

Brief on “Did GCHQ Spy on You Illegally?”

Privacy International on Monday launched a campaign and platform allowing people to ask the UK’s surveillance court, the Investigatory Powers Tribunal, if GCHQ spied on them illegally. This comes on the heels of our recent legal victory in the IPT, which found that intelligence sharing from the NSA to GCHQ prior to December 2014 was unlawful.

As of Tuesday night, more than 10,000 people had signed up to the platform, and by the end of today we expect that number will have increased significantly.

While the campaign has been a success thus far, we need your help!

This campaign is not just about maximising the impact of our IPT victory. It is about everyday people all over the world exercising their legal right to seek redress for the unlawful activities of one of the world’s most powerful governments.

Every single person who signs up amplifies the message we want to send. As such, we need the help of other organisations to spread the word, and we want your organisation to join as a partner. Being a partner can include: sending out emails to your organisation's members, tweeting out the link to the platform, or sending out a press release to your media contacts telling them you joined the effort.

We hope you can join, and below we try to address some questions we've been getting about the campaign. There's also an FAQ more specifically addressing the campaign itself.

What is PI doing?

Simply put: PI is giving people the chance to remedy illegal government activity and hold intelligence agencies accountable. When someone submits their information through this platform, they are allowing us to go to the IPT on their behalf to find out if they were illegally spied on by GCHQ.

People could have gone directly to the IPT to ask, but that process is difficult to engage in. We wanted to create a simple, low-barrier way to give people the chance to find out if they were victims of illegal spying.

Why are you doing this?

This action is not just about satisfying curiosity. Sure, lots of us are interested in knowing whether our emails have been caught in the NSA and GCHQ’s dragnet surveillance operations, and hopefully through this campaign we’ll be able to find out. But, it’s about much more than that.

It is about making GCHQ understand the very personal and individual implications of mass surveillance. And it is about ending the feeling of powerlessness that many of us have had since discovering, thanks to Edward Snowden, the reality of the almost total surveillance that we’re under.

We have never done a public campaign like this, but we felt that this ruling was too important to

pass up. People have a right to know if they were illegally spied on, and if so, request that their records are deleted. We want to help them assert those rights, and we think you can help too.

Why should my organisation join?

We don't get many victories in this space, but we have a rare opportunity to give people the chance to do something! Not just sign a petition, but directly hold intelligence agencies accountable and challenge proven illegal government activity.

Numbers are important too, and not just to brag about. The greater the number of people who sign up, the higher our likelihood of success. That's because when we submit people's details to the IPT, one of the possible outcomes could be that the court tests a sample to see if/where illegality occurred.

If more people sign up, there is a much greater chance that we can prove more instances of illegality. If that's the case, we could request that GCHQ delete ALL the records they obtained from NSA prior to December 2014.

To do that, we need as many people as possible to join. We are not merely interested in building a list, this is not a stunt, and we have no interest in poaching your members. **It's simple – more people means greater chance of success.**

Also, this is going to be a long fight on our front. We are going to be dealing with this campaign for the next few months, if not years. As each turn comes along the way, we are going to need your help to keep pressure up and keep people involved. Nothing good comes easy!

Is it only for British citizens?

No. This literally affects everyone who has ever used a phone or computer prior to December 2014, which is pretty much every single person.

So, anyone around the world is eligible to join this petition! No matter where you are, you're entitled under British law to bring a claim in the IPT to find out whether you were illegally spied on. Given the degree of intelligence collection by the NSA and its close relationship with the British intelligence services, it's entirely possible that your communications have been scooped up and unlawfully handed over to the UK.

So, what can you do?

Four actions you can do:

- **Declare your organisation's support for the campaign!** Email mike@privacyinternational.org and we'll add your name to the partner section on the petition page.

- **Tweet the link for the petition to your followers:** www.privacyinternational.org/illegalspying using the hashtag #DidGCHQSpyOnYou

- **Email your supporters and members and encourage them to join the campaign:** if you need further information you can point them to the FAQ on our website or included in this pack: <https://www.privacyinternational.org/?q=node/495>

- **Tweet at or contact notable people in your city or country:** we've been tweeting Members of Parliament, influential journalists, movie stars, whomever!

FAQ on platform

URL: <https://privacyinternational.org/?q=node/495>

Who is able to join?

EVERYONE! The implications of our recent legal victory against GCHQ in the Investigatory Powers Tribunal means that all intelligence sharing from the NSA to GCHQ was unlawful. Because people located all over the world are affected by illegal intelligence sharing, not only British citizens, but anyone in the world, can ask if their records collected by the NSA were unlawfully shared with GCHQ.

Why are we doing this?

Intelligence agencies' culture of secrecy have allowed them, for too long, to avoid public accountability. Whether it's secret hearings in closed court rooms or committees equipped only with rubber stamps, intelligence agencies like GCHQ have never been forced to answer to the public for their actions.

We think you have a right to know whether you have been caught up in GCHQ and NSA's illegal intelligence sharing. If so, you have a right to demand that data be deleted. Privacy International wants to help you assert those rights.

Wait what? Why do I have to give GCHQ my data?

We know it sounds absurd but it's the only way! The Tribunal can't act by itself, so it needs people to come forward to file complaints. We've kept information needed to a minimum, but the IPT requires more than your name to attempt to find your communications in GCHQ's massive databases. If they do locate your data, you can ask them to delete it. Hopefully, if enough people sign up, we can show just how widespread Five Eyes mass surveillance and intelligence sharing is, and get the reform we all need!

