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LADB Staff

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US Privatized Spying in Region

by LADB Staff

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The US has opened its spying activities in the region to privatization. Using private companies that buy entire databases as intermediaries, US agencies including the Department of Homeland Security have bought personal data on millions of individuals in Central America. The story first broke in Mexico, where US intrusion into Mexican government files has now become a major scandal as Mexican authorities scramble to find an appropriate response to its neighbor's unprecedented surveillance (see SourceMex, 2003-04-30).

Now authorities in countries of the isthmus have found that the Guatemala-based company Infonet, in collusion with the US company ChoicePoint, has also mined the databases of various government agencies and made off with the confidential personal data of their citizens.

In El Salvador, lawyers, experts, politicians, legislators, and a magistrate of the Corte Suprema de Justicia (CSJ) have agreed that the sale of the information by a foreign company is illegal and unconstitutional. The information includes names, addresses, phone numbers, family relationships, court and legal records, even individual taxation-identification numbers. The newspaper El Diario de Hoy reported that Infonet obtained this information on four million individuals and legally incorporated organizations. Some of this information could only have come from the confidential files of the Justice Department.

Representatives of the Guatemalan company would only say that they got the information from their own people and pointed out that, in the case of the data from the judicial system, they could have gotten it from entries in public records. Reporters saw data on individuals going back to 1997 and doubted that a few employees browsing through mountains of paper could possibly have collected so much information.

CSJ Magistrate Mauricio Clara framed the matter as a threat to national security and cited the possibility that the data could be used by kidnappers and extortionists as a highly efficient way of choosing victims. Beyond that, he said, the consequences of this data having fallen into the hands of free-market hucksters are unpredictable. The legitimate use of the information should be limited, he said, to establishing the professional credentials of individuals, credit checks, and other socially desirable purposes.

Clara considered the act of trafficking in the data to be "insolent" and a violation of law. He said that it violates the right to privacy established by the Constitution and does moral damage to the person by creating insecurity and concern that the information will be manipulated to his or her detriment. But Clara also admitted that this kind of act takes place in a legal vacuum, since moral damage is not adequately dealt with in the Civil Code, where the specific law dates back to the 19th century.

Procurador General Miguel Angel Cardoza agreed that there is a constitutional violation, and he also thinks that individuals have a case under existing law for invasion of privacy. Cardoza is not even sure that a legal basis exists for companies that divulge personal data to operate. "I don't know under what legislation this company is permitted to function but, in the case of data that is eminently private, it [the legal basis] is being distorted," he said. After revelations that Infornet had obtained data on more than 18 million people in Central America that included private credit information, Costa Rica and Nicaragua launched investigations of the company.

Nicaragua's attorney general began an investigation of the matter on orders from President Enrique Bolanos. As part of the investigation, the attorney general's office has searched the Managua offices of Infornet. They were said to be looking for information on how the information was obtained and by whom. Nicaraguan investigative reporters have found that Infornet was, according to the official daily La Gaceta, registered with the government on July 26, 2002, offering services in "publicity and business, insurance and finance, various services, and services of investigation."

In El Salvador, the company was registered in December 2001 by Thomas Paul Mifsud, a US citizen, and Rogelio Edgardo Iraheta Moreno, a Guatemalan. Their registration documents list the company's business as "to process, sell, or market every type of information, be it personal, commercial, judicial, credit, or press, consultation in collections, and general consultation." The papers contacted Iraheta for comment and called him a liar in print for having told them that authorities had not searched the company's premises in Nicaragua and for telling them that Infornet had not been approached by ChoicePoint for the purchase of the data. Both facts were previously well established.

ChoicePoint first gained public notoriety in the US as the company that purged the voter-registration rolls in Florida, setting the stage for the still-controversial Supreme Court decision that enabled George W. Bush to assume the presidency. The company was subsequently found to have erroneously identified thousands of voters as felons and disenfranchised them. Since then, according to The Guardian newspaper of London, "ChoicePoint has been the beneficiary of a huge increase in the freedom of government agencies to gain access to personal data." The paper cites the USA Patriot Act as the authority for the windfall.

It is not entirely clear how the US plans to use this information, but it is reported in Managua that Nicaraguans who travel to the US are investigated from the time that they request a visa, that ChoicePoint databases are employed for that purpose, and that the US also has access to Hotmail email accounts of visa applicants. Microsoft has reportedly collected this data in Nicaragua and sold it to ChoicePoint. This is part of a system named the "U.S. Visitor and Immigration Status Indication Technology System (USVISIT)," announced in late April by Secretary of Homeland Security Tom Ridge.

The system, as described by the US government, "is aimed at facilitating the entrance to the United States of tourists, students, and legitimate business travelers, while making illegal entry to the country more difficult through the use of documents that are biometrically authenticated." Visa applicants also have their irises recorded, photographs taken, and fingerprints taken. The USVISIT

system, however, will not be operational until late this year. It was first announced in January in a press release from the Transportation Security Agency.

Investigative reporters have verified that the ChoicePoint databases cover 18 million individuals in the region. The company's marketing chief, James Lee, has told the international press that, in Central America, the company has data on people in Nicaragua, Honduras, El Salvador, Costa Rica, and Guatemala. Beyond the isthmus, Lee ticked off data-mining operations in Mexico, Colombia, and Venezuela. Also unclear at this point is how each country will deal with Infornet and the other companies dealing in their confidential information.

In both El Salvador and Nicaragua, where reporting of the phenomenon has been most aggressive, the presidents have called for investigations. El Salvador's President Francisco Flores called for the investigation "owing to a possible new crime," but in Nicaragua some high government officials were hinting that there may have been no crime committed and that the company could walk away from the controversy. Flores took the view that, in the modern world, because of the advance of telecommunications, "what we will see in the future is a new kind of crime unleashed, in which El Salvador has no experience, but must be able to stop it." He said that regional and international conventions are planned to confront these topics. "We are constructing the information base that will allow us to denounce them and to work with the attorney general."

But these statements contrast with statements from Nicaragua's Interior Minister Eduardo Urcuyo, who said, "The only crime is if effectively it is confirmed that this information came from state institutions." In that case, presumably, involved government employees could be charged with malfeasance. Urcuyo said that employees of Infornet could not be prosecuted for selling confidential data on Nicaraguan citizens because "it is a common business practice throughout the region." He said that, in addition to Infornet, eight other companies engaged in this kind of trade are operating in the country, and all would be investigated.

So far, besides Infornet, Silnica and Targa Rent a Car have been looked into. Adding to the international confusion, the El Salvador branch of Infornet has financial and credit information on Nicaraguans. Most analysts are betting that the Guatemalan company will not face charges in Nicaragua.

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