FBI gathered US website visitor logs under the post-9/11 PATRIOT Act

Kevin Reed
5 December 2020

An exchange of letters published on Thursday by the *New York Times* shows that the FBI has been using provisions of the USA PATRIOT Act to secretly collect information about visitors to specific US-based websites.

The three letters—one from Senator Ron Wyden, Democrat from Oregon, and two from Director of National Intelligence John Ratcliffe—discuss details of the permissions granted to the FBI under Section 215 of the USA PATRIOT Act, originally passed in the period following the terror attacks of September 11, 2001.

According to the original terms of Section 215, the government must apply to the Foreign Intelligence Surveillance Court (FISC) to gain access to tangible materials that assist in an investigation of international terrorism or other "clandestine intelligence activities." The law specifically bars use of its provisions on US citizens.

However, following the revelations by Edward Snowden in 2013 that the US government was conducting unfettered electronic surveillance of everyone, Section 215 was reviewed and modified. In 2015, the new USA Freedom Act was voted on by Congress and signed by President Obama and all claimed that the illegal "bulk" data collection programs had been stopped even though the basic structure of Section 215 remained in place.

The letters between Wyden and Ratcliffe, which began in May of this year during congressional efforts to renew Section 215, show that the secret data collection activities of US law enforcement and intelligence have actually never stopped.

After the Senate voted 80 to 16 to extend the mechanisms that permit the US government to spy on people, including their internet browsing activity, Senator Wyden wrote to Ratcliffe asking a series of questions to clarify how US intelligence was monitoring the web search activity of a single targeted individual without also gathering information on others.

For example, Wyden asked, "If the target or 'unique identifier' is an IP address, would the government differentiate among multiple individuals using the same IP address, such as family members and roommates using the same Wi-Fi network, or could numerous users appear as a single target or 'unique identifier'?"

In electronic surveillance, a unique identifier is a mobile phone number or an email address connected with a specific individual or organization. While an Internet Protocol (IP) address is unique to a specific computer or node on the internet, it is more difficult to associate it with a specific user or person because IP addresses are frequently dynamically assigned by routers and other internet hardware and may be associated with more than a single individual user.

In his reply of November 6 (more than five months later), Ratcliffe wrote that Section 215 was not being used to collect internet search records. He also went on to disclose that in 2019 there were 61 orders issued last year under FISC involving and none of them, "resulted in the production of any information regarding web browsing or internet searches."

However, according to the *New York Times* report, the paper pressed Ratcliffe and the FBI to "clarify whether it was defining 'web browsing' activity to encompass logging all visitors to a particular website, in addition to a particular person's browsing among different sites." The *Times* wrote that the next day, "the Justice Department sent a clarification to Mr. Ratcliffe's office, according to a follow-up letter he sent to Mr. Wyden on Nov. 25."

The second letter from Ratcliffe states that in fact one of the 61 orders, "directed the production of log entries

© World Socialist Web Site

for a single, identified U.S. web page reflecting connections from IP addresses registered in a specified foreign country that occurred during a defined period of time."

In acknowledging his "error," Ratcliffe wrote, "I regret that this additional information was not included in my earlier letter. I have directed my staff to consult with the Department of Justice and advise me of any necessary corrective action, to include any amendments to information previously reported in the Annual Statistical Transparency Report required under Section 603 of the FISA."

Ratcliffe asking the Trump Justice Department to advise him "of any necessary corrective action" on the matter of the government's illegal gathering of electronic communications and data is absurd on its face. Attorney General William Barr is the godfather of the US government's bulk data collection program having helped to build the precursor to the present National Security Agency system while he served in the administration of George H. W. Bush in 1992.

Barr worked with his then-deputy Robert Mueller to erect a program under the direction of the Drug Enforcement Agency (DEA) that ordered the telecom companies to turn over the records of all phone calls from the US to countries labeled as centers of drug trafficking. This platform was used as the foundation of the PATRIOT Act's mass surveillance operation.

While the purpose of the *New York Times* report and release of the letters is to bolster the claim that the administration of President elect Joe Biden is preparing to revisit the ongoing violations of constitutionally protected rights against unreasonable searches and seizures embodied in the secret surveillance programs, no defense of democratic principles is forthcoming from the Democrats.

Far from it, the report in the *Times* shows that the blatant defenders of intelligence state surveillance within the Democratic Party worked with Speaker of the House Nancy Pelosi earlier this year to prevent Section 215 from being directly challenged in the House of Representatives. Pelosi worked with Representative Adam Schiff of California to water down language in an amendment from Representative Zoe Lofgren, also from California, that would bar the use of Section 215 to collect web browsing and search data.

Times report says, "While privacy advocates initially supported the compromise, they withdrew their backing after Mr. Schiff put forward an interpretation suggesting that it would leave the government, while investigating foreign threats, able to gather Americans' data as long as that was not its specific intention."

The disingenuous maneuvering by the Democrats then opened the door for President Trump to intervene and posture about being against secret government surveillance, but only in relation to the Mueller investigation into the his campaign's supposed collaboration with the asserted but never proven "Russian interference" in the 2016 elections.

The *Times* report concludes, "With support bleeding away from both the left and right flanks, Ms. Pelosi punted and sent the legislation to a House-Senate conference committee for further negotiations. ... permitting Section 215 to remain lapsed until negotiations resumed under a new president." Nothing different will come from a Biden-Harris administration.

To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact

© World Socialist Web Site