



*Lying about spying: secret surveillance law; Citings; Brief article*  
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DURING LAST spring's hearings on reauthorization of the PATRIOT Act, Sens. Ron Wyden (D-Ore.) and Mark Udall (D-Colo.) warned that the Obama administration is relying on a "secret interpretation" of the law to justify surveillance that the general public does not realize is happening. In a September 21 letter to Attorney General Eric Holder, Wyden and Udall, both members of the Senate Intelligence Committee, complained that the Justice Department is trying to quash this issue with "extremely misleading" denials.

Instead of addressing "the gap that currently exists between the public's understanding of government surveillance authorities and the official, classified interpretation of these authorities," Wyden and Udall say, the Justice Department pretends the gap does not exist. In August, for example, a department spokesman told Al Jazeera that "Section 215 [of the PATRIOT Act] is not a secret law, nor has it been implemented under secret legal opinions by the Justice Department." But it has been implemented based on secret interpretations of the law by the Foreign Intelligence Surveillance Court. "In our judgment," the senators wrote, "when the government relies on significant interpretations of public statutes that are kept secret from the American public, the government is effectively relying on secret law."

Although Wyden and Udall cannot discuss the controversial interpretation in detail without revealing classified information, we know it involves Section 215, which authorizes the FBI to demand business records or any other "tangible things" it deems useful "for an authorized investigation ... to protect against international terrorism or clandestine intelligence activities." Contributing Editor Julian Sanchez, a privacy specialist at the Cato Institute, cites various clues suggesting that the Obama administration is using Section 215 as a legal authority for the mass collection and analysis of mobile-phone geolocation data, which probably would come as a surprise to most Americans.