
OVERVIEW

Public assessments of the Supreme Court have reached a quarter-century low.

Unlike evaluations over much of the past decade, there is very little partisan divide. The court receives relatively low favorable ratings from Republicans, Democrats and independents alike.

The survey by the Pew Research Center for the People & the Press, conducted April 4-15, 2012 among 1,514 adults nationwide, finds 52% offering a favorable opinion of the Supreme Court, down from 58% in 2010 and the previous low of 57%, in 2005 and 2007. About three-in-ten (29%) say they have an unfavorable view, which approaches the high reached in 2005 (30%).

Supreme Court Favorability Declines



PEW RESEARCH CENTER Apr. 4-15, 2012.

Declining Ratings across Party Lines

There are virtually no partisan differences in views of the Supreme Court: 56% of Republicans, and 52% of both Democrats and independents rate the Supreme Court favorably. And the decline in court ratings has occurred across party lines over the past three years. In April 2009, soon after Barack Obama took office, 70% of Republicans, 63% of Democrats, and 64% of independents held a favorable opinion of the court.

Republican ratings fell steeply between 2009 and 2010, with the appointments of

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Supreme Court Favorability By Party and Administration

<i>% favorable</i>	Total	Rep	Dem	Ind	R-D diff
Obama	%	%	%	%	
2012 (Apr)	52	56	52	52	+4
2010 (Jul)	58	52	65	58	-13
2009 (Apr)	64	70	63	64	+7
G.W. Bush					
2007 (Jul)	57	73	49	58	+24
2005 (Jun)	57	64	51	51	+13
2001 (Jan)	68	80	62	69	+18
Clinton					
1997 (May)	72	69	78	73	-9
1994 (Jul)	80	79	83	80	-4
G.H.W. Bush					
1991 (Nov)	72	83	67	69	+16
1990 (May)	65	71	58	67	+13
Reagan					
1987 (May)	76	80	75	75	+5

PEW RESEARCH CENTER Apr. 4-15, 2012.

Sonia Sotomayor and Elena Kagan to the court. Democratic ratings remained relatively high through 2010, but have fallen steeply since.

The weak ratings for the court across party lines stands in contrast to most previous polls, in which those in the president's party have viewed the Supreme Court more favorably than those in the opposite party. Most recently, throughout George W. Bush's administration, Republicans felt much more favorably toward the Supreme Court than did Democrats. In July 2007, 73% of Republicans rated the court favorably, compared with 49% of Democrats. This divide began even before Bush took office, triggered by the Supreme Court's Bush v. Gore ruling. In early January 2001, 80% of Republicans viewed the court favorably, compared with 62% of Democrats.

The Court and Health Care

The survey was conducted after the Supreme Court's hearings on the 2010 health care law. It finds that the law's supporters and opponents express similar views of the court.

Overall, the public remains deeply divided over the health care law: 41% say they approve of it, while 49% disapprove. Among the bill's supporters, 52% have a favorable view of the Supreme Court, while 34% view it unfavorably. Among the bill's opponents, the balance is only slightly less negative; 55% favorable, 28% unfavorable.

However, a survey conducted last month found that while most Americans said the health care hearings did not change their views of the court, Democrats were far more likely than Republicans to say their opinions of the court had become less favorable.

The survey by the Pew Research Center for the People & the Press and The

Health Care Law's Opponents, Supporters View Court Similarly

<i>View of the Supreme Court</i>	<i>2010 Health care legislation</i>		
	Total	Approve (41%)	Dis-approve (49%)
	%	%	%
Favorable	52	52	55
Unfavorable	29	34	28
Don't know	<u>18</u>	<u>14</u>	<u>18</u>
	100	100	100

PEW RESEARCH CENTER Apr. 4-15, 2012. Figures may not add to 100% because of rounding.

Washington Post, conducted March 29-April 1, 2012 among 1,000 adults, found that 32% of Democrats said their opinion of the court had become less favorable as a result of the hearings on the health care law; just 16% of independents and 14% of Republicans said their views of the court had become less favorable.

Partisan Reaction to Health Care Hearings

From what you saw and heard about the Court hearings on the health care law...

Opinion of the Supreme Court	Total %	Rep %	Dem %	Ind %
Hasn't changed	65	68	58	70
Less favorable	21	14	32	16
More favorable	7	13	4	8
Don't know	7	5	7	7
	100	100	100	100

PEW RESEARCH CENTER/WASHINGTON POST Mar. 29-Apr. 1, 2012. Figures may not add to 100% because of rounding.

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Released: May 1, 2012



Supreme Court Favorability Reaches New Low

ABOUT THE SURVEY

The analysis in this report is based on telephone interviews conducted April 4-15, 2012, among a national sample of 3,008 adults, 18 years of age or older, living in all 50 U.S. states and the District of Columbia (1,805 respondents were interviewed on a landline telephone, and 1,203 were interviewed on a cell phone, including 603 who had no landline telephone). The survey was conducted by interviewers at Princeton Data Source under the direction of Princeton Survey Research Associates International. A combination of landline and cell phone random digit dial samples were used; both samples were provided by Survey Sampling International. Interviews were conducted in English and Spanish. Respondents in the landline sample were selected by randomly asking for the youngest adult male or female who is now at home. Interviews in the cell sample were conducted with the person who answered the phone, if that person was an adult 18 years of age or older. For detailed information about our survey methodology, see <http://www.people-press.org/methodology/>

The combined landline and cell phone sample are weighted using an iterative technique that matches gender, age, education, race, Hispanic origin and nativity and region to parameters from the March 2011 Census Bureau's Current Population Survey and population density to parameters from the Decennial Census. The sample also is weighted to match current patterns of telephone status and relative usage of landline and cell phones (for those with both), based on extrapolations from the 2011 National Health Interview Survey. The weighting procedure also accounts for the fact that respondents with both landline and cell phones have a greater probability of being included in the combined sample and adjusts for household size within the landline sample. Sampling errors and statistical tests of significance take into account the effect of weighting. The following table shows the sample sizes and the error attributable to sampling that would be expected at the 95% level of confidence for different groups in the survey:

Group	Sample Size	Plus or minus...
Form B	1514	2.9 percentage points
Form B		
Republicans	390	5.8 percentage points
Democrats	486	5.2 percentage points
Independents	568	4.8 percentage points

Sample sizes and sampling errors for other subgroups are available upon request.

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In addition to sampling error, one should bear in mind that question wording and practical difficulties in conducting surveys can introduce error or bias into the findings of opinion polls.

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Supreme Court / Judiciary

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CBS News/New York Times Poll. May 31-June 3, 2012. N=976 adults nationwide. Margin of error \pm 3.

"Do you approve or disapprove of the way the Supreme Court is handling its job?"

	Approve	Disapprove	Unsure
	%	%	%
5/31 - 6/3/12	44	36	20

"In general, do you think the current U.S. Supreme Court Justices decide their cases based on legal analysis without regard to their own personal or political views, or do you think they sometimes let their own personal or political views influence their decisions?"

	Just legal analysis	Personal, political views	Depends (vol.)	Unsure
	%	%	%	%
5/31 - 6/3/12	13	76	4	7

"Which opinion comes closer to your own? Appointing Supreme Court justices for life is a good thing because it helps keep them independent from political pressures. OR, Appointing Supreme Court justices for life is a bad thing because it gives them too much power."

	A good thing	A bad thing	Unsure
	%	%	%
5/31 - 6/3/12	33	60	7

NBC News/Wall Street Journal Poll conducted by the polling organizations of Peter Hart (D) and Bill McInturff (R). April 13-17, 2012. N=approx. 500 adults nationwide.

"In general, do you the U.S. Supreme Court is too liberal or too conservative in its decisions?"

	Too liberal	Too conservative	About right (vol.)	Depends (vol.)	Unsure
	%	%	%	%	%
4/13-17/12	33	35	11	5	16
5/92	28	54	4	5	9

Quinnipiac University Poll. April 11-17, 2012. N=2,577 registered voters nationwide. Margin of error \pm 1.9.

"Do you approve or disapprove of the way the United States Supreme Court is handling its job?"

	Approve	Disapprove	Unsure
	%	%	%
4/11-17/12	52	31	18

4/14-19/10	49	33	18
5/26 - 6/1/09	62	22	16
7/8-13/08	39	43	18
8/7-13/07	45	37	17
4/25 - 5/1/07	58	27	15
11/28 - 12/4/05	50	32	17
7/21-25/05	50	39	11
5/18-23/05	44	39	17
12/7-12/04	50	33	17
2/26 - 3/3/03	56	27	16

CNN/ORC Poll. April 13-15, 2012. N=1,015 adults nationwide. Margin of error \pm 3.

"Do you approve or disapprove of the way the Supreme Court is handling its job?"

	Approve	Disapprove	Unsure
	%	%	%
4/13-15/12	50	41	9

Pew Research Center. April 4-15, 2012. N=1,514 adults nationwide. Margin of error \pm 2.9.

"Is your overall opinion of the Supreme Court very favorable, mostly favorable, mostly UNfavorable, or very unfavorable?"

	Very/Mostly favorable	Mostly/Very unfavorable	Never heard of (vol.)	Can't rate/Refused (vol.)
	%	%	%	%
4/4-15/12	52	29	-	18
7/1-3 & 5/10	58	25	1	16
2/3-9/10	58	27	-	15
3/31 - 4/6/09	64	21	0	15
4/08	65	25	-	10
7/07	57	29	0	14
1/07	72	17	2	9
7/06	63	27	1	9
2/06	60	28	-	12

Fox News Poll conducted by Anderson Robbins Research (D) and Shaw & Company Research (R). April 9-11, 2012. N=910 registered voters nationwide. Margin of error \pm 3.

2010 & earlier: Conducted by Opinion Dynamics Corp.

"Do you approve or disapprove of the job the Supreme Court of the United States is doing?"

2006: "Do you approve or disapprove of the job the United States Supreme Court is doing?"

	Approve	Disapprove	Unsure
	%	%	%
4/9-11/12	48	33	19
1/24-25/06	50	30	20

"Do you think the United States Supreme Court is generally too liberal, too conservative, or about right in its decisions?"

	Too liberal	Too conservative	About right	Unsure
	%	%	%	%
4/9-11/12	26	21	45	8
4/20-21/10	27	16	46	10
1/24-25/06	28	17	42	13
6/30 - 7/1/03	30	20	37	13

CNN/ORC Poll. March 24-25, 2012. N=1,014 adults nationwide. Margin of error \pm 3.

"Do you think that the U.S. Supreme Court should or should not allow television cameras into their courtroom when they hear arguments in their cases?"

	Should allow %	Should not allow %	Unsure %
3/24-25/12	61	35	4

Kaiser Family Foundation Health Tracking Poll. Feb. 29-March 5, 2012. N=1,208 adults nationwide. Margin of error \pm 3.

"I am going to read you a list of institutions in American society. Please tell me how much confidence you, yourself, have in each one: a great deal, quite a lot, some, or very little? What about the U.S. Supreme Court?"

	A great deal %	Quite a lot %	Some %	Very little %	None (vol.) %	Unsure/ Refused %
2/29 - 3/5/12	10	13	47	26	3	1

"Next, I'd like to ask you some questions about the U.S. Supreme Court. In general, do you think the current Supreme Court is too liberal, too conservative, or just about right?"

	Too liberal %	Too conservative %	Just about right %	Unsure/ Refused %
2/29 - 3/5/12	26	26	38	10

Kaiser Family Foundation Health Tracking Poll. Jan. 12-17, 2012. N=1,206 adults nationwide. Margin of error \pm 3.

"Next I'd like to ask you some questions about the U.S. Supreme Court. Do you think the Supreme Court justices usually decide their cases based on legal analysis without regard to politics and ideology, or do you think they sometimes let their own ideological views influence their decisions?"

	Legal analysis only %	Sometimes ideology %	Unsure/ Refused %
1/12-17/12	17	75	9

USA Today/Gallup Poll. Dec. 6, 2011. N=1,011 adults nationwide. Margin of error \pm 4. Interviews conducted as part of Gallup Daily tracking.

"As you may know, the U.S. Supreme Court has agreed to hear arguments next year on President Obama's health care law. Do you think that the Court should or should not allow television cameras into the courtroom when they hear arguments in this case?"

	Should allow %	Should not allow %	Unsure %
12/6/11	72	24	4

Gallup Poll. Sept. 8-11, 2011. N=1,017 adults nationwide. Margin of error \pm 4.

"Do you approve or disapprove of the way the Supreme Court is handling its job?"

	Approve %	Disapprove %	Unsure %
9/8-11/11	46	40	14
9/13-16/10	51	39	10
8/31 - 9/2/09	61	28	11
6/14-17/09	59	30	11

9/8-11/08	50	39	11
6/9-12/08	48	38	14
9/14-16/07	51	39	10
5/10-13/07	51	36	13
9/7-10/06	60	32	8
9/12-15/05	56	36	8
6/24-26/05	42	48	10
9/13-15/04	51	39	10
9/8-10/03	52	38	10
7/7-9/03	59	33	8
9/5-8/02	60	29	11
9/7-10/01	58	28	14
6/11-17/01	62	25	13
1/10-14/01	59	34	7
8/29 - 9/5/00	62	29	9

"In general, do you think the current Supreme Court is too liberal, too conservative, or just about right?"

	Too liberal	Too conservative	About right	Unsure
	%	%	%	%
9/8-11/11	31	20	42	7
7/27 - 8/1/10	32	19	43	6
8/31 - 9/2/09	28	19	50	3
9/8-11/08	21	30	43	6
9/14-16/07	21	32	43	5
9/7-10/06	21	31	43	6
9/12-15/05	25	25	45	5

Time Poll conducted by Abt SRBI. June 20-21, 2011. N=1,003 adults nationwide. Margin of error ± 3.

"What about the U.S. Supreme Court? In general, do you approve or disapprove of the way the Supreme Court is handling its job?"

	Approve	Disapprove	Unsure/ Refused
	%	%	%
6/20-21/11	47	34	19

"How closely would you say that you follow major decisions by the U.S. Supreme Court: very closely, somewhat closely, not very closely, or don't you really follow them at all?"

	Very closely	Somewhat closely	Not very closely	Not at all	Unsure/ Refused
	%	%	%	%	%
6/20-21/11	15	54	22	8	1

"Some people say that the courts should strictly follow the original intent of the founding fathers -- that the federal government should be permitted to do ONLY what's exactly spelled out in the Constitution or was the intent of the framers of the Constitution. Others say that times have changed and that the Court should interpret the Constitution based upon changes in society, technology, and the U.S. role in the world. Which comes closest to your view if you had to choose: only what's exactly spelled out in the Constitution, or interpretations based on changes in society?"

	Spelled out/ Intent of the framers	Based on changes in society	Unsure/ Refused
	%	%	%
6/20-21/11	41	54	4

"Would you say that Supreme Court decisions over the past few years have been too conservative, too liberal, or about right?"

	Too conservative	Too liberal	About right	Unsure/ Refused
	%	%	%	%
6/20-21/11	24	30	36	10

Washington Post/Kaiser Family Foundation/Harvard University. Sept. 22-Oct. 3, 2010. N=2,054 adults nationwide. Margin of error \pm 2.5.

"Do you think the U.S. Supreme Court should base its rulings on its understanding of what the U.S. Constitution meant as it was originally written, or should the court base its rulings on its understanding of what the U.S. Constitution means in current times?" Options rotated

	As it was originally written	What it means in current times	Somewhere in between (vol.)	Unsure
	%	%	%	%
9/22 - 10/3/10	50	46	1	3
7/05	46	50	3	1

AP-National Constitution Center Poll conducted by GfK Roper Public Affairs & Media. Aug. 11-16, 2010. N=1,007 adults nationwide. Margin of error \pm 4.5.

"Do you think the decisions of the U.S. Supreme Court have an impact on your daily life, or do you think that the decisions of the U.S. Supreme Court don't really affect your daily life?"

	Have an impact	Don't really affect	Unsure
	%	%	%
8/11-16/10	72	26	2

"Do you think the U.S. Supreme Court justices usually decide their cases based on legal analysis without regard to partisan politics, or do you think they sometimes let their own partisan political views influence their decisions?"

	Usually legal analysis	Sometimes political views	Unsure
	%	%	%
8/11-16/10	19	78	4

USA Today/Gallup Poll. July 27-Aug. 1, 2010. N=1,208 adults nationwide. Margin of error \pm 3.

"As you may know, Solicitor General Elena Kagan is the person nominated to serve on the Supreme Court. Would you like to see the Senate vote in favor of Kagan serving on the Supreme Court, or not?"

	Vote in favor	Not vote in favor	Unsure
	%	%	%
7/27 - 8/1/10	46	36	18
7/8-11/10	44	34	22
5/24-25/10	46	32	22

CNN/Opinion Research Corporation Poll. July 16-21, 2010. N=1,018 adults nationwide. Margin of error \pm 3.

"As you may know, Elena Kagan is the person nominated to serve on the Supreme Court. Would you like to see the Senate vote in favor of Kagan serving on the Supreme Court, or not?"

	Vote in favor	Not vote in favor	Unsure
	%	%	%
7/16-21/10	54	34	12
Democrats	76	12	12
Independents	48	40	12
Republicans	36	50	14
6/16/10	44	39	17
5/21-23/10	54	36	11

Quinnipiac University Poll. July 13-19, 2010. N=2,181 registered voters nationwide. Margin of error \pm 2.1.

"Do you approve or disapprove of President Obama's nomination of Elena Kagan to the Supreme Court?"

	Approve %	Disapprove %	Unsure %
7/13-19/10	46	34	20
5/19-24/10	48	30	22

CBS News Poll. July 9-12, 2010. N=966 adults nationwide. Margin of error \pm 3.

"How closely would you say you have been following news about the appointment of U.S. Solicitor General Elena Kagan to the U.S. Supreme Court: very closely, somewhat closely, not very closely, or not at all closely?"

	Very closely %	Somewhat closely %	Not very closely %	Not at all closely %	Unsure %
7/9-12/10	8	33	28	30	1

"What do you think right now? Should the Senate vote to confirm Elena Kagan as a justice of the U.S. Supreme Court, or vote against Kagan, or can't you say?"

	Vote to confirm %	Vote against %	Can't say %	Unsure %
7/9-12/10	21	19	53	7

ABC News/Washington Post Poll. July 7-11, 2010. N=1,288 adults nationwide. Margin of error \pm 3.5.

"As you may know, Obama has nominated U.S. Solicitor General Elena Kagan to serve on the U.S. Supreme Court. Do you think the U.S. Senate should or should not confirm Kagan's nomination to the Supreme Court?"

	Should %	Should not %	Unsure %
7/7-11/10	53	25	22
6/3-6/10	58	24	18

Pew Research Center. July 1-3 & 5, 2010. N=1,007 adults nationwide. Margin of error \pm 4.

"Thinking now about the Supreme Court: In your view, do you think the current Supreme Court is conservative, middle of the road, or liberal?"

	Conservative %	Middle of the road %	Liberal %	Unsure %
7/1-3 & 5/10	23	39	23	14
4/21-26/10	24	36	24	16
7/07	36	35	14	15

FOX News/Opinion Dynamics Poll. June 29-30, 2010. N=900 registered voters nationwide. Margin of error \pm 3.

"I'm going to read you the names of several individuals. Please tell me whether you have a generally favorable or unfavorable opinion of each one. If you've never heard of someone, please just say so. Elena Kagan."

Favorable	Unfavorable	Can't say	Never heard of
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	%	%	%	%
6/29-30/10	24	17	19	40

"President Obama has nominated Elena Kagan to serve on the U.S. Supreme Court. If you were voting on Kagan's nomination, would you vote to confirm her or not?"

	Confirm %	Not confirm %	Unsure %
6/29-30/10	38	36	26
Democrats	64	12	25
Republicans	12	61	27
Independents	38	35	27
5/18-19/10	39	29	33
Democrats	57	11	32
Republicans	21	51	28
Independents	36	25	39

"President Obama has already had the opportunity to fill two of the nine seats on the U.S. Supreme Court because of retirements. Four justices are currently over 70 years old. Would you rather they retire while President Obama is in office so he can nominate more justices, or would you rather they wait until his successor takes office and not give President Obama that opportunity?"

	Retire while Obama in office %	Wait until successor takes office %	Unsure %
6/29-30/10	34	54	13

NBC News/Wall Street Journal Poll conducted by the polling organizations of Peter Hart (D) and Bill McInturff (R). June 17-21, 2010. N=1,000 adults nationwide. Margin of error \pm 3.1.

"As you may know, Barack Obama recently nominated Elena Kagan to serve as a justice on the Supreme Court. Do you strongly support, somewhat support, somewhat oppose, or strongly oppose Elena Kagan's serving as a justice on the Supreme Court, or do you not know enough about her to say?"

	Strongly support %	Somewhat support %	Somewhat oppose %	Strongly oppose %	Don't know enough %
6/17-21/10	11	18	9	14	47
5/20-23/10	14	17	11	10	47

Pew Research/National Journal Congressional Connection Poll, sponsored by the Society for Human Resource Management. June 17-20, 2010. N=1,009 adults nationwide. Margin of error \pm 4.

"From what you've seen and heard so far, do you think the Senate should or should not confirm Elena Kagan to the Supreme Court?"

	Should %	Should not %	Unsure %
6/17-20/10	33	25	42
5/13-16/10	33	21	46

"What is your impression of Elena Kagan? Do you think she is liberal, moderate, or conservative?" Options rotated

	Liberal %	Moderate %	Conservative %	Unsure %
6/17-20/10	28	24	7	41

CNN/Opinion Research Corporation Poll. June 16, 2010. N=534 adults nationwide. Margin of error \pm 4.

"What do you think is more likely to occur during the Senate confirmation hearings for Kagan:

a relatively easy process in which Republicans and Democrats come to an agreement, or a major fight between Republicans and Democrats that would drag on for a long time?"

	Relatively easy process	Major fight	Unsure
	%	%	%
6/16/10	37	61	3

AP-GfK Poll conducted by GfK Roper Public Affairs & Media. June 9-14, 2010. N=1,044 adults nationwide. Margin of error \pm 4.3.

"As you may know, Supreme Court Justice John Paul Stevens is retiring, and President Obama has nominated Elena Kagan to replace him. Is your opinion of Supreme Court nominee Elena Kagan favorable, unfavorable, or haven't you heard enough about Elena Kagan yet to have an opinion?"

	Favorable	Unfavorable	Haven't heard enough
	%	%	%
6/9-14/10	20	17	63

"Do you think the U.S. Senate should confirm or should not confirm Elena Kagan as a Supreme Court justice?"

	Should	Should not	Unsure	Refused
	%	%	%	%
6/9-14/10	43	26	30	1

ABC News/Washington Post Poll. June 3-6, 2010. N=1,004 adults nationwide. Margin of error \pm 3.5.

"As you may know, Obama has nominated U.S. Solicitor General Elena Kagan to serve on the U.S. Supreme Court. Do you think the U.S. Senate should or should not confirm Kagan's nomination to the Supreme Court?"

	Should	Should not	Unsure
	%	%	%
6/3-6/10	58	24	18

"At her confirmation hearing, do you think Kagan should or should not answer questions about how she would have ruled on past cases that have come before the Supreme Court?" Half sample

	Should	Should not	Unsure
	%	%	%
6/3-6/10	66	29	5

"Do you think Kagan should or should not publicly state her position on abortion before being approved by the U.S. Senate for the job?" Half sample

	Should	Should not	Unsure
	%	%	%
6/3-6/10	54	42	5

CNN/Opinion Research Corporation Poll. May 21-23, 2010. N=1,023 adults nationwide. Margin of error \pm 3.

"Based on what you have heard or read about Elena Kagan, do you think she is among the most qualified people who could serve on the Supreme Court, is she qualified to serve on the Supreme Court but many others are more qualified, or is she not qualified to serve on the Supreme Court?"

	Among most qualified	Qualified	Not qualified	Unsure
	%	%	%	%
5/21-23/10	15	63	19	4

"Thinking about Elena Kagan's background, does each of the following make you more likely to

support her nomination, does it make no difference to you, or does it make you less likely to support her nomination? ..."

	More likely to support %	No difference %	Less likely to support %	Unsure %
"She has worked closely with Barack Obama on legal issues" 5/21-23/10	26	44	30	1
"When she was a law school dean, she barred military recruiters from campus because the U.S. did not allow openly gay people to serve in the military" 5/21-23/10	19	40	39	1
"She is a woman" 5/21-23/10	16	80	5	-
"Her views on most major issues are not known" 5/21-23/10	9	37	53	1
"She has never served as a judge" 5/21-23/10	8	40	52	1

"From what you know about Elena Kagan, as a Supreme Court justice, do you think she would be too liberal, too conservative, or just about right?" N=524 (Form A), MoE ± 4.5

	Too liberal %	Too conservative %	Just about right %	Unsure %
5/21-23/10	40	6	50	4

"Based on what you have heard or read about her, do you think Elena Kagan's views on important issues are in the mainstream or do you think they are too extreme?" N=499 (Form B), MoE ± 4.5

	Mainstream %	Too extreme %	Unsure %
5/21-23/10	54	36	10

Quinnipiac University Poll. May 19-24, 2010. N=1,914 registered voters nationwide. Margin of error ± 2.2.

"Should senators support or oppose Elena Kagan's nomination to the Supreme Court based only on whether she is qualified to be a justice, or should they also consider her views on controversial issues like abortion and gay marriage?"

	Qualifications only %	Also views on issues %	Unsure %
5/19-24/10	43	43	14

"If senators did not agree with Elena Kagan on controversial issues like abortion and gay marriage, do you think they would be justified, or not justified in using the filibuster to prevent her nomination from coming to a vote?"

	Justified %	Not justified %	Unsure %
5/19-24/10	37	50	13

FOX News/Opinion Dynamics Poll. May 18-19, 2010. N=900 registered voters nationwide. Margin of error ± 3.

"From what you know about Elena Kagan, would you say she is more of a liberal, or a conservative?" Options rotated

	Liberal %	Conservative %	Moderate (vol.) %	Unsure %
5/18-19/10	46	10	7	37

"Overall, do you think Elena Kagan is qualified to serve as a justice on the Supreme Court or not?"

	Qualified %	Not qualified %	Unsure %
5/18-19/10	45	26	29

"Do you think the Senate will confirm Elena Kagan or not?"

	Will %	Will not %	Unsure %
5/18-19/10	70	8	22

"Do you think Supreme Court nominee Elena Kagan has been treated fairly or unfairly by the press?"

	Fairly %	Unfairly %	Unsure %
5/18-19/10	50	23	27

"Do you think the public has the right to know about the private life of anyone nominated to the Supreme Court?"

	Does %	Does not %	Unsure %
5/18-19/10	61	34	4

"Do you think all Supreme Court justices should have prior experience as a judge or is it a good idea if some Supreme Court justices don't have prior experience as a judge?"

	All should have experience %	Good if some don't have experience %	Doesn't matter (vol.) %	Unsure %
5/18-19/10	62	28	7	3

"How do you think the U.S. Supreme Court should interpret the Constitution? No matter what the outcome, the court should follow what the Framers meant when they wrote the Constitution. If necessary, the court should ignore what the Framers meant to reach the outcome it feels is appropriate for today."

	Follow the Framers, no matter what %	Ignore the Framers, if necessary %	In between/ Combination (vol.) %	Unsure %
5/18-19/10	60	29	7	5
5/12-13/09	60	26	8	6

NBC News/Wall Street Journal Poll conducted by the polling organizations of Peter Hart (D) and Bill McInturff (R). May 6-10, 2010. N=1,000 adults nationwide. Margin of error ± 3.1.

"How much confidence do you have that President Obama will select the right kind of person to sit on the Supreme Court: a great deal, quite a bit, some, very little, or none at all?"

	A great deal %	Quite a bit %	Some %	Very little %	None at all %
5/6-10/10	27	17	18	14	23

Gallup Poll. May 10, 2010. N=1,004 adults nationwide. Margin of error ± 4.

"Generally speaking, how would you rate Obama's choice of Elena Kagan as a nominee to the U.S. Supreme Court -- as excellent, good, only fair, or poor?"

	Excellent %	Good %	Only fair %	Poor %	Unsure %
5/10/10	13	27	22	14	24

Gallup Poll. May 3-6, 2010. N=1,029 adults nationwide. Margin of error \pm 4.

"Would you like to see President Obama nominate a new justice who would make the Supreme Court more liberal than it currently is, more conservative than it currently is, or who would keep the Court as it is now?"

	More liberal %	More conservative %	Keep as it is now %	Unsure %
5/3-6/10	27	42	24	6

"Which of the following best describes your view about whether the next Supreme Court justice is [see below]? Do you think it is essential that the next justice is [see below], is it a good idea but not essential, does it not matter to you, or do you think it is a bad idea?"

	Essential %	A good idea, not essential %	Doesn't matter %	A bad idea %	Unsure %
"A woman"					
5/3-6/10	4	20	72	3	1
5/7-10/09	6	26	64	3	1
10/28-30/05	14	33	50	2	1
9/26-28/05	14	29	55	1	1
"Hispanic"					
5/3-6/10	1	12	76	9	1
5/7-10/09	1	21	68	8	1
9/26-28/05	3	23	69	4	1
"Black"					
5/3-6/10	1	13	82	3	1
5/7-10/09	1	21	74	3	1
9/26-28/05	5	21	71	2	1

"As you may know, when Justice John Paul Stevens retires, none of the eight remaining Supreme Court justices will be of a Protestant religion. Which best describes your view about whether John Paul Stevens' replacement on the Supreme Court is Protestant? Do you think it is essential that the next justice is Protestant, is it a good idea but not essential, does it not matter to you, or do you think it is a bad idea?" Options rotated

	Essential %	A good idea, not essential %	Doesn't matter %	A bad idea %	Unsure %
5/3-6/10	7	22	66	3	2

Pew Research Center survey. April 21-26, 2010. N=1,546 adults nationwide. Margin of error \pm 3.

"Just your impression: Over the past two decades, do you think the Supreme Court has become more conservative, become more liberal, or has it stayed about the same?"

	More conservative %	More liberal %	About the same %	Unsure %
4/21-26/10	19	28	43	10

"In making his appointments to the Supreme Court, should President Obama nominate people who will make the court more liberal, people who will make it more conservative, or people who will keep the court about the same as it is now?"

	More liberal %	More conservative %	About the same %	Unsure %
4/21-26/10	27	28	35	10

"How important is the president's choice of the next Supreme Court justice to you personally: very important, somewhat important, not too important, or not at all important?"

	Very important %	Somewhat important %	Not too important %	Not at all important %	Unsure %
4/21-26/10	40	32	14	11	3
11/3-6/05	47	28	13	11	1

ABC News/Washington Post Poll. April 22-25, 2010. N=1,001 adults nationwide. Margin of error ± 3.5.

"Do you think the Supreme Court tends to be too conservative or too liberal in its decisions, or is it generally balanced in its decisions?"

	Too conservative %	Too liberal %	Balanced %	Unsure %
4/22-25/10	21	26	46	7
7/18-21/07	31	18	47	4
7/05	19	22	55	4
7/95	22	22	54	3

"How comfortable are you with Barack Obama selecting the next U.S. Supreme Court nominee: very comfortable, somewhat comfortable, not very comfortable or not at all comfortable?"

	Very comfortable %	Somewhat comfortable %	Not very comfortable %	Not at all comfortable %	Unsure %
4/22-25/10	36	29	12	21	2

"For each item I name, please tell me whether to you personally it would be a factor in favor of a Supreme Court nominee, a factor against a Supreme Court nominee, or not a factor one way or the other. What if the nominee is [see below]?"

	In favor %	Against %	Not a factor %	Unsure %
"A woman" Half sample (Form A) 4/22-25/10	15	3	81	1
"Gay or lesbian" Half sample (Form A) 4/22-25/10	4	25	71	0
"Protestant" Half sample (Form A) 4/22-25/10	7	5	83	4
"African-American" Half sample (Form B) 4/22-25/10	16	3	81	-
"Someone with experience as a judge" Half sample (Form B) 4/22-25/10	70	5	24	1
"Someone with experience outside the legal profession, for example in the field of business or politics" Half sample (Form B) 4/22-25/10	35	26	38	1

If experience outside the legal profession would be a factor in favor:

"Which would be preferable to you for a Supreme Court nominee: someone with experience in business, or in politics?"

	Business %	Politics %	Both (vol.) %	Unsure %
4/22-25/10	56	36	6	1

"The Supreme Court legalized abortion 37 years ago in the ruling known as Roe versus Wade. If that case came before the court again, would you want the next justice to vote to uphold Roe versus Wade, or vote to overturn it?" Options rotated

6/10: "The Supreme Court legalized abortion 36 years ago in the ruling known as Roe versus Wade. If that case came before the court again, would you want Sotomayor to vote to uphold Roe versus Wade, or vote to overturn it?"

	Uphold %	Overturn %	Unsure %
4/22-25/10	59	38	3
6/18-21/09	60	34	6

FOX News/Opinion Dynamics Poll. April 20-21, 2010. N=900 registered voters nationwide. Margin of error ± 3.

"Supreme Court Justice John Paul Stevens recently announced he will resign at the end of his

term, which will give Barack Obama his second chance to nominate a Supreme Court justice. I'm going to read a list of qualities that might be considered when selecting a new justice. For each one, please tell me whether you think it should be the single most important factor, should be a factor but not the most important, shouldn't matter, or should be a disqualifying factor?" Options rotated

	Single most important factor %	A factor %	Shouldn't matter %	A disqualifying factor %	Unsure %
"The nominee having served as a judge"	20	56	20	2	2
4/20-21/10					
"The nominee being a constitutional scholar"	20	52	23	1	3
4/20-21/10					
"The nominee being an attorney"	11	49	36	2	2
4/20-21/10					
"The nominee being a woman"	2	12	83	2	1
4/20-21/10					
"The nominee being a minority"	2	12	82	3	1
4/20-21/10					
"The nominee being a homosexual"	1	8	73	15	3
4/20-21/10					

"Would it matter to you if there weren't any justices with a Protestant religious background on the Supreme Court?"

	Yes %	No %	Unsure %
4/20-21/10	27	70	3

"I'm going to read you a list of characteristics and affiliations and I'd like you to tell me whether or not you would be comfortable with a Supreme Court Justice who has that characteristic or affiliation. Would you be comfortable with a justice who is [see below] or not?"

	Would be comfortable %	Would not be comfortable %	Unsure %
"A Mormon"	65	30	5
4/20-21/10			
"A Christian who takes the Bible literally"	62	35	3
4/20-21/10			
"A libertarian"	57	32	11
4/20-21/10			
"A Muslim"	43	53	4
4/20-21/10			
"An atheist"	39	58	3
4/20-21/10			
"A socialist"	31	64	5
4/20-21/10			

Quinnipiac University Poll. April 14-19, 2010. N=1,930 registered voters nationwide. Margin of error ± 2.2.

"Do you think the United States Supreme Court is moving in the right direction or the wrong direction?"

	Right direction %	Wrong direction %	Unsure %
4/14-19/10	35	37	28
7/8-13/08	33	42	25
8/7-13/07	39	37	25

"Do you think the Supreme Court is too liberal, too conservative, or about right?"

	Too liberal	Too conservative	About right	Unsure
	%	%	%	%
4/14-19/10	29	19	40	12
7/8-13/08	25	31	33	10
8/7-13/07	20	29	37	13
2/26 - 3/3/03 Adults	19	26	46	10

"As you may know, Justice John Paul Stevens is retiring from the Supreme Court. How confident are you that President Obama will make the right decision about who should replace Justice Stevens on the Supreme Court: very confident, somewhat confident, not too confident, or not confident at all?"

	Very confident	Somewhat confident	Not too confident	Not confident at all	Unsure
	%	%	%	%	%
4/14-19/10	27	26	18	28	2

"Who do you trust more to make the right decisions about who should sit on the United States Supreme Court: President Obama or the Republicans in the United States Senate?"

	President Obama	Senate Republicans	Unsure
	%	%	%
4/14-19/10	46	43	11

"Do you think President Obama's nominee to the U.S. Supreme Court will be more liberal than you would like, not liberal enough, or about right?"

	More liberal	Not liberal enough	About right	Unsure
	%	%	%	%
4/14-19/10	42	8	42	8

"Do you approve or disapprove of President Obama's nomination of Sonia Sotomayor to the Supreme Court?"

	Approve	Disapprove	Unsure
	%	%	%
4/14-19/10	52	32	16
6/23-29/09	54	26	20
5/26 - 6/1/09	55	25	20

"Do you approve or disapprove of the way John Roberts is handling his job as chief justice of the Supreme Court?"

	Approve	Disapprove	Unsure
	%	%	%
4/14-19/10	49	21	30

"Which comes closer to your point of view? In making decisions, the Supreme Court should only consider the original intentions of the authors of the Constitution. OR, In making decisions, the Supreme Court should consider changing times and current realities in applying the principles of the Constitution."

	Original intentions	Current realities	Unsure
	%	%	%
4/14-19/10	49	42	9
7/8-13/08	40	52	8
8/7-13/07	43	48	9
7/21-25/05	44	50	6
5/18-23/05	42	51	8
2/26 - 3/3/03 Adults	39	54	7

"Do you think Supreme Court justices make their decisions solely based on the law, or do you think their political views enter into their decisions?"

	Solely the law	Political views	Unsure
	%	%	%
4/14-19/10	16	78	6

"Should senators support or oppose President Obama's nominee to the Supreme Court based

only on whether he or she is qualified to be a justice, or should they also consider his or her views on controversial issues like abortion and gay marriage?"

	Qualifications only %	Views on issues, too %	Unsure %
4/14-19/10	47	43	10

"If senators did not agree with President Obama's Supreme Court nominee on controversial issues like abortion and gay marriage, do you think they would be justified, or not justified in using the filibuster to prevent the nomination from coming to a vote?"

	Justified %	Not justified %	Unsure %
4/14-19/10	48	41	11

CNN/Opinion Research Corporation Poll. April 9-11, 2010. N=1,008 adults nationwide. Margin of error ± 3.

"As you may know, President Obama will announce later this year a nominee to the Supreme Court. Do you think Obama should nominate somebody who is very liberal, somewhat liberal, moderate, somewhat conservative, or very conservative?"

	Very liberal %	Somewhat liberal %	Moderate %	Somewhat conservative %	Very conservative %	Unsure %
4/9-11/10	8	17	37	19	17	1
5/14-17/09	9	18	37	19	16	1

"And just your best guess -- do you think Obama will nominate somebody who is very liberal, somewhat liberal, moderate, somewhat conservative, or very conservative?"

	Very liberal %	Somewhat liberal %	Moderate %	Somewhat conservative %	Very conservative %	Unsure %
4/9-11/10	33	28	21	9	7	3

FOX News/Opinion Dynamics Poll. April 6-7, 2010. N=900 registered voters nationwide. Margin of error ± 3.

"Justices to the U.S. Supreme Court are given lifetime appointments, which means it is completely up to the individual justice when he or she retires. Do you think justices should continue to be allowed to serve as long as they want, or should there be a mandatory retirement age for Supreme Court justices?"

	Serve as long as they want %	Mandatory retirement age %	Unsure %
4/6-7/10	30	65	6
7/12-13/05	28	66	6

"If a mandatory retirement age were set for Supreme Court justices, what do you think that age should be?" Open-ended

	%
Under age 65	12
65-69	24
70-74	24
75-79	16
80-84	6
85-89	2
90 & older	2
Don't set age	7
Unsure	6

"When President Obama nominates the next justice to the U.S. Supreme Court, do you want him to nominate someone who is more of a liberal or someone who is more of a conservative?"

Options rotated

7/05: "When President Bush nominates the next justice to the U.S. Supreme Court...?"

More of a	More of a	Shouldn't consider	A moderate
-----------	-----------	--------------------	------------

	liberal	conservative	ideology (vol.)	(vol.)	Unsure
	%	%	%	%	%
4/6-7/10	29	52	5	7	7
7/12-13/05	25	39	8	12	16

"If Senate Republicans strongly oppose the person President Obama nominates to be the next Supreme Court justice, do you think they should allow an up or down vote on the nominee even if they might lose, or draw out the debate to prevent a vote and keep the nominee from being confirmed?"

7/05: "If Senate Democrats strongly oppose the person President Bush nominates to be the next Supreme Court justice...?"

	Allow up or down vote	Prevent a vote	Unsure
	%	%	%
4/6-7/10	52	26	22
7/12-13/05	51	24	26

CNN/Opinion Research Corporation Poll. July 31-Aug. 3, 2009. Adults nationwide.

"As you may know, Sonia Sotomayor is the federal judge nominated to serve on the Supreme Court. Would you like to see the Senate vote in favor of Sotomayor serving on the Supreme Court, or not?" N=506 (Form A), MoE ± 4.5

	Vote in favor	Not vote in favor	Unsure
	%	%	%
7/31 - 8/3/09	51	36	14
6/26-28/09	47	40	13

"As you may know, Sonia Sotomayor is the federal judge who Barack Obama nominated to serve on the Supreme Court. Would you like to see the Senate vote in favor of Sotomayor serving on the Supreme Court, or not?" N=521 (Form B), MoE ± 4.5

	Vote in favor	Not vote in favor	Unsure
	%	%	%
7/31 - 8/3/09	61	31	8

NBC News/Wall Street Journal Poll conducted by the polling organizations of Peter Hart (D) and Bill McInturff (R). July 24-27, 2009. N=1,011 adults nationwide. Margin of error ± 3.1.

"Now I'm going to read you the names of several public figures, and I'd like you to rate your feelings toward each one as either very positive, somewhat positive, neutral, somewhat negative, or very negative. If you don't know the name, please just say so. Sonia Sotomayor."

	Very positive	Somewhat positive	Neutral	Somewhat negative	Very negative	Don't know name/Unsure
	%	%	%	%	%	%
7/24-27/09	16	15	22	14	13	20
6/12-15/09	13	17	24	8	8	30

"As you may know, Barack Obama recently nominated Sonia Sotomayor to serve as a justice on the Supreme Court. Do you strongly support, somewhat support, somewhat oppose, or strongly oppose Sonia Sotomayor's serving as a justice on the Supreme Court, or do you not know enough about her to say?"

	Strongly support	Somewhat support	Somewhat oppose	Strongly oppose	Don't know enough	Unsure
	%	%	%	%	%	%
7/24-27/09	25	19	13	17	25	1
6/12-15/09	21	22	9	11	35	2

Pew Research Center survey. July 22-26, 2009. N=746 adults nationwide. Margin of error ± 4.

"How much, if anything, have you heard about Barack Obama's choice of Sonia Sotomayor to be the next Supreme Court justice: a lot, a little, or nothing at all?"

	A lot	A little	Nothing at all	Unsure
	%	%	%	%
7/22-26/09	46	33	19	2
6/10-14/09	39	38	21	2

"From what you've seen and heard so far, do you think the Senate should or should not confirm Sonia Sotomayor to the Supreme Court?"

	Should	Should not	Unsure
	%	%	%
7/22-26/09	50	23	27
6/10-14/09	50	25	25

FOX News/Opinion Dynamics Poll. July 21-22, 2009. N=900 registered voters nationwide. Margin of error \pm 3.

"I'm going to read you the names of several individuals and institutions. Please tell me whether you have a generally favorable or unfavorable opinion of each one. If you've never heard of an individual or institution, please just say so. Sonia Sotomayor."

	Favorable	Unfavorable	Can't say	Never heard of
	%	%	%	%
7/21-22/09	41	24	19	15
6/9-10/09	36	18	25	21

"President Obama has nominated Sonia Sotomayor to serve on the U.S. Supreme Court. If you were voting on Sotomayor's nomination, would you vote to confirm her or not?"

	Confirm	Not confirm	Unsure
	%	%	%
7/21-22/09	53	29	19
6/9-10/09	46	32	22

USA Today/Gallup Poll. July 17-19, 2009. N=1,006 adults nationwide. Margin of error \pm 4.

"Now, turning to the U.S. Supreme Court: As you may know, Sonia Sotomayor is the federal judge nominated to serve on the Supreme Court. Would you like to see the Senate vote in favor of Sotomayor serving on the Supreme Court, or not?"

	Vote in favor	Not vote in favor	Unsure
	%	%	%
7/17-19/09	55	36	9
7/10-12/09	53	33	13
5/29-31/09	54	28	19

Diageo/Hotline Poll conducted by FD. July 9-13, 2009. N=800 registered voters nationwide. Margin of error \pm 3.5.

"Now, I'd like to read you a list of various national public figures, and for each one, please tell me if you have a favorable or unfavorable opinion of them. If you haven't heard of them, just tell me and we'll move on. Sonia Sotomayor."

	Favorable	Unfavorable	Heard of/Can't rate (vol.)	Haven't heard of	Unsure
	%	%	%	%	%
7/9-13/09	31	24	15	24	5

"On the topic of President Obama's nomination to the Supreme Court, do you support or oppose the confirmation of Sonia Sotomayor to the Supreme Court of the United States?" Options rotated

	Support	Oppose	Unsure
	%	%	%
7/9-13/09	50	28	22

Gallup Poll. July 10-12, 2009. N=1,018 adults nationwide. Margin of error \pm 3.

"Next, we'd like to get your overall opinion of some people in the news. As I read each name, please say if you have a favorable or unfavorable opinion of these people -- or if you have never heard of them. How about U.S. Supreme Court nominee Sonia Sotomayor?"

	Favorable	Unfavorable	Never heard of	Unsure
	%	%	%	%
7/10-12/09	38	26	19	17
5/29-31/09	43	21	15	21

"How closely are you following the news about Sonia Sotomayor's nomination to the U.S. Supreme Court: very closely, somewhat closely, not too closely, or not at all?"

	Very closely	Somewhat closely	Not too closely	Not at all	Unsure
	%	%	%	%	%
7/10-12/09	14	39	27	19	1
5/29-31/09	20	40	22	18	-

CBS News Poll. July 9-12, 2009. N=944 adults nationwide. Margin of error \pm 3.

"Is your opinion of Supreme Court nominee Sonia Sotomayor favorable, not favorable, undecided, or haven't heard enough about Sonia Sotomayor yet to have an opinion?"

	Favorable	Not favorable	Undecided	Haven't heard enough
	%	%	%	%
7/9-12/09	23	15	23	39
6/12-16/09	33	9	22	36

"What do you think right now? Should the Senate vote to confirm Sonia Sotomayor as a justice of the U.S. Supreme Court, or vote against Sotomayor, or can't you say?"

	Vote to confirm	Vote against	Can't say	Unsure
	%	%	%	%
7/9-12/09	30	14	52	4
6/12-16/09	34	9	53	4

"How important do you think it is for there to be another woman on the Supreme Court? Would you say it is very important, somewhat important, not very important or not important at all?"

	Very important	Somewhat important	Not very important	Not at all important	Unsure
	%	%	%	%	%
7/9-12/09	35	31	14	18	2

"How important do you think it is for there to be a Hispanic on the Supreme Court? Would you say it is very important, somewhat important, not very important or not important at all?"

	Very important	Somewhat important	Not very important	Not at all important	Unsure
	%	%	%	%	%
7/9-12/09	21	32	20	25	2

"If Sonia Sotomayor is confirmed to sit on the Supreme Court, do you think she will favor certain groups over others when making her judicial decisions, or do you think she will treat all groups the same under the law?"

	Will favor certain groups	Will treat all the same	Depends (vol.)	Unsure
	%	%	%	%
7/9-12/09	21	60	2	17
6/12-16/09	18	55	2	25

CNN/Opinion Research Corporation Poll. June 26-28, 2009. N=1,026 adults nationwide. Margin of error \pm 3.

"Suppose the upcoming confirmation hearings indicate that Sonia Sotomayor is qualified and has no ethical problems. Do you think U.S. Senators would be justified or unjustified in voting against her if they disagree with her stance on current issues such as abortion or gun control?"

	Justified	Unjustified	Unsure
	%	%	%
6/26-28/09	47	49	5

"What do you think is more likely to occur during the Senate confirmation hearings for Sotomayor: a relatively easy process in which Republicans and Democrats come to an agreement, or a major fight between Republicans and Democrats that would drag on for a long time?"

	Relatively easy	Major fight	Unsure
	%	%	%
6/26-28/09	38	60	3

ABC News/Washington Post Poll. June 18-21, 2009. N=1,001 adults nationwide. Margin of error \pm 3.5.

"As you may know, Obama has nominated federal judge Sonia Sotomayor to serve on the U.S. Supreme Court. Do you think the U.S. Senate should or should not confirm Sotomayor's nomination to the Supreme Court?"

	Should	Should not	Unsure
	%	%	%
ALL	62	25	13
Democrats	79	11	10
Independents	64	26	10
Republicans	36	43	21

"Given what you know, do you think Sotomayor is a more liberal nominee than you'd have liked, less liberal than you'd have liked, or about right?"

	More liberal	Less liberal	About right	Unsure
	%	%	%	%
6/18-21/09	26	8	55	12

"Do you think Sotomayor's racial and ethnic background plays a role in the way she decides cases as a judge, or not?" If "Yes": "Do you think that's a good thing or a bad thing?"

	Yes: Good	Yes: Bad	No	Unsure
	%	%	%	%
6/18-21/09	16	22	52	10

"Do you think the fact that Sotomayor is a woman plays a role in the way she decides cases as a judge, or not?" If "Yes": "Do you think that's a good thing or a bad thing?"

	Yes: Good	Yes: Bad	No	Unsure
	%	%	%	%
6/18-21/09	23	10	59	8

"The Supreme Court legalized abortion 36 years ago in the ruling known as Roe versus Wade. If that case came before the court again, would you want Sotomayor to vote to uphold Roe versus Wade, or vote to overturn it?" Options rotated

	Uphold	Overturn	Unsure
	%	%	%
6/18-21/09	60	34	6

CBS News/New York Times Poll. June 12-16, 2009. N=895 adults nationwide. Margin of error \pm 3.

"When the Senate votes on a Supreme Court nominee, should it consider only that person's legal qualifications and background, or along with legal background, should the Senate also

consider that nominee's personal views on major issues the Supreme Court decides?"

	Legal only %	Issues, too %	Unsure %
6/12-16/09	30	62	8
1/5-8/06	32	61	7

"How important is it for the members of the Supreme Court to reflect the diverse gender, ethnic and racial make-up of the country as a whole? Is it very important, somewhat important, not too important, or not important at all?"

	Very important %	Somewhat important %	Not too important %	Not at all important %	Unsure %
6/12-16/09	43	31	12	11	3

"How closely would you say you have been following news about the appointment of federal appeals court judge Sonia Sotomayor to the U.S. Supreme Court: very closely, somewhat closely, not very closely, or not at all?"

	Very closely %	Somewhat closely %	Not very closely %	Not at all %	Unsure %
6/12-16/09	22	39	19	18	2

"Before senators vote on whether Sonia Sotomayor should be confirmed as a justice of the Supreme Court, how important do you think it is for the Senate to know her positions on issues such as abortion and affirmative action? Is that very important, somewhat important, not very important, or not at all important?"

	Very important %	Somewhat important %	Not very important %	Not at all important %	Unsure %
6/12-16/09	48	28	11	11	2

NBC News/Wall Street Journal Poll conducted by the polling organizations of Peter Hart (D) and Bill McInturff (R). June 12-15, 2009. N=1,008 adults nationwide. Margin of error ± 3.1.

"Based on what you have heard so far, do you think that Sonia Sotomayor is qualified or not qualified to be a Supreme Court justice, or do you not know enough about her to say?"

	Qualified %	Not qualified %	Don't know enough %	Unsure %
6/12-15/09	50	13	35	2

"How much confidence do you have that, if she is confirmed by the Senate to sit on the Supreme Court, Sonia Sotomayor will reflect your views about most issues: a great deal of confidence, quite a bit of confidence, some confidence, very little confidence, or no confidence at all? If you have no opinion, please just say so." Half sample (Form A), MoE ± 4.4

	A great deal %	Quite a bit %	Some %	Very little %	None at all %	No opinion %
6/12-15/09	12	14	20	14	13	27

"Based on what you have heard, seen, or read about Sonia Sotomayor's decisions as a judge and her personal viewpoints do you feel that she would be within the mainstream of the Supreme Court and past justices who have served, or outside the mainstream of the Supreme Court and past justices who have served? If you do not know enough to have an opinion, just say so." Half sample (Form B), MoE ± 4.4

	Within mainstream %	Outside mainstream %	Don't know enough %	Unsure %
6/12-15/09	28	33	35	4

Pew Research Center Poll. June 10-14, 2009. N=1,502 adults nationwide. Margin of error ± 3.

"What is your impression of Sonia Sotomayor? Do you think she is liberal, moderate, or conservative?"

	Liberal	Moderate	Conservative	Unsure
	%	%	%	%
6/10-14/09	31	34	8	26

"As I read some issues the Supreme Court may rule on over the coming years, please tell me how important each issue is to you personally. First, are court decisions on [see below] very important, fairly important, not too important, or not at all important to you?"

	Very important	Fairly important	Not too important	Not at all important	Unsure
	%	%	%	%	%
"Abortion"					
6/10-14/09	55	20	11	11	3
11/3-6/05	62	20	8	8	2
"Affirmative action"					
6/10-14/09	40	32	14	7	8
11/3-6/05	38	37	12	7	6
"Issues related to homosexuality"					
6/10-14/09	33	18	20	25	4
11/3-6/05	36	20	20	21	3
"The rights of people held in custody as terrorist suspects"					
6/10-14/09	57	25	9	6	3
11/3-6/05	57	23	10	6	4
"Election and voting rules"					
6/10-14/09	57	25	9	5	3

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Polls listed chronologically. Data are from nationwide surveys of Americans 18 & older.

FOX News/Opinion Dynamics Poll. June 9-10, 2009. N=900 registered voters nationwide. MoE ± 3.

"Which one of the following better describes how you feel about the role of judges in the United States? Do you think judges should only interpret the law, and not take into account their own personal views and experiences, or do you think judges should take their own personal views and experiences into account when interpreting the law?"

	Only interpret	Views, experiences	Unsure
	%	%	%
6/9-10/09	71	26	3

"As you may have heard, Supreme Court nominee Sonia Sotomayor has said several times that a wise female Hispanic judge would make better decisions than a white male judge. Do you think these remarks should disqualify her from serving on the Court or not?"

	Should disqualify	Should not disqualify	Unsure
	%	%	%
6/9-10/09	29	67	4

Ipsos/McClatchy Poll conducted by Ipsos Public Affairs. June 4-8, 2009. N=1,000 adults nationwide. MoE ± 3.1.

"As you may have heard, President Obama has nominated Sonia Sotomayor, a federal appeals court justice, to the U.S. Supreme Court. Do you have a favorable or unfavorable impression of Supreme Court nominee Sonia Sotomayor, or haven't you heard enough yet to have an opinion?"

	Favorable	Unfavorable	Haven't heard enough yet	Unsure
	%	%	%	%
6/4-8/09	29	14	55	2

"Do you think the Senate should or should not vote to confirm Sonia Sotomayor as a Supreme Court justice?"

	Should	Should not	Unsure
	%	%	%
6/4-8/09	54	21	26

"If Senate Republicans overwhelmingly oppose the nomination of Sonia Sotomayor to the United States Supreme Court, what effect, if any, will this have on your favorability toward the Republican Party? Will you feel much more favorably toward the Republican Party, feel somewhat more favorably, will it make no difference, feel somewhat less favorably, or feel much less favorably toward the Republican Party?"

	Much more favorably	Somewhat more favorably	No difference	Somewhat less favorably	Much less favorably
	%	%	%	%	%
6/4-8/09	10	13	31	17	20

Diageo/Hotline Poll conducted by FD. June 4-7, 2009. N=800 registered voters nationwide. MoE ± 3.5.

"Now, I'd like to read you a list of various national public figures, and for each one, please tell me if you have a favorable or unfavorable opinion of them. If you haven't heard of them, just tell me and we'll move on. Sonia Sotomayor."

	Favorable	Unfavorable	Heard of/Can't rate (vol.)	Haven't heard of	Unsure
6/4-7/09	33	17	18	25	8

Marist College Marist Poll. June 1-3, 2009. N=1,028 registered voters nationwide. MoE ± 3.

"Do you approve or disapprove of President Barack Obama's nomination of Appeals Judge Sonia Sotomayor for United States Supreme Court justice?"

	Approve	Disapprove	Unsure
ALL	54	28	18
Democrats	81	6	13
Republicans	25	59	16
Independents	54	23	23

AP-GfK Poll conducted by GfK Roper Public Affairs & Media. May 28-June 1, 2009. N=1,000 adults nationwide. MoE ± 3.1.

"As you may know, Supreme Court Justice David Souter is retiring, and President Obama has nominated Sonia Sotomayor to replace him. Is your opinion of Supreme Court nominee Sonia Sotomayor favorable, unfavorable, or haven't you heard enough about Sonia Sotomayor yet to have an opinion?"

	Favorable	Unfavorable	Haven't heard enough	Unsure
5/28 - 6/1/09	34	18	39	9

"Do you think the U.S. Senate should confirm or should not confirm Sonia Sotomayor as a Supreme Court justice?"

	Should confirm	Should not confirm	Unsure
5/28 - 6/1/09	50	22	28

Quinnipiac University Poll. May 26-June 1, 2009. N=3,097 registered voters nationwide. MoE ± 1.8.

"Do you approve or disapprove of President Obama's nomination of Sonia Sotomayor to the Supreme Court?"

	Approve	Disapprove	Unsure
ALL	55	25	20
Republicans	30	47	23
Democrats	80	5	15
Independents	53	26	21
Men	50	31	20
Women	60	20	21

"Would you say that Supreme Court nominee Sonia Sotomayor is more liberal than you would like, not liberal enough, or about right?"

	More liberal	Not liberal enough	About right	Unsure
5/26 - 6/1/09	30	5	44	21

"Should senators support or oppose Sonia Sotomayor's nomination to the Supreme Court based only on whether she is qualified to be a justice, or should they also consider her views on

controversial issues like abortion and affirmative action?"

	Only qualifications	Consider views	Unsure
	%	%	%
5/26 - 6/1/09	46	44	10

"As you may know, Sonia Sotomayor would be the first Hispanic Supreme Court justice. Do you think this was a very important factor in President Obama's choice of her, somewhat important, not too important, or not important at all?"

	Very important	Somewhat important	Not too important	Not at all important	Unsure
	%	%	%	%	%
5/26 - 6/1/09	34	35	10	17	4

"Do you think making the Supreme Court look like the rest of the nation in terms of race, religion, ethnicity, and gender is more important than a justice's legal qualifications for the job, less important or about as important?"

	More important	Less important	About as important	Unsure
	%	%	%	%
5/26 - 6/1/09	8	57	30	4

USA Today/Gallup Poll. May 29-31, 2009. Adults nationwide.

"From what you know about Sonia Sotomayor, do you think she would be too liberal, too conservative, or just about right as a Supreme Court justice?" N=495 adults (Form A), MoE ± 5

	Too liberal	Too conservative	About right	Unsure
	%	%	%	%
5/29-31/09	28	3	48	20

"Based on what you have heard or read about her, do you think Sonia Sotomayor's views on important issues are in the mainstream or do you think they are too extreme?" N=520 adults (Form B), MoE ± 5

	In the mainstream	Too extreme	Unsure
	%	%	%
5/29-31/09	49	30	21

Gallup Poll. May 26, 2009. N=1,015 adults nationwide. MoE ± 3.

"As you may know, President Obama has nominated Judge Sonia Sotomayor to serve on the U.S. Supreme Court. Generally speaking, how would you rate Obama's choice of Sonia Sotomayor as a nominee to the U.S. Supreme Court -- as excellent, good, only fair, or poor?"

	Excellent	Good	Only Fair	Poor	Unsure
	%	%	%	%	%
5/26/09	19	28	20	13	20

"Just your best guess, how important do you think each of the following considerations was to Barack Obama when he chose Sonia Sotomayor as his nominee for the U.S. Supreme Court: very important, somewhat important, not too important or not important at all? How about [see below]?"

	Very Important	Somewhat Important	Not Too Important	Not at All Important	Unsure
	%	%	%	%	%
"Her 17 years of experience as a federal judge"					
5/26/09	61	28	4	3	4
"Her intellect"					
5/26/09	59	24	4	4	8
"Her views on major issues and past judicial decisions"					
5/26/09	52	30	4	4	11
"She is a woman"					
5/26/09	39	27	12	18	4
"She is Hispanic"					

CNN/Opinion Research Corporation Poll. May 14-17, 2009. N=1,010 adults nationwide. MoE ± 3.

"As you may know, President Obama will soon announce a nominee to the Supreme Court. Which of the following best describes your view about whether the next Supreme Court justice has each of the following characteristics? Is it very important to you, somewhat important, not too important, or not important at all that Barack Obama nominates someone to the Supreme Court who is . . . ?"

	Very Important %	Somewhat Important %	Not Too Important %	Not at All Important %	Unsure %
"A woman" 5/14-17/09	20	19	16	45	-
"Black" 5/14-17/09	9	13	24	54	1
"Hispanic" 5/14-17/09	11	15	23	51	-
"Someone who has had experience as a judge" 5/14-17/09	67	22	4	7	-
"Someone who has had experience in an elected office, such as a governor or senator" 5/14-17/09	28	21	19	32	-

"Do you think Barack Obama should nominate somebody to the Supreme Court who is very liberal, somewhat liberal, moderate, somewhat conservative, or very conservative?"

	Very Liberal %	Somewhat Liberal %	Moderate %	Somewhat Conservative %	Very Conservative %
5/14-17/09	9	18	37	19	16

FOX News/Opinion Dynamics Poll. May 12-13, 2009. N=900 registered voters nationwide. MoE ± 3.

"How comfortable are you with Barack Obama selecting the next U.S. Supreme Court nominee: very comfortable, somewhat comfortable, not very comfortable, or not at all comfortable?"

	Very Comfortable %	Somewhat Comfortable %	Not Very Comfortable %	Not at All Comfortable %	Unsure %
5/12-13/09	34	26	13	20	7

"Supreme Court Justice David Souter recently announced he will resign at the end of his term, which will give Barack Obama his first chance to nominate a Supreme Court justice. I'm going to read a list of qualities that might be considered when selecting a new justice. For each one, please tell me whether you think it should be the single most important factor, should be a factor but not the most important, shouldn't matter, or should be a disqualifying factor. . . ."

	Single Most Important %	A Factor %	Shouldn't Matter %	Disqualifying Factor %	Unsure %
"The nominee being a woman" 5/12-13/09	5	18	75	1	-
"The nominee being a minority" 5/12-13/09	4	17	75	2	2
"The nominee being a homosexual" 5/12-13/09	4	11	66	17	2
"The nominee having judicial experience" 5/12-13/09	45	44	8	1	1
"The nominee sharing Obama's views on key issues" 5/12-13/09	12	29	47	10	3

CBS News Poll. May 6-12, 2009. N=1,874 adults nationwide. MoE ± 2.

"Do you have confidence that Barack Obama will nominate good justices to the Supreme Court, or are you uneasy about who he will choose?"

	Have Confidence	Uneasy	Unsure
	%	%	%
ALL	55	35	10
Republicans	26	66	8
Democrats	83	10	7
Independents	49	38	13

Quinnipiac University Poll. July 8-13, 2008. N=1,783 registered voters nationwide. MoE ± 2.3.

"The next president may have the opportunity to make several nominations to the Supreme Court. How important is the appointment of Supreme Court justices in your vote for president this year: very important, somewhat important, or not important at all?"

	Very Important	Somewhat Important	Not at All Important	Unsure
	%	%	%	%
7/8-13/08	48	39	12	1
8/7-13/07	52	36	11	2

"Is your opinion of Supreme Court Chief Justice John Roberts favorable, unfavorable, mixed or haven't you heard enough about him?"

	Favorable	Unfavorable	Mixed	Haven't Heard	Refused
	%	%	%	%	%
7/8-13/08	17	7	18	57	1
8/7-13/07	21	9	21	49	1

Newsweek Poll conducted by Princeton Survey Research Associates International. July 2-3, 2007. N=1,002 adults nationwide. MoE ± 4.

"Now I have a few questions about the United States Supreme Court. In its recent rulings, do you think the Supreme Court has been too liberal, too conservative, or just about right?"

	Too Liberal	Too Conservative	About Right	Unsure
	%	%	%	%
7/2-3/07	19	29	35	17
7/1-2/86	14	22	42	22

CBS News/New York Times Poll. March 7-11, 2007. N=1,362 adults nationwide. MoE ± 3.

"Do you think George W. Bush's nominees to the U.S. Supreme Court have been more conservative than you would like, not conservative enough, or about right?"

	More Conservative	Not Conservative Enough	About Right	Unsure
	%	%	%	%
3/7-11/07	24	17	44	15
12/2-6/05	25	15	50	10
10/30 - 11/1/05	30	16	45	9

CNN Poll conducted by Opinion Research Corporation. Oct. 20-22, 2006. N=1,013 adults nationwide. MoE ± 3.

"In general, do you think federal court judges are too liberal, too conservative, or just about right?"

	Too Liberal	Too Conservative	About Right	Unsure
	%	%	%	%
10/20-22/06	34	20	41	5

"Do you think elected officials should have more control over federal judges and the decisions they

make in court cases, or don't you think so?"

	More Control	Don't Think So	Unsure
	%	%	%
10/20-22/06	30	67	3

FOX News/Opinion Dynamics Poll. Sept. 26-27, 2006. N=900 likely voters nationwide. MoE ± 3.

LV = likely voters. RV = registered voters.

"Do you think it is a good idea or a bad idea to allow television coverage of sessions of the U.S. Supreme Court?"

	Good Idea	Bad Idea	Unsure
	%	%	%
9/26-27/06 LV	63	25	13
4/4-5/06 RV	70	18	11

"Who do you think should decide whether there should be television coverage of Supreme Court sessions? Should Congress decide or should the Supreme Court decide?"

	Congress	Court	Unsure
	%	%	%
9/26-27/06 LV	37	49	15

NBC News/Wall Street Journal Poll conducted by the polling organizations of Peter Hart (D) and Bill McInturff (R). Jan. 26-29, 2006. N=1,011 adults nationwide. MoE ± 3.1

"As you may know, President Bush recently nominated Sam Alito to serve as a justice on the Supreme Court. Do you strongly support, somewhat support, somewhat oppose, or strongly oppose Sam Alito's serving as a justice on the Supreme Court, or do you not know enough about him to say?"

	Strongly Support	Somewhat Support	Somewhat Oppose	Strongly Oppose	Don't Know Enough
	%	%	%	%	%
1/26-29/06	24	20	12	13	30
12/9-12/05	16	16	9	9	48
11/4-7/05	16	16	10	10	47

FOX News/Opinion Dynamics Poll. Jan. 24-25, 2006. N=900 registered voters nationwide. MoE ± 3.

"President George W. Bush has nominated Samuel Alito to serve on the U.S. Supreme Court. If you were voting on Samuel Alito's nomination, would you vote to confirm him or not?"

	Confirm	Not Confirm	Unsure
	%	%	%
1/24-25/06	47	32	21
1/10-11/06	45	30	25

CBS News/New York Times Poll. Jan. 20-25, 2006. N=1,229 adults nationwide. MoE ± 3.

"Is your opinion of Supreme Court nominee Samuel Alito favorable, not favorable, undecided or haven't you heard enough about Samuel Alito yet to have an opinion?"

	Favorable	Not Favorable	Undecided	Haven't Heard Enough	Refused
	%	%	%	%	%
1/20-25/06	27	16	23	33	1
1/5-8/06	16	7	18	59	0
12/2-6/05	14	10	18	57	1
10/31 - 11/1/05	11	7	16	65	1

"As you may know, George W. Bush has nominated federal Judge Samuel A. Alito to serve on the U.S. Supreme Court. What do you think right now? Should the Senate vote to confirm Samuel Alito as a justice of the U.S. Supreme Court, or vote against Alito, or can't you say?"

Vote To Vote

	Confirm	Against	Can't Say	Unsure
	%	%	%	%
ALL adults	33	18	46	3
Republicans	63	2	33	2
Democrats	10	37	49	4
Independents	31	13	52	4

CNN/USA Today/Gallup Poll. Jan. 20-22, 2006. N=1,006 adults nationwide. MoE ± 3.

"Now, turning to the U.S. Supreme Court: As you may know, Samuel Alito is the federal judge nominated to serve on the Supreme Court. Would you like to see the Senate vote in favor of Alito serving on the Supreme Court, or not?"

	In Favor	Not In Favor	Unsure
	%	%	%
1/20-22/06	54	30	16
1/6-8/06	49	30	21
12/9-11/05	49	29	22
11/7-10/05	50	25	25

"Suppose all or most of the Democrats in the Senate oppose Alito's nomination. Do you think they would be justified or not justified in using Senate procedures, such as the filibuster, to prevent an up-or-down vote on his nomination?"

	Justified	Not Justified	Unsure
	%	%	%
1/20-22/06	38	48	15

"Just your best guess: If Alito were confirmed to the Supreme Court, do you think he would or would not vote to overturn the Roe v. Wade decision on abortion?"

	Would	Would Not	Unsure
	%	%	%
1/20-22/06	34	44	21
11/1/05	38	38	24

CNN/USA Today/Gallup Poll. Jan. 6-8, 2006. Adults nationwide.

"From what you know about Samuel Alito, as a Supreme Court justice, do you think he would be too liberal, too conservative, or just about right?" N=498, MoE ± 5 (Form A)

	Too Liberal	Too Conservative	About Right	Unsure
	%	%	%	%
1/6-8/06	6	29	49	15

"Based on what you have heard or read about him, do you think Alito's views on important issues are in the mainstream or do you think they are too extreme?" N=505, MoE ± 5 (Form B)

	Main-stream	Too Extreme	Unsure
	%	%	%
1/6-8/06	52	30	19
11/1/05	51	26	23

"Suppose that after his confirmation hearings you were convinced Samuel Alito would vote to overturn the Roe v. Wade decision on abortion. If that were the case, would you like to see the Senate vote in favor of Alito serving on the Supreme Court, or not?" N=1,003, MoE ± 3

	Vote In Favor	Not Vote In Favor	Unsure
	%	%	%
1/6-8/06	34	56	11

CBS News Poll. Jan. 5-8, 2006. N=1,151 adults nationwide. MoE ± 3.

"How much confidence do you yourself have in the United States Supreme Court: a great deal, quite a lot, some, or very little?"

A Great Deal	Quite a Lot	Some	Very Little	None (vol.)/ Unsure
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	%	%	%	%	%
1/5-8/06	22	27	37	13	1
7/13-14/05	14	22	40	20	4
11/19-21/04	20	21	39	17	3
5/01	16	22	41	16	4
12/00	24	22	33	18	3

"When the Senate votes on a Supreme Court nominee, should it consider only that person's legal qualifications and background, or along with legal background, should the Senate also consider how that nominee might vote on major issues the Supreme Court decides?" N=567 adults (Form A)

	Legal Only %	Issues, Too %	Unsure %
1/5-8/06	41	49	10
10/30 - 11/1/05	35	54	11
9/9-13/05	36	54	10
8/29-31/05	33	57	10
7/29 - 8/2/05	46	46	8
7/13-14/05	45	47	8
9/91	39	49	12

"When the Senate votes on a Supreme Court nominee, should it consider only that person's legal qualifications and background, or along with legal background, should the Senate also consider that nominee's personal views on major issues the Supreme Court decides?" N=584 adults (Form B)

	Legal Only %	Personal Views, Too %	Unsure %
1/5-8/06	32	61	7

"Do you think a Supreme Court judge's personal views should or should not be a factor in his or her decisions on cases before the court?"

	Should %	Should Not %	Unsure %
1/5-8/06	25	69	6
7/29 - 8/2/05	19	77	4

"Is your opinion of Supreme Court nominee Samuel Alito favorable, not favorable, undecided or haven't you heard enough about Samuel Alito yet to have an opinion?"

	Favorable %	Not Favorable %	Undecided %	Haven't Heard Enough %	Refused %
1/5-8/06	16	7	18	59	0
12/2-6/05	14	10	18	57	1
10/31 - 11/1/05	11	7	16	65	1

"Before senators vote on whether Samuel Alito should be confirmed as a justice of the Supreme Court, how important do you think it is for the Senate to know his position on issues such as abortion and affirmative action? Is that very important, somewhat important, not very important, or not at all important?"

	Very Important %	Somewhat Important %	Not Very Important %	Not At All Important %	Unsure %
1/5-8/06	46	31	9	12	2

"What do you think right now? Should the Senate vote to confirm Samuel Alito as a justice of the U.S. Supreme Court, or vote against Alito, or can't you say?"

	Vote To Confirm %	Vote Against %	Can't Say %	Unsure %
1/5-8/06	17	9	70	4
10/31 - 11/1/05	15	7	75	3

ABC News/Washington Post Poll. Jan. 5-8, 2006. N=1,001 adults nationwide. MoE ± 3.

"As you may know, Bush has nominated federal judge Samuel A. Alito to serve on the U.S. Supreme Court. Do you think the U.S. Senate should or should not confirm Alito's nomination to the Supreme Court?"

	Should	Should Not	Unsure
	%	%	%
1/5-8/06	53	27	20
12/15-18/05	54	28	19
10/31 - 11/2/05	49	29	22

"How closely will you be following the Senate confirmation hearings for Alito, which start next/this week: very closely, somewhat closely, not too closely or not closely at all?"

