

# **PEN Joins ACLU Lawsuit to Stop Mass Internet Spying Program**

*Coalition of Human Rights, Legal, and Media Organizations  
Challenge NSA*

BALTIMORE, MD—The American Civil Liberties Union today filed a major new lawsuit on behalf of a broad group of organizations, including PEN American Center, challenging the National Security Agency's mass interception and search of Americans' internet communications.

At issue is an NSA program called "Upstream," through which the government taps into the physical backbone of the internet: fiber-optic cables and switches that carry data in and out of the United States. The lawsuit, filed in federal court in Maryland, challenges the NSA's violations of plaintiffs' privacy rights under the Fourth Amendment and infringements on First Amendment rights of free expression. The complaint also argues that Upstream exceeds the authority granted by Congress under the FISA Amendments Act of 2008, which allows the NSA to target the communications of foreigners abroad.

The case was brought by PEN American Center and other human rights, legal, and media organizations whose work requires them to engage in sensitive communications with people outside the United States, including professional colleagues, clients, journalists, and victims of human rights abuses. PEN contends that Upstream interferes with its ability to fulfill its mission in defense of freedom of expression worldwide by violating the confidentiality of its communications and by making it more difficult to obtain crucial information from contacts and sources, including persecuted and endangered writers around the world, who often communicate with PEN at significant personal risk.

“Writers turn to PEN for help when they are being persecuted, targeted, or watched,” said **Suzanne Nossel**, executive director of PEN American Center. “When our own emails and internet searches are vulnerable to surveillance and interception, it undermines our role as a trusted refuge and confidential source of support for vulnerable writers facing threats from their own repressive governments.”

In the course of its surveillance, the NSA copies and combs through nearly all text-based internet traffic entering and leaving the U.S.—including emails, web-browsing content, and search-engine queries—which it intercepts with the help of major telecommunications companies. It searches that traffic for thousands of keywords, called “selectors,” associated with its targets. In doing so, the NSA reviews without warrant the emails and internet activities of millions of ordinary Americans.

“PEN’s research shows that fears surrounding NSA surveillance have driven writers in both the U.S. and abroad to curtail what they write, in every medium from emails to novels to social media,” said **Nossel**. “Upstream and other NSA programs that comb through private correspondence are fueling widespread self-censorship, eroding the foundations of privacy and confidentiality necessary for free expression to flourish.” PEN has documented self-censorship as a result of NSA surveillance in two studies, one of [U.S. writers](#) in November 2013 and one of [international writers](#) in January 2015.

In addition to PEN American Center, plaintiffs in the case include the Wikimedia Foundation, Amnesty International USA, the Global Fund for Women, Human Rights Watch, The Nation Magazine, the National Association of Criminal Defense Lawyers, the Rutherford Institute, and Washington Office on Latin America.

The lawsuit follows a previous PEN American Center and ACLU lawsuit challenging the NSA’s warrantless wiretapping program,

*Clapper v. Amnesty*. The Supreme Court dismissed that case in February 2013 in a 5-4 vote on grounds that the plaintiffs could not prove that they had been subject to spying. Edward Snowden said that the 2013 ruling contributed to his decision to expose certain aspects of the NSA's surveillance activities, including Upstream, in summer 2013.

Today's complaint and more information on the case are available at:

<https://www.aclu.org/national-security/wikimedia-v-nsa>

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