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HOW THE NSA STARTED INVESTIGATING THE NEW YORK TIMES' WARRANTLESS WIRETAPPING STORY



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Three days after the *New York Times* [revealed](#) that the U.S. government was secretly monitoring the calls and emails of people inside the United States without court-approved warrants, the National Security Agency issued a top-secret assessment of the damage done to intelligence efforts by the story. The conclusion: the information could lead terrorists to try to evade detection. Yet the agency gave no specific examples of investigations that had been jeopardized.

The December 2005 bombshell story, by James Risen and Eric Lichtblau, set off a debate about the George W. Bush administration’s expansion of spying powers after the 9/11 attacks, and also about the *Times* editors’ decision to [delay its publication](#) for a year. White House officials had warned the *Times* that revealing the program would have grave consequences for national security.

The NSA’s damage assessment on the article — referred to as a “cryptologic insecurity” — is among the files provided by former NSA contractor Edward Snowden. The memo recounts meetings in 2004 and 2005 in which administration officials disclosed “certain details of the special program to select individuals from the *New York Times* to dissuade them from publishing a story on the program at that time.”

The memo gives a general explanation of what terrorists might do in reaction to the information revealed. It was “likely” that terrorists would stop using phones in favor of mail or courier, and use encryption and code words. They could also plant false information, knowing the U.S. government was listening. But the leaked program had not “been noted in adversary communications,” according to the memo. It gave no specific examples of investigations or targets that had or might be impacted by the revelations.

“To this day we’ve never seen any evidence — despite all the claims they made to keep us from publishing — that it did any tangible damage to national security. This is further confirmation of that,” Lichtblau told *The Intercept*.

“The reality was that the story told Americans what they didn’t know about how the system was being stretched; it didn’t tell terrorists anything that they didn’t know, that the U.S. was aggressively trying to gather their communications,” he said.

Attached to the memo is a copy of the text of Risen and Lichtblau’s article, with sections and phrases highlighted and marked with their classification level.

“This kind of assessment would routinely be done following an unauthorized disclosure,” said Steven Aftergood, of the Federation of American Scientists’ *Secrecy News*. “It is one of the elements of a crimes report in which an agency would report a disclosure to the Department of Justice for possible investigation and prosecution.”

It is rare to see a post-leak report such as this one in full. The Defense Intelligence Agency [released](#) damage assessments about Edward Snowden’s leaks to *Vice News*, but they were almost entirely redacted.

The 2005 NSA document ends with a recommendation “that the Director, NSA, request a DOJ investigation.” The Bush administration did in fact launch an aggressive investigation, with 25 FBI agents and five prosecutors assigned to the case, the *Times* [reported](#) in 2010.

“It was an ugly episode that went on for several years. I was under threat of subpoena for a while. And nothing ever came of it,” Lichtblau said. (The Justice Department declined to comment.)

Risen was also snarled in a separate leak investigation, regarding information about a botched operation against Iran’s nuclear program published in his 2006 book, *State of War*. Risen [successfully fought](#) having to testify in the case, but Jeffrey Sterling, a former CIA agent and Risen’s alleged source, was [sentenced last month](#) to more than three years in prison for revealing classified information about the program.

Read the document:

Photo: Patrick Semansky/AP



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