Will this tell me if GCHQ are currently spying on me?

No. This campaign will only tell you if NSA shared your communications with GCHQ before December 2014. It won't tell you if GCHQ shared communications with NSA. It also won't tell you if GCHQ intercepted your communications by themselves. Should Privacy International be successful in our appeal to the European Court of Human Rights maybe this will change, but for now, this is limited to just whether NSA shared your communications with GCHQ before December 2014.

What will happen once I have entered my details?

After you hit submit, you'll receive an email asking you to confirm your participation. Make sure you click that link, otherwise your submission won't go through. While these few details are all we need from you now, we may need more information from you in the future. By entering your details, you authorise Privacy International and their legal team to pass your information to GCHQ and the Investigatory Powers Tribunal in order to seek a declaration that your rights under Article 8 and Article 10 of the UK Human Rights Act have been violated and to request your records be deleted.

How will I know my communications were illegal shared with GCHQ?

If the IPT find that your communications were illegally shared with GCHQ, they have to tell you. The Investigatory Powers Tribunal has a statutory obligation to investigate any complaint made against GCHQ. When they receive a complaint, if they think they have all the information required to make a determination, then they will do so, and inform you of the outcome. If not, the IPT can demand more information, a meeting or inspection of files held by GCHQ.

Do I get anything if I have been spied on?

Yes. If the IPT is able to establish that you have been illegally spied on, they have to tell you. You will receive a declaration that your privacy rights have been violated and you can request that any information unlawfully obtained be deleted.

Will GCHQ hold onto my details when they are handed over to them?

No. GCHQ are only allowed to keep your details for the purposes of establishing whether or not they spied on you illegally and for the duration of the investigation by the IPT.

How soon will I receive an answer to whether I was caught up in NSA and GCHQ's illegal spying?

It might be a while. This is the first time that such a large group action has been mounted against GCHQ so count on it being many months, and likely years before this action is completed. Nothing worth doing is easy!

Is this for all of NSA and GCHQ's programmes?

This legal campaign deals with information collected by the NSA and shared with GCHQ before December 2014, specifically via PRISM and UPSTREAM. It doesn't deal with GCHQ initiated interception, but if we're successful in our appeal to the European Court of Human Rights, maybe that could change!

Is my email address and phone number enough for GCHQ to find all records?

No. Unfortunately, we imagine many of GCHQ's databases are unindexed or indexed by a "selector" which could be an IP address, a cookie, a hardware address or almost anything else. For people who want the most comprehensive records searched, much more personal information would have to be provided. Currently we are asking for only your email address and phone number to enable the greatest number of people access to this campaign. If you want to provide more detailed information and a range of selectors to GCHQ, consider submitting your own individual complaint here. We hope to have a detailed guide on how to do so in the next few days.

What are Privacy International going to do with this data?

By entering your details you are authorising Privacy International to pass your information to GCHQ and the Investigatory Powers Tribunal in order to seek a declaration that your privacy rights have been violated. We will provide you with updates on the case and won't use the information for any other purpose. We will only share it with our lawyers, GCHQ and the Investigatory Powers Tribunal.

Suggested press release:

Title: *YOUR ORGANISATION* joins worldwide campaign to discover depth of GCHQ's illegal spying.

YOUR ORGANISATION today has joined an international campaign to allow anyone in the world to request whether Britain's intelligence agency GCHQ has illegally spied on them.

The platform and campaign has been developed in response to a recent court ruling that GCHQ unlawfully obtained millions of private communications from the NSA up until December 2014. This decision allows not only British citizens, but anyone in the world, to ask GCHQ if their records were unlawfully shared by the NSA.

Since the campaign started, over 10,000 people around the world have signed on to hold GCHQ accountable for illegal surveillance and find out if they were targeted unlawfully. (*Note* - figure accurate as of 18 February. Please check with PI for latest figures when you send it out).

Individuals who wish to take part in this process can sign up here:

<https://www.privacyinternational.org/illegalspying>

Privacy International intends to collate the inquiries from around the world and submit them to the UK Investigatory Powers Tribunal. Those who have been found to have been illegally spied on can then seek the deletion of their records, including emails, phone records, and internet communications. Given the mass surveillance capabilities of the NSA and GCHQ, and that the agencies “share by default” the information they collect, an unlimited number of people could have been affected by the unlawful spying.

The Investigatory Powers Tribunal, the UK court solely responsible for overseeing intelligence agencies, ruled on 6 February that intelligence sharing between the United States and the United Kingdom was unlawful prior to December 2014, because the rules governing the UK’s access to the NSA’s PRISM and UPSTREAM programmes were secret. It was only due to revelations made during the course of this case, which relied almost entirely on documents disclosed by Edward Snowden, that the intelligence sharing relationship became subject to public scrutiny.

The decision was the first time in the Tribunal’s history that it had ruled against the actions of the intelligence and security services.

ADDITIONAL COMMENT FROM YOUR ORGANISATION:

Eric King, Deputy Director of Privacy International, said:

“We have known for some time that the NSA and GCHQ have been engaged in mass surveillance, but never before could anyone explicitly find out if their phone calls, emails, or location histories were unlawfully shared between the US and UK. The public have a right to know if they were illegally spied on, and GCHQ must come clean on whose records they hold that they should never have had in the first place.

There are few chances that people have to directly challenge the seemingly unrestrained surveillance state, but individuals now have a historic opportunity finally hold GCHQ accountable for their unlawful actions.”