



Written by [Thomas R. Eddlem](#) on June 14, 2011

The “Secret” Patriot Act: Far More Dangerous Than the Public One

Does purchasing nail polish remover or hydrogen peroxide at the local pharmacy put you on a federal terrorist watch list?

Apparently, the answer to that question is “yes” under a broad-based “interpretation” of the Patriot Act used by the Bush and Obama administrations.

During the U.S. Senate debate over Patriot Act renewal last month, Senator Ron Wyden (D-Oregon) [told](#) his fellow senators May 24:

There is secret law where, in effect, the interpretation of the law, as it stands today, is kept secret. So here we are, Senators on the floor, and we have colleagues of both political parties wanting to participate.

Certainly, if you are an American, you are in Oregon or Colorado, you are listening in, you want to be part of this discussion. But yet the executive branch keeps secret how they are interpreting the law.

Secret Patriot Act? What was Wyden talking about?

The American people aren’t *allowed* to know.

“We’re getting to a gap between what the public thinks the law says and what the American government secretly thinks the law says,” Wyden told [Wired.com’s Spencer Ackerman](#) May 25 in an [interview](#) in Wyden’s Senate office. “When you’ve got that kind of a gap, you’re going to have a problem on your hands.”

The “secret” Patriot Act is how the Bush and Obama administrations have “interpreted” provisions of the law, according to Oregon’s other Democratic Senator, Jeff Merkley. Merkley was particularly concerned with the “business records” or [section 215](#) of the Patriot Act that allows the government to apply for “any tangible things (including books, records, papers, documents, and other items) for an investigation.” “The interpretation of that clause is done in secret. I would defy you to show me a circumstance where a secret interpretation of a very minimal standard is tightened in that secret process,” Merkley [observed](#) in Senate debate. “But we don’t know because we are not being told.”

How big a difference that “interpretation” is from the American people’s perception was revealed in part by the *New Yorker’s* Jane Mayer May 23. Mayer’s article, a must-read for anyone who wants to know about the executive branch’s attack on the U.S. Constitution, [quoted](#) former NSA crypto-mathematician Bill Binney as saying of his invention of an eavesdropping technology:

I should apologize to the American people. It’s violated everyone’s rights. It can be used to





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eavesdrop on the whole world.

“It was my brainchild,” Binney [told](#) Mayer, though he stressed his original program included anonymizing features to protect privacy. “They removed the protections, the anonymization process. When you remove that, you can target anyone.” When the NSA used a version of his software package to spy on the American people’s Internet and phone traffic, “my people were brought in, and they told me, ‘Can you believe they’re doing this? They’re getting billing records on U.S. citizens! They’re putting pen registers’ ”—logs of dialed phone numbers—“ ‘on everyone in the country!’ ”

Binney eventually decided to resign from the NSA [because](#) “I couldn’t be an accessory to subverting the Constitution.”

Binney [told](#) Mayer he “believes that the agency now stores copies of all e-mails transmitted in America, in case the government wants to retrieve the details later.” Mayer notes that “In the past few years, the N.S.A. has built enormous electronic-storage facilities in Texas and Utah. Binney says that an N.S.A. e-mail database can be searched with “dictionary selection,” in the manner of Google. After 9/11, he says, [NSA Director Michael] Hayden reassured everyone that the N.S.A. didn’t put out dragnets, and that was true. It had no need — it was getting every fish in the sea.”

Just how much data the NSA is pulling from the American people can be culled from [budget documents](#) for the multi-billion dollar data centers the NSA is building around the world. The NSA is building multi-billion dollar facilities in Maryland, Utah, Texas, and even the United Kingdom.

That doesn’t count the NSA’s newest [San Antonio data center](#), itself a project [costing hundreds of millions of dollars](#). The 1.5 million square foot Utah facility [broke ground](#) in January, and will store data in the [yottabyte](#) range. What’s a yottabyte?

According to Devin Coldewey of [CrunchGear.com](#):

There are a thousand gigabytes in a terabyte, a thousand terabytes in a petabyte, a thousand petabytes in an exabyte, a thousand exabytes in a zettabyte, and a thousand zettabytes in a yottabyte. In other words, a yottabyte is 1,000,000,000,000,000GB. Are you paranoid yet?

By some estimates, a yottabyte is the [current size of the entire Internet](#). And keep in mind, that’s just the download capacity of the NSA’s data center in Utah. It doesn’t count the other NSA data centers in Maryland, Texas, and the United Kingdom.

Clearly, the NSA is not getting court warrants for seizing and storing all that data. And Mayer’s *New Yorker* article confirmed that the federal government is engaging in surveillance of Americans that entirely ignores the Constitution’s [Fourth Amendment](#). According to the *New Yorker*, Diane Roark, a former staff member on the House Permanent Select Committee on Intelligence, asked NSA Director Michael Hayden what privacy protections the NSA had included in its surveillance for Americans: “She says that he “kept not answering. Finally, he mumbled, and looked down, and said, ‘We didn’t need them. We had the power.’ He didn’t even look me in the eye. I was flabbergasted.” Mayer then added: “She asked him directly if the government was getting warrants for domestic surveillance, and he admitted that it was not.”

Mayer’s article also revealed that whistleblowers about the NSA’s open violation of the Fourth Amendment to the U.S. Constitution have been persecuted and prosecuted by federal officials. One such victim of the government cover-up of the crime against the U.S. Constitution was whistleblower and former NSA official Thomas Drake “They had made me into an enemy of the state just by saying I was,”



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former NSA official Thomas Drake [told](#) Mayer. Drake was charged with a variety of violations of the Espionage Act of 1917 for informing congressional investigators that such a program existed. “Telling the truth to congressional oversight committees is leaking?,” Drake asked. Apparently so.

Drake eventually [pled guilty](#) to a misdemeanor charge of retaining classified documents at his house.

So should Americans be worried about the federal government downloading the entire Internet without a warrant? The fool says to himself, “I’m not doing anything wrong, so I’m not worried about government wiretapping.” The real power of surveillance is not just dependent upon proving the virtuous few are doing something illegal, but in the ability to blackmail and intimidate the great masses. Warrantless surveillance allows the government to find out anything embarrassing about anyone on the Internet. It allows the government to know — and blackmail — people with embarrassing medical histories (mental illness, incontinence, STDs, “erectile dysfunction,” etc.), Internet traffic (in pornography, foul language, wasted time at work on Facebook, etc.), people who have made negative or angry remarks about bosses (or colleagues, family members, etc.), poor grades in school, disciplinary measures or negative reviews at work, and an almost limitless list of perfectly legal but embarrassing measures. Even a citizen without any sin (if such a thing exists) and a perfect health, work and school record can be impacted by the wide accessibility for blackmail by government officials with such unfettered access to Americans’ private data. Even a perfect man can see that the whole of society could be bullied and blackmailed by a government that sees all of its citizens’ personal data.

The question for Americans is: Will they allow this unfettered surveillance state — a clear violation of the U.S. Constitution — to stand?

Photo: Big Brother is depicted onscreen in a movie version of Orwell’s 1984.



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