

WYDEN & UDALL TO ALEXANDER: WHY DO YOU PEOPLE KEEP LYING?

According to a letter Ron Wyden and Mark Udall sent Keith Alexander, the NSA is still lying publicly. At issue are two inaccuracies in the information sheet the NSA released about Section 702 implementation.

We were disappointed to see that this fact sheet contains an inaccurate statement about how the section 702 authority has been interpreted by the US government. In our judgment this inaccuracy is significant, as it portrays protections for Americans' privacy as being significantly stronger than they actually are.

While I'm not certain what inaccuracy they're talking about here, I suspect it has to do with the US person contact info collected along with targets. Even a comparison of the minimization order and the NSA's claims make it clear US person communication can be swept up more easily than they claim.

Then there's this complaint, which explicitly objects to the suggestion that the government manages to purge US person data, which of course they also claim they don't track.

Separately, this same fact sheet states that under Section 702, "Any inadvertently acquired communication of or concerning a US person must be promptly destroyed if it is neither relevant to the authorized purpose nor evidence of a crime." We believe that this statement is somewhat misleading, in that it implies that the NSA has the ability to determine how many American

communications it has collected under section 702, or that the law does not allow the NSA to deliberately search for the records of particular Americans. In fact, the intelligence community has told us repeatedly that it is “not reasonably possible to identify the number of people located in the United States whose communications may have been reviewed under the authority” of the FISA Amendments Act.

They make it clear the claim this information gets purged is false.