

MONTHS AFTER INTELLIGENCE COMMUNITY IG ACCEPTS BUDGET CUT, HE PLEADS RESOURCE LIMITATIONS ON OVERSIGHT REQUEST

Back when Ron Wyden was trying to get the Intelligence Committee and NSA Inspectors General to reveal how many Americans had been surveilled under the FISA Amendments Act, they stalled long enough to prevent Wyden from requiring such a review statutorily. Then IC IG Charles McCullough came back and said, in addition to privacy laws, resource limitations prevented such a review.

On June 15, the IC IGs *finally got back* to Wyden and Udall. (h/t *Wired*) Note the dates cited in the response.

On 21 May 2012, I informed you that the NSA Inspector General, George Ellard, would be taking the lead on the requested feasibility assessment, as his office could provide an expedited response to this important inquiry.

The NSA IG provided a classified response on 6 June 2012. I defer to his conclusion that obtaining such an estimate was beyond the capacity of his office and dedicating sufficient additional resources would likely impede the NSA's mission. He further stated that his office and NSA leadership agreed that an IG review of the sort suggested

would itself violate the privacy of U.S. persons.

As I stated in my confirmation hearing and as we have specifically discussed, I firmly believe that oversight of intelligence collection is a proper function of an Inspector General. I will continue to work with you and the Committee to identify ways that we can enhance our ability to conduct effective oversight. [my emphasis]

So IC IG Charles McCullough waited 17 days to even tell Wyden what he was going to do with the request, at which point—the eve of the bill markup—he told Wyden that Ellard would prospectively conduct the inquiry. So when the Committee decided not to mandate an IG review based on the “pending” review, it had not started yet. The NSA IG provided Wyden with a classified response the day before the bill report was released, making it impossible to get any hint of the results of the review into the report. And now this letter basically says that the IG purportedly able to answer these questions neither has the resources to do so nor the legal authority to do so (presumably under the Privacy Act).

Granted, while IC IG McCullough responded to Wyden, it was NSA IG George Ellard who claimed “such an estimate was beyond the capacity of his office and dedicating sufficient additional resources would likely impede the NSA’s mission”—basically saying too much oversight would get in the way of NSA’s mission.

Nevertheless, having pleaded resource limitations on what these two IGs could do, I

find these two bullets of the Director of National Intelligence's 2013 Budget Justification (h/t Secrecy News; see page 46) particularly troubling.

(U) The [half line redacted] The IC IG certifies that this amount is sufficient to [several words redacted]

for the Office of Inspector General at the current authorized staffing level.

(U) The IC IG does not believe the FY 2013 budget request will substantially inhibit his ability to perform

his statutory function.

Bullets like these appear for none of the other DNI functions. It seems almost certain they refer to a budget cut, with McCullough certifying that he can fulfill the duties laid out by statute.

This budget justification was submitted in February; the budget would have gone into effect October 1. Thus, just months after McCullough certified he could do what he needed to—or at least what he is required to do by law—with the budget described, he was telling Wyden that he and another IG couldn't give him very basic information about a spy program, in part, because of resource limitations.

And of course, that seems to be precisely the way Director of National Intelligence James Clapper likes it.