	Very Closely	Somewhat Closely	Not Too Closely	Not Closely At All
	%	%	%	%
1/5-8/06	18	43	24	15

"The Supreme Court legalized abortion 33 years ago in the ruling known as Roe versus Wade. Do you think that if Alito is confirmed to the court, he would vote to overturn Roe versus Wade entirely; vote to keep abortion legal but with greater restrictions; or vote to leave current abortion law as it is?" Options rotated

	Overturn	Greater Restrictions	Leave As Is	Unsure
	%	%	%	%
1/5-8/06	18	26	38	18

Pew Research Center for the People & the Press survey conducted by Princeton Survey Research Associates International. Jan. 4-8, 2006. N=1,503 adults nationwide. MoE ± 3.

"From what you've seen and heard so far, do you think the Senate should or should not confirm Samuel Alito to the Supreme Court?"

	Should	Should Not	Unsure
	%	%	%
1/4-8/06	33	19	48
12/7-11/05	32	19	49
11/3-6/05	40	23	37

ABC News/Washington Post Poll. Dec. 15-18, 2005. N=1,003 adults nationwide. MoE ± 3.

"The Supreme Court legalized abortion 32 years ago in the ruling known as Roe versus Wade. If that case came before the court again, would you want Alito to vote to uphold Roe versus Wade, or vote to overturn it?" Options rotated

	Uphold	Overturn	Unsure
	%	%	%
12/15-18/05	61	35	4
10/31 - 11/2/05	64	31	5

"How important is it to you that Alito agrees with your position on abortion? Is that extremely important to you, very important, somewhat important, or less important than that?"

	Extremely Important	Very Important	Somewhat Important	Less Important	Unsure
	%	%	%	%	%
12/15-18/05	17	26	38	17	1

FOX News/Opinion Dynamics Poll. Dec. 13-14, 2005. N=900 registered voters nationwide. MoE ± 3.

"I'm going to read the names of several individuals or groups. Please tell me whether you have a generally favorable or unfavorable opinion of each one. If you've never heard of someone, please just say so. Samuel Alito."

	Favorable	Unfavorable	Unsure	Never Heard Of
	%	%	%	%
12/13-14/05	23	15	24	38

"Samuel Alito has been nominated to serve on the U.S. Supreme Court. If you were voting on Samuel Alito's nomination, would you vote to confirm him or not?"

	Confirm	Not Confirm	Unsure
	%	%	%
12/13-14/05	35	27	38
11/8-9/05	46	29	25

"From what you know about Samuel Alito, would you say he is more of a liberal or a conservative?" Options rotated

	Liberal	Conservative	Moderate (vol.)	Unsure
	%	%	%	%
12/13-14/05	7	46	8	39

"Do you think it is acceptable or unacceptable for a U.S. senator to base his or her vote on a Supreme Court nominee solely on the nominee's position on abortion?"

	Acceptable	Unacceptable	Unsure
	%	%	%
12/13-14/05	15	75	10
7/12-13/05	20	73	8
6/30 - 7/1/03	15	72	13

NBC News/Wall Street Journal Poll conducted by the polling organizations of Peter Hart (D) and Bill McInturff (R). Dec. 9-12, 2005. N=1,006 adults nationwide.

"Twenty years ago, when he was a lawyer for the Justice Department, Sam Alito wrote a report in which he suggested actions the Reagan Administration might take to encourage the Supreme Court to overturn the Roe versus Wade decision, which gave women the constitutional right to have abortions. Which of the following statements comes closer to your view about this? Statement A: This is an important issue that should play a significant role in Alito's nomination hearings. Statement B: This was so long ago in his career that it should not play a significant role in Alito's nomination hearings." Half sample (Form B); MoE ± 4.4

	Significant Role	Not a Significant Role	Unsure
	%	%	%
12/9-12/05	45	51	4

Cook Political Report/RT Strategies Poll. Dec. 8-11, 2005. N=1,000 adults nationwide. MoE ± 3.1.

"As you may know, to replace U.S. Supreme Court Justice Sandra Day O'Connor, President Bush has nominated Judge Samuel Alito, who has 15 years of experience on the federal courts. Alito is considered a conservative in his views while O'Connor is considered a moderate who has been a swing vote on some key issues. Does hearing that Alito would make the Supreme Court more conservative make you feel MORE likely or LESS likely to support the choice of Judge Alito for the Supreme Court, or does hearing that make no difference to you?" If unsure/makes no difference: "Well, does hearing that make you lean toward being more likely or less likely to support Alito?"

	More Likely	Less Likely	Makes No Difference	Unsure
	%	%	%	%
12/8-11/05	32	29	35	3

CBS News/New York Times Poll. Dec. 2-6, 2005. N=1,155 adults nationwide. MoE ± 3.

"In making choices for the U.S. Supreme Court, which do you think has been MORE important to George W. Bush -- making sure a candidate has the right legal qualifications or making sure a candidate has conservative views on most issues?"

	Legal Qualifications	Conservative Views	Both (vol.)	Unsure
	%	%	%	%
12/2-6/05	28	59	2	11

"Before Senators vote on whether a nominee should be confirmed to the Supreme Court, how important do you think it is for the Senate to know his or her position on abortion? Is that very important, somewhat important, not very important, or not at all important?"

Very	Somewhat	Not Very	Not At All
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	Important	Important	Important	Important	Unsure
	%	%	%	%	%
12/2-6/05	37	34	16	12	1

The Harris Poll. Nov. 8-13, 2005. N=1,011 adults nationwide. MoE ± 3.

"Do you think President Bush is trying to make the Supreme Court too conservative, too liberal, or neither too conservative nor too liberal?"

	Too Conservative	Too Liberal	Neither	Unsure
	%	%	%	%
ALL adults	42	9	44	5
Republicans	16	5	75	4
Democrats	63	12	20	4
Independents	50	7	41	3

Newsweek Poll conducted by Princeton Survey Research Associates International. Nov. 10-11, 2005. N=1,002 adults nationwide. MoE ± 3.

"We'd like your opinion of the way George W. Bush is handling certain aspects of his job. Do you approve or disapprove of the way Bush is handling appointments to the Supreme Court?"

	Approve	Disapprove	Unsure
	%	%	%
11/10-11/05	42	42	16
9/29-30/05	57	28	15
9/8-9/05	48	33	19

"Based on what you've heard or read about Samuel Alito, President Bush's most recent nominee for the U.S. Supreme Court, do you think he should or should NOT be confirmed by the Senate to serve on the Court?"

	Should Be Confirmed	Should Not Be Confirmed	Unsure
	%	%	%
11/10-11/05	40	26	34

"As a Supreme Court justice, do you think Samuel Alito is likely to vote to overturn Roe versus Wade, the decision establishing a woman's constitutional right to a legal abortion, or not?"

	Likely To Overturn	Not Likely	Unsure
	%	%	%
11/10-11/05	29	33	38

FOX News/Opinion Dynamics Poll. Nov. 8-9, 2005. N=900 registered voters nationwide. MoE ± 3.

"President George W. Bush has nominated Samuel Alito to serve on the U.S. Supreme Court. Overall, do you think Alito is a good choice or a bad choice?"

	Good	Bad	Unsure
	%	%	%
ALL registered voters	45	23	32
Democrats	25	40	35
Republicans	72	5	23
Independents	40	24	36

"Do you think Samuel Alito is qualified to serve as a justice on the Supreme Court or not?"

	Qualified	Not Qualified	Unsure
	%	%	%
11/8-9/05	62	12	26

"Do you think the Senate will confirm Samuel Alito or not?"

	Confirm	Not Confirm	Unsure
	%	%	%
11/8-9/05	61	10	29

"Do you agree or disagree that one of the privileges of being president is having the right to

choose Supreme Court nominees who share your philosophy"

	Agree	Disagree	Unsure
	%	%	%
11/8-9/05	62	31	7

NBC News/Wall Street Journal Poll conducted by the polling organizations of Peter Hart (D) and Bill McInturff (R). Nov. 4-7, 2005. N=1,003 adults nationwide. MoE ± 3.1.

"Based on what you have heard so far, do you think that Sam Alito is qualified or not qualified to be a Supreme Court justice, or do you not know enough about him to say?"

	Qualified	Not Qualified	Don't Know Enough	Unsure
	%	%	%	%
11/4-7/05	51	6	41	2

"How much confidence do you have that, if he is confirmed by the Senate to sit on the Supreme Court, Sam Alito will reflect your views about most issues: a great deal of confidence, quite a bit of confidence, some confidence, very little confidence, or no confidence at all? If you have no opinion, please just say so." Half sample (Form A)

	%
A great deal of confidence	8
Quite a bit of confidence	10
Some confidence	24
Very little confidence	16
No confidence at all	11
Unsure	31

"Do you feel that President Bush's selection of Sam Alito to be his nominee for associate justice of the Supreme Court was more of a choice aimed at getting broad support from both Democrats and Republicans, or more of a choice aimed at appealing to the conservative base of his party?" Half sample (Form B)

	Broad Support	Conservative Base	Unsure
	%	%	%
11/4-7/05	20	55	25

"Does the fact that President Bush did not nominate another woman to serve on the Supreme Court bother you or not bother you?"

	Bothers	Does Not Bother	Unsure
	%	%	%
11/4-7/05	25	74	1

Pew Research Center for the People & the Press survey conducted by Princeton Survey Research Associates International. Nov. 3-6, 2005. N=1,201 adults nationwide. MoE ± 3.5.

"Do you worry that Samuel Alito would make the Supreme Court too conservative, not conservative enough, or don't you worry about this?"

	Too Conservative	Not Conservative Enough	Don't Worry About This	Unsure
	%	%	%	%
11/3-6/05	25	6	56	13

"As I read some issues the Supreme Court may rule on over the coming years, please tell me how important each issue is to you personally. Are court decisions on [see below] very important, fairly important, not too important, or not at all important to you?"

	Very Important	Fairly Important	Not Too Important	Not At All Important	Unsure
	%	%	%	%	%
"Abortion"					
11/3-6/05	62	20	8	8	2
"Affirmative action"					
11/3-6/05	38	37	12	7	6

"Issues related to homosexuality"

11/3-6/05	36	20	20	21	3
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"The rights of people held in custody as terrorist suspects" Form 1 (N=589, MoE ± 4.5)

11/3-6/05	57	23	10	6	4
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"The amount of money courts can award in personal injury lawsuits"

11/3-6/05	44	34	14	6	2
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"Whether to allow religious displays on government property"

11/3-6/05	46	25	16	10	3
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"How terrorist suspects should be treated" Form 2 (N=612, MoE ± 4.5)

11/3-6/05	60	24	8	5	3
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"When senators ask Supreme Court nominees questions about issues like abortion that may come before the court, do you think nominees should be required to answer those questions or do you think nominees should be allowed to not comment on those questions?" Options rotated

	Required To Answer	Allowed To Not Comment	Unsure
	%	%	%
11/3-6/05	60	35	5
10/6-10/05	55	39	6

"Do you worry that Samuel Alito would go too far in restricting access to abortions, not go far enough, or don't you worry about this?"

	Go Too Far	Not Go Far Enough	Don't Worry About This	Unsure
	%	%	%	%
11/3-6/05	25	12	47	16

ABC News/Washington Post Poll. Oct. 31-Nov. 2, 2005. N=641 adults nationwide. MoE ± 4.

"Given what you know, do you think Alito is a more conservative nominee than you'd have liked, less conservative than you'd have liked, or about right?" Options rotated

	More	Less	About Right	Unsure
	%	%	%	%
10/31 - 11/2/05	29	10	44	17

"Alito wrote a legal opinion saying a state can require a woman to notify her husband if she decides to have an abortion. Does knowing this make you more likely to support, more likely to oppose, or doesn't it make much difference in your opinion?" Options rotated

	More Likely To Support	More Likely To Oppose	No Difference	Unsure
	%	%	%	%
10/31 - 11/2/05	27	26	46	1

Associated Press-Ipsos poll conducted by Ipsos-Public Affairs. Oct. 31-Nov. 2, 2005. N=1,006 adults nationwide. MoE ± 3.1.

"As you may know, Supreme Court Justice Sandra Day O'Connor is retiring, and President Bush has nominated Samuel Alito to replace her. Is your opinion of Supreme Court nominee Samuel Alito favorable, unfavorable, or haven't you heard enough about Samuel Alito yet to have an opinion?"

	Favorable	Unfavorable	Haven't Heard Enough	Unsure
	%	%	%	%
10/31 - 11/2/05	20	14	64	2

"Do you think the U.S. Senate should or should not confirm Samuel Alito as a Supreme Court justice?"

	Should	Should Not	Unsure
	%	%	%
10/31 - 11/2/05	38	22	40

CNN/USA Today/Gallup Poll. Nov. 1, 2005. N=603 adults nationwide. MoE ± 4.

"As you may know, President Bush has nominated Judge Samuel Alito to serve on the U.S. Supreme Court. Generally speaking, how would you rate Bush's choice of Samuel Alito as a nominee to the U.S. Supreme Court -- as excellent, good, only fair, or poor?"

	Excellent	Good	Only Fair	Poor	Unsure
	%	%	%	%	%
11/1/05	17	26	22	17	18

"Next, thinking about Samuel Alito himself: How would you describe your first impressions of him? Would you say they are very positive, somewhat positive, neither positive nor negative, somewhat negative, or very negative?"

	%
Very positive	17
Somewhat positive	27
Neither positive nor negative	23
Somewhat negative	12
Very negative	7
Unsure	14

"As you may know, Alito was nominated to replace Sandra Day O'Connor. Does it bother you that President Bush did not nominate a woman to replace O'Connor, or does it not bother you?"

	Bothers	Does Not Bother	Unsure
	%	%	%
11/1/05	23	75	2

"If you were convinced that Alito would vote to overturn the Roe v. Wade decision, would you, personally, want the Senate to vote to confirm him to the Supreme Court, or not?"

	Confirm	Not Confirm	Unsure
	%	%	%
11/1/05	37	53	10

"Suppose all or most of the Democrats in the Senate oppose Alito's nomination. Do you think they would be justified or not justified in using Senate procedures, such as the filibuster, to prevent an up-or-down vote on his nomination?"

	Justified	Not Justified	Unsure
	%	%	%
11/1/05	50	40	10

"If that happens, the Republicans in the Senate would consider changing Senate procedures to eliminate the filibuster on judicial nominations, which would ensure an up-or-down vote on the nomination. Do you think the Republicans in the Senate would be justified or not justified in doing this?"

	Justified	Not Justified	Unsure
	%	%	%
11/1/05	45	47	8

CBS News Poll. Oct. 30-Nov. 1, 2005. N=936 adults nationwide. MoE ± 3.

"Do you have confidence that George W. Bush will nominate good justices to the Supreme Court, or are you uneasy about who he will choose?"

	Confident	Uneasy	Unsure
	%	%	%
10/30 - 11/1/05	38	54	8

CNN/USA Today/Gallup Poll. Oct. 28-30, 2005. N=800 adults nationwide. MoE ± 4.

"As you may know, President Bush will soon announce another nominee to the Supreme Court to fill the seat of retiring Justice Sandra Day O'Connor. Which of the following best describes your view about whether the next Supreme Court justice is [see below]? Do you think it is essential that the next justice is [see below], is it a good idea but not essential, does it not matter to you, or do you think it is a bad idea?" Options rotated

Essential	Good Idea	Doesn't Matter	Bad Idea	Unsure
-----------	-----------	----------------	----------	--------

	%	%	%	%	%
"Someone who has experience as a judge"					
10/28-30/05	50	36	11	2	1
"A conservative"					
10/28-30/05	21	24	32	20	3
"Someone who would vote to overturn the Roe v. Wade decision on abortion"					
10/28-30/05	16	16	20	42	6

CNN/USA Today/Gallup Poll. Oct. 21-23, 2005. N=1,008 adults nationwide. MoE ± 3.

"Now, turning to the U.S. Supreme Court: As you may know, Harriet Miers is the person nominated to serve on the Supreme Court. Would you like to see the Senate vote in favor of Miers serving on the Supreme Court, or not?"

	In Favor	Not In Favor	Unsure
	%	%	%
10/21-23/05	42	43	15
10/13-16/05	44	36	20

"Regardless of how you think the Senate should vote, would you say you are pleased or disappointed with George W. Bush's choice of Harriet Miers as the nominee to the Supreme Court?"

	Pleased	Disappointed	Unsure
	%	%	%
10/21-23/05	40	50	10

CNN/USA Today/Gallup Poll. Oct. 13-16, 2005. Adults nationwide.

"Next, we'd like to get your overall opinion of some people in the news. As I read each name, please say if you have a favorable or unfavorable opinion of these people -- or if you have never heard of them. How about U.S. Supreme Court nominee Harriet Miers?" N=1,012 adults, MoE ± 3

	Favorable	Unfavorable	Never Heard Of	Unsure
	%	%	%	%
10/13-16/05	31	26	17	26

"Would you like to see President Bush continue to support his nomination of Harriet Miers to the Supreme Court or withdraw his nomination of Harriet Miers to the Supreme Court?" Options rotated. Form B (N=527 adults, MoE ± 5).

	Continue To Support	Withdraw Nomination	Unsure
	%	%	%
10/13-16/05	46	36	18

FOX News/Opinion Dynamics Poll. Oct. 11-12, 2005. N=900 registered voters nationwide. MoE ± 3.

"President George W. Bush has nominated Harriet Miers to replace retiring Justice Sandra Day O'Connor on the U.S. Supreme Court. So far, do you think most people are giving Harriet Miers fair consideration or are most people jumping to conclusions about her nomination?"

	Fair Consideration	Jumping To Conclusions	Both (vol.)	Unsure
	%	%	%	%
10/11-12/05	19	51	7	24

"Overall, do you think Harriet Miers is qualified to serve as a justice on the Supreme Court or not?"

	Is	Is Not	Unsure
	%	%	%
10/11-12/05	37	28	35

"If you were voting on Harriet Miers' nomination, would you vote to confirm her or not?"

	Confirm	Not Confirm	Unsure
	%	%	%
10/11-12/05	37	32	31

"Some people think all Supreme Court justices should have prior experience as a judge, while others think it is a good idea if some Supreme Court justices do not have prior experience as a judge. Which of these comes closer to your view?" Options rotated

	All Should Have Prior Experience As Judge	Some Shouldn't Have Prior Experience As Judge	Unsure
	%	%	%
10/11-12/05	55	35	10

NBC News/Wall Street Journal Poll conducted by the polling organizations of Peter Hart (D) and Bill McInturff (R). Oct. 8-10, 2005. N=807 adults nationwide. MoE ± 3.4.

"As you may know, President Bush recently nominated Harriet Miers to serve as a justice on the Supreme Court. Do you strongly support, somewhat support, somewhat oppose, or strongly oppose Harriet Miers' serving as a justice on the Supreme Court, or do you not know enough about her to say?"

	Strongly Support	Somewhat Support	Somewhat Oppose	Strongly Oppose	Don't Know Enough
	%	%	%	%	%
10/8-10/05	11	16	10	11	51

"Based on what you have heard so far, do you think that Harriet Miers is qualified or not qualified to be a Supreme Court justice, or do you not know enough about her to say?"

	Qualified	Not Qualified	Don't Know Enough	Unsure
	%	%	%	%
10/8-10/05	29	24	46	1

"I'm going to read you several things about Harriet Miers. For each one, please tell me whether this makes you feel more positive about Harriet Miers sitting on the Supreme Court, less positive, or does it make no difference to you either way? [See below.]"

	More Positive	Less Positive	No Difference	Unsure
	%	%	%	%
"She was the first woman to be president of the Texas Bar Association"				
10/8-10/05	47	10	42	1
"She has been named one of America's one hundred most powerful lawyers"				
10/8-10/05	45	14	39	2
"She has worked for President Bush as his personal lawyer for many years, previously while he was governor of Texas, and most recently as White House counsel"				
10/8-10/05	24	40	35	1
"She has not previously served as a judge"				
10/8-10/05	8	50	40	2
"Her positions on many legal issues facing the Court are unknown"				
10/8-10/05	8	52	37	3

Pew Research Center for the People & the Press survey conducted by Princeton Survey Research Associates International. Oct. 6-10, 2005. N=1,500 adults nationwide. MoE ± 3.

"From what you've seen and heard so far, do you think the Senate should or should not confirm Harriet Miers to the Supreme Court?"

	Should	Should Not	Unsure
	%	%	%
10/6-10/05	33	27	40

"Do you worry that Harriet Miers would make the Supreme Court too conservative, not conservative enough, or don't you worry about this?"

	Too Conservative	Not Conservative Enough	Don't Worry About This	Unsure
	%	%	%	%
10/6-10/05	18	8	56	18

"Do you worry that Chief Justice John Roberts will make the Supreme Court too conservative, not conservative enough, or don't you worry about this?"

	Too Conservative	Not Conservative Enough	Don't Worry About This	Unsure
	%	%	%	%
10/6-10/05	20	9	60	11

"Does the fact that Harriet Miers [see below] make you feel more favorably toward her, less favorably, or does this not affect your opinion at all?"

	More Favorably	Less Favorably	Does Not Affect	Unsure
	%	%	%	%
"Is a woman"				
10/6-10/05	22	3	72	3
"Once served as George W. Bush's personal attorney"				
10/6-10/05	10	35	52	3
"Has never before served as a judge"				
10/6-10/05	10	38	49	3
"Had a long career in a major law firm"				
10/6-10/05	29	11	56	4
"Is an evangelical Christian"				
10/6-10/05	20	14	61	5

"When senators ask Supreme Court nominees questions about issues like abortion that may come before the court, do you think nominees should be required to answer those questions or do you think nominees should be allowed to not comment on those questions?" Options rotated

	Required To Answer	Allowed To Not Comment	Unsure
	%	%	%
10/6-10/05	55	39	6

Associated Press-Ipsos poll conducted by Ipsos-Public Affairs. Oct. 3-5, 2005. N=1,000 adults nationwide. MoE ± 3.1.

"As you may know, Supreme Court Justice Sandra Day O'Connor is retiring, and President Bush has nominated Harriet Miers to replace her. Is your opinion of Supreme Court nominee Harriet Miers favorable, unfavorable, or haven't you heard enough about Harriet Miers yet to have an opinion?"

	Favorable	Unfavorable	Haven't Heard Enough	Unsure
	%	%	%	%
10/3-5/05	19	13	67	1

"Do you think the U.S. Senate should or should not confirm Harriet Miers as a Supreme Court justice?"

	Should	Should Not	Unsure
	%	%	%
10/3-5/05	41	27	32

CBS News Poll. Oct. 3-5, 2005. N=808 adults nationwide. MoE ± 4.

"Do you have confidence that George W. Bush will nominate good justices to the Supreme Court, or are you uneasy about who he might choose?"

	Confident	Uneasy	Unsure
	%	%	%
10/3-5/05	41	43	16

"As president, George W. Bush may appoint several justices to the United States Supreme Court. Do you think his nominees to the U.S. Supreme Court are more conservative than you would like, not conservative enough, or about right?"

Not

	More Conservative %	Conservative Enough %	About Right %	Unsure %
10/3-5/05	30	16	42	12

"Is your opinion of Supreme Court nominee Harriet Miers favorable, not favorable, undecided, or haven't you heard enough about Harriet Miers yet to have an opinion?"

	Favorable %	Not Favorable %	Undecided %	Haven't Heard Enough %	Refused %
10/3-5/05	11	11	18	59	1

"What do you think right now? Should the Senate vote to confirm Harriet Miers as a justice of the U.S. Supreme Court, or vote against Miers, or can't you say?"

	Vote To Confirm %	Vote Against %	Can't Say %	Unsure %
10/3-5/05	14	13	70	3

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Polls listed chronologically. Data are from nationwide surveys of Americans 18 & older.

CNN/USA Today/Gallup Poll. Oct. 3-4, 2005. N=803 adults nationwide. MoE \pm 4.

"As you may know, President Bush has nominated White House counsel Harriet Miers to serve on the U.S. Supreme Court. Generally speaking, how would you rate Bush's choice of Harriet Miers as a nominee to the U.S. Supreme Court -- as excellent, good, only fair, or poor?"

	Excellent	Good	Only Fair	Poor	Unsure
	%	%	%	%	%
10/3-4/05	11	33	25	16	15

"Next, thinking about Harriet Miers herself: How would you describe your first impressions of her? Would you say they are very positive, somewhat positive, neither positive nor negative, somewhat negative, or very negative?" Scale rotated

	%
Very positive	14
Somewhat positive	28
Neither positive nor negative	34
Somewhat negative	10
Very negative	4
Unsure	10

"As you may know, the Senate will soon hold hearings and vote on whether to confirm Bush's appointment of Miers to the Supreme Court. How much does it matter to you whether or not Harriet Miers is confirmed by the Senate: a great deal, a moderate amount, not much, or not at all?"

	Great Deal	Moderate Amount	Not Much	Not At All	Unsure
	%	%	%	%	%
10/3-4/05	32	33	22	10	3

"Thinking about Harriet Miers' background, does each of the following make you more likely to support her nomination, does it make no difference to you, or does it make you less likely to support her nomination? How about [see below]?" Scale rotated

	More Likely	No Difference	Less Likely	Unsure
	%	%	%	%

"She is a woman"

10/3-4/05	29	66	5	-
"She has close personal ties to George W. Bush"				
10/3-4/05	16	38	44	2
"Her views on most major issues are not known"				
10/3-4/05	12	33	49	6
"She has never served as a judge"				
10/3-4/05	10	42	46	2

"Just your best guess, how important do you think each of the following considerations was to George W. Bush when he chose Harriet Miers as the nominee to the U.S. Supreme Court: very important, somewhat important, not too important, or not important at all? How about [see below]?"

	Very Important	Somewhat Important	Not Too Important	Not Important At All	Unsure
	%	%	%	%	%
"She has close personal ties to him"					
10/3-4/05	51	23	14	10	2
"She is a woman"					
10/3-4/05	31	25	17	24	3
"Her views on most major issues are not known"					
10/3-4/05	28	26	23	16	7
"She has never served as a judge"					
10/3-4/05	18	22	26	32	2

"As you may know, George W. Bush nominated Harriet Miers to replace Sandra Day O'Connor on the Supreme Court. If Bush had NOT nominated a woman, would that have bothered you, or not?"

	Would Have	Would Not Have
	%	%
10/3-4/05	18	82

"When the U.S. Senate holds hearings on the Harriet Miers nomination, do you think senators should insist that she explain her views on abortion before confirming her, or should she be allowed to refuse to answer questions about abortion?"

	Insist She Explain Her Views	Allowed To Refuse To Answer	Unsure
	%	%	%
10/3-4/05	55	42	3

CNN/USA Today/Gallup Poll. Sept. 26-28, 2005. N=1,007 adults nationwide. MoE ± 3.

"Now, turning to the Supreme Court: As you may know, after John Roberts is confirmed as Chief Justice, President Bush will soon announce another nominee to the Supreme Court to fill the seat of retiring Justice Sandra Day O'Connor. Would you like to see President Bush nominate a new justice who would make the Supreme Court more liberal than it currently is, more conservative than it currently is -- or who would keep the Court as it is now?"

	More Liberal	More Conservative	Keep As It Is Now	Unsure
	%	%	%	%
9/26-28/05	30	33	29	8

CNN/USA Today/Gallup Poll. Sept. 16-18, 2005. N=818 adults nationwide. MoE ± 4.

"Turning to the U.S. Supreme Court: As you may know, John Roberts is a federal judge who has been nominated to serve as chief justice on the Supreme Court. Would you like to see the Senate vote in favor of Roberts serving as chief justice on the Supreme Court, or not?"

	Vote In Favor	Not Vote In Favor	Unsure
	%	%	%
9/16-18/05	60	26	14
9/8-11/05	58	27	15

FOX News/Opinion Dynamics Poll. Sept. 13-14, 2005. N=900 registered voters nationwide. MoE ± 3.

"President George W. Bush has nominated John Roberts to take the place of William Rehnquist as chief justice of the U.S. Supreme Court. Do you approve or disapprove of John Roberts' nomination to be chief justice?"

	Approve	Disapprove	Unsure
	%	%	%
9/13-14/05	51	21	27

"Overall, do you think John Roberts is qualified to serve as chief justice of the Supreme Court or not?"

	Is	Is Not	Unsure
	%	%	%
9/13-14/05	62	14	24

"Do you think John Roberts' views are in line with those of mainstream America or not?"

	Are	Are Not	Unsure
	%	%	%
9/13-14/05	49	22	29

CBS News/New York Times Poll. Sept. 9-13, 2005. N=1,167 adults nationwide. MoE ± 3.

"How closely would you say you have been following news about the appointment of appeals court judge John Roberts to the U.S. Supreme Court: very closely, somewhat closely, not very closely, or not at all closely?"

	Very Closely	Somewhat Closely	Not Very Closely	Not At All Closely	Unsure
	%	%	%	%	%
9/9-13/05	16	38	23	22	1
8/29-31/05	12	32	29	26	1
7/29 - 8/2/05	13	34	26	26	1

"When the Senate votes on a nominee for chief justice of the Supreme Court, should it consider only that person's legal qualifications and background, or along with legal background, should the Senate also consider how that nominee might vote on major issues the Supreme Court decides?" Form B (N=584)

	Legal Only	Issues, Too	Unsure
	%	%	%
9/9-13/05	33	58	9

"Before Senators vote on whether John Roberts should be confirmed as the chief justice of the

Supreme Court, how important do you think it is for the Senate to know his position on issues such as abortion and affirmative action? Is that very important, somewhat important, not very important, or not at all important?"

	Very Important	Somewhat Important	Not Very Important	Not At All Important	Unsure
	%	%	%	%	%
9/9-13/05	46	31	9	13	1

"Is John Roberts more conservative than you would like, not conservative enough, or about right, or don't you know enough about John Roberts yet to say?"

	More Conservative	Not Conservative Enough	About Right	Don't Know Enough	Unsure
	%	%	%	%	%
9/9-13/05	14	2	22	61	1

"What do you think right now? Should the Senate vote to confirm John Roberts as chief justice of the U.S. Supreme Court, or vote against John Roberts, or can't you say?"

	Vote To Confirm	Vote Against	Can't Say	Unsure
	%	%	%	%
ALL adults	26	8	63	3
Republicans	51	2	46	1
Democrats	13	14	70	3
Independents	21	7	68	4

ABC News/Washington Post Poll. Sept. 8-11, 2005. N=1,201 adults nationwide. MoE ± 3.

"As you may know, Bush has nominated federal judge John Roberts to be chief justice of the U.S. Supreme Court. Do you think the U.S. Senate should or should not confirm Roberts' nomination as chief justice?"

	Should	Should Not	Unsure
	%	%	%
9/8-11/05	55	26	19

Pew Research Center for the People & the Press survey conducted by Princeton Survey Research Associates International. Sept. 8-11, 2005. N=1,523 adults nationwide. MoE ± 3.

"In making his appointments to the Supreme Court, should President Bush nominate people who will make the court more liberal, people who will make it more conservative, or people who will keep the court about the same as it is now?"

	More Liberal	More Conservative	Same	Unsure
	%	%	%	%
9/8-11/05	24	30	39	7

"Do you think the U.S. Senate should or should not confirm John Roberts as the next chief justice of the Supreme Court?"

	Should	Should Not	Unsure
	%	%	%
9/8-11/05	46	21	33

Newsweek Poll conducted by Princeton Survey Research Associates International. Sept. 8-9, 2005. N=1,009 adults nationwide. MoE ± 3.

"As you may know, President Bush recently nominated John Roberts to succeed William Rehnquist as the new chief justice of the Supreme Court. From what you've heard or read, do you think Roberts should or should NOT be confirmed by the Senate to serve as chief justice?"

	Should Be Confirmed	Should Not Be Confirmed	Unsure
	%	%	%
9/8-9/05	44	24	32

"President Bush has not yet announced his choice for the Supreme Court's second vacancy. Do you think Bush should take diversity into account and strongly consider naming another woman to serve on the Court?"

	Should	Should Not	Unsure
	%	%	%
9/8-9/05	66	19	14

"Do you think Bush should take diversity into account and strongly consider naming another black or a Hispanic to serve on the Court?"

	Should	Should Not	Unsure
	%	%	%
9/8-9/05	60	21	19

"Are you concerned that President Bush's appointments will make the Supreme Court too conservative; OR concerned that the justices he appoints won't be conservative enough; OR are you not too concerned either way?"

	Too Conservative	Not Conservative Enough	Not Concerned	Unsure
	%	%	%	%
9/8-9/05	31	10	53	6

Time Poll conducted by Schulman, Ronca & Bucuvalas (SRBI) Public Affairs. Sept. 7-8, 2005. N=1,000 adults nationwide. MoE ± 3.

"Based on what you've heard or read about John Roberts, do you think he should or should not be confirmed by the Senate to serve as chief justice of the Supreme Court?"

	Should Be Confirmed	Should Not Be Confirmed	Unsure
	%	%	%
ALL	48	26	26
Republicans	73	9	18
Democrats	29	41	31
Independents	48	29	23

"Do you think that it is important for the Senate to know his position on abortion and other controversial issues before voting on his nomination, or not?"

	Is Important	Is Not Important	Unsure
	%	%	%
ALL	63	33	4
Republicans	50	48	2

Democrats	75	19	5
Independents	63	32	5

Pew Research Center for the People & the Press survey conducted by Princeton Survey Research Associates International. Sept. 6-7, 2005. N=1,000 adults nationwide. MoE ± 3.5.

"From what you've heard or read, do you think the U.S. Senate should or should not confirm John Roberts as the next chief justice of the Supreme Court?"

	Should	Should Not	Unsure
	%	%	%
9/6-7/05	35	19	46

"From what you've heard or read, are you concerned that John Roberts is too conservative, too liberal, or aren't you concerned about his ideology?"

	Too Con- servative	Too Liberal	Not Concerned	Unsure
	%	%	%	%
9/6-7/05	20	5	39	36

Zogby America Poll. Sept. 6-7, 2005. N=1,157 likely voters nationwide. MoE ± 2.9.

"How closely are you following the confirmation process of chief justice nominee John Roberts? Are you following it very closely, somewhat closely, not too closely, or not at all following the story?"

	Very Closely	Somewhat Closely	Not Too Closely	Not At All Following	Unsure
	%	%	%	%	%
9/6-7/05	20	41	23	16	-

"Do you strongly agree, somewhat agree, somewhat disagree or strongly disagree that Roberts is qualified to serve as chief justice?"

	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	Unsure
	%	%	%	%	%
ALL	33	25	10	10	23
Democrats	16	23	17	17	27
Republicans	55	21	2	1	21
Independents	22	35	11	11	21

"Do you think President Bush should have nominated someone from outside the Supreme Court, like Roberts, to serve as chief justice, or should he have elevated a sitting Supreme Court justice?"

	Someone From Outside	Sitting Justice	Unsure
	%	%	%
9/6-7/05	35	43	23

"Some have suggested that, now that there is a second vacancy on the Supreme Court, President Bush should appoint a woman or a minority. Do you strongly agree, somewhat agree, somewhat disagree or strongly disagree?"

	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	Unsure
	%	%	%	%	%
9/6-7/05	36	23	15	16	10

FOX News/Opinion Dynamics Poll. Aug. 30-31, 2005. N=900 registered voters nationwide. MoE ± 3.

"Which of the following comes closest to your view of how the Constitution should be interpreted by the U.S. Supreme Court? Judges should base their rulings on what they believe the Constitution's framers meant when it was originally written. Judges should base their rulings on what they believe the Constitution means in today's world." Options rotated

	Framers' Intent	Meaning in Today's World	Combination (vol.)	Unsure
	%	%	%	%
8/30-31/05	47	36	10	8

"President George W. Bush has nominated John Roberts to replace retiring Justice Sandra Day O'Connor on the U.S. Supreme Court. If you were voting on John Roberts' nomination, would you vote to confirm him or not?"

	Confirm	Not Confirm	Unsure
	%	%	%
ALL	50	26	24
Democrats	28	46	26
Republicans	74	7	18
Independents	51	21	28
<i>Trend:</i>			
7/26-27/05	51	19	30

"Do you think the scrutiny of John Roberts' record is being done fairly and with sincere concern for the position he has been nominated to hold or do you think it is being done unfairly and in a partisan fashion?" Options rotated

	Fair, Sincere	Unfair, Partisan	Unsure
	%	%	%
8/30-31/05	29	41	31

"Do you think John Roberts' religious beliefs should or should not be something Senators consider when deciding whether to confirm him?"

	Should Be	Should Not Be	Unsure
	%	%	%
8/30-31/05	22	61	17

"John Roberts is a practicing Catholic. Knowing this, are you more likely or less likely to support his confirmation?"

	More Likely	Less Likely	No Differ- ence (vol.)	Unsure
	%	%	%	%
8/30-31/05	21	13	57	9

CBS News Poll. Aug. 29-31, 2005. N=871 adults nationwide. MoE ± 3.

"Before senators vote on whether John Roberts should sit on the Supreme Court, how important do you think it is for the Senate to know his position on issues such as abortion and affirmative action? Is that very important, somewhat important, not very important, or not at all

important?"

	Very Important	Somewhat Important	Not Very Important	Not At All Important	Unsure
8/29-31/05	46	32	10	11	1

"Do you think the Republican and Democratic members of the Senate will be able to work together to conduct confirmation hearings for John Roberts in a fair and nonpartisan manner, or not?"

	Will Be Able	Will Not Be Able	Unsure
8/29-31/05	44	49	7
7/29 - 8/2/05	43	47	10

"What do you expect will happen? Do you think John Roberts probably will or probably will not be confirmed by the Senate to sit on the Supreme Court?"

	Will	Will Not	Unsure
8/29-31/05	71	7	22
7/29 - 8/2/05	73	8	19

"What do you think right now? Should the Senate vote to confirm John Roberts as a justice of the U.S. Supreme Court, or vote against Roberts, or can't you say?"

	Vote To Confirm	Vote Against	Can't Say	Unsure
8/29-31/05	26	9	60	5

CNN/USA Today/Gallup Poll. Aug. 5-7, 2005. N=1,004 adults nationwide. MoE ± 3.

"Now, turning to the U.S. Supreme Court: As you may know, John Roberts is the person nominated to serve on the Supreme Court. Would you like to see the Senate vote in favor of Roberts serving on the Supreme Court, or not?"

	Vote In Favor	Not Vote In Favor	Unsure
8/5-7/05	51	28	21
7/22-24/05	59	22	19

Newsweek Poll conducted by Princeton Survey Research Associates International. Aug. 2-4, 2005. N=1,004 adults nationwide. MoE ± 3.

"We'd like your opinion of the way George W. Bush is handling certain aspects of his job. Do you approve or disapprove of the way Bush is handling appointments to the Supreme Court and other federal courts?"

	Approve	Disapprove	Unsure
8/2-4/05	47	35	18

"Based on what you've heard or read about John Roberts, President Bush's nominee for the U.S. Supreme Court, do you think he should or should NOT be confirmed by the Senate to serve on the Court?"

Should

	Should Be Confirmed	Not Be Confirmed	Unsure
	%	%	%
8/2-4/05	47	24	29

CBS News Poll. July 29-Aug. 2, 2005. N=1,222 adults nationwide. MoE ± 3.

"How much difference does it make to the country whether liberals or conservatives control the Supreme Court: a great deal, some, not much, or no difference?"

	A Great Deal	Some	Not Much	No Difference	Unsure
	%	%	%	%	%
7/29 - 8/2/05	48	31	8	9	4

"When the Supreme Court decides an important constitutional case, should it only consider the legal issues, or should it also consider what the majority of the public thinks about that subject?"

	Legal Issues Only	Public Opinion, Too	Depends (vol.)	Unsure
	%	%	%	%
7/29 - 8/2/05	49	42	4	5
7/13-14/05	48	46	3	3
9/87	32	60	4	4

"In general, do you think the personal views of most Supreme Court judges are or are not a factor in their decisions on cases before the court?"

	Are	Are Not	Unsure
	%	%	%
7/29 - 8/2/05	67	25	8

"Before senators vote on whether John Roberts should sit on the Supreme Court, how important do you think it is for the Senate to know what his position on abortion is? Is that very important, somewhat important, not very important, or not at all important?"

	Very Important	Somewhat Important	Not Very Important	Not At All Important	Unsure
	%	%	%	%	%
7/29 - 8/2/05	30	35	13	19	3

Zogby America Poll. July 26-30, 2005. N=1,042 likely voters nationwide. MoE ± 3.1.

"How closely are you following President Bush's nomination of Judge John Roberts to replace retiring Supreme Court Justice Sandra Day O'Connor? Are you following it very closely, somewhat closely, not too closely, or not at all following the story?"

	Very Closely	Somewhat Closely	Not Too Closely	Not At All
	%	%	%	%
7/26-30/05	25	37	24	14

Asked of those who are following nomination very closely or somewhat closely:

"Do you think that John Roberts is a good choice to serve on the Supreme Court?"

	Yes	No	Unsure
	%	%	%
ALL	64	17	19
Democrats	41	28	32

Republicans	88	2	10
Independents	59	23	18

"In a brief written by Supreme Court nominee John Roberts while working for the Reagan Administration, he wrote that Roe v. Wade had been 'wrongly decided and should be overturned.' Knowing that, are you much more likely, somewhat more likely, somewhat less likely, or much less likely to support Roberts' nomination to the Supreme Court?"

	Much More	Somewhat More	Somewhat Less	Much Less	No Difference (vol.)/Unsure
	%	%	%	%	%
7/26-30/05	22	16	19	22	22

"Connecticut Senator Joe Lieberman, a moderate Democrat, had previously called John Roberts 'in the ballpark' of a judge that he and other centrist Democrats would not filibuster if President Bush nominated him to the Supreme Court. Knowing that, are you much more likely, somewhat more likely, somewhat less likely, or much less likely to support Roberts' nomination to the Supreme Court?"

	Much More	Somewhat More	Somewhat Less	Much Less	No Difference (vol.)/Unsure
	%	%	%	%	%
7/26-30/05	21	21	15	11	32

"Some have suggested that, with Justice O'Connor, the first woman to serve on the Supreme Court, retiring, and Justice Ruth Bader Ginsberg now the only woman on the Court, President Bush should have nominated a woman for this seat. Do you strongly agree, somewhat agree, somewhat disagree, or strongly disagree with that argument?"

	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree	Unsure
	%	%	%	%	%
7/26-30/05	25	23	24	23	5

FOX News/Opinion Dynamics Poll. July 26-27, 2005. N=900 registered voters nationwide. MoE ± 3.

"President George W. Bush has nominated John Roberts to replace retiring Justice Sandra Day O'Connor on the U.S. Supreme Court. Do you approve or disapprove of John Roberts' nomination to the Supreme Court?"

	Approve	Disapprove	Unsure
	%	%	%
7/26-27/05	48	17	34

"Overall, do you think John Roberts is qualified to serve as a justice on the Supreme Court or not?"

	Qualified	Not Qualified	Unsure
	%	%	%
7/26-27/05	65	10	25

"From what you know about John Roberts, would you say he is more of a liberal or a conservative?" Options rotated

	Liberal	Conservative	Moderate (vol.)	Unsure
	%	%	%	%
7/26-27/05	8	56	8	28

"Do you think the Senate will confirm John Roberts or not?"

	Will Confirm	Will Not Confirm	Unsure
	%	%	%
7/26-27/05	70	7	23

"Do you agree or disagree that, as president, George W. Bush should be able to choose a nominee who shares his political philosophy to serve on the Supreme Court?"

	Agree	Disagree	Unsure
	%	%	%
7/26-27/05	63	29	7

"In previous Senate confirmation hearings, some nominees have refused to answer questions related to past Supreme Court cases or cases that may come before the Court in the future. Do you think it is acceptable or unacceptable for John Roberts to decline to answer questions on past or future cases before the Supreme Court?"

	Acceptable	Unacceptable	Unsure
	%	%	%
7/26-27/05	41	43	16

CNN/USA Today/Gallup Poll. July 22-24, 2005. N=1,006 adults nationwide. MoE ± 3.

"Which do you think is more likely to occur during the Senate confirmation hearings for Roberts: a relatively easy process in which Republicans and Democrats come to an agreement, or a major fight between Republicans and Democrats that would drag on for a long time?" Options rotated

	Relatively Easy Process	Major Fight	Unsure
	%	%	%
7/22-24/05	42	51	7

"When the U.S. Senate holds hearings on the John Roberts nomination, do you think senators should insist that he explain his views on abortion before confirming him, or should he be allowed to refuse to answer questions about abortion?"

	Insist He Explain Views	Allowed To Refuse To Answer	Unsure
	%	%	%
7/22-24/05	61	37	2

"If a nominee for the U.S. Supreme Court favors keeping the Roe v. Wade decision on abortion, in your view, should that alone disqualify that person from serving on the Supreme Court, or not?" Form A (N=497 adults, MoE ± 5)

	Should	Should Not	Unsure
	%	%	%
7/22-24/05	13	85	2

"If a nominee for the U.S. Supreme Court favors overturning the Roe v. Wade decision on abortion, in your view, should that alone disqualify that person from serving on the Supreme Court, or not?" Form B (N=509 adults, MoE ± 5)

	Should	Should Not	Unsure
	%	%	%

ABC News/Washington Post Poll. July 21, 2005. N=500 adults nationwide. MoE \pm 4.5. Fieldwork by TNS.

"As you may know, George W. Bush has nominated federal judge John Roberts to serve on the U.S. Supreme Court. How closely have you been following news about the Roberts nomination: very closely, somewhat closely, not too closely or not closely at all?"

	Very Closely	Somewhat Closely	Not Too Closely	Not At All Closely
	%	%	%	%
7/21/05	20	36	21	23

"Do you think the U.S. Senate should or should not confirm Roberts' nomination to the Supreme Court?"

	Should	Should Not	Unsure
	%	%	%
7/21/05	59	23	17

"Do you think a senator who believes Roberts has the right background and qualifications, but who disagrees with his judicial philosophy and legal views, should vote for or against Roberts' nomination?"

	For	Against	Unsure
	%	%	%
7/21/05	53	41	6

"At his confirmation hearing, do you think Roberts should or should not answer questions about how he would have ruled on past cases that have come before the Supreme Court?"

	Should	Should Not	Unsure
	%	%	%
7/21/05	61	36	3

"Do you think Roberts should or should not publicly state his position on abortion before being approved by the U.S. Senate for the job?"

	Should	Should Not	Unsure
	%	%	%
7/21/05	64	34	2

"Given what you know, do you think Roberts is a more conservative nominee than you'd have liked, less conservative than you'd have liked, or about right?" Options rotated

	More	Less	About Right	Unsure
	%	%	%	%
7/21/05	26	9	58	7

"Bush nominated Roberts to replace Justice Sandra Day O'Connor, who is retiring from the court. Are you personally disappointed that Bush did not nominate another woman to replace O'Connor, or not?"

	Are	Are Not	Unsure
	%	%	%
7/21/05	34	65	1

"Do you think the U.S. Supreme Court should base its rulings on its understanding of what

the U.S. Constitution meant as it was originally written, or should the court base its rulings on its understanding of what the U.S. Constitution means in current times?" Options rotated

	Originally Written	Current Meaning	In-Between	Unsure
	%	%	%	%
7/21/05	46	50	3	1

"The Supreme Court legalized abortion 32 years ago in the ruling known as Roe versus Wade. If that case came before the court again, would you want Roberts to vote to uphold Roe versus Wade, or vote to overturn it?" Options rotated

	Uphold	Overturn	Unsure
	%	%	%
7/21/05	65	32	4

CNN/USA Today/Gallup Poll. July 20, 2005. N=625 adults nationwide. MoE ± 4.

"As you may know, President Bush has nominated Judge John Roberts to serve on the U.S. Supreme Court. Generally speaking, how would you rate Bush's choice of John Roberts as a nominee to the U.S. Supreme Court -- as excellent, good, only fair, or poor?"

	Excellent	Good	Only Fair	Poor	Unsure
	%	%	%	%	%
7/20/05	25	26	20	14	15

"Next, thinking about John Roberts himself: How would you describe your first impressions of him? Would you say they are very positive, somewhat positive, neither positive nor negative, somewhat negative, or very negative?"

	Very Positive	Somewhat Positive	Neither	Somewhat Negative	Very Negative	Unsure
	%	%	%	%	%	%
7/20/05	26	28	21	8	7	10

"Based on what you have heard or read about him, do you think Roberts' views on important issues are in the mainstream, are too extreme, or do you need to know more before you can say?"

	Main-stream	Too Extreme	Need To Know More	Unsure
	%	%	%	%
7/20/05	14	7	76	3

"As you may know, the Senate will soon hold hearings and vote on whether to confirm Bush's appointment of Roberts to the Supreme Court. How much does it matter to you whether or not John Roberts is confirmed by the Senate: a great deal, a moderate amount, not much, or not at all?"

	Great Deal	Moderate Amount	Not Much	Not At All	Unsure
	%	%	%	%	%
7/20/05	37	29	18	13	3

"Do you think it would be appropriate or inappropriate for senators to ask Roberts general questions about his overall views on the abortion issue?"

	Appropriate	Inappro-priate	Unsure
	%	%	%
7/20/05	74	22	4

"Do you think it would be appropriate or inappropriate for senators to ask Roberts specific

questions about how he would rule on individual cases involving the abortion issue?"

	Appropriate	Inappropriate	Unsure
	%	%	%
7/20/05	61	36	3

"Finally, as you may know, Roberts was nominated to replace Sandra Day O'Connor. Does it bother you that President Bush did not nominate a woman to replace O'Connor, or does it not bother you?"

	Bothers	Does Not Bother	Unsure
	%	%	%
7/20/05	21	77	2

Associated Press-Ipsos poll conducted by Ipsos-Public Affairs. July 19-20, 2005. N=752 adults nationwide. MoE ± 3.6.

"As you may know, Supreme Court Justice Sandra Day O'Connor is retiring, and President Bush has nominated John Roberts Jr. to replace her. Is your opinion of Supreme Court nominee John Roberts Jr. favorable, unfavorable, or haven't you heard enough about John Roberts Jr. yet to have an opinion?"

	Favorable	Unfavorable	Haven't Heard Enough	Unsure
	%	%	%	%
7/19-20/05	25	14	59	2

"Do you think the U.S. Senate should or should not vote to confirm John Roberts Jr. as a Supreme Court justice?"

	Should	Should Not	Unsure
	%	%	%
7/19-20/05	47	24	29

"Do you think John Roberts Jr. should be required to state his position on abortion before being confirmed by the Senate, or do you think he should not be required to state his position on that issue?"

	Should	Should Not	Unsure
	%	%	%
7/19-20/05	52	41	7

Pew Research Center for the People & the Press survey conducted by Princeton Survey Research Associates International. July 13-17, 2005. Adults nationwide.

"As you may have heard, Sandra Day O'Connor recently retired from the Supreme Court. Just your impression: Was Sandra Day O'Connor mostly conservative, mostly liberal, or middle-of-the-road in her judgments on the Court?" N=1,502 adults, MoE ± 3

	Mostly Conservative	Mostly Liberal	Middle-Of-The-Road	Unsure
	%	%	%	%
7/13-17/05	13	10	51	26

"In making his next appointment to the Supreme Court, should President Bush choose someone who will make the court more liberal, someone who will make it more conservative,

or someone who will keep the court about the same as it is now?" Form 1 (N=751 adults, MoE ± 4)

	More Liberal	More Conservative	About the Same	Unsure
	%	%	%	%
7/13-17/05	24	27	40	9
6/8-12/05	28	29	35	8
3/17-27/05	24	28	41	7

"Do you worry that the President's next Supreme Court appointment will make the court too conservative, not conservative enough, or don't you worry about this?" Form 2 (N=751 adults, MoE ± 4)

	Too Conservative	Not Conservative Enough	Don't Worry About This	Unsure
	%	%	%	%
7/13-17/05	31	19	44	6

"How important is the President's choice of the next Supreme Court justice to you personally: very important, somewhat important, not too important, or not at all important?" N=1,502 adults, MoE ± 3

	Very Important	Somewhat Important	Not Too Important	Not At All Important	Unsure
	%	%	%	%	%
7/13-17/05	47	30	14	8	1
6/8-12/05	47	29	14	8	2
3/17-27/05	38	36	15	8	3

CBS News Poll. July 13-14, 2005. N=632 adults nationwide. MoE ± 4.

"Would you say you mostly agree or mostly disagree with the decisions made by the Supreme Court in the last year?"

	Agree	Disagree	Unsure
	%	%	%
7/13-14/05	49	36	15

"How important do you think it is that George W. Bush nominate a woman to the Supreme Court: very important, somewhat important, not very important or not important at all?"

	Very Important	Somewhat Important	Not Very Important	Not At All Important	Unsure
	%	%	%	%	%
7/13-14/05	25	33	17	23	2

"How important to you, personally, is the issue of which judges sit on the Supreme Court? Is this issue extremely important, very important, somewhat important, or not at all important?"

	Extremely Important	Very Important	Somewhat Important	Not At All Important	Unsure
	%	%	%	%	%
7/13-14/05	22	37	30	10	1

"Do you have confidence that George W. Bush will nominate good justices to the Supreme Court, or are you uneasy about who he might choose?"

	Confident	Uneasy	Unsure
	%	%	%
7/13-14/05	46	52	2

"Do you think evangelical Christians will have too much influence, too little influence, or the

right amount of influence on George W. Bush's decisions about who he nominates to the Supreme Court?"

	Too Much Influence	Too Little Influence	Right Amount of Influence	No Influence (vol.)	Unsure
	%	%	%	%	%
7/13-14/05	30	14	37	7	12

FOX News/Opinion Dynamics Poll. July 12-13, 2005. N=900 registered voters nationwide. MoE ± 3.

"Overall, how much do you think the decisions of the U.S. Supreme Court affect your life: a lot, some but not a lot, not much, or not at all?"

	A Lot	Some	Not Much	Not At All	Unsure
	%	%	%	%	%
7/12-13/05	52	33	9	3	3

"Do you think it is acceptable or unacceptable for a U.S. senator to base his or her vote on a Supreme Court nominee solely on the nominee's [see below]?"

	Acceptable	Unacceptable	Unsure
	%	%	%
"Political ideology -- that is, solely because the nominee is a conservative or a liberal"			
7/12-13/05	19	69	12

	Acceptable	Unacceptable	Unsure
	%	%	%
"Position on affirmative action"			
7/12-13/05	18	69	13

"When a Supreme Court justice retires, do you think the president has an obligation to replace the retiring justice with another justice with similar legal and political views?"

	Yes	No	Unsure
	%	%	%
7/12-13/05	25	67	8

"Do you think President Bush has an obligation to replace retiring Supreme Court Justice Sandra Day O'Connor with another woman?"

	Yes	No	Unsure
	%	%	%
7/12-13/05	28	65	7

"When President Bush nominates the next justice to the U.S. Supreme Court, do you want him to nominate someone who is more of a liberal or someone who is more of a conservative?" Options rotated

	Liberal	Conservative	Not Consider Ideology (vol.)	Nominate a Moderate (vol.)	Unsure
	%	%	%	%	%
7/12-13/05	25	39	8	12	16

"If the person President Bush nominates to the U.S. Supreme Court is a well-qualified strong conservative, do you think Senate Democrats should vote to confirm the nominee?"

	Yes	No	Unsure
	%	%	%
7/12-13/05	62	22	16

"Who do you think should have the strongest voice in selecting Supreme Court justices: the president or the U.S. Senate?" Options rotated

	President	Senate	Both (vol.)	Unsure
	%	%	%	%
7/12-13/05	31	37	24	7

CNN/USA Today/Gallup Poll. June 24-26, 2005. N=1,009 adults nationwide. MoE ± 3.

"Many people say federal judges let their personal beliefs inappropriately influence their legal decisions rather than objectively interpreting the Constitution. Just your best guess, who do you think is more likely to let their personal beliefs influence their legal decisions: judges who are politically liberal, or judges who are politically conservative?" Options rotated

	Liberals	Conservatives	Both Equally (vol.)	Unsure
	%	%	%	%
6/24-26/05	40	39	13	8

"Suppose one of the U.S. Supreme Court justices retires this year. How much would the choice of a new Supreme Court justice matter to you: a great deal, a moderate amount, not much, or not at all?"

	Great Deal	Moderate Amount	Not Much	Not at All
	%	%	%	%
6/24-26/05	48	26	19	7

"Next, we'd like you to think about what would happen if a Supreme Court Justice retired this year and George W. Bush nominated someone to fill that vacancy. How likely do you think it is that Bush would appoint someone to the U.S. Supreme Court who would let their religious beliefs inappropriately influence their legal decisions: very likely, somewhat likely, not too likely, or not at all likely?"

	Very Likely	Somewhat Likely	Not Too Likely	Not at All Likely	Unsure
	%	%	%	%	%
6/24-26/05	33	30	23	12	2

"How likely do you think it is that the Democrats in the Senate would attempt to block Bush's nominee for inappropriate political reasons: very likely, somewhat likely, not too likely, or not at all likely?"

	Very Likely	Somewhat Likely	Not Too Likely	Not at All Likely	Unsure
	%	%	%	%	%
6/24-26/05	58	28	6	6	2

CNN/USA Today/Gallup Poll. June 16-19, 2005. N=1,006 adults nationwide. MoE ± 3.

"Suppose one of the U.S. Supreme Court justices retires at the end of this term. Would you like to see President Bush nominate a new justice who would make the Supreme Court more liberal than it currently is, more conservative than it currently is or who would keep the Court as it is now?" Options rotated

	More Liberal	More Conservative	Keep As It Is Now	Unsure
	%	%	%	%
6/16-19/05	30	41	24	5

"Suppose President Bush decides to nominate the person who he thinks is the best choice for the U.S. Supreme Court, but almost all the Democrats in the Senate oppose the nominee because they

disagree with that person on important issues. Should President Bush still nominate the person he thinks is best for the job, or should he nominate another well qualified person whom the Democrats find acceptable?" Options rotated

	Still Nominate Person He Thinks Best	Person Democrats Can Accept	Unsure
	%	%	%
6/16-19/05	46	51	3

"Suppose almost all the Democrats in the Senate oppose President Bush's nominee for the U.S. Supreme Court because they disagree with that person on important issues. Should the Democrats in the Senate still vote to confirm the President's nominee unless they believe that the person is not qualified legally or ethically, or should they work to defeat the nomination to try to get the President to pick someone that is more acceptable to them?" Options rotated

	Still Vote To Confirm	Work To Defeat	Unsure
	%	%	%
6/16-19/05	40	53	7

FOX News/Opinion Dynamics Poll. June 14-15, 2005. N=900 registered voters nationwide. MoE ± 3.

"How do you feel about the likely retirement of one or more Supreme Court justices? Do you welcome changes or are you uneasy about changes to the Supreme Court?"

	Welcome Changes	Uneasy	Mixed (vol.)	Unsure
	%	%	%	%
6/14-15/05	58	28	6	8

"How comfortable are you with George W. Bush selecting the next U.S. Supreme Court nominee: very comfortable, somewhat comfortable, not very comfortable, or not at all comfortable?"

	Very Comfortable	Somewhat Comfortable	Not Very Comfortable	Not At All Comfortable	Unsure
	%	%	%	%	%
ALL	31	23	15	28	4
Democrats	7	15	22	53	4
Republicans	61	29	4	3	2
Independents	27	25	19	27	2
<i>Trend:</i> 11/16-17/04	39	20	10	24	7

Pew Research Center for the People & the Press survey conducted by Princeton Survey Research Associates International. June 8-12, 2005. N=1,464 adults nationwide. MoE ± 3.

"Now I'd like your opinion of some groups and organizations in the news. Would you say your overall opinion of the Supreme Court is very favorable, mostly favorable, mostly UNfavorable, or very unfavorable?"

	Favorable	Unfav- orable	Never Heard Of (vol.)	Can't Rate (vol.)
	%	%	%	%
6/8-12/05	57	30	-	13
7/01	70	20	-	10

3/01	72	20	-	8
1/01	68	21	1	10
10/97	77	18	-	5

ABC News/Washington Post Poll. June 2-5, 2005. N=1,002 adults nationwide. MoE ± 3.
Fieldwork by TNS.

"Do you approve or disapprove of the way Bush is handling the nomination of federal judges?"

	Approve	Disap- prove	Unsure
	%	%	%
6/2-5/05	46	44	10

"When it comes time for Bush to nominate a new justice to the U.S. Supreme Court, do you think he should pick someone who is more of a liberal, moderate or conservative?" Options rotated

	Liberal	Moderate	Conser- vative	Unsure
	%	%	%	%
6/2-5/05	21	41	35	3
12/16-19/04	21	43	33	3

CNN/USA Today/Gallup Poll. May 20-22, 2005. N=1,006 adults nationwide. MoE ± 3.

"In general, do you think federal court judges are too liberal, too conservative, or just about right?"

	Too Liberal	Too Con- servative	About Right	Unsure
	%	%	%	%
5/20-22/05	29	19	44	8

"Do you think the rulings made by federal court judges are influenced too much, about the right amount, or not enough by Christian values?"

	Too Much	About Right	Not Enough	Unsure
	%	%	%	%
5/20-22/05	27	28	38	7

Associated Press-Ipsos poll conducted by Ipsos-Public Affairs. May 17-19, 2005. N=1,028 adults nationwide. MoE ± 3.1.

"Generally speaking, do you think that federal judges in this country are too conservative, too liberal, or about right?"

	Too Conservative	Too Liberal	About Right	Unsure
	%	%	%	%
5/17-19/05	24	30	37	9

"Would you like the federal judges nominated by President Bush to have political views that are very conservative, somewhat conservative, somewhat liberal, or very liberal?"

Very Conservative	Somewhat Conservative	Somewhat Liberal	Very Liberal	Moderate (vol.)
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	%	%	%	%	%
5/17-19/05	13	34	29	11	6

"In President Bush's second term, he may have the opportunity to appoint several new justices to the U.S. Supreme Court. How comfortable are you that George W. Bush would nominate the right kind of justices to the Supreme Court . . . ?"

	Very Comfortable	Somewhat Comfortable	Not Too Comfortable	Not At All Comfortable	Unsure
	%	%	%	%	%
5/17-19/05	29	23	14	32	2

"Do you think judges usually base their decisions mostly on their interpretation of the law or mostly on their personal beliefs and political opinions?"

	Law	Beliefs and Opinions	Unsure
	%	%	%
5/17-19/05	51	43	6

NBC News/Wall Street Journal Poll conducted by the polling organizations of Peter Hart (D) and Bill McInturff (R). May 12-16, 2005. N=1,005 adults nationwide. MoE ± 3.1.

"How important is it to you personally who gets appointed to be federal judges: very important, somewhat important, not that important, or not important at all?"

	Very Important	Somewhat Important	Not That Important	Not At All Important	Unsure
	%	%	%	%	%
5/12-16/05	53	28	11	7	1

Time Poll conducted by Schulman, Ronca & Bucuvalas (SRBI) Public Affairs. May 10-12, 2005. N=1,011 adults nationwide. MoE ± 3.

"Do you think the courts in this country have too much power, too little power, or about the right amount?"

	Too Much	Too Little	About Right	Unsure
	%	%	%	%
5/10-12/05	39	11	45	6

"Do you think judges today are generally too liberal in their decisions, too conservative, or about right in their decisions?"

	Too Liberal	Too Conservative	About Right	Unsure
	%	%	%	%
5/10-12/05	32	19	38	11

ABC News/Washington Post Poll. April 21-24, 2005. N=1,007 adults nationwide. MoE ± 3.

"Overall, do you think the federal judges in this country are too liberal, too conservative, or about right?"

	Too Liberal	Too Conservative	About Right	Unsure
	%	%	%	%

CNN/USA Today/Gallup Poll. April 1-2, 2005. N=1,040 adults nationwide. MoE ± 3.

"Thinking now about federal court judges -- Just your best guess, in general, how many federal judges do you think allow their political views to inappropriately influence their decisions on cases: all of them, most of them, about half, only a few of them, or none?"

	All	Most	About Half	A Few	None	Unsure
	%	%	%	%	%	%
4/1-2/05	7	28	33	27	2	3

CBS News/New York Times Poll. Jan. 14-18, 2005. N=1,118 adults nationwide. MoE ± 3.

"As president, George W. Bush may appoint several justices to the United States Supreme Court. Do you think his nominees to the U.S. Supreme Court will be more conservative than you would like, not conservative enough, or about right?"

	Too Con- servative	Not Con- servative Enough	About Right	Unsure
	%	%	%	%
1/14-18/05	33	15	44	8
11/19-21/04	35	10	44	11
11/20-24/02	29	11	50	11

"When George W. Bush appoints Supreme Court justices, do you think he is likely to appoint justices who will vote to keep abortion legal or justices who will vote to make abortion against the law?"

	Keep Legal	Make Illegal	Neither (vol.)	Unsure
	%	%	%	%
1/14-18/05	15	71	2	12

Los Angeles Times Poll. Jan. 15-17, 2005. N=1,033 adults nationwide. MoE ± 3.

"Do you think that any nominee to the Supreme Court should publicly state his or her position on abortion before being approved by the Senate, or do you think that nominees should not be required to state their position on that issue?"

	Should Publicly State	Not Required To State	Unsure
	%	%	%
1/15-17/05	46	48	6

"As you may know, President Bush said that he would not use a nominee's beliefs on abortion as the deciding factor for his selection of a United States Supreme Court justice. Do you believe Bush when he says he will not use an abortion test for his selection of a United States Supreme Court justice, or do you not believe that?"

	Believe	Do Not Believe	Unsure
	%	%	%
1/15-17/05	45	50	5

ABC News/Washington Post Poll. Dec. 16-19, 2004. N=1,004 adults nationwide. MoE ± 3. Fieldwork by TNS.

"As you may know, the Constitution gives the Senate the power to confirm the president's nominations to the federal courts. Would you say that the Senate should only consider a judge's background, experience and qualifications, OR should the Senate also consider a judge's views on such issues as abortion, gun control and affirmative action?"

	Background, Etc.	Views On Issues, Too	Unsure
	%	%	%
12/16-19/04	35	60	5

Associated Press-Ipsos poll conducted by Ipsos-Public Affairs. Nov. 19-21, 2004. N=1,000 adults nationwide. MoE ± 3.

"Do you think the U.S. Supreme Court is too powerful, not powerful enough or does it have about the right amount of power?"

	Too Powerful	Not Powerful Enough	About Right	Unsure
	%	%	%	%
11/19-21/04	23	10	62	5

"As you may know, U.S. Supreme Court justices are appointed for their lifetimes, and they do not have to retire at a certain age. Do you think there should be a mandatory retirement age for U.S. Supreme Court justices, or not?"

	Should	Should Not	Unsure
	%	%	%
11/19-21/04	60	39	1

CNN/USA Today/Gallup Poll. Nov. 19-21, 2004. N=500 adults nationwide. MoE ± 5.

"How confident are you that George W. Bush will make good choices to replace justices who leave the U.S. Supreme Court: very confident, somewhat confident, not too confident, or not at all confident?"

	Very Confident	Somewhat Confident	Not Too Confident	Not At All Confident	Unsure
	%	%	%	%	%
11/19-21/04	36	25	14	24	1

FOX News/Opinion Dynamics Poll. Nov. 16-17, 2004. N=900 registered voters nationwide. MoE ± 3.

"Which one of the current U.S. Supreme Court justices do you most admire or agree with?" Open-ended

	%
Sandra Day O'Connor	13
Clarence Thomas	8
William H. Rehnquist	6

Antonin Scalia	5
Ruth Bader Ginsburg	5
Anthony M. Kennedy	1
Stephen G. Breyer	1
David Souter	1
John Paul Stevens	1
Other names	1
Don't know any names	58

FOX News/Opinion Dynamics Poll. Oct. 28-29, 2003. N=900 registered voters nationwide. MoE ± 3.

"How confident are you that most jury trials in the United States reach fair verdicts: very confident, somewhat confident, not very confident, or not at all confident?"

	Very	Somewhat	Not Very	Not At All	No Opinion
	%	%	%	%	%
10/03	17	56	17	6	4

Gallup Poll. Sept. 8-10, 2003. N=1,025 adults nationwide. MoE ± 3.

"Thinking about the Supreme Court: In its recent rulings, do you think the Supreme Court has been too liberal, too conservative, or just about right?"

	Too Liberal	Too Conservative	About Right	Unsure
	%	%	%	%
7/03	31	15	48	6
9/01	22	25	46	7
8-9/00	27	16	49	8
7/95	31	20	41	8
6/93	22	24	45	9

FOX News/Opinion Dynamics Poll. June 30-July 1, 2003. N=900 registered voters nationwide. MoE ± 3.

"In general, do you think the United States Supreme Court is in touch with what is going on in the country, or not?"

	In Touch	Not In Touch	Not Sure
	%	%	%
6/30 - 7/1/03	51	38	11

"In general, who would you trust more to make new appointments to the U.S. Supreme Court: a Democratic president or a Republican president?" Options rotated

	Democrat	Republican	Not Sure
	%	%	%
6/30 - 7/1/03	35	38	27

"Recently, the Supreme Court made some widely publicized rulings. Based on what you know about the decisions, please tell me whether you approve or disapprove of how the court ruled, or if you don't know enough to say. Do you approve or disapprove of the Supreme Court's decision [see below]?"

	Approve %	Disap- prove %	Not Sure %
"Allowing an applicant's race to be a factor in college admission procedures" 6/30 - 7/1/03	24	63	13
"Overturning the Texas law that prohibited gay sex" 6/30 - 7/1/03	40	44	16

"Given President Bush's appointments in other areas, how comfortable are you with him selecting the next Supreme Court nominee . . . ?"

	%
Very comfortable	32
Somewhat comfortable	27
Somewhat uncomfortable	14
Very uncomfortable	20
Not sure	7

Quinnipiac University Poll. Feb. 26-March 3, 2003. N=1,448 adults nationwide. MoE ± 2.6 (total sample).

"When the president chooses a Supreme Court nominee, should the president only consider that person's legal qualifications and background, or should the president also consider how that nominee might vote on major issues the Supreme Court decides?"

	ALL %	Repub- licans %	Demo- crats %	Indepen- dents %
Qualifications, background	59	56	60	62
How nominee might vote	34	38	33	32
Don't know	7	6	7	6

CNN/Time Poll conducted by Harris Interactive. July 17-18, 2001. N=1,015 adults nationwide. MoE ± 3.1.

"Would you favor or oppose the appointment of Supreme Court justices who would overturn Roe versus Wade, the Supreme Court decision legalizing abortion?"

	Favor %	Oppose %	Not Sure %
7/01	33	57	10
10/00	31	56	13

CBS News/New York Times Poll. Sept. 27-29, 2000. N=630 adults nationwide. (Results shown are among registered voters.)

"As you may know, the next president may have the power to appoint as many as three justices to the Supreme Court. How important is the appointment of Supreme Court justices in your vote for president this fall: very important, somewhat important, not very important, or not important at all?"

	%
Very important	43
Somewhat important	30
Not very important	15

Not at all important	7
Don't know	5

"How important is it to you that the presidential candidate you vote for will choose Supreme Court justices who agree with your position on abortion: very important, somewhat important, not very important, or not important at all?"

	%
Very important	43
Somewhat important	33
Not very important	12
Not at all important	9
Don't know	3

"Regardless of how you intend to vote, which presidential candidate do you think would appoint Supreme Court justices whose opinions would be closest to your own on issues like abortion: Al Gore or George W. Bush?"

	%
Gore	47
Bush	38
Both (vol.)	1
Neither (vol.)	2
Don't know	12

Newsweek Poll conducted by Princeton Survey Research Associates. June 29-30, 2000. N=752 adults nationwide. MoE ± 4.

Asked of registered voters (N=607; MoE ± 4):

"Thinking about the appointments to the Supreme Court the presidential candidates might make if elected, how important will this be in deciding your vote for president this fall? Will appointments to the Supreme Court be very important, somewhat important, not too important, or not at all important in deciding your vote?"

	%
Very important	36
Somewhat important	37
Not too important	12
Not at all important	13
Don't know	2

Asked of registered voters (N=607; MoE ± 4):

"Regardless of which presidential candidate you now support, do you think Al Gore or George W. Bush would do a better job of making appointments to the Supreme Court?"

	%
Al Gore	40
George W. Bush	37
Same/No difference (vol.)	5
Neither (vol.)	5
Don't know	13

"Judging by its recent decisions, do you think the Supreme Court is generally liberal, generally conservative, or is making decisions more on a case-by-case basis?"

	%
Liberal	17
Conservative	13
Case-by-case basis	61
Don't know	9

"As I read you a list of some recent decisions by the Supreme Court, please tell me if you generally agree or disagree with each one. What about [see below]? Do you generally agree or disagree with

this decision?"

	Agree %	Disagree %	Don't Know %
"The recent decision upholding 'Miranda rules' requiring police to inform arrested suspects of their rights to remain silent and to have a lawyer present during any questioning"	86	11	3
"The recent decision upholding a state law requiring that anti-abortion activists seeking to counsel women stay at least eight feet away from them as they enter and leave medical facilities"	73	20	7
"This week's decision NOT to review the Elian Gonzalez case"	68	23	9
"The recent decision that the Boy Scouts of America have a constitutional right to block gay men from becoming troop leaders"	56	36	8
"The recent decision striking down a state law protecting grandparents' rights to visit their grandchildren despite the parent's objections, saying it was too broad and could apply to anyone, not just grandparents"	49	41	10
"The recent decision that taxpayer money may be used to buy computers and textbooks for religious and other private schools"	47	49	4
"The recent decision striking down state laws that made it illegal to perform a procedure critics call partial-birth abortions, saying that these laws place an 'undue burden' on women's decisions to end their pregnancies"	41	49	10
"The recent decision that public school districts cannot promote prayer before high school football games, saying it violates the separation between church and state"	29	68	3

"Now thinking about future presidential appointments to the Supreme Court, please tell me whether you would like to see justices appointed who would rule in favor of or against each of the following. What about [see below]? Would you like to see justices appointed who would rule in favor of this or against this?"

