

Oversight of FISA Intelligence Gathering

Written by Grassley Press

Wednesday, 02 October 2013 12:51

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Prepared Statement of Senator Chuck Grassley of Iowa

Ranking Member, Senate Judiciary Committee

Hearing on "Continued Oversight of the Foreign Intelligence Surveillance Act"

Wednesday, October 2, 2013

Mr. Chairman, thank you for holding today's hearing on the continued oversight of the FISA intelligence gathering programs that have been the subject of ongoing media attention.

Although the government has been partially shut down due to partisan differences over various issues, we are continuing our bipartisan oversight of this important matter here today.

We last held a hearing on this topic a few months ago, in late July. At that time, I expressed the view that the reports in the media had called into serious question whether the law and other regulations currently in place strike the right balance between protecting our civil liberties and our national security. This was especially so concerning the public revelation that under Section 215 of the Patriot Act, the government is collecting Americans' phone records in bulk.

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Additional public disclosures since our last hearing have underscored my concern.

Indeed, since that time, the Administration has declassified legal opinions reflecting significant errors by the government before the FISA court in implementing both the Section 215 and 702 authorities. The good news is that these appear to have been, for the most part, unintentional mistakes that the government brought to the court's attention on its own accord. The bad news is that, even with all the checks and balances built into the system, these kinds of errors can still occur.

Even more unsettling, other reports since July have suggested that there have been cases of intentional and willful misuse of intelligence authorities by NSA employees to spy on their spouses and neighbors.

These disclosures have created a broader crisis of trust in the legitimacy of our intelligence gathering methods generally. In my view, had these programs been more transparent from the start, this trust deficit wouldn't be as severe as it is now.

This brings me to the President's response to this crisis, which has been baffling. The President held a news conference in early August in which he defended the bulk collection of phone records as "an important tool in our effort to disrupt terrorist plots," and suggested some areas for reform. Since then, as far as I know, he hasn't said a word in public about these issues. If the President truly believes in the importance of these programs, he should be publicly defending them as part of our national debate. He shouldn't be contracting out that job solely to the intelligence community. Simply put, as in so many other areas, the President is failing to lead where he wants others to follow.

In any event, I'm pleased that we've taken a number of steps to follow up on some of these disturbing reports since July. A bipartisan group of members of this committee requested that the Inspector General of the Intelligence Community conduct a thorough review of the implementation of these authorities.

Additionally, I wrote to the NSA Inspector General and received a public accounting of the

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handful of documented instances where NSA employees intentionally abused their authorities. It was heartening to see how few cases of intentional misconduct exist. But on the other hand, it is alarming to know that the possibility of employees engaging such behavior is very real.

The NSA Inspector General's response to my letter reflected that many of these cases were referred to the Department of Justice for possible criminal prosecution. I was planning on following up about how those referrals were handled with Deputy Attorney General Cole at this hearing. However, the Chairman chose not to invite an Administration witness to provide a legal perspective on these matters. Therefore, I will be following up with the Department of Justice about these cases with a letter to the Attorney General today.

The balance between protecting individual liberties and our national security is a delicate one. Reasonable people can disagree about precisely where that balance is best struck. I probably don't agree one hundred percent with any member of the two panels of witnesses we have with us today, including Professor Cordero, whom I have invited to share her valuable perspective as a lawyer with hands-on experience in the intelligence community. But I welcome them all, and I'm pleased to hear their views as we consider various reforms to FISA and related surveillance authorities.

Thank you.

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