

STENY HOYER THINKS ALL AMERICANS MAY BE PRE-INVESTIGATION TERRORIST COMMUNICATORS



Like Glenn Greenwald, I'm appalled by the crazy language Steny Hoyer circulated yesterday to oppose the Amash-Conyers amendment. Here's the language:

2) Amash/Conyers/Mulvaney/Polis/Massie Amendment – Bars the NSA and other agencies from using Section 215 of the Patriot Act (as codified by Section 501 of FISA) to collect records, including telephone call records, that pertain to persons who may be in communication with terrorist groups but are not already subject to an investigation under Section 215.

The language is crazy on the macro level, as Glenn notes, but I'm also fascinated by the structure of it. First, the language reverses the structure of the actual "relevant to" language that has been blown up beyond all meaning pretending it is instead specific: "pertain to persons who may be in communication with terrorist groups." But this language is only true if you assume every single American is a pre-investigative terrorist communicator (and to be fair, with the permission to go three hops deep into the dragnet database, we probably all are "in communication with terrorist groups").

Steny then qualifies this group (all of us, really, now that we've all been defined to be terrorist communicators through the genius of the half-Bacon) as "not already subject to an investigation."

But you will be, America. You will be subject to an investigation, according to Steny Hoyer.

Then there are details of the language that suggest why the Administration panicked so badly. This language would have defunded all bulk collection under Section 215, including phone records, but also including acetone and hydrogen peroxide and probably now pressure cookers. Presumably, that's what Keith Alexander and James Clapper explained to Congress in their TS/SCI briefings the other day (not having learned they're better off admitting their dragnets rather than having them exposed).

Which is why I find it interesting that Steny noted this would apply to NSA "and other agencies," which includes, but is apparently not limited to, FBI. And these other agencies are using 215 to collect, "records, including telephone call records." And probably including health records and geolocation and gun records and the like.

And Steny wants to make sure the FBI and other agencies can get this information about us, because after all, once you go three hops deep, every American just becomes a terrorist communicator not yet under investigation.