	Rule In Favor %	Rule Against %	Makes No Difference (vol.) %	Don't Know %
"Upholding Roe versus Wade, the Supreme Court decision protecting a woman's right to an abortion"	62	31	2	5
"Allowing taxpayer dollars to be used for educational vouchers to help parents send their children to religious or other private schools"	52	43	2	3
"Allowing groups to exclude gays and lesbians if they feel homosexuality is morally wrong"	41	46	5	8
"Allowing affirmative action preferences for things like jobs, government contracts, and school admissions based on race"	36	52	3	9

Asked of registered voters (N=607; MoE ± 4):

"Vice President Al Gore has said that the next president will make appointments to the Supreme Court that will determine whether women retain 'the right to choose' abortion. How important will this be in deciding your vote for president this fall? Will it be very important, somewhat important, not too important, or not at all important in determining your vote?"

	%
Very important	43
Somewhat important	27
Not too important	14
Not at all important	12
Don't know	4

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How the Poll Was Conducted

Published: June 7, 2012

The latest New York Times/CBS News Poll is based on telephone interviews conducted May 31 through June 3 with 976 adults throughout the United States.

DOCUMENT: Results of the New York Times/CBS Poll

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The sample of landline telephone exchanges called was randomly selected by a computer from a complete list of more than 72,000 active residential exchanges across the country. The exchanges were chosen to ensure that each region of the country was represented in proportion to its share of all telephone numbers.

Within each exchange, random digits were added to form a complete telephone number, thus permitting access to listed and unlisted numbers alike. Within each household, random procedure to be the

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The two samples were then combined and adjusted to assure the proper ratio of landline-only, cellphone-only and dual phone users.

Interviewers made multiple attempts to reach every phone number in the survey, calling back unanswered numbers on different days at different times of both day and evening.

The combined results have been weighted to adjust for variation in the sample relating to geographic region, sex, race, Hispanic origin, marital status, age, education and number of adults in the household. Respondents in the landline sample were also weighted to take account of the number of telephone lines into the residence.

In theory, in 19 cases out of 20, overall results based on such samples will differ by no more than 3 percentage points in either direction from what would have been obtained by seeking to interview all American adults. For smaller subgroups, the margin-of-sampling error is larger. Shifts in results between polls over time also have a larger sampling error.

In addition to sampling error, the practical difficulties of conducting any survey of public opinion may introduce other sources of error into the poll. Variation in the wording and order of questions, for example, may lead to somewhat different results.

Michael R. Kagay of Princeton, N.J., assisted The Times in its polling analysis. Complete questions and results are available at nytimes.com/polls.

A version of this article appeared in print on June 8, 2012, on page A16 of the New York edition with the headline: How the Poll Was Conducted.

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SIDEBAR

Mystery of Citizens United Sequel Is Format, Not Ending

By ADAM LIPTAK
Published: June 11, 2012

WASHINGTON — At their private conference, the justices of the Supreme Court are [scheduled to decide](#) Thursday whether and how to take a second look at the [Citizens United campaign finance decision](#).

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The usual odds that the Supreme Court will agree to hear a case are about one in a hundred. This one is pretty much a sure thing.

The justices have already [temporarily blocked a lower court decision](#) in the case. In that decision, [the Montana Supreme Court seemed to defy](#) the higher court by saying that a state law regulating corporate political spending was constitutional notwithstanding [Citizens United](#). Two dissenting State Supreme Court justices said they would have liked to vote with their colleagues but did not believe they were entitled to ignore the [United States Supreme Court](#).

“I find myself in the distasteful position of having to defend the applicability of a controlling precedent with which I profoundly disagree,” wrote one of them, Justice James C. Nelson.

Even two of the dissenters in Citizens United itself said the state court’s decision had been lawless impudence. “Lower courts are bound to follow this court’s decisions until they are withdrawn or modified,” Justice Ruth Bader Ginsburg wrote in February in explaining her vote to block the Montana decision. She was joined by Justice Stephen G. Breyer.

In that same statement, Justice Ginsburg said the United States Supreme Court should now use the Montana case to weigh what the nation has learned since January 2010, when Citizens United overturned two precedents and allowed unlimited campaign spending by corporations and unions. The new case represented, she wrote, “an opportunity to consider whether, in light of the huge sums deployed to buy candidates’ allegiance, Citizens United should continue to hold sway.”

Justice John Paul Stevens, who also dissented in Citizens United and retired a few

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months later, [added his voice](#) to the debate in [a speech in Arkansas on May 30](#). Without referring directly to the Montana case, he said the Supreme Court's First Amendment jurisprudence had become incoherent since Citizens United and required revision.

All of this means that the Supreme Court will almost certainly agree to review the Montana case. At the same time, there is little reason to think the five justices in the majority in Citizens United have changed their minds.

The main question on Thursday, then, will be *how* the court will reverse the Montana decision. It could call for briefs, set the case down for argument in the fall and issue a decision months later. Or it could use a favorite tool of the court led by Chief Justice John G. Roberts Jr. — the summary reversal.

Nine times so far this year, the court has issued an unsigned opinion ruling on the merits of a dispute without full briefing or oral argument. Such rulings have been the subject of criticism from practitioners and the legal academy. These critics say it is a mistake to resolve cases without adequate information and deliberation. It is also problematic, they add, to do so anonymously.

The latest critique arrived this month in The Tulane Law Review in [an article by Ira P. Robbins](#), a law professor at American University. It was called "Hiding Behind the Cloak of Invisibility," and it considered "per curiam" opinions, ones issued "by the court" without indication of authorship. "In the first six years of Chief Justice Roberts's tenure," Professor Robbins wrote, "almost 9 percent of the court's full opinions were per curiams."

Such opinions suggest that what they have to say is so simple and obvious that no serious judicial effort is needed. Yet not a few unsigned majority opinions have come with dissents. That combination — an unsigned majority decision and a signed dissent — was "an oxymoronic form, one that simultaneously insisted on both institutional consensus and individual disagreement," Laura Krugman Ray, a law professor at the Widener University School of Law, [wrote in 2000](#) in The Nebraska Law Review.

Two of the current term's unsigned summary reversals were followed by dissenting opinions, both times from three members of the court's liberal wing. In [one of them](#), reinstating a California woman's conviction for shaking her grandson to death, Justice Ginsburg quarreled with both the result and how the court chose to get there.

While serving on a federal appeals court in 1990, [Justice Ginsburg wrote](#) that putting a name to an opinion "serves to hold the individual judge accountable" and "puts the judge's conscience and reputation on the line." The alternative, [Thomas Jefferson wrote in 1822](#), "is certainly convenient for the lazy, the modest and the incompetent."

The new challenge to Citizens United deserves more than an unsigned decision, Professor Ray said in an interview. "The Montana case would not be an appropriate occasion for summary reversal," she said, "simply because it's an extremely important issue."

"It's clear this is going to be a history-making case," she said. "Everyone should sign on to what he or she subscribes to."

A version of this article appeared in print on June 12, 2012, on page A14 of the New York edition with the headline: Unsigned Opinions, And Citizens United.

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To Justice William Johnson Monticello, Oct. 27, 1822

DEAR SIR,

-- I have deferred my thanks for the copy of your Life of Genl. Greene, until I could have time to read it. This I have done, and with the greatest satisfaction; and can now more understandingly express the gratification it has afforded me. I really rejoice that we have at length a fair history of the Southern war.

It proves how much we were left to defend ourselves as we could, while the resources of the Union were so disproportionately devoted to the North. I am glad too to see the Romance of Lee removed from the shelf of History to that of Fable. Some small portion of the transactions he relates were within my own knowledge; and of these I can say he has given more falsehood than fact; and I have heard many officers declare the same as to what had passed under their eyes. Yet this book had begun to be quoted as history. Greene was truly a great man, he had not perhaps all the qualities which so peculiarly rendered [Genl. Washington](#) the fittest man on earth for directing so great a contest under so great difficulties. Difficulties proceeding not from lukewarmness in our citizens or their functionaries, as our military leaders supposed; but from the penniless condition of a people, totally shut out from all commerce & intercourse with the world, and therefore without any means for converting their labor into money. But Greene was second to no one in enterprise, in resource, in sound judgment, promptitude of decision, and every other military talent. In addition to the work you have given us, I look forward with anxiety to that you promise in the last paragraph of your book. Lee's military fable you have put down. Let not the invidious libel on the views of the Republican party, and on their regeneration of the government go down to posterity as hypocritically masked. I was myself too laboriously employed, while in office, and too old when I left it, to do justice to those who had labored so faithfully to arrest our course towards monarchy, and to secure the result of our revolutionary sufferings and sacrifices in a government bottomed on the only safe basis, the elective will of the people. You are young enough for the task, and I hope you will undertake it.

There is a subject respecting the practice of the court of which you are a member, which has long weighed on my mind, on which I have long thought I would write to you, and which I will take this opportunity of doing. It is in truth a delicate undertaking, & yet such is my opinion of your candor and devotedness to the [Constitution](#), in its true spirit, that I am sure I shall meet your approbation in unbosoming myself to you. The subject of my uneasiness is the habitual mode of making up and

delivering the opinions of the supreme court of the US.

You know that from the earliest ages of the English law, from the date of the year-books, at least, to the end of the 11d George, the judges of England, in all but self-evident cases, delivered their opinions seriatim, with the reasons and authorities which governed their decisions. If they sometimes consulted together, and gave a general opinion, it was so rarely as not to excite either alarm or notice. Besides the light which their separate arguments threw on the subject, and the instruction communicated by their several modes of reasoning, it shewed whether the judges were unanimous or divided, and gave accordingly more or less weight to the judgment as a precedent. It sometimes happened too that when there were three opinions against one, the reasoning of the one was so much the most cogent as to become afterwards the law of the land. When Ld. Mansfield came to the bench he introduced the habit of caucusing opinions. The judges met at their chambers, or elsewhere, secluded from the presence of the public, and made up what was to be delivered as the opinion of the court. On the retirement of Mansfield, Ld. Kenyon put an end to the practice, and the judges returned to that of seriatim opinions, and practice it habitually to this day, I believe. I am not acquainted with the late reporters, do not possess them, and state the fact from the information of others. To come now to ourselves I know nothing of what is done in other states, but in this our great and good Mr. Pendleton was, after the revolution, placed at the head of the court of Appeals. He adored Ld. Mansfield, & considered him as the greatest luminary of law that any age had ever produced, and he introduced into the court over which he presided, Mansfield's practice of making up opinions in secret & delivering them as the Oracles of the court, in mass. Judge Roane, when he came to that bench, broke up the practice, refused to hatch judgments, in Conclave, or to let others deliver opinions for him. At what time the seriatim opinions ceased in the Supreme Court of the US., I am not informed. They continued I know to the end of the 3d Dallas in 1800. Later than which I have no Reporter of that court. About that time the present C. J. came to the bench. Whether he carried the practice of Mr. Pendleton to it, or who, or when I do not know; but I understand from others it is now the habit of the court, & I suppose it true from the cases sometimes reported in the newspapers, and others which I casually see, wherein I observe that the opinions were uniformly prepared in private. Some of these cases too have been of such importance, of such difficulty, and the decisions so grating to a portion of the public as to have merited the fullest explanation from every judge seriatim, of the reasons which had produced such convictions on his mind. It was interesting to the public to know whether these decisions were really unanimous, or might not perhaps be of 4. against 3. and consequently prevailing by the preponderance of one voice only. The Judges holding their offices for life are under two responsibilities only. 1. [Impeachment](#). 2. Individual reputation. But this practice compleatly withdraws them from both. For nobody knows what opinion any individual member gave in any case, nor even that he who delivers the opinion, concurred in it himself. Be the opinion therefore ever so impeachable, having been done in the dark it can be proved on no one. As to the 2d guarantee, personal reputation, it is shielded compleatly. The practice is certainly convenient for the lazy, the modest & the incompetent. It saves them the trouble of developing their opinion methodically and even of making up an opinion at all. That of seriatim argument shews whether every judge has taken the trouble of understanding the case, of investigating it minutely, and of forming an opinion for himself, instead of pinning it on another's sleeve. It would certainly be right to abandon this practice in order to give to our citizens one and all, that confidence in their judges which must be so desirable to the judges themselves, and so important to the cement of the union. During the administration of Genl. Washington,

and while E. Randolph was Attorney General, he was required by Congress to digest the judiciary laws into a single one, with such amendments as might be thought proper. He prepared a section requiring the Judges to give their opinions seriatim, in writing, to be recorded in a distinct volume. Other business prevented this bill from being taken up, and it passed off, but such a volume would have been the best possible book of reports, and the better, as unincumbered with the hired sophisms and perversions of Counsel.

What do you think of the state of parties at this time? An opinion prevails that there is no longer any distinction, that the republicans & Federalists are compleatly amalgamated but it is not so. The amalgamation is of name only, not of principle. All indeed call themselves by the name of Republicans, because that of Federalists was extinguished in the battle of New Orleans. But the truth is that finding that monarchy is a desperate wish in this country, they rally to the point which they think next best, a consolidated government. Their aim is now therefore to break down the rights reserved by the constitution to the states as a bulwark against that consolidation, the fear of which produced the whole of the opposition to the constitution at it's birth. Hence new Republicans in Congress, preaching the doctrines of the old Federalists, and the new nick-names of Ultras and Radicals. But I trust they will fail under the new, as the old name, and that the friends of the real constitution and union will prevail against consolidation, as they have done against monarchism. I scarcely know myself which is most to be deprecated, a consolidation, or dissolution of the states. The horrors of both are beyond the reach of human foresight.

I have written you a long letter, and committed to you thoughts which I would do to few others. If I am right, you will approve them; if wrong, commiserate them as the dreams of a Superannuate about things from which he is to derive neither good nor harm.

But you will still receive them as a proof of my confidence in the rectitude of your mind and principles, of which I pray you to receive entire assurance with that of my continued and great friendship and respect.



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Posted at 08:49 AM ET, 06/21/2012

Obama administration warns federal agencies that monitoring employees' e-mail could violate law

By [Lisa Rein](#)

The Obama administration warned federal agencies Wednesday that monitoring their employees' personal e-mail communications could violate the law if the intent is to retaliate against whistleblowers.

A memo to chief information officers and general counsels across government from the Office of Management and Budget sets out guidelines from Special Counsel Carolyn N. Lerner that agencies should heed when they consider surveillance of employee communications.

The legal guidance— from the head of the independent office that represents whistleblowers— comes five months after the Washington Post reported that the Food and Drug Administration [secretly monitored](#) the personal e-mail of a group of scientists who warned Congress and others that the agency was approving medical devices they considered dangerous.

The FDA surveillance, detailed in e-mails and memos written by six medical device reviewers, took place over two years as they accessed their personal Gmail accounts from government computers. The FDA took electronic snapshots of the employees' computer desktops and reviewed documents they saved on their computers' hard drives.

The scientists have filed a lawsuit against the FDA in U.S. District Court in Washington, alleging that the monitoring contributed to the harassment or dismissal of all six of them. They say the government violated their constitutional privacy rights by reading communications with Congress, journalists, the inspector general's office and the Office of Special Counsel.

The FDA said the scientists had improperly disclosed confidential business information about the radiological devices, which detect breast cancer, diagnose osteoporosis, screen for colon cancer and monitor



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Two congressional committee are [investigating](#) the monitoring. On Wednesday, the Obama administration stepped in, with a memo from Chief Information Officer Steven VanRoekel and General Counsel Boris Bershteyn informing agencies of Lerner's warning.

"We strongly urge you to carefully review [the guidelines] when evaluating your agency's monitoring policies and practices, VanRoekel and Bershteyn wrote, "and to take appropriate steps to ensure that [they] do not interfere with or chill employees' use of appropriate channels to disclose wrongdoing."

FDA spokeswoman Erica Jefferson declined to comment on the memo.

Federal law prohibits retaliation against an employee who discloses wrongdoing, whether mismanagement, waste, abuse of authority or a danger to public health and safety. With some exceptions it also protects employees who expose wrongdoing to an inspector general or the special counsel's office.

"In light of this legal framework, agency monitoring specifically designed to target protected disclosures to the OSC and IGs is highly problematic," Lerner wrote. She warned that such "deliberate targeting," or "deliberate monitoring" of communications between an employee and these agencies "could lead to a determination that the agency has retaliated against the employee," as the FDA scientists allege.

An attorney representing the scientists called the directive a "significant" step forward for whistleblower rights that puts a dent in the government's practice of monitoring employees' personal communications.

"This is the first time the federal government is acknowledging that there are limits to the surveillance of employees' computers and e-mails," said Stephen Kohn of the Washington law firm Kohn, Kohn & Colapinto. "It's a significant first step."

The memo does not directly address the government's ability to monitor employees' communications with Congress. Federal agencies are not allowed to "interfere" with such communications, but the law is murkier on whether they are protected by whistleblower laws.

It is unclear how widespread the practice of e-mail monitoring is.

By [Lisa Rein](#) | 08:49 AM ET, 06/21/2012

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FDA staffers sue agency over surveillance of personal e-mail

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By Ellen Nakashima and Lisa Rein, Published: January 29

The Food and Drug Administration secretly monitored the personal e-mail of a group of its own scientists and doctors after they warned Congress that the agency was approving medical devices that they believed posed unacceptable risks to patients, government documents show.

The surveillance — detailed in e-mails and memos unearthed by six of the scientists and doctors, who filed a lawsuit against the FDA in U.S. District Court in Washington last week — took place over two years as the plaintiffs accessed their personal Gmail accounts from government computers.

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Information garnered this way eventually contributed to the harassment or dismissal of all six of the FDA employees, the suit alleges. All had worked in an office responsible for reviewing devices for cancer screening and other purposes.

Copies of the e-mails show that, starting in January 2009, the FDA intercepted communications with congressional staffers and draft versions of whistleblower complaints complete with editing notes in the margins. The agency also took electronic snapshots of the computer desktops of the FDA employees and reviewed documents they saved on the hard drives of their government computers.

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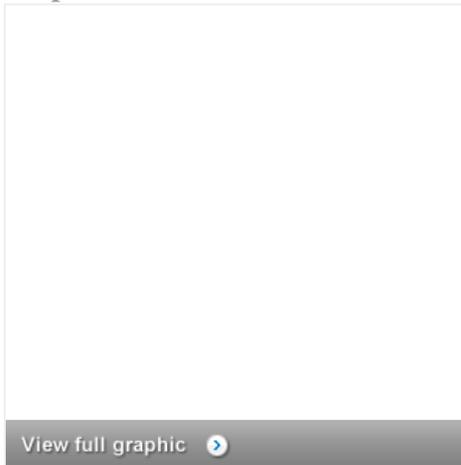
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(FDA) - The startup screen on FDA computers warns employees, "you have no reasonable expectation of privacy," including any communication accessed or sent from the machine. This specific message has appeared since at least December 2010. The screenshot and other materials were compiled by Kohn, Kohn and Colapinto, the law firm representing the whistleblowers, on behalf of the National Whistleblower Center, as part of the lawsuit against the agency.

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Read selected documents compiled as part of the lawsuit against the FDA for monitoring personal communications on work computers.

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FDA computers post a warning, visible when users log on, that they should have "no reasonable expectation of privacy" in any data passing through or stored on the system, and that the government may intercept any such data at any time for any lawful government purpose.

But in the suit, the doctors and scientists say the government violated their constitutional privacy rights by gazing into personal e-mail accounts for the purpose of monitoring activity that they say was lawful.

"Who would have thought that they would have the nerve to be monitoring my communications to Congress?" said Robert C. Smith, one of the plaintiffs in the suit, a former radiology professor at Yale and Cornell universities who worked as a device reviewer at the FDA until his contract was not renewed in July 2010. "How dare they?"

An FDA spokeswoman, Erica Jefferson, said the agency does not comment on litigation.

But according to FDA internal documents that the scientists and doctors obtained under the Freedom of Information Act, the agency told the Department of Health and Human Services' inspector general that they had improperly disclosed confidential business information about the devices. The agency requested that an investigation be opened in May 2010.

The scientists and doctors denied sharing information improperly. The HHS inspector general's office, which oversees

FDA operations, declined to pursue an investigation, finding no evidence of criminal conduct. It also said that the doctors and scientists had a legal right to air their concerns to Congress or journalists.






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FDA officials sought a second time that year to initiate action against the scientists and doctors. "We have obtained new information confirming the existence of information disclosures that undermine the integrity and mission of the FDA and, we believe, may be prohibited by law," wrote Jeffrey Shuren, director of the FDA's Center for Devices and Radiological Health, on June 28, 2010.



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Bravo to NWC! Keep up the great work!!! HHS is a hot bed of personnel abuses and capital cronyism.

speakoutnow wrote: 2/1/2012 11:55 AM EST

This is another example why we need all private money removed from campaign funding. I've no doubt that the FDA managers were pushed to get these devices approved by some member(s) of Congress or the White House who were owned by the corporations who funded their election campaigns. At that time it was a Bush White House, but the same thing continues in this current administration too.

The control that large corporations have over every part of our government is now known by most citizens and their total control is almost complete. Only, we, the people, can stop this. We must push for an amendment to our constitution that REMOVES ALL private money from election campaigns; establishes that corporations are NOT people; and that money is NOT free speech. The longer we wait, the less likely anything will be done to remove the control that corporations now have over every part of our government.....and us.

We must demand this amendment be passed and ratified. We can't let anyone stop us. Some members of Congress are trying to get various versions of this type of amendment through, but most of these proposed amendments are too weak and/or they just want to let Congress control the amount of money donated and how it's distributed. The Congress is a major part of the problem.....we can NOT let them have any control over how campaign money is distributed to their members.

No, I don't trust them and I doubt any other reasonable citizen trusts them either. They've been part of the corruption for too long and they don't know of any other way to operate. We, the people, must direct them and the campaign process. Too many "big money" fingers are in the government "pie" now to leave it to Congress to manage.

We are already having to pass legislation now that STOPS members of Congress from the "insider trading" that some are now involved in. Our government has become a joke...a "laughing stock.". Not everyone is acting in a corrupt manner, BUT they all know it's going on and they've done little to stop it. Anyone in Congress who does not support a comprehensive amendment and other legislation to stop the corruption should not be allowed to serve. We, the people, have that control.....we just have to pull out heads out of the sand and start looking at what is happening and who is doing it.

We, the people, must be actively involved if anything is to change. We must also be willing to look at our own political parties and we must vote out those who are not stopping the corruption. We can't accept any excuses from our Congress members either.....they are used to playing us and we've fallen for it too many times in the past. If we, the people, don't act to stop the spread of corporate control in both our States and in Washington DC, then nothing will ever change and we will lose our democracy. Yes, it is that serious. We'll all become obedient corporate minions. We'll belong to the corporations just like our government.

Lililives wrote: 1/31/2012 10:13 PM EST

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Those scientists were trying to warn people about a coming danger. They were prosecuted for it. Why would anyone trust what the FDA says about anything? People feed their kids,themselves, and their loved ones according to FDA guidelines.

Workers and parents, if you are ever accused of a crime via email and google sends your info-even if it's a joke,misunderstanding, or complete error you will be forever on the record for something ridiculous. It may affect your career and even your life.

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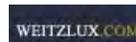
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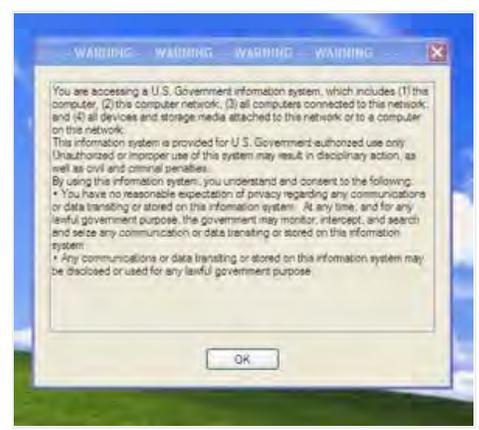
FDA staffers sue agency over surveillance of personal e-mail

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The inspector general, after consulting with federal prosecutors, declined the second request, as well.

Michael Sussmann, a former federal prosecutor who is now a partner at the Perkins Coie law firm, said the FDA's warning on its computers gave the agency latitude to conduct extensive monitoring. "Anything on this agency's network is fair game by use of this banner, as long as they're lawfully targeting their employee."

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(FDA) - The startup screen on FDA computers warns employees, "you have no reasonable expectation of privacy," including any communication accessed or sent from the machine. This specific message has appeared since at least December 2010. The screenshot and other materials were compiled by Kohn, Kohn and Colapinto, the law firm representing the whistleblowers, on behalf of the National Whistleblower Center, as part of the lawsuit against the agency.

Yet the case sheds light on the lengths to which a federal agency will go to monitor employees. At issue, experts say, is whether the purpose of the monitoring was legal and what level of monitoring on government computers is reasonable at a time when technology increasingly blurs the lines between work and home.

"The FDA has a huge responsibility to protect public health and safety," Sen. **Charles E. Grassley** (R-Iowa) said in a statement last week. "It's hard to see how managers apparently thought it was a good use of time to shadow agency scientists and monitor their e-mail accounts for legally protected communications with Congress."

Concerns about devices

The FDA scientists and doctors, all of

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whom worked for the agency's **Office of Device Evaluation**, said they first made internal complaints beginning in 2007 that the agency had approved or was on the verge of approving at least a dozen radiological devices whose effectiveness was not proven and that posed risks to millions of patients. Frustrated, they also brought their concerns to Congress, the White House and the HHS inspector general.

Three of the devices risked missing signs of breast cancer, the scientists and doctors warned, according to documents and interviews. Another risked falsely diagnosing osteoporosis, leading to unnecessary treatments; one ultrasound device could malfunction while monitoring pregnant women in labor, risking harm to the fetus; and several devices for colon cancer screening used such heavy doses of radiation that they risked causing cancer in otherwise healthy people, the FDA scientists and doctors said.

They also had expressed concern about a computer-aided imaging device that searched for signs of breast cancer. Three times, a team of experts, including Smith, recommended against approval, and middle managers agreed in each case, he said. After the third rejection, a senior manager approved the device in 2008, he

said.

Most of the devices the scientists and doctors questioned have received approvals only in the past two years, making it difficult to evaluate whether the fears that the FDA scientists and doctors expressed were valid.

But the concerns were not isolated. In 2009 and 2011, the Government Accountability Office, Congress's auditing arm, **warned that some risky medical devices** win approval through a process that is insufficiently stringent. The **Institute of Medicine concluded in a major study** last year that the FDA process for approving medical devices needed to be revised and based on "sound science."

Though the FDA declined to comment for this story, agency officials last year dismissed an analysis by the Archives of Internal Medicine claiming that unsafe medical devices were rushed to market, saying a relatively small number were recalled between 2005 and 2009. An FDA spokeswoman also said last year the agency had made changes to make the review process safer.

Snapshots of desktops

After President Obama's election, the FDA scientists and doctors wrote to his transition team in 2009, alleging corruption at the agency and warning about risks posed by the breast-cancer screening device.

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After they sent the letter, which they shared with members of Congress, several news organizations reported on the concerns. In some of those reports, FDA officials said they were addressing the issues.

Within days after the news reports appeared, the president of the company that made the device, Ken Ferry of iCAD Inc., based in Nashua, N.H., wrote a letter to the FDA alleging that confidential business information had been leaked. Ferry declined to comment for this story.

Using automated software, the agency began taking snapshots of the scientists' computer screens showing documents as they were being backed up and e-mails being moved from one file to another, the FDA documents show. The agency created a file, "FDA 9," to store e-mails and documents gathered from nine scientists and doctors who originally had complained. (Three of them are not involved in the lawsuit filed last week.)

The first documented FDA interception was of an e-mail dated Jan. 29, 2009, shortly after the letter from Ferry. In it, device reviewer Paul T. Hardy asked a congressional aide, Joanne Royce, for assurances that "it is not a crime to provide information to the Congress about potential misconduct by another Agency employee."

Royce replied: "[Y]ou and your colleagues have committed no crime. . . . you guys didn't even provide confidential business information to Congress."

Hardy, who is among the six employees who filed the suit, was fired in November after a negative performance review; an internal FDA letter obtained in separate litigation quoted managers saying they did not "trust" him. Of the other five scientists and doctors, the suit says two did not have their contracts renewed, two suffered harassment and were passed over for promotions, and one was fired.

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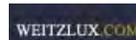
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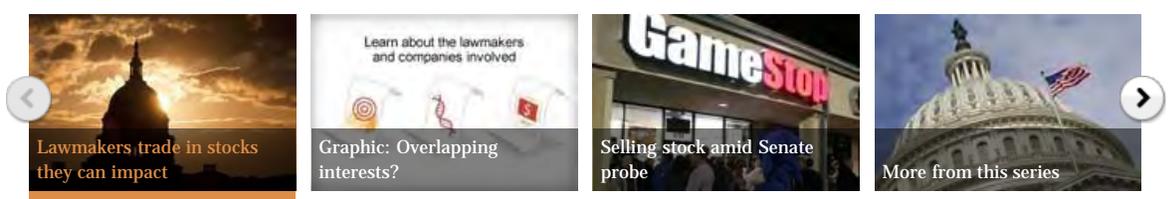


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Members of Congress trade in companies while making laws that affect those same firms

CASE STUDIES

Four lawmakers sold stock in a company under congressional investigation.

Learn about the lawmakers and company involved.

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By Dan Keating, David S. Fallis, Kimberly Kindy and Scott Higham, Published: June 23

One-hundred-thirty members of Congress or their families have traded stocks collectively worth hundreds of millions of dollars in companies lobbying on bills that came before their committees, a practice that is permitted under current ethics rules, a Washington Post analysis has found.

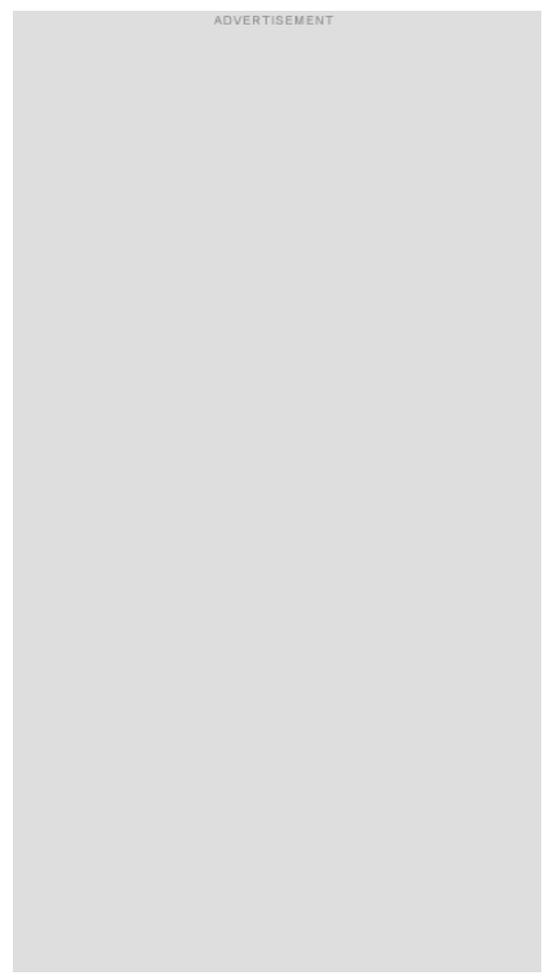
The lawmakers bought and sold a total of between \$85 million and \$218 million in 323 companies registered to lobby on legislation that appeared before them, according to an examination of all 45,000 individual congressional stock transactions contained in computerized financial disclosure data from 2007 to 2010.

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Almost one in every eight trades — 5,531 — intersected with legislation. The 130 lawmakers traded stocks or bonds in companies as bills passed through their committees or while Congress was still



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considering the legislation. The party affiliation of the lawmakers was almost evenly split between Democrats and Republicans, 68 to 62.

Sen. Tom Coburn (R-Okla.) reported buying \$25,000 in bonds in a genetic-technology company around the time that he released a hold on legislation the firm supported. Rep. Ed Whitfield (R-Ky.) sold between \$50,000 and \$100,000 in General Electric stock shortly before a Republican filibuster killed legislation sought by the company. The family of Rep. Michael McCaul (R-Tex.) bought between \$286,000 and \$690,000 in a high-tech company interested in a bill under his committee's jurisdiction.

The trades were uncovered as part of an ongoing examination by The Post of the intersection between the personal finances of lawmakers and their professional duties. Earlier this year, Congress responded to criticism of potential conflicts of interest by passing the Stock Act, which bars lawmakers, their staffs and top executive branch officials from trading on inside information acquired on Capitol Hill.

But the act failed to address the most elemental difference between Congress and the other branches of government: Congress forbids top administration officials, for instance, from trading stocks in industries they oversee and can influence. The lawmakers, by contrast, can still invest in firms even as they create laws that can affect the bottom line of the companies.

"If you have major responsibility for drafting legislation that directly affects particular companies, then you shouldn't be trading in their stock," said Dennis Thompson, a professor of public policy at Harvard University's John F. Kennedy School of Government and author of "Ethics in Congress: From Individual to Institutional Corruption." "Committee chairs especially shouldn't be in the position of potentially benefiting from trades in companies that stand to gain or lose from actions the committee takes."

The Post analysis does not provide

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evidence of **insider trading**, which requires showing that lawmakers knowingly used confidential information to make trades benefiting themselves. Instead, the review shows that lawmakers routinely make trades that raise questions about potential conflicts and illustrate the weaker standard that Congress applies to itself.

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3:49 AM EDT

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colson1 wrote:
3:29 AM EDT

While this insider trading is totally unethical no matter which political party the trader is affiliated with, it is strange that all the unethical examples in this article are Republicans, while the only Democrats that are mentioned are those that have tried to stop it or have blind trusts. Yet the article itself says that Democrats have a slight edge over Republicans in overall insider trading - this terrible imbalance in reporting only reinforces the widely held viewpoint of liberal bias in the mainstream press.

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"I pushed the idea of a managed bankruptcy and finally when that was done...the [auto] companies got back on their feet. So I'll take a lot of credit for the fact that this industry's come back."

- **Mitt Romney**

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More than a dozen lawmakers contacted by The Post defended the timing of their trades and the legislation before their committees as coincidental and said they did not know that the companies they traded were registered to lobby on bills they were considering. In interviews and through spokesmen, they said brokers made the trades and they had little or no input. Some said their spouses handled their investments. With diverse portfolios, they said, overlap is inevitable.

Richard W. Painter, who was chief ethics lawyer for President George W. Bush, said those explanations do not provide ethical cover.

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“Your wife isn’t a blind trust. Your financial adviser isn’t either,” Painter said. “If you truly want to create some distance, you

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should set up a blind trust. The rules that Congress has set for itself with blind trusts are a lot more liberal than the rules they created for the executive branch. This should be the route they take if they want the public to believe they don't know what's going on with their investments."

Only six members of the Senate have set up blind trusts that have been approved by the ethics committee. The House does not keep a tally of the number of members who set up such trusts.

Under ethics rules, lawmakers may establish a blind trust by shifting all of their assets into an account managed by a financial adviser. The lawmaker may set general parameters for the blind trust investment decisions, but they surrender control and cannot know the details of the decisions.

Georgia State University professor Alan J. Ziobrowski said lawmakers who own stocks in companies lobbying on legislation before them have built-in conflicts.

"You can't get into their heads to know what is motivating them," said Ziobrowski, whose research helped prompt the initial push for the Stock Act by showing that members of Congress outperformed the market as a whole — senators by 10 percent and representatives by 6 percent. "Are they thinking about their investment, or about what is best for their constituents?"

The Post analysis is based on a comparison of federal financial disclosure forms from all members of Congress to a wide array of public records, drawing on work by the Center for Responsive Politics and Govtrack.us to convert paper documents to databases. The analysis does not include 2011 data because they have not yet been computerized.

Under Congress's interpretation of its own conflict rules, lawmakers can take official actions that benefit themselves as long as they are not the sole beneficiaries.

Former representative **Brian Baird** (D-Wash.), who co-authored the original,

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unsuccessful version of the Stock Act in 2006, said members of Congress and their staffs do not understand that public trust is eroded when people see lawmakers take actions that have the potential to benefit themselves.

"They don't get it, but they need to," Baird said. "Why? Because people who are taking actions for venal and nefarious purposes might make the same argument you're making about your innocence. That's why if there is an appearance of an impropriety, there just might be an impropriety. Members need to bend over backwards to show people they are there for the good of the country."

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3:53 AM EDT

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Hold on bill lifted, bonds bought

In 2007, Sen. Coburn placed a legislative hold on the [Genetic Information Nondiscrimination Act](#), saying he wanted changes to address fears about exposing employers and insurance companies to lawsuits. The bill prohibited employers and health insurers from using genetic information to discriminate.

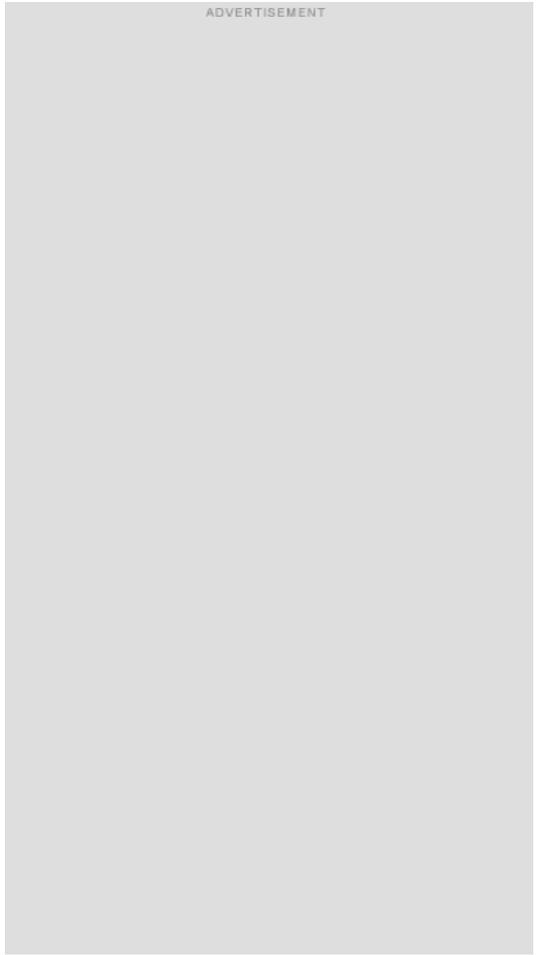
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After negotiating a compromise on April 22, 2008, Coburn released his hold.

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On that day and the day after, Coburn's financial disclosure form shows a total of





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three bond purchases in Affymetrix, a pioneering genetic technology firm that was one of 33 companies registered to lobby on the legislation.

Affymetrix lobbied on only a handful of bills that session. Coburn is one of five lawmakers who reported buying and selling Affymetrix stocks or bonds since 2004.

In an interview, Coburn said that he and Sen. Richard Burr (R-N.C.) both held up the bill. "We actually negotiated some better things into the bill," Coburn said. "I don't think it had anything to do with Affymetrix."

Coburn said his Affymetrix bond purchases, worth \$25,000, were made without his knowledge by Pinnacle Investment Advisors in Tulsa. The timing, he said, was coincidental.

John Hart, Coburn's communications director, said that Affymetrix did not lobby Coburn and that his hold had no bearing on the company's value. Hart said Coburn has placed hundreds of holds since 2005.

"There is no evidence Dr. Coburn had even heard of Affymetrix before his broker made a purchase, and there is no evidence his actions affected the value of the company," Hart said. "If there was a connection, you could argue it hurt the company — the stock lost half its value. Plus, it would be a stretch to suggest he engaged in procedural gymnastics in order to affect a trade."

Pinnacle managing partner David Poarch said he didn't discuss the Affymetrix purchase with the senator. He said Pinnacle bought about \$1.7 million worth of convertible bonds in the company on April 22, 2008, for 104 of the firm's 350 clients. Poarch said the firm sold those bonds for all their clients last year, including for Coburn, who earned a 35 percent profit on his investment.

Poarch said he meets face-to-face with the senator once a year, and they might speak over the phone two or three times during that period to map out investment strategies. The senator rarely directs him to



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make trades, he said.

“In some of our discussions, he’ll indicate sectors he likes,” Poarch said, noting that the senator rarely directs Pinnacle to make specific trades.

Coburn said he gives Poarch only general advice.

“I’ve never had a conversation with him other than, ‘Here’s what I think is going to happen to the economy, so you guys ought to listen,’ ” he said.

Affymetrix officials did not return calls seeking comment. After the genetic bill became law in May 2008, Affymetrix [praised its passage in a news release](#). “We have actively supported this much-needed legislation for more than seven years and we are pleased to see the U.S. government take steps toward addressing the issues around genetic discrimination,” said Stephen P.A. Fodor, the company’s founder.

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cbl55 wrote:

4:01 AM EDT

Investigative journalism is the bedrock on which both a free press and open government stands. Without it, we are doomed to live right next to the sausage factory but remain in perpetual ignorance as to how the sausage gets made. It's not just how many members of Congress and their party affiliations that need to be published, but specific names and specific amounts next to those names, otherwise it's just a lesson in abstraction and further cynicism on the part of the rest of us.



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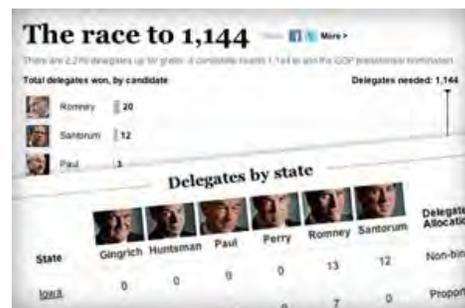
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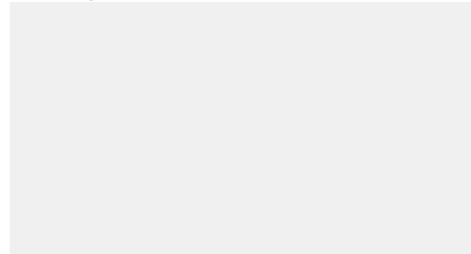
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Shining light on GE trades

[Rep. Whitfield](#) trades infrequently, but several of his transactions have coincided with major legislation before him.

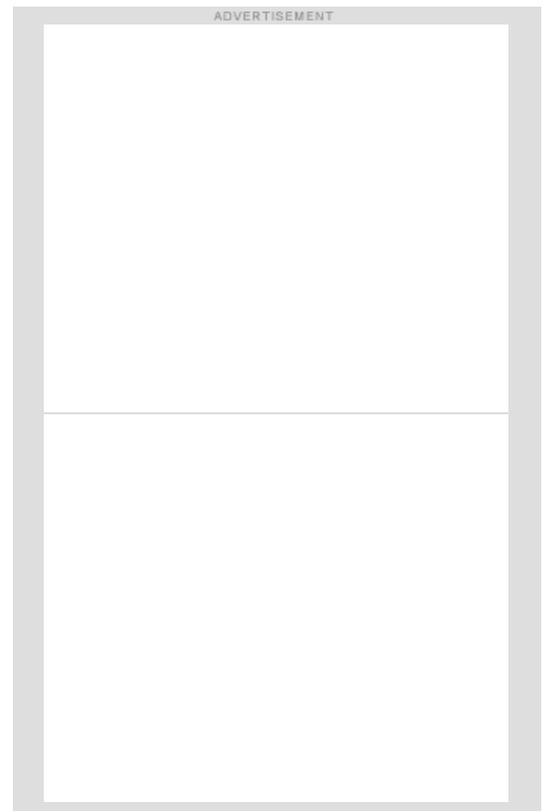
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Whitfield is a member of an energy subcommittee that handled the 2008 carbon-cap proposal intended to address rising public concern about global warming. It had the support of major companies and the Democrats who were in charge of both chambers at the time.

General Electric, which had created a subsidiary to help businesses manage



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carbon emissions, lobbied heavily in favor of the bill.

Whitfield sold his holdings in GE, worth between \$50,000 and \$100,000, on May 5, 2008, for \$32 per share. (Exact amounts are unavailable because members of Congress are allowed to report ranges for the values of their transactions.) He had held the stock for 12 years.

Although the cap had appeared to be gaining momentum, Whitfield's Republican colleagues in the Senate scuttled the bill in early June with parliamentary actions and a threatened filibuster.

After the bill died, the stock dropped to \$26 — \$6 less than the price when Whitfield sold.

Whitfield's spokeswoman, Corry Schiermeyer, said his trade had nothing to do with the legislation, which she said was never going to get past Republican opposition.

The trade was one of the two largest stock sales by Whitfield since 2004.

The other came when Whitfield sold between \$50,000 and \$100,000 in the defense conglomerate United Technologies in October 2009 — the same day that his subcommittee approved a Democratic bill to strengthen rules requiring companies to secure chemical facilities. United Technologies had registered to lobby on that bill, but Whitfield's staff members said their records do not show that the company lobbied him.

Altogether, Whitfield made 23 trades worth between \$275,000 and \$900,000 in companies registered to lobby before his committee, encompassing 38 percent of his stock trades between 2007 and 2010.

Schiermeyer said Whitfield adhered to the relevant ethics rules.

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“It’s clear that his role on the Energy and Commerce Committee has no relation to his stock trades,” Schiermeyer said. “The congressman believes the best approach to avoid a semblance of conflict of interest is to follow the rules and be transparent, and

that is what he does.”

Lawmakers can affect bills in other ways.

Members of the Rules Committee, for example, have the power to quash amendments and set the terms for floor debate on all bills.

In July 2005, the Rules Committee, chaired by [Rep. David Dreier](#) (R-Calif.), blocked an amendment to a medical malpractice bill that ran against the interests of Merck & Co., the giant pharmaceutical company. Five months earlier, the day the bill was introduced, Dreier had purchased between \$15,000 and \$50,000 worth of stock in Merck.

The bill, which Dreier had co-sponsored, contained medical malpractice limits sought by Republican lawmakers. The legislation included a provision that would shield drug companies from liability. Merck, which was being sued over claims its Vioxx arthritis medication caused heart attacks, had lobbied heavily in favor of the bill.

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cbl55 wrote:
4:01 AM EDT

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qying wrote:
3:53 AM EDT

Legalized corruption is the very words. the legislators make legislation to govern their own company, for share holders are members of the owners. The rational of a good company is to maximize the share holders profits. So it is very efficient for the very holders to consider laws to protect their own company. That helps understanding of Hungtington 's judgement: American has a good business system ,but a backward political system. A system which makes lawful the corruption is not only out of date, it is sinister. People like Krugman is calling for more regulation to curtail the evils of wall street. With the regulation makers are the owners of wall street firms, does it make sense?

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MarlboroStan wrote:
3:49 AM EDT

Insider trading is bad. Got that on topic point out of the way.

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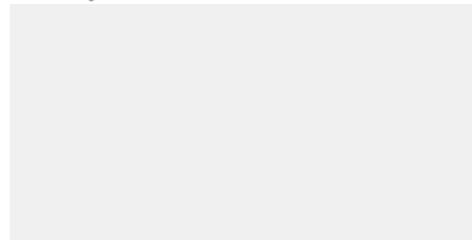
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Democrats unsuccessfully attempted to strip the liability protection from the bill, arguing that it unfairly protected Merck. As the bill moved through the House, the value of Merck's stock grew by 15 percent.

The bill passed the House but stalled in the Senate.

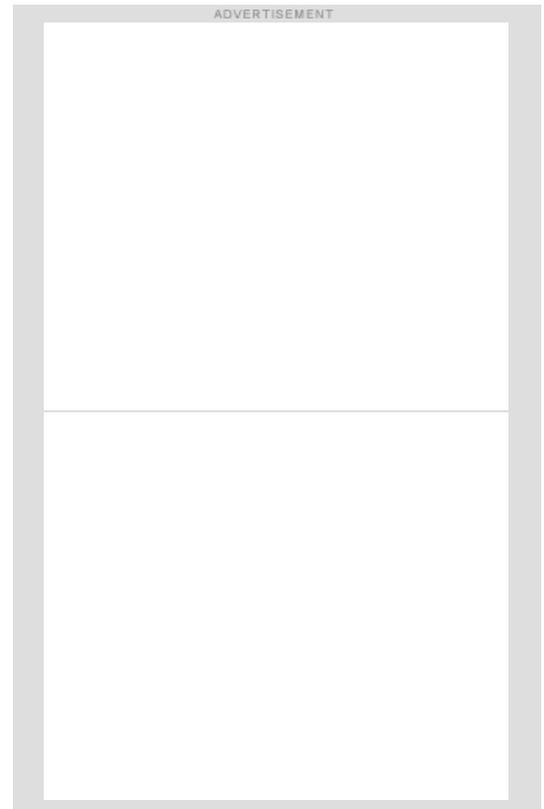
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A newer version of the bill made it through the House this year, but has failed to gain traction in the Senate. Dreier declined requests for comment. His spokeswoman said he could not recall the trade, which was made by an investment adviser.

"In managing his finances, Mr. Dreier abides by the letter and the spirit of the rules," spokeswoman Jo Maney said. "Day-



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to-day investment decisions for his account are made by an independent investment professional. His co-sponsorship of the legislation in question was based on long-standing support for pro-market health-care reforms. Furthermore, his actions as Rules Committee chairman have always been guided by his principles and those of the leadership he serves."

Dreier's office did not provide access to his investment adviser.

A matter of trusts

Some of Congress's wealthiest members avoid potential conflicts by putting their assets in blind trusts approved by congressional ethics committees. Sen. Herb Kohl (D-Wis.), for example, reports holding more than \$50 million in such a trust. Under ethics rules, Kohl cannot know the nature of his investments and must remain unaware of how they are managed.

Other wealthy members do not have financial portfolios in blind trusts. Their portfolios are so vast that their financial disclosure reports exceed a hundred pages and their holdings overlap with almost every bill they handle.

Sen. John F. Kerry (D-Mass.), who married Teresa Heinz of the ketchup fortune, had the highest value of overlapped trades — between \$42 million and \$86 million — in companies registered to lobby before him. Kerry said he does not have any conflicts, because he has no control over the assets in his and his wife's family trusts.

Rep. McCaul, married to Linda Mays, whose fortune traces back to Clear Channel Communications, had the highest number of overlapping trades, totaling between \$5 million and \$23 million, according to analysis of financial disclosure forms listing his family's holdings.

Some of those investments were in Thermo

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Fisher Scientific, which in 2009 had registered to lobby on a food safety bill under the jurisdiction of the Homeland Security Committee. McCaul was a member of that committee. Among other things, the company makes equipment to detect contaminated food.

While the bill was pending, McCaul toured the company's Austin plant and extolled the technology as "great for food safety and protecting the American people."

As the bill moved forward, his family bought stock in Thermo Fisher. Trusts for his wife and children bought between \$286,000 and \$690,000 in nine transactions, the largest being for between \$250,000 and \$500,000 in November 2010 during final negotiations before the bill passed. The family bought the stock at prices from \$33.50 to \$44. McCaul's 2011 financial disclosure showed the family still owned it. The current stock price is a little more than \$50.

McCaul said there is no conflict between his legislative duties and his wife's holdings, because he has no access to her portfolio and he never talks to her about her investment decisions.

"Congressman McCaul . . . is legally precluded from having any involvement or knowledge of specific investment decisions made with regard to securities listed as his wife's separate property," said his spokesman, Mike Rosen.

Railroad rules

In 2009, the House Judiciary subcommittee on courts, the Internet and intellectual property discussed the Railroad Antitrust Enforcement Act, aimed at ending rail carriers' exemptions from federal antitrust laws.

A family trust overseen by Rep. F. James Sensenbrenner Jr. (R-Wis.), a subcommittee member, sold 2,000 shares of CSX after a subcommittee hearing and before the final changes were made to the bill.

The shares generated a \$40,000 net profit, records show. The same day, the trust bought \$7,700 in Norfolk Southern stock.

The two rail carriers were among 62 companies lobbying on the bill.

Sensenbrenner's spokeswoman said the trades were initiated by a fund manager who handles the investments for the trust that benefits the lawmaker's sister.

"Congressman Sensenbrenner's interaction with the trust is almost nothing," spokeswoman Amanda Infield said. "He doesn't benefit from the trust, except for an administrative fee as trustee. He is not a beneficiary, and he doesn't exercise influence over or give input into the investment decisions. He has to sign off on the decisions, but he hasn't overridden an investment decision, which is made by JPMorgan Chase."

Rep. Dave Camp (R-Mich.), a member of the House Ways and Means Committee since 1993, reported making trades in John Deere when the Illinois-based company was registered to lobby on tax and trade legislation before his committee between 2007 and 2010. The biggest single transaction was between \$50,000 and \$100,000. When the purchase was made in March 2009, Deere stock was \$32 a share. The stock now trades at \$75 per share.

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"Teachers and firemen and policemen are hired at the local level and also by states. The federal government doesn't pay for teachers, firefighters or policemen."

- Mitt Romney

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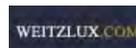
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Camp declined through his spokesman to be interviewed or provide additional information about his trades and how his portfolio is managed.

"All of the Congressman's financial information are fully disclosed in accordance with the law," Sage Eastman, a senior adviser to Camp, said in an e-mail. "His stock portfolio is managed by a firm. He does not make decisions about when to buy or sell a stock."

Deputy graphics director Karen Yourish and researcher Bobby Pratt contributed to this article.

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junomoneta88 wrote:

4:20 AM EDT

All members of Congress should hold their assets in blind trusts. Only that will restore the confidence of the American people in their government.



cbl55 wrote:

4:01 AM EDT



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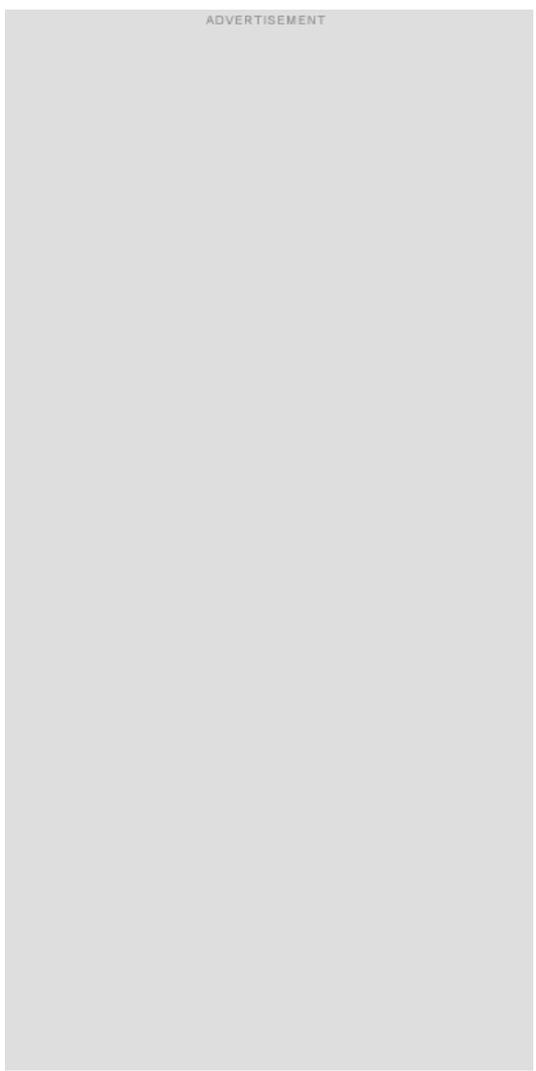


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By Kimberly Kindy, Scott Higham, David S. Fallis and Dan Keating, Published: June 24

In January 2008, President George W. Bush was scrambling to bolster the American economy. The subprime mortgage industry was collapsing, and the Dow Jones industrial average had lost more than 2,000 points in less than three months.



House Minority Leader **John A. Boehner** became the Bush administration's point person on Capitol Hill to negotiate a \$150 billion **stimulus package**.

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In the days that followed, Treasury Secretary Henry M. Paulson Jr. made frequent phone calls and visits to Boehner. Neither Paulson nor Boehner would publicly discuss the progress of their negotiations to shore up the nation's financial portfolio.

On Jan. 23, Boehner (R-Ohio) met Paulson for breakfast. Boehner would later report the rearrangement of a portion of his own financial portfolio made on that same day. He sold between \$50,000 and \$100,000 from a more aggressive mutual fund and moved money into a safer investment.

The next day, the White House unveiled the stimulus package.

Boehner is one of 34 members of Congress who took steps to recast their financial portfolios during the **financial crisis** after phone calls or meetings with Paulson; his successor, Timothy F. Geithner; or Federal Reserve Chairman Ben S. Bernanke, according to a Washington Post examination of appointment calendars and congressional disclosure forms.

The lawmakers, many of whom held leadership positions and committee chairmanships in the House and Senate, changed portions of their portfolios a total of 166 times within two business days of speaking or meeting with the administration officials. The party affiliation of the lawmakers was about evenly divided between Democrats and Republicans, 19 to 15.

The period covered by The Post analysis was a grim one for the U.S. economy, and many people rushed to reconfigure their investment portfolios. The financial moves by the members of Congress are permitted under congressional ethics rules, but some ethics experts said they should refrain from taking actions in their financial portfolios when they might know more than the public.

"They shouldn't be making these trades when they know what they are going to do,"



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said Richard W. Painter, who was chief ethics lawyer for President George W. Bush. "And what they are going to do is then going to influence the market. If this was going on in the private sector or it was going on in the executive branch, I think the SEC would be investigating."

Boehner, now the speaker of the House, declined to discuss his transactions. His spokesman said they did not pose a conflict because a financial adviser executed them and they were made in diversified mutual funds. Other lawmakers also said their financial advisers handled their trades. They said that the timing of the trades and the conversations was "coincidental" and

that they did not adjust their portfolios based on what they were told by the administration officials.

Questions about conflicts of interest and possible insider trading on Capitol Hill prompted Congress to pass the Stock Act this year. The act specifically bans lawmakers, their staffs and top executive branch officials from knowingly using confidential information gleaned from their legislative roles to benefit themselves, their family members or friends.

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SODDI wrote:
2:39 PM EDT

Notice Nelson got out of Lehman Bros. early....



Sonny53 wrote:
1:28 PM EDT

More proof that Congress is composed of deceitful, arrogant, money grubbing slimeballs. Neither party is worth spit! I often wonder if the reason that our politicians are so slimy and sleazy is because they are lawyers, for the most part.



mongolovesherriff wrote:
1:06 PM EDT

This scandal just proves that both parties are corrupt, from top to bottom. The USA is just like Mexico, Turkistan or any other corrupt dump.

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Chris Cillizza and Aaron Blake 6:30 AM ET

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urbanviewer wrote:
4/15/2012 11:13 AM EDT

This bill does not stop SDenators, House Reps and staffs from insider trading. It is equivalent to "they can't do it in the over night hours only during the day. It is a veiled "feel good" watered down bill.

WheelChairPal wrote:
4/14/2012 6:12 AM EDT

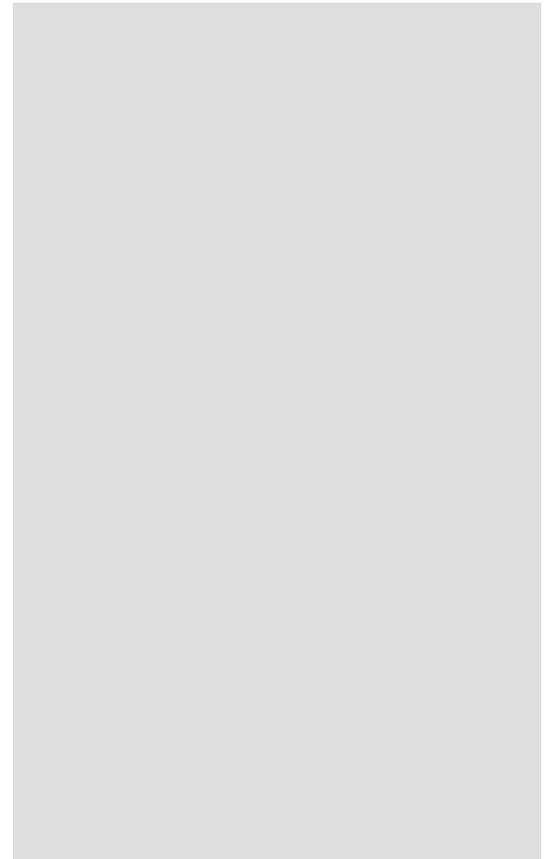
This is the shame of the nation.

The politicians in this country are some of the most selfish megalomaniacs who ever ran a scam on a system.

In fact, I would not hesitate to say, most probably would be sitting in a prison cell enjoying a good bubbaing if they did not get lucky by being elected to public office..

Obama had called for passage of the bill in his State of the Union address in January. It is called the Stock Act, for Stock Trading on Congressional Knowledge. The House passed the measure Feb. 9 by a 417 to 2 vote, and the Senate followed March 22 by a vote of 96 to 3.

The law prohibits lawmakers, their staffs and some executive branch employees from trading stocks, commodities or futures based on private information they learn on the job. It would prevent lawmakers from participating in initial public offerings that aren't available to the general public.



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The act does not prohibit lawmakers from trading stocks in companies that appear before them or from reworking their portfolios after briefings with senior administration officials.

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Top executive branch officials are banned from investing in industries they oversee and can influence — for example, Fed chairmen are prohibited from investing in the financial sector.

The Post analysis did not turn up evidence of **insider trading**. Instead, the review shows that lawmakers routinely make trades that raise questions about whether members of Congress have an investing advantage over members of the public.

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“Members of Congress are still loosey-goosey about what they require of themselves,” said Painter, who teaches securities law at the University of Minnesota. “I think it’s time for Congress to impose the same rules on themselves that they impose on others. The Stock Act doesn’t do that.”

A shift to Treasury securities

In late 2006, Congress started crafting legislation to overhaul **Fannie Mae and Freddie Mac**, a major effort to stem a rising tide of defaults on risky loans given to home buyers with poor credit.

As Congress worked to rein in the two government-sponsored lenders, Fannie and Freddie pushed back with aggressive lobbying campaigns, stalling the effort in early 2007.

Paulson started working the Hill, trying to break the deadlock and win support for the revisions. He called and met with a number of members of Congress, including **Sen. Ben Nelson** (D-Neb.), on this and other reform efforts.

Paulson and Nelson spoke on Jan. 10. The next day, Nelson sold between \$250,000 and \$500,000 in Lehman Brothers certificates of deposit. (Congressional financial disclosure forms list only approximate ranges.) Nelson also purchased between \$100,000 and \$200,000 in Treasury notes, a safer investment.

On Feb. 12, Paulson met at 4 p.m. with Nelson in the lawmaker’s office in the Hart Senate Office Building. That day, Nelson bought \$50,000 to \$100,000 in Treasury bills.

That year, Nelson had only one other call with Paulson and no other meetings,

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records show. He made 103 other trades during the year, eight of which exceeded \$100,000.

Nelson declined to be interviewed. A spokesman said that the senator discussed only policy matters related to disabled veterans during the call and meeting with the Treasury secretary and that the senator learned nothing that would have influenced his trades.

“Like everyone in Congress, Senator Nelson is bound by the laws, rules and guidelines established for members of Congress,” Nelson spokesman Jake Thompson said in a statement. “He carefully follows both the

spirit and intent of them. He has not, and would not, have conversations with Executive Branch officials about matters affecting his personal finances.”

Under congressionally imposed ethics laws that cover Treasury secretaries, Paulson and Geithner would have been prohibited from making the same investments. Congress prohibits Treasury secretaries from investing in financial institutions or Treasury securities.

Nelson “has often sought and had one-on-one conversations with numerous cabinet secretaries under both President Bush and Obama on dozens of issues before Congress,” Thompson said in an e-mail. “That’s what good legislators do, they seek dialogue and understanding at the senior level about local, state and federal policy matters, as well as foreign policy issues.”

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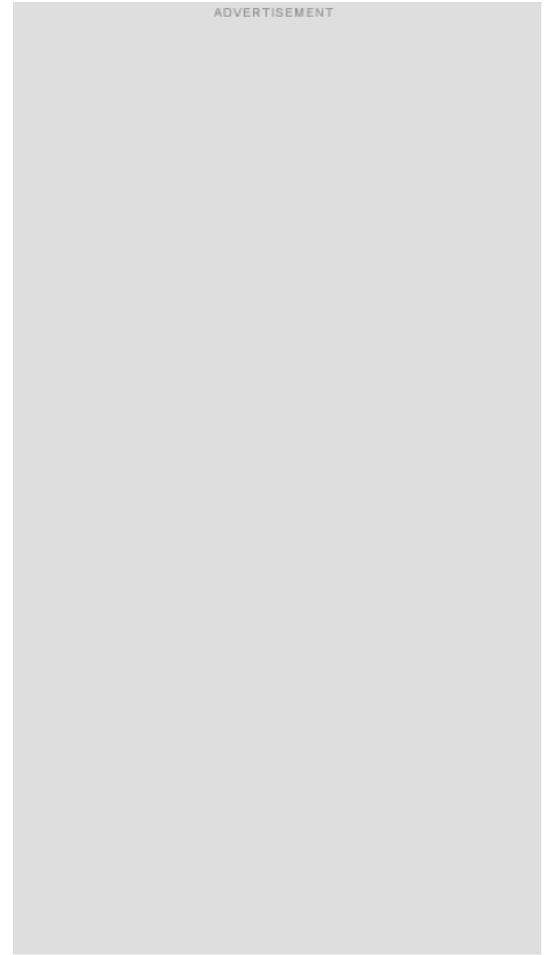
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Paulson, through a spokeswoman, declined to discuss his conversations with members of Congress during the financial crisis.



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Toward the end of the summer of 2007, the foundation of the nation's real estate market started to shake. On Aug. 6, the [American Home Mortgage Investment Corp.](#), the nation's 10th-largest mortgage firm, filed for bankruptcy.

Three days later, Paulson was headed to work at the Treasury Department when he received word that the U.S. mortgage crisis and tightening credit markets were spreading to Europe, he would later write in his autobiography, "[On the Brink: Inside the Race to Stop the Collapse of the Global Financial System.](#)"

Paulson and Bernanke put their staffs on full alert. The Fed crafted a loan package for the nation's banking industry. Treasury lawyers scrambled to figure out a way to stabilize the increasingly volatile markets, Paulson recalled.

On Aug. 9, the Dow fell nearly 400 points, its second-biggest one-day drop in five years. The next day, the Fed issued a statement pledging to "provide reserves as necessary . . . to promote trading in the federal funds market."

At 4:30 p.m. on Aug. 13, 2007, as the markets closed, Paulson called [Sen. Kent Conrad](#) (D-N.D.), chairman of the Budget Committee, according to the Treasury secretary's appointment calendar.

The next day, Conrad adjusted his family's portfolio for the first time in four months. Conrad reported that a total of between \$150,000 and \$300,000 was shifted out of three mutual funds in his wife's 401(k) retirement account. He moved \$100,000 to \$250,000 of that money into a lower-risk money-market fund within the retirement account.

That year, Conrad had two other calls and one meeting with Paulson. He reported 29 other transactions during the year, including three that exceeded \$50,000.

Conrad said his conversation with Paulson had nothing to do with his trades the next day.



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“There is absolutely no connection between the two,” Conrad said. “Our records show that Paulson called me about the debt limit extension and that had nothing to do with the reason for my making the trades.”

“The decision that my wife and I made with our financial advisers to diversify into lower-risk investments had everything to do with what was happening that was on

the front pages over every paper, including yours. His call to me had absolutely nothing to do with those issues.”

Trading amid stimulus plans

By the beginning of 2008, the Bush administration had decided to take a more aggressive approach to confront the growing economic crisis. On Jan. 2, the president told Paulson to consult with members of Congress, investors and the nation’s business leaders to come up with a strategy.

“This was a touchy point for Republicans, but the president was not an ideologue: He wanted to see quick results,” Paulson wrote in his autobiography

On Jan. 18, Bush announced a proposed \$145 billion stimulus package designed to give the economy a “shot in the arm.” Paulson reached out to Republican and Democratic lawmakers in an attempt to strike a compromise. The House, not the Senate, would handle the negotiations with Paulson and the White House.

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Boehner, the House minority leader at the time, would be the Republican point man on the Bush proposal; then-Speaker Nancy Pelosi (D-Calif.) would represent the Democrats.

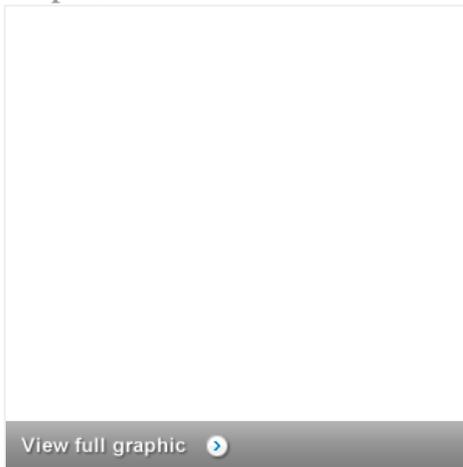
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In the days that followed, Paulson made frequent calls and visits to Capitol Hill, according to his appointment calendars. He called Boehner on Jan. 21 and again the following morning at 10:45, shortly after Paulson met with Bush to discuss the status of global financial markets. In public, Boehner and Pelosi disclosed little, telling reporters their negotiations were confidential.

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On Jan. 23, Paulson had a breakfast meeting with Boehner and Pelosi. The two House leaders then held a brief news conference.

"A lot of plans were discussed," Boehner said. "But nothing will be agreed to until everything is agreed to."

Later that day, Boehner, Pelosi and Paulson got together again, this time for a two-hour, closed-door meeting. When they emerged, they told reporters that they couldn't discuss the details of their discussions.

"We're just not at that point," Pelosi said.

"We're hopeful," Boehner said.

"I'm not going to comment," Paulson said.

Boehner would later report that two adjustments were made to his financial portfolio on that day: between \$50,000 and \$100,000 was transferred out of the more aggressive mutual fund. He also reported purchases of between \$50,000 and \$100,000 in a less risky fund, spread over that day and four others throughout the year.

That year, Boehner had 46 other calls and one other meeting with Paulson. Boehner made 42 other transactions during the year, including one that exceeded \$50,000.

Pelosi, who frequently buys and sells in the market, made no trades around the time she spoke with Paulson, according to her financial disclosure forms.

Boehner's spokesman, Michael Steel, said the congressman's trades are handled by an investment adviser. Steel declined to identify the adviser or disclose how often they discuss investment strategies. He said they did not discuss the mutual fund moves that were made on Jan. 23.

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“The speaker has no say whatsoever on day-to-day investment decisions,” Steel said. He also noted that mutual funds have been exempted from stricter reporting requirements under the Stock Act because they are broadly diversified and have long been considered to be a “safe haven” for lawmakers.

“The issue, or perception, of insider trading is a moot point,” Steel said.

Making adjustments

On Jan. 24, 2008, the day after Boehner’s trades, the White House formally announced that it had reached a tentative agreement with the House on the stimulus package, which had risen to \$150 billion. The proposal, approved by the House,

called for giving tax breaks to businesses and rebates to taxpayers.

When the proposal went to the Senate, lawmakers began to make revisions and additions. Several Democrats wanted to attach spending provisions, including one that would extend unemployment benefits. Republicans warned that the passage of the plan was being placed in jeopardy.

Paulson worked the phones to salvage the deal. He called Senate Minority Leader Mitch McConnell (R-Ky.) three times on Jan. 28, and McConnell called Paulson once that day. On Jan. 29, Paulson called McConnell five more times.

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The next day, Paulson again called McConnell five times, and McConnell called him three times. The bill had become bogged down in the Senate as lawmakers continued to spar

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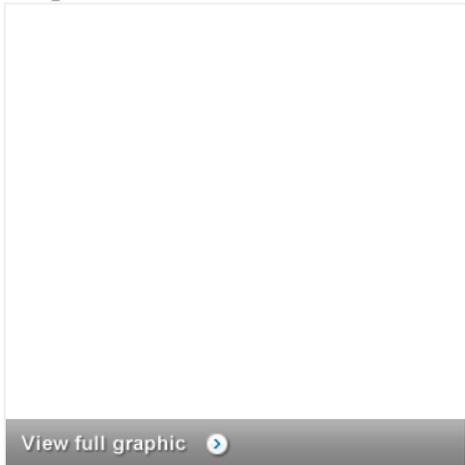
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over adding spending measures to the package.

The next day, Paulson called McConnell twice. Senate Democrats pledged to force votes the following week over whether to expand the package, setting the stage for what the White House, Paulson and McConnell had been hoping to avoid: a showdown that could scuttle the deal.

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"The stimulus train is grinding to a halt here in the U.S. Senate," McConnell told reporters on Jan. 31.

That day, McConnell would later report making four trades, each worth between \$15,000 and \$50,000 in his portfolio, rearranging four mutual funds. He reported selling shares in a one international fund, buying shares in another and reconfiguring his investments in two domestic funds. He hadn't made a trade since Nov. 20, 2007, and he would not make another until April 14, 2008.

That year, McConnell had 44 other calls and three meetings with Paulson. McConnell made 11 other transactions during the year, including two that exceeded \$15,000.

McConnell declined requests for an interview. His spokesman, Michael Brumas, said the senator does not own specific stocks, to avoid the appearance of a conflict, and he does not make his own trades to his funds, relying instead on the advice of an investment adviser.

The adviser, who works for Merrill Lynch in Louisville, Barry Barlow, said he conducts periodic readjustments of McConnell's portfolio. The moves he made at the end of that January were suggested by Merrill Lynch, not the senator. Barlow said he couldn't recall whether he spoke to McConnell before the readjustment, but he said the senator frequently tells him to stay away from purchasing individual stocks, to avoid the appearance of a conflict.

