

Agency's classified domestic surveillance program.

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The program authorizes the NSA to eavesdrop on Americans without first seeking permission from a court for a search warrant. It has caused a political uproar with both Democrats and Republicans questioning whether President Bush went beyond his powers under the U.S. Constitution in authorizing it.

The New York Times was the first to report the story on December 16th and then officials confirmed its existence to CNN and other organizations.

"The Justice Department has opened an investigation of the unauthorized disclosure of classified information related to the NSA," a Justice Department official told CNN. (Watch what the investigators will look for -- 2:02)

The leak investigation is expected to be handled, as is standard, by Justice Department prosecutors and FBI agents. Officials would not say when the investigation began.

The New York Times declined to comment on the leak investigation.

## Bush: Eavesdropping legal, necessary

The secret eavesdropping program, which President Bush authorized shortly after the September 11 attacks, allows the NSA to intercept domestic communications without a warrant, as long as one party is outside the United States

The headquarters of the National Security Agency holds some of the government's top secrets.



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Bush, who acknowledged the program's existence in a televised address December 17, says it is essential to help counterterrorism agents quickly trace the communications of terror suspects. He called the disclosure of the program's existence a "shameful act." (Full story)

"We know that a two-minute phone conversation between somebody linked to al Qaeda here and an operative overseas could lead directly to the loss of thousands of lives," Bush said during a December 19 news conference. "To save American lives, we must be able to act fast and to detect these conversations so we can prevent new

"It has been effective in disrupting the enemy while safeguarding our civil liberties." the

Bush, who first authorized the program in early 2002, said he has renewed the program over 30 times since its inception and reviews it every 45 days.

## Legality questioned

But Democrats and some Republicans have questioned the legality of the program, and some lawmakers have called for an independent investigation or congressional hearings.

The chairman of the powerful Senate Judiciary Committee, Arlen Specter, R-Pennsylvania, said he intends to hold hearings early in 2006 into whether the surveillance program is legal. A spokeswoman for Sen. Specter said she expected the NSA surveillance hearings to begin as soon as Judiciary Committee hearings on Supreme Court nominee Samuel Alito are completed.

Many lawmakers question why the the president did not get authorization for the wiretaps from a secret court established by the Federal Intelligence Surveillance Act (FISA).

"FISA says it's the exclusive law to authorize wiretaps." Democratic Sen. Russ Feingold of Wisconsin told CNN. "This administration is playing fast and loose with the law in national security. The issue here is whether the president of the United States is putting himself above the law, and I believe he has done so."

Sen. Jack Reed, D-Rhode Island, said the president could have gone back to a FISA court to get approval even after the wiretaps started if he was concerned about speed. "I'm just stunned by the president's rationales with respect to the illegal wiretapping," Reed said. "There are two points that have to be emphasized with respect to the FISA procedure: They're secret and they're retroactive.

"There is no situation where time is of such an essence they can't use the FISA proceedings. And so the president's justification, I think, is without merit."

But Attorney General Alberto Gonzales said the president's authorization of the program was within his legal authority.

"There were many people, many lawyers within the administration who advised the president that he had an inherent authority as commander-in-chief under the Constitution to engage in these kind of signals, intelligence of our enemy," Gonzales said. (Read Attorney General Gonzales' defense of the secret wiretaps)

However, former Senate Majority Leader Tom Daschle, who negotiated the congressional resolution with the White House, disputes the claim that the authorization to use force permitted Bush to launch the secret wiretaps without court authorization.

The defense attorneys for several terror suspects prosecuted by the Justice Department said Wednesday they might file court motions questioning the legality of the NSA surveillance project. (Full Story)

CNN's Kevin Bohn and Brian Blank contributed to this report.



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