



Is James "Liar" Clapper About to Go?

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Two days ago, Sen. Ron Wyden (D-Ore.) announced, with co-sponsors Senators Mark Udall (D-Colo.), Richard Blumenthal (D-Conn.) and Rand Paul (R-Ky.), new legislation to rein in the spying activities of the NSA and other agencies under Section 214 of the Patriot Act and section 702 of the 2008 FISA Amendments Act. The major provisions of the bill include the following:

- * It outlaws the bulk collection of the records of millions of law-abiding Americans.
- * It closes backdoor search loophole found in the FISA Amendments Act that give the government the ability to search for Americans — law-abiding Americans' communications without a warrant.
- * It adds a constitutional advocate to the FISA court to argue against the government's position in cases related to important constitutional liberties.
- * It adds an expanded ability for Americans to fight surveillance laws in court.

"Today with technologies that make surveillance almost omnipresent, the key to preserving liberty and security is to embed new legal protections for law-abiding Americans into the law. That's what our bill is all about," Wyden said.

The following day, the Senate Intelligence Committee, of which Wyden, Udall and Blumenthal are all members, held a hearing on the Foreign Intelligence Surveillance Act, during which the Director of National Intelligence James Clapper, NSA Director Gen. Keith Alexander and Deputy Attorney General James Comey all testified. Committee chairman Dianne Feinstein (D-Calif.) announced during her opening statement, that the committee would be marking up legislation next week, that would place some limits on how the intelligence community uses the communications data that it collects, but not on how much it collects. Both Feinstein and Sen. Saxby Chambliss (R-Ga.), the vice chairman of the committee, strongly endorsed the NSA's surveillance programs. Not surprisingly, the witnesses called on the committee, no matter what they do in terms of reforms, to preserve the "foundational attributes" of spy programs.

Wyden, however, challenged the witnesses and vowed that he and his co-sponsors "will... advance our proposal," as part of next week's markup. Wyden charged that the leadership of intelligence agencies "built an intelligence collection system that repeatedly deceived the American people. Time and time again the American people were told one thing about domestic surveillance in public forums while government agencies did

something else in private."

"Now these secret interpretations of the law and violations of the constitutional rights of Americans have become public, your agencies face terrible consequences that were not planned for." The resulting loss of trust, Wyden said, both at home and abroad will take time to rebuild and undermines the U.S. ability to collect intelligence on the real threats that are out there."Your joint testimony blames the media and others," he said. "But the fact is this could have been avoided if the intelligence leadership had been straight with the American people and not acted like the deceptions that were practiced for years could last forever."

Meanwhile, Frank Balsinger, posting on the Scholars and Rogues blog, discovered the other day, that the Executive Office of the President had posted a directive in the Federal Register setting out the succession to the Director of National Intelligence, in case the current occupant of that office has "died, resigned, or otherwise become unable to perform the functions and duties of the DNI."

"With James 'The Liar' Clapper at the center of so much controversy, however, should we see this as just a bit of housekeeping minutiae?" Balsinger asks. "Or should we expect to see an announcement of Clapper's resignation soon?"

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