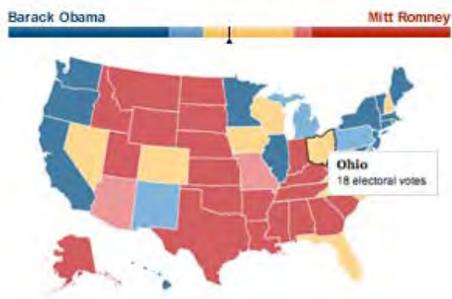
"He invests in broad-based mutual funds with hundreds of securities," said Barlow, who was given permission to speak about the trades by McConnell.

McConnell's attorney, Russell Coleman, said the trades were authorized by a staff member who worked for the senator. She

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relayed Barlow's request to McConnell, who then gave Barlow permission to make the trades, Coleman said.

"They never spoke directly to the senator," he said. "It's an important distinction."

Bailing on bonds

During the spring and summer of 2008, another sector of the economy began to wobble: the market for municipal bonds, which local and state governments sell to raise capital. Normally considered to be one of the safest investments on Wall Street, the muni market was falling victim to the economic crisis.

As chairman of the House Financial Services Committee, Rep. Barney Frank (D-Mass.) had the power to hold congressional

hearings and introduce legislation aimed at calming and reforming the bond market. In March, he held a congressional hearing titled "Municipal Bond Turmoil: Impact on Cities, Towns and States." In June, when the bond market was still in turmoil, Frank introduced two overhaul bills. Bond experts said the market was running scared.

"Investors were leaving en masse. Their fear was everything was coming apart at the seams, and this was next," Marilyn Cohen, co-author of "Surviving the Bond Bear Market: Bondland's Nuclear Winter," told The Post.

Frank told The Post that problems with the bond market were twofold. Rating agencies were applying tougher standards to municipal bonds than private-sector investments, resulting in less favorable ratings. And bond insurers were taking on riskier investments, causing them to accumulate historically high debt. Investors feared the insurers would begin defaulting on bonds.

Despite Frank's efforts, both bills stalled and fears about the bond market continued.

On Friday, Oct. 17, Paulson called Frank after the markets had closed. Frank said that the discussions probably centered on the \$700 billion Troubled Asset Relief Program, known as TARP, and how banks would qualify for funds, the details of which Paulson revealed that following Monday, Oct. 20.

"We had one fight over TARP, and it was over the use of funds," Frank said. "I wanted some of them to help with foreclosures."

That day, Frank instructed his broker to raise cash for him, and the broker liquidated nearly \$93,000 in Massachusetts municipal bonds in three separate transactions. The investments represented nearly 10 percent of his financial portfolio, according to his financial disclosure form. He said he moved the money into his campaign coffers because his support for TARP that year had placed him in a politically vulnerable position.

Under congressionally imposed rules, Treasury secretaries cannot make the moves that Frank did.

That year, Frank had seven other calls and three meetings with Paulson.

nothing of permanent or long-term basis."
- Mitt Romney

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Frank said he worked in Congress to lower interest rates on municipal bonds, working against his own interests, and said his conversations with Paulson had nothing to do with his personal financial decisions.

“Were these things tied to the phone calls? No,” Frank said. “They didn’t tell you what was a good investment or a bad investment. They would tell you what was good or bad for the economy.”

Frank said he eventually was reimbursed by the campaign and reinvested in Massachusetts municipal bonds, because bonds are safe and provide good tax benefits. The bond market survived the crisis without defaults.

“To the extent that people said, ‘Oh, you were protecting your investment,’ I was protecting the financial well-being of Massachusetts,” Frank said. “What the hell else am I supposed to do?”

Deputy graphics director Karen Yourish and researcher Bobby Pratt contributed to this article.



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 **SODDI** wrote:
2:39 PM EDT

Notice Nelson got out of Lehman Bros. early....

 **Sonny53** wrote:
1:28 PM EDT

More proof that Congress is composed of deceitful, arrogant, money grubbing slimeballs. Neither party is worth spit! I often wonder if the reason that our politicians are so slimy and sleazy is because they are lawyers, for the most part.

 **mongolovesherriff** wrote:
1:06 PM EDT

This scandal just proves that both parties are corrupt, from top to bottom. The USA is just like Mexico, Turkistan or any other corrupt dump.

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Could you pass the U.S. citizenship test?

Hill insider trading bill signed



Andrew Harrer/BLOOMBERG - President Obama signs the Stop Trading on Congressional Knowledge (STOCK) Act Wednesday.

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By Bloomberg News, Published: April 4

President Obama signed into law a bill strengthening the ban on insider trading by members of Congress and other government officials who might profit on private knowledge they gain from their work.

"We were sent here to serve the American people and look out for their interests, not to look out for our own interests," Obama said at a signing ceremony in Washington, joined by Republican and Democratic members of Congress. "There is a deficit of trust between

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urbanviewr wrote: 4/15/2012 11:13 AM EDT

This bill does not stop SDenators, House Reps and staffs from insider trading. It is equivalent to "they can't do it in the over night hours only during the day. It is a veiled "feel good" watered down bill.



WheelChairPal wrote: 4/14/2012 6:12 AM EDT

This is the shame of the nation.

The politicians in this country are some of the most selfish megalomaniacs who ever ran a scam on a system.

In fact, I would not hesitate to say, most probably would be sitting in a prison cell enjoying a good bubbaing if they did not get lucky by being elected to public office..

Being elected to public office is really not accomplishing much in and of itself. No matter what, someone will be filling the position....

jskantze wrote:

Obama had called for passage of the bill in his State of the Union address in January. It is called the Stock Act, for Stock Trading on Congressional Knowledge. The House passed the measure Feb. 9 by a 417 to 2 vote, and the Senate followed March 22 by a vote of 96 to 3.

The law prohibits lawmakers, their staffs and some executive branch employees from trading stocks, commodities or futures based on private information they learn on the job. It would prevent lawmakers from participating in initial public offerings that aren't available to the general public.

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Judges Plead Guilty in Scheme to Jail Youths for Profit



Niko J. Kallianiotis for The New York Times

Hillary Transue was sentenced to three months in juvenile detention for a spoof Web page mocking an assistant principal.

By IAN URBINA and SEAN D. HAMILL
Published: February 12, 2009

At worst, Hillary Transue thought she might get a stern lecture when she appeared before a judge for building a spoof [MySpace](#) page mocking the assistant principal at her high school in Wilkes-Barre, Pa. She was a stellar student who had never been in trouble, and the page stated clearly at the bottom that it was just a joke.

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David Kidwell/Associated Press

Prosecutors say Judges Michael T. Conahan, and Mark A. Ciavarella Jr., above, took kickbacks to send teenagers to detention centers.

Instead, the judge sentenced her to three months at a juvenile detention center on a charge of harassment.

She was handcuffed and taken away as her stunned parents stood by.

“I felt like I had been thrown into some surreal sort of nightmare,” said Hillary, 17, who was sentenced in 2007. “All I wanted to know was how this could be fair and why the judge would do such a thing.”

The answers became a bit clearer on Thursday as the judge, Mark A. Ciavarella Jr., and a colleague, Michael T. Conahan, appeared in federal court in Scranton, Pa., to plead guilty

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to wire fraud and income tax fraud for taking more than \$2.6 million in kickbacks to send teenagers to two privately run youth detention centers run by PA Child Care and a sister company, Western PA Child Care.

While prosecutors say that Judge Conahan, 56, secured contracts for the two centers to house juvenile offenders, Judge Ciavarella, 58, was the one who carried out the sentencing to keep the centers filled.

“In my entire career, I’ve never heard of anything remotely approaching this,” said Senior Judge Arthur E. Grim, who was appointed by the State Supreme Court this week to determine what should be done with the estimated 5,000 juveniles who have been sentenced by Judge Ciavarella since the scheme started in 2003. Many of them were first-time offenders and some remain in detention.

The case has shocked Luzerne County, an area in northeastern Pennsylvania that has been battered by a loss of industrial jobs and the closing of most of its anthracite coal mines.

And it raised concerns about whether juveniles should be required to have counsel either before or during their appearances in court and whether juvenile courts should be open to the public or child advocates.

If the court agrees to the plea agreement, both judges will serve 87 months in federal prison and resign from the bench and bar. They are expected to be sentenced in the next several months. Lawyers for both men declined to comment.

Since state law forbids retirement benefits to judges convicted of a felony while in office, the judges would also lose their pensions.

With Judge Conahan serving as president judge in control of the budget and Judge Ciavarella overseeing the juvenile courts, they set the kickback scheme in motion in December 2002, the authorities said.

They shut down the county-run juvenile detention center, arguing that it was in poor condition, the authorities said, and maintained that the county had no choice but to send detained juveniles to the newly built private detention centers.

Prosecutors say the judges tried to conceal the kickbacks as payments to a company they control in Florida.

Though he pleaded guilty to the charges Thursday, Judge Ciavarella has denied sentencing juveniles who did not deserve it or sending them to the detention centers in a quid pro quo with the centers.

But Assistant United States Attorney Gordon A. Zubrod said after the hearing that the government continues to charge a quid pro quo.

“We’re not negotiating that, no,” Mr. Zubrod said. “We’re not backing off.”

No charges have been filed against executives of the detention centers. Prosecutors said the investigation into the case was continuing.

For years, youth advocacy groups complained that Judge Ciavarella was unusually harsh. He sent a quarter of his juvenile defendants to detention centers from 2002 to 2006, compared with a state rate of 1 in 10. He also routinely ignored requests for leniency made by prosecutors and probation officers.

“The juvenile system, by design, is intended to be a less punitive system than the adult

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system, and yet here were scores of children with very minor infractions having their lives ruined,” said Marsha Levick, a lawyer with the Philadelphia-based Juvenile Law Center.

“There was a culture of intimidation surrounding this judge and no one was willing to speak up about the sentences he was handing down.”

A version of this article appeared in print on February 13, 2009, on page A22 of the New York edition.

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Judges Plead Guilty in Scheme to Jail Youths for Profit

Published: February 12, 2009

(Page 2 of 2)

Last year, the Juvenile Law Center, which had raised concerns about Judge Ciavarella in the past, filed a motion to the State Supreme Court about more than 500 juveniles who had appeared before the judge without representation. The court originally rejected the petition, but recently reversed that decision.

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David Kidwell/Associated Press
Judge Michael T. Conahan

The United States Supreme Court ruled in 1967 that children have a constitutional right to counsel. But in Pennsylvania, as in at least 20 other states, children can waive counsel, and about half of the children that Judge Ciavarella sentenced had chosen to do so. Only Illinois, New Mexico and North Carolina require juveniles to have representation when they appear before judges.

Clay Yeager, the former director of the Office of Juvenile Justice in Pennsylvania, said typical juvenile proceedings are kept closed to the public to protect the privacy of children.

“But they are kept open to probation officers, district attorneys, and public defenders, all of whom are sworn to protect the interests of children,” he said. “It’s pretty clear those people didn’t do their jobs.”

On Thursday in Federal District Court in Scranton, more than 80 people packed every available seat in the courtroom. At one point, as Assistant United States Attorney William S. Houser explained to Judge Edwin M. Kosik that the government was willing to reach a plea agreement with the men because the case involved “complex charges that could have resulted in years of litigation,” one man sitting in the audience said “bull” loud enough to be heard in the courtroom.

One of the parents at the hearing was Susan Mishanski of Hanover Township.

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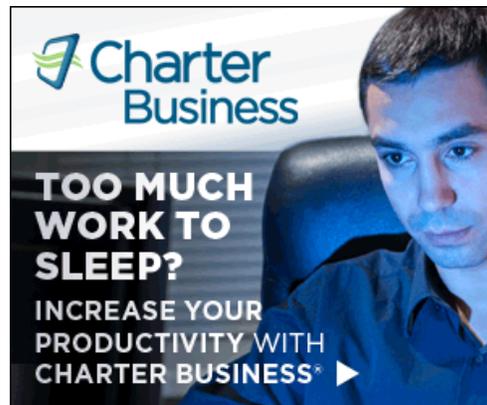


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Her son, Kevin, now 18, was sentenced to 90 days in a detention facility last year in a simple assault case that everyone had told her would result in probation, since Kevin had never been in trouble and the boy he hit had only a black eye.

“It’s horrible to have your child taken away in shackles right in front of you when you think you’re going home with him,” she said. “It was nice to see them sitting on the other side of the bench.”

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AP / February 18, 2011, 3:05 PM

Ex-judge who jailed kids for kickbacks convicted

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SCRANTON, Pa. - A former juvenile court judge was convicted Friday of racketeering in a case that accused him of sending youth offenders to for-profit detention centers in exchange for millions of dollars in illicit payments from the builder and owner of the lockups.

Luzerne County ex-Judge Mark Ciavarella, 61, left the bench in disgrace two years ago after prosecutors charged him with engineering one of the biggest courtroom frauds in U.S. history by using juvenile delinquents as pawns in a plot to get rich.

Federal prosecutors accused Ciavarella and a second judge, Michael Conahan, of taking more than \$2 million in bribes from the builder of the PA Child Care and Western PA Child Care detention centers and extorting hundreds of thousands of dollars from the facilities' co-owner. Ciavarella insisted the payments were legal and denied that he incarcerated youths for money.

A federal jury in Scranton returned a mixed verdict, convicting Ciavarella of 12 counts, including racketeering and conspiracy, and acquitting him of 27 counts, including extortion. The guilty verdicts related to nearly \$1 million that the builder paid to the judges.

Ciavarella was expressionless as the verdicts were being read.

Prosecutors alleged Ciavarella and Conahan plotted to shut down the dilapidated county-run juvenile detention center in 2002 and arrange for the construction of the PA Child Care facility outside Wilkes-Barre.

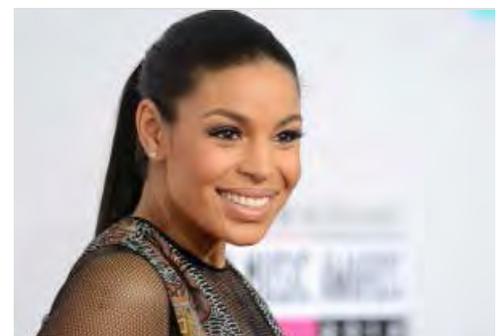
Ciavarella, who presided over juvenile court, sent youths to PA Child Care and later to its sister facility in western Pennsylvania while he was taking payments from Robert Mericle, a prominent builder and close friend of Ciavarella, and Robert Powell, a high-powered attorney who co-owned the youth lockups.

The judge, known for his harsh and autocratic courtroom demeanor, filled the beds of the private lockups with children as young as 10. The Pennsylvania Supreme Court dismissed thousands of juvenile convictions issued by Ciavarella, saying he ran his courtroom with "complete disregard for the constitutional rights of the juveniles," including the right to legal counsel and the right to intelligently enter a plea.



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His rough treatment of youths — whom he often had handcuffed and shackled — did not figure into his corruption trial, which focused on the payments from Mericle and Powell. But prosecutor Gordon Zubrod told jurors in his closing argument that Luzerne County's juveniles were indeed victimized by Ciavarella — that he had used them as "pawns in a scheme to enrich himself."

Ciavarella had leverage over Powell because Powell needed the judge to send youths to his heavily mortgaged detention centers, Zubrod said.

Taking the stand in his own defense, the former judge acknowledged to jurors that he failed to report the payments on his tax returns and hid them from the public, but he denied any plot to take kickbacks or extort money.

Ciavarella told jurors that he thought he was legally entitled to Mericle's money, calling it a "finder's fee" for introducing Mericle to Powell. He insisted he took no further steps to make sure that Mericle got the contract to build the detention centers, saying that Mericle was hired by Powell because he was the low bidder.

The former judge pointed to a 2008 conversation — secretly recorded by Powell while he was wearing a wire for the FBI — in which he told Powell and Conahan: "I had nothing to do with it, other than Rob Mericle coming to me and saying, 'I want to do this for you.' He came to me. I didn't go to him. ... Never in my wildest dreams did I ever think that it was illegal."

Ciavarella also denied to the jury that he extorted Powell, who had testified for the prosecution that he was forced to pay the judges nearly \$600,000 after they agreed to send juvenile delinquents to his new lockup. The payments were disguised as rent on a Florida condominium owned by the judges' wives.

Ciavarella testified that it was Conahan who made the arrangements with Powell. He said Conahan told him that Powell had agreed to pay them \$15,000 a month for 60 months to lease the waterfront Florida property. Prosecutors scoffed at that explanation, questioning why Powell — a successful trial lawyer and businessman — would be so foolish as to pay nearly \$1 million in rent on a condo he could have purchased outright for less than \$800,000.

The defense also said that Ciavarella had no idea that Powell separately was sending cash stuffed in boxes to Conahan. There was "a back-room deal going on between Mike Conahan and Bob Powell, and Mark Ciavarella had no idea what was occurring," defense attorney Al Flora told the jury.

After the verdicts were announced, prosecutors sought forfeiture of \$997,600 that Mericle paid Ciavarella, and the jury was considering whether to order it.

"A criminal should not be able to keep his ill-gotten gains," Zubrod said. "If he has assets he has been hiding, we will find them."

Luzerne County paid Powell's company more than \$30 million between 2003 and 2007 to house juveniles at PA Child Care and Western PA Child Care. The county could have built its own juvenile center for about \$9 million.

Ciavarella and Conahan initially pleaded guilty in February 2009 to honest services fraud and tax evasion in a deal that called for a sentence of 87 months in prison. But their plea deals were rejected by Senior U.S. District Judge Edward M. Kosik, who ruled they had failed to accept responsibility for their actions.

A federal grand jury in Harrisburg subsequently indicted the judges on charges of racketeering, fraud, money laundering, bribery, extortion and tax offenses.

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Conahan pleaded guilty to a single racketeering charge last year and awaits sentencing.

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That will poison the well and destroy everything they have done. It may even incite the FBI to inspect the judge and that Court.

This is all about \$\$\$ and they are making it with your children. Please please do not discuss it with anything else. An affidavit from your father is very important too. Just keep a low profile for now.

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ANTHONYQ1965 *says:*

This really isn't an isolated incident. This has gone on in other jurisdictions, it's just that it hasn't been revealed or discovered yet. The legal system in this country is all about money anyway, especially when you allow "profit" to rear its ugly head. Jails for profit is NOT a good idea in any event, and leads to incidents such as this. It's a shame that we lock people up who have committed relatively minor crimes and use the fact that they committed a "crime" as an excuse to lock them up.

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TEXBELLE123 *says:*

Well, I guess he'll lose that smirk on his face after he spends about 30 days in the general population of the Big House.

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TMITTELSTAED *says:*

Watch the movie "Holes" while it's a Disney flick and a bit more lighthearted, it deals with exactly this situation.

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GLOBALMISS *says:*

How many lives has this man ruined for his own greed? I'll bet he doesn't last long in prison, especially if he meets up with someone who he sent on that path wrongfully.

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NOT_FOOLED_BY_RIGHTIES *says:*

Must have been a Judge appointed by a Republican!

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DOCUMENTS *says:*

No one ever connects the courtroom conduct of a judge with the possibility that they are demonstrating their contempt for the defendants and the community that hired them. Question Authority, Always.

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FORMRUSMCSGT *says:*

Why weren't the lawyer and builder charged?

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Law Schools' Applications Fall as Costs Rise and Jobs Are Cut



Paul Sakuma/Associated Press

The law school at Stanford University has increased its attention to hands-on training.

By **ETHAN BRONNER**

Published: January 30, 2013 | 717 Comments

Law school applications are headed for a 30-year low, reflecting increased concern over soaring tuition, crushing student debt and diminishing prospects of lucrative employment upon graduation.

Enlarge This Image

As of this month, there were 30,000 applicants to law schools for the fall, a 20 percent decrease from the same time last year and a 38 percent decline from 2010, according to the [Law School Admission Council](#). Of some 200 law schools nationwide, only 4 have seen increases in applications this year. In 2004 there were 100,000 applicants to law schools; this year there are likely to be 54,000.

Such startling numbers have plunged law school administrations into soul-searching debate about the

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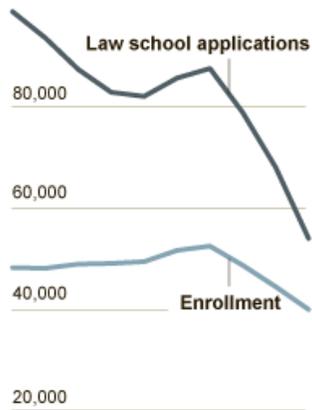
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Law School Applications Declining Sharply

Applications are headed for a 30-year low.



* 2013 numbers are estimates

Source: Law School Admission Council
The New York Times

Readers' Comments

Readers shared their thoughts on this article.

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future of legal education and the profession over all.

“We are going through a revolution in law with a time bomb on our admissions books,” said William D. Henderson, a professor of law at Indiana University, who has written extensively on the issue. “Thirty years ago if you were looking to get on the escalator to upward mobility, you went to business or law school. Today, the law school escalator is broken.”

Responding to the new environment, schools are planning cutbacks and accepting students they would not have admitted before.

A few schools, like the Vermont Law School, have started [layoffs and buyouts](#) of staff. Others, like at the University of Illinois, have offered across-the-board tuition discounts to keep up enrollments. Brian Leiter of the University of Chicago Law School, who runs a blog on the topic, said he expected as many as 10 schools to close over the coming decade, and half to three-quarters of all schools to reduce class size, faculty and staff.

After the normal dropout of some applicants, the number of those matriculating in the fall will be about 38,000, the lowest since 1977, when there were two dozen fewer law schools, according to Brian Z. Tamanaha of Washington University Law School, the author of “Failing Law Schools.”

The drop in applications is widely viewed as directly linked to perceptions of the declining job market. Many of the reasons that law jobs are disappearing are similar to those for disruptions in other knowledge-based professions, namely the growth of the Internet. Research is faster and easier, requiring fewer lawyers, and is being outsourced to less expensive locales, including West Virginia and overseas.

In addition, legal forms are now available online and require training well below a lawyer’s to fill them out.

In recent years there has also been publicity about [the debt load and declining job prospects](#) for law graduates, especially of schools that do not generally provide employees to elite firms in major cities. Last spring, the American Bar Association released [a study](#) showing that within nine months of graduation in 2011, only 55 percent of those who finished law school found full-time jobs that required passage of the bar exam.

“Students are doing the math,” said Michelle J. Anderson, dean of the City University of



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New York School of Law. “Most law schools are too expensive, the debt coming out is too high and the prospect of attaining a six-figure-income job is limited.”

Mr. Tamanaha of Washington University said the rise in tuition and debt was central to the decrease in applications. In 2001, he said, the average tuition for private law school was \$23,000; in 2012 it was \$40,500 (for public law schools the figures were \$8,500 and \$23,600). He said that 90 percent of law students finance their education by taking on debt. And among private law school graduates, the average debt in 2001 was \$70,000; in 2011 it was \$125,000.

“We have been sharply increasing tuition during a low-inflation period,” he said of law schools collectively, noting that a year at a New York City law school can run to more than \$80,000 including lodging and food. “And we have been maximizing our revenue. There is no other way to describe it. We will continue to need lawyers, but we need to bring the price down.”

Some argue that the drop is an indictment of the legal training itself — a failure to keep up with the profession’s needs.

“We have a significant mismatch between demand and supply,” said Gillian K. Hadfield, professor of law and economics at the University of Southern California. “It’s not a problem of producing too many lawyers. Actually, we have an exploding demand for both ordinary folk lawyers and big corporate ones.”

She said that, given the structure of the legal profession, it was hard to make a living dealing with matters like mortgage and divorce, and that big corporations were dissatisfied with what they see as the overly academic training at elite law schools.

The drop in law school applications is unlike what is happening in almost any other graduate or professional training, except perhaps to veterinarians. Medical school applications have been [rising steadily](#) for the past decade.

Debra W. Stewart, president of the [Council of Graduate Schools](#), said first-time enrollments to master of business degree programs were steady — a 0.8 percent increase among Americans in 2011 after a decade of substantial growth. But growth in first-time foreign student enrollments — 13 percent over the same period — made up the difference, something from which law schools cannot benefit, since foreigners have less interest in American legal training.

In the legal academy, there has been discussion about how to make training less costly and more relevant, with special emphasis on the last year of law school. A number of schools, including elite ones like Stanford, have [increased their attention to clinics](#), where students get hands-on training. Northeastern Law School in Boston, which has long emphasized in-the-field training, has had one of the smallest decreases in its applicant pool this year, according to Jeremy R. Paul, the new dean.

There is also discussion about permitting students to take the bar after only two years rather than three, a decision that would have to be made by the highest officials of a state court system. In New York, the [proposal](#) is under active consideration largely because of a desire to reduce student debt.

Some, including Professor Hadfield of the University of Southern California, have called for one- or two-year training programs to create nonlawyer specialists for many tasks currently done by lawyers. Whether or not such changes occur, for now the decline is creating what many see as a cultural shift.

“In the ’80s and ’90s, a liberal arts graduate who didn’t know what to do went to law school,” Professor Henderson of Indiana said. “Now you get \$120,000 in debt and a

default plan of last resort whose value is just too speculative. Students are voting with their feet. There are going to be massive layoffs in law schools this fall. We won't have the bodies we need to meet the payroll."

This article has been revised to reflect the following correction:

Correction: February 1, 2013

An article on Thursday about the steady decrease in law school applications misidentified the employees at the Vermont Law School who could face layoffs and buyouts. They are staff members, not professors.

A version of this article appeared in print on January 31, 2013, on page A1 of the New York edition with the headline: Law Schools' Applications Fall As Costs Rise and Jobs Are Cut.

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Finally, the chickens have come home to roost for the too numerous law schools in this country. Too many law graduates, who do not go on to practice law due to a dearth of jobs, with too much student loan debt. Too many third, fourth, and fifth tier law schools, whose JD degrees are not worth much more than the paper they are printed on. Ironic, but appropriate, that this problem has spawned lawsuits aimed at law schools with over-inflated employment statistics.

Our nation is facing a potential shortage of health care providers (primary care physicians, nurses, nurse practitioners, PA's, etc...) as baby boomers are getting older, and yet, the number of law schools far outnumbers the medical schools. I don't think that the nation is facing a shortage of attorneys.

While we all need good lawyers, the attorney glut is likely responsible for the abundance of frivolous lawsuits and our litigious mindset in this country. When my 6 year-old tells his sister "I'm going to sue you" in the midst of an argument, I realize, this has become an unfortunate part of our cultural fabric.

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A Call for Drastic Changes in Educating New Lawyers



Rex C. Curry for The New York Times

Laurel G. Bellows, the president of the American Bar Association, at the group's midyear meeting over the weekend in Dallas.

By **ETHAN BRONNER**
Published: February 10, 2013

DALLAS — Faced with profound and seemingly irreversible shifts, the legal profession is contemplating radical changes to its educational system, including cutting the curriculum, requiring far more on-the-ground training and licensing technicians who are not full lawyers.

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The proposals are a result of numerous factors, including a [sharp drop in law school applications](#), the outsourcing of research over the Internet, a glut of underemployed and indebted law school graduates and a high percentage of the legal needs of Americans going unmet.

“There is almost universal agreement that the current system is broken,” said Thomas W. Lyons III, a Rhode Island lawyer and a member of the [American Bar](#)

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Rex C. Curry for The New York Times
Randall T. Shepard, a former Indiana Supreme Court chief justice, leads a task force on overhauling legal education.

[Association's Task Force on the Future of Legal Education](#), which gathered here over the weekend for a public hearing at the association's midyear meeting.

While a few schools are freezing tuition and others are increasing hands-on learning, critics are increasingly saying that the legal academy cannot solve its own problems, partly because of the vested interests of tenured professors tied to an antiquated system. Effective solutions, they insist, will have to be imposed from the outside.

Since law schools are regulated by state courts, that means convincing top state judges of the necessity of major change.

At the task force's hearing, where lawyers and students gave testimony, most said the time was ripe for that change.

Many recommended reducing the core of law school to two years from three to cut costs. Others suggested that college juniors should be encouraged to go directly to law school, the bar exam should be simplified, accreditation standards should be relaxed to allow for more experiential learning, and states should establish training for the legal equivalent of nurse practitioners.

The task force was set up last summer and was given 24 months to issue its recommendations. But its chairman, Randall T. Shepard, a former chief justice of the Indiana Supreme Court, said a sense of crisis was driving the group to do so this fall.

Over the years, bar associations and foundations have called for similar changes, with limited impact. But leaders in the legal profession say that this time is different.

"We are going to look at everything from scratch," [Laurel G. Bellows](#), a Chicago lawyer and the president of the American Bar Association, said in an interview. "We have to keep everything on the table."

Paula Littlewood, a task force member and the executive director of the [Washington State Bar Association](#), put it this way to her colleagues: "There's a time for incremental change and a time for bold change. This is the time for bold change."

Hers is one state that is not waiting. It has established a board to create [a program for limited-license legal technicians](#), the first in the country. Within a year, the board is expected to lay out the educational and professional framework for the technicians. They will have more training and responsibility than [paralegals](#) but will not appear in court or negotiate on their clients' behalf.

"The consuming public cannot afford lawyers, and the profession needs to figure that out and own it," Ms. Littlewood said. "Our hope is to provide more access. The second point is that you have these folks out there doing unauthorized practice, which is harming the public. The hope is to bring them under the tent."

Elsewhere in the country, law schools are trying to deal with declining popularity in a range of ways. The University of Akron Law School in Ohio [has frozen its tuition and virtually ended its out-of-state surcharge](#). At the University of Oregon, [Michael Moffitt](#), the law school's dean, has started clinics on nonprofit groups, environmental policy and



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probate mediation. He has also set up law courses for students in other parts of the university, which brings revenue to the law school.

“The problem is that we have been selling only one product,” Mr. Moffitt said. “But if you are getting a business degree, you need to know about contract law. City planners need to know about land-use law. So we at Oregon are educating not just J.D. students.

“Demand is through the roof,” he added. “I feel like I am living a business school case study.”

[Nicholas W. Allard](#), who became the dean of Brooklyn Law School in New York last summer after a career in government and private practice, said that in the past, graduates of elite schools arrived at major law firms with little knowledge of the actual practice of law. As a result, corporations hiring those firms felt that their large hourly bills were in effect going to train those graduates, who were assigned some of their work. Mr. Allard said those corporations are no longer willing to do that.

As a result, he said, law schools need to have far more practical training and closer ties to the legal profession. That has led a number of schools to choose deans from within the profession, like Mr. Allard, rather than from academia.

He also said legal practice had a growing global component that needed to be addressed. “Some international exposure is being looked at for the first year in many places,” Mr. Allard said. “Whether you have a shingle up in Park Slope or in Maine, you are going to have some need for an appreciation of international legal issues.”

One group that came under frequent attack at the meeting here was tenured law school professors, who were criticized as having high pay, low productivity and a remote relationship with the practice of law. [Robert L. Weinberg](#), a retired founding partner of the Washington law firm Williams & Connolly and a lecturer at George Washington University Law School, said that instead of restricting the number of adjunct lecturers like himself, law schools ought to greatly increase them because they bring real-world examples to students.

[Jim Chen](#), a professor of law at the University of Louisville and a former dean of its law school, said that to reduce law school from three years to two would mean that, in turn, tenured professors, whom he called the biggest expense for law schools, would have to take a one-third cut in pay. But, Mr. Chen said, they would never accept that, and the impetus for change would have to come from State Supreme Courts.

Derek M. Tokaz, the research director of [Law School Transparency](#), a legal education policy group that seeks to guide some of the changes, told the gathering that drastic changes were needed in [student loans](#) and accreditation. Rather than start with the number of required classroom minutes or student-teacher ratio, Mr. Tokaz said, what students need to know upon graduation should be agreed upon first.

As the meeting ended, one task force member, Michael P. Downey of St. Louis, summed it up. “The house is on fire,” he said. “We don’t want a report that sits on a shelf.”

A version of this article appeared in print on February 11, 2013, on page A11 of the New York edition with the headline: A Call for Drastic Changes in Educating New Lawyers.

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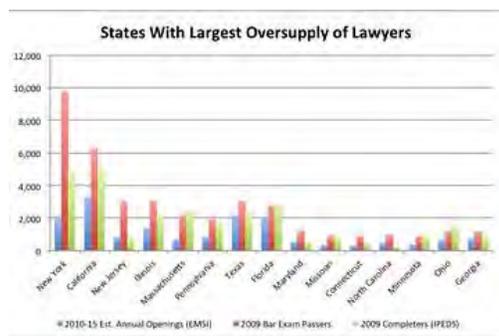
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By Patrick G. Lee

Recent law school graduates – especially those still casting about for gainful employment while wallowing in tuition debt – feel just how tough the legal job market has become, in a drastic change from the days when recruiters abounded and snack rooms were well-stocked.



The chasm between lawyer supply and demand has been roughly quantified. The consulting company [Economic Modeling Specialists Inc.](#) compared the number of people who passed the bar in 2009 to an estimate of yearly job openings for lawyers that same year. Their [analysis](#) breaks down data by state and reveals that New York has the largest surplus of lawyers, or more than 7,500 in 2009. California, the next-up state in lawyer surplus, had about 3,000 in excess, whereas it seems that Nebraska, Wisconsin and the District of Columbia have lawyer deficits.

The analysis notes that Wisconsin and D.C. are exceptional cases: Wisconsin law school graduates do not have to take the bar in order to practice there, and in D.C., already licensed lawyers can be waived into membership, which is why so few take the bar in the nation's capital. All this goes to show that even in these two places, what seems to be a deficit might actually be a surplus, since the number who pass the bar exam underestimates the actual supply of lawyers.

Moreover, the data is a rough estimate of the actual difference between the

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number of job openings and wannabe lawyers because not all those who pass the bar in a certain state will practice there. And many law school graduates wait a few years after graduating to take the test, whereas others take it multiple times before passing. But even on a national level, the numbers paint a stark picture: in 2009, the number of law graduates who passed the bar exam was about double that of the number of job openings across the country, according to the analysis.

It's definitely something for future classes of law school students to think about before taking out tens of thousands of dollars in loans in exchange for a diploma that will land them in the clutches of fierce competition – and maybe even unemployment.

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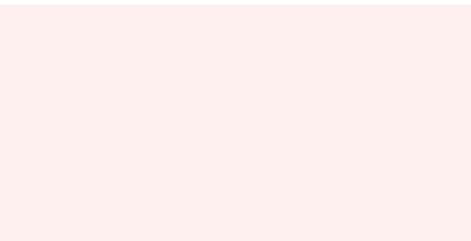
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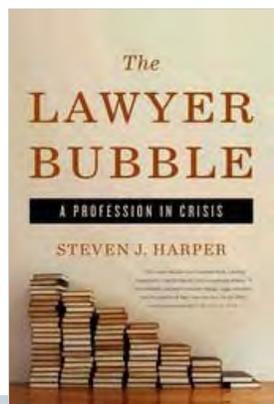
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Steven J. Harper



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Too many American lawyers are miserable. Though they have chosen a profession that often makes them wealthy and respected, they have high rates of depression and suicide, and the majority of practicing lawyers would counsel young people to choose a different career path. The Great Recession has only worsened matters, as more and more of those young people decide to wait out the bad economy in law school, only to end up competing for a shrinking number of available jobs. Meanwhile, those who are able to get the elusive job in the big firm find that professional values have been sacrificed to short-term metrics.

In *The Lawyer Bubble*, Steven J. Harper explores how the legal profession came to this sorry state. He investigates the troubl [more](#)

Basic Books; April 2013
272 pages; ISBN 9780465058747
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Explaining the Science of Everyday Life

June 27, 2011, 11:00 am | 90 Comments

The Lawyer Surplus, State by State

By CATHERINE RAMPELL

11:35 a.m. | Updated to include more detail on and caveats for estimates for Wisconsin and Washington, D.C.

We've [written before about](#) the tough job market for recent law-school graduates. The climate is hard partly because of the weak economy, but also partly because the nation's law schools are churning out many more lawyers than the economy needs even in the long run.

Now a few researchers have tried to quantify exactly how big that surplus is.

The numbers were crunched by [Economic Modeling Specialists Inc.](#) (also known as EMSI), a consulting company that focuses on employment data and economic analysis. The company's calculations were based on the [number of people who passed the bar exam](#) in each state in 2009, versus an estimate of annual job openings for lawyers in those states. They also looked at data from the Department of Education on law school graduates each year to get another measure of the quantity of new lawyers. Estimates for the number of openings is based on data from the Bureau of Labor Statistics and the Census Bureau.

According to this model, every state but Wisconsin and Nebraska (plus Washington, D.C.) is producing many more lawyers than it needs. (See table after the jump for full data, and additional caveats.)

In fact, across the country, there were twice as many people who passed the bar in 2009 (53,508) as there were openings (26,239). A separate estimate for the number of lawyers produced in 2009 — the number of new law-school graduates, according to the [National Center for Education Statistics](#) — also showed a surplus, although it was not quite as large (44,159 new law grads compared with 26,239 openings).

In raw numbers, New York has the greatest legal surplus by far.

In 2009, 9,787 people passed the bar exam in the Empire State. The analysts estimated, though, that New York would need only 2,100 new lawyers each year through 2015. That means that if New York keeps minting new lawyers apace, it will continue having an annual surplus of 7,687 lawyers.

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Germany 10-year bond	1.42%	-0.001	-0.196

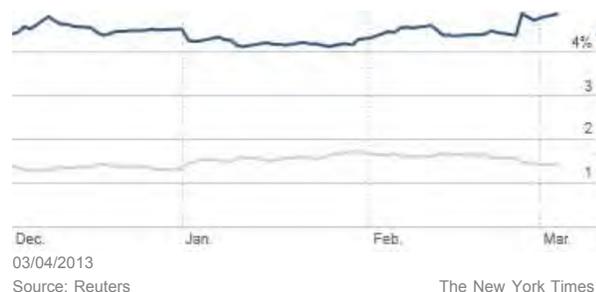
California and New Jersey have the next largest gluts of new lawyers, according to EMSI.

As noted above, not every state is overproducing lawyers. Nebraska appears to have a small deficit of lawyers. Wisconsin is also listed as having a deficit according to the number of people who passed the bar exam, but the bar-passers figure may not be a good metric (as noted by many readers in response to an earlier version of this post). Graduates of University of Wisconsin Law School and Marquette University Law School, in Milwaukee, [do not have to take the bar exam](#) in order to practice law, so there may be many new lawyers not counted in this figure. Note that the Education Department's figures for the number of people who completed law school in Wisconsin is far higher, and would indicate that Wisconsin too has a surplus of new attorneys.

The place list with the biggest shortage is the District of Columbia, which is projected to have 618 new jobs opening annually for lawyers for the next few years, but had only 273 bar-passers in 2009. But as several readers observed in the [comments](#), the District of Columbia waives in lawyers who are barred in other states, meaning that these figures probably underestimate the number of newly-minted lawyers in the nation's capital. (If you know how to calculate a better estimate for this figure, please [e-mail us](#).)

The District of Columbia has the highest median wage for lawyers in the country: \$70.96 an hour.

	2010-15 Est. Annual Openings	2009 Bar Exam Passers	2009 Completers (IPEDS)	Surplus/Shortage	Median Wages
New York	2,100	9,787	4,771	7,687	\$56.57
California	3,307	6,258	5,042	2,951	\$50.61
New Jersey	844	3,037	787	2,193	\$43.84
Illinois	1,394	3,073	2,166	1,679	\$51.54
Massachusetts	715	2,165	2,520	1,450	\$43.89
Pennsylvania	869	1,943	1,697	1,074	\$46.05
Texas	2,155	3,052	2,402	897	\$41.55
Florida	2,027	2,782	2,781	755	\$36.39
Maryland	560	1,277	548	717	\$41.46
Missouri	362	943	908	581	\$39.96
Connecticut	316	880	510	564	\$43.69
North Carolina	503	1,032	279	529	\$37.79
Minnesota	378	888	948	510	\$43.69
Ohio	686	1,194	1,513	508	\$34.69
Georgia	779	1,217	894	438	\$46.11
Colorado	547	967	509	420	\$40.83
Virginia	956	1,375	1,435	419	\$49.34
Louisiana	357	731	810	374	\$33.35
Tennessee	389	735	446	346	\$37.34
Washington	619	935	678	316	\$37.37
Oregon	291	594	519	303	\$34.51
Indiana	339	602	825	263	\$32.48
South Carolina	262	506	410	244	\$33.03



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Kentucky	261	478	389	217	\$34.39
Nevada	219	392	143	173	\$40.32
Arizona	440	607	378	167	\$37.51
New Mexico	134	298	114	164	\$29.78
Michigan	862	1,024	1,993	162	\$35.22
Kansas	190	351	296	161	\$31.16
Alabama	295	455	406	160	\$37.98
Iowa	155	290	556	135	\$32.16
Rhode Island	102	209	184	107	\$39.65
Hawaii	76	179	88	103	\$33.70
Mississippi	173	268	335	95	\$28.86
Utah	308	401	283	93	\$37.04
W. Virginia	100	191	152	91	\$32.51
Montana	81	163	83	82	\$24.96
Maine	75	153	91	78	\$29.70
Arkansas	152	227	243	75	\$30.83
Wyoming	40	113	80	73	\$29.86
New Hampshire	92	154	146	62	\$30.84
Oklahoma	326	387	489	61	\$29.56
South Dakota	38	83	73	45	\$29.19
North Dakota	33	63	80	30	\$28.78
Idaho	128	157	97	29	\$30.77
Alaska	41	66	0	25	\$37.80
Delaware	116	141	235	25	\$60.67
Vermont	51	55	191	4	\$30.48
Nebraska	112	109	279	-3	\$32.47
Wisconsin	262	248	691	-14	\$36.43
D.C.	618	273	2,109	-345	\$70.96
Nation	26,239	53,508	44,159	27,269	\$44.22

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27 Sep 2011 at 1:23 PM **BARACK OBAMA, BIGLAW, JOB SEARCHES, LAYOFFS, UNEMPLOYMENT** **Can Obama's Jobs Bill Help Laid Off and Unemployed Attorneys?**

By STACI ZARETSKY

According to the Department of Labor, **14 million people** in our country are unemployed. And with a **surplus of lawyers** that reaches into the thousands in almost every state, unemployment is a serious problem for the legal profession.



Unfortunately, we all know that Biglaw firms — and surely other firms, as well — are avoiding these attorneys like the plague. We spoke about this industry-wide issue back in late 2009, noting that Biglaw firms weren't exactly keen on hiring associates that had **previously been laid off**. In fact, one recruiter we spoke with told us that approximately 80 percent of employers specifically requested résumés from attorneys who are still employed.

Facing these seemingly insurmountable odds, what's an unemployed attorney to do? As it turns out, President Obama wants to lend a hand, but only if he can get Congress to pass this jobs bill...

Pass this jobs bill, **pass this jobs bill**, pass this jobs bill. Okay, we get it, Barack.

If Congress passes this jobs bill, we can put people back to work. If Congress passes this jobs bill, we can also cure AIDS and learn how to fly. Most importantly, if Congress passes this jobs bill, the unemployed will be able to sue for hiring bias.

The **New York Times** has more information on this caveat to Obama's proposed jobs bill:

Mr. Obama's jobs bill would prohibit employers from discriminating against job applicants because they are unemployed.

Under the proposal, it would be "an unlawful employment practice" if a business with 15 or more employees refused to hire a person "because of the individual's status as unemployed."

Unsuccessful job applicants could sue and recover damages for violations, just as when an employer discriminates on the basis of a person's race, color, religion, sex or national origin.



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Establishing the unemployed as a new protected class could create a **surge in litigation**, says Texas Representative **Louie Gohmert**. "If you're unemployed and you go to apply for a job, and you're not hired for that job, see a lawyer. You may be able to file a claim because you got discriminated against because you were unemployed."

But should unemployed lawyers be running straight to one of their colleagues if they're not hired for a particular law firm position? Other lawyers examining the issue say that it "may be may be difficult for job applicants to show that they were turned down because they were unemployed."

In addition, bringing a lawsuit like this may be an easy way to get your foot in the door for a market-wide blackballing from other Biglaw firms. Because really, who wants to hire an overly litigious lawyer? No one wants to be afraid to give you a congratulatory **file-to-ass-slap** when you win a big case.

According to Representative Gohmert, this part of Obama's jobs bill is great news for **trial lawyers** who don't have enough work. Maybe if this thing actually gets passed, unemployed lawyers won't have to worry about being unemployed for much longer. Niche practice alert, anyone?

When Obama promised "shovel ready" jobs, who knew he was talking about lawyers flinging around more horses**t?

[Obama Proposes Protecting Unemployed Against Hiring Bias](#) [New York Times]

[Obama Backs Ban on Hiring Bias Against Unemployed People](#) [ABA Journal]

Earlier: [Bad News for Laid Off Associates: Your Résumés Are Not Welcome](#)

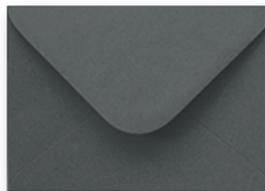
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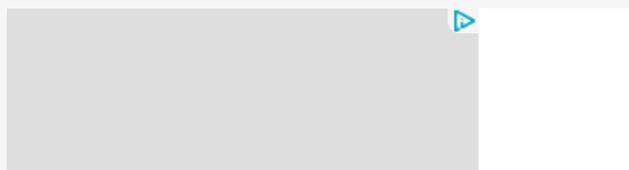
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June 8, 2012, 5:16 pm | 12 Comments

Employment of Recent Law Grads at an Ebb

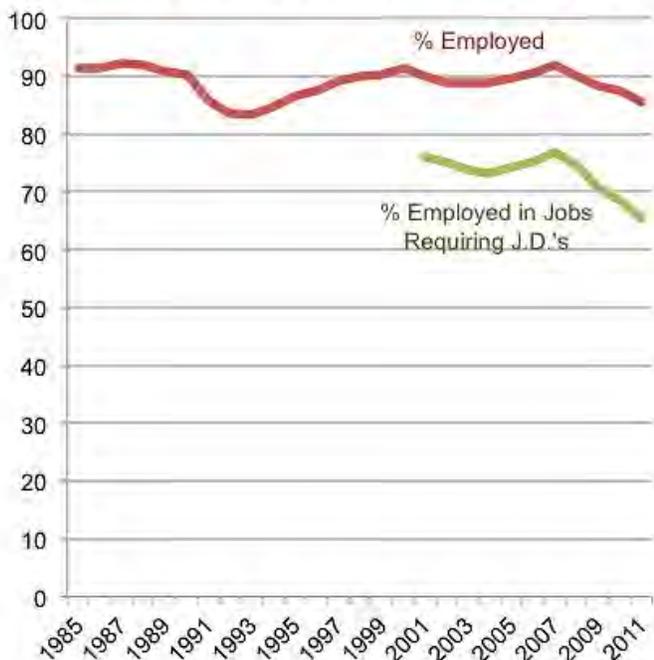
By CATHERINE RAMPELL

The share of law graduates employed a year out of school fell again last year to its lowest level since 1994, according to [NALP](#), the Association for Legal Career Professionals.

CATHERINE RAMPELL
Dollars to doughnuts.



Percent of Recent Law Graduates Employed



Source: NALP

Nine months after graduation, just 85.6 percent of the law class of 2011 was employed. That compares to a record high of 91.9 percent for the class of 2007, which graduated just before the great recession erupted.

The overall employment rate masks an even worse reality for recent graduates, since it counts any type of work — law-related or otherwise — as

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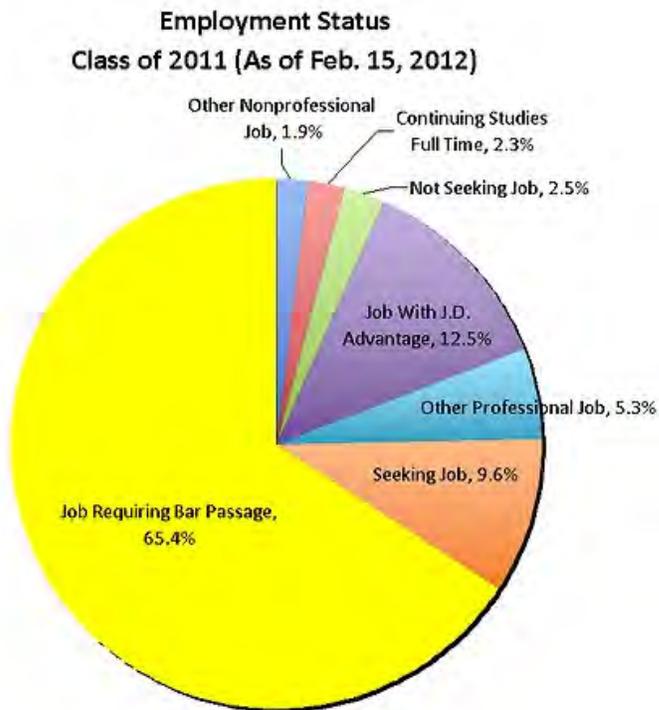


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Italy	% yield	Change	1 month change
Italy 10-year bond	4.88%	+0.007	+0.398

employment. As of February, less than two-thirds of the class of 2011 held jobs that actually required bar passage:



Source: NALP

That's the lowest share since NALP began tracking this figure in 2001. Not finding work as a lawyer doesn't nullify one's law-school debt, of course.

Additionally, of all jobs obtained, fewer than half (49.5 percent) were in private practice, the lowest share since NALP began asking that question in 1985.

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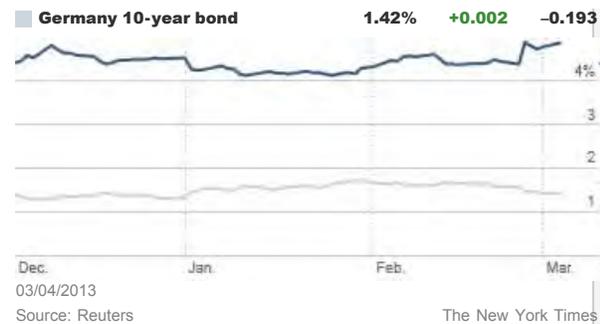
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November 21, 2012, 2:30 pm | 19 Comments

Law School Admission Testing Plunges

By CATHERINE RAMPELL

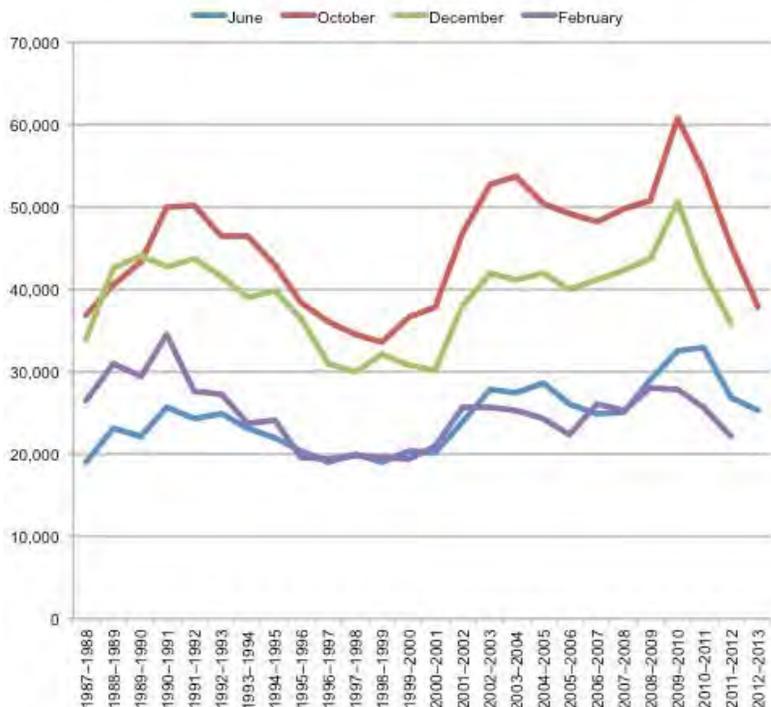
The number of people taking the Law School Admission Test, known as the LSAT, offered in October fell sharply, down 16.4 percent from the year before, reaching its lowest level since 1999. October is usually the most popular time to take the test, too:

CATHERINE RAMPELL

Dollars to doughnuts.



LSATs Administered



Source: Law School Admission Council

No wonder, then, that law schools are cutting the size of their entering classes. Perhaps this means it'll still be easier to get into the top schools, though, depending on how much the most elite schools decide to shrink their

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class sizes.

There was a huge surge in law school applications during the recession and its immediate aftermath as people displaced by the poor economy sought the “safety” of a legal career. But now potential students seem to have wised up to the huge debt burden and [poor job placement prospects](#).

One [recent paper](#) actually suggests that law’s reputation for providing a risk-free career path has been a fiction for a long time. It notes that the legal market has become more crowded, with the ratio of the American population to American lawyers morphing to 252 to 1 in 2005 from 695 to 1 in 1951. The paper also estimated that, of the 1.4 million law graduates of the last 40 years, about 200,000 to 600,000 are not working as lawyers.

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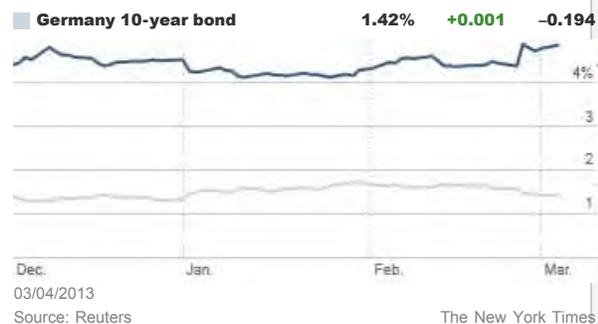
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SECRECY FOR SALE: INSIDE THE GLOBAL OFFSHORE MONEY MAZE

Secret Files Expose Offshore's Global Impact

By Gerard Ryle, Marina Walker Guevara, Michael Hudson, Nicky Hager, Duncan Campbell and Stefan Candea | April 3, 2013, 6:00 pm



Graphic: Tim Meko

Dozens of journalists sifted through millions of leaked records and thousands of names to produce ICIJ's investigation into offshore secrecy

A cache of 2.5 million files has cracked open the secrets of more than 120,000 offshore companies and trusts, exposing hidden dealings of politicians, con men and the mega-rich the world over.

The secret records obtained by the [International Consortium of Investigative Journalists](#) lay bare the names behind covert companies and private trusts in the British Virgin Islands, the Cook Islands and other offshore hideaways.

They include American doctors and dentists and middle-class Greek villagers as well as families and associates of long-time despots, Wall Street swindlers, Eastern European and Indonesian billionaires, Russian corporate executives, international arms dealers and a sham-director-fronted company that the European Union has labeled as a cog in Iran's nuclear-development program.

The leaked files provide facts and figures — cash transfers, incorporation dates, links between companies and individuals — that illustrate how offshore financial secrecy has spread aggressively around the globe, allowing the wealthy and the well-connected to dodge taxes and fueling corruption and economic woes in rich and poor nations alike.

The records detail the offshore holdings of people and companies in more than 170 countries and territories.

KEY FINDINGS

- Government officials and their families and associates in Azerbaijan, Russia, Canada, Pakistan, the Philippines, Thailand, Mongolia and other countries have embraced the use of covert companies and bank accounts.
- The mega-rich use complex offshore structures to own mansions, yachts, art masterpieces and other assets, gaining tax advantages and anonymity not available to average people.
- Many of the world's top's banks — including UBS, Clariden and Deutsche Bank — have aggressively worked to provide their customers with secrecy-cloaked companies in the British Virgin Islands and other offshore hideaways.
- A well-paid industry of accountants, middlemen and other operatives has helped offshore patrons shroud their identities and business interests,

The hoard of documents represents the biggest stockpile of inside information about the offshore system ever obtained by a media organization. The total size of the files, measured in gigabytes, is more than 160 times larger than the leak of U.S. State Department documents by Wikileaks in 2010.

To analyze the documents, ICIJ collaborated with reporters from *The Guardian* and the BBC in the U.K., *Le Monde* in France, *Süddeutsche Zeitung* and *Norddeutscher Rundfunk* in Germany, *The Washington Post*, the Canadian Broadcasting Corporation (CBC) and 31 other media partners around the world.

Eighty-six journalists from 46 countries used high-tech data crunching and shoe-leather reporting to sift through emails, account ledgers and other files covering nearly 30 years.

"I've never seen anything like this. This secret world has finally been revealed," said [Arthur Cockfield](#), a law professor and tax expert at Queen's University in Canada, who reviewed some of the documents during an interview with the CBC. He said the documents remind him of the scene in the movie classic *The Wizard of Oz* in which "they pull back the curtain and you see the wizard operating this secret machine."

Mobsters and Oligarchs

The vast flow of offshore money — legal and illegal, personal and corporate — can roil economies and pit nations against each other. Europe's continuing financial crisis has been fueled by a Greek fiscal disaster exacerbated by offshore tax cheating and by a banking meltdown in the tiny tax haven of Cyprus, where local banks' assets have been inflated by waves of cash from Russia.

Anti-corruption campaigners argue that offshore secrecy undermines law and order and forces average citizens to pay higher taxes to make up for revenues that vanish offshore. Studies have estimated that cross-border flows of global proceeds of financial crimes total between \$1 trillion and \$1.6 trillion a year.

ICIJ's 15-month investigation found that, alongside perfectly legal transactions, the secrecy and lax oversight offered by the offshore world allows fraud, tax dodging and political corruption to thrive.

Offshore patrons identified in the documents include:

- Individuals and companies linked to Russia's Magnitsky Affair, a tax fraud scandal that has strained U.S.-Russia relations and led to a ban on Americans adopting Russian orphans.
- A Venezuelan deal maker accused of using offshore entities to bankroll a U.S.-based Ponzi scheme and funneling millions of dollars in bribes to a Venezuelan government official.
- A corporate mogul who won billions of dollars in contracts amid Azerbaijani President Ilham Aliyev's massive construction boom even as he served as a director of secrecy-shrouded offshore companies owned by the president's daughters.
- Indonesian billionaires with ties to the late dictator Suharto, who enriched a circle of elites during his decades in power.

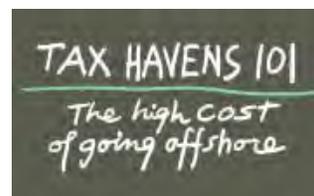
The documents also provide possible new clues to crimes and money trails that have gone cold.

After learning ICIJ had identified the eldest daughter of the late dictator Ferdinand Marcos, Maria Imelda Marcos Manotoc, as a [beneficiary](#) of a British Virgin Islands (BVI) trust, Philippine officials said they were eager to find out whether any assets in the trust are part of the estimated \$5 billion her father amassed through corruption.

Manotoc, a provincial governor in the Philippines, declined to answer a series of

- providing shelter in many cases to money laundering or other misconduct.
- Ponzi schemers and other large-scale fraudsters routinely use offshore havens to pull off their shell games and move their ill-gotten gains.

MULTIMEDIA



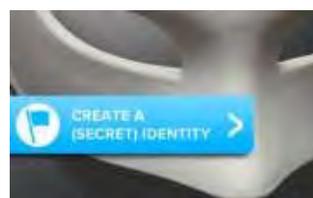
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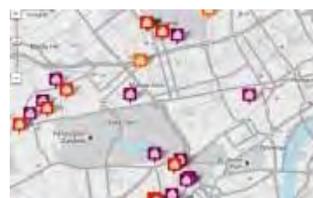
[Map: Key Tax Haven Clients In the World](#)



[Interactive: Gunter Sachs's Offshore Network](#)



[Interactive: Stash Your Cash](#)



[Interactive: We Reveal Who's Buying Up Britain](#)

questions about the trust.

Politically connected wealth

The files obtained by ICIJ shine a light on the day-to-day tactics that offshore services firms and their clients use to keep offshore companies, trusts and their owners under cover.

Tony Merchant, one of Canada's top class-action lawyers, took extra steps to maintain the privacy of a [Cook Islands trust](#) that he'd stocked with more than \$1 million in 1998, the documents show.

In a filing to Canadian tax authorities, Merchant checked "no" when asked if he had foreign assets of more than \$100,000 in 1999, court records show.

Between 2002 and 2009, he often paid his fees to maintain the trust by sending thousands of dollars in cash and traveler's checks stuffed into envelopes rather than using easier-to-trace bank checks or wire transfers, according to documents from the offshore services firm that oversaw the trust for him.

One [file note](#) warned the firm's staffers that Merchant would "have a st[r]oke" if they tried to communicate with him by fax.

It is unclear whether his wife, Pana Merchant, a Canadian senator, declared her personal interest in the trust on annual financial disclosure forms.

Under legislative rules, she had to disclose every year to the Senate's ethics commissioner that she was a beneficiary of the trust, but the information was confidential.

The Merchants declined requests for comment.

Other high profile names identified in the offshore data include the wife of Russia's deputy prime minister, Igor Shuvalov, and two top executives with Gazprom, the Russian government-owned corporate behemoth that is the world's largest extractor of natural gas.

Shuvalov's wife and the Gazprom officials had stakes in BVI companies, documents show. All three declined comment.

In a neighboring land, the deputy speaker of Mongolia's Parliament said he was considering resigning from office after ICIJ questioned him about records showing he has an offshore company and a secret Swiss bank account.

"I shouldn't have opened that account," Bayartsogt Sangajav, who has also served as his country's finance minister, said. "I probably should consider resigning from my position."

Bayartsogt said his Swiss account at one point contained more than \$1 million, but most of the money belonged to what he described as "business friends" he had joined in investing in international stocks.

He acknowledged that he hasn't officially declared his BVI company or the Swiss account in Mongolia, but he said he didn't avoid taxes because the investments didn't produce income.

"I should have included the company in my declarations," he said.



[Video: How To Dodge Tax](#)

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Wealthy Clients

The documents also show how the mega-rich use complex offshore structures to own mansions, art and other assets, gaining tax advantages and anonymity not available to average people.

Spanish names include a baroness and famed art patron, Carmen Thyssen-Bornemisza, who is identified in the documents using a [company](#) in the Cook Islands to buy artwork through auction houses such as Sotheby's and Christie's, including Van Gogh's *Water Mill at Gennep*.

Her attorney acknowledged that she gains tax benefits by holding ownership of her art offshore, but stressed that she uses tax havens primarily because they give her "maximum flexibility" when she moves art from country to country.

Among nearly 4,000 American names is Denise Rich, a Grammy-nominated songwriter whose ex-husband was at the center of an [American pardon scandal](#) that erupted as President Bill Clinton left office.

A Congressional investigation found that Rich, who raised millions of dollars for Democratic politicians, played a key role in the campaign that persuaded Clinton to pardon her ex-spouse, Marc Rich, an oil trader who had been wanted in the U.S. on tax evasion and racketeering charges.

Records obtained by ICIJ show she had [\\$144 million](#) in April 2006 in a trust in the Cook Islands, a chain of coral atolls and volcanic outcroppings nearly 7,000 miles from her home at the time in Manhattan.

The trust's holdings included a yacht called the *Lady Joy*, where Rich often entertained celebrities and raised money for charity.

Rich, who gave up her U.S. citizenship in 2011 and now maintains citizenship in Austria, did not reply to questions about her offshore trust.

Another prominent American in the files who gave up his citizenship is a member of the Mellon dynasty, which started landmark companies such as Gulf Oil and Mellon Bank. James R. Mellon – an author of books about Abraham Lincoln and his family's founding patriarch, Thomas Mellon – used four companies in the BVI and Lichtenstein to [trade securities](#) and transfer tens of millions of dollars among [offshore bank accounts](#) he controlled.

Like many offshore players, Mellon appears to have taken steps to distance himself from his offshore interests, the documents show. He often used third parties' names as directors and shareholders of his companies rather than his own, a legal tool that owners of offshore entities often use to preserve anonymity.

Reached in Italy where lives part of the year, Mellon told ICIJ that, in fact, he used to own "a whole bunch" of offshore companies but has disposed of all of them. He said he set up the firms for "tax advantage" and liability reasons, as advised by his lawyer. "But I have never broken the tax law."

Of the use of nominees, Mellon said that "that's the

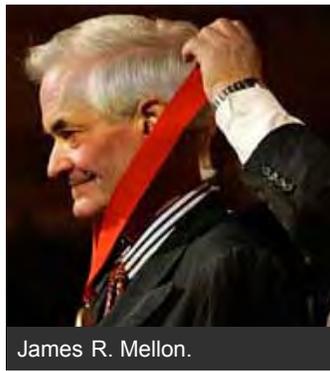


Baroness Carmen Thyssen-Bornemisza.



Denise Rich.

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James R. Mellon.

way these firms are set up,” and added that it’s useful for people like him who travel a lot to have somebody else in charge of his businesses. “I just heard of a presidential candidate who had a lot of money in the Cayman Islands,” Mellon, now a British national, said, alluding to former U.S. presidential candidate Mitt Romney.

“Not everyone who owns offshores is a crook.”

Offshore growth

The anonymity of the offshore world makes it difficult to track the flow of money. A [study](#) by James S. Henry, former chief economist at McKinsey & Company, estimates that wealthy individuals have \$21 trillion to \$32 trillion in private financial wealth tucked away in offshore havens — roughly equivalent to the size of the U.S. and Japanese economies combined.

Even as the world economy has stumbled, the offshore world has continued to grow, said Henry, who is a board member of the [Tax Justice Network](#), an international research and advocacy group that is critical of offshore havens. His research shows, for example, that assets managed by the world’s 50 largest “private banks” — which often use offshore havens to serve their “high net worth” customers — grew from \$5.4 trillion in 2005 to more than \$12 trillion in 2010.

Henry and other critics argue that offshore secrecy has a corrosive effect on governments and legal systems, allowing crooked officials to loot national treasuries and providing cover to human smugglers, mobsters, animal poachers and other exploiters.

Offshore’s defenders counter that most offshore patrons are engaged in legitimate transactions. Offshore centers, they say, allow companies and individuals to diversify their investments, forge commercial alliances across national borders and do business in entrepreneur-friendly zones that eschew the heavy rules and red tape of the onshore world.

“Everything is much more geared toward business,” David Marchant, publisher of [OffshoreAlert](#), an online news journal, said. “If you’re dishonest you can take advantage of that in a bad way. But if you’re honest you can take advantage of that in a good way.”

Much of ICIJ’s reporting focused on the work of two offshore firms, Singapore-based Portcullis TrustNet and BVI-based Commonwealth Trust Limited (CTL), which have helped tens of thousands of people set up offshore companies and trusts and hard-to-trace bank accounts.

Regulators in the BVI found that CTL repeatedly violated the islands’ anti-money-laundering laws between 2003 and 2008 by failing to verify and record its clients’ identities and backgrounds. “This particular firm had systemic money laundering issues within their organization,” an official with the BVI’s Financial Services Commission said last year.

The documents show, for example, that CTL set up 31 companies in 2006 and 2007 for an individual later identified in U.K. court claims as a front man for Mukhtar Ablyazov, a Kazakh banking tycoon who has been accused of stealing \$5 billion from one of the former Russian republic’s largest banks. Ablyazov denies wrongdoing.

Thomas Ward, a Canadian who co-founded CTL in 1994 and continues to work as a consultant to the firm, said CTL’s client-vetting procedures have been consistent with industry standards in the BVI, but that no amount of screening can ensure that firms such as CTL

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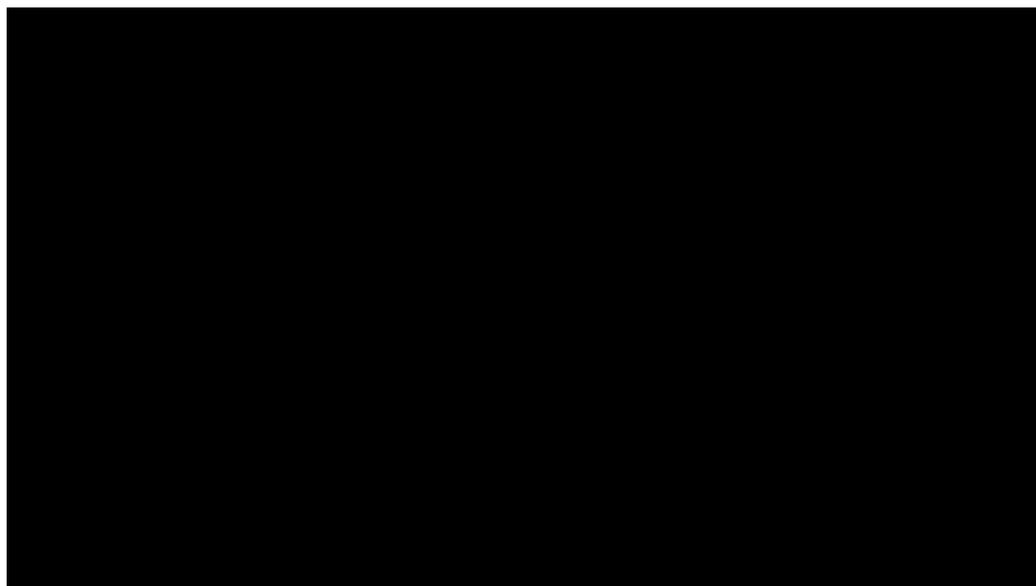


won't be “duped by dishonest clients” or sign on “someone who appears, to all historical examination, to be honest” but “later turns to something dishonest.”

“It is wrong, though perhaps convenient, to demonize CTL as by far the major problem area,” Ward said in a written response to questions. “Rather I believe that CTL’s problems were, by and large, directly proportional to its market share.”

ICIJ’s review of TrustNet documents identified 30 American clients accused in lawsuits or criminal cases of fraud, money laundering or other serious financial misconduct. They include ex-Wall Street titans Paul Bilzerian, a corporate raider who was convicted of tax fraud and securities violations in 1989, and Raj Rajaratnam, a billionaire hedge fund manager who was sent to prison in 2011 in one of the biggest insider trading scandals in U.S. history.

TrustNet declined to answer a series of questions for this article.



Blacklisted

The records obtained by ICIJ expose how offshore operatives help their customers weave elaborate financial structures that span countries, continents and hemispheres.

A Thai government official with links to an infamous African dictator used Singapore-based TrustNet to set up a secret company for herself in the BVI, the records show.

The Thai official, Nalinee “Joy” Taveesin, is currently Thailand’s international trade representative. She served as a cabinet minister for Prime Minister Yingluck Shinawatra before stepping down last year.

Taveesin acquired her BVI company in August 2008. That was seven months after she’d been appointed an advisor to Thailand’s commerce minister — and three months before the U.S. Department of Treasury blacklisted her as a “crony” of Zimbabwean dictator Robert Mugabe.

The Treasury Department froze her U.S. assets, [accusing her](#) of “secretly supporting the kleptocratic practices of one of Africa’s most corrupt regimes” through gem trafficking and other deals made on behalf of Mugabe’s wife, Grace, and other powerful Zimbabweans.

Taveesin has said her relationship with the Mugabes is “strictly social” and that the U.S. blacklisting is a case of guilt by association. Through her secretary, Taveesin flatly denied that she owns the BVI company. ICIJ verified her ownership using [TrustNet records](#) that listed her and her brother as shareholders of the company and included the main address in Bangkok for her onshore business ventures.

Records obtained by ICIJ also reveal a secret company belonging to Muller Conrad “Billy” Rautenbach, a Zimbabwean businessman who was blacklisted by the U.S. for his ties to the Mugabe regime at the same time as Taveesin. The Treasury Department said Rautenbach has helped organize huge mining projects in Zimbabwe that “benefit a small number of corrupt senior officials.”

When CTL set Rautenbach up with a [BVI company](#) in 2006 he was a fugitive, fleeing fraud allegations in South Africa. The charges lodged personally against him were dismissed, but a South African company he controlled pleaded guilty to criminal charges and paid a fine of roughly \$4 million.



Rautenbach denies U.S. authorities' allegations, contending that they made "significant factual and legal errors" in their blacklisting decision, his attorney, Ian Small Smith, said. Smith said Rautenbach's BVI company was set up as "special purpose vehicle for investment in Moscow" and that it complied with all disclosure regulations. The company is no longer active.

'One Stop Shop'



Thousands of offshore entities are headquartered on this building's third floor, which houses TrustNet's Cook Islands office. Photo: Alex Shprintsen

Offshore's customers are served by a well-paid industry of middlemen, accountants, lawyers and banks that provide cover, set up financial structures and shuffle assets on their clients' behalf.

Documents obtained by ICIJ show how two top Swiss banks, UBS and Clariden, worked with TrustNet to provide their customers with secrecy-shielded companies in the BVI and other offshore centers.

Clariden, owned by Credit Suisse, sought such high levels of confidentiality for some clients, the records show, that a TrustNet official [described](#) the bank's request as "the Holy Grail" of offshore entities — a company so anonymous that police and regulators would be "met with a blank wall" if they tried to discover the owners' identities.

Clariden declined to answer questions about its relationship with TrustNet.

"Because of Swiss banking secrecy laws, we are not allowed to provide any information about existing or supposed accountholders," the bank said. "As a general rule, Credit Suisse and its related companies respect all the laws and regulations in the countries in which they are involved."

A spokesperson for UBS said the bank applies "the highest international standards" to fight money laundering, and that TrustNet "is one of over 800 service providers globally which UBS clients choose to work with to provide for their wealth and succession planning needs. These service providers are also used by clients of other banks."

TrustNet describes itself as a "[one-stop shop](#)" — its staff includes lawyers, accountants and other experts who can shape secrecy packages to fit the needs and net worths of its clients. These packages can be simple and cheap, such as a company chartered in the BVI. Or they can be sophisticated structures that weave together multiple layers of trusts, companies, foundations, insurance products and so-called "nominee" directors and shareholders.

When they create companies for their clients, offshore services firms often appoint faux directors and shareholders — proxies who serve as stand-ins when the real owners of companies [don't want their identities known](#). Thanks to the proliferation of proxy directors and shareholders, investigators tracking money laundering and other crimes often hit dead ends when they try to uncover who is really behind offshore companies.

