

Citing Snowden leaks, FISA judge orders release of rulings authorizing domestic surveillance

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On Friday, Foreign Intelligence Surveillance (FISA) Court Judge Dennis Saylor ruled in favor of the American Civil Liberties Union (ACLU) and co-litigants in their lawsuit seeking release of secret opinions regarding section 215 of the 2001 USA Patriot Act. Saylor ruled that the withholding of these documents by the state "constitutes a concrete and particularized injury in fact to the ACLU."

In accordance with the ruling, the government will carry out a "declassification review" to determine which rulings can be viewed by the public.

The infamous section 215 authorizes the FISA court, which operates behind closed doors, to issue secret orders sanctioning the collection of any "tangible things" that are considered relevant to foreign intelligence and international terrorism investigations—advancing a definition so broad as to include any conceivable form of information about individuals who become targets of state surveillance.

As exposed by the *Guardian* newspaper last June, based on documents released by former National Security Agency (NSA) contractor Edward Snowden, section 215 was used as the legal basis for the NSA to collect from telecommunications companies the records of all telephone calls made in America. While the FISA court's interpretations of section 215 provided a legal fig leaf for the flagrantly unconstitutional surveillance, the NSA had already been collecting data on Americans "for years" before the rulings were issued, according to the *Guardian*.

In his ruling, Judge Saylor wrote that the public interest and scrutiny generated by the release of information on section 215 by Snowden constituted a justification for the release of further documentation by

the government. "The unauthorized disclosure in June 2013 of a section 215 order, and government statements in response to that disclosure, have engendered considerable public interest and debate about section 215," Saylor wrote.

The obvious implication of Saylor's argument was that Snowden's leaking of the documents made further release of information by the government necessary. Since the "unauthorized disclosure" had already taken place, Saylor argued, more FISA rulings had to be made available to "contribute to an informed debate." Without Snowden's revelations, therefore, the court would have had no grounds for ordering that more documents be made public.

ACLU representatives have presented the ruling as a major blow against the government's illegal surveillance operations. In a statement posted on the ACLU web page, staff attorney Alex Abdo claimed that the ruling constituted a victory for democracy and a repudiation of the government's use of secret laws.

"We are pleased," Abdo wrote, "that the surveillance court has recognized the importance of transparency to the ongoing public debate about the NSA's spying... Secret law has no place in our democracy."

There should be no illusions, however, that the surveillance programs will be curtailed as a result of last week's ruling. The government will not release more than a small fraction of the relevant documentation to the public, and any "reforms" that are implemented in the wake of these exposures will be cosmetic changes aimed at placating public anger. The Obama administration and the entire political establishment are committed to maintaining the police state spying programs.

The growth of the surveillance programs is driven by the powerful forces that dominate the American government, namely, Wall Street and the military-intelligence apparatus. Frightened by the prospect of mass social opposition, the capitalist elite and its state apparatus are determined to gather as much information as possible on the population in preparation for political repression.

The FISA court order appears to be in line with President Obama's calls for a "debate" on the spying programs. This is a two-faced call for a phony debate, accompanied by repeated lies about the scope of the spying, which Obama staunchly defends.

In line with this tactical shift in the defense of illegal state spying, Director of National Intelligence James Clapper said last Thursday, "It's very clear that—to the extent we get to keep these tools at all—they're going to be legislatively amended."

Clapper added, "As loath as I am to give any credit to what's happened here, I think it's clear that some of the conversations this has generated, some of the debate, actually needed to happen."

Clapper's statements are utterly cynical. At the same time that he claims to support the "debate" that would not have occurred without Snowden's exposures, he fully supports the US government witch-hunt against the whistle-blower, who has been denounced as a spy and traitor and forced to seek political asylum in Russia in the face of American espionage charges.

The propaganda offensive against Snowden waged by the Obama administration and the media has failed to turn public opinion, which largely and correctly views him as a defender of democracy and legality against the emerging police state. This is why the intelligence establishment has initiated a campaign, spearheaded by Obama, to bamboozle the public with soothing words and promises of reform.



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