

ALL THESE MUSLIM ORGANIZATIONS HAVE PROBABLY BEEN ASSOCIATIONALLY MAPPED

The Intercept has published their long-awaited story profiling a number of Muslim-American leaders who have been targeted by the FBI and NSA. It shows that:

- American Muslim Council consultant Faisal Gill was surveilled from April 17, 2006 to February 8, 2008
- al-Haramain lawyer Asim Ghafoor was surveilled under FISA (after having been surveilled illegally) starting March 9, 2005; that surveillance was sustained past March 27, 2008
- American Muslim Alliance founder Agha Saeed was surveilled starting June 27, 2007; that surveillance was sustained past May 23, 2008
- CAIR founder Nihad Awad was surveilled from July 17, 2006 to February 1, 2008
- American Iranian Council founder Hooshang Amirahmadi was surveilled from August 17, 2006 to May 16, 2008

In other words, the leaders of a number of

different Muslim civil society organizations were wiretapped for years under a program that should require a judge agreeing they represent agents of a foreign power.

But they probably weren't just wiretapped. They probably were also used as seeds for the phone and Internet dragnets, resulting in the associational mapping of their organizations' entire structure.

On August 18, 2006, the phone dragnet primary order added language deeming "telephone numbers that are currently the subject of FISA authorized electronic surveillance ... approved for meta data querying without approval of an NSA official due to the FISA authorization."

Given the way the phone and Internet dragnet programs parallel each other (and indeed, intersect in federated queries starting at least by 2008), a similar authorization was almost certainly included in the Internet dragnet at least by 2006.

That means as soon as these men were approved for surveillance by FISA, the NSA also had the authority to run 3-degree contact chaining on their email and phone numbers. All their contacts, all their contacts' contacts, and all their contacts' contacts' contacts would have been collected and dumped into the corporate store for further NSA analysis.

Not only that, but all these men were surveilled during the period (which continued until 2009) when the NSA was running automated queries on people and their contacts, to track day-to-day communications of RAS-approved identifiers.

So it is probably reasonable to assume that, at least for the period during which these men were under FISA-authorized surveillance, the NSA has an associational map of their organizations and their affiliates.

Which is why I find it interesting that DOJ refused to comment on this story, but told other reporters that FBI had never had a FISA warrant

for CAIR founder Nihad Awad specifically.

The Justice Department did not respond to repeated requests for comment on this story, or for clarification about why the five men's email addresses appear on the list. But in the weeks before the story was published, *The Intercept* learned that officials from the department were reaching out to Muslim-American leaders across the country to warn them that the piece would contain errors and misrepresentations, even though it had not yet been written.

Prior to publication, current and former government officials who knew about the story in advance also told another news outlet that no FISA warrant had been obtained against Awad during the period cited. When *The Intercept* delayed publication to investigate further, the NSA and the Office of the Director of National Intelligence refused to confirm or deny the claim, or to address why any of the men's names appear on the FISA spreadsheet.

Awad's organization, CAIR, is a named plaintiff in the EFF's suit challenging the phone dragnet. They are suing about the constitutionality of a program that – the EFF suit also happens to allege – illegally mapped out associational relations that should be protected by the Constitution.

CAIR now has very good reason to believe their allegations in the suit – that all their relationships have been mapped – are absolutely correct.

Update: EFF released this statement on the Intercept story, reading, in part,

Surveillance based on First Amendment-protected activity was a stain on our nation then and

continues to be today. These disclosures yet again demonstrate the need for ongoing public attention to the government's activities to ensure that its surveillance stays within the bounds of law and the Constitution. And they once again demonstrate the need for immediate and comprehensive surveillance law reform.

We look forward to continuing to represent CAIR in fighting for its rights, as well as the rights of all citizens, to be free from unconstitutional government surveillance.

EFF represents CAIR Foundation and two of its regional affiliates, CAIR-California and CAIR-Ohio, in a case challenging the NSA's mass collection of Americans' call records. More information about that case is available at: *First Unitarian Church of Los Angeles v. NSA*.