[An analysis](#) by ICIJ, the BBC and *The Guardian* identified a cluster of 28 "sham directors" who served as the on-paper representatives of more than 21,000 companies between them, with individual directors representing as many 4,000 companies each.

Among the front men identified in the documents obtained by ICIJ is a U.K.-based operative who served as a director for a BVI company, [Tamalaris Consolidated Limited](#), which the European Union has labeled as a front company for the [Islamic Republic of Iran Shipping Line](#). The E.U., the U.N. and the U.S. have accused IRISL of aiding Iran's [nuclear-development program](#).



'Zone of Impunity'

International groups have been working for decades to limit tax cheating and corruption in the offshore world.

In the 1990s, the Organization for Economic Cooperation and Development began pushing offshore centers to reduce secrecy and get tougher on money laundering, but the effort ebbed in the 2000s. Another push against tax havens began when U.S. authorities took on UBS, forcing the Swiss bank to pay \$780 million in 2009 to settle allegations that it had helped Americans dodge taxes. U.S. and German authorities have pressured banks and governments to share information about offshore clients and accounts and UK Prime Minister David Cameron has vowed to use his leadership of the G8, a forum of the world's richest nations, to help crack down on tax evasion and money laundering.

Promises like those have been met with skepticism, given the role played by key G8 members — the U.S., the U.K. and Russia — as sources and destinations of dirty money. Despite the new efforts, offshore remains a “zone of impunity” for anyone determined to commit financial crimes, said Jack Blum, a former U.S. Senate investigator who is now a lawyer specializing in money laundering and tax fraud cases.

“Periodically, the stench gets so bad somebody has to get out there and clap the lid on the garbage can and sit on it for a while,” Blum said. “There’s been some progress, but there’s a bloody long way to go.”

Contributors to this story: [Mar Cabra](#), [Kimberley Porteous](#), [Frédéric Zalac](#), [Alex Shprintsen](#), [Prangtip Daorueng](#), [Roel Landingin](#), [François Pilet](#), [Emilia Díaz-Struck](#), [Roman Shleynov](#), [Harry Karanikas](#), [Sebastian Mondial](#) and [Emily Menkes](#)

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This is exemplary journalism of great social merit. Congratulations to everyone involved. It is work like this that makes some of us proud to be journalists. It also makes the general public proud that reporters give the powerful and corrupt serious scrutiny and prick their underemployed collective excuse for a conscience.

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As I said, congratulations. Good on you. Go girl and well done. Nice to see real journalism. It can be such a rarity in the modern world.



Inside PublicIntegrity

Continuing our investigation into the trillion-dollar world of offshore tax havens

By **Bill Buzenberg** [email](#) 2:55 pm, April 12, 2013 Updated: 2:57 pm, April 12, 2013

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Our reporting of previously secret off-shore companies and trusts from the British Virgin Islands to Singapore will continue throughout this year. The exact value of wealth held offshore in tax havens is hard to come by, but it is estimated to encompass \$21-32 trillion in private financial assets.

So far, the work by the [Center's International Consortium of Investigative Journalists \(ICIJ\)](#) has been republished or cited some 6,500 times by news organizations worldwide. Media in France, Spain and other places have given front-page play to stories about ICIJ's reports, which have become known in shorthand on Twitter and in many news outlets simply as "Offshore Leaks." The reaction has been positive, in almost all cases.

- A [reporter](#) for the Financial Times tweeted that "the leak of 260GB of data on offshore companies - this could be the biggest story of the year."
- A Belgian news [website](#) called this "Probably the most significant journalistic collaboration in history."
- However, a Wall Street Journal columnist called it an "[offshore witch hunt](#)."

Already we can see the impact the stories are having, especially in Europe, where governments have been moving toward more transparency:

- French President François Hollande called for "[eradication](#)" of the world's tax havens and told French banks they [must declare all of their subsidiaries](#). He also

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Secrecy for Sale



The existence of a global network of sham company directors can now be revealed. In this series, ICIJ's worldwide research which will identify, country-by-country, thousands of the true owners of offshore companies.

Stories in this series



Release of offshore records draws worldwide response

By **Mar Cabra, Michael Hudson, Emily Menkes and Kimberley Porteous** April 10, 2013

announced the creation of a special prosecutor to pursue cases of corruption and tax fraud. *The New York Times* suggested Hollande's bold move was motivated by a domestic political scandal, an ailing economy and "angry public reaction" to ICIJ's reports.

- Luxembourg's Prime Minister Jean-Claude Juncker announced [his country plans to lift bank secrecy rules for European Union citizens](#) who have savings based in the country, ending decades of bank secrecy in Luxembourg. "We are following a global movement," Juncker told parliament in a state-of-the-nation address.
- **Russian Deputy Prime Minister Igor Shuvalov** is [moving his offshore assets back to Russia](#) after ICIJ's revelations that Shuvalov's wife Olga Shuvalova was either [a shareholder or owner of several secretive offshore entities](#).
- The Philippine Presidential Commission on Good Government investigation into the disclosure that Maria Imelda Marcos Manotoc, the eldest daughter of the late dictator Ferdinand Marcos, was a [beneficiary of a secret offshore trust](#) in the British Virgin Islands, [will be released within two weeks](#).
- Athens' district attorney Panayota Fakou has started a [preliminary probe](#) to find out if Greeks who own offshore companies unearthed by the ICIJ investigation have evaded taxes or laundered money.
- And the European Commissioner for Taxation, Algirdas Šemeta, called for an automatic exchange of information between countries and a "tough common stance." "Recent developments, [fueled by the outcome of the Offshore Leaks](#), confirms the urgency for [more and better action against tax evasion ... Now it is time to put words into action](#)."

Meanwhile, requests that we turn over the leaked off-shore data to authorities are continuing to come in from various governments, including the U.S., France, Canada, Greece, the Philippines and others. French budget minister Bernard Cazeneuve, for example, joined the clamor from governments around the globe in urging ICIJ and its media partners to release the offshore tax haven files to them, to [aid justice and help them do their job](#)."

So far, ICIJ and its worldwide media partners have declined such requests and have chosen not to simply release raw mountains of data. ICIJ is continuing its responsible investigations in country after country, focusing on the public interest—public figures, banking and business leaders, as well as the crooks and fraudsters, who make use the off-shore industry to hide their money.

As we are seeing with the initial release of previously secret tax haven information, transparency and accountability can be powerful motivators for changed behavior and demands for more scrutiny.

Until next week,

Bill

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Hollande Creates a Prosecutor for Fraud and Vows to End Tax Havens

By STEVEN ERLANGER and DAVID JOLLY
Published: April 10, 2013

PARIS — Buffeted by a political scandal, a stagnant economy and angry public reaction to an investigative report about secret offshore bank accounts, President François Hollande on Wednesday announced the creation of a position of special prosecutor to pursue cases of corruption and tax fraud, and vowed to eradicate tax havens “in Europe and the world.”



Patrick Kovarik/Agence France-Presse — Getty Images
President François Hollande of France announced a series of moves Wednesday to strengthen rules on financial disclosure.

As he spoke, one of those tax havens, Luxembourg, announced that it would bow to pressure from its European allies and begin forwarding the details of its foreign clients' accounts to their home governments. Luxembourg, with only half a million people and a banking sector more than 20 times the size of its gross domestic product, is one of Europe's largest financial centers and has been compared to Cyprus, a fellow member of the euro zone that, until recently, had a huge banking sector fueled by foreign money.

Luxembourg's announcement came a day after five of the biggest European countries — Britain, France, Germany, Italy and Spain — agreed to exchange banking data and create their own automatic tax data exchange. That mechanism would be modeled on the Foreign Account Tax Compliance Act, passed by Congress in 2010 to track the overseas assets of Americans who might be dodging taxes.

The European governments said they hoped that the information exchange would not only help in catching and deterring tax evaders but also provide a “template” for a future, wider multilateral agreement. In a joint letter released Tuesday, they urged the European Union commissioner responsible for taxation, Algirdas Semeta, to work to get all 27 members of the European Union to sign up.

The announcements come a week after the Washington-based International Consortium of Investigative Journalists announced that it had obtained confidential information relating to tens of thousands of offshore bank accounts and shell companies. The leaked data, which centered on the Caribbean and especially the British Virgin Islands and the Cayman Islands, embarrassed European governments, including Luxembourg, by showing how wealthy citizens routinely hide assets, sometimes illegally, and avoid paying taxes by setting up offshore companies.

The report has set off a scramble by governments to calm public anger over widespread

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tax dodging by the rich when governments are cutting budgets and calling on citizens to pay higher taxes.

The journalist consortium, a project of the Center for Public Integrity, disclosed confidential information on more than 120,000 offshore companies and trusts and nearly 130,000 individuals and agents, including 4,000 Americans. But the consortium has refused requests by governments for access to the files, saying that it is not an arm of law enforcement. Newspapers working with the group, including *Le Monde* of France and *Le Soir* of Belgium, have said they will not hand over data to the authorities.

Britain has been especially embarrassed, because many of the accounts are in the Virgin Islands, the Cook Islands and the Cayman Islands, all British overseas territories. But British officials insist that London cannot tell the local governments what to do. The British cited new arrangements with the Isle of Man, Guernsey and Jersey to exchange financial and tax information, and said London was already “in discussions” with its various overseas territories.

Mr. Hollande’s announcement, made on national television, was prompted by a domestic political crisis over official morality in a country with weak rules for public disclosure of the assets of politicians and ministers. In addition to creating the prosecutor position, he ordered cabinet ministers to disclose their finances and asked legislators to do the same. He also promised to create an independent authority to monitor the assets and possible conflicts of interest of senior officials and legislators.

Mr. Hollande said French banks would be required to declare all their global subsidiaries, adding, “I will not hesitate to consider any country that refuses to fully cooperate with France as a tax haven.”

Mr. Hollande, a Socialist, has been in office less than a year, but his job approval ratings in opinion polls are at a record low, and there is a growing militancy in the opposition against him from both the far left and the center-right. With headlines calling him “Mr. Weak” and asking whether he is “up to the task,” Mr. Hollande and his aides see Wednesday’s announcement as a means to assert authority, change the conversation and regain momentum.

The scandal over Jérôme Cahuzac, the budget minister [who lied about having undeclared bank accounts overseas](#), has gone to the heart of the Socialists’ claim to be a scrupulously honest and transparent alternative to the previous administration, led by Nicolas Sarkozy. Mr. Cahuzac was fired and expelled from the party, but that the minister in charge of fighting tax fraud had committed it himself has been deeply damaging.

On Wednesday, the European Union issued a report warning Spain and Slovakia about dangerous macroeconomic imbalances, but it offered serious concerns about France as well. France’s resilience to external shocks is “diminishing” and its medium-term growth prospects are “increasingly hampered by long-standing imbalances,” the report said, noting that France’s share of European Union exports declined by 11.2 percent from 2006 to 2011, while rising labor costs have damaged competitiveness.

The move by Luxembourg toward disclosure leaves Austria as the lone holdout in the European Union. It pays a 35 percent withholding tax on the interest income of accounts held by foreigners in Austrian banks to their country of residence, but refuses to disclose the account holders’ identities.

Luxembourg acknowledged that it was negotiating a bilateral information exchange with the United States as part of the 2010 Foreign Account Tax Compliance Act, which was a crucial development in its decision to come clean with Europe.



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“The heart of it is that they’ll be providing account data to the United States,” said [Ben Jones](#), a tax expert in London at Eversheds, a global law firm. “If they get to that point, they can hardly continue keeping it from Europe.”

Andrew Higgins contributed reporting from Brussels.

A version of this article appeared in print on April 11, 2013, on page A6 of the New York edition with the headline: Hollande Creates a Prosecutor for Fraud and Vows to End Tax Havens.

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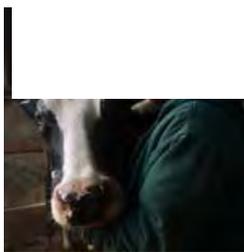
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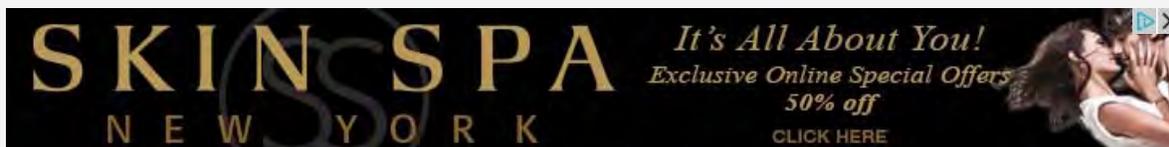


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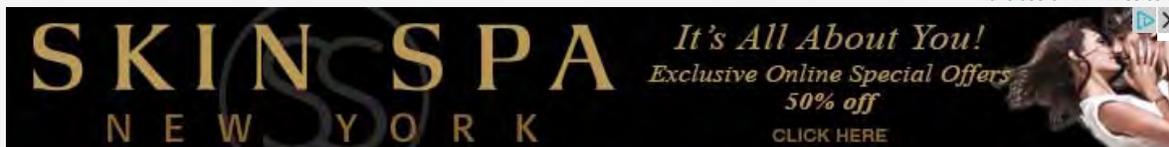
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Making Sense of Trillions in Offshore Dollars

By HEATHER MURPHY

How do you present 260 gigabytes of international financial documents, revealing trillions of dollars in undisclosed wealth? As my colleagues Andrew Higgins, Steven Erlanger and Chris Cottrell [report](#), an enormous leak of confidential financial records, obtained by the Center for Public Integrity's International Consortium of Investigative Journalists, has exposed the identities of thousands of people who benefit from offshore tax havens.

The [consortium's Web site](#) attempts to present the findings of the group of 86 investigative journalists, who spent the past 15 months sifting through the contents of a computer hard drive that arrived in the mail. The offerings are rich.

There is [a list](#) of some of the better-known individuals with offshore trusts, including a deputy speaker of Mongolia's Parliament, who is now [considering resigning](#), and [Denise Rich](#), former wife of the disgraced trader Marc Rich. There is also geographic analysis, including the fact that most people the journalists identified who had set up offshore entities lived in China, Hong Kong and Taiwan.

A good starting place to understanding what this all means for offshore banking novices, however, is [this guide](#) to stashing one's cash.

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Want to stash your cash offshore? Here's how [bit.ly/11tK0qX](#) An #offshoreleaks interactive

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Creating an offshore bank account is not illegal, the interactive reminds us, but there are many ways to skirt the law, should one desire. Tactics for getting one's money out of the country covertly include creating a fake lawsuit and smuggling gems.

The payoff becomes clear by the end of the offshore money game. By investing \$1 million over three years at a modest interest rate of 3 percent, one could avoid \$31,207 in taxes (based on an applicable Canadian tax rate.) The incentives get bigger, of course, the more one has to hide: \$50 million, over 10 years at a 6 percent interest rate, could yield \$15 million in tax savings.

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Data Leak Shakes Notion of Secret Offshore Havens and, Possibly, Nerves



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Prime Minister Bidzina Ivanishvili of Georgia, center, is listed as an owner of a secret offshore firm, according to The Guardian.

By ANDREW HIGGINS Published: April 4, 2013 | 492 Comments

BRUSSELS — They are a large and diverse group that includes a Spanish heiress; the daughter of the former Philippine dictator Ferdinand Marcos; and Denise Rich, the former wife of the disgraced trader Marc Rich, who was pardoned by President Bill Clinton. But, according to a trove of secret financial information released Thursday, all have money and share a desire to hide it.

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And, it seems safe to say, they — and thousands of others in Europe and far beyond, in places like Mongolia — are suddenly very anxious after the leak of 2.5 million files detailing the

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offshore bank accounts and shell companies of wealthy individuals and tax-averse companies.



“There will be people all over the world today who are now scared witless,” said Richard Murphy, research director for Tax Justice Network, a British-based organization that has long campaigned to end the secrecy that surrounds assets held in offshore havens. The leaked files include the names of 4,000 Americans, celebrities as well as more mundane doctors and dentists.

It is not the first time leaks have dented a thick carapace of confidentiality that usually protects the identities of those who stash money in the British Virgin Islands, the Cayman Islands, Liechtenstein and other havens. Nor, in

most cases, is keeping money in such places illegal.

But the enormous size of the data dump obtained by the International Consortium of Investigative Journalists, a Washington-based group that, along with affiliated news media organizations, announced its coup on Thursday, has punched a big hole in the secrecy that surrounds what the Tax Justice Network estimates are assets worth at least \$21 trillion held in offshore havens. “This could be a game-changer,” said Mr. Murphy, the author of a book about offshore tax shelters. “Secrecy is the key product these places sell. Whether you are a criminal laundering money or just someone trying to evade or avoid taxes, secrecy is the one thing you want.” Once this is gone, he added, “it creates an enormous fear factor” and has a “massive deterrent effect.”

And lifting the curtain on the identities of those who keep their money offshore is likely to cause particular anger in austerity-blighted Europe, where governments have been telling people to tighten their belts but have mostly turned a blind eye to wealthier citizens who skirt taxes with help from so-called offshore financial centers.

The leaked records, mainly from the British Virgin Islands, the Cook Islands and Singapore, disclose proprietary information about more than 120,000 offshore companies and trusts and nearly 130,000 individuals and agents, including the wealthiest people in more than 170 countries. Not all of those named necessarily have secret bank accounts, and in some cases only conducted business through companies they control that are registered offshore.

The embarrassment caused by Thursday’s revelations has been particularly acute in France, where the Socialist president, François Hollande, who wants to impose a 75 percent tax on millionaires, has been struggling to contain a political firestorm touched off this week by a former budget minister’s admission — after months of denials — that he had secret foreign bank accounts.

The scandal looked set to widen on Thursday as senior members of the government were forced to confront allegations that Mr. Hollande and others may have been aware that the budget minister, Jérôme Cahuzac, who resigned on March 19, was lying but failed to act.

Adding to the president’s trouble, the name of a close friend and treasurer of his 2012 election campaign, Jean-Jacques Augier, appeared in connection with the files released Thursday by the International Consortium of Investigative Journalists. Mr. Augier, according to the newspaper Le Monde, was identified as an investor in offshore businesses in the Cayman Islands, another well-known tax haven.

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Mr. Augier, a friend of Mr. Hollande's, denied to Le Monde and Agence France-Presse that he had done anything illegal or improper. He said he had invested in funds that invested in China, and that he had no personal bank account in the Cayman Islands or any direct personal investment there. He conceded only that "maybe I lacked a bit of caution."

Others identified included Maria Imelda Marcos Manotoc, a provincial governor and eldest daughter of the former Philippine president; Olga Shuvalova, the wife of Russia's deputy prime minister, [Igor Shuvalov](#); [Gunter Sachs](#), a German playboy and photographer who committed suicide in May 2011 at age 78; and [Baroness Carmen Thyssen-Bornemisza](#), Spain's wealthiest art collector and the widow of a Thyssen steel company billionaire. The president of Azerbaijan, Ilham Aliyev, and his wife, Mehriban, were featured in the documents as having set up an offshore company in the British Virgin Islands, while their two daughters appeared in connection with three other offshore outfits.

The consortium did not specify how it got the information or where it came from. On its Web site, the group said "the leaked files provide facts and figures — cash transfers, incorporation dates, links between companies and individuals — that illustrate how offshore financial secrecy has spread aggressively around the globe, allowing the wealthy and the well connected to dodge taxes and fueling corruption and economic woes in rich and poor nations alike."

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Steven Erlanger contributed reporting from Paris, and Chris Cottrell from Berlin.

A version of this article appeared in print on April 5, 2013, on page A4 of the New York edition with the headline: Data Leak Shakes Notion of Secret Offshore Havens and, Possibly, Nerves.

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(Page 2 of 2)

In Germany, now gearing up for national elections in September and a country with both a strong sense of social justice and a long history of tax evaders sneaking money into nearby Switzerland, politicians expressed concern, even outrage, over the disclosures. Of particular concern were indications that big banks in Germany and elsewhere are deeply involved in moving money beyond the reach of tax authorities.

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"We should introduce tougher penalties for those financial institutions that are ideal for tax fraud or take part in it," Peer Steinbrück, the Social Democratic Party's candidate for chancellor, was quoted as saying in the daily newspaper Süddeutsche Zeitung.

The issue of tax avoidance has become a highly charged issue across much of Europe, particularly in richer northern countries that are increasingly fed up with demands for bailout money from heavily indebted countries like Greece. A key demand of a recent bailout deal announced for Cyprus was that the nation drastically shrink its role as a financial center and, many in Germany suspect, a haven for money laundering.

Robert Palmer, a policy adviser for [Global Witness](#), a London research group that focuses on corruption, said the naming of offshore account holders could have

powerful political reverberations across Europe because "it shows that if you are wealthy and well connected you play by different rules."

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He said the information released so far did not shed any new light on how offshore finance works but was still significant because it identified people who used hidden shelters.

“This is very unusual because it is so difficult to get any information out of these places,” he said. “It adds to the picture of how easy it is to move money around and will build up the anger of people who are being asked to make cuts but see that there are people out there who benefit hugely from the system.”

The disclosure of offshore financial information is also a potential embarrassment for Prime Minister David Cameron of Britain, in that much of the data released so far related to the British Virgin Islands, a British-ruled territory in the Caribbean.

Mr. Cameron had earlier spoken about the importance of tax and financial transparency and pledged to make it a priority issue at a meeting of the leaders of the Group of 8 advanced industrial nations in Northern Ireland in June.

The British Caribbean territory, however, is notoriously secretive and, Mr. Palmer said, one of the most egregious offenders in enabling wealthy people to hide their money to avoid taxes.

In a statement issued Thursday, Global Witness called on Mr. Cameron and fellow Group of 8 leaders to “crack down on anonymous company ownership.”

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Steven Erlanger contributed reporting from Paris, and Chris Cottrell from Berlin.

A version of this article appeared in print on April 5, 2013, on page A4 of the New York edition with the headline: Data Leak Shakes Notion of Secret Offshore Havens and, Possibly, Nerves.

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ABOUT THE ICIJ

By [The International Consortium of Investigative Journalists](#) | February 13, 2012, 5:19 pm



The International Consortium of Investigative Journalists is an active global network of **160 reporters in more than 60 countries** who collaborate on **in-depth investigative stories**.

Founded in 1997, ICIJ was launched as a project of the [Center for Public Integrity](#) to extend the Center's style of watchdog journalism, focusing on **issues that do not stop at national frontiers: cross-border crime, corruption, and the accountability of power**. Backed by the Center and its computer-assisted reporting specialists, public records experts, fact-checkers and lawyers, ICIJ reporters and editors provide real-time resources and state-of-the-art tools and techniques to journalists around the world.

Our advisory committee consists of some of the biggest names in investigative journalism: Bill Kovach, Rosental Calmon Alves, Phillip Knightley, Gwen Lister, Goenawan Mohamad, Reginald Chua and Brant Houston.

Why we exist

The need for **such an organization** has never been greater. Globalization and development have placed extraordinary pressures on human societies, posing unprecedented threats from polluting industries, transnational crime networks, rogue states, and the actions of powerful figures in business and government.

The news media, hobbled by short attention spans and lack of resources, are even less of a match for those who would harm the public interest. Broadcast networks and major newspapers have closed foreign bureaus, cut travel budgets, and disbanded investigative teams. **We are losing our eyes and ears around the world precisely when we need them most.**

Meanwhile, in many developing countries, investigative reporters are killed, threatened, or imprisoned with alarming regularity. Amazingly unbowed by these life-and-death realities, journalists are in dire need of help from colleagues abroad, many of whom do similar work and can offer support.

What we do

ICIJ projects are typically staffed by **teams** ranging from as few as three to as many as 20 reporters spread around the world. These journalists work with counterparts in other countries and with **our Washington, D.C., staff** to report, edit, and produce **groundbreaking multimedia reports that adhere to the highest standards of fairness and accuracy.**

Over the years, **our teams** have exposed **smuggling by multinational tobacco companies** and by **organized crime syndicates**; investigated **private military cartels, asbestos companies, and climate change lobbyists**; and broke new ground by publicizing details of **Iraq and Afghanistan war contracts**.

Who we work with

To release its findings, ICIJ works with leading news organizations worldwide. Our stories have appeared in a dozen languages and with such partners as the BBC World Service and BBC World TV, the *International Herald Tribune*, *Le Monde* (France), *El Mundo* (Spain), *Trouw* (the Netherlands), *El Pais* (Spain), *Folha de Sao Paulo* (Brazil), *Le Soir* (Belgium), *Novaya Gazeta* (Russia), the *South China Morning Post* (Hong Kong), *Stern* (Germany), *The Guardian* (UK), *The Sunday Times* (UK), *Proceso* (Mexico), the Huffington Post (USA), *The Age* (Australia) and *The Sydney Morning Herald* (Australia).

These [unique collaborations](#) have been honored repeatedly. Among ICIJ's awards: George Polk Award, Overseas Press Club Award, John Oakes Award, Editor and Publisher Award, Society of Professional Journalists and the Investigative Reporters and Editors Award.

Outreach

In addition to ICIJ's in-depth reporting, the consortium plays a key role in **bringing together investigative journalists from around the world**. ICIJ reaches thousands of followers in dozens of countries with news on the latest reporting tools and techniques, awards, fellowships, and journalists under fire, via:

- Our website, icij.org
- Our [Global Muckraker blog](#)
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Every two years, ICIJ sponsors a global competition, the [Daniel Pearl Awards for Outstanding International Investigative Reporting](#) – the only prize that specifically recognizes the best cross-border investigative journalism.

Our supporters

Cross-border investigative journalism is among [the most expensive and riskiest in the world](#).

Recent ICIJ funders include: Adessium Foundation, Open Society Foundations, The David and Lucile Packard Foundation, Oak Foundation, Pew Charitable Trusts and Waterloo Foundation.

We welcome [individual donations](#) in support of our work. To make a gift online or to find out more about donating click [here](#).

We want to hear from you

ICIJ is open to **new story ideas**, as well as outstanding investigative journalists interested in collaborating with us. Please don't hesitate to [contact us with your ideas](#).

If you want to be considered for ICIJ membership please [send us](#) your CV and clips.



OUR STAFF

Gerard Ryle

Director



Gerard Ryle leads the ICIJ's headquarters staff in Washington, D.C., as well as overseeing the consortium's more than 160 member journalists in more than 60 countries. Before joining as the ICIJ's first non-American director in September 2011, Ryle spent 26 years working as a reporter, investigative reporter and editor in Australia and Ireland, including two decades at *The Sydney Morning Herald* and *The Age* newspapers. He uncovered some of the biggest stories in Australian journalism, winning that country's highest journalism award four times. He is a former deputy editor of *The Canberra Times* and a former Knight-Wallace Journalism Fellow at the University of Michigan. He is the author of a critically acclaimed book based on one of his former investigations, *Firepower*, and has contributed to two other books on journalism, published in the U.S. and Australia.

Twitter: [@RyleGerard](#)



Marina Walker Guevara

Deputy Director

Marina Walker Guevara is ICIJ's deputy director. A native of Argentina, she has reported from a half-dozen countries and her investigations have won and shared more than 15 national and international awards, including from Investigative Reporters and Editors, Overseas Press Club and the Society of Professional Journalists. Over a 15-year career, she has written about environmental degradation in Latin America by multinational corporations; shadowy U.S. government HIV/AIDS prevention programs in Africa, the global black market in endangered bluefin tuna and the cigarette mafia in the Tri-Border Area, among other topics. In March 2006 she was awarded the European Commission Lorenzo Natali Prize (Latin America and the Caribbean region) for her investigation about environmental damage caused in Peru by a U.S.-based mining company. She graduated magna cum laude from Universidad Nacional de Cuyo in Mendoza, Argentina, with a bachelor's degree in communication sciences, and earned a master's degree in journalism from the University of Missouri.

Twitter: [@MarinaWalkerG](#)



Michael Hudson

Senior Editor

Michael Hudson, USA, is a senior editor at ICIJ. His [two decades of work on mortgage and banking fraud](#) has prompted media critics to call him the reporter "who beat the world on subprime abuses" and the "[guru of all things predatory lending](#)." He previously worked as a reporter for the Wall Street Journal and as an investigator for the Center for Responsible Lending. Hudson has also written for Forbes, the New York Times, the Los Angeles Times and Mother Jones. His work has won many honors, including a [George Polk Award for magazine reporting](#), a John Hancock Award for business journalism and accolades from the National Press Club, the White House Correspondents' Association, the American Bar Association and the New York State Society of CPAs. He edited the award-winning book *Merchants of Misery* and appeared in the documentary film *Maxed Out*. His latest book, *THE MONSTER: How a Gang of Predatory Lenders and Wall Street Bankers Fleeced America—and Spawned a Global Crisis*, was named 2010 Book of the Year by Baltimore City Paper and called "essential reading for anyone concerned with the mortgage crisis" by Library Journal. His recent series of stories for the Center, "The Great Mortgage Cover-Up," has been selected to appear in Columbia University Press's *Best Business Writing, 2012*.

Twitter: [@michaelwhudson](#)



Kimberley Porteous

Digital Editor

Kimberley Porteous is ICIJ's digital editor. She is the former digital editor of *The Canberra Times* and multimedia editor of *The Sydney Morning Herald*. Her digital journalism has been awarded Australia's highest journalism prize, the Walkley Award, three times, and has twice been a finalist. In 2011 she was an Award judge.

Twitter: [@brontegirl](#)

ADVISORY COMMITTEE

Bill Kovach, United States, former curator of the Nieman Foundation for Journalism at Harvard University and an American newspaperman for 30 years, is the North American representative and chair of the ICIJ Advisory Committee.

Kovach has been a journalist and writer for 40 years, including 18 years as a reporter and editor for *The New York Times*. As an editor, Kovach supervised reporting projects that won four Pulitzer Prizes, including two during his two-year tenure as editor of the *Atlanta Journal-Constitution*, the first Pulitzers awarded to that paper in 20 years.

Kovach was a 1988-89 Nieman fellow at Harvard University and remained as curator of the Nieman Foundation journalism fellowship program until 2000.

Among his many other awards are the Sigma Delta Chi Award for contributions to journalism research in 2000, the National Mental Health Award in 1968, the New York State Bar Association Award in 1968, the AEJMC Professional Freedom and Responsibility Award in 1992, the Sigma Delta Chi First Amendment Award in 1996, the Goldsmith Career Award for Excellence in Journalism in 2000, and the Elijah Parish Lovejoy Award, which was accompanied by an honorary doctorate from Colby College.

Kovach served on Pulitzer juries from 1987-1990 and is a board member of the Committee to Protect Journalists.

He is co-author of [Warp Speed: America in the Age of Mixed Media](#), [The Elements of Journalism: What Newspeople Should Know and the Public Should Expect](#), and [Blur: How to Know What's True in the Age of Information Overload](#).

Kovach is a long-time advisory board member of the Center for Public Integrity.

Rosental Calmon Alves, United States/Brazil, is a journalism professor at the University of Texas at Austin, where he holds the first John S. & James L. Knight Chair in International Journalism. For a decade, Alves worked as a foreign correspondent for Brazil's daily newspaper, *Jornal do Brasil*, reporting from Spain, Argentina, Mexico, and the United States. He taught journalism at two Rio de Janeiro universities and in 1987-88 became the first Brazilian to be selected as a Nieman Fellow at Harvard University. As a correspondent and editor, he has participated in or directed several investigative reporting projects. Alves is the Latin American representative on the Advisory Committee.

Phillip Knightley, Britain, was a member of *The Sunday Times*' Insight team in its heyday, and it was there that he first uncovered the Kim Philby spy scandal. He later discovered that the newspaper's executives had informed British intelligence about the activities of their journalists.

The Australian-born Knightley also played a central role in investigating and exposing [thalidomide birth defects](#) and later detailed the scandal, which came to be known as the Profumo affair, in his 1987 book [An Affair of State](#).

The author of nine books, Knightley wrote [A Hack's Progress](#) about his life as an investigative reporter in 1998. In 2000, Knightley released his latest book, [Australia: A Biography of a Nation](#).

He is the European representative on the Advisory Committee.

Read Phillip Knightley's essay on how to be a great investigative reporter in ICIJ's [Secrets of the Masters](#) series.

Gwen Lister, Namibia, founded *The Namibian* in 1985 during apartheid colonialism in the country. The newspaper and staff were consistently targeted by right-wing elements and security forces because of the perception that the newspaper supported the liberation movement. Lister was jailed twice, in 1984 under the Official Secrets Act, and in June 1988, when she was detained without trial and denied access to a lawyer. Authorities jailed her the second time in an attempt to force her to reveal the source of a secret document she had published, which proposed sweeping new powers for the police. She was four months pregnant at the time. Attacks on the newspaper and harassment of its staff culminated in an arson attack that destroyed the offices of *The Namibian* in October 1988.

After independence in 1990, the newspaper was again targeted by right-wing elements after a front-page report about a possible coup attempt against the new government. The editorial offices were damaged in a phosphorous grenade firebombing. In these and other bombings, *The Namibian* never missed an edition.

The role of *The Namibian* in pre-independence Namibia has been honored by a number of international awards. In 2000, Lister was named one of 50 World Press Freedom Heroes of the last half century by the International Press Institute. In 1992, she was awarded a Committee to Protect Journalists' International Press Freedom Award and the Press Freedom Award of the Media Institute of South Africa.

In October 2011, after 26 years at the helm of *The Namibian* Lister handed over the reins to Tangeni Amupadhi. At the same time she formalized the non-profit Namibia Media Trust which owns the newspaper, and appointed other Trustees. Lister is Executive Director of The Free Press of Namibia (Pty) Ltd and Chairs the Trust - in terms of which the profits of *The Namibian* are ploughed back into

promotion of free and independent press, excellence and training in journalism in the wider media community.

Lister was a 1996 Nieman fellow at Harvard.

Goenawan Mohamad, Indonesia, is founder and editor of [Tempo](#) magazine, Indonesia's most-respected newsmagazine. It was banned by the Suharto government in 1994 after publishing details of the government's purchase of aging East German destroyers, a confidential subject of dispute among Suharto's cabinet members. In 1995, Mohamad founded the Institute for the Studies on Free Flow of Information (ISAI) which produced alternative media intended to circumvent censorship. Mohamad later formed the Alliance of Independent Journalists, the only independent journalism organization in Indonesia. Following Suharto's resignation in May 1998, Mohamad led a group of reporters in restarting *Tempo* online and in print. Mohamad was a 1990 Nieman fellow at Harvard University and in 1997 received the Nieman fellows' Louis Lyons Award for Conscience and Integrity in Journalism. In 1998, he was awarded the Committee to Protect Journalists' International Press Freedom Award. Mohamad is a visiting history professor at the University of California at Berkeley this year, where he will teach courses in Indonesian and Southeast Asian culture. Mohamad is the Asian representative on the Advisory Committee.

Reginald Chua is Editor, Data and Innovation at Thomson Reuters, based in New York. From July 2009 to March 2011, he was Editor-in-Chief of the *South China Morning Post*, responsible for the editorial operations of the Hong Kong-based news media company. Prior to that, he had a 16-year run at *The Wall Street Journal*, including as a Deputy Managing Editor in New York, where he managed the global newsroom budget, supervised the graphics team, and helped develop the paper's computer-assisted reporting capabilities. He began a 16-year career at the *Journal* as a correspondent in Manila, opened the paper's bureau in Hanoi, became the longest-serving editor of the *Journal's* Hong Kong-based Asian edition, then moved to New York, where his initial duties were to manage the paper's global newsroom budget and administration. During his eight-year tenure as editor of the *Asian Journal*, the paper won numerous Society of Publishers in Asia awards for editorial excellence; staff at the paper also won a Pulitzer Prize and an Overseas Press Club of America award. He also covered the Philippines for the *Straits Times*, worked at Reuters in Singapore, and was a television and radio journalist at the then-Singapore Broadcasting Corp. A native of Singapore, Reginald graduated with a Master's in Journalism from Columbia University and a Bachelor's in Mathematics from the University of Chicago.

Brant Houston, United States, is a journalism professor at the University of Illinois at Urbana-Champaign, where he holds the John S. & James L. Knight Chair in Investigative Reporting. Houston served for more than 10 years as executive director of Investigative Reporters and Editors (IRE), a nonprofit organization of more than 4,000 members, and as a professor at the University of Missouri School of Journalism. He co-founded the Global Investigative Journalism Network in 2003 and is chair of the recently formed Investigative News Network. Before joining IRE, Houston was an award-winning investigative reporter for 17 years at metropolitan papers in the United States. He is author of *Computer-Assisted Reporting: A Practical Guide* and co-author of *The Investigative Reporter's Handbook*. He has taught investigative reporting and computer-assisted reporting in more than a dozen countries.

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AP / August 29, 2013, 8:58 PM

Intel chief to publish numbers of secret spying orders



Director of National Intelligence James Clapper / GETTY IMAGES

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WASHINGTON | The nation's top intelligence official said Thursday that he'll now release figures every year on how many new top secret court orders and national security letters are issued and how many people are targeted because of them.

Director of National Intelligence James R. Clapper said in a statement that the number of Foreign Intelligence Surveillance Court orders and national security letters authorizing spying will be published on a website established to show the American people how U.S. spy agencies work. The court orders and letters are tools authorized by the USA Patriot Act to pursue suspects related to terrorism and espionage.

NSA gathered thousands of Americans' emails, FISA court records show

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- [Obama, agencies detail rationale for NSA surveillance](#)
- [Administration declassifies more NSA surveillance documents](#)

Publishing the numbers is part of President Barack Obama's edict to provide more transparency and to try to convince Americans that they are not being spied on, after leaks by former National Security Agency systems analyst **Edward Snowden revealed the NSA annually gathers millions of U.S. phone and Internet records** and has scooped up thousands of U.S. emails mixed with those of terror suspects.

Several lawmakers have called for the court orders to be declassified, and have drafted at least 19 bills aimed at trimming the NSA's spying authority.

The NSA made public three formerly secret court opinions last week which revealed the agency was ordered in 2011 to stop collecting thousands of Internet communications from Americans with no connection to terrorism -- a practice it says was an **unintended consequence** when it gathered bundles of Internet traffic connected to terror suspects.

A judge had ordered the NSA to publish one of the court orders; the other two released showed the agency had changed its processes and received a legal sign-off by the secret court on a procedure to limit how long the mixed emails may be stored and how the data may be accessed when it is likely to include U.S. citizens' emails.

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NSA admits improperly collecting records on Americans

August 16, 2013 4:00 PM

The National Security Agency argues the number of privacy violations is tiny, and that the agency doesn't hide the incidents. But many members of Congress were stunned that there were nearly 2,800 privacy breaches. Wyatt Andrews reports.

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By STEPHANIE CONDON / CBS NEWS / August 18, 2013, 3:40 PM

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The latest revelations about **abuses within the National Security Agency's surveillance programs** shows the agency can't be trusted to police itself and that Congress should enact tougher forms of oversight, several lawmakers said Sunday.

"I want to rephrase Ronald Reagan and say we should trust but codify," Rep. Bobby Scott, D-Va., said on CBS' "Face the Nation." "Put it in a code what they

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Ads NSA Spying Scandal

can do... Now they said they get all these phone records, but they only query the information judiciously. Well, I can't find anything in the code that limits what they can do with that information, particularly in criminal investigations."

NSA officials have said its attempts to monitor for terrorist activities do not threaten Americans' civil liberties. At a **Las Vegas conference for hackers** last month, NSA Director Keith Alexander said, "I think it is important to understand the strict oversight that goes in, in these programs because the assumption is that people are out there wheeling and dealing and nothing could be further from the truth. We have tremendous oversight and compliance in these programs."

- **NSA abuses contradict Obama and congressional claims of oversight**
- **NSA surveillance: The debate Obama never wanted**

However, the latest leaks from former NSA contractor Edward Snowden show that the NSA broke privacy rules more than 2,700 times within just one year.

Rep. Bob Goodlatte, R-Va., chairman of the House Judiciary Committee, said on "Face the Nation" that he met with President Obama recently and told him that there needs to be a careful examination of NSA programs and that "the trust of the American people in their government is what's at stake here."

Goodlatte said he has "absolutely no doubt" that his committee will take up legislation on the issue: "Some of the things that are suggested are to make it clear that the law, Section 215 [of the Patriot Act], does not allow the government to gather large sums of data like they do."

Last month, the House **narrowly rejected** a bill that would have done just that. Rep. Justin Amash, R-Mich., the sponsor of the bill, said Sunday on CNN's "State of the Union" that he's hopeful there will be another vote on the measure.

"I certainly heard from a number of my colleagues directly and through the media that they feel differently about the amendment now that if they had a second chance, yes, they might have voted yes on it," he said.

Rep. Chris Van Hollen, D-Md., voted against the Amash amendment but said on "State of the Union" that there should be reforms to prevent the kinds of abuses that came to light last week.

"In fact, I'm working on an initiative to do exactly that," he said. "What's the standard for the NSA being able to search or query that data [it collects from phone companies]? Right now, you have to have a reasonable suspicion that that phone number was involved in terrorist activity. My concern is, NSA can reach that judgment unilaterally. You do not have to get advance notice from the FISA court. So, I propose that before they do any kind of query, any kind of search, they have to go to the FISA court."

Van Hollen also said the Foreign Intelligence Surveillance Act Court (known as the FISA Court, or FISC) should include a "citizen's advocate to take the adversarial position" -- a proposal already introduced in the Senate.

1/2

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Dems propose changes to "one-sided" surveillance court

August 1, 2013 9:43 AM

A trio of Democratic senators proposed changes to the FISA court, which oversees government surveillance programs, to make the court less "one-sided" by incorporating a "special advocate" to push back against the government's case for surveillance authority.

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CBS/AP / August 21, 2013, 3:37 PM

NSA gathered thousands of Americans' emails, FISA court records show



Director of National Intelligence James Clapper, in a March 2013 file photo. / GETTY IMAGES

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Updated 4:50 p.m. ET

WASHINGTON | Amid growing public criticism, the National Security Agency declassified three secret U.S. court opinions Wednesday showing how it scooped up as many as 56,000 emails and other communications by Americans with no connection to terrorism annually over three years, how it revealed the error to the court and changed how it gathered Internet communications.

Director of National Intelligence James Clapper authorized the release Wednesday.



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The opinions show that when the NSA reported that to the court in 2011, the court ordered the NSA to find ways to limit what it collects and how long it keeps it.

The NSA reported the problems it discovered in how it was gathering Internet communications to the court and shortly thereafter to Congress in the fall of 2011.

Three senior U.S. intelligence officials said Wednesday that the NSA realized that when it was gathering up bundled Internet communications from fiber optic cables, with the cooperation of telecommunications providers like AT&T, that it was often collecting thousands of emails or other Internet transactions by Americans who had no connection to the intended terror target being tracked.

The officials briefed reporters on condition of anonymity because they were not authorized to describe the program publicly.

- **NSA breaches will prompt more legislation, congressmen say**
- **NSA abuses contradict Obama and congressional claims of oversight**
- **Report: NSA spying broke privacy rules numerous times**

While the NSA is allowed to keep the metadata — the address or phone number and the duration, but not the content, of the communication — of Americans for up to five years, the court ruled that when it gathered up such large packets of information, they included actual emails between American citizens, it violated the Constitution's ban against unauthorized search and seizure.

In the opinion by the Foreign Intelligence Surveillance Court (FISA court) denouncing the practice, the judge wrote that the NSA had advised the court that "the volume and nature of the information it had been collecting is fundamentally different than what the court had been led to believe," and went on to say the court must consider "whether targeting and minimization procedures comport with the 4th Amendment."

For instance, two senior intelligence officials said, when an American logged into an email server and looked at the emails in his or her inbox, that screen shot of the emails could be collected, together with Internet transactions by a terrorist suspect being targeted by the NSA — because that suspect's communications were being sent on the same fiber optic cable by the same Internet provider, in a bundled packet of data.

These interceptions of innocent Americans' communications were happening when the NSA accessed Internet information "upstream," meaning off of fiber optic cables or other channels where Internet traffic traverses the U.S. telecommunications system.

The NSA disclosed that it gathers some 250 million internet communications each year, with some 9 percent from these "upstream" channels, amounting to between 20 million to 25 million emails a year. The agency used statistical analysis to estimate that of those, possibly as many as 56,000 Internet communications collected were sent by Americans or persons in the U.S. with no connection to terrorism.

Under court order, the NSA resolved the problem by creating new ways to detect when emails by people within the U.S. were being intercepted, and separated those batches of communications. It also developed new ways to limit how that data could be accessed or used. The agency also agreed to only keep these bundled



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communications for possible later analysis for a 2-year period, instead of the usual 5-year retention period.

The agency also, under court order, destroyed all the bundled data gathered between 2008, when the FISA Court first authorized the collection under section 702 of the Patriot Act, until 2011 when the new procedures were put in place.

The newly released court opinions revealed the court signed off on the new procedures, deeming them constitutionally acceptable.



Play VIDEO

White House still denying domestic surveillance programs

White House spokesman Josh Earnest said the White House **still contends there is no domestic surveillance program** despite new revelations about the scope of U.S. emails and Internet communications that can get swept up by the NSA. He said the program is specifically to gather foreign intelligence, adding that the fact that the extent of incidental American surveillance has been documented is proof positive that accountability measures are working properly.

"The reason that we're talking about it right now is because there are very strict compliance

standards in place at the NSA that monitor for compliance issues, that tabulate them, that document them and that put in place measures to correct them when they occur," Earnest said.

The NSA and the FISA court have come under increasing criticism since former NSA contractor **Edward Snowden leaked details** of how they operate to the press earlier this year.



Play VIDEO

NSA network can observe 75 percent of internet traffic in U.S.

According to a Wall Street Journal report on Tuesday, the NSA has built a surveillance network that covers considerably more U.S. Internet communication than intelligence officials have previously disclosed publicly. The system, built by Boeing, Cisco, and Juniper Networks, draws information from telecommunications carriers that **cover approximately 75 percent of all U.S. Internet traffic.**

The surveillance network is designed to seek out communications that originate or end overseas or take place entirely on foreign soil, but pass

through the U.S.

CBS News senior correspondent John Miller, a former deputy director of National Intelligence, explained Wednesday that the report reveals the "capability" but not the breadth of the "100-page rulebook that goes with how to use that capability."

Moreover, according to Miller, the data culled from that 75 percent of Internet

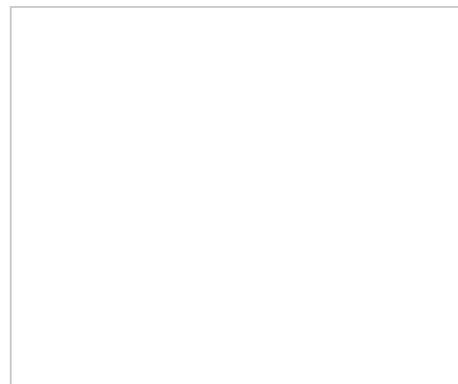


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communications, is so vast that the NSA is "not even putting a dent" in terms of sifting through the data, but rather collecting it so they have a record of communication and enough data to cross-check against.

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The Foreign Intelligence Surveillance Court

Under the Foreign Intelligence Surveillance Act of 1978, the government is required to obtain a judicial warrant — similar to those issued in criminal investigations — before federal intelligence agencies can conduct electronic surveillance and gather intelligence within the United States in the interest of national security. The Foreign Intelligence Surveillance Court was established by Congress to approve or deny warrant applications related to national security investigations. Read [related article](#).

WHO SERVES ON THE COURT?

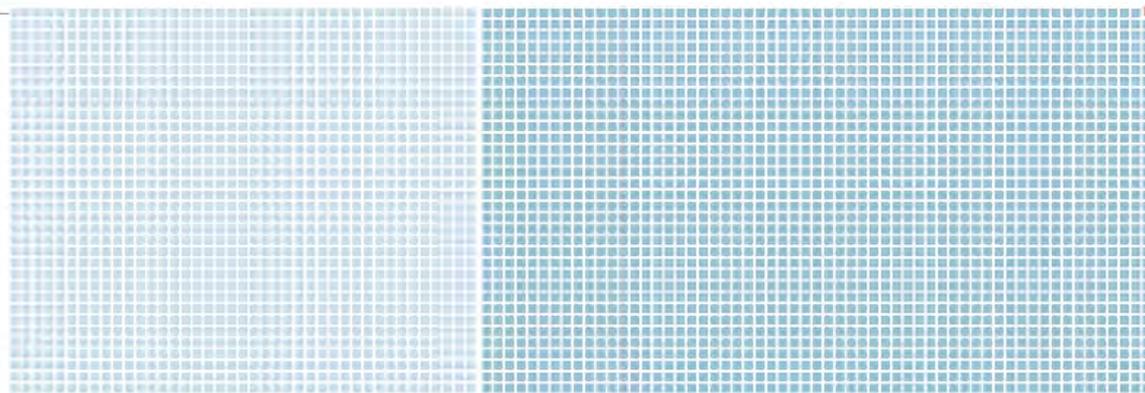
Eleven U.S. district court judges from at least seven judicial circuits, all selected by the Supreme Court chief justice, serve staggered terms for up to seven years. No fewer than three judges must live within 20 miles of the District to ensure the court can be called upon on short notice, at any time of the day.



AUTHORIZING REQUESTS

Since 1979, nearly **34,000 warrant applications** requesting the authority to conduct domestic electronic surveillance, physical searches or a combination of both that target “foreign powers” or “the agent of a foreign power,” such as U.S. citizens who may be involved in the commission of a crime, have been submitted to the court by federal intelligence agencies.

One square equals 10 warrant applications



Only 11 requests were denied by the court.

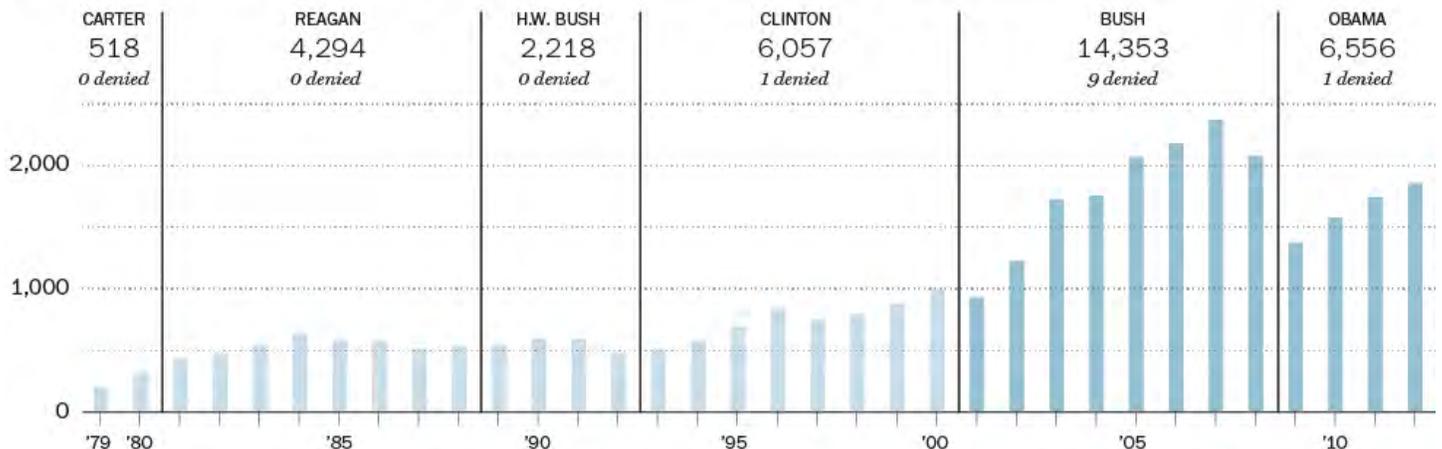
Note: One of the 11 rejected requests happened before 2001.

More than 20,000 requests since Sept. 11, 2001

APPLICATIONS PRESENTED TO COURT

Though the details of the applications are classified, the attorney general is required by law to report to Congress the total number of granted, modified or denied applications. The attorney general briefs select intelligence committees in the House and Senate about electronic surveillance on a semiannual basis.

Total number of electronic surveillance requests submitted to the court since 1979, by administration and year



During the first 23 years of the Foreign Intelligence Surveillance Act, about 14,000 requests — or more than 600 per year on average — were submitted to the court.

Since Sept. 11, 2001, the average number of requests has nearly tripled to about 1,700 per year.

Sources: Foreign Intelligence Surveillance Court, Federal Judicial Center, Department of Justice, Federation of American Scientists. By Todd Lindeman/The Washington Post. Published on June 7, 2013, 11:53 p.m.

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Secrecy of surveillance programs blunts challenges about legality



Video: The U.S. government is accessing top Internet companies' servers to track foreign targets. Reporter Barton Gellman talks about the source who revealed this top-secret information and how he believes his whistleblowing was worth whatever consequences are ahead.

By Robert Barnes, Published: June 7 [E-mail the writer](#)

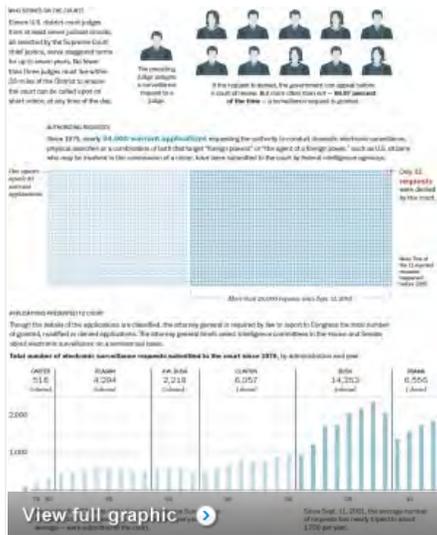
All three branches of government have a hand in the surveillance measures enacted to protect Americans from terrorism, but the need for secrecy and formidable legal obstacles have blunted challenges about their legal foundation and constitutionality.

This week's disclosures about government surveillance of phone calls and Internet data led President Obama on Friday to try to reassure the public that programs initiated to keep tabs on foreign terrorism suspects are not compromising Americans' right to privacy.

Graphic

"What you've got is two programs that were originally authorized by Congress, have

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Hong Kong authorities are asked to arrest leaker of documents that revealed secret surveillance program.

Snowden flees to Moscow, asks Ecuador to grant him asylum



Kathy Lally, Anthony Faiola and Jia Lynn Yang JUN 24

The former NSA contractor, charged by the U.S. with espionage, leaves Hong Kong with the aid of WikiLeaks.

Legal and political maneuvering let Snowden fly to Moscow

Sari Horwitz, Jia Lynn Yang and Peter Finn JUN 23

been repeatedly authorized by Congress, bipartisan majorities have approved them, Congress is continually briefed on how these are conducted . . . and federal judges are overseeing the entire program throughout," Obama said.

But Jameel Jaffer, the ACLU's deputy legal director, said the revelations that the government secured telephone records from Verizon and Internet data from some of the largest providers proved the opposite.

"It confirms the safeguards that are supposed to be protecting individual privacy are not working," he said.

Jaffer learned firsthand the difficulty of litigating challenges that arise from the system of warrantless surveillance initiated by the George W. Bush administration and embraced by the Obama administration.

Jaffer represented a group of lawyers and journalists challenging a 2008 expansion of the Foreign Intelligence Surveillance Act, which allows the interception of electronic communications between foreign targets and people in the United States. It allows national security officials to obtain authorization from the Foreign Intelligence Surveillance Court (FISC) to track suspects for up to one year.

The Supreme Court split along ideological grounds in ruling 5 to 4 that because the group could not prove that its communications had been intercepted, its lawsuit challenging the constitutionality of the law could not go forward.

The challengers, Justice Samuel A. Alito Jr. wrote for the conservative majority, "can only speculate as to how the attorney general and the director of national intelligence will exercise their discretion in determining which communications to target."

Justice Stephen G. Breyer, writing for the liberal dissenters, said the majority was wrong to accept the government's view that the challengers' belief that their communications were intercepted was "speculative."

"We need only assume that the government is doing its job (to find out about, and combat, terrorism) in order to conclude

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The whistleblower group orchestrates a Hollywoodesque plan to spirit Snowden out of hiding in Hong Kong.

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that there is a high probability that the government will intercept at least some electronic communication to which at least some of the plaintiffs are parties," he wrote.

In an interview Friday, Jaffer said: "It turns out the kind of things the government said were only speculative were in fact going on at the same time."

Still, the question in that case was whether the lawsuit could continue, not about underlying questions about the program's legality.

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shadocat wrote:

6/8/2013 6:12 AM EDT

Without public oversight, this is the single biggest threat to American freedom of the 21st century. Frankly, now I'm more afraid of my own government than I am of a terrorist attack.



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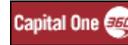
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Secrecy of surveillance programs blunts challenges about legality



Video: The U.S. government is accessing top Internet companies' servers to track foreign targets. Reporter Barton Gellman talks about the source who revealed this top-secret information and how he believes his whistleblowing was worth whatever consequences are ahead.

"These issues are very tough to get litigated," said Orin Kerr, a law professor at George Washington University.

The government's actions in the surveillance area are overseen by FISC, composed of 11 federal judges appointed by Chief Justice John G. Roberts Jr. The judges consider the government's surveillance programs and requests, and rarely make their opinions public.

Graphic

The court approved each of the 1,789 eavesdropping requests it received from the government in 2012, except for one that was withdrawn. The court made modifications in 40 of the requests,

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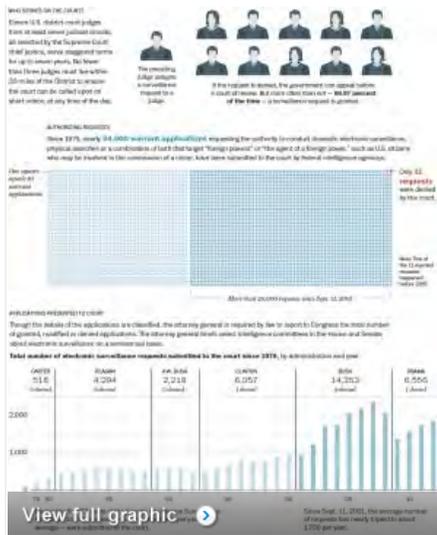
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Legal and political maneuvering let Snowden fly to Moscow

Sari Horwitz, Jia Lynn Yang and Peter Finn JUN 23

according to a report it sent to Congress.

The court's chief judge, Reggie Walton, denied that it rubber-stamps administration requests. In an interview with the Guardian, which broke the story that the National Security Agency has been collecting phone records of millions of American customers of Verizon, one of the nation's largest telecommunications providers, Walton said: "There is a rigorous review process of applications submitted by the executive branch, spearheaded initially by five judicial branch lawyers who are national security experts and then by the judges, to ensure that the court's authorizations comport with what the applicable statutes authorize."

But Elizabeth Goitein, co-director of the Liberty and National Security Program at the Brennan Center for Justice in New York, wrote in the Wall Street Journal that courts sometimes make mistakes.

"When that happens, the losing party has the right to appeal, and the erroneous decision is reversed," she wrote. "That process cannot happen when a secret court considers a case with only one party before it."

Kerr said the secrecy that comes along with national security makes it difficult to evaluate how the administration carries out the wide authority Congress has given it.

"FISA court judges hear all of this and they think it's legal," Kerr said. "What we really don't know, though, are what the FISA court's opinions say."

Stewart Baker, assistant secretary for policy at the Department of Homeland Security under Bush, said in an interview that he doubted more information would assuage critics. The purpose of establishing the court was that "everyone would be satisfied that there was judicial review" of the administration's actions, he said.

He added that the procedures for establishing reasonable suspicion and securing warrants in the national security area cannot be compared to typical law enforcement.

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WikiLeaks aids Snowden on the run



Anthony Faiola JUN 23

The whistleblower group orchestrates a Hollywoodesque plan to spirit Snowden out of hiding in Hong Kong.

“Large-scale collections give the government a way to screen for patterns in communications that will bring to light terrorists who are unknown to the government,” Baker wrote on the legal blog the Volokh Conspiracy. Then the government must “establish the relevance of each inquiry before it’s allowed to conduct a search.”

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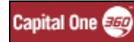
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Court: Ability to police U.S. spying program limited



 **View Photo Gallery** — Meet the Foreign Intelligence Surveillance Court: The 11 judges on the panel are selected from the pool of sitting federal judges by the chief justice of the United States. Members serve staggered terms of up to seven years, and at least three must live in the Washington area.

By Carol D. Leonnig, Published: August 15 [E-mail the writer](#)

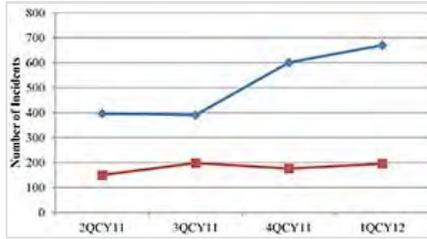
The leader of the secret court that is supposed to provide critical oversight of the government's vast spying programs said that its ability to do so is limited and that it must trust the government to report when it improperly spies on Americans.

The chief judge of the Foreign Intelligence Surveillance Court said the court lacks the tools to independently verify how often the government's surveillance breaks the court's rules that aim to protect Americans' privacy. Without taking drastic steps, it also cannot check the veracity of the government's assertions that the violations its staff members



report are unintentional mistakes.

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NSA report on privacy violations

Read the full report with key sections highlighted and annotated by the reporter.

FISA court finds illegal surveillance

The only known details of a 2011 ruling that found the NSA was using illegal methods to collect and handle the communications of American citizens.

What's a 'violation'?

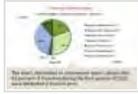
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What to say (and what not to say)

How NSA analysts explain their targeting decisions without giving "extraneous information" to overseers.

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NSA broke privacy rules thousands of times per year, audit finds



Barton Gellman AUG 15

Agency also has overstepped legal authority since Congress gave it broad new power in 2008.

NSA statements to The Post



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The National Security Agency offered these comments on The Post's story on privacy violations.

New demands for reform of NSA spy programs



Ellen Nakashima AUG 16

Some lawmakers called for greater transparency in the surveillance operations of the National Security Agency.

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"The FISC is forced to rely upon the accuracy of the information that is provided to the Court," its chief, U.S. District Judge Reggie B. Walton, said in a written statement to The Washington Post. "The FISC does not have the capacity to investigate issues of noncompliance, and in that respect the FISC is in the same position as any other court when it comes to enforcing [government] compliance with its orders."

Walton's comments came in response to internal government records obtained by The Post showing that National Security Agency staff members in Washington overstepped their authority on spy programs thousands of times per year. The records also show that the number of violations has been on the rise.

The court's description of its practical limitations contrasts with repeated assurances from the Obama administration and intelligence agency leaders that the court provides central checks and balances on the government's broad spying efforts. They have said that Americans should feel comfortable that the secret intelligence court provides robust oversight of government surveillance and protects their privacy from rogue intrusions.

President Obama and other government leaders have emphasized the court's oversight role in the wake of revelations this year that the government is vacuuming up "metadata" on Americans' telephone and Internet communications.

"We also have federal judges that we've put in place who are not subject to political pressure," Obama said at a news conference in June. "They've got lifetime tenure as federal judges, and they're empowered to look over our shoulder at the executive branch to make sure that these programs aren't being abused."

Privacy advocates and others in government have voiced concerns about the ability of overseers to police secret programs of immense legal and technological complexity. Several members of the House and Senate intelligence committees told The Post last week that they face numerous obstacles and constraints in questioning spy agency officials about their work.

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In 2009, for example, a Justice Department review uncovered a major operational glitch that had led to a series of significant violations of the court's order and notified the court, according to records that were declassified July 31 by the Office of the Director of National Intelligence.

The government described the problem as one of "over-collection" of metadata records for U.S. phone calls.

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Justified wrote:

8/16/2013 5:08 PM EDT

I noticed that it was recommended that Snowden be given immunity so that he can testify before Congress, this would be a positive step in the right direction, because the NSA has been running amuck and needs to be reined in, before it is completely out of control. So I recommend that everybody email the White House urging President Obama to have his Attorney General Eric Holder give Snowden immunity so that he can testify before Congress. Lets hope our President is eager and willing to engage in a conversation about Americans privacy as he was about Treyvon Martin.



Freedomisgood responds:

8/16/2013 5:41 PM EDT

" NSA has been running amuck and needs to be reined in, before it is completely out of control."

To late! I fear this will be a tough battle, one the US citizen will not likely win!



rmac4 responds:

8/16/2013 6:07 PM EDT

The problem is, Some members of Congress have known all about this and have been the architects for this whole show. What could they possibly ask from Snowden that they don't already know?

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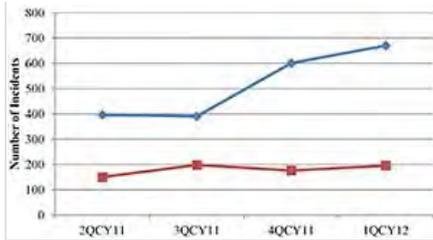
In September 2009, NSA Director Keith B. Alexander made a presentation to the FISA court about the agency's effort to remedy the problem.

"FISA Court placed several restrictions on aspects of the business records collection program until the compliance processes were improved to its satisfaction," the memo stated.

[Read the documents](#)

The public summaries of the violations do not say how long the problem went

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By Barton Gellman

Agency also has overstepped legal authority since Congress gave it broad new power in 2008.

NSA statements to The Post

By Barton Gellman

The National Security Agency offered these comments on The Post's story on privacy violations.

New demands for reform of NSA spy programs

By Ellen Nakashima

Some lawmakers called for greater transparency in the surveillance operations of the National Security Agency.

undetected and unreported to the court, or what information was improperly gathered by the agency's automated collection systems.

"The problems generally involved the implementation of highly sophisticated technology in a complex and ever-changing communications environment which, in some instances, results in the automated tools operating in a manner that was not completely consistent with the specific terms of the Court's orders," according to unredacted portions of a December 2009 memo provided to the Senate and House intelligence committees.

Two people familiar with the 2009 flaw said that the agency was collecting more "fields" of information from the customer records of telephone companies than the court had approved. The NSA declined to answer questions about the event.

One senior intelligence official, who was authorized by the White House to speak on the condition of anonymity, described the 2009 incident as a "major event" that prompted the agency to dramatically increase its compliance staff.

"We uncovered some disconnects between us and our overseers, disconnects between what we had put in documentation, the way we had described things in documentation," the official said.

Although the violation was unintentional, the official said, "it wasn't always the easiest of discussions" with the court.

The agency paused, "got ourselves with our overseers back into fair territory," and has since made "substantial improvement" in compliance, the official said.

Privacy advocates say they fear that some violations are never reported to the court.

In January 2008, the NSA appeared to



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have mistakenly collected data on numerous phone calls from the Washington area code 202, thinking they were foreign phone calls from Egypt, whose country code is 20. According to a 2013 “quality assurance” review of the incident, a communications switch misread the coding of the calls and presumed they were international. The NSA has broad authority that is not subject to the FISA court to

collect and monitor foreign communications under certain circumstances.

The description of the 2008 problem suggests that the inadvertent collection of U.S. phone calls was not reported to the FISA court.

“However, the issue pertained to Metadata ONLY so there were no defects to report,” the review stated.

Under FISA rules, the government is required to immediately notify the court if it believes it has violated any of its orders on surveillance.

The government does not typically provide the court with case-specific detail about individual compliance cases, such as the names of people it later learned it was improperly searching in its massive phone or e-mail databases, according to the two people familiar with the court’s work.

In contrast to the dozens of staff available to Congress’s intelligence and judiciary committees, the FISA court has five lawyers to review compliance violation reports.

A staff lawyer can elevate a concern about a significant compliance issue to a judge on the court, according to a letter Walton recently sent to the Senate describing the court’s role.

The court can always demand and obtain more details about cases, but it is unclear how often that occurs. In the past, while grappling with rules for implementing the surveillance programs, judges on the court have requested a visit to NSA headquarters to inspect the operations, the officials said.

Last week, the president said that he recognizes that some Americans may lack trust in the oversight process — in which the secret court approves the rules for collecting Americans’ communications — and that he will work with Congress on reforms, which could include a privacy advocate to the court.

“In other words, it’s not enough for me as president to have confidence in these programs,” Obama said in his news conference. “The American people need to have confidence in them, as well.”

Barton Gellman, Peter Wallsten and Alice Crites contributed to this report.

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NSA scandal or near-perfection?

By Jennifer Rubin, Published: August 18 at 12:30 pm [E-mail the writer](#)

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On Friday I questioned how large the National Security Agency error problem really was.

The New York Times reports that it is actually tiny:



Director of National Intelligence James Clapper (Chip Somodevilla / Getty Images)

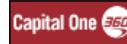
The top National Security Agency official charged with making sure analysts comply with rules protecting the privacy of Americans pushed back on Friday against reports that the N.S.A. had frequently violated privacy rules, after the publication of a leaked internal audit showing that there had been 2,776 such "incidents" in a one-year period.

The official, John DeLong, the N.S.A. director of compliance, said that the number of mistakes by the agency was extremely low compared with its overall activities. The report showed about 100 errors by analysts in making queries of databases of already-collected communications data; by comparison, he said, the agency performs about 20 million such queries each month.

This is extraordinary. If there are 20 million inquiries each month over a year span that works out to 240,000,000. That equates to an error rate of .00001156666. **If** the NSA figures are accurate this is the most airtight surveillance program in history. The



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error rate isn't simply "extremely low"; it is virtually nonexistent.



that person was in the United States.”

The NSA also gives us some more information as to what sorts of errors occurred:

Mr. DeLong emphasized that the majority of the 2,776 incidents — 1,904 of them, according to the audit — were in a category that did not involve Americans, but rather foreigners abroad whose cellphones were being wiretapped. When they traveled to the United States, where individual warrants are required, the system did not immediately stop recording the calls.

With such “roamers,” he said, the agency would try to detect the change “as soon as we can,” and then stop recording the calls and remove the information from its databases, “such that analysts may never see information collected while

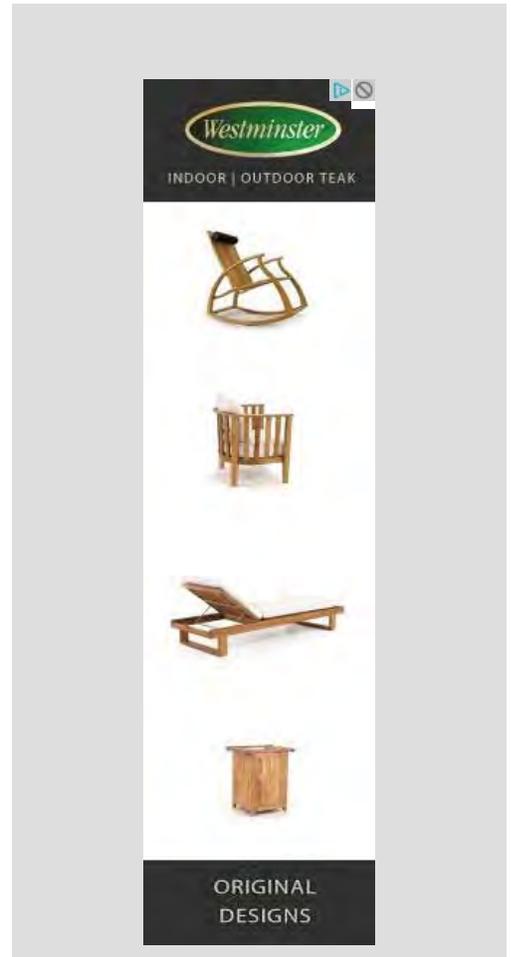
So about 800 Americans were the subject of some sort of error. Over a full year. Involving 240,000,000 inquiries.

I am having trouble mounting outrage over this. Moreover, it is not clear what an error really involved. The NSA hasn't been forthcoming as to whether, for example, 800 Americans had an e-mail read or if, for example, only an individual's identity for an e-mail was obtained. We still don't know if the information derived from the errors was isolated and purged from the system.

As for congressional oversight, although this specific NSA report wasn't sent to Congress, the NSA says it was “used to generate other reports for outside overseers that contained much of the same data.” Sen. Dianne Feinstein (D-Calif.), head of the Senate Intelligence Committee makes an remarkable claim: Her committee “has never identified an instance in which the N.S.A. has intentionally abused its authority to conduct surveillance for inappropriate purposes.”

If the NSA wasn't hiding the ball and there were **no** instances of intentional misconduct in 240,000,000 inquiries then NSA should be given a gold star. Perhaps the NSA report isn't accurate or we don't have a complete picture, but right now it seems that the reaction to the report is hugely disproportionate to the problem.

That this has become an hysterical “scandal” about the NSA spying on Americans suggests, however, the NSA deserves an F in communications. As for the media and lawmakers, they owe Americans some perspective.



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N.S.A. Calls Violations of Privacy 'Minuscule'

By CHARLIE SAVAGE
Published: August 16, 2013

WASHINGTON — The top [National Security Agency](#) official charged with making sure analysts comply with rules protecting the privacy of Americans pushed back on Friday against reports that the N.S.A. had frequently violated privacy rules, after the publication of a leaked [internal audit showing that there had been 2,776 such "incidents"](#) in a one-year period.

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[N.S.A. Often Broke Rules on Privacy, Audit Shows](#) (August 16, 2013)

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The official, John DeLong, the N.S.A. director of compliance, said that the number of mistakes by the agency was extremely low compared with its overall activities. The report showed about 100 errors by analysts in making queries of databases of already-collected communications data; by comparison, he said, the agency performs about 20 million such queries each month.

Mr. DeLong, speaking to reporters on a conference call, also argued that the overwhelming majority of the violations were unintentional human or technical errors and that the existence of the report showed that the agency's efforts to detect and correct violations of the rules were robust. He said the number of willful errors was "minuscule," involving a "couple over the past decade."

