



Proposed Recommendations to the U.S. on Human Rights and National Security Surveillance

U.S. intelligence agencies have been secretly acquiring and monitoring vast amounts of personal and sensitive communications and data around the world. Many of these surveillance operations violate the right to privacy, the freedom of expression and other human rights. Access, the American Civil Liberties Union, the Brennan Center for Justice, Human Rights Watch and PEN American Center urge your delegation to propose the following recommendations during the upcoming Universal Periodic Review of the U.S.'s human rights record.

The U.S. should:

PRIORITY RECOMMENDATIONS

1. Recognize a legal duty to respect and ensure the right to privacy and other human rights of persons outside its territory when it acquires, processes, uses, stores or shares their digital communications and data.
2. Recognize that, under international law, any interference with the right to privacy (including any surveillance activity) must be a necessary and proportionate means of pursuing a legitimate governmental aim, and minimally intrusive of protected interests.
3. Recognize that any interference with the right to privacy (for example, selection of targets for surveillance) must be consistent with the prohibition against discrimination on protected grounds (such as those listed in Article 2(1) of the ICCPR).

OTHER RECOMMENDATIONS

4. Recognize that mass, bulk or indiscriminate surveillance is an unlawful, and practically always disproportionate, interference with the right to privacy.
5. Disclose information sufficiently comprehensive and precise to enable persons to foresee the circumstances in which the U.S. may monitor their digital communications and data, including any significant legal interpretations of laws, orders and procedures for the use, storage and sharing of any data acquired.
6. Disclose all surveillance activities, procedures and relevant legal interpretations to oversight bodies, and take all other steps necessary to ensure sufficient and robust oversight conducted by all three branches of government.
7. Establish adequate and effective guarantees against arbitrary and unlawful acquisition, processing, use, storage and sharing of digital communications and data.
8. Provide access to effective judicial and other remedies for persons who have a reasonable basis for believing that U.S. surveillance activities have violated their rights, including by ensuring that U.S. law on notice and standing permits such access.