

CONGRESS FINALLY GETS AROUND TO (SECRETLY) TRACKING SECTION 215 DRAGNETS

There's one transparency related aspect of USA F-ReDux that appears to be a necessary improvement over Leahy's version.

Congress is mandating the Intelligence Community report (to the Judiciary and Intelligence Committees, but not to the public) on how many dragnets it is conducting under Section 215.

(b) REPORTING ON CERTAIN TYPES OF PRODUCTION.—Section 502(c)(1) (50 U.S.C. 1862(c)(1)) is amended—

[snip]

(3) by adding at the end the following new subparagraphs:

(C) the total number of applications made for orders approving requests for the production of tangible things under section 501 in which the specific selection term does not specifically identify an individual, account, or personal device;

(D) the total number of orders described in subparagraph (C) either granted, modified, or denied; and

(E) with respect to orders described in subparagraph (D) that have been granted or modified, whether the court established under section 103 has directed additional, particularized minimization procedures beyond those adopted pursuant to section 501(g).

This basically requires the IC to tell the oversight committees how many of the

applications made to the FISC court are bulky (they use "application" to discuss bulk programs to reflect the fact that one primary order may results in 3 secondary orders, as it does with the phone dragnets, or perhaps – who knows – may orders?). It also requires the IC to tell Congress if the FISC modifies any of these orders, a good indication the court finds them overly broad.

I guess this is tacit admission from Congress the dragnets are not ending under this bill? And that the oversight committees are finally getting around to informing themselves, on a yearly basis, about how many dragnets there are, even if they won't know *what* the dragnets collect?

Shouldn't they have this information before they write a bill? (In truth, they likely got this information from the IG Report on Section 215, which the IC is still pretending to be declassifying to stall the public being able to read it, which may be why it's only showing up now).

The really pathetic thing is there is an identifiable metric that Congress will almost certainly realize they need, even if it is 9 years too late (as it is in this case), that they don't have included in this bill. They need to be tracking how often the government is using the emergency provision, and how often the government doesn't submit or the FISC doesn't approve (or modifies it) after collection. Because that's the part of this bill the IC will abuse going forward.