"No one at N.S.A. thinks a mistake is O.K.," he said.

The agency convened the conference call on Friday afternoon after the publication of [an article by The Washington Post](#) on Thursday night based on documents leaked by Edward J. Snowden, the former agency contractor. Mr. Snowden's leaks to The Post and The Guardian about the scope of N.S.A. spying have set off a crisis for the usually secretive agency, which says it is trying to be more open in explaining to the public what it does.

Mr. DeLong emphasized that the majority of the 2,776 incidents — 1,904 of them, according to the audit — were in a category that did not involve Americans, but rather foreigners abroad whose cellphones were being wiretapped. When they traveled to the United States, where individual warrants are required, the system did not immediately stop recording the calls.

With such "roamers," he said, the agency would try to detect the change "as soon as we

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can,” and then stop recording the calls and remove the information from its databases, “such that analysts may never see information collected while that person was in the United States.”

Mr. DeLong also sought to clarify a newly disclosed document urging analysts, when recording the reason for eavesdropping on foreigners abroad, to use only a short sentence and not to give “extraneous information” to its overseers.

Rather than a sign of obfuscation, Mr. DeLong said, that procedure was established to allow overseers like the Department of Justice and the Office of the Director of National Intelligence to be able to scan a long list of targets quickly. The N.S.A. separately provides them with a fuller set of information about each person singled out, he said.

In addition, The Post reported that the audit report had not been given to the Senate Intelligence Committee. Mr. DeLong said it was an internal agency document that was used to generate other reports for outside overseers that contained much of the same data.

In a statement, Senator Dianne Feinstein, Democrat of California and the Intelligence Committee’s chairwoman, said the panel regularly received information about “compliance incidents” involving surveillance by the N.S.A. on domestic networks, though she said it did not get the same level of information about problems with surveillance conducted overseas.

“As I have said previously, the committee has never identified an instance in which the N.S.A. has intentionally abused its authority to conduct surveillance for inappropriate purposes,” she said. “I believe, however, that the committee can and should do more to independently verify that N.S.A.’s operations are appropriate, and its reports of compliance incidents are accurate.”

A version of this article appears in print on August 17, 2013, on page A12 of the New York edition with the headline: N.S.A. Calls Violations Of Privacy ‘Minuscule’.

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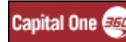
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NSA gathered thousands of Americans' e-mails before court ordered it to revise its tactics



Video: Barton Gellman, a senior fellow at the Century Foundation, first reported for the The Washington Post on the National Security Agency's extensive surveillance programs. Nia-Malika Henderson sat down with Gellman for "On Background."

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By Ellen Nakashima, Published: August 21 E-mail the writer ↩

For several years, the National Security Agency unlawfully gathered tens of thousands of e-mails and other electronic communications between Americans as part of a now-revised collection method, according to a 2011 secret court opinion.

The redacted 85-page opinion, which was declassified by U.S. intelligence officials on Wednesday, states that, based on NSA estimates, the spy agency may have been collecting as many as 56,000 "wholly domestic" communications each year.

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Spy court chief judge says it must rely on government to say when it improperly spies on Americans.

In a strongly worded opinion, the chief judge of the Foreign Intelligence Surveillance Court expressed consternation at what he saw as a pattern of misleading statements by the government and hinted that the NSA possibly violated a criminal law against spying on Americans.

“For the first time, the government has now advised the court that the volume and nature of the information it has been collecting is fundamentally different from what the court had been led to believe,” John D. Bates, then the surveillance court’s chief judge, wrote in his Oct. 3, 2011, opinion.

The court, which meets in secret, oversees the Foreign Intelligence Surveillance Act, the law authorizing such surveillance in the United States. It has been criticized by some as a “rubber stamp” for the government, but the opinion makes clear the court does not see itself that way.

Bates’s frustration with the government’s lack of candor extended beyond the program at issue to other NSA surveillance efforts.

“The court is troubled that the government’s revelations regarding NSA’s acquisition of Internet transactions mark the third instance in less than three years in which the government has disclosed a substantial misrepresentation regarding the scope of a major collection program,” Bates wrote in a scathing footnote.

The Washington Post reported last week that the court had ruled the collection method unconstitutional. The declassified opinion sheds new light on the volume of Americans’ communications that were

obtained by the NSA and the nature of the violations, as well as the FISA court’s interpretation of the program.

The release marks the first time the government has disclosed a FISA court opinion in response to a Freedom of Information Act lawsuit. The lawsuit was brought a year ago by the Electronic Frontier Foundation, a privacy group.

“It’s unfortunate it took a year of litigation and the most significant leak in American history to finally get them to release this opinion,” said foundation staff attorney Mark Rumold, “but I’m happy that the administration is beginning to take this debate seriously.”

The pressure to release the opinion was heightened by a series of recent revelations about government surveillance based on documents leaked to The Washington Post and Britain’s Guardian newspaper by former NSA contractor Edward Snowden.

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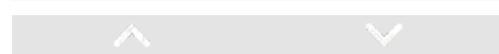
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Over the past 2 1/2 months, those revelations have reignited a national debate on the balance between privacy and security, and President Obama has promised to assuage concerns about government overreach, in part through more transparency.

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wmoore53 wrote:

8/21/2013 4:53 PM EDT

Get rid of the Patriot act, it is not compatible with our Constitution.



Deisha responds:

8/21/2013 9:15 PM EDT

Even its author, Sensenbrenner, says it's being misused.



CLASSICCRYSTALUSA responds:

8/22/2013 9:34 AM EDT

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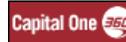
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NSA gathered thousands of Americans' e-mails before court ordered it to revise its tactics



Video: Barton Gellman, a senior fellow at the Century Foundation, first reported for the The Washington Post on the National Security Agency's extensive surveillance programs. Nia-Malika Henderson sat down with Gellman for "On Background."

The document was released along with several others related to a controversial collection program approved by Congress in 2008 under Section 702 of the FISA Amendments Act. Through that program, the NSA may target for collection the e-mails and phone calls of foreigners "reasonably believed" to be overseas.

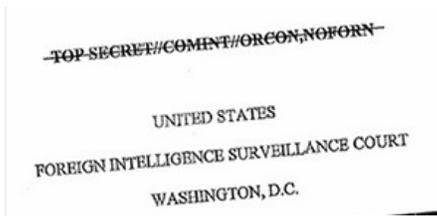
Under Section 702, the NSA collects more than 250 million Internet communications each year, the opinion said. The vast majority — 91 percent — are obtained from Internet providers such as Google, Yahoo and AOL through a program code-named PRISM.

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At issue here was the less voluminous "upstream" collection that takes place as

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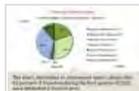


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Spy court chief judge says it must rely on government to say when it improperly spies on Americans.

communications flow across Internet hubs — not from service providers such as Google. Under that program, the NSA diverted international data passing through fiber-optic cables in the United States into a repository where the material could be stored temporarily for processing and for the selection of foreign communications, rather than domestic ones. But in practice, because of technological difficulties, the NSA was unable to filter out the “wholly domestic” communications between Americans.

Officials stressed that it was the NSA that brought the collection method to the court’s attention as part of its regular reporting process. “This was not in any respect an intentional or wholesale breach of privacy of American persons,” Robert S. Litt III, the general counsel for the Office of the Director of National Intelligence, told reporters Wednesday.

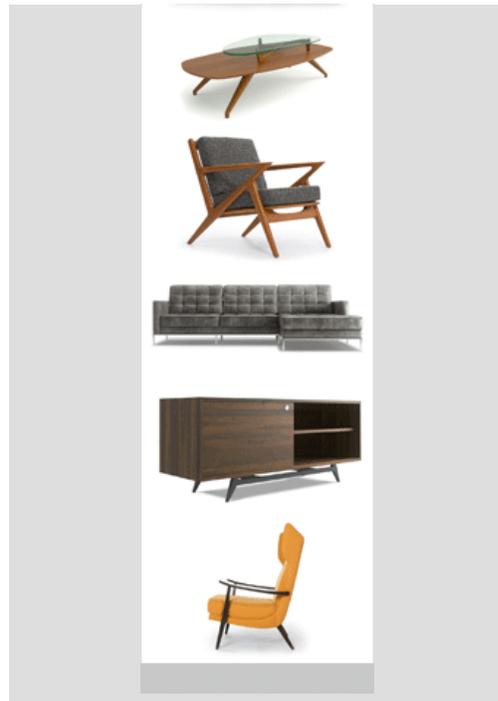
Still, Bates noted that it was not until May 2011 — several years after Section 702 was approved — that the NSA told the court that its upstream collection of Internet communications may contain entire Internet “transactions” not related to the target. In other words, the agency may be collecting e-mails between two Americans or people inside the United States in violation of FISA.

In June 2011, the NSA informed Bates that an Internet transaction may be a single communication or it may include “multiple discrete communications,” including those that are not to, from or about a target. That means instead of one e-mail, a string of Americans’ e-mails could be inadvertently

picked up. “That revelation fundamentally alters the Court’s understanding of the scope of the collection conducted pursuant to Section 702,” Bates said.

“By expanding its Section 702 acquisitions to include the acquisition of Internet transactions through its upstream collection, NSA has, as a practical matter, circumvented the spirit of [the law],” Bates wrote. “NSA’s knowing acquisition of tens of thousands of wholly domestic communications through its upstream collection is a cause of concern for the court.”

He ordered the collection to stop until the NSA could propose an acceptable remedy. In November 2011, Bates signed an order approving the fix, which included a new technical means to segregate transactions most likely to contain U.S. persons’ communications and reducing the retention period from five to two years.



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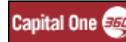
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NSA gathered thousands of Americans' e-mails before court ordered it to revise its tactics



Video: Barton Gellman, a senior fellow at the Century Foundation, first reported for the The Washington Post on the National Security Agency's extensive surveillance programs. Nia-Malika Henderson sat down with Gellman for "On Background."

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In April 2012, the NSA decided to conduct a purge of all upstream data collected since Section 702's inception in 2008, senior intelligence officials said. They could not estimate the quantity, but one official said it was "lots." Said another: "It would have been everything."

The newly released opinion also reflects Bates's frustration with the court's inability to independently verify the NSA's assertions, a sentiment underscored in a recent statement made to The Post by the current chief judge, Reggie B. Walton.

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Declassified 2011 FISA court ruling

Opinion struck down an NSA program that unlawfully gathered thousands of electronic communications between Americans.

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Because of the “sheer volume” of transactions acquired by the NSA, “any meaningful review of the entire body of the transactions” was not feasible, Bates wrote. “As a result, the court cannot know for certain the exact number” of wholly domestic communications but was reliant on the NSA’s samples of data. “Even if the court accepts the validity of conclusions derived from statistical analyses, there are significant hurdles in assessing NSA’s upstream collection,” he wrote.

He also stated in a footnote that the government’s revelations about the scope of the NSA’s upstream collection “implicate” a law that criminalizes unauthorized electronic surveillance. He said that he would address that issue in a separate order.

In another footnote, he also noted that in March 2009 the court concluded that its authorization of the NSA’s bulk collection of Americans’ phone-call records was “premised on a flawed depiction of how the NSA” uses the data. He also wrote: “This misperception by the FISC existed from the inception of its authorized collection in May 2006, buttressed by repeated inaccurate statements made in the government’s submissions, and despite a government-devised and court-mandated oversight regime.”

In that program, which was disclosed through a document leaked by Snowden to the Guardian, the NSA amasses a database of hundreds of millions of Americans’ phone-call records. That includes numbers dialed and the time and duration of calls — also known as metadata — but no content.

Bates continued: “Contrary to the government’s repeated assurances, NSA had been routinely running queries of the metadata using querying terms that did not meet the required standard. . . . The Court concluded that this requirement had been ‘so frequently and systematically violated that it can fairly be said that this critical element of the overall . . . regime has never functioned effectively.’ ”

The Electronic Frontier Foundation sued after Sen. Ron Wyden (D-Ore.) got the Office of the Director of National Intelligence to acknowledge in July 2012 that the NSA’s surveillance had at least once violated the Constitution.

“The FISA Court has noted that this collection violates the spirit of the law, but the government has failed to address this concern in the two years since this ruling was issued,” Wyden said Wednesday. “This ruling makes it clear that FISA Section 702, as written, is insufficient to adequately protect the civil liberties and privacy rights of law-abiding Americans and should be reformed.”



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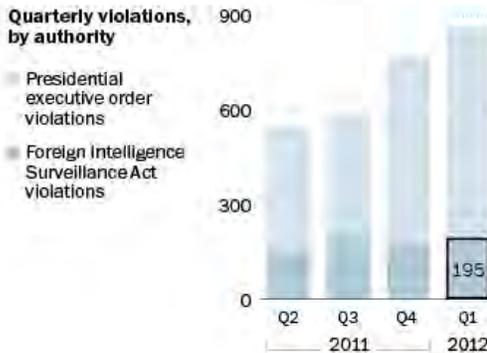


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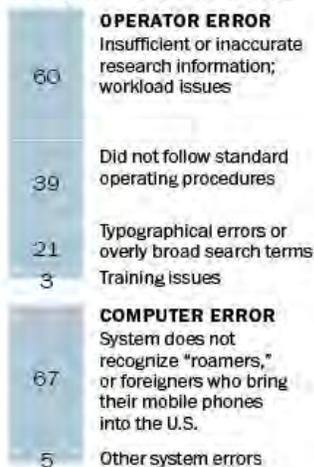
NSA broke privacy rules thousands of times per year, audit finds

An internal NSA audit, dated May 2012, identifies **2,776 "incidents,"** or violations of the rules or court orders for surveillance of Americans or foreign targets in the United States, from April 2011 through March 2012.

Quarterly violations, by authority



Reasons for the FISA violations during the first quarter of 2012

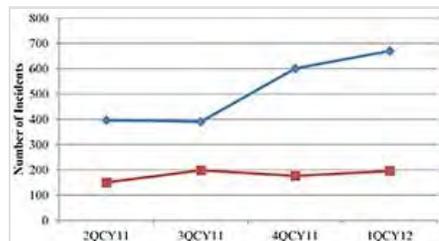


By Barton Gellman, [E-mail the writer](#)

The National Security Agency has broken privacy rules or overstepped its legal authority thousands of times each year since Congress granted the agency broad new powers in 2008, according to [an internal audit](#) and other top-secret documents.

Most of the infractions involve unauthorized surveillance of Americans or foreign intelligence targets in the United States, both of which are restricted by statute and executive order. They range from significant violations of law to typographical errors that resulted in unintended interception of U.S. e-mails and telephone calls.

Read the documents



NSA report on privacy violations

The documents, provided earlier this summer to The Washington Post by former NSA contractor Edward Snowden, include a level of detail and analysis that is not routinely shared with Congress or the special court that oversees surveillance. In one of the documents, agency personnel are instructed to remove details and substitute more generic language in reports to the Justice Department and the Office of

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Some lawmakers called for greater transparency in the surveillance operations of the National Security Agency.

the Director of National Intelligence.

In one instance, the NSA decided that it need not report the unintended surveillance of Americans. A notable example in 2008 was the interception of a "large number" of calls placed from Washington when a programming error confused the U.S. area code 202 for 20, the international dialing code for Egypt, according to a "quality assurance" review that was not distributed to the NSA's oversight staff.

In another case, the Foreign Intelligence Surveillance Court, which has authority over some NSA operations, did not learn about a new collection method until it had been in operation for many months. The court ruled it unconstitutional.

[FISA judge: Ability to police U.S. spying program is limited]

The Obama administration has provided almost no public information about the NSA's compliance record. In June, after promising to explain the NSA's record in "as transparent a way as we possibly can," Deputy Attorney General James Cole described extensive safeguards and oversight that keep the agency in check. "Every now and then, there may be a mistake," Cole said in congressional testimony.

The NSA audit obtained by The Post, dated May 2012, counted 2,776 incidents in the preceding 12 months of unauthorized collection, storage, access to or distribution of legally protected communications. Most were unintended. Many involved failures of due diligence or violations of standard operating procedure. The most serious incidents included a violation of a court order and unauthorized use of data about more than 3,000 Americans and green-card holders.

In a statement in response to questions for this article, the NSA said it attempts to identify problems "at the earliest possible

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moment, implement mitigation measures wherever possible, and drive the numbers down." The government was made aware of The Post's intention to publish the documents that accompany this article online.

"We're a human-run agency operating in a complex environment with a number of different regulatory regimes, so at times we find ourselves on the wrong side of the line," a senior NSA official said in an interview, speaking with White House permission on the condition of anonymity.

Back in Fort Lauderdale just in time for police to learn that the hotel on our street is actually a meth lab. Keep it classy, Florida.

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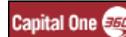
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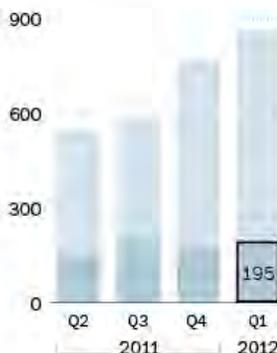
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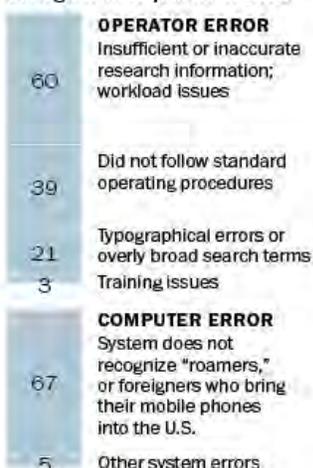
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- Presidential executive order violations
- Foreign Intelligence Surveillance Act violations



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"You can look at it as a percentage of our total activity that occurs each day," he said. "You look at a number in absolute terms that looks big, and when you look at it in relative terms, it looks a little different."

There is no reliable way to calculate from the number of recorded compliance issues how many Americans have had their communications improperly collected, stored or distributed by the NSA.

[Read the documents](#)

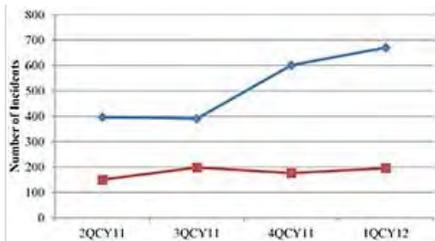
The causes and severity of NSA infractions vary widely. One in 10 incidents is

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attributed to a typographical error in which an analyst enters an incorrect query and retrieves data about U.S. phone calls or e-mails.

But the more serious lapses include unauthorized access to intercepted communications, the distribution of protected content and the use of automated systems without built-in safeguards to prevent unlawful surveillance.

The May 2012 audit, intended for the agency's top leaders, counts only incidents at the NSA's Fort Meade headquarters and other facilities in the Washington area. Three government officials, speaking on the condition of anonymity to discuss classified matters, said the number would be substantially higher if it included other NSA operating units and regional collection centers.

Senate Intelligence Committee Chairman Dianne Feinstein (D-Calif.), who did not receive a copy of the 2012 audit until The Post asked her staff about it, said in a statement late Thursday that the committee "can and should do more to independently verify that NSA's operations are appropriate, and its reports of compliance incidents are accurate."

Despite the quadrupling of the NSA's oversight staff after a series of significant violations in 2009, the rate of infractions increased throughout 2011 and early 2012. An NSA spokesman declined to disclose whether the trend has continued since last year.

One major problem is largely unpreventable, the audit says, because current operations rely on technology that cannot quickly determine whether a foreign mobile phone has entered the United States.

In what appears to be one of the most serious violations, the NSA diverted large volumes of international data passing through fiber-optic cables in the United States into a repository where the material could be stored temporarily for processing and selection.

The operation to obtain what the agency called "multiple communications transactions" collected and commingled U.S. and foreign e-mails, according to an



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article in SSO News, a top-secret internal newsletter of the NSA's Special Source Operations unit. NSA lawyers told the court that the agency could not practicably filter out the communications of Americans.

In October 2011, months after the program got underway, the Foreign Intelligence Surveillance Court ruled that the collection effort was unconstitutional. The court said that the methods used were "deficient on statutory and constitutional grounds," according to a top-secret summary of the opinion, and it ordered the NSA to comply with standard privacy protections or stop the program.

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aaronweiner wrote:
8/15/2013 10:00 PM EDT



Anyone who recognizes this activity as "business as usual" should really reach deep inside themselves and ask whether they really want to live in a police state.

I'm starting to think that Snowden IS a hero. This is not the America I wanted nor the America for which I voted. What the NSA is doing needs a megaton of sunshine shed upon it: nothing short of that should satisfy anyone.

Offshore wind responds:
8/15/2013 10:04 PM EDT

Aaron: Welcome to the right side. America's side.

demokrazy responds:
8/15/2013 10:16 PM EDT

It is business as usual, that being said it's bad business .. which is why business should be kept out of government .. without the corporate lobby the people can make real choices for real Americans based on real life and not some rich country club version .

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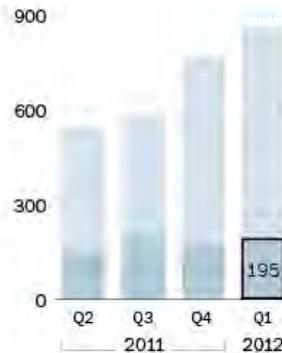
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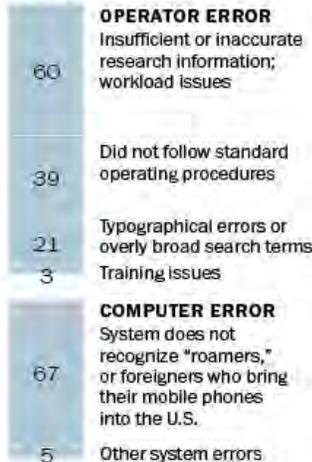
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James R. Clapper Jr., the director of national intelligence, has acknowledged that the court found the NSA in breach of the Fourth Amendment, which prohibits unreasonable searches and seizures, but the Obama administration has fought a Freedom of Information lawsuit that seeks the opinion.

Generally, the NSA reveals nothing in public about its errors and infractions. The unclassified versions of the administration's semiannual reports to Congress feature blacked-out pages under the headline "Statistical Data Relating to Compliance Incidents."

[Read the documents](#)

Members of Congress may read the unredacted documents, but only in a special secure room, and they are not allowed to take notes. Fewer than 10 percent of lawmakers employ a staff member who has the security clearance to read the reports and provide advice about

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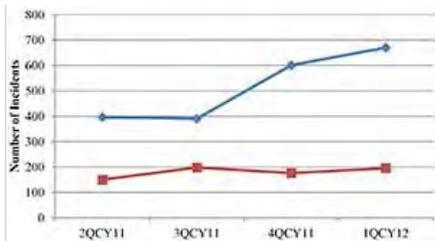
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their meaning and significance.

The limited portions of the reports that can be read by the public acknowledge "a small number of compliance incidents."

Under NSA auditing guidelines, the incident count does not usually disclose the number of Americans affected.

"What you really want to know, I would think, is how many innocent U.S. person communications are, one, collected at all, and two, subject to scrutiny," said Julian Sanchez, a research scholar and close student of the NSA at the Cato Institute.

The documents provided by Snowden offer only glimpses of those questions. Some reports make clear that an unauthorized search produced no records. But a single "incident" in February 2012 involved the unlawful retention of 3,032 files that the surveillance court had ordered the NSA to destroy, according to the May 2012 audit. Each file contained an undisclosed number of telephone call records.

One of the documents sheds new light on a statement by NSA Director Keith B. Alexander last year that "we don't hold data on U.S. citizens."

Some Obama administration officials, speaking on the condition of anonymity, have defended Alexander with assertions that the agency's internal definition of "data" does not cover "metadata" such as the trillions of American call records that the NSA is now known to have collected and stored since 2006. Those records include the telephone numbers of the parties and the times and durations of conversations, among other details, but not their content or the names of callers.

The NSA's authoritative definition of data includes those call records. "Signals Intelligence Management Directive 421," which is quoted in secret oversight and auditing guidelines, states that "raw SIGINT data . . . includes, but is not limited to, unevaluated and/or unminimized transcripts, gists, facsimiles, telex, voice, and some forms of computer-



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generated data, such as call event records and other Digital Network Intelligence (DNI) metadata as well as DNI message text.”

In the case of the collection effort that confused calls placed from Washington with those placed from Egypt, it is unclear what the NSA meant by a “large number” of intercepted calls. A spokesman declined to discuss the matter.

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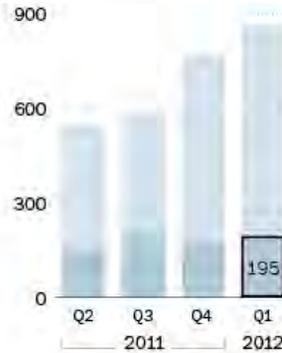
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NSA broke privacy rules thousands of times per year, audit finds

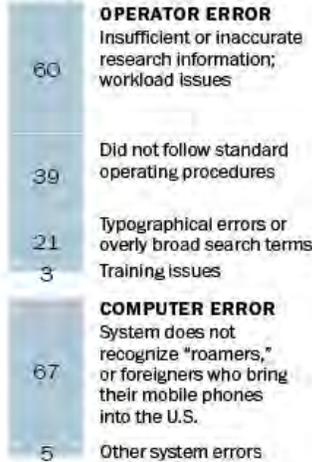
An internal NSA audit, dated May 2012, identifies **2,776 "Incidents,"** or violations of the rules or court orders for surveillance of Americans or foreign targets in the United States, from April 2011 through March 2012.

Quarterly violations, by authority

- Presidential executive order violations
- Foreign Intelligence Surveillance Act violations



Reasons for the FISA violations during the first quarter of 2012



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The NSA has different reporting requirements for each branch of government and each of its legal authorities. The "202" collection was deemed irrelevant to any of them. "The issue pertained to Metadata ONLY so there were no defects to report," according to the author of the secret memo from March 2013.

The large number of database query incidents, which involve previously collected communications, confirms long-standing suspicions that the NSA's vast data banks — with code names such as MARINA, PINWALE and XKEYSCORE — house a considerable volume of information about Americans. Ordinarily the identities of people in the United States are masked, but intelligence "customers" may request unmasking, either one case at a time or in standing orders.

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In dozens of cases, NSA personnel made careless use of the agency's extraordinary

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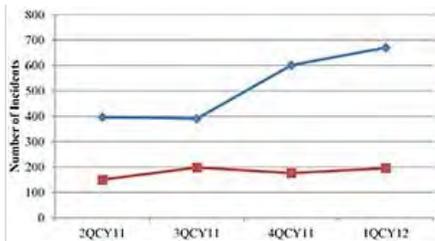
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NSA report on privacy violations

Read the full report with key sections highlighted and annotated by the reporter.

FISA court finds illegal surveillance

The only known details of a 2011 ruling that found the NSA was using illegal methods to collect and handle the communications of American citizens.

What's a 'violation'?

View a slide used in a training course for NSA intelligence collectors and analysts.

What to say (and what not to say)

How NSA analysts explain their targeting decisions without giving "extraneous information" to overseers.

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The National Security Agency offered these comments on The Post's story on privacy violations.

New demands for reform of NSA spy programs

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Some lawmakers called for greater transparency in the surveillance operations of the National Security Agency.

powers, according to individual auditing reports. One team of analysts in Hawaii, for example, asked a system called DISHFIRE to find any communications that mentioned both the Swedish manufacturer Ericsson and "radio" or "radar" — a query that could just as easily have collected on people in the United States as on their Pakistani military target.

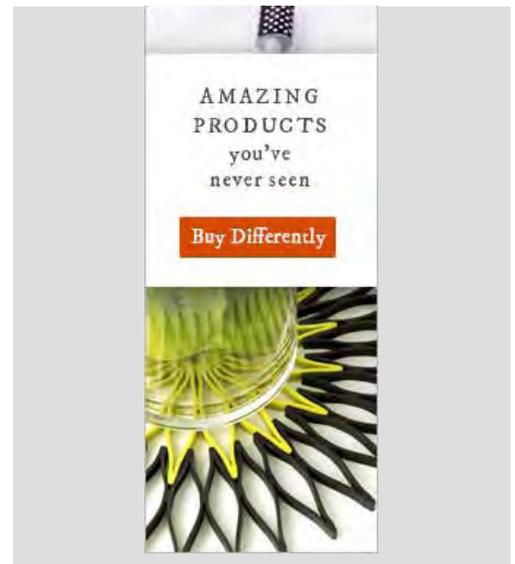
The NSA uses the term "incidental" when it sweeps up the records of an American while targeting a foreigner or a U.S. person who is believed to be involved in terrorism. Official guidelines for NSA personnel say that kind of incident, pervasive under current practices, "does not constitute a . . . violation" and "does not have to be reported" to the NSA inspector general for inclusion in quarterly reports to Congress. Once added to its databases, absent other restrictions, the communications of Americans may be searched freely.

In one required tutorial, NSA collectors and analysts are taught to fill out oversight forms without giving "extraneous information" to "our FAA overseers." FAA is a reference to the FISA Amendments Act of 2008, which granted broad new authorities to the NSA in exchange for regular audits from the Justice Department and the Office of the Director of National Intelligence and periodic reports to Congress and the surveillance court.

Using real-world examples, the "Target Analyst Rationale Instructions" explain how NSA employees should strip out details and substitute generic descriptions of the evidence and analysis behind their targeting choices.

"I realize you can read those words a certain way," said the high-ranking NSA official who spoke with White House auditors. "Think of a book of individual recipes," he said. Each target "has a short, concise description," but that is "not a substitute for the full recipe that follows, which our overseers also have access to."

Julie Tate and Carol D. Leonnig contributed to this report.



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Matt Purdy, Marc Lacey get new appointments at New York Times



by **Andrew Beaujon**

Published July 23, 2013 3:28 pm

Updated July 23, 2013 3:36 pm

Matt Purdy, who leads the investigative reporting team, will become an assistant managing editor charged with making enterprise projects "a daily reality for our readers." Marc Lacey will be an associate managing editor in charge of the paper's weekend report.

Full memo from Executive Editor Jill Abramson follows:

Dear Colleagues,

We have two new exciting appointments to share with you.

Dean and I are thrilled that Matt Purdy will become an Assistant Managing Editor, a masthead job with responsibilities that will span across all desks and sections. **We have long placed a special kind of emphasis on our stories behind the story, our exclusive investigative pieces, our long term enterprise projects — they are our hallmark.** We've now asked Matt to be responsible for making our commitment to this kind of story telling a daily reality for our readers. He will scout out these stories across the paper and across platforms — in Washington, Culture, Sports etc. — and work with desk heads, Dean, Susan and me to help reach our goal of having at least one rich, fresh read on the front page each day. Matt will take charge of the variety and flow of these stories. Along with the phenomenal Christine Kay and Paul Fishleder, Matt will

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continue to be involved in the paper's most important digging as head of Investigations.

Matt has been our investigations editor for nine years and along with Christine and Paul built a formidable team, one which has won five Pulitzers for some of the paper's most powerful work. Matt came to the paper in 1993 and spent many years on Metro as a reporter, a columnist, and deputy editor. Before coming to The Times, Matt was a local reporter for The Philadelphia Inquirer as well as a Washington correspondent.

Alison Mitchell's ascension to National Editor made urgent the task of finding a weekend editor. Lucky for us, Marc Lacey has accepted the job and will be an Associate Managing Editor in charge of our weekend report. Marc has been a brilliant deputy on foreign and, to our amazement and delight, has found that he adores editing. As most of you know, Marc has been a White House correspondent, a foreign correspondent in Nairobi and Mexico City as well as a stint in Iraq. He blazed new trails for the national desk as our first, extremely prolific, Phoenix bureau chief. His collegiality, smarts and leadership will make him a superb steward of our weekend news report. He has a wonderful staff, strengthened in so many ways over the years by Alison, to support him.

Fondly,
Jill

Previously: [NYT announces leadership changes](#)

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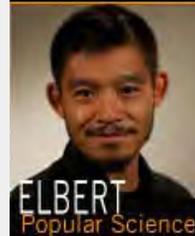
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Documentary filmmaker Laura Poitras in Berlin.

By PETER MAASS

Published: August 13, 2013 | [1068 Comments](#)

This past January, Laura Poitras received a curious e-mail from an anonymous stranger requesting her public encryption key. For almost two years, Poitras had been working on a documentary about surveillance, and she occasionally received queries from strangers. She replied to this one and sent her public key — allowing him or her to send an encrypted e-mail that only Poitras could open, with her private key — but she didn't think much would come of it.

Q. & A.: Edward Snowden Speaks to Peter Maass

Why he turned to Poitras and Greenwald.

The stranger responded with instructions for creating an even more secure system to protect their exchanges. Promising sensitive information, the stranger told Poitras to select long pass phrases that could withstand a brute-force attack by networked computers. "Assume that your adversary is capable of a trillion guesses per second," the stranger wrote.

Before long, Poitras received an encrypted message that outlined a number of secret surveillance programs run by the government. She had heard of one of them but not the others. After describing each program, the stranger wrote some version of the phrase, "This I can prove."

Seconds after she decrypted and read the e-mail, Poitras disconnected from the Internet and removed the message from her computer. "I thought, O.K., if this is true, my life just changed," she told me last month. "It was staggering, what he claimed to know and be able to provide. I just knew that I had to change everything."

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Poitras remained wary of whoever it was she was communicating with. She worried especially that a government agent might be trying to trick her into disclosing information about the people she interviewed for her documentary, including Julian Assange, the editor of WikiLeaks. "I called him out," Poitras recalled. "I said either you have this information and you are taking huge risks or you are trying to entrap me and the people I know, or you're crazy."

The answers were reassuring but not definitive. Poitras did not know the stranger's name, sex, age or employer (C.I.A.? N.S.A.? Pentagon?). In early June, she finally got the answers. Along with her reporting partner, Glenn Greenwald, a former lawyer and a columnist for The Guardian, Poitras flew to Hong Kong and met the N.S.A. contractor Edward J. Snowden, who gave them thousands of classified documents, setting off a major controversy over the extent and legality of government surveillance. Poitras was right that, among other things, her life would never be the same.

Greenwald lives and works in a house surrounded by tropical foliage in a remote area of Rio de Janeiro. He shares the home with his Brazilian partner and their 10 dogs and one cat, and the place has the feel of a low-key fraternity that has been dropped down in the jungle. The kitchen clock is off by hours, but no one notices; dishes tend to pile up in the sink; the living room contains a table and a couch and a large TV, an Xbox console and a box of poker chips and not much else. The refrigerator is not always filled with fresh vegetables. A family of monkeys occasionally raids the banana trees in the backyard and engages in shrieking battles with the dogs.



Mauricio Lima for The New York Times

Glenn Greenwald, a writer for The Guardian, at home in Rio de Janeiro.

Greenwald does most of his work on a shaded porch, usually dressed in a T-shirt, surfer shorts and flip-flops. Over the four days I spent there, he was in perpetual motion, speaking on the phone in Portuguese and English, rushing out the door to be interviewed in the city below, answering calls and e-mails from people seeking information about Snowden, tweeting to his 225,000 followers (and conducting intense arguments with a number of them), then sitting down to write more N.S.A. articles for The Guardian, all while pleading with his dogs to stay quiet. During one especially fever-pitched moment, he hollered, "Shut up, everyone," but they didn't seem to care.

Amid the chaos, Poitras, an intense-looking woman of 49, sat in a spare bedroom or at the table in the living room, working in concentrated silence in front of her multiple computers. Once in a while she would walk over to the porch to talk with Greenwald about the article he was working on, or he would sometimes stop what he was doing to look at the latest version of a new video she was editing about Snowden. They would talk intensely — Greenwald far louder and more rapid-fire than Poitras — and occasionally break out laughing at some shared joke or absurd memory. The Snowden story, they both said, was a battle they were waging together, a fight against powers of surveillance

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that they both believe are a threat to fundamental American liberties.

Two reporters for The Guardian were in town to assist Greenwald, so some of our time was spent in the hotel where they were staying along Copacabana Beach, the toned Brazilians playing volleyball in the sand below lending the whole thing an added layer of surreality. Poitras has shared the byline on some of Greenwald's articles, but for the most part she has preferred to stay in the background, letting him do the writing and talking. As a result, Greenwald is the one hailed as either a fearless defender of individual rights or a nefarious traitor, depending on your perspective. "I keep calling her the Keyser Soze of the story, because she's at once completely invisible and yet ubiquitous," Greenwald said, referring to the character in "The Usual Suspects" played by Kevin Spacey, a mastermind masquerading as a nobody. "She's been at the center of all of this, and yet no one knows anything about her."

As dusk fell one evening, I followed Poitras and Greenwald to the newsroom of O Globo, one of the largest newspapers in Brazil. Greenwald had just published an article there detailing how the N.S.A. was spying on Brazilian phone calls and e-mails. The article caused a huge scandal in Brazil, as similar articles have done in other countries around the world, and Greenwald was a celebrity in the newsroom. The editor in chief pumped his hand and asked him to write a regular column; reporters took souvenir pictures with their cellphones. Poitras filmed some of this, then put her camera down and looked on. I noted that nobody was paying attention to her, that all eyes were on Greenwald, and she smiled. "That's right," she said. "That's perfect."

Poitras seems to work at blending in, a function more of strategy than of shyness. She can actually be remarkably forceful when it comes to managing information. During a conversation in which I began to ask her a few questions about her personal life, she remarked, "This is like visiting the dentist." The thumbnail portrait is this: She was raised in a well-off family outside Boston, and after high school, she moved to San Francisco to work as a chef in upscale restaurants. She also took classes at the San Francisco Art Institute, where she studied under the experimental filmmaker Ernie Gehr. In 1992, she moved to New York and began to make her way in the film world, while also enrolling in graduate classes in social and political theory at the New School. Since then she has made five films, most recently "[The Oath](#)," about the Guantánamo prisoner Salim Hamdan and his brother-in-law back in Yemen, and has been the recipient of a Peabody Award and a MacArthur award.

On Sept. 11, 2001, Poitras was on the Upper West Side of Manhattan when the towers were attacked. Like most New Yorkers, in the weeks that followed she was swept up in both mourning and a feeling of unity. It was a moment, she said, when "people could have done anything, in a positive sense." When that moment led to the pre-emptive invasion of Iraq, she felt that her country had lost its way. "We always wonder how countries can veer off course," she said. "How do people let it happen, how do people sit by during this slipping of boundaries?" Poitras had no experience in conflict zones, but in June 2004, she went to Iraq and began documenting the occupation.

Shortly after arriving in Baghdad, she received permission to go to Abu Ghraib prison to film a visit by members of Baghdad's City Council. This was just a few months after photos were published of American soldiers abusing prisoners there. A prominent Sunni doctor was part of the visiting delegation, and Poitras shot a remarkable scene of his interaction with prisoners there, shouting that they were locked up for no good reason.

The doctor, Riyadh al-Adhadh, invited Poitras to his clinic and later allowed her to report on his life in Baghdad. Her documentary, "[My Country, My Country](#)," is centered on his family's travails — the shootings and blackouts in their neighborhood, the kidnapping of a nephew. The film premiered in early 2006 and received widespread

acclaim, including an Oscar nomination for best documentary.

Attempting to tell the story of the war's effect on Iraqi citizens made Poitras the target of serious — and apparently false — accusations. On Nov. 19, 2004, Iraqi troops, supported by American forces, raided a mosque in the doctor's neighborhood of Adhamiya, killing several people inside. The next day, the neighborhood erupted in violence. Poitras was with the doctor's family, and occasionally they would go to the roof of the home to get a sense of what was going on. On one of those rooftop visits, she was seen by soldiers from an Oregon National Guard battalion. Shortly after, a group of insurgents launched an attack that killed one of the Americans. Some soldiers speculated that Poitras was on the roof because she had advance notice of the attack and wanted to film it. Their battalion commander, Lt. Col. Daniel Hendrickson, retired, told me last month that he filed a report about her to brigade headquarters.

There is no evidence to support this claim. Fighting occurred throughout the neighborhood that day, so it would have been difficult for any journalist to not be near the site of an attack. The soldiers who made the allegation told me that they have no evidence to prove it. Hendrickson told me his brigade headquarters never got back to him.

For several months after the attack in Adhamiya, Poitras continued to live in the Green Zone and work as an embedded journalist with the U.S. military. She has screened her film to a number of military audiences, including at the U.S. Army War College. An officer who interacted with Poitras in Baghdad, Maj. Tom Mowle, retired, said Poitras was always filming and it "completely makes sense" she would film on a violent day. "I think it's a pretty ridiculous allegation," he said.

Although the allegations were without evidence, they may be related to Poitras's many detentions and searches. Hendrickson and another soldier told me that in 2007 — months after she was first detained — investigators from the Department of Justice's Joint Terrorism Task Force interviewed them, inquiring about Poitras's activities in Baghdad that day. Poitras was never contacted by those or any other investigators, however. "Iraq forces and the U.S. military raided a mosque during Friday prayers and killed several people," Poitras said. "Violence broke out the next day. I am a documentary filmmaker and was filming in the neighborhood. Any suggestion I knew about an attack is false. The U.S. government should investigate who ordered the raid, not journalists covering the war."

In June 2006, her tickets on domestic flights were marked "SSSS" — Secondary Security Screening Selection — which means the bearer faces extra scrutiny beyond the usual measures. She was detained for the first time at Newark International Airport before boarding a flight to Israel, where she was showing her film. On her return flight, she was held for two hours before being allowed to re-enter the country. The next month, she traveled to Bosnia to show the film at a festival there. When she flew out of Sarajevo and landed in Vienna, she was paged on the airport loudspeaker and told to go to a security desk; from there she was led to a van and driven to another part of the airport, then taken into a room where luggage was examined.

"They took my bags and checked them," Poitras said. "They asked me what I was doing, and I said I was showing a movie in Sarajevo about the Iraq war. And then I sort of befriended the security guy. I asked what was going on. He said: 'You're flagged. You have a threat score that is off the Richter scale. You are at 400 out of 400.' I said, 'Is this a scoring system that works throughout all of Europe, or is this an American scoring system?' He said, 'No, this is your government that has this and has told us to stop you.'"

After 9/11, the U.S. government began compiling a terrorist watch list that was at one point estimated to contain nearly a million names. There are at least two subsidiary lists that relate to air travel. The no-fly list contains the names of tens of thousands of people who are not allowed to fly into or out of the country. The selectee list, which is larger than the no-fly list, subjects people to extra airport inspections and questioning. These lists have been criticized by civil rights groups for being too broad and arbitrary and for violating the rights of Americans who are on them.

In Vienna, Poitras was eventually cleared to board her connecting flight to New York, but when she landed at J.F.K., she was met at the gate by two armed law-enforcement agents and taken to a room for questioning. It is a routine that has happened so many times since then — on more than 40 occasions — that she has lost precise count. Initially, she said, the authorities were interested in the paper she carried, copying her receipts and, once, her notebook. After she stopped carrying her notes, they focused on her electronics instead, telling her that if she didn't answer their questions, they would confiscate her gear and get their answers that way. On one occasion, Poitras says, they did seize her computers and cellphones and kept them for weeks. She was also told that her refusal to answer questions was itself a suspicious act. Because the interrogations took place at international boarding crossings, where the government contends that ordinary constitutional rights do not apply, she was not permitted to have a lawyer present.

"It's a total violation," Poitras said. "That's how it feels. They are interested in information that pertains to the work I am doing that's clearly private and privileged. It's an intimidating situation when people with guns meet you when you get off an airplane."

Though she has written to members of Congress and has submitted Freedom of Information Act requests, Poitras has never received any explanation for why she was put on a watch list. "It's infuriating that I have to speculate why," she said. "When did that universe begin, that people are put on a list and are never told and are stopped for six years? I have no idea why they did it. It's the complete suspension of due process." She added: "I've been told nothing, I've been asked nothing, and I've done nothing. It's like Kafka. Nobody ever tells you what the accusation is."

After being detained repeatedly, Poitras began taking steps to protect her data, asking a traveling companion to carry her laptop, leaving her notebooks overseas with friends or in safe deposit boxes. She would wipe her computers and cellphones clean so that there would be nothing for the authorities to see. Or she encrypted her data, so that law enforcement could not read any files they might get hold of. These security preparations could take a day or more before her travels.

It wasn't just border searches that she had to worry about. Poitras said she felt that if the government was suspicious enough to interrogate her at airports, it was also most likely surveilling her e-mail, phone calls and Web browsing. "I assume that there are National Security Letters on my e-mails," she told me, referring to one of the secretive surveillance tools used by the Department of Justice. A National Security Letter requires its recipients — in most cases, Internet service providers and phone companies — to provide customer data without notifying the customers or any other parties. Poitras suspected (but could not confirm, because her phone company and I.S.P. would be prohibited from telling her) that the F.B.I. had issued National Security Letters for her electronic communications.



Conor Provenzano

Laura Poitras filming the construction of a large N.S.A. facility in Utah.

Once she began working on her surveillance film in 2011, she raised her digital security to an even higher level. She cut down her use of a cellphone, which betrays not only who you are calling and when, but your location at any given point in time. She was careful about e-mailing sensitive documents or having sensitive conversations on the phone. She began using software that masked the Web sites she visited. After she was contacted by Snowden in 2013, she tightened her security yet another notch. In addition to encrypting any sensitive e-mails, she began using different computers for editing film, for communicating and for reading sensitive documents (the one for sensitive documents is air-gapped, meaning it has never been connected to the Internet).

These precautions might seem paranoid — Poitras describes them as “pretty extreme” — but the people she has interviewed for her film were targets of the sort of surveillance and seizure that she fears. William Binney, a former top N.S.A. official who publicly accused the agency of illegal surveillance, was at home one morning in 2007 when F.B.I. agents burst in and aimed their weapons at his wife, his son and himself. Binney was, at the moment the agent entered his bathroom and pointed a gun at his head, naked in the shower. His computers, disks and personal records were confiscated and have not yet been returned. Binney has not been charged with any crime.

Jacob Appelbaum, a privacy activist who was a volunteer with WikiLeaks, has also been filmed by Poitras. The government issued a secret order to Twitter for access to Appelbaum’s account data, which became public when Twitter fought the order. Though the company was forced to hand over the data, it was allowed to tell Appelbaum. Google and a small I.S.P. that Appelbaum used were also served with secret orders and fought to alert him. Like Binney, Appelbaum has not been charged with any crime.

Poitras endured the airport searches for years with little public complaint, lest her protests generate more suspicion and hostility from the government, but last year she reached a breaking point. While being interrogated at Newark after a flight from Britain, she was told she could not take notes. On the advice of lawyers, Poitras always recorded the names of border agents and the questions they asked and the material they copied or seized. But at Newark, an agent threatened to handcuff her if she continued writing. She was told that she was being barred from writing anything down because she might use her pen as a weapon.

“Then I asked for crayons,” Poitras recalled, “and he said no to crayons.”

She was taken into another room and interrogated by three agents — one was behind her, another asked the questions, the third was a supervisor. “It went on for maybe an hour and a half,” she said. “I was taking notes of their questions, or trying to, and they yelled at me. I said, ‘Show me the law where it says I can’t take notes.’ We were in a sense debating what they were trying to forbid me from doing. They said, ‘We are the

ones asking the questions.' It was a pretty aggressive, antagonistic encounter.”

Poitras met Greenwald in 2010, when she became interested in his work on WikiLeaks. In 2011, she went to Rio to film him for her documentary. He was aware of the searches and asked several times for permission to write about them. After Newark, she gave him a green light.

“She said, ‘I’ve had it,’ ” Greenwald told me. “Her ability to take notes and document what was happening was her one sense of agency, to maintain some degree of control. Documenting is what she does. I think she was feeling that the one vestige of security and control in this situation had been taken away from her, without any explanation, just as an arbitrary exercise of power.”

At the time, Greenwald was a writer for Salon. His article, “[U.S. Filmmaker Repeatedly Detained at Border](#),” was published in April 2012. Shortly after it was posted, the detentions ceased. Six years of surveillance and harassment, Poitras hoped, might be coming to an end.

Poitras was not Snowden’s first choice as the person to whom he wanted to leak thousands of N.S.A. documents. In fact, a month before contacting her, he reached out to Greenwald, who had written extensively and critically about the wars in Iraq and Afghanistan and the erosion of civil liberties in the wake of 9/11. Snowden anonymously sent him an e-mail saying he had documents he wanted to share, and followed that up with a step-by-step guide on how to encrypt communications, which Greenwald ignored. Snowden then sent a link to an encryption video, also to no avail.

“It’s really annoying and complicated, the encryption software,” Greenwald said as we sat on his porch during a tropical drizzle. “He kept harassing me, but at some point he just got frustrated, so he went to Laura.”

Snowden had read Greenwald’s article about Poitras’s troubles at U.S. airports and knew she was making a film about the government’s surveillance programs; he had also seen a [short documentary about the N.S.A.](#) that she made for The New York Times Op-Docs. He figured that she would understand the programs he wanted to leak about and would know how to communicate in a secure way.

By late winter, Poitras decided that the stranger with whom she was communicating was credible. There were none of the provocations that she would expect from a government agent — no requests for information about the people she was in touch with, no questions about what she was working on. Snowden told her early on that she would need to work with someone else, and that she should reach out to Greenwald. She was unaware that Snowden had already tried to contact Greenwald, and Greenwald would not realize until he met Snowden in Hong Kong that this was the person who had contacted him more than six months earlier.

There were surprises for everyone in these exchanges — including Snowden, who answered questions that I submitted to him through Poitras. In response to a question about when he realized he could trust Poitras, he wrote: “We came to a point in the verification and vetting process where I discovered Laura was more suspicious of me than I was of her, and I’m famously paranoid.” When I asked him about Greenwald’s initial silence in response to his requests and instructions for encrypted communications, Snowden replied: “I know journalists are busy and had assumed being taken seriously would be a challenge, especially given the paucity of detail I could initially offer. At the same time, this is 2013, and [he is] a journalist who regularly reported on the concentration and excess of state power. I was surprised to realize that there were people in news organizations who didn’t recognize any unencrypted message sent over the Internet is being delivered to every intelligence service in the world.”

In April, Poitras e-mailed Greenwald to say they needed to speak face to face. Greenwald happened to be in the United States, speaking at a conference in a suburb of New York City, and the two met in the lobby of his hotel. “She was very cautious,” Greenwald recalled. “She insisted that I not take my cellphone, because of this ability the government has to remotely listen to cellphones even when they are turned off. She had printed off the e-mails, and I remember reading the e-mails and felt intuitively that this was real. The passion and thought behind what Snowden — who we didn’t know was Snowden at the time — was saying was palpable.”

Greenwald installed encryption software and began communicating with the stranger. Their work was organized like an intelligence operation, with Poitras as the mastermind. “Operational security — she dictated all of that,” Greenwald said. “Which computers I used, how I communicated, how I safeguarded the information, where copies were kept, with whom they were kept, in which places. She has this complete expert level of understanding of how to do a story like this with total technical and operational safety. None of this would have happened with anything near the efficacy and impact it did, had she not been working with me in every sense and really taking the lead in coordinating most of it.”

Snowden began to provide documents to the two of them. Poitras wouldn’t tell me when he began sending her documents; she does not want to provide the government with information that could be used in a trial against Snowden or herself. He also said he would soon be ready to meet them. When Poitras asked if she should plan on driving to their meeting or taking a train, Snowden told her to be ready to get on a plane.

In May, he sent encrypted messages telling the two of them to go to Hong Kong. Greenwald flew to New York from Rio, and Poitras joined him for meetings with the editor of The Guardian’s American edition. With the paper’s reputation on the line, the editor asked them to bring along a **veteran Guardian reporter, Ewen MacAskill**, and on June 1, the trio boarded a 16-hour flight from J.F.K. to Hong Kong.

Snowden had sent a small number of documents to Greenwald, about 20 in all, but Poitras had received a larger trove, which she hadn’t yet had the opportunity to read closely. On the plane, Greenwald began going through its contents, eventually coming across a secret court order requiring Verizon to give its customer phone records to the N.S.A. The four-page order was from the Foreign Intelligence Surveillance Court, a panel whose decisions are highly classified. Although it was rumored that the N.S.A. was collecting large numbers of American phone records, the government always denied it.

Poitras, sitting 20 rows behind Greenwald, occasionally went forward to talk about what he was reading. As the man sitting next to him slept, Greenwald pointed to the FISA order on his screen and asked Poitras: “Have you seen this? Is this saying what I’m thinking it’s saying?”

At times, they talked so animatedly that they disturbed passengers who were trying to sleep; they quieted down. “We couldn’t believe just how momentous this occasion was,” Greenwald said. “When you read these documents, you get a sense of the breadth of them. It was a rush of adrenaline and ecstasy and elation. You feel you are empowered for the first time because there’s this mammoth system that you try and undermine and subvert and shine a light on — but you usually can’t make any headway, because you don’t have any instruments to do it — [and now] the instruments were suddenly in our lap.”

Snowden had instructed them that once they were in Hong Kong, they were to go at an appointed time to the Kowloon district and stand outside a restaurant that was in a mall connected to the Mira Hotel. There, they were to wait until they saw a man carrying

a Rubik's Cube, then ask him when the restaurant would open. The man would answer their question, but then warn that the food was bad. When the man with the Rubik's Cube arrived, it was Edward Snowden, who was 29 at the time but looked even younger.

"Both of us almost fell over when we saw how young he was," Poitras said, still sounding surprised. "I had no idea. I assumed I was dealing with somebody who was really high-level and therefore older. But I also knew from our back and forth that he was incredibly knowledgeable about computer systems, which put him younger in my mind. So I was thinking like 40s, somebody who really grew up on computers but who had to be at a higher level."

In our encrypted chat, Snowden also remarked on this moment: "I think they were annoyed that I was younger than they expected, and I was annoyed that they had arrived too early, which complicated the initial verification. As soon as we were behind closed doors, however, I think everyone was reassured by the obsessive attention to precaution and bona fides."

They followed Snowden to his room, where Poitras immediately shifted into documentarian mode, taking her camera out. "It was a little bit tense, a little uncomfortable," Greenwald said of those initial minutes. "We sat down, and we just started chatting, and Laura was immediately unpacking her camera. The instant that she turned on the camera, I very vividly recall that both he and I completely stiffened up."

Greenwald began the questioning. "I wanted to test the consistency of his claims, and I just wanted all the information I could get, given how much I knew this was going to be affecting my credibility and everything else. We weren't really able to establish a human bond until after that five or six hours was over."

For Poitras, the camera certainly alters the human dynamic, but not in a bad way. When someone consents to being filmed — even if the consent is indirectly gained when she turns on the camera — this is an act of trust that raises the emotional stakes of the moment. What Greenwald saw as stilted, Poitras saw as a kind of bonding, the sharing of an immense risk. "There is something really palpable and emotional in being trusted like that," she said.

Snowden, though taken by surprise, got used to it. "As one might imagine, normally spies allergically avoid contact with reporters or media, so I was a virgin source — everything was a surprise. . . . But we all knew what was at stake. The weight of the situation actually made it easier to focus on what was in the public interest rather than our own. I think we all knew there was no going back once she turned the camera on."

For the next week, their preparations followed a similar pattern — when they entered Snowden's room, they would remove their cellphone batteries and place them in the refrigerator of Snowden's minibar. They lined pillows against the door, to discourage eavesdropping from outside, then Poitras set up her camera and filmed. It was important to Snowden to explain to them how the government's intelligence machinery worked because he feared that he could be arrested at any time.

Greenwald's first articles — including [the initial one detailing the Verizon order](#) he read about on the flight to Hong Kong — appeared while they were still in the process of interviewing Snowden. It made for a strange experience, creating the news together, then watching it spread. "We could see it being covered," Poitras said. "We were all surprised at how much attention it was getting. Our work was very focused, and we were paying attention to that, but we could see on TV that it was taking off. We were in this closed circle, and around us we knew that reverberations were happening, and they could be seen and they could be felt."

Snowden told them before they arrived in Hong Kong that he wanted to go public. He wanted to take responsibility for what he was doing, Poitras said, and he didn't want others to be unfairly targeted, and he assumed he would be identified at some point. She made [a 12½-minute video of him](#) that was posted online June 9, a few days after Greenwald's first articles. It triggered a media circus in Hong Kong, as reporters scrambled to learn their whereabouts.

There were a number of subjects that Poitras declined to discuss with me on the record and others she wouldn't discuss at all — some for security and legal reasons, others because she wants to be the first to tell crucial parts of her story in her own documentary. Of her parting with Snowden once the video was posted, she would only say, "We knew that once it went public, it was the end of that period of working."

Snowden checked out of his hotel and went into hiding. Reporters found out where Poitras was staying — she and Greenwald were at different hotels — and phone calls started coming to her room. At one point, someone knocked on her door and asked for her by name. She knew by then that reporters had discovered Greenwald, so she called hotel security and arranged to be escorted out a back exit.

She tried to stay in Hong Kong, thinking Snowden might want to see her again, and because she wanted to film the Chinese reaction to his disclosures. But she had now become a figure of interest herself, not just a reporter behind the camera. On June 15, as she was filming a pro-Snowden rally outside the U.S. consulate, a CNN reporter spotted her and began asking questions. Poitras declined to answer and slipped away. That evening, she left Hong Kong.



Philippe Lopez/AFP/Getty Images

A protest in Hong Kong in support of Edward Snowden on June 15.

Poitras flew directly to Berlin, where the previous fall she rented an apartment where she could edit her documentary without worrying that the F.B.I. would show up with a search warrant for her hard drives. "There is a filter constantly between the places where I feel I have privacy and don't," she said, "and that line is becoming increasingly narrow." She added: "I'm not stopping what I'm doing, but I have left the country. I literally didn't feel like I could protect my material in the United States, and this was before I was contacted by Snowden. If you promise someone you're going to protect them as a source and you know the government is monitoring you or seizing your laptop, you can't actually physically do it."

After two weeks in Berlin, Poitras traveled to Rio, where I then met her and Greenwald a few days later. My first stop was the Copacabana hotel, where they were working that day with MacAskill and another visiting reporter from The Guardian, James Ball. Poitras was putting together a new video about Snowden that would be posted in a few days on The Guardian's Web site. Greenwald, with several Guardian reporters, was working on yet another blockbuster article, this one about [Microsoft's close collaboration with the](#)

[N.S.A.](#) The room was crowded — there weren't enough chairs for everyone, so someone was always sitting on the bed or floor. A number of thumb drives were passed back and forth, though I was not told what was on them.

Poitras and Greenwald were worried about Snowden. They hadn't heard from him since Hong Kong. At the moment, he was stuck in diplomatic limbo in the transit area of Moscow's Sheremetyevo airport, the most-wanted man on the planet, sought by the U.S. government for espionage. (He would later be granted temporary asylum in Russia.) The video that Poitras was working on, using footage she shot in Hong Kong, would be the first the world had seen of Snowden in a month.

"Now that he's incommunicado, we don't know if we'll even hear from him again," she said.

"Is he O.K.?" MacAskill asked.

"His lawyer said he's O.K.," Greenwald responded.

"But he's not in direct contact with Snowden," Poitras said

When Greenwald got home that evening, Snowden contacted him online. Two days later, while she was working at Greenwald's house, Poitras also heard from him.

It was dusk, and there was loud cawing and hooting coming from the jungle all around. This was mixed with the yapping of five or six dogs as I let myself in the front gate. Through a window, I saw Poitras in the living room, intently working at one of her computers. I let myself in through a screen door, and she glanced up for just a second, then went back to work, completely unperturbed by the cacophony around her. After 10 minutes, she closed the lid of her computer and mumbled an apology about needing to take care of some things.

She showed no emotion and did not mention that she had been in the middle of an encrypted chat with Snowden. At the time, I didn't press her, but a few days later, after I returned to New York and she returned to Berlin, I asked if that's what she was doing that evening. She confirmed it, but said she didn't want to talk about it at the time, because the more she talks about her interactions with Snowden, the more removed she feels from them.

"It's an incredible emotional experience," she said, "to be contacted by a complete stranger saying that he was going to risk his life to expose things the public should know. He was putting his life on the line and trusting me with that burden. My experience and relationship to that is something that I want to retain an emotional relation to." Her connection to him and the material, she said, is what will guide her work. "I am sympathetic to what he sees as the horror of the world [and] what he imagines could come. I want to communicate that with as much resonance as possible. If I were to sit and do endless cable interviews — all those things alienate me from what I need to stay connected to. It's not just a scoop. It's someone's life."

Poitras and Greenwald are an especially dramatic example of what outsider reporting looks like in 2013. They do not work in a newsroom, and they personally want to be in control of what gets published and when. When The Guardian didn't move as quickly as they wanted with the first article on Verizon, Greenwald discussed taking it elsewhere, sending an encrypted draft to a colleague at another publication. He also considered creating a Web site on which they would publish everything, which he planned to call NSADisclosures. In the end, The Guardian moved ahead with their articles. But Poitras and Greenwald have created their own publishing network as well, placing articles with other outlets in Germany and Brazil and planning more for the future. They have not

shared the full set of documents with anyone.

“We are in partnership with news organizations, but we feel our primary responsibility is to the risk the source took and to the public interest of the information he has provided,” Poitras said. “Further down on the list would be any particular news organization.”

Unlike many reporters at major news outlets, they do not attempt to maintain a facade of political indifference. Greenwald has been outspoken for years; on Twitter, he recently replied to one critic by writing: “You are a complete idiot. You know that, right?” His left political views, combined with his cutting style, have made him unloved among many in the political establishment. His work with Poitras has been castigated as advocacy that harms national security. “I read intelligence carefully,” said Senator Dianne Feinstein, chairwoman of the Senate Intelligence Committee, shortly after the first Snowden articles appeared. “I know that people are trying to get us. . . . This is the reason the F.B.I. now has 10,000 people doing intelligence on counterterrorism. . . . It’s to ferret this out before it happens. It’s called protecting America.”

Poitras, while not nearly as confrontational as Greenwald, disagrees with the suggestion that their work amounts to advocacy by partisan reporters. “Yes, I have opinions,” she told me. “Do I think the surveillance state is out of control? Yes, I do. This is scary, and people should be scared. A shadow and secret government has grown and grown, all in the name of national security and without the oversight or national debate that one would think a democracy would have. It’s not advocacy. We have documents that substantiate it.”

Poitras possesses a new skill set that is particularly vital — and far from the journalistic norm — in an era of pervasive government spying: she knows, as well as any computer-security expert, how to protect against surveillance. As Snowden mentioned, “In the wake of this year’s disclosure, it should be clear that unencrypted journalist-source communication is unforgivably reckless.” A new generation of sources, like Snowden or Pfc. Bradley Manning, has access to not just a few secrets but thousands of them, because of their ability to scrape classified networks. They do not necessarily live in and operate through the established Washington networks — Snowden was in Hawaii, and Manning sent hundreds of thousands of documents to WikiLeaks from a base in Iraq. And they share their secrets not with the largest media outlets or reporters but with the ones who share their political outlook and have the know-how to receive the leaks undetected.

In our encrypted chat, Snowden explained why he went to Poitras with his secrets: “Laura and Glenn are among the few who reported fearlessly on controversial topics throughout this period, even in the face of withering personal criticism, [which] resulted in Laura specifically becoming targeted by the very programs involved in the recent disclosures. She had demonstrated the courage, personal experience and skill needed to handle what is probably the most dangerous assignment any journalist can be given — reporting on the secret misdeeds of the most powerful government in the world — making her an obvious choice.”

Snowden’s revelations are now the center of Poitras’s surveillance documentary, but Poitras also finds herself in a strange, looking-glass dynamic, because she cannot avoid being a character in her own film. She did not appear in or narrate her previous films, and she says that probably won’t change with this one, but she realizes that she has to be represented in some way, and is struggling with how to do that.

She is also assessing her legal vulnerability. Poitras and Greenwald are not facing any charges, at least not yet. They do not plan to stay away from America forever, but they

have no immediate plans to return. One member of Congress has already likened what they've done to a form of treason, and they are well aware of the Obama administration's unprecedented pursuit of not just leakers but of journalists who receive the leaks. While I was with them, they talked about the possibility of returning. Greenwald said that the government would be unwise to arrest them, because of the bad publicity it would create. It also wouldn't stop the flow of information.

He mentioned this while we were in a taxi heading back to his house. It was dark outside, the end of a long day. Greenwald asked Poitras, "Since it all began, have you had a non-N.S.A. day?"

"What's that?" she replied.

"I think we need one," Greenwald said. "Not that we're going to take one."

Poitras talked about getting back to yoga again. Greenwald said he was going to resume playing tennis regularly. "I'm willing to get old for this thing," he said, "but I'm not willing to get fat."

Their discussion turned to the question of coming back to the United States. Greenwald said, half-jokingly, that if he was arrested, WikiLeaks would become the new traffic cop for publishing N.S.A. documents. "I would just say: 'O.K., let me introduce you to my friend Julian Assange, who's going to take my place. Have fun dealing with him.'"

Poitras prodded him: "So you're going back to the States?"

He laughed and pointed out that unfortunately, the government does not always take the smartest course of action. "If they were smart," he said, "I would do it."

Poitras smiled, even though it's a difficult subject for her. She is not as expansive or carefree as Greenwald, which adds to their odd-couple chemistry. She is concerned about their physical safety. She is also, of course, worried about surveillance. "Geolocation is the thing," she said. "I want to keep as much off the grid as I can. I'm not going to make it easy for them. If they want to follow me, they are going to have to do that. I am not going to ping into any G.P.S. My location matters to me. It matters to me in a new way that I didn't feel before."

There are lots of people angry with them and lots of governments, as well as private entities, that would not mind taking possession of the thousands of N.S.A. documents they still control. They have published only a handful — a top-secret, headline-grabbing, Congressional-hearing-inciting handful — and seem unlikely to publish everything, in the style of WikiLeaks. They are holding onto more secrets than they are exposing, at least for now.

"We have this window into this world, and we're still trying to understand it," Poitras said in one of our last conversations. "We're not trying to keep it a secret, but piece the puzzle together. That's a project that is going to take time. Our intention is to release what's in the public interest but also to try to get a handle on what this world is, and then try to communicate that."

The deepest paradox, of course, is that their effort to understand and expose government surveillance may have condemned them to a lifetime of it.

"Our lives will never be the same," Poitras said. "I don't know if I'll ever be able to live someplace and feel like I have my privacy. That might be just completely gone."

Peter Maass is an investigative reporter working on a book about surveillance and privacy.

Editor: [Joel Lovell](#)

A version of this article appeared in print on August 18, 2013, on page MM22 of the Sunday Magazine with the headline: Snowden's People.

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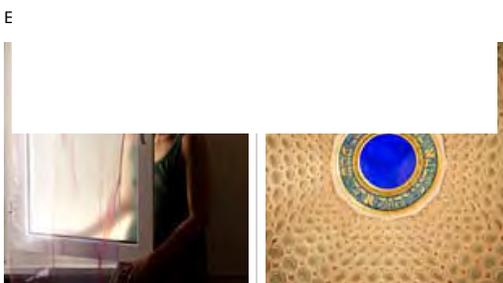
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In Secret, Court Vastly Broadens Powers of N.S.A.

By ERIC LICHTBLAU
Published: July 6, 2013 | 864 Comments

WASHINGTON — In more than a dozen classified rulings, the nation's surveillance court has created a secret body of law giving the [National Security Agency](#) the power to amass vast collections of data on Americans while pursuing not only terrorism suspects, but also people possibly involved in nuclear proliferation, espionage and cyberattacks, officials say.

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The rulings, some nearly 100 pages long, reveal that the court has taken on a much more expansive role by regularly assessing broad constitutional questions and establishing important judicial precedents, with almost no public scrutiny, according to current and former officials familiar with the court's classified decisions.

The 11-member Foreign Intelligence Surveillance Court, known as the FISA court, was once mostly focused on approving case-by-case wiretapping orders. But since major changes in legislation and greater [judicial oversight of intelligence operations were instituted six years ago](#), it has quietly become almost a parallel Supreme Court, serving as the ultimate arbiter on surveillance issues and delivering opinions that will most likely shape intelligence practices for years to come, the officials said.

Last month, a former National Security Agency contractor, Edward J. Snowden, leaked a classified order from the FISA court, which authorized the [collection of all phone-tracing data from Verizon business customers](#). But the court's still-secret decisions go far beyond any single surveillance order, the officials said.

"We've seen a growing body of law from the court," a former intelligence official said. "What you have is a common law that develops where the court is issuing orders involving particular types of surveillance, particular types of targets."

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In one of the court's most important decisions, the judges have expanded the use in terrorism cases of a legal principle known as the "special needs" doctrine and carved out an exception to the Fourth Amendment's requirement of a warrant for searches and seizures, the officials said.

The special needs doctrine was originally established in 1989 by the Supreme Court in a ruling allowing the drug testing of railway workers, finding that a minimal intrusion on privacy was justified by the government's need to combat an overriding public danger. Applying that concept more broadly, the FISA judges have ruled that the N.S.A.'s collection and examination of Americans' communications data to track possible terrorists does not run afoul of the Fourth Amendment, the officials said.

That legal interpretation is significant, several outside legal experts said, because it uses a relatively narrow area of the law — used to justify airport screenings, for instance, or drunken-driving checkpoints — and applies it much more broadly, in secret, to the wholesale collection of communications in pursuit of terrorism suspects. "It seems like a legal stretch," [William C. Banks](#), a national security law expert at Syracuse University, said in response to a description of the decision. "It's another way of tilting the scales toward the government in its access to all this data."

While President Obama and his intelligence advisers have spoken of the surveillance programs leaked by Mr. Snowden [mainly in terms of combating terrorism](#), the court has also interpreted the law in ways that extend into other national security concerns. In one recent case, for instance, intelligence officials were able to get access to an e-mail attachment sent within the United States because they said they were worried that the e-mail contained a schematic drawing or a diagram possibly connected to [Iran's nuclear program](#).

In the past, that probably would have required a court warrant because the suspicious e-mail involved American communications. In this case, however, a little-noticed provision in a 2008 law, expanding the definition of "foreign intelligence" to include "weapons of mass destruction," was used to justify access to the message.

The court's use of that language has allowed intelligence officials to get wider access to data and communications that they believe may be linked to nuclear proliferation, the officials said. They added that other secret findings had eased access to data on espionage, cyberattacks and other possible threats connected to foreign intelligence.

"The definition of 'foreign intelligence' is very broad," another former intelligence official said in an interview. "An espionage target, a nuclear proliferation target, that all falls within FISA, and the court has signed off on that."

The official, like a half-dozen other current and former national security officials, discussed the court's rulings and the general trends they have established on the condition of anonymity because they are classified. Judges on the FISA court refused to comment on the scope and volume of their decisions.

Unlike the Supreme Court, the FISA court hears from only one side in the case — the government — and its findings are [almost never made public](#). A Court of Review is empaneled to hear appeals, but that is known to have happened only a handful of times in the court's history, and no case has ever been taken to the Supreme Court. In fact, it is not clear in all circumstances whether Internet and phone companies that are turning over the reams of data even have the right to appear before the FISA court.

Created by Congress in 1978 as a check against wiretapping abuses by the government, the court meets in a secure, nondescript room in the federal courthouse in Washington. All of the current 11 judges, who serve seven-year terms, were appointed to the special

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court by Chief Justice John G. Roberts Jr., and 10 of them were nominated to the bench by Republican presidents. Most hail from districts outside the capital and come in rotating shifts to hear surveillance applications; a single judge signs most surveillance orders, which totaled nearly 1,800 last year. None of the requests from the intelligence agencies was denied, according to the court.

Beyond broader legal rulings, the judges have had to resolve questions about newer types of technology, like video conferencing, and how and when the government can get access to them, the officials said.

The judges have also had to intervene repeatedly when private Internet and phone companies, which provide much of the data to the N.S.A., have raised concerns that the government is overreaching in its demands for records or when the government itself reports that it has inadvertently collected more data than was authorized, the officials said. In such cases, the court has repeatedly ordered the N.S.A. to destroy the Internet or phone data that was improperly collected, the officials said.

The officials said one central concept connects a number of the court's opinions. The judges have concluded that the mere collection of enormous volumes of "metadata" — facts like the time of phone calls and the numbers dialed, but not the content of conversations — does not violate the Fourth Amendment, as long as the government establishes a valid reason under national security regulations before taking the next step of actually examining the contents of an American's communications.

This concept is rooted partly in the "special needs" provision the court has embraced. "The basic idea is that it's O.K. to create this huge pond of data," a third official said, "but you have to establish a reason to stick your pole in the water and start fishing."

Under the new procedures passed by Congress in 2008 in the FISA Amendments Act, even the collection of metadata must be considered "relevant" to a terrorism investigation or other intelligence activities.

The court has indicated that while individual pieces of data may not appear "relevant" to a terrorism investigation, the total picture that the bits of data create may in fact be relevant, according to the officials with knowledge of the decisions.

[Geoffrey R. Stone](#), a professor of constitutional law at the University of Chicago, said he was troubled by the idea that the court is creating a significant body of law without hearing from anyone outside the government, forgoing the adversarial system that is a staple of the American justice system. "That whole notion is missing in this process," he said.

The FISA judges have bristled at criticism that they are a rubber stamp for the government, occasionally speaking out to say they apply rigor in their scrutiny of government requests. Most of the surveillance operations involve the N.S.A., an eavesdropping behemoth that has listening posts around the world. Its role in gathering intelligence within the United States has grown enormously since the Sept. 11 attacks.

Soon after, President George W. Bush, under a secret wiretapping program that circumvented the FISA court, authorized the N.S.A. to collect metadata and in some cases listen in on foreign calls to or from the United States. After a heated debate, the essential elements of the Bush program were put into law by Congress in 2007, but with greater involvement by the FISA court.

Even before the leaks by Mr. Snowden, members of Congress and civil liberties advocates had been pressing for declassifying and publicly releasing court decisions, perhaps in summary form.

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Reggie B. Walton, the FISA court's presiding judge, wrote in March that he recognized the "[potential benefit of better informing the public](#)" about the court's decisions. But, he said, there are "serious obstacles" to doing so because of the potential for misunderstanding caused by omitting classified details.

Gen. Keith B. Alexander, the N.S.A. director, was noncommittal when he was pressed at a Senate hearing in June to put out some version of the court's decisions.

While he pledged to try to make more decisions public, he said, "I don't want to jeopardize the security of Americans by making a mistake in saying, 'Yes, we're going to do all that.' "

A version of this article appeared in print on July 7, 2013, on page A1 of the New York edition with the headline: In Secret, Court Vastly Broadens Powers of N.S.A..

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Measure for Measure: Redemption



Intelligence court rules wiretapping program legal

By Eric Lichtblau
Published: Monday, January 5, 2009

WASHINGTON — A federal intelligence court, in a rare public opinion, is expected to issue a major ruling validating the power of the president and Congress to wiretap international phone calls and intercept e-mail messages without a court order, even when Americans' private communications may be involved.

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The court decision is expected to be disclosed as early as Thursday in an unclassified, redacted form. It was made in December by the Foreign Intelligence Surveillance Court of Review, which has issued only two prior rulings in its 30-year history.

The decision marks the first time since the disclosure of the National Security Agency's warrantless eavesdropping program three years ago that an appellate court has addressed the constitutionality of the federal government's wiretapping powers. In validating the government's wide authority to collect foreign intelligence, it may offer legal credence to the Bush administration's repeated assertions that the president has constitutional authority to act without specific court approval in ordering national security eavesdropping.

The appeals court is expected to uphold a secret ruling issued last year by the intelligence court that it oversees, known as the Foreign Intelligence Surveillance, or FISA, court. In that initial opinion, the secret court found that Congress had acted within its authority in August of 2007 when it passed a hotly debated law known as the Protect America Act, which gave the executive branch broad power to eavesdrop on international communications, according to someone familiar with the ruling.

The Justice Department declined to comment on the matter; so did a spokesman for the FISA and appeals courts.

The court ruling grew out of a previously undisclosed challenge from a telecommunications provider, which questioned the constitutional authority of the executive branch in ordering it to capture and turn over international communications without court authority, according to the person with knowledge of the opinion.

The telecommunications company, which was not identified, apparently refused to comply with the order and instead challenged the legal basis of the order under the

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2007 law in a claim before the FISA court.

The FISA court rejected the telecommunication companies' challenge. It found that the Protect America Act did not violate the Constitution because the Fourth Amendment, which prohibits unreasonable searches and seizures, contained an exception for the collection of foreign intelligence information, according to the person familiar with theon.

The opinion is not expected to directly rule on the legality of the once-secret operation authorized by President George W. Bush between October 2001 and early 2007, which allowed the National Security Agency to eavesdrop on the international communications of Americans suspected of ties to terrorists. The disclosure of the program's existence in The New York Times in December 2005 set off a national debate on wiretapping, privacy and the limits of presidential power. Critics charged that Bush had violated a 1978 law requiring that the government obtain a court order to listen in on Americans' communications.

Still, the new ruling is expected to have broad implications for federal wiretapping law, because it is the first time that any appeals court has ruled on the constitutional question of the president's wiretapping power.

It could also influence a number of court challenges now pending in federal court in California against telecommunications companies that took part in the NSA program. Last year, Congress approved legal immunity against lawsuits for the telecommunications companies, but a federal judge has yet to decide whether the lawsuits should be thrown out.

The Protect America Act was a temporary, six-month measure that gave the president the authority to collect international phone calls and e-mail messages in large batches in search of possible terrorist connections without getting individual warrants. The international communications of Americans could be collected, so long as the target of the wiretapping operations was outside the United States.

The law drew strong objections from congressional Democrats, who blocked its renewal in early 2008 despite repeated warnings from Bush that national security would be compromised. Ultimately, Congress approved a plan last June that authorized the same basic framework for international eavesdropping — along with the long-sought immunity for the phone companies — but added some restrictions.

Barack Obama, then a United States senator, was highly critical of the presidential wiretapping power claimed by Bush, and threatened to filibuster the final bill. But he ultimately voted for it, angering some of his liberal supporters. His administration is expected to examine possible changes in wiretapping law and operations, a review that will probably be affected by the findings of the FISA appeals court. [Recommend More Articles in Washington »](#)

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national security

FISA Court Appears To Be Rubber Stamp For Government Requests

by **DINA TEMPLE-RASTON**

June 13, 2013 4:00 AM



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The Foreign Intelligence Surveillance Court has been under fire since one of its classified orders was leaked by a former National Security Agency analyst. Detractors have focused on the fact that nearly all the warrant applications brought before its judges have been approved.

Transcript

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LINDA WERTHEIMER, HOST:

It's MORNING EDITION, from NPR News. I'm Linda Wertheimer.

RENEE MONTAGNE, HOST:

And I'm Renee Montagne.

The NSA leaks revealing the broad extent of U.S. surveillance programs are also putting a spotlight on the special court that oversees them. It's called the Foreign Intelligence Surveillance Court. Created by Congress in 1978 to ensure the government doesn't abuse its surveillance powers, it operates in secret.

NPR's Dina Temple-Raston has this report on how the court works.

DINA TEMPLE-RASTON, BYLINE: **The criticism of the Foreign Intelligence Surveillance Court is simple:**

that it's a rubber stamp, and that the government always gets what it wants. And here's a number that seem to support that: 1,856. That's the number of applications presented to the court by the government last year. And it's also the number that the court approved: 100 percent success.

But Joel Brenner, the former general counsel at the National Security Agency, says this is not proof that the FISA court is a rubber stamp.

JOEL BRENNER: I can tell you that that court has taken a wire brush to certain applications that have come before it. The idea that somehow they put their stamp on everything the government puts before them couldn't be farther from the truth.

TEMPLE-RASTON: To understand why every application seems to be approved, you have to understand how the process works. The government goes to the FISA court with a proposition. It tells the judge, for example, that the NSA wants to track the phone calls and emails of someone they say is vital to an international terrorism investigation. Basically, according to Brenner, the government says...

BRENNER: Here's what we'd like to do, and there follows a back and forth and a discussion with a FISA judge, who, in many cases, has serious questions about what is being done or how it's being done.

TEMPLE-RASTON: That FISA judge is a regular federal judge who presides over day-to-day criminal and civil cases. In a FISA case, that judge is supposed to question the government's case.

Mike German is with the American Civil Liberties Union, and he says that isn't enough.

MICHAEL GERMAN: These are federal judges, and deserve some respect. But it's the process that's broken.

TEMPLE-RASTON: German is a former FBI agent, and now the ACLU's senior policy counsel.

GERMAN: I don't think it's necessarily a rubber stamp, but it's just that it suffers from these fatal flaws.

TEMPLE-RASTON: There are two fatal flaws, according to civil liberties groups. The first is that the court is secret. To get an idea of how secret, the leaked document about the NSA asking to collect Verizon phone records was a FISA order. One had never been seen publicly before.

The second problem, the ACLU's Mike German says, is that the process isn't adversarial. There isn't the equivalent of a defense attorney to challenge the prosecution's version of events. It's just the prosecution talking to the judge - a little like the grand jury process.

GERMAN: You have a prosecutor who goes in a room with 23 grand jurors to indict somebody, but the process - because it isn't adversarial - often doesn't come to the right result.

JENNIFER DASKAL: There are certain things that just can't be adversarial. They don't work that way.

TEMPLE-RASTON: Jennifer Daskal teaches at Georgetown Law School and used to be a lawyer with Human Rights Watch. She also worked at the Department of Justice.

DASKAL: What you have, I think, is an incredible amount of secrecy about how the court works - often for good reason. But as a result, there is this misperception and fear and assumptions that the executive always gets what it wants, and that the executive is always overreaching, and overreaching more and more with time.

TEMPLE-RASTON: It may be there are other ways to measure whether the government gets what it wants from a FISA court. The Justice Department says it presented 212 requests to conduct surveillance in the U.S. to the FISA court last year. It says the court modified 200 of them before they were approved. The problem: the public doesn't know why these orders from the government were modified or how they were changed.

This week, senators introduced legislation that would declassify significant FISA court rulings.

Dina Temple-Raston, NPR News.

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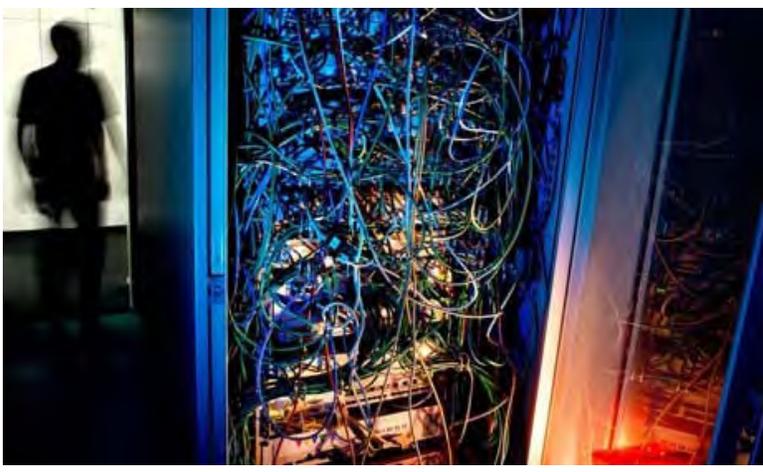
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Portrait of the NSA: no detail too small in quest for total surveillance

The NSA gathers intelligence to keep America safe. But leaked documents reveal the NSA's dark side – and show an agency intent on exploiting the digital revolution to the full

BETA

Ewen MacAskill and **James Ball**
The Observer, Saturday 2 November 2013 12.13 EDT
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The attacks on New York and Washington ended the NSA's decade of torpor – it now has an annual budget of more than \$10bn. Photograph: Julian Stratenschulte/EPA

Barack Obama hailed United Nations secretary general Ban Ki-moon as a "good friend" after the two had sat down in the White House in April to discuss the issues of the day: Syria and alleged chemical weapons attacks, North Korea, Israel-Palestine, and climate change.

But long before Ban's limousine had even passed through the White House gates for the meeting, the US government knew what the secretary general was going to talk about, courtesy of the world's biggest eavesdropping organisation, the National Security Agency.

One NSA document – leaked to the Guardian by whistleblower Edward Snowden just a month after the meeting and reported in partnership with the New York Times - boasts how the spy agency had gained "access to

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UN secretary general talking points prior to meeting with Potus" (president of the United States). The White House declined to comment on whether Obama had read the talking points in advance of the meeting.

Spying on Ban and others at the UN is in contravention of international law, and the US, forced on the defensive this week over the Snowden leaks about worldwide snooping, ordered an end to surveillance of the organization, according to Reuters.

That the US spied on Ban is no great surprise. What is a revealing is that the disclosure is listed in the NSA's 'top-secret' weekly report from around the world as an "operational highlight".

It sits incongruously alongside other "operational highlights" from that week: details of an alleged Iranian chemical weapons program; communications relating to an alleged chemical weapons attack in Syria and a report about the Mexican drug cartel Los Zetas.

Bracketing the benign, US-friendly Ban alongside drug traffickers and weapons in the Middle East and Central Asia points to a spy agency that has lost its sense of proportion.

The incident is consistent with the portrait of the NSA that emerges from the tens of thousands of documents leaked by Snowden. Page after page shows the NSA engaged in the kind of intelligence-gathering it would be expected to carry out: eavesdropping on Taliban insurgents planning attacks in remote Afghanistan valleys, or listening in on hostage-takers in Colombia.

But the documents reveal, too, the darker side of the NSA. It is indiscriminate in the information it is collecting. Nothing appears to be too small for the NSA. Nothing too trivial. Rivals, enemies, allies and friends – US citizens and 'non-Americans' – are all scooped up.

The documents show the NSA, intent on exploiting the communications revolution to the full, developing ever more intrusive programmes in pursuit of its ambition to have surveillance cover of the whole planet: total command of what the NSA refers to as the 'digital battlefield'.

'Graying and shrinking'

When the NSA was founded in 1952, its task was primarily to target the Soviet Union.

And so it did, decade after decade, until the fall of the Berlin Wall in 1989 and the end of the cold war soon afterwards.

With the collapse of the Soviet Union, the NSA entered a decade of uncertainty. Morale slumped. The mood is caught in a document dated February 2001, only a few months before 9/11. In it, the agency admitted its capacity for intercepting electronic communications had been eroded during the 90s.

"NSA's workforce has been graying and shrinking. The operational tools have become antiquated and unable to handle the emerging signal structure," it says.

safeguards over spy agencies, saying 'we have to protect ourselves from ourselves'

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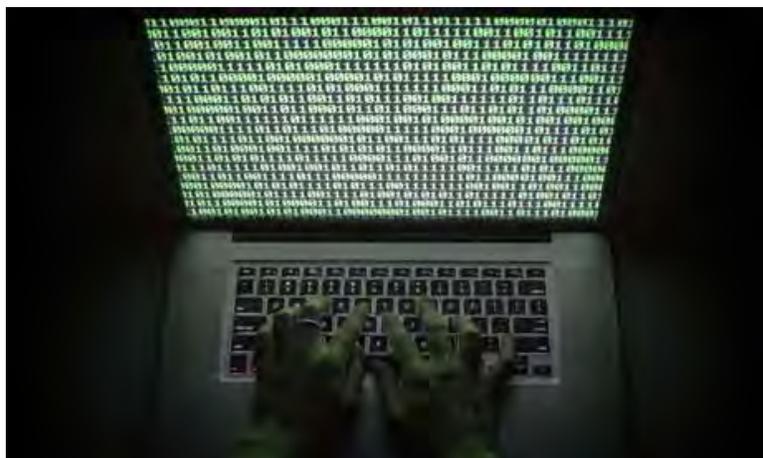
Lorde: 'People have treated me like a

"Ten years ago we had a highly skilled workforce with intimate knowledge of the target and the tools to analyse the data.

"We have now reached the point of having a workforce where the majority of analysts have little-to-no experience."

Tellingly, in the light of the attacks on New York and Washington six months later, the document complained about a lack of linguists and analysts covering Afghanistan. The same pool of experts covering Afghanistan as a whole were the same that "assist NSA's Office of Counter-terrorism in following the Taleban-USama bin Laden relationship", it said.

'Sanitize personal effects'



The NSA refers to the people it serves as 'external customers'. Photograph: Felix Clay

The attacks on New York and Washington ended the NSA's decade of torpor. Suddenly, it found funding, and staff recruitment was no longer a problem. Since 9/11, expansion has been rapid. The NSA was one of the main beneficiaries of the doubling of the intelligence budget since 9/11.

Its proposed budget allocation for 2013 is \$10.8bn, with 35,000 staff and bases in Georgia, Texas, Colorado, Hawaii and Utah adding to its headquarters at Fort Meade, Maryland. Its antennae can be found on the rooftops of 80 American embassies around the world.

It has large posts in the UK, Australia and Japan, but also operates elsewhere, sometimes covertly. In one country, Americans are secretly present at a base where exposure of their presence would provoke a major diplomatic incident, as it is in breach of an international treaty signed by the NSA's host nation. Agency staff visiting the base have to hide their real identities, posing as contractors working on communications equipment and carrying fake business cards to back up their story.

A PowerPoint briefing warns staff heading to this secret base: "Know your cover legend". It urges them to "sanitize personal effects" and to send no postcards home. Nor should they take souvenirs home with them. The NSA briefing makes an exception for jewellery, because "most jewellery does not have markings identifying it" as coming from that country.

The NSA refers to the people it serves as "external customers": the White House, the State Department, the CIA, the US mission to the UN, the Defense Intelligence Agency and others.

Its remit for those customers has become ever more complex. During the cold war, the NSA mainly targeted state institutions: the political, military and intelligence structures of Russia and Eastern Europe. Today, the

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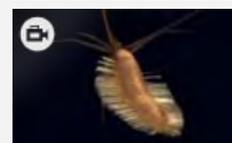
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main targets – al-Qaida and its related groups – are much more diffuse and elusive.

The NSA sets out its mission statement in its current five-year plan. In it, the agency insists Sigint (signals intelligence, or the interception of communications) will adhere to the highest standards. "Sigint professionals must hold the moral high ground, even as terrorists or dictators seek to exploit our freedoms. Some of our adversaries will say or do anything to advance their cause; we will not."

Summing up the reason for its existence, it says: "Our mission is to answer questions about threatening activities that others mean to keep hidden."

But its actual scope goes well beyond that. It is hard to see where surveilling Ban Ki-moon or German chancellor Angela Merkel fits into answering questions about "threatening activities".

Mission creep

At a press conference in August, Obama defended the NSA and defined its role in narrow terms. He described the agency's remit purely as counter-terrorism. "We do not have an interest in doing anything other than that," he said.

The remark was striking. Counter-terrorism has been the justification for huge budget increases, but the agency is involved in much more than that. The NSA discloses in one leaked document that only 35% of available resources are dedicated to the 'global war on terrorism'.

Obama later amended his statement. The NSA was not only engaged in counter-terrorism, he said, but also cyber-security and combating weapons of mass destruction. Even this does not begin to capture the sheer variety and reach of NSA operations.

Its own list of strategic targets includes: support for US military in the field; gathering information about military technology; anticipating state instability; monitoring regional tensions; countering drug trafficking; gathering economic, political and diplomatic information; ensuring a steady and reliable energy supply for the US; and ensuring US economic advantage. It boasts it can collect information from "virtually every country".

Hundreds of the documents show the NSA engaged in activities that would generally be applauded. One credits the NSA's Texas base as intercepting 478 emails that helped to foil the Jihad Jane plot to kill Swedish artist Lars Vilks over his depiction of the prophet Muhammad.

Another shows the NSA, during a deadly takeover of the Intercontinental Hotel in Kabul by the insurgent Haqqani group, able to listen in, minute-by-minute, to what the gunmen were saying.

There is an account, too, of the NSA's part in disrupting a human trafficking racket based in Fuzhou, China. It led to two arrests at New York's JFK airport. One of those lifted allegedly carried details of the smuggling routes in his pocket.

Remote surroundings might fool some into thinking they are beyond snooping. An alleged cocaine smuggler might have thought he was relatively safe aboard a yacht in the Caribbean. But he failed to take account of the fact that his partner, also on board, was chatting on Facebook, providing valuable information about the boat's location and planned landfall; information intercepted by one of the NSA's intelligence partners.

Nor is the Iranian leadership beyond reach. In 2009, the NSA was able to track almost every move made by Iran's supreme leader, the Ayatollah Ali Khamenei, on a rare visit outside Tehran to the

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mountainous Kordestan province.

The most valuable service the NSA has provided for America and its allies since 9/11 is in support of the military in Iraq and Afghanistan. A 2007 NSA file, called 'State of the Enterprise', is typical of many of the spy agency's documents which list wartime successes.

"Specific results included the identification and location of a sniper targeting personnel inside the Baghdad Green Zone; the confirmation that a CIA asset was operating as a potential 'bad actor'."

Other intelligence agencies such as the CIA complain privately about the degree of co-operation from the NSA in sharing intelligence, but in the end, like most other intelligence agencies, it is generally thankful for it. There are complaints, too, from soldiers in the field that live information is not always transferred to them fast enough, but they, too, express gratitude for snippets passed on about potential Taliban attacks.

The NSA, according to one document, overheard a Taliban figure, Mullah Rahimullah Akhund, known on the US military's kill-or-capture list by the codename Objective Squiz Incinerator, instructing an associate to buy and organize components for a roadside bomb, suicide vests and a Japanese motorbike.

The appreciation of Americans and their allies in Afghanistan for such information is summed up in this letter back to headquarters: "You guys/gals probably have no idea how much we rely on your tool for enabling our CT (counter-terrorism) capture operations in Afghanistan. It really does help us get our enemies off the playing field, so to speak."

Technological spread

When the NSA, the CIA and other parts of the intelligence community spied illegally on American anti-war protesters, civil rights leaders and trade unionists in the 1970s, there was at least a technical limitation of their actions. The difference today is that technological revolution allows them to spy on almost everyone.

The expansion in surveillance that accelerated under George W Bush has continued under Barack Obama. And this growth has not been matched by any corresponding reform of the legal framework or political oversight.

While there are frequent warnings in the documents reminding NSA staff of rules for protecting the [privacy](#) of Americans, other documents show repeated violations. Such violations are almost inevitable given the way the NSA collects so much, the technology and analysts unable to distinguish between data on foreigners and American citizens.

The NSA says in public it only collects a tiny percentage of internet traffic, smaller than "a dime on a basketball court". But there is a gulf between what the NSA says in public and what it says in documents, in which technicians and analysts express their glee at finding novel ways of cracking into electronic communications and expanding their reach in ever more imaginative ways.

The question critics of the NSA raise is: just because it has the technical ability to do these things, should it?

One document shows the NSA engaged in a massive snooping operation targeting a United Nations climate change conference in Bali in 2007.

Ban, speaking at the conference, which attracted thousands from around the world, described combating climate change as "the moral challenge of our generation".

However, the NSA's Australian base at Pine Gap was less interested in combating climate change than collecting the numbers of Indonesian

security officials in case of a future emergency.

"Highlights include the compromise of the mobile phone number" for one senior Balinese official, an NSA report boasted. "Site efforts revealed previously unknown Indonesian communications networks and postured us to increase collection in the event of a crisis."

This effort-filled collection of the cell phone number falls under the category of information that spies have always gathered. The rationale is: should there be an attack at the conference or some future outrage, such numbers could be valuable. The counter-argument is that Indonesia is a friend of the US and might be expected to share information in the event of an attack, so why does the NSA devote grand resources to harvesting such numbers?

One of the biggest criticisms of bulk data collection is that the agency cannot look at, let alone analyse, all the data it is collecting. One document echoed the problems the agency faced in 2001 when it lamented the lack of linguists pre-9/11. An officer, after checking some messages that might have been from a terrorist group, admitted: "Most of it is in Arabic or Farsi, so I can't make much of it."

The 5-Eyes

The NSA operates in close co-operation with four other English-speaking countries - the UK, Canada, Australia and New Zealand - sharing raw intelligence, funding, technical systems and personnel. Their top level collective is known as the '5-Eyes'.

Beyond that, the NSA has other coalitions, although intelligence-sharing is more restricted for the additional partners: the 9-Eyes, which adds Denmark, France, the Netherlands and Norway; the 14-Eyes, including Germany, Belgium, Italy, Spain and Sweden; and 41-Eyes, adding in others in the allied coalition in Afghanistan.

The exclusivity of the various coalitions grates with some, such as Germany, which is using the present controversy to seek an upgrade. Germany has long protested at its exclusion, not just from the elite 5-Eyes but even from 9-Eyes. Minutes from the UK intelligence agency [GCHQ](#) note: "The NSA's relationship with the French was not as advanced as GCHQ's ... the Germans were a little grumpy at not being invited to join the 9-Eyes group".

Significantly, amid the German protestations of outrage over US eavesdropping on Merkel and other Germans, Berlin is using the controversy as leverage for an upgrade to 5-Eyes.

The NSA's closest ties are with the [GCHQ](#). Documents suggest the British contribution is significant. In a random selection of NSA documents monitoring weekly reports, the British agency is frequently listed alongside the US agency's biggest regional bases such as Texas and Georgia.

GCHQ operates a vast internet tapping operation based on partnerships between the UK government and telecoms companies based in the UK and overseas. This allows the NSA to "touch" about 90% of the traffic crossing the UK.

Given the UK's location, this is a huge proportion of the internet: the UK hosts one of the major transatlantic internet cables, as well as numerous cables connecting Europe and the Middle East. Each day, a quarter of all internet traffic traverses the UK.

The information collected and stored by the programme, codenamed [Tempora](#), is stored by GCHQ for up to a month, with NSA analysts granted direct access to the intelligence.

The NSA – in theory at least – operates inside a legal framework that

requires warrants to target Americans. But the [Fisa](#) court turns down few such requests. GCHQ operates in an even looser environment. One GCHQ document, referring to UK oversight, says: "So far they have always found in our favour."

A GCHQ legal briefing suggests some of the distinctions stressed in policy documents and public statements by staff of both agencies may not be so rigorously enforced in practice. A lengthy legal training slideshow includes several slides explaining the often-complex differences between content and [metadata](#), which requires substantially different handling, especially under US law.

However, the notes for the presentation say: "GCHQ policy is to treat it pretty much all the same, whether it's content or [metadata](#)."

The blurred boundaries are acknowledged, too, in NSA documents, one of which states: "It is often unclear whether individual communication elements, particularly content-related metadata (CRI) – information derived from the message body – is content or metadata? For example, are email subject lines metadata or content? What about an email's signature block or telephone numbers within a message? Questions like these are not necessarily clear-cut."

Gaining access to the huge classified data banks appears to be relatively easy. Legal training sessions – which may also be required for access to information from Australian, Canadian, or New Zealand agencies – suggest that gaining credentials for data is relatively easy. The sessions are often done as self-learning and self-assessment, with "multiple choice, open-book" tests done at the agent's own desk on its "iLearn" system. Agents then copy and paste their passing result in order to gain access to the huge databases of communications.

Conclusion

The NSA, once the most secretive of the 16 US intelligence agencies but now embarrassingly penetrated as a result of Snowden, is facing more scrutiny than at any time since its founding, even more than during the domestic spying scandals of the 1970s.

It is being challenged in Congress. It is being challenged in the courts by an unholy alliance of the liberal American Civil Liberties Union and the right-leaning National Rifle Association. It is coming under pressure from the internet companies to be more transparent. And there is review panel announced by Obama in August. There is also pressure from Germany and France, Mexico and Brazil.

In spite of the furore, reforms may prove modest. The agency is hardly likely to easily relinquish its new-found capability of snooping almost everywhere.

In one of the leaked 'State of the Enterprise' documents from 2007, an NSA staff member says: "The constant change in the world provides fertile ground for discovering new targets, technologies and networks that enable production of Sigint."

The official happily embraces this: "It's becoming a cliché that a permanent state of change is the new standard. It is the world we live in – navigating through continuous whitewater."

It's an environment in which the NSA thrives, the official says. And adds: "Lucky for us."



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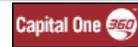
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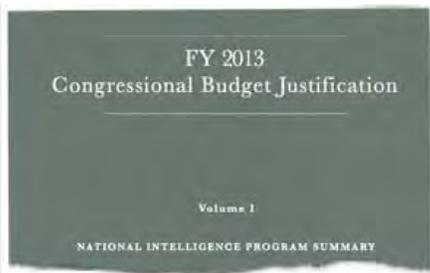
By Barton Gellman and Greg Miller, Published: August 29 [E-mail the writers](#)

U.S. spy agencies have built an intelligence-gathering colossus since the attacks of Sept. 11, 2001, but remain unable to provide critical information to the president on a range of national security threats, according to the government's top-secret budget.

The \$52.6 billion "black budget" for fiscal 2013, obtained by The Washington Post from former intelligence contractor [Edward Snowden](#), maps a bureaucratic and operational landscape that has never been subject to public scrutiny. Although the government has annually released its overall level of intelligence spending since 2007, it has not divulged how it uses the money or how it performs against the goals set by the president and Congress.

[Read the documents](#)

The 178-page budget summary for the National Intelligence Program details the successes, failures and objectives of the [16 spy agencies](#) that make up the U.S. intelligence community, which has 107,035 employees.



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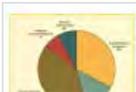
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Tables detail spending requests for agencies, as well as personnel breakdowns by pay grade, language expertise, and years of service.

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The summary describes cutting-edge technologies, agent recruiting and ongoing operations. The Post is withholding some information after consultation with U.S. officials who expressed concerns about the risk to intelligence sources and methods. Sensitive details are so pervasive in the documents that The Post is publishing only summary tables and charts online.

"The United States has made a considerable investment in the Intelligence Community since the terror attacks of 9/11, a time which includes wars in Iraq and Afghanistan, the Arab Spring, the proliferation of weapons of mass destruction technology, and asymmetric threats in such areas as cyber-warfare," Director of National Intelligence [James R. Clapper Jr. wrote in response to inquiries from The Post.](#)

"Our budgets are classified as they could provide insight for foreign intelligence services to discern our top national priorities, capabilities and sources and methods that allow us to obtain information to counter threats," he said.

Among the notable revelations in the budget summary:

• Spending by the CIA has surged past that of every other spy agency, with \$14.7 billion in requested funding for 2013. The figure vastly exceeds outside estimates and is nearly 50 percent above that of the National Security Agency, which conducts eavesdropping operations and has long been considered the behemoth of the community.

• The CIA and the NSA have begun aggressive new efforts to hack into foreign computer networks to steal information or sabotage enemy systems, embracing what the budget refers to as "offensive cyber operations."

• Long before Snowden's leaks, the U.S. intelligence community worried about "anomalous behavior" by employees and contractors with access to classified material. The NSA planned to ward off a "potential insider compromise of sensitive

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information” by re-investigating at least 4,000 people this year who hold high-level security clearances.

•U.S. intelligence officials take an active interest in friends as well as foes. Pakistan is described in detail as an “intractable target,” and counterintelligence operations “are strategically focused against [the] priority targets of China, Russia, Iran, Cuba and Israel.” The latter is a U.S. ally but has a history of espionage attempts against the United States.

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devin3 wrote: 8/29/2013 2:54 PM EDT

Edward Snowden is getting more patriotic by the day. God bless him.

nightjoe responds: 8/29/2013 2:55 PM EDT

A Ben Franklin for our times.

AmericanAbroad responds: 8/29/2013 4:59 PM EDT

Snowden – whistleblower or traitor? The jury may be out for decades. But one thing I know, government surveillance is making us a fearful nation. A few years ago I used to pride myself on reading widely, including warped anti-American propaganda. Now I daren't click the following link for fear of being put on a no-fly list or intimidated in some other way. We pride ourselves on being “the land of the free and the home of the brave” but are you free and brave enough to click the link? Test yourself.

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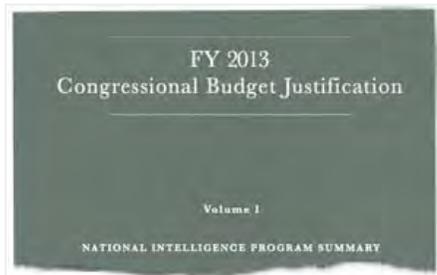
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U.S. spy network's successes, failures and objectives detailed in 'black budget' summary

●In words, deeds and dollars, intelligence agencies remain fixed on terrorism as the gravest threat to national security, which is listed first among five "mission objectives." Counterterrorism programs employ one in four members of the intelligence workforce and account for one-third of the intelligence program's spending.

●The governments of Iran, China and Russia are difficult to penetrate, but North Korea's may be the most opaque. There are five "critical" gaps in U.S. intelligence about Pyongyang's nuclear and missile programs, and analysts know virtually nothing about the intentions of North Korean leader Kim Jong Un.

Read the documents



Formally known as the Congressional Budget Justification for the National Intelligence Program, the "top-secret" blueprint represents spending levels proposed to the House and Senate intelligence committees in February 2012. Congress may have made changes before the fiscal year began on Oct 1. Clapper is expected to release the actual total spending figure after the fiscal year ends on Sept. 30.

Inside the secret 'black budget'

View select pages from the Office of the Director of National Intelligence's top-secret 2013 budget with key sections annotated by The Washington Post.

The document describes a constellation of spy agencies that track millions of surveillance targets and carry out operations that include hundreds of lethal strikes. They are organized around five priorities: combating terrorism, stopping the spread of nuclear and other unconventional weapons, warning U.S. leaders about critical events overseas, defending against foreign espionage, and conducting cyber-operations.

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In an introduction, Clapper said the threats facing the United States "virtually defy rank-ordering." He warned of "hard choices" as the intelligence community — sometimes referred to as the "IC" — seeks

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The current budget proposal envisions that spending will remain roughly level through 2017 and amounts to a case against substantial cuts.

"Never before has the IC been called upon to master such complexity and so many issues in such a resource-constrained environment," Clapper wrote.

More data from the 'black budget'

AUG 29

Tables detail spending requests for agencies, as well as personnel breakdowns by pay grade, language expertise, and years of service.

An espionage empire

The summary provides a detailed look at how the U.S. intelligence community has been reconfigured by the massive infusion of resources that followed the 2001 attacks. The United States has spent more than \$500 billion on intelligence during that period, an outlay that U.S. officials say has succeeded in its main objective: preventing another catastrophic terrorist attack in the United States.

The result is an espionage empire with resources and a reach beyond those of any adversary, sustained even now by spending that rivals or exceeds the levels at the height of the Cold War.

The current total budget request was 2.4 percent below that of fiscal 2012. In constant dollars, it was about twice the estimated size of the 2001 budget and 25 percent above that of 2006, five years into what was then known as the "global war on terror."

Historical data on U.S. intelligence spending is largely nonexistent. Through extrapolation, experts have estimated that Cold War spending probably peaked in the late 1980s at an amount that would be the equivalent of \$71 billion today.

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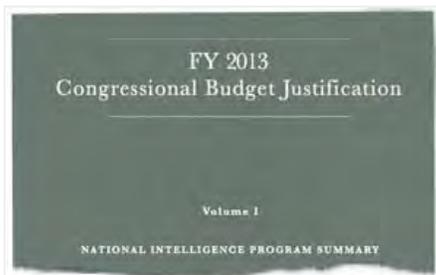
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U.S. spy network's successes, failures and objectives detailed in 'black budget' summary

Spending in the most recent cycle surpassed that amount, based on the \$52.6 billion detailed in documents obtained by The Post plus a separate \$23 billion devoted to intelligence programs that more directly support the U.S. military.

Lee H. Hamilton, an Indiana Democrat who chaired the House Intelligence Committee and co-chaired the commission that investigated the Sept. 11 attacks, said that access to budget details will enable an informed public debate on intelligence spending for the first time, much as Snowden's disclosures of NSA surveillance programs brought attention to operations that had assembled data on nearly every U.S. citizen.

Read the documents



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Documents offer a look at program

"Much of the work that the intelligence community does has a profound impact on the life of ordinary Americans, and they ought not to be excluded from the process," Hamilton said.

"Nobody is arguing that we should be so transparent as to create dangers for the country," he said. But, he added, "there is a mind-set in the national security community: 'Leave it to us, we can handle it, the American people have to trust us.' They carry it to quite an extraordinary length so that they have resisted over a period of decades transparency. . . . The burden of persuasion as to keeping something secret should be on the intelligence community, the burden should not be on the American public."

Experts said that access to such details about U.S. spy programs is without precedent.

"It was a titanic struggle just to get the top-line budget number disclosed, and that has only been done consistently since 2007," said [Steven Aftergood](#), an expert at the Federation of American Scientists, a

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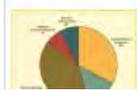
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Washington-based organization that provides analyses of national security issues. "But a real grasp of the structure and operations of the intelligence bureaucracy has been totally beyond public reach. This kind of material, even on a historical basis, has simply not been available."

The only meaningful frame of reference came in 1994, when a congressional subcommittee inadvertently published a partial breakdown of the National Intelligence Program. At the time, the CIA accounted for just \$4.8 billion of a budget that totaled \$43.4 billion in 2012 dollars. The NSA and the National Reconnaissance Office, which operates satellites and other sensors, commanded far larger shares of U.S. intelligence budgets until years after the Cold War ended.

During the past decade, they have taken a back seat to the CIA.

The NSA was in line to receive \$10.5 billion in 2013, and the NRO was to get \$10.3 billion — both far below the CIA, whose share had surged to 28 percent of the total budget.

Overall, the U.S. government spends 10 times as much on the Defense Department as it does on spy agencies.

"Today's world is as fluid and unstable as it has been in the past half century," Clapper said in his statement to The Post. "Even with stepped up spending on the IC over the past decade, the United States currently spends less than one percent of GDP on the Intelligence Community."



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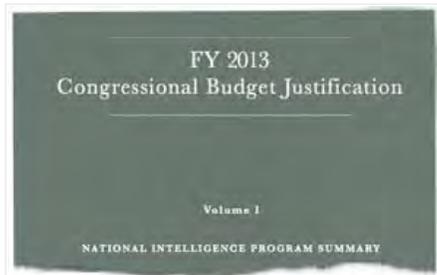
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U.S. spy network's successes, failures and objectives detailed in 'black budget' summary

Dominant position

The CIA's dominant position is likely to stun outside experts. It represents a remarkable recovery for an agency that seemed poised to lose power and prestige after acknowledging intelligence failures leading up to the 2001 attacks and the 2003 U.S.-led invasion of Iraq.

Read the documents



The surge in resources for the agency funded secret prisons, a controversial interrogation program, the deployment of lethal drones and a huge expansion of its counterterrorism center. The agency was transformed from a spy service struggling to emerge from the Cold War into a paramilitary force.

The CIA has devoted billions of dollars to recruiting and training a new generation of case officers, with the workforce growing from about 17,000 a decade ago to 21,575 this year.

The agency's budget allocates \$2.3 billion for human intelligence operations and \$2.5 billion to cover the cost of supporting the security, logistics and other needs of those missions around the world. A relatively small amount of that total, \$68.6 million, was earmarked for creating and maintaining "cover," the false identities employed by operatives overseas.

There is no specific entry for the CIA's fleet of armed drones in the budget summary, but a broad line item hints at the dimensions of the agency's expanded paramilitary role, providing more than \$2.6 billion for "covert action programs" that would include drone operations in

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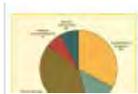
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Pakistan and Yemen, payments to militias in Afghanistan and Africa, and attempts to sabotage Iran's nuclear program.

The black budget illuminates for the first time the intelligence burden of the wars in Afghanistan and Iraq. For 2013, U.S. spy agencies were projected to spend \$4.9 billion on "overseas contingency operations." The CIA accounted for about half of that figure, a sum factored into its overall \$14.7 billion budget.

Those war expenditures are projected to shrink as the United States withdraws forces from Afghanistan. The budget also indicates that the intelligence community has cut the number of contractors it hires over the past five years by about 30 percent.

Critical gaps

Despite the vast outlays, the budget blueprint catalogues persistent and in some cases critical blind spots.

Throughout the document, U.S. spy agencies attempt to rate their efforts in tables akin to report cards, generally citing progress but often acknowledging that only a fraction of their questions could be answered — even on the community's foremost priority, counterterrorism.

In 2011, the budget assessment says intelligence agencies made at least "moderate progress" on 38 of their 50 top counterterrorism gaps, the term used to describe blind spots. Several concern Lebanon's Hezbollah movement, an enemy of Israel that has not attacked U.S. interests directly since the 1990s.

Other blank spots include questions about the security of Pakistan's nuclear components when they are being transported, the capabilities of China's next-generation fighter aircraft, and how Russia's government leaders are likely to respond to "potentially destabilizing events in Moscow, such as large protests and terrorist attacks."

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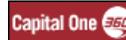
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SPECIAL REPORT The Black Budget

The U.S. "black budget" reveals how billions of dollars are spent across the dozen agencies that make up the National Intelligence Program.



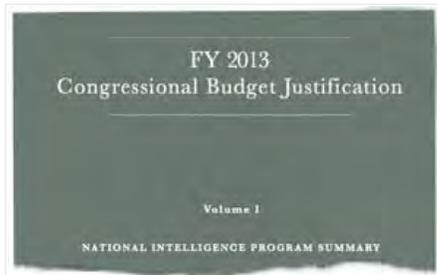
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U.S. spy network's successes, failures and objectives detailed in 'black budget' summary

A chart outlining efforts to address key questions on biological and chemical weapons is particularly bleak. U.S. agencies set annual goals for at least five categories of intelligence collection related to these weapons. In 2011, the agencies made headway on just two gaps; a year earlier, the mark was zero.

The documents describe expanded efforts to "collect on Russian chemical warfare countermeasures" and assess the security of biological and chemical laboratories in Pakistan.

Read the documents



A table of "critical" gaps listed five for North Korea, more than for any other country that has pursued or is pursuing a nuclear bomb.

The intelligence community seems particularly daunted by the emergence of "homegrown" terrorists who plan attacks in the United States without direct support or instruction from abroad, a threat realized this year, after the budget was submitted, in [twin bombings at the Boston Marathon](#).

Inside the secret 'black budget'

View select pages from the Office of the Director of National Intelligence's top-secret 2013 budget with key sections annotated by The Washington Post.

The National Counterterrorism Center has convened dozens of analysts from other agencies in attempts to identify "indicators" that could help law enforcement officials understand the path from religious extremism to violence. The FBI was in line for funding to increase the number of agents who surreptitiously track activity on jihadist Web sites.

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To hunt bin Laden, satellites watched over Abbottabad

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Satellites aimed dozens of receivers

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over Pakistan to collect intelligence as the mission unfolded.

NSA pays firms for access to networks

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Documents offer a look at program expected to cost \$278 million in the current fiscal year.

Your cheat sheet to America's secret intelligence budget

Dylan Matthews

For the first time, we know where the \$52.6 billion we spend on intelligence operations goes. Here's the rundown.

More data from the 'black budget'

Tables detail spending requests for agencies, as well as personnel breakdowns by pay grade, language expertise, and years of service.

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But a year before the bombings in Boston, the search for meaningful insight into the stages of radicalization was described as one of the "more challenging intelligence gaps."

High-tech surveillance

The documents make clear that U.S. spy agencies' long-standing reliance on technology remains intact. If anything, their dependence on high-tech surveillance systems to fill gaps in human intelligence has intensified.

A section on North Korea indicates that the United States has all but surrounded the nuclear-armed country with surveillance platforms. Distant ground sensors monitor seismic activity and scan the country for signs that might point to construction of new nuclear sites. U.S. agencies seek to capture photos, air samples and infrared imagery "around the clock."

In Iran, new surveillance techniques and technologies have enabled analysts to identify suspected nuclear sites that had not been detected in satellite images, according to the document.

In Syria, NSA listening posts were able to monitor unencrypted communications among senior military officials at the outset of the civil war there, a vulnerability that President Bashar al-Assad's forces apparently later recognized. One of the NRO's functions is to extract data from sensors placed on the ground near suspected illicit weapons sites in Syria and other countries.

Across this catalogue of technical prowess, one category is depicted as particularly indispensable: signals intelligence, or SIGINT.

The NSA's ability to monitor e-mails, phone calls and Internet traffic has come under new scrutiny in recent months as a result of disclosures by Snowden, who worked as a contract computer specialist for the agency before stockpiling secret

documents and then fleeing, first to Hong Kong and then Moscow.

The NSA was projected to spend \$48.6 million on research projects to assist in "coping with information overload," an occupational hazard as the volumes of intake have increased sharply from fiber-optic cables and Silicon Valley Internet providers.

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The agency's ability to monitor the communications of al-Qaeda operatives is described in the documents as "often the best and only means to compromise seemingly intractable targets."

Signals intercepts also have been used to direct the flight paths of drones, gather clues to the composition of North Korea's leadership and evaluate the response plans of Russia's government in the event of a terrorist attack in Moscow.

The resources devoted to signals intercepts are extraordinary.

Nearly 35,000 employees are listed under a category called the Consolidated Cryptologic Program, which includes the NSA as well as the surveillance and code-breaking components of the Air Force, Army, Navy and Marines.

The NSA is planning high-risk covert missions, a lesser-known part of its work, to plant what it calls "tailored radio frequency solutions" — close-in sensors to intercept communications that do not pass through global networks.

Even the CIA devotes \$1.7 billion, or nearly 12 percent of its budget, to technical collection efforts, including a joint program with the NSA called "CLANSIG," a covert program to intercept radio and telephone communications from hostile territory.

The agency also is pursuing tracking systems "that minimize or eliminate the need for physical access and enable deep concealment operations against hard targets."

The CIA has deployed new biometric sensors to confirm the identities and locations of al-Qaeda operatives. The system has been used in the CIA's drone campaign.

Spending on satellite systems and almost every other category of collection is projected to shrink or remain stagnant in coming years, as Washington grapples with budget cuts across the government. But the 2013 intelligence budget called for increased investment in SIGINT.

Counterintelligence

The budget includes a lengthy section on funding for counterintelligence programs designed to protect against the danger posed by foreign intelligence services as well as betrayals from within the U.S. spy ranks.

The document describes programs to "mitigate insider threats by trusted insiders who seek to exploit their authorized access to sensitive information to harm U.S. interests."

The agencies had budgeted for a major counterintelligence initiative in fiscal 2012, but most of those resources were diverted to an all-hands emergency response to successive floods of classified data released by the anti-secrecy group WikiLeaks.

For this year, the budget promised a renewed "focus . . . on safeguarding classified networks" and a strict "review of high-risk, high-gain applicants and contractors" — the young, nontraditional computer coders with the skills the NSA needed.

Among them was Snowden, then a 29-year-old contract computer specialist whom the NSA trained to circumvent computer network security. He was copying thousands of highly classified documents at an NSA facility in Hawaii, and preparing to leak them, as the agency embarked on the new security sweep.

"NSA will initiate a minimum of 4,000 periodic reinvestigations of potential insider compromise of sensitive information," according to the budget, scanning its systems for "anomalies and alerts."

Julie Tate contributed to this report.



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Transcript Of President Obama's Speech On NSA Reforms

January 17, 2014 3:23 PM ET

President Obama delivered the following speech on reforms to National Security Agency Programs Jan. 17 at the Justice Department in Washington.

Thank you very much. Thank you. Thank you so much, please have a seat.

At the dawn of our Republic, a small, secret surveillance committee, born out of the Sons of Liberty, was established in Boston. And the group's members included Paul Revere. At night, they would patrol the streets, reporting back any signs that the British were preparing raids against America's early patriots.

Throughout American history, intelligence has helped secure our country and our freedoms.

In the Civil War, Union balloons' reconnaissance tracked the size of Confederate armies by counting the number of campfires. In World War II, codebreakers gave us insights into Japanese war plans. And when Patton marched across Europe, intercepted communications helped save the lives of his troops.

After the war, the rise of the Iron Curtain and nuclear weapons only increased the need for sustained intelligence gathering. And so in the early days of the Cold War, President Truman created the National Security Agency, or NSA, to give us insights into the Soviet Bloc and provide our leaders with information they needed to confront aggression and avert catastrophe.

Throughout this evolution, we benefited from both our Constitution and **our traditions of limited government.** **U.S. intelligence agencies were anchored in a system of checks and balances**, with oversight from elected leaders and protections for ordinary citizens. Meanwhile, totalitarian states like East Germany offered a cautionary tale of what could happen when vast unchecked surveillance turned citizens into informers and persecuted people for what they said in the privacy of their own homes.

In fact, even the United States proved not to be immune to the abuse of surveillance. In the 1960s, government spied on civil rights leaders and critics of the Vietnam War. And partly in response to these revelations, additional laws were established in the 1970s to ensure that our intelligence capabilities could not be misused against our citizens. In the long twilight struggle against communism, we had been reminded that the very liberties that we sought to preserve could not be sacrificed at the altar of national

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security.

Now, if the fall of the Soviet Union left America without a competing superpower, emerging threats from terrorist groups and the proliferation of weapons of mass destruction place new and, in some ways, more complicated demands on our intelligence agencies. Globalization and the Internet made these threats more acute as technology erased borders and empowered individuals to project great violence as well as great good.

Moreover, these new threats raised new legal and new policy questions, for while few doubted the legitimacy of spying on hostile states, our framework of laws was not fully adapted to prevent terrorist attacks by individuals acting on their own or acting in small ideological — ideologically driven groups on behalf of a foreign power.

The horror of September 11th brought all these issues to the fore. Across the political spectrum, Americans recognized that we had to adapt to a world in which a bomb could be built in a basement and our electric grid could be shut down by operators an ocean away. We were shaken by the signs we had missed leading up to the attacks, how the hijackers had made phone calls to known extremists and traveled to suspicious places. So we demanded that our intelligence community improve its capabilities and that law enforcement change practices to focus more on preventing attacks before they happen than prosecuting terrorists after an attack.

It is hard to overstate the transformation America's intelligence community had to go through after 9/11. Our agencies suddenly needed to do far more than the traditional mission of monitoring hostile powers and gathering information for policymakers.

Instead, they were now asked to identify and target plotters in some of the most remote parts of the world and to anticipate the actions of networks that, by their very nature, could not be easily penetrated by spies or informants. And it is a testimony to the hard work and dedication of the men and women of our intelligence community that over the past decade we've made enormous strides in fulfilling this mission.

Today, new capabilities allow intelligence agencies to track who a terrorist is in contact with and follow the trail of his travel or his funding. New laws allow information to be collected and shared more quickly and effectively between federal agencies and state and local law enforcement. Relationships with foreign intelligence services have expanded and our capacity to repel cyber attacks have been strengthened. And taken together, these efforts have prevented multiple attacks and saved innocent lives — not just here in the United States, but around the globe.

And yet, in our rush to respond to a very real and novel set of threats, the risk of government overreach, the possibility that we lose some of our core liberties in pursuit of security also became more pronounced. We saw in the immediate aftermath of 9/11 our government engage in enhanced interrogation techniques

that contradicted our values. As a senator, I was critical of several practices, such as warrantless wiretaps. And all too often new authorities were instituted without adequate public debate.

Through a combination of action by the courts, increased congressional oversight and adjustments by the previous administration, some of the worst excesses that emerged after 9/11 were curbed by the time I took office. But a variety of factors have continued to complicate America's efforts to both defend our nation and uphold our civil liberties.

First, the same technological advances that allow U.S. intelligence agencies to pinpoint an al-Qaida cell in Yemen or an email between two terrorists in the Sahel also mean that many routine communications around the world are within our reach. And at a time when more and more of our lives are digital, that prospect is disquieting for all of us.

Second, the combination of increased digital information and powerful supercomputers offers intelligence agencies the possibility of sifting through massive amounts of bulk data to identify patterns or pursue leads that may thwart impending threats. It's a powerful tool. But the government collection and storage of such bulk data also creates a potential for abuse.

Third, the legal safeguards that restrict surveillance against U.S. persons without a warrant do not apply to foreign persons overseas. This is not unique to America; few, if any, spy agencies around the world constrain their activities beyond their own borders. And the whole point of intelligence is to obtain information that is not publicly available.

But America's capabilities are unique, and the power of new technologies means that there are fewer and fewer technical constraints on what we can do.

That places a special obligation on us to ask tough questions about what we should do.

And finally, intelligence agencies cannot function without secrecy, which makes their work less subject to public debate. Yet there is an inevitable bias, not only within the intelligence community but among all of us who are responsible for national security, to collect more information about the world, not less. So in the absence of institutional requirements for regular debate and oversight that is public as well as private or classified, the danger of government overreach becomes more acute. And this is particularly true when surveillance technology and our reliance on digital information is evolving much faster than our laws.

For all these reasons, I maintained a healthy skepticism toward our surveillance programs after I became president. I ordered that our programs be reviewed by my national security team and our lawyers. And in some cases, I ordered changes in how we did business. We increased oversight and auditing, including new structures aimed at compliance. Improved rules were proposed by the government and approved by the Foreign Intelligence Surveillance Court. And we've sought to keep Congress continually updated on

these activities.

What I did not do is stop these programs wholesale, not only because I felt that they made us more secure, but also because nothing in that initial review and nothing that I have learned since indicated that our intelligence community has sought to violate the law or is cavalier about the civil liberties of their fellow citizens.

To the contrary, in an extraordinarily difficult job, one in which actions are second-guessed, success is unreported and failure can be catastrophic, the men and women of the intelligence community, including the NSA, consistently follow protocols designed to protect the privacy of ordinary people. They're not abusing authorities in order to listen to your private phone calls or read your emails.

When mistakes are made — which is inevitable in any large and complicated human enterprise, they correct those mistakes, laboring in obscurity, often unable to discuss their work even with family and friends — the men and women at the NSA know that if another 9/11 or massive cyber attack occurs, they will be asked by Congress and the media why they failed to connect the dots. What sustains those who work at NSA and our other intelligence agencies through all these pressures is the knowledge that their professionalism and dedication play a central role in the defense of our nation.

Now, to say that our intelligence community follows the law and is staffed by patriots is not to suggest that I or others in my administration felt complacent about the potential impact of these programs. Those of us who hold office in America have a responsibility to our Constitution. And while I was confident in the integrity of those who lead our intelligence community, it was clear to me in observing our intelligence operations on a regular basis that changes in our technological capabilities were raising new questions about the privacy safeguards currently in place.

Moreover, after an extended review in the use of drones in the fight against terrorist networks, I believe a fresh examination of our surveillance programs was a necessary next step in our effort to get off the open-ended war footing that we've maintained since 9/11.

And for these reasons, I indicated in a speech at the National Defense University last May that we needed a more robust public discussion about the balance between security and liberty. Of course, what I did not know at the time is that within weeks of my speech an avalanche of unauthorized disclosures would spark controversies at home and abroad that have continued to this day.

Given the fact of an open investigation, I'm not going to dwell on Mr. Snowden's actions or his motivations. I will say that our nation's defense depends in part on the fidelity of those entrusted with our nation's secrets. If any individual who objects to government policy can take it into their own hands to publicly disclose classified information, then we will not be able to keep our people safe, or conduct foreign policy. Moreover, the sensational way in which these disclosures have come out has often shed more heat than

light, while revealing methods to our adversaries that could impact our operations in ways that we might not fully understand for years to come.

Regardless of how we got here though, the task before us now is greater than simply repairing the damage done to our operations or preventing more disclosures from taking place in the future.

Instead we have to make some important decisions about how to protect ourselves and sustain our leadership in the world while upholding the civil liberties and privacy protections our ideals and our Constitution require. We need to do so not only because it is right but because the challenges posed by threats like terrorism and proliferation and cyberattacks are not going away any time soon. They are going to continue to be a major problem. And for our intelligence community to be effective over the long haul, we must maintain the trust of the America people and people around the world.

This effort will not be completed overnight, and given the pace of technological change, we shouldn't expect this to be the last time America has this debate.

But I want the American people to know that the work has begun. Over the last six months I created an outside review group on intelligence and communications technologies to make recommendations for reform. I consulted with the Privacy and Civil Liberties Oversight Board, created by Congress. I've listened to foreign partners, privacy advocates and industry leaders. My administration has spent countless hours considering how to approach intelligence in this era of diffuse threats and technological revolution.

So before outlining specific changes that I've ordered, let me make a few broad observations that have emerged from this process.

First, everyone who has looked at these problems, including skeptics of existing programs, recognizes that we have real enemies and threats and that intelligence serves a vital role in confronting them.

We cannot prevent terrorist attacks or cyberthreats without some capability to penetrate digital communications, whether it's to unravel a terrorist plot, to intercept malware that targets a stock exchange, to make sure air traffic control systems are not compromised or to ensure that hackers do not empty your bank accounts. We are expected to protect the American people; that requires us to have capabilities in this field.

Moreover, we cannot unilaterally disarm our intelligence agencies. There is a reason why BlackBerrys and iPhones are not allowed in the White House Situation Room. We know that the intelligence services of other countries, including some who feigned surprise over the Snowden disclosures, are constantly probing our government and private sector networks and accelerating programs to listen to our conversations and intercept our emails and compromise our systems. We know that. Meanwhile, a number of countries, including some who have loudly criticized the NSA, privately acknowledge that America has

special responsibilities as the world's only superpower, that our intelligence capabilities are critical to meeting these responsibilities and that they themselves have relied on the information we obtained to protect their own people.

Second, just as our civil libertarians recognized the need for robust intelligence capabilities, those with responsibilities for our national security readily acknowledge the potential for abuse as intelligence capabilities advance and more and more private information is digitized. After all, the folks at NSA and other intelligence agencies are our neighbors. They're our friends and family.

They've got electronic bank and medical records like everybody else. They have kids on Facebook and Instagram. And they know, more than most of us, the vulnerabilities to privacy that exist in a world where transactions are recorded and email and text and messages are stored and even our movements can increasingly be tracked through the GPS on our phones.

Third, there was a recognition by all who participated in these reviews that the challenges to our privacy do not come from government alone. Corporations of all shapes and sizes track what you buy, store and analyze our data and use it for commercial purposes. That's how those targeted ads pop up on your computer and your smartphone periodically.

But all of us understand that the standards for government surveillance must be higher. Given the unique power of the state, it is not enough for leaders to say: Trust us. We won't abuse the data we collect. For history has too many examples when that trust has been breached. **Our system of government is built on the premise that our liberty cannot depend on the good intentions of those in power. It depends on the law to constrain those in power.**

I make these observations to underscore that the basic values of most Americans when it comes to questions of surveillance and privacy converge a lot more than the crude characterizations that have emerged over the last several months. Those who are troubled by our existing programs are not interested in repeating the tragedy of 9/11. And those who defend these programs are not dismissive of civil liberties. The challenge is getting the details right. And that is not simple.

In fact, during the course of our review, I've often reminded myself I would not be where I am today were it not for the courage of dissidents like Dr. King who were spied upon by their own government. And as president, a president who looks at intelligence every morning, I also can't help but be reminded that America must be vigilant in the face of threats.

Now, fortunately, by focusing on facts and specifics rather than speculation and hypotheticals, this review process has given me, and hopefully the American people, some clear direction for change. And today I can announce a series of concrete and substantial reforms that my administration intends to adopt administratively or will seek to codify with Congress.

First, I have approved a new presidential directive for our signals intelligence activities both at home and abroad. This guidance will strengthen executive branch oversight of our intelligence activities. It will ensure that we take into account our security requirements, but also our alliances, our trade and investment relationships, including the concerns of American companies, and our commitment to privacy and basic liberties. And we will review decisions about intelligence priorities and sensitive targets on an annual basis so that our actions are regularly scrutinized by my senior national security team.

Second, we will reform programs and procedures in place to provide greater transparency to our surveillance activities and fortify the safeguards that protect the privacy of U.S. persons. Since we began this review, including information being released today, we've declassified over 40 opinions and orders of the Foreign Intelligence Surveillance Court, which provides judicial review of some of our most sensitive intelligence activities, including the Section 702 program targeting foreign individuals overseas and the Section 215 telephone metadata program.

And going forward, I'm directing the director of national intelligence, in consultation with the attorney general, to annually review for the purposes of declassification any future opinions of the court with broad privacy implications and to report to me and to Congress on these efforts.

To ensure that the court hears a broader range of privacy perspectives, I'm also calling on Congress to authorize the establishment of a panel of advocates from outside government to provide an independent voice in significant cases before the Foreign Intelligence Surveillance Court.

Third, we will provide additional protections for activities conducted under Section 702, which allows the government to intercept the communications of foreign targets overseas who have information that's important for our national security. Specifically, I'm asking the attorney general and DNI to institute reforms that place additional restrictions on government's ability to retain, search and use in criminal cases communications between Americans and foreign citizens incidentally collected under Section 702.

Fourth, in investigating threats, the FBI also relies on what's called national security letters, which can require companies to provide specific and limited information to the government without disclosing the orders to the subject of the investigation.

Now, these are cases in which it's important that the subject of the investigation, such as a possible terrorist or spy, isn't tipped off. But we can and should be more transparent in how government uses this authority.

I've therefore directed the attorney general to amend how we use national security letters so that this secrecy will not be indefinite, so that it will terminate within a fixed time unless the government demonstrates a real need for further secrecy. We will also enable communications providers to make public

more information than ever before about the orders that they have received to provide data to the government.

This brings me to the program that has generated the most controversy these past few months, the bulk collection of telephone records under Section 215. Let me repeat what I said when this story first broke. This program does not involve the content of phone calls or the names of people making calls. Instead, it provide a record of phone numbers and the times and length of calls, metadata that can be queried if and when we have a reasonable suspicion that a particular number is linked to a terrorist organization.

Why is this necessary? The program grew out of a desire to address a gap identified after 9/11. One of the 9/11 hijackers, Khalid al-Mihdhar, made a phone call from San Diego to a known al-Qaida safehouse in Yemen.

NSA saw that call, but it could not see that the call was coming from an individual already in the United States. The telephone metadata program under Section 215 was designed to map the communications of terrorists so we could see who they may be in contact with as quickly as possible.

And this capability could also prove valuable in a crisis. For example, if a bomb goes off in one of our cities and law enforcement is racing to determine whether a network is poised to conduct additional attacks, time is of the essence. Being able to quickly review phone connections to assess whether a network exists is critical to that effort.

In sum, the program does not involve the NSA examining the phone records of ordinary Americans. Rather, it consolidates these records into a database that the government can query if it has a specific lead, a consolidation of phone records that the companies already retain for business purposes. The review group turned up no indication that this database has been intentionally abused, and I believe it is important that the capability that this program is designed to meet is preserved.

Having said that, I believe critics are right to point out that without proper safeguards, this type of program could be used to yield more information about our private lives and open the door to more intrusive bulk collection programs in the future. They're also right to point out that although the telephone bulk collection program was subject to oversight by the Foreign Intelligence Surveillance Court and has been reauthorized repeatedly by Congress, it has never been subject to vigorous public debate.

For all these reasons, I believe we need a new approach. I am therefore ordering a transition that will end the Section 215 bulk metadata program as it currently exists and establish a mechanism that preserves the capabilities we need without the government holding this bulk metadata.

This will not be simple. The review group recommended that our current approach be replaced by one in which the providers or a third party retain the bulk records, with government accessing information as

needed. Both of these options pose difficult problems. Relying solely on the records of multiple providers, for example, could require companies to alter their procedures in ways that raise new privacy concerns. On the other hand, any third party maintaining a single consolidated database would be carrying out what's essentially a government function, but with more expense, more legal ambiguity, potentially less accountability, all of which would have a doubtful impact on increasing public confidence that their privacy is being protected.

During the review process, some suggested that we may also be able to preserve the capabilities we need through a combination of existing authorities, better information sharing and recent technological advances, but more work needs to be done to determine exactly how this system might work.

Because of the challenges involved, I've ordered that the transition away from the existing program will proceed in two steps.

Effective immediately, we will only pursue phone calls that are two steps removed from a number associated with a terrorist organization, instead of the current three, and I have directed the attorney general to work with the Foreign Intelligence Surveillance Court so that during this transition period, the database can be queried only after a judicial finding or in the case of a true emergency.

Next, step two: I have instructed the intelligence community and the attorney general to use this transition period to develop options for a new approach that can match the capabilities and fill the gaps that the Section 215 program was designed to address, without the government holding this metadata itself. They will report back to me with options for alternative approaches before the program comes up for reauthorization on March 28th. And during this period, I will consult with the relevant committees in Congress to seek their views and then seek congressional authorization for the new program, as needed.

Now, the reforms I'm proposing today should give the American people greater confidence that their rights are being protected, even as our intelligence and law enforcement agencies maintain the tools they need to keep us safe. And I recognize that there are additional issues that require further debate. For example, some who participated in our review, as well as some members of Congress, would like to see more sweeping reforms to the use of national security letters, so we have to go to a judge each time before issuing these requests.

Here, I have concerns that we should not set a standard for terrorism investigations that is higher than those involved in investigating an ordinary crime.

But I agree that greater oversight on the use of these letters may be appropriate. And I'm prepared to work with Congress on this issue.

There are also those who would like to see different changes to the FISA court than the ones I've

proposed. On all these issues, I'm open to working with Congress to ensure that we build a broad consensus for how to move forward. And I'm confident that we can shape an approach that meets our security needs while upholding the civil liberties of every American.

Let me now turn to the separate set of concerns that have been raised overseas and focus on America's approach to intelligence collection abroad. As I've indicated, the United States has unique responsibilities when it comes to intelligence collection. Our capabilities help protect not only our nation but our friends and our allies as well.

But our efforts will only be effective if ordinary citizens in other countries have confidence that the United States respects their privacy too. And the leaders of our close friends and allies deserve to know that if I want to know what they think about an issue I'll pick up the phone and call them rather than turning to surveillance.

In other words, just as we balance security and privacy at home, our global leadership demands that we balance our security requirements against our need to maintain the trust and cooperation among people and leaders around the world. For that reason, the new presidential directive that I've issued today will clearly prescribe what we do and do not do when it comes to our overseas surveillance.

To begin with, the directive makes clear that the United States only uses signals intelligence for legitimate national security purposes and not for the purpose of indiscriminately reviewing the emails or phone calls of ordinary folks.

I've also made it clear that **the United States does not collect intelligence to suppress criticism or dissent,** nor do we collect intelligence to disadvantage people on the basis of their ethnicity or race or gender or sexual orientation or religious beliefs. We do not collect intelligence to provide a competitive advantage to U.S. companies or U.S. commercial sectors.

And in terms of our bulk collection of signals intelligence, U.S. intelligence agencies will only use such data to meet specific security requirements: counterintelligence; counterterrorism; counterproliferation; cybersecurity; force protection for our troops and our allies; and combating transnational crime, including sanctions evasion.

In this directive, I have taken the unprecedented step of extending certain protections that we have for the American people to people overseas. I've directed the DNI, in consultation with the attorney general, to develop these safeguards, which will limit the duration that we can hold personal information while also restricting the use of this information. The bottom line is that people around the world, regardless of their nationality, should know that the United States is not spying on ordinary people who don't threaten our national security and that we take their privacy concerns into account in our policies and procedures.

This applies to foreign leaders as well. Given the understandable attention that this issue has received, I've made clear to the intelligence community that unless there is a compelling national security purpose, we will not monitor the communications of heads of state and government of our close friends and allies.

And I've instructed my national security team, as well as the intelligence community, to work with foreign counterparts to deepen our coordination and cooperation in ways that rebuild trust going forward.

Now let me be clear. Our intelligence agencies will continue to gather information about the intentions of governments, as opposed to ordinary citizens, around the world in the same way that the intelligence services of every other nation does. We will not apologize simply because our services may be more effective. But heads of state and government with whom we work closely and on whose cooperation we depend should feel confident that we are treating them as real partners, and the changes I've ordered do just that.

Finally, to make sure that we follow through on all these reforms, I'm making some important changes to how our government is organized. The State Department will designate a senior officer to coordinate our diplomacy on issues related to technology and signals intelligence. We will appoint a senior official at the White House to implement the new privacy safeguards that I've announced today. I will devote the resources to centralize and improve the process we use to handle foreign requests for legal assistance, keeping our high standards for privacy while helping foreign partners fight crime and terrorism.

I've also asked my counselor, John Podesta, to lead a comprehensive review of big data and privacy. And this group will consist of government officials who, along with the President's Council of Advisors on Science and Technology, will reach out to privacy experts, technologists and business leaders and look how the challenges inherent in big data are being confronted by both the public and private sectors, whether we can forge international norms on how to manage this data and how we can continue to promote the free flow of information in ways that are consistent with both privacy and security, for ultimately, what's at stake in this debate goes far beyond a few months of headlines or passing tensions in our foreign policy.

When you cut through the noise, what's really at stake is how we remain true to who we are in a world that is remaking itself at dizzying speed. Whether it's the ability of individuals to communicate ideas, to access information that would have once filled every great library in every country in the world, or to forge bonds with people on the other side of the globe, technology is remaking what is possible for individuals and for institutions and for the international order. So while the reforms that I've announced will point us in a new direction, I am mindful that more work will be needed in the future. On thing I'm certain of, this debate will make us stronger. And I also know that in this time of change, the United States of America will have to lead.

It may seem sometimes that America is being held to a different standard. And I'll admit the readiness of

some to assume the worst motives by our government can be frustrating.

No one expects China to have an open debate about their surveillance programs or Russia to take privacy concerns of citizens in other places into account.

But let's remember, we are held to a different standard precisely because we have been at the forefront of defending personal privacy and human dignity. As the nation that developed the Internet, the world expects us to ensure that the digital revolution works as a tool for individual empowerment, not government control.

Having faced down the dangers of totalitarianism and fascism and communism, the world expects us to stand up for the principle that every person has the right to think and write and form relationships freely, because individual freedom is the wellspring of human progress.

Those values make us who we are. And because of the strength of our own democracy, we should not shy away from high expectations. For more than two centuries, our Constitution has weathered every type of change because we've been willing to defend it and because we've been willing to question the actions that have been taken in its defense. Today is no different. I believe we can meet high expectations. Together, let us chart a way forward that secures the life of our nation while preserving the liberties that make our nation worth fighting for.

Thank you. God bless you. May God bless the United States of America. Thank you. (Applause.) Thank you. Thank you.

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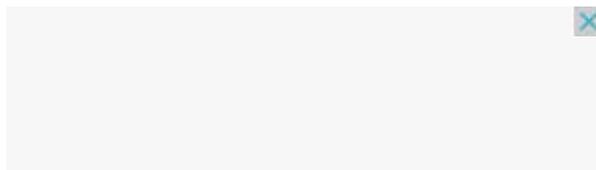
'Maybe They Thought She Was Another James Rosen!?'

Megyn Kelly discussed the hacking of CBS News investigative reporter Sharyl Attkisson, including the prospect that the government was involved.



BY FOX NEWS INSIDER // JUN 18 2013 // 4:31PM

In an [exclusive interview](#) last night, [Bill O'Reilly](#) sat down with CBS News investigative reporter Sharyl Attkisson after the network confirmed that her home and work computers had been hacked. She recalled that strange things were happening on her devices going back to 2011 but last fall her computer at home started turning on and off in the middle of the night.





[Hacked!: CBS Reporter Reveals Creepy Details to Bill O'Reilly](#)

Attkisson, who reported extensively on [Fast and Furious](#) and [Benghazi](#), says she believes she knows who's to blame for the intrusion, but lawyers have advised her not to disclose that information.

[Megyn Kelly](#) discussed the revelations with former prosecutor Andrew McCarthy, and she likened the situation to the Justice Department's investigation of Fox News' [James Rosen](#).

McCarthy said that there is a "very small circle of suspects" in this case because of the very sophisticated tactics that the hacker or hackers used, including trying to purge any evidence that they had been there in the first place.

"What if the DOJ thought Sharyl Attkisson was like a James Rosen, another co-conspirator who must be stopped? And they got some warrant without Sharyl knowing about it, CBS knowing about it. How would we find out that they were the ones behind it?" Megyn asked.

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Hacked!: CBS Reporter Says 'My Computer Turned on By Itself'

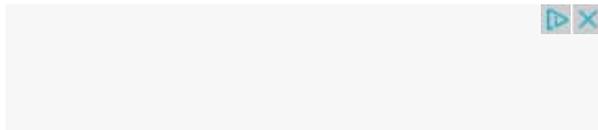
CBS investigative reporter Sharyl Attkisson told Bill O'Reilly that she believes she knows who hacked her work and personal computers.



FROM THE O'REILLY FACTOR // JUN 18 2013 // 8:40AM

AS SEEN ON THE O'REILLY FACTOR

CBS News investigative reporter Sharyl Attkisson joined Bill O'Reilly in a Factor exclusive to give us some insights into the hacking of her home and work computers. CBS has confirmed that Attkisson - who has reported extensively on the Fast and Furious scandal and the Benghazi attack fallout - was targeted by a hacker.





Megyn Kelly Responds After CBS' Pelley Claims No One Watches Cable News

She says she believes she knows who did it, but is not going to reveal that information at this point for legal reasons.

Attkisson said she noticed some strange things happening on her computers and devices going as far back as 2011, but last fall she said it got even more bizarre.

NSA: Our Surveillance Stopped Over 50 Terror Attacks Since 9/11

"The computers [were] coming on by themselves at night. My personal Apple desktop, as well as my CBS News laptop," she recalled, saying that in the middle of the night she could hear both computers starting up at the same time.

"Sounds like poltergeist," joked O'Reilly.

BIZARRE: Australian Woman Now Has French Accent After Car Crash

At first she thought she was being targeted by random hackers, but noticed that her bank information was not stolen even though it could have been obtained.

She agreed with O'Reilly's assessment that she was working on stories that "might hurt the Obama administration," which has come under fire in recent weeks after it was revealed that the Justice Department subpoenaed the phone records and emails of Fox News' [James Rosen](#)

and had also seized phone records from [AP reporters](#).

CBS hired an independent firm to look into the intrusions, and confirmed last week that Attkisson's computers were indeed hacked.

[LISTEN: Man Goes Nuts on United Flight](#)

On America Live, this afternoon [Megyn Kelly](#) discussed the case with former prosecutor Andrew McCarthy, asking whether DOJ may have believed Attkisson was "another James Rosen."



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34 States Call for Constitutional Convention — and Possible Rewrite

Friday, 11 Apr 2014 04:57 PM

By Andrea Billups

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Even with Michigan recently becoming the 34th state to call for a Constitutional Convention, it's not at all certain that a rewrite of the nation's founding document is close at hand.

House Speaker John Boehner is reviewing whether the action by Michigan has triggered the constitutional mandate that Congress call such a convention.

Republican Rep. Duncan Hunter of California recently asked Boehner for clarification as to where the state count stands, and if Michigan has tipped the [two-thirds majority needed](#) to make the convention call.

"With the recent decision by Michigan lawmakers, it is important that the House — and those of us who support a balanced budget amendment — determine whether the necessary number of states have acted and the appropriate role of Congress should be in this case," Hunter wrote to Boehner.

Boehner spokesman Michael Steel told [The Washington Times](#) that the Republican leader will have his lawyers review the request.

What may give the speaker pause in his decision is that several states long ago rescinded their calls for a convention, although there is nothing in the Constitution that allows them to do that.

Also, states have made the requests in differing forms, with some calling to confine such a convention to specific amendments, such as one requiring a balanced federal budget.

For example, Alabama, Florida, Georgia, and New Hampshire called for a convention in the 1970s, and all later rescinded the requests. While they were not the only states to rescind the measure, since 2010 the four states have again called for a convention to specifically deal with a balanced-budget amendment.

The resulting confusion, and lack of clear guidance in the Constitution, will have to be sorted out by the congressional leadership since Article 5 says that Congress "shall call a convention for proposing amendments" when requested by enough states.

Under Article 5 of the Constitution, such a convention can be convened when requested by two-thirds of the states, and it is one of two ways to propose amendments to the nation's founding document.

The other method — by which all previous constitutional amendments have been initiated — requires a two-thirds vote in both houses of Congress. Ratifying amendments then require three-fourths of the states to approve.

Many but not all of the states have called for a convention that would specifically seek to balance the budget.

"A balanced budget amendment is long overdue and remains an effective tool to address runaway spending and deficits," Hunter said.

Unless called to deal with a specific issue, some legal experts warn a "runaway" convention could create chaos.

"Let's assume that we get Congress to call for a convention, and we are deliberating about one item. Maybe that would stick. But how can you be confident that once you open the door to a constitutional convention, even if for one narrow amendment, that it won't just become a runaway convention?" said Steve Hayward, a visiting scholar in conservative thought and policy at the University of Colorado in Boulder.

"It seems to me that our Constitution may have problems these days, but I think most conservatives would be very nervous about opening it up to a new convention," Hayward told Newsmax.

[Columnist George Will](#) suggested a good arrangement on the budget issue might be one prescribed by the Goldwater Institute called "The Compact for America."

Will, writing in his April 10 column, outlines an Article 5 convention focused on writing a narrowly drawn balanced-budget amendment "written precisely enough to preclude evasion by the political class."

"State legislatures can form a compact — a cooperative agreement — to call a convention for the codified, one-item agenda of ratifying the balanced-budget amendment precisely stipulated in advance," Will said.

Will notes that in calling for a convention, Congress has no discretion, meaning it is clear that if two-thirds of state legislatures ask, it must happen."

Conservative radio talk-show host and author Mark Levin also has been out front in pushing for such a convention. In his best-selling book ["The Liberty Amendments: Restoring the American Republic,"](#) he proposes 11 constitutional amendments that he believes should be considered by the gathering.

And the group Citizens for Self-Governance (CSG), headed by Tea Party Patriots co-founder and former spokesman Mark Meckler, is promoting a convention on the web at conventionofstates.com.

"A Convention of States needs to be called to ensure that we are able to debate and impose a complete package of restraints on the misuse of power by all branches of the federal government," CSG wrote on its website.

Louis Fisher, a scholar-in-residence at the Constitution Project, calls the idea a "gimmick," especially when it comes to taking up an issue like a balanced budget amendment.

"We always, instead of asking politicians to be responsible, are looking for some outside gimmick. A constitutional convention and amendment would be a constitutional gimmick," said Fisher, who worked in Congress for 40 years and has testified before congressional panels as far back as the Graham-Rudman Act in 1985.

Fisher counseled caution before attempting to rewrite parts of the Constitution.

"Just think about the amendment to eliminate alcohol. Oh, that worked out!" Fisher told Newsmax. "We finally had to repeal that, and it became one of the stupidest amendments possible."

Hayward, at the University of Colorado, noted there are ways for issues to advance without constitutional authority. He cited the Equal Rights Amendment as an example. It was close to being ratified but fell short.

"It's not always necessary to actually get an amendment of the Constitution to change our constitutional thought," he said. "Is there anything that feminists wanted in the ERA that they haven't gotten? They have pretty much gotten what they want over time."

While some have argued that a rethink of the Constitution might not be a bad idea, Hayward isn't so sure that it wouldn't create chaos in the forms of mass lawsuits that would likely land on the Supreme Court's steps for review.

Having to do the rewriting in public with CSPAN broadcasting every moment might also prove problematic for a modern-day convention, he said.

"The original Constitutional Convention in 1787 met behind closed doors, there was no press coverage and ... there were lots of compromises and back-door dealing. You couldn't do that now. And so it would make it harder."

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Did Michigan just trigger 'constitutional convention'? Bid gains steam



By Barnini Chakraborty

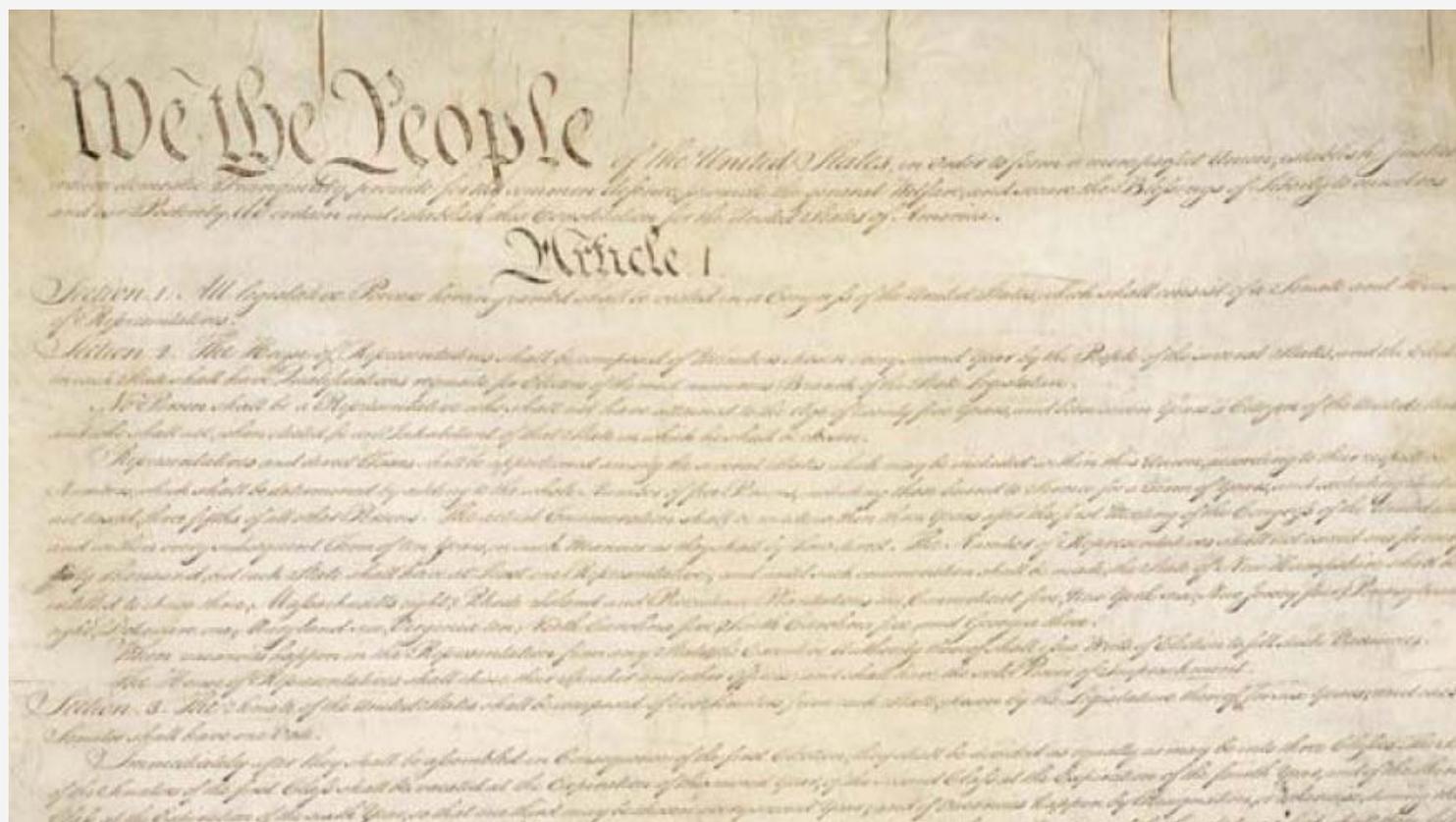
Published April 02, 2014

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WASHINGTON – Momentum is building behind what would be an unprecedented effort to amend the U.S. Constitution, through a little-known provision that gives states rather than Congress the power to initiate changes.

At issue is what's known as a "constitutional convention," a scenario tucked into Article V of the U.S. Constitution. At its core, Article V provides two ways for amendments to be proposed. The first – which has been used for all 27 amendments to date – requires two-thirds of both the House and Senate to approve a resolution, before sending it to the states for ratification. The Founding Fathers, though,

Ln:313

devised an alternative way which says if two-thirds of state legislatures demand a meeting, Congress “shall call a convention for proposing amendments.”

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The idea has gained popularity among constitutional scholars in recent years -- but got a big boost last week when Michigan lawmakers endorsed it.

Michigan matters, because by some counts it was the 34th state to do so. That makes two-thirds.

In the wake of the vote, California Republican Rep. Duncan Hunter pressed House Speaker John Boehner on Tuesday to determine whether the states just crossed the threshold for this kind of convention. Like Michigan lawmakers, Hunter's interest in the matter stems from a desire to push a balanced-budget amendment -- something that could potentially be done at a constitutional convention.

“Based on several reports and opinions, Michigan might be the 34th state to issue such a call and therefore presents the constitutionally-required number of states to begin the process of achieving a balanced budget amendment,” Hunter wrote.

"With the recent decision by Michigan lawmakers, it is important that the House – and those of us who support a balanced budget amendment -- determine whether the necessary number of states have acted and the appropriate role of Congress should this be the case."

If two-thirds of the states indeed have applied, the ball is presumably in Congress' court to call the convention.

But Article V is rather vague, and it's ultimately unclear whether 34 states have technically applied. In the past, states like Oregon, Utah and Arizona have quietly voted to approve the provision in their legislature.

But some of the 34 or so have rescinded their requests. Others have rescinded, and then re-applied.

Alabama rescinded its request in 1988 but in 2011, lawmakers again applied for a convention related to an amendment requiring that the federal budget be balanced. It was a similar story in Florida in 2010.

Louisiana rescinded in 1990 but lawmakers have tried several times, unsuccessfully, to reinstate the application since then.

It's unclear whether the applications still count in these scenarios.

Some constitutional scholars like Gregory Watson, an analyst in Texas, say once states ask, there may be no take-backs.

"There is a disagreement among scholars as to whether a state that has approved an application may later rescind that application," Watson told The Washington Times. "If it is ultimately adjudicated that a state may not rescind a prior application, then Ohio's 2013 application for a Balanced Budget Amendment convention would be the 33rd and Michigan's 2014 application would be the 34th on that topic."

Others say if a state changes its mind, it can no longer be part of the 34.

Even if the requisite number of states have applied, questions remain about how such a convention would work -- and whether, as Michigan wants, such a convention could be limited to only discussing a balanced-budget amendment.

It still may be a long shot, but some analysts are warning about the unintended consequences of such a move.

In Louisiana, Budget Project Policy Analyst Steve Spire argued against the state's resolution, saying the convention could permanently damage the nation's political system.

The last time there was a successful amendment was more than four decades ago – the 26th Amendment which changed the voting age to 18. States ratified the 27th Amendment on congressional pay increases, but it took more than 200 years to do it.

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June 19, 2014

Public Faith in Congress Falls Again, Hits Historic Low

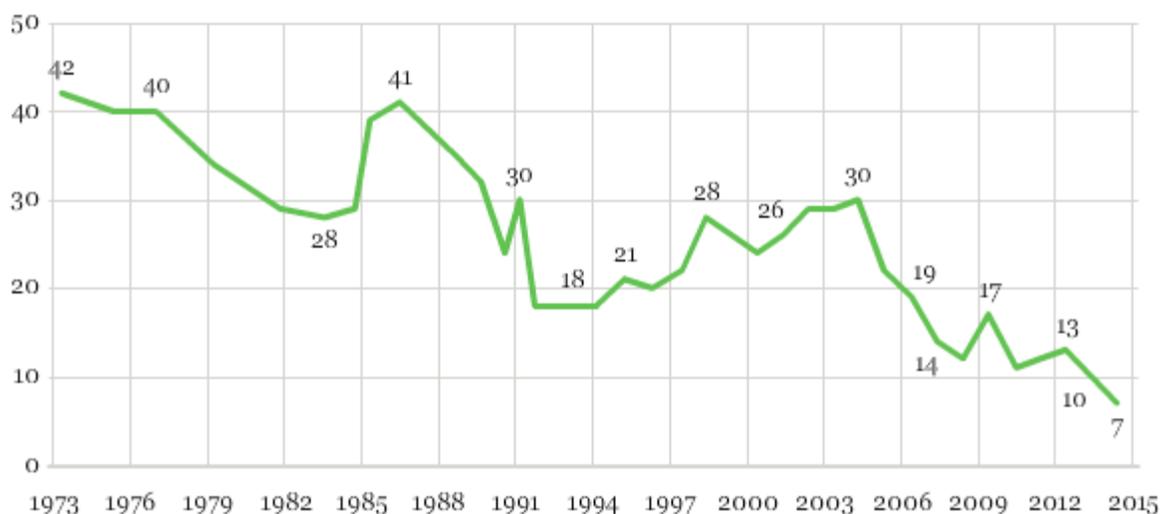
Of major U.S. institutions, Americans most confident in the military

by Rebecca Riffkin

WASHINGTON, D.C. -- Americans' confidence in Congress has sunk to a new low. Seven percent of Americans say they have "a great deal" or "quite a lot" of confidence in Congress as an American institution, down from the previous low of 10% in 2013. This confidence is starkly different from the 42% in 1973, the first year Gallup began asking the question.

Confidence in Congress

■ % A "great deal" and "quite a lot" of confidence



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These results come from a June 5-8 Gallup poll that updated Americans' confidence in 17 U.S. institutions that Americans either read about or interact with in government, business, and society.

Americans' current confidence in Congress is not only the lowest on record, but also the lowest Gallup has recorded for any institution in the 41-year trend. This is also the first time Gallup has ever measured confidence in a major U.S. institution in the single digits. Currently, 4% of Americans say they have a great deal of confidence in Congress, and 3% have quite a lot of confidence. About one-third of Americans report having "some" confidence, while half have "very little," and another 7% volunteer that they have "none."

Confidence in Congress has varied over the years, with the highest levels in the low 40% range recorded in the 1970s and again in the

mid-1980s. Confidence rose in the late 1990s and early 2000s, but has declined since 2004, culminating in this year's historic low.

Three in Four Americans Have High Confidence in the Military

The military continues to rank at the top of this year's list, with 74% of Americans having either a great deal or quite a lot of confidence in the institution. Another 20% of Americans have "some" confidence in the military. Seven percent have very little or no confidence. The military has ranked at the top of the list all but one year since 1989. Prior to that, the church or organized religion, now with 45% confidence, typically finished first.

Now I am going to read you a list of institutions in American society. Please tell me how much confidence you have in each one -- a great deal, quite a lot, some, or very little?

Sorted by most to least confidence in 2014

	% A "great deal" and "quite a lot" of confidence
The military	74
Small business	62
The police	53
The church or organized religion	45
The medical system [^]	34
The U.S. Supreme Court	30
The presidency	29
The public schools	26
Banks	26
The healthcare system [†]	23
The criminal justice system	23
Newspapers	22
Organized labor	22
Big business	21
News on the Internet	19
Television news	18
Congress	7

June 5-8, 2014

[^] Based on 510 respondents

[†] Based on 517 respondents

GALLUP

As is the case with confidence in Congress, Americans' confidence in many of these institutions has changed over time. The current 74% of Americans who have high levels of confidence in the military is actually lower than it has been in the past. Confidence in the military spiked in March 1991 to 85%, just after the first Persian Gulf War, but fell back through the 1990s. It also spiked in 2002 and 2003, after 9/11, and again in 2009, just before U.S. troops began withdrawing from Iraq.

Still, the current 74% confidence level is significantly higher than the average 67% rating given the military since it was first measured in 1975. The lowest was in 1981, when half of Americans had high levels of confidence in the military.

Confidence in the Military

■ % A "great deal" and "quite a lot" of confidence

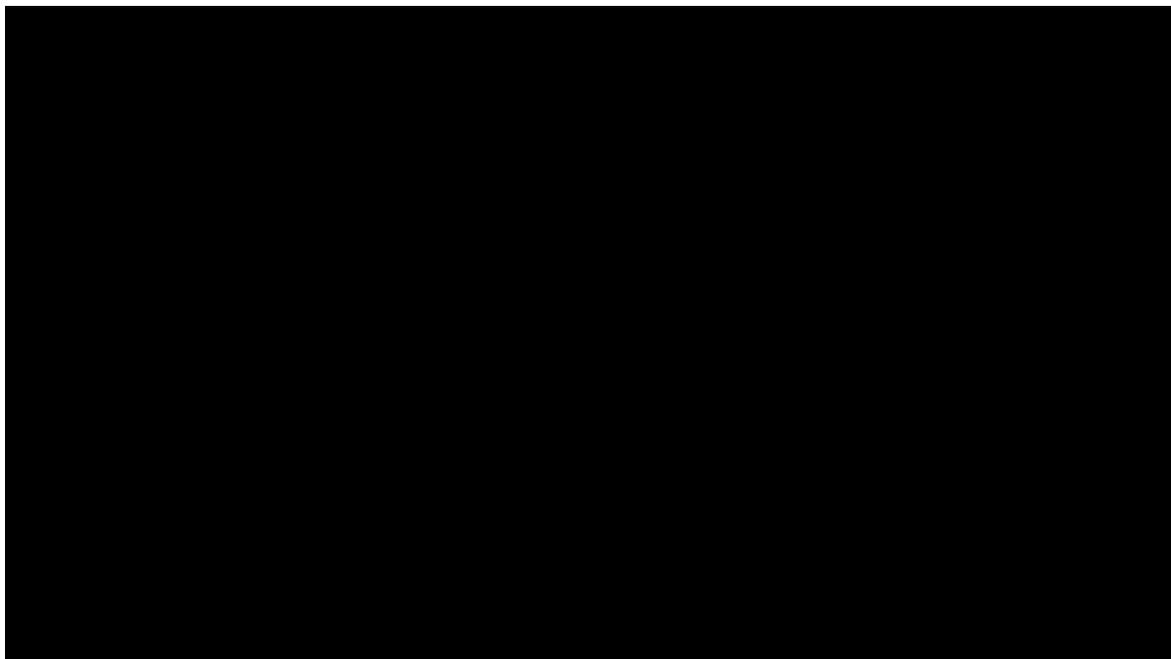


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While confidence in the military has been higher than confidence in Congress since Gallup began tracking both institutions, they used to be much closer. Until the late 1980s, between 50% and 63% of Americans had high levels of confidence in the military. At the same time, between 28% and 42% of Americans had high levels of confidence in Congress. Since then, the percentage of Americans who have confidence in the military has generally increased, while confidence in Congress has decreased.

Bottom Line

The current 7% of Americans who place confidence in Congress is the lowest of the 17 institutions Gallup measured this year, and is the lowest Gallup has ever found for any of these institutions. The dearth of public confidence in their elected leaders on Capitol Hill is yet another sign of the challenges that could face incumbents in 2014's midterm elections -- as well as more broadly a challenge to the broad underpinnings of the nation's representative democratic system.



Results for this Gallup poll are based on telephone interviews conducted June 5-8, 2014, a random sample of 1,027 adults, aged 18 and older, living in all 50 U.S. states and the District of Columbia.

For results based on the total sample of national adults, the margin of sampling error is ± 4 percentage points at the 95% confidence level.

Interviews are conducted with respondents on landline telephones and cellular phones, with interviews conducted in Spanish for respondents who are primarily Spanish-speaking. Each sample of national adults includes a minimum quota of 50% cellphone respondents and 50% landline respondents, with additional minimum quotas by time zone within region. Landline and cellular telephone numbers are selected using random-digit-dial methods. Landline respondents are chosen at random within each household on the basis of which member had the most recent birthday.

Samples are weighted to correct for unequal selection probability, nonresponse, and double coverage of landline and cell users in the two sampling frames. They are also weighted to match the national demographics of gender, age, race, Hispanic ethnicity, education, region, population density, and phone status (cellphone only/landline only/both, and cellphone mostly). Demographic weighting targets are based on the most recent Current Population Survey figures for the aged 18 and older U.S. population. Phone status targets are based on the most recent National Health Interview Survey. Population density targets are based on the most recent U.S. census. All reported margins of sampling error include the computed design effects for weighting.

In addition to sampling error, question wording and practical difficulties in conducting surveys can introduce error or bias into the findings of public opinion polls.

[View survey methodology, complete question responses, and trends.](#)

For more details on Gallup's polling methodology, visit www.gallup.com.



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Jeff Jones, Lydia Saad
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Results are based on telephone interviews conducted June 5-8, 2014 with a random sample of –1,027—adults, aged 18+, living in all 50 U.S. states and the District of Columbia. For results based on this sample of national adults, the margin of sampling error is ± 4 percentage points at the 95% confidence level.

For results based on the sample of –510—national adults in Form A, the margin of sampling error is ± 5 percentage points.

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Interviews are conducted with respondents on landline telephones and cellular phones, with interviews conducted in Spanish for respondents who are primarily Spanish-speaking. Each sample of national adults includes a minimum quota of 50% cell phone respondents and 50% landline respondents, with additional minimum quotas by region. Landline and cell phone telephone numbers are selected using random digit dial methods. Landline respondents are chosen at random within each household on the basis of which member had the most recent birthday.

Samples are weighted to correct for unequal selection probability, non-response, and double coverage of landline and cell users in the two sampling frames. They are also weighted to match the national demographics of gender, age, race, Hispanic ethnicity, education, region, population density, and phone status (cell phone-only/landline only/both and cell phone mostly). Demographic weighting targets are based on the March 2013 Current Population Survey figures for the aged 18 and older U.S. population. Phone status targets are based on the January-June 2013 National Health Interview Survey. Population density targets are based on the 2010 census. All reported margins of sampling error include the computed design effects for weighting.

In addition to sampling error, question wording and practical difficulties in conducting surveys can introduce error or bias into the findings of public opinion polls.

6. Now I am going to read you a list of institutions in American society. Please tell me how much confidence you, yourself, have in each one -- a great deal, quite a lot, some, or very little? First..., Next..., [RANDOM ORDER]

<i>2014 Jun 5-8</i> <i>(sorted by "a great deal/quite a lot")</i>	<u>Great deal</u>	<u>Quite a lot</u>	<u>Some</u>	<u>Very little</u>	<u>None (vol.)</u>	<u>No opinion</u>	Great deal/ Quite a lot
The military	39	35	20	6	1	*	74
Small business	29	33	27	10	1	1	62
The police	25	28	31	14	2	*	53
The church or organized religion	25	20	29	20	4	2	45
The medical system ^	17	17	36	26	3	2	34
The U.S. Supreme Court	12	18	41	24	2	2	30
The presidency	14	15	27	36	8	1	29
The public schools	12	14	42	28	3	1	26
Banks	10	16	43	28	2	*	26
The healthcare system †	11	12	34	38	6	*	23
The criminal justice system	10	13	40	32	4	1	23
Newspapers	12	10	43	30	3	2	22
Organized labor	10	12	38	33	5	3	22
Big business	9	12	38	35	5	2	21
News on the Internet	8	11	40	29	5	6	19
Television news	10	8	42	33	6	1	18
Congress	4	3	36	50	7	1	7

^ Based on -510—national adults in Form A

† Based on -517—national adults in Form B

Q.6 continued on the next page

CONFIDENCE IN INSTITUTIONS – FULL TREND (COMBINES "GREAT DEAL" AND "QUITE A LOT")

	A.	B.	C.	D.	E.	F.	G.	H.	I.	J.	K.	L.	M.	N.	O.	P.
2014 Jun	45	74	30	26	26	22	7	18	22	29	53	34	23	21	62	19
2013 Jun	48	76	34	26	32	23	10	23	20	36	57	35	28	22	65	--
2012 Jun	44	75	37	21	29	25	13	21	21	37	56	41	29	21	63	--
2011 Jun	48	78	37	23	34	28	12	27	21	35	56	39	28	19	64	--
2010 Jul	48	76	36	23	34	25	11	22	20	36	59	40	27	19	66	--
2009 Jun	52	82	39	22	38	25	17	23	19	51	59	36	28	16	67	--
2008 Jun	48	71	32	32	33	24	12	24	20	26	58	35	20	20	60	--
2007 Jun	46	69	34	41	33	22	14	23	19	25	54	31	19	18	59	--
2006 Jun	52	73	40	49	37	30	19	31	24	33	58	38	25	18	--	--
2005 May	53	74	41	49	37	28	22	28	24	44	63	42	26	22	--	--
2004 May	53	75	46	53	41	30	30	30	31	52	64	44	34	24	--	--
2003 Jun	50	82	47	50	40	33	29	35	28	55	61	44	29	22	--	--
2002 Jun	45	79	50	47	38	35	29	35	26	58	59	38	27	20	--	--
2001 Jun	60	66	50	44	38	36	26	34	26	48	57	40	--	28	--	--
2000 Jun	56	64	47	46	37	37	24	36	25	42	54	40	24	29	--	--
1999 Jun	58	68	49	43	36	33	26	34	28	49	57	40	23	30	--	21
1998 Jun	59	64	50	40	37	33	28	34	26	53	58	40	24	30	57	--
1997 Jul	56	60	50	41	40	35	22	34	23	49	59	38	19	28	63	--
1996 May	57	66	45	44	38	32	20	36	25	39	60	42	19	24	--	--
1995 Apr	57	64	44	43	40	30	21	33	26	45	58	41	20	21	--	--
1994 Mar	54	64	42	35	34	29	18	35	26	38	54	36	15	26	--	--
1993 Mar	53	68	44	37	39	31	18	46	26	43	52	34	17	22	--	--
1991 Oct	56	69	39	30	35	32	18	--	22	50	--	--	--	22	--	--
1991 Mar	59	85	48	32	44	37	30	--	25	72	--	--	--	26	--	--
1990 Aug	56	68	47	36	45	39	24	--	27	--	--	--	--	25	--	--
1989 Sep	52	63	46	42	43	--	32	--	--	--	--	--	--	--	--	--
1988 Sep	59	58	56	49	49	36	35	--	26	--	--	--	--	25	--	--
1987 Jul	61	61	52	51	50	31	--	--	26	--	--	--	--	--	--	--
1986 Jul	57	63	54	49	49	37	41	--	29	--	--	--	--	28	--	--
1985 May	66	61	56	51	48	35	39	--	28	--	--	--	--	31	--	--
1984 Oct	64	58	51	51	47	34	29	--	30	--	--	--	--	29	--	--
1983 Aug	62	53	42	51	39	38	28	--	26	--	--	--	--	28	--	--
1981 Nov	64	50	46	46	42	35	29	--	28	--	--	--	--	20	--	--
1979 Apr	65	54	45	60	53	51	34	--	36	--	--	--	--	32	--	--
1977 Jan	64	57	46	--	54	--	40	--	39	--	--	--	--	33	--	--
1975 May	68	58	49	--	--	--	40	--	36	52	--	--	--	34	--	--
1973 May	66	--	44	--	58	39	42	--	30	--	--	--	--	26	--	--

KEY:

A. The church or organized religion
 B. The military
 C. The U.S. Supreme Court

D. Banks

E. The public schools
 F. Newspapers
 G. Congress

H. Television news
 I. Organized labor
 J. The presidency

K. The police
 L. The medical system
 M. The criminal justice system

N. Big business
 O. Small business
 P. News on the Inter

Tomgram: Anya Schiffrin, Who Knew We Were Living in the Golden Age of Investigative Journalism?

Posted by [Anya Schiffrin](#) at 8:03am, August 26, 2014.

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[**Note for TomDispatch Readers:** Here's my end-of-summer reading list -- three books already highlighted in the most recent TD pieces and a bonus volume. As with today's post, so Anya Schiffrin's eye-opening new book, [Global Muckraking: 100 Years of Investigative Journalism From Around the World](#), offers a genuine dose of hope when it comes to investigative reporting on a global level. [Patrick Cockburn's](#) latest book on the rise of ISIS (and the collapse of much of the Middle East), [The Jihadis Return: ISIS and the New Sunni Uprising](#), is a must-read for anyone with an interest in the region, which essentially should mean all of us. [Aviva Chomsky's](#) [Undocumented: How Immigration Became Illegal](#) provides a necessary framework for an issue that continues to grip the country. As for my bonus choice of the late summer, I just finished a riveting new thriller by one of my favorite columnists, the Boston Globe's James Carroll. [Warburg in Rome](#), his novel about the Pope, the Catholic Church, Jews just out of the concentration camps, the U.S. military, and the ways various Nazis escaped from Europe in the wake of World War II, kept me reading late into the night. Tom]

Almost a decade ago, I spent more than a year freelancing for a major metropolitan newspaper -- one of the biggest in the country. I would, on an intermittent basis, work out of a newsroom that appeared to be in a state of constant churn. Whoever wasn't being downsized seemed to be jumping ship or madly searching for a life raft. It looked as if bean counters were beating reporters and editors into submission or sending them out of the business and into journalism schools where they would train a new generation of young reporters. For just what wasn't clear. Jobs that would no longer exist?

Before the special series I was working on was complete, my co-writer -- the paper's Washington investigative editor -- had left for the friendlier confines of academia and the editor who greenlit the series had resigned in the face of management's demands for steep cuts to newsroom staff. It seemed as if the only remaining person associated with the series was a gifted photographer (who left for greener pastures within a year).

I thought I was witnessing the end of an era, the death of an institution.

At the same time, I was also working for a small but growing online publication that managed to produce three original articles each week -- a mix of commentary, news analysis, and original investigative reporting. More than a decade into that gig, the Nation Institute's [TomDispatch.com](#) is still going strong, still publishing three original articles per week, and syndicating that content out to dozens and dozens of online publications, reaching hundreds of thousands of potential readers.

Over that time, online outlets have come and gone, venerable newspapers have closed up shop, predictions of doom -- of the death of print publications, the demise of investigative

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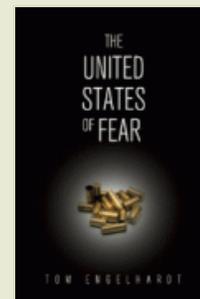


NEW FROM NATIONBOOKS

The United States of Fear

In 2008, when the US National Intelligence Council issued its latest report meant for the administration of newly elected President Barack Obama, it predicted that the planet's "sole superpower" would suffer a modest decline and a soft landing fifteen years hence. In his new book *The United States of Fear*, Tom Engelhardt makes clear that Americans should don their crash helmets and buckle their seat belts...

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Terminator Planet: The First History of Drone Warfare, 2001-2050 (A TomDispatch Book)

The first history of drone warfare, written as it happened.



From the opening missile salvo in the

reporting (maybe even of journalism itself) -- have been aired repeatedly. And it's true that in this new era it hasn't been easy to make a living as a journalist or keep a media outlet afloat. Yet, as a reader, I notice something else: I can't even hope to read every eye-catching article that flashes by on my Twitter feed or piles up in my inbox from one listserve or another. I end up with 25 open windows in my taskbar -- top-quality journalism from legacy media outlets and new digital magazines that I hope I might be able to skim later that day or the next or sometime before my laptop slows to a crawl under the weight of so much groundbreaking reporting.

It turned out that, 10 years ago, I actually was witnessing the end of an era while living through the formative stages of another. It's been a moment in which stories published on a relatively tiny website like TomDispatch circle the globe in a flash and a writer like me, who never went to journalism school, can see his articles almost instantly translated into Spanish, Japanese, Italian, and languages I don't even recognize, and then reposted on websites from South America to Africa to Asia. In other words, they sometimes reach the sort of global audience that once might have been a stretch even for a reporter at a prestigious mainstream media outlet.

Over these years, I've also watched others who have passed through the **Nation Institute** wade into a scary media market and find great success. TomDispatch's own former intern **Andy Kroll**, for example, has gone on to break one **important story** after another at *Mother Jones*, a print publication that now **thrives online**, while former **Nation Institute** program associate **Liliana Segura** has taken a top post at **First Look Media**, one of the most **dynamic** and **talked-about** new media ventures in years. And they are hardly anomalies.

In her new book, *Global Muckraking: 100 Years of Investigative Journalism from Around the World*, Anya Schiffrin, the director of the media and communications program at Columbia University's School of International and Public Affairs, chronicles the brave new world of global journalism in the age of the Internet (and how the stage was set for the new **golden age of the reader** we're living in). In her inaugural article for TomDispatch, the longtime foreign correspondent reveals the investigative exposés by today's top global muckrakers that you missed and explains why investigative journalism is on the rise, not the decline, worldwide.

From Asia to Central America, a new generation of Nellie Blys and Ida Tarbells, Seymour Hersh and Rachel Carsons, is breaking one big story after another with equal parts old-fashioned shoe leather and twenty-first-century knowhow. "The fact that journalists have been calling attention to some of the same problems for more than a hundred years might make one despondent, but it shouldn't..." Schiffrin writes in her book. "That the battles are still going on should remind us that new abuses, new forms of corruption, are always emerging, providing new opportunities and new responsibilities for the media." Luckily, there is a new generation of reporters around the world, she points out, rising to the challenge. *Nick Turse*

The Fall and Rise of Investigative Journalism

From Asia to Africa to Latin America, Muckrakers Have Corrupt Officials and Corporate Cronies on the Run

By **Anya Schiffrin**

In our world, the news about the news is often grim. Newspapers are **shrinking, folding up**, or being **cut loose** by their parent companies. **Layoffs** are up and **staffs** are down. That **investigative reporter** who covered the state capitol -- she's not there anymore. Newspapers like the *Los Angeles Times*, the *Washington Post*, and the *Chicago Tribune* have suffered from multiple rounds of layoffs over the years. You know the story and it would be easy enough to imagine that it was the world's story as well. But despite a long run of journalistic tough times, the loss of advertising dollars, and the challenge of the Internet, there's been a blossoming of investigative journalism across the globe from Honduras to Myanmar, New Zealand to Indonesia.

skies over Afghanistan in 2001 to a secret strike in the Philippines early this year, or a future in which drones dogfight off the coast of Africa, Terminator Planet takes you to the front lines of combat, Washington war rooms, and beyond.

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Woodward and Bernstein may be a **fading memory** in this country, but journalists with names largely unknown in the U.S. like Khadija Ismayilova, Rafael Marques, and Gianina Segnina are breaking one blockbuster story after another, exposing corrupt government officials and their crony corporate pals in Azerbaijan, Angola, and Costa Rica. As I travel the world, I'm energized by the journalists I meet who are taking great risks to shine much needed light on shadowy wrongdoing.

And I'm not the only one to notice. "We are in a golden age of investigative journalism," says Sheila Coronel. And she should know. Now the academic dean at Columbia University's Graduate School of Journalism, Coronel was the director of the Philippine Center for Investigative Journalism, whose coverage of the real estate holdings of former President Joseph Estrada -- including identical houses built for his mistresses -- contributed to his removal from office in 2001.

These are, to take another example, the halcyon days for watchdog journalism in Brazil. Last October, I went to a conference of investigative journalists there organized by the Global Journalism Investigative Network. There were 1,350 attendees. In July, I was back for another conference, this time organized by the Association of Brazilian Investigative Journalists and attended by close to 450 reporters. Thanks in part to Brazil's Freedom of Information Act and the "open budget" movement that seeks to shed light on the government's finances (and let people have a say in how their tax dollars are spent), journalists there have been busy exposing widespread corruption in local government as well as a cash-for-votes scheme that **resulted** in the arrest of nine senior politicians.

Cross-border news networks funded by foundations and philanthropists are carrying out similar investigations all over the world. Based in New York and edited by a Nigerian, Omoyele Sowore, **Sahara Reporters** uses leaked stories and documents to expose corruption in Africa's **richest country**. Its funders include the Omidyar Network, created by eBay founder Pierre Omidyar and his wife, Pam, and its stated goal is nothing less than "seeking the truth and publishing it without fear or favor."

A group of students and I studied Sahara Reporters earlier this year. In our report, we described one typical story that outlet broke which detailed how then-Minister of Aviation Stella Oduah purchased two bulletproof BMWs -- at nearly double the normal price -- with funds from the Nigerian Civil Aviation Authority (NCAA). Sahara Reporters posted receipts of the purchases and documents linking Oduah to the scheme. It also located sources who testified that the whereabouts of the cars were unknown and that they were suspected of being employed for Oduah's private use. Meanwhile, Sahara Reporters exposed the budgetary constraints the NCAA was operating under and linked these to several air mishaps, including two crashes resulting in the deaths of 140 people.

Oduah, who was already under fire for the NCAA's poor performance, initially denied the accusations. Within days, however, numerous news outlets had picked up the **story** and run with it. The reports triggered a series of reactions from the government, opposing political parties, civil society organizations, and the Nigerian public. Earlier this year, Oduah was fired.

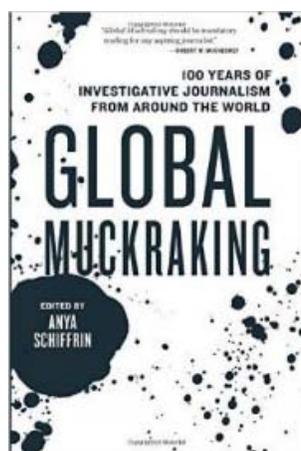
Honorable Mentions

In recent years, I've been a judge for the human rights reporting awards given out by the Overseas Press Club in New York. You should see the staggering pile of entries. It takes days to read through them all. Our major

“problem”: an overabundance of top-notch reporting we’re unable to acknowledge with prizes. (Happily, some of them received prizes anyway, just not from us).

Among the remarkable pieces we read but didn’t give the human rights prize to was an [Associated Press series](#) on the effects of narco-violence on ordinary people in Honduras. It laid out the way they have been forced to flee their villages or vacate neighborhoods block by block as drug dealers moved in and took over their homes. The series described how some homeowners stopped painting their houses or mowing their lawns lest they appeal to drug lords who might seize them. People were even being shaken down by gangs that left notes demanding payments if they wanted to be allowed to stay in their houses.

At the same time, the government was sowing misery of its own. As part of the series, Alberto Arce [wrote](#) about a 15-year-old boy -- the son of a college professor -- who went out one night to meet a girl he had friended on Facebook only to be killed at a government roadblock by trigger-happy soldiers.



Buy the book

This year, when the press started to cover the [flood of children](#) from Central America crossing the U.S. border, I thought back to that series and how well it explained the kinds of desperate conditions that can lead to mass migration.

Similarly unforgettable was the [reporting](#) of Cam Simpson at Bloomberg Businessweek about the workers behind Apple’s iPhone 5. Migrants from Nepal, they fell into debt paying middlemen for jobs assembling that smartphone in factories in Malaysia. After Apple started rejecting the phones, production was cut back and some 1,300 workers were left to fend for themselves for months without food or pay. Since their passports had been taken

from them, they were unable to leave the country and essentially confined to a hostel, trying to scrape together a bit of rice each day. Finally, in despair, they began rioting and the Malaysian police were called in. Their response will seem odd indeed to anyone reading recent reports from Ferguson, Missouri. Instead of arresting the workers, the police had food delivered and went to work to get the Nepalese sent home. (Still broke, many of them are likely to go further into debt to again pay brokers to secure overseas jobs that may land them in similarly dire straits.)

A third striking piece of global reportage was E. Benjamin Skinner’s “The Fishing Industry’s Cruellest Catch.” It focused on the conditions Indonesian migrant workers encounter fishing in the waters off New Zealand, for New Zealand companies, aboard Korean boats. A report by academic researchers Christina Stringer and Glenn Simmons, in collaboration with deep sea fishing skipper Daren Coulston, prompted Skinner, a journalist specializing in slavery, to spend six months in several different countries checking out their allegations.

The result was a gripping story of modern day slavery. Indigent Indonesian villagers were, he reported, misled into accepting contracts on vessels that ply the Southern Pacific Ocean and Tasman Sea searching for fish to be sold to giant American chains like Safeway, Walmart, and Whole Foods. Many of the Indonesians thought they were signing on to first world labor

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conditions on modern New Zealand-owned vessels. Once aboard, however, they found themselves virtual prisoners, forced to work long hours for substandard food and beaten or sometimes sexually assaulted when they tried to resist.

After various deductions were taken from their paychecks, the workers, promised \$12 an hour, ended up getting only about a dollar an hour. Not only was Skinner's story well-written and well-reported, but within months of its appearance, New Zealand had moved to change its laws and Safeway, Whole Foods, and Walmart began investigating their supply chains.

The Future of Global Muckraking

When I began researching my new book, *Global Muckraking: 100 Years of Investigative Journalism from Around the World*, I assumed that the good old days of investigative reporting were in the past. It was a surprise to learn just how much high quality work is still being done around the planet. The amount of data now available online, the ability of journalists to use the Internet to connect to one another and share information -- a major aid in cross-border reporting -- and a wave of new philanthropy have all helped fuel the current boom. In addition, fresh news operations of every sort seem to be popping up, eager to promote investigative reporting.

I thought I was well versed in innovative twenty-first century methods of news funding when I headed into this project, but I continue to stumble upon exciting experiments. For example, **Morry Schwarz**, a book publisher and property developer from Melbourne, Australia, funds weekly, monthly, and quarterly publications devoted to long-form writing on serious issues of the day, while also running the publishing house Black Inc. Australian philanthropist Graeme Wood, with money he made from an online business, founded the Global Mail, a nonprofit website that was similarly aimed at promoting long-form journalism. He also underwrites cross-border investigations via the **International Consortium of Investigative Journalists**. In Brazil, João Moreira Salles, scion of a prominent family enmeshed in the banking sector, has used his money to found a monthly magazine, *Piauí*, whose recent issue included an investigative piece about indigenous opposition to Belo Monte, a hydroelectric plant under construction in Altamira in the Amazon region.

Moves toward democracy in many countries, along with the Arab Spring (however shortcircuited it was) have also unshackled the global press in a variety of ways. Compared to five, 10, or 20 years ago, Myanmar, Ghana, and Tunisia, to take just three examples from many, have far freer -- sometimes remarkably freewheeling -- media atmospheres. And what's happening in countries like those has had a knock-on effect on nearby states.

Of course, there are also democratically elected governments in countries like Turkey, Ecuador, and Hungary that have been clamping down on free speech. And from Syria to Ferguson, Missouri, **many locales** remain dangerous for journalists. On balance, however, the press is ever less under the thumb of government, a situation that only encourages investigative reporting. To take two examples where the press has become at least marginally harder to control thanks to social media, the Internet, and some brave (or nerdy) independent-minded journalists, consider China and Vietnam, where once utterly closed media scenes are slowly being pried open.

The mass layoffs of older journalists around the world has had one benefit: there are plenty of experienced hands ready to train the next generation and provide institutional memory at innovative ventures. Some of these

oldtimers, who aren't busy teaching (or taking public relations jobs -- but that's a story for another time), are busy founding and running nonprofits dedicated to doing hard-driving, investigative reporting. These include: [100 Reporters](#), [Global Journalism Investigative Network](#), [Forum for African Investigative Reporters](#), [Investigative Reporters and Editors](#), [Investigative News Network](#), [SCOOP](#), and the [International Consortium of Investigative Journalists](#). All of these organizations are benefitting from experienced editors and reporters downsized from traditional media outlets and committed to helping the next generation -- and learning from them, too.

No one can say how this wave of new reporting will continue to be funded in the future, nor can I promise to be as cheery a decade from now as I am today about investigative journalism's prospects. Already some donors are putting in place stipulations that might constrain future reporting -- like requiring publications to meet benchmarks offering proof of a story's impact. Still, if the history of investigative reporting in the United States has taught us anything, it's that outlets come and go, but the legacy of great investigative reporting, the tradition that inspires future generations of crusading journalists, endures.

It can take years for investigative journalism to make a difference and, in the past, many of the most important outlets didn't make money and disappeared. They were sometimes run by passionate crusaders who seized the moment, wrote the stories, and then moved on. *Everybody's Magazine* folded long ago, but Upton Sinclair's takedown of the scandalous Beef Trust, specifically Armour and Co., in 1908 opened American eyes to the way meat was produced in this country. Who remembers *In Fact*? But George Seldes's prescient 1941 exposé of the dangers of cigarettes in the pages of that now-defunct publication has stood the test of time. And while *McClure's*, *I.F. Stone's Weekly*, and *Ramparts* may be increasingly distant memories, the effects of their investigative work ripple all the way to the present.

And this isn't peculiar to the United States.

Young journalists on their way up are being trained in a craft that, history tells us, will outlast the death of any particular publication. Ory Okolloh of the Omidyar Network regularly makes this point. She notes that after the pioneering Nigerian newspaper *Next234* went out of business, its reporters and editors simply moved on to other media outlets in Africa, where they are breaking important stories and training the next generation of reporters.

For investigative reporting, injustice is the gift that just keeps giving. While so much of the business side of journalism remains in flux, fine reporters with an investigative urge are finding ways to shine much needed light into the parts of our global lives that the powerful would rather keep in the shadows. These may be tough times, lean times, difficult times, but don't be fooled: they're also boom times. There can be no question that, if you're a reader with access to the Internet, you're living in a new golden age of investigative journalism.

Anya Schiffrin is the director of the media and communications specialization at Columbia University's School of International Affairs. She teaches courses on media innovation and writes on journalism and development as well as the media in Africa. Schiffrin spent 10 years working overseas as a journalist in Europe and Asia and is on the advisory boards of the Open Society Foundation's Program on Independent Journalism and of the Revenue Watch Institute. Her most recent book is [Global Muckraking: 100 Years of Investigative Reporting from Around the World](#) (New Press 2014). Thanks to Hawley Johnson, Jillian Hausman, and Angela Pimenta for

their research for this piece.

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Sharyl Attkisson sues administration over computer hacking



By Howard Kurtz

Published January 05, 2015

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Former CBS News correspondent Sharyl Attkisson has sued the Justice Department over the hacking of her computers, officially accusing the Obama administration of illegal surveillance while she was



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In a series of legal filings that seek \$35 million in damages, Attkisson alleges that three separate computer forensic exams showed that hackers used sophisticated methods to surreptitiously monitor her work between 2011 and 2013.

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"I just think it's important to send a message that people shouldn't be victimized and throw up their hands and think there's nothing they can do and they're powerless," Attkisson said in an interview.

The department has steadfastly denied any involvement in the hacking, saying in a 2013 statement: "To our knowledge, the Justice Department has never compromised Ms. Attkisson's computers, or otherwise sought any information from or concerning any telephone, computer, or other media device she may own or use."

In the lawsuit and related claims against the Postal Service, filed in Washington, Attkisson says the intruders installed and periodically refreshed software to steal data and obtain passwords on her home and work computers. She also charges that the hackers monitored her audio using a Skype account.

The award-winning reporter says she and her attorneys have "pretty good evidence" that these efforts were "connected" to the Justice Department. She said she was caught in a "Catch-22," forcing her to use the lawsuit and an administrative complaint to discover more about the surveillance through the discovery process and to learn the identities of the "John Does" named in the complaints.

"The Justice Department has not been very forthcoming with questions," she said. "The question is, will anybody ever be held responsible?"

The multimillion-dollar damage figure relates to her loss of privacy and that of her husband and family, she said.

Attkisson learned through a Freedom of Information request that the FBI opened an investigation of the hacking case in May 2013, but says the bureau never interviewed her or even notified her of the probe.

Attkisson resigned from CBS last March after complaining that she was increasingly unable to get her investigative stories on the air. She has published a best-selling book, "Stonewalled," about her battles against the network and the administration as she investigated stories on such subjects as Benghazi, Fast and Furious and ObamaCare.

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Howard Kurtz is a Fox News analyst and the host of "[MediaBuzz](#)" (Sundays 11 a.m. and 5 p.m. ET). He is the author of five books and is based in Washington. Follow him at [@HowardKurtz](#). [Click here for more information on Howard Kurtz.](#)

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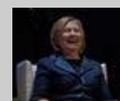
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Reporter Sharyl Attkisson says feds hacked computer, CBS protected Obama

Upcoming book recounts her 'fight for truth'



Investigative correspondent Sharyl Attkisson is seen here Jan. 13, 2012, in New York during a broadcast of "CBS This Morning." (Associated Press/CBS, John P. Filo) [more >](#)



DAILY CALLER

By [Valerie Richardson](#) - *The Washington Times* - Tuesday, October 28, 2014

Those who suspect the worst about the [Obama administration](#) and the media won't have their beliefs contradicted by former CBS News reporter [Sharyl Attkisson's](#) explosive new book, "Stonewalled: My Fight for Truth Against the Forces of Obstruction, Intimidation and Harassment in Obama's Washington."

"Stonewalled" (HarperBooks), in which [Ms. Attkisson](#) recounts the conflicts over coverage with network executives leading up to her resignation in March, isn't scheduled for release until Tuesday, but eye-popping excerpts are making their way into the press and social media.

The most incendiary charge: that [Ms. Attkisson's](#) personal computer and CBS laptop were hacked after she began filing stories about Benghazi that were unflattering to the [Obama administration](#). A source who checked her laptop said the hacker used spyware

Ln:337

“proprietary to a government agency,” according to a Monday article in the [New York Post](#).

“This is outrageous. Worse than anything Nixon ever did. I wouldn’t have believed something like this could happen in the United States of America,” said the source, according to [Ms. Attkisson’s](#) account in the [New York Post](#).

In an Oct. 3 video preview of the book, [Ms. Attkisson](#) describes how her computer suddenly went haywire as she was working at home on a Benghazi story.

“As I was typing and working on questions for a Benghazi-related story, the data started wiping kind of at hyperspeed, being deleted, as if my computer had been hijacked and I had no control over it,” [Ms. Attkisson](#) says in the video.

“I knew because I had had so many anomalies over the past year and a half, two years, that someone was interfering with the computer,” she said. “It was described to me by the computer experts I consulted with afterward that that was purely an attempt to let me know that they could do that and they were watching and that they were in my computer.”

Although [Ms. Attkisson](#) calls herself a political agnostic who was equally tough on the Bush administration, she said her dogged reporting on stories such as the Benghazi assault, the Fast and Furious gun-running scandal, Solyndra and Obamacare made her a persona non grata with her liberal CBS bosses.

“Many in the media are wrestling with their own souls: They know that ObamaCare is in serious trouble, but they’re conflicted about reporting that,” [Ms. Attkisson](#) says in the Post account. “Some worry that the news coverage will hurt a cause that they personally believe in. They’re all too eager to dismiss damaging documentary evidence while embracing, sometimes unquestioningly, the [Obama administration’s](#) ever-evolving and unproven explanations.”

As the November 2012 election approached, her hard-hitting stories about Benghazi wound up on the network’s website instead of on the air. So did a story about a Korean green-energy firm receiving U.S. subsidies.

At one point, the network lost interest in [Ms. Attkisson’s](#) Fast and Furious stories. A producer told her, “You’ve reported everything. There’s really nothing left to say.”

She ran afoul of a network executive when she appeared on conservative talk-show host Laura Ingraham’s radio show, who told her Ms. Ingraham was “extremely, extremely far right.” One of her higher-ups insisted on identifying conservative analysts as “conservative,” but liberal analysts were just “analysts.”

CBS officials have not commented publicly on the book, and a [New York Post](#) reporter wrote in a Monday article that he was unable to reach executives for their reaction.

[Ms. Attkisson](#) said the network’s kid-gloves treatment also applied to its sponsors. She quotes an executive warning not to do anything to upset “corporate partners” until the stock split in 2006, according to the Post account.

She won five Emmys in her nearly 20 years at CBS, but [Ms. Attkisson](#) recently has been attacked by left-wing groups. A senior researcher at Media Matters in June described [Ms. Attkisson’s](#) reporting as “shoddy,” and Salon’s Simon Maloy mocked her “borderline obsessive focus on Benghazi.”

In her video, [Ms. Attkisson](#) says the public “needs to learn to watch the news much as you do a TV commercial. You need to start thinking, ‘Why is that story airing? Who pushed it?’ What special interest might be behind it? And am I getting the full story?’

“I’ve never seen a tougher clampdown on freedom of the press, and I think it’s important that someone stand and say these things and speak out about them,” she said.

She concludes, “I think in general I’m just one of the reporters top on a list of those they watch and they disagree with and they fight.”

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SHARYL ATTKISSON,)
22697 Hillside Circle)
Leesburg, VA 20175,)
)
and)
)
JUDICIAL WATCH, INC.,)
425 Third Street, S.W., Suite 800)
Washington, DC 20024,)
)
Plaintiffs,)
)
v.)
)
U.S. DEPARTMENT OF JUSTICE,)
950 Pennsylvania Avenue, N.W.)
Washington, DC 20530,)
)
Defendant.)
_____)

Civil Action No.

COMPLAINT

Plaintiffs Sharyl Attkisson and Judicial Watch, Inc. bring this action against the U.S. Department of Justice to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”) and the Privacy Act, 5 U.S.C. § 552a (“Privacy Act”). As grounds therefor, Plaintiffs allege as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Sharyl Attkisson is a private citizen residing in Leesburg, Virginia. She is an Emmy award winning investigative journalist and author.

4. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, D.C. 20024. Plaintiff seeks to promote transparency, integrity, and accountability in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records from federal agencies pursuant to FOIA. Plaintiff analyzes the responses and disseminates its findings and the requested records to the American public to inform them about “what their government is up to.”

5. Defendant U.S. Department of Justice is an agency of the United States government and is headquartered at 950 Pennsylvania Avenue, N.W., Washington, DC 20530. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

6. On September 4, 2014, Plaintiffs jointly submitted a request to the Federal Bureau of Investigation (“FBI”), a component of Defendant. Plaintiff Judicial Watch submitted the request under FOIA, and Plaintiff Attkisson submitted the request under both FOIA and the Privacy Act.

7. Plaintiffs’ request sought access to:

A. Any and all records concerning, regarding, or relating to Sharyl Attkisson. Such records include, but are not limited to, records of background checks of Sharyl Attkisson, records of communications, contacts, or correspondence between Sharyl Attkisson and employees, officials, or agents of the Federal Bureau of Investigation, and records of investigations concerning or regarding Sharyl Attkisson as a victim;

- B. Any and all records of Case Number 288-HQ-C2570709; and
- C. Any and all records of Case Number 80-HQ-A1199962.

8. By letter dated September 18, 2014, the FBI acknowledged receipt of Plaintiffs' request and assigned it FOIAPA Request Number 1297576-000. The FBI also informed Plaintiffs that it needed an authorization and consent form from Plaintiff Attkisson before it processed Plaintiffs' request.

9. On September 22, 2014, Plaintiffs' submitted a signed, fully executed Certification of Identity form from Plaintiff Attkisson.

10. By letter dated October 6, 2014, the FBI acknowledged receipt of the authorization and consent form from Plaintiff Attkisson.

11. The FBI was required to determine whether to comply with Plaintiffs' request within 20 days of receipt of the authorization and consent form from Plaintiff Attkisson, excepting Saturdays, Sundays, and legal public holidays, pursuant to 5 U.S.C. § 552(a)(6)(A). Pursuant to this same provision, the FBI also was required to notify Plaintiffs immediately of the determinations, the reasons therefor, and the right to appeal any adverse determinations to the head of the agency. Excluding weekends and the intervening Columbus Day holiday, the FBI was required to make its determinations and provide Plaintiffs with the requisite notifications by November 5, 2014.

12. As of the date of this Complaint, the FBI has failed to make any determination about whether it will comply with Plaintiffs' request, notify Plaintiffs of any determinations, or notify Plaintiffs of their right to appeal any adverse determinations to the head of the agency. Nor has the FBI produced any records responsive to their requests, indicated when any responsive

records will be produced, or demonstrated that responsive records are exempt from production.

13. Because the FBI has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiffs are deemed to have exhausted any and all administrative remedies with respect to their FOIA request.

14. Defendant also has refused to comply with Plaintiff Attkisson's request under the Privacy Act.

COUNT 1
(Violation of FOIA, 5 U.S.C. § 552)

15. Plaintiffs reallege paragraphs 1 through 14 as if fully stated herein.

16. Defendant is unlawfully withholding records requested by Plaintiffs pursuant to FOIA.

17. Plaintiffs are being irreparably harmed by reason of Defendant's unlawful withholding of requested records, and Plaintiffs will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

COUNT 2
(Violation of Privacy Act, 5 U.S.C. § 552a)

18. Plaintiff Attkisson paragraphs 1 through 14 as if fully stated herein.

19. Defendant is unreasonably refusing to comply with Plaintiff Attkisson's request under the Privacy Act.

20. Plaintiff Attkisson is being irreparably harmed by reason of Defendant's unlawful withholding of requested records, and Plaintiff Attkisson will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

WHEREFORE, Plaintiffs respectfully request that the Court: (1) order Defendant to conduct a search for any and all records responsive to Plaintiffs' request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiffs' request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiffs' request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiffs' request; (4) grant Plaintiffs an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E) and 5 U.S.C. § 552a(g)(3)(B); and (5) grant Plaintiffs such other relief as the Court deems just and proper.

Dated: November 19, 2014

Respectfully submitted,

/s/ Michael Bekesha
Michael Bekesha
D.C. Bar No. 995749
JUDICIAL WATCH, INC.
425 Third Street S.W., Suite 800
Washington, DC 20024
(202) 646-5172

Counsel for Plaintiffs

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Attkisson: Obama Officials 'Bully and Threaten' Journalists, Free Press

January 30, 2015 - 11:47 AM

By *Brittany M. Hughes*

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(CNSNews.com) - Testifying at the confirmation hearing for Attorney General-nominee Loretta Lynch on Thursday, investigative reporter Sharyl Attkisson expressed concern about the "serious, long-term damage to a supposedly free press" by the Obama administration, which she claims "bullies and threatens access of journalists who do their jobs, news organizations that publish stories they don't like, and whistleblowers who dare to tell the truth."



Investigative reporter Sharyl Attkisson (AP File Photo)

"The message has already been received: if you cross the administration with perfectly accurate reporting that they don't like, you will be attacked and punished. You and your sources may be subjected to the kind of surveillance devised for enemies of the state," Attkisson stated in her testimony before the Senate Judiciary Committee.



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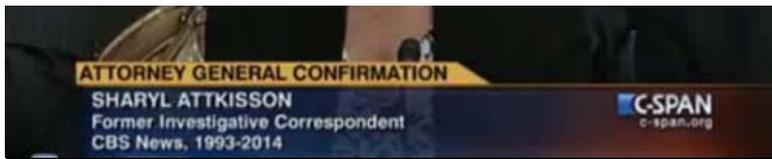
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Attkisson, who has worked for CBS News, PBS, and CNN, detailed her personal experience as an investigative reporter dealing with the Obama administration.

She said she was subjected to numerous phone calls from federal officials attempting to keep her quiet; had her Freedom of Information Act (FOIA) requests "stonewalled"; was denied access to government buildings; and she even believes the government "compromised" her personal computer.

"The job of getting the truth has never been more difficult," she told Congress, adding that she faced a host of problems attempting to investigate the Fast and Furious gun-running scandal and later, the administration's alleged targeting of the media.

"Government officials weren't angry because I was doing my job poorly," Attkisson explained. "They were panicked because I was doing my job well."

If confirmed as attorney general, Loretta Lynch will replace Attorney General Eric Holder, who led a department that repeatedly has used its authority to unfairly "hand-pick" reporters for certain press briefings, control the release of information and suppress scandals such as Fast and Furious, Attkisson said.

She quoted several other mainstream media reporters and editors from outlets such as The Washington Post, ABC News and The New York Times, several of whom have accused President Obama and his administration of being "by far the most aggressive" toward the media, "the most closed, control-freak administration," "the least transparent" and "the administration of unprecedented secrecy and unprecedented attacks on free press."

Attkisson told the committee that Lynch, if confirmed, "should chart a new path and reject the damaging policies and practices that have been used by others in the past."

Freedom of the press is "under assault," she said, "due to government policies of secrecy, leak prevention, and officials' contact with the media, combined with large-scale surveillance programs."

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FROM MOTHERS IN THE LEGAL PROFESSION

September 20, 2018

To: Dr. Christine Blasey Ford

Cc: U.S. Senate Judiciary Committee

Dear Dr. Blasey Ford,

The undersigned are all female attorneys who met through a non-partisan social network of mothers in the legal profession. We write to offer you our support and admiration for coming forward to tell your story during the nomination of Brett Kavanaugh to the United States Supreme Court.

The group from which we are drawn prides itself on its diversity -- of race, geography, religion, sexual orientation, socioeconomic status, legal practice, and political affiliation. Despite our differences, we share a few core attributes: we are women, we are (active and inactive) members of the legal

bar across the United States, and we are mothers. Above all, we support other women. In particular, we support women who take a stand to call out and fight injustice in many forms, including all manner of personal and professional abuse that targets or disproportionately affects women.

We thank you as attorneys. As members of the legal community, we share a keen understanding of the impact that our nation's highest Court has on the lives of all Americans. We have watched these nomination hearings with great personal and professional interest. We have followed the heated debate over Judge Kavanaugh's judicial philosophy. We have watched with growing concern as questions mount regarding Judge Kavanaugh's truthfulness, judgment, and character. As practitioners who interact with the judiciary on a daily basis, we thank you for coming forward to make that bench stronger through critical examination of those nominated to serve as judges.

We thank you as women, and as abuse survivors and their allies. Many of us harbor our own painful memories of sexual assault, not to mention harassment and discrimination. If we were not personally victimized, we know women -- mothers, daughters, sisters, colleagues -- who were. We know all too well that these experiences, often hidden, can wreak havoc on a woman's self-esteem and other aspects of her personal and professional life. We hear your story of assault. We see your bravery and personal sacrifice. We thank you for giving this silent scourge a voice.

We thank you as mothers. We share the privilege of raising the next generation of Americans, and aim to help our children end the cycles of sexual abuse, misconduct, and discrimination that have run rampant for too long. Given this responsibility, we thank you for providing an example of someone brave enough to speak out despite risks to your privacy and

security. We thank you for giving us a teachable moment with our sons and daughters about the importance of affirmative consent, bodily autonomy, and using power for good.

We thank you as Americans. We applaud your willingness to tell your important story in public, despite the personal cost, and to assist the Senate with this crucial vetting process. Lifetime appointments to our highest Court should be granted only to the most honorable public servants, who can be trusted to treat all litigants with fairness and respect. Transparency is at the heart of democracy, and our elected officials cannot do their jobs without hearing from people like you. The judicial confirmation process would be incomplete without your bravery.

We urge all Senators to react with concern and attention to the revelations you have made about Judge Kavanaugh. As their constituents, we demand that they listen to your story and treat you with respect. We also urge them to allot your testimony the time, investigation, and consideration it is due. Particularly because your story is directly relevant to Judge Kavanaugh's viewpoints on issues of female bodily autonomy, we believe that your disturbing account of his actions is worthy of serious consideration as the Senate selects a person who will influence our jurisprudence for decades to come.

As you face attacks from the press, the public, and in particular Judge Kavanaugh's supporters, take heart in knowing that we all stand in solidarity with you.

Thank you for your service to this country.

Sincerely and with deepest gratitude,

Mothers in the Legal Profession

**Signers as of 5pm 9/21/18, Tally: 1336*

**Signers as of 9pm 9/23/18, Tally: 1989*

SIGNATURES

Organizing Committee

Nancy R. Giles, AZ

Kathleen Kahn, AZ

Cheryl Isaac Aaron, DC

LeAnne Letize McGee, FL

Belinda Macauley, MD

Laura Ackermann, NM

Morghan Richardson Valdes, NY

Susannah R. Knox, SC

Sara Kusiak Caniglia, TX

**These names are also included as signers below.*

Individual Group Signers, Alphabetized by State

**Signers as of 5pm 9/21/18, Tally: 1336*

**Signers as of 9pm 9/23/18, Tally: 1989*

Kate Demarest, AK
Lea Filippi, AK
Carolyn Heyman, AK
Holly Johanknecht, AK
Abigail Black, AL
Shayana Davis, AL
Jessica A. Milling, AL
Stephanie Brown, AZ
Jennifer Campisano, AZ
Heather Cornwell, AZ
Brooke L Findley, AZ
Nancy R. Giles, AZ
Alicia Marie Heflin, AZ
Shannon Johanni, AZ
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Kathleen Kahn, AZ
Jenifer Kasten, AZ
KM Lee, AZ
Michelle Metzger, AZ
Jamie N. Myers, AZ
Courtney Elyse Norton, AZ
Heather Pierson, AZ
Kristina L Pywowarczuk, AZ
Ashley R, AZ
Shannon Peters Schear, AZ
Adrienne Anderson Speas, AZ
Shelley Tolman, AZ
Shauna Bryant Yoder, AZ

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Robin J. Allan, CA
Amanda Allen, CA
Alexis R. Alonzo, CA
Susannah Braffman Amen, CA
Lesa Andelson, CA
Hali Michelle Anderson, CA
Sapna Kanoor Anderson, CA
Anagha Apte, CA
K. Arguello, CA
Stacey Armato, CA
Maggy Athanasious, CA
K. Attie, CA
Sonja Augustine, CA
Ana Avila-Cote, CA
Jennifer Awrey, CA
Sabrina L. Axt, CA
Emily Moriarty de Ayora, CA
Violet Safarian Babassi, CA

Priya Bahl-Sen, CA
Adriana Morera Bailey, CA
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Phenomenal Woman Action Campaign

Phenomenal Woman is leading a campaign for 1,600 male allies to take out a full-page ad in the NYT in support of Anita Hill and Christine Blasey Ford, reminiscent of how 1,600 black women did the same in 1991.

ABOUT US

Who We Are

We are a social network of women attorneys. We are active and inactive members of the legal bar across the United States. We are mothers. We support women.

Sign The Letter

Want to sign our letter of support? All signatures will be made public and are subject to our vetting process.

Contact us: info@lawmomswithblasey.com

Press

For more information and press inquiries please contact:

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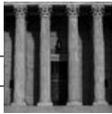


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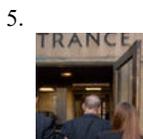
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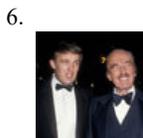
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OCT. 3, 2018



The following letter will be presented to the United States Senate on Oct. 4.

Judicial temperament is one of the most important qualities of a judge. As the

4

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Congressional Research Service explains, a judge requires “a personality that is even-handed, unbiased, impartial, courteous yet firm, and dedicated to a process, not a

personality that is even-
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result.” The concern for judicial temperament dates back to our founding; in Federalist 78, titled “Judges as Guardians of the Constitution,” Alexander Hamilton expressed the need for “the integrity and moderation of the judiciary.”

1.

1.



We are law professors who teach, research and write about the judicial institutions of this country. Many of us appear in state and federal court, and our work means that we will continue to do so, including before the United States Supreme Court. We regret that we feel compelled to write to you, our Senators, to provide our views that at the

[How Brett Kavanaugh Failed](#)

Senate hearings on Sept. 27, Judge Brett Kavanaugh displayed a lack of judicial temperament that would be disqualifying for any court, and certainly for elevation to the highest court of this land.

2.



The question at issue was of course painful for anyone. But Judge Kavanaugh exhibited a lack of commitment to judicious inquiry. Instead of being open to the necessary search for accuracy, Judge Kavanaugh was repeatedly aggressive with questioners.

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Even in his prepared remarks, Judge Kavanaugh described the hearing as partisan, referring to it as “a calculated and orchestrated political hit,” rather than acknowledging the need for the Senate, faced with new information, to try to understand what had transpired. Instead of trying to sort out with reason and care the allegations that were raised, Judge Kavanaugh responded in an intemperate, inflammatory and partial

3.



manner as he interrupted and, at times, was discourteous to senators.

[The Supreme Court's Legitimacy Crisis](#)

4.



As you know, under two statutes governing bias and recusal, judges must step aside if they are at risk of being perceived as or of being unfair. As Congress has previously put a judge or justice “shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” These statutes are part of a myriad of legal commitments to the impartiality of the judiciary, which is the cornerstone of the courts.

[A Supreme Violation](#)

5.



We have differing views about the other qualifications of Judge Kavanaugh. But we are united, as professors of law and scholars of judicial institutions, in believing that he did not display the impartiality and judicial temperament requisite to sit on the highest court of our land.

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Signed, with institutional affiliation listed for identification purposes only, by the

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following:



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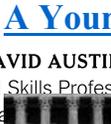


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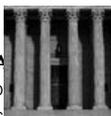
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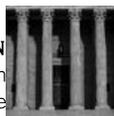
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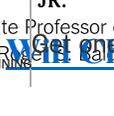
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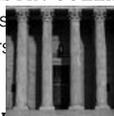
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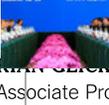


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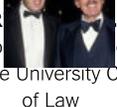


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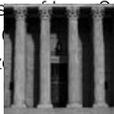
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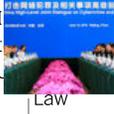
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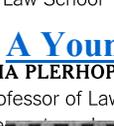


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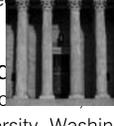


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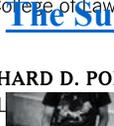


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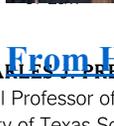


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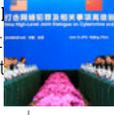


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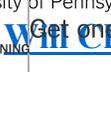
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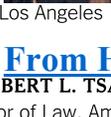


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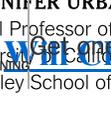


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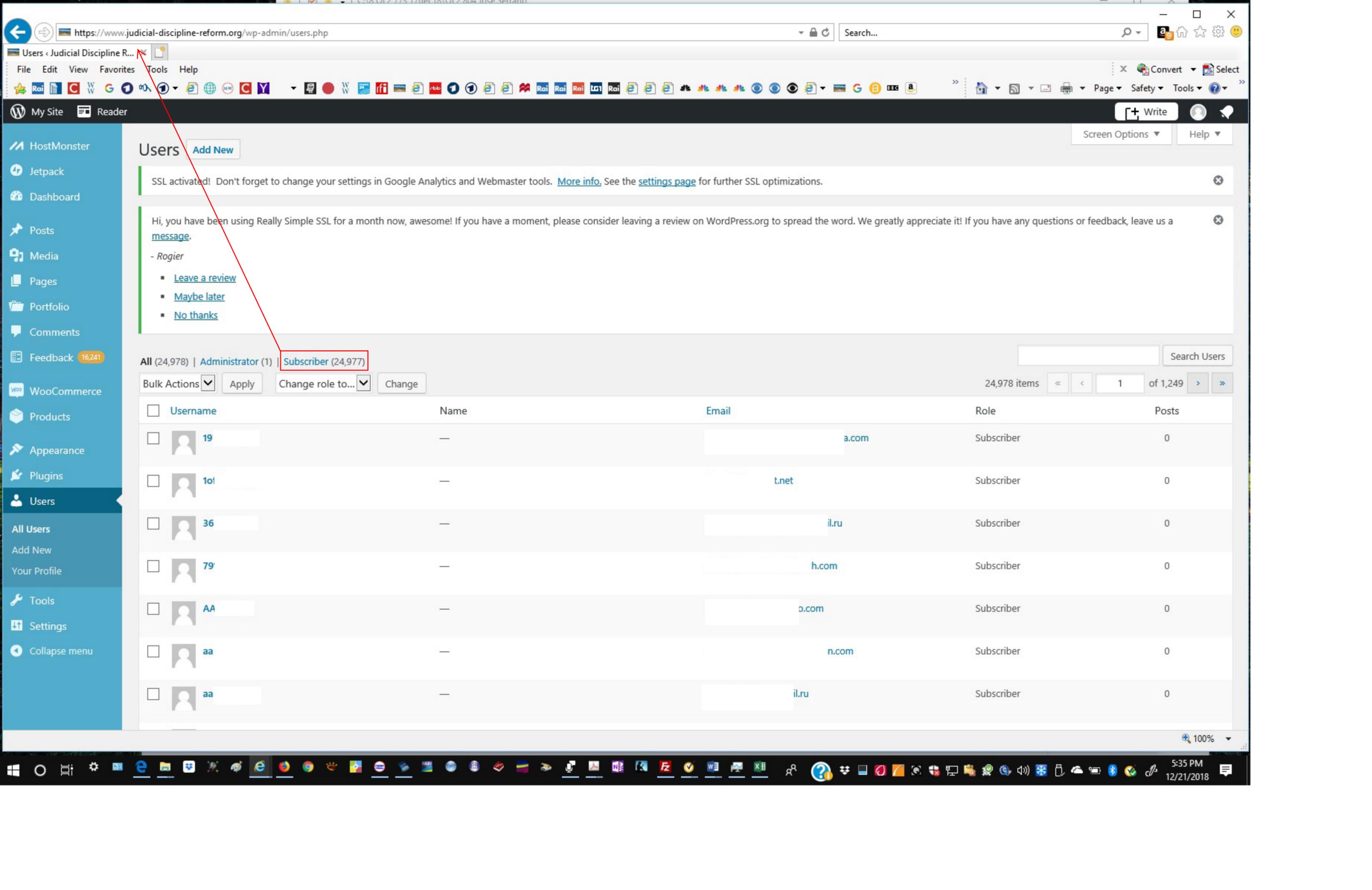
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- a. On judges' abuse of power over your property, liberty, and all the rights and duties that frame your life, and their systematic denial of your constitutional right to due process and equal protection of the law, see †>OL2:608§A; 455§§B-D, 707§B.
- b. On their unaccountability through self-exemption from discipline see *jur:21 §a, †>OL2:548.
- c. See also the proposal for the publication of a series of expository articles at †>OL2:703.

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Dare trigger history! (>jur:7§5)...and you may enter it.*

Empower yourself to do so and enable Judicial Discipline Reform to shout the national rallying cry:
Enough is enough!

We won't tolerate to be abused by anybody, not even judges, anymore.

Contact us: Dr.Richard.Cordero_Esq@verizon.net, DrRCordero@Judicial-Discipline-Reform.org;
or write to Judicial Discipline Reform at the address found at * †.

<https://www.linkedin.com/in/dr-richard-cordero-esq-0508ba4b>

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