

DOJ IG REPORT CONFIRMS GOVERNMENT FLOUTED STATUTORY REQUIREMENTS OF SECTION 215 FOR 7 YEARS

For over a year, Congress has been working on a “reform” to Section 215 that it claims will rein in abusive government spying.

Also for about a year, DOJ’s Inspector General has been trying to release a Report on Section 215 use up to 2009. That investigation first began 1,800 days ago.

DOJ has finally managed to release the report.

It confirms a number of things I have been reporting for years: that the government uses the provision to collect records that have nothing to do with phone records in bulk, the majority of which are now Internet records, definitely including URLs and probably including subject lines.

But the takeaway report is something else I’ve been reporting on for some time.

The government completely blew off a requirement imposed with the 2006 PATRIOT Act Reauthorization that the FBI (which is the only agency that’s supposed to use Section 215) adopt minimization procedures specifically for Section 215. Even after FBI missed its September 2006 deadline by claiming it had Interim Procedures, FISC kept approving Section 215 orders, even including paragraphs that appear in every phone dragnet order claiming the government has met that statutory requirement. A year after DOJ’s Inspector General pointed out FBI was violating the statute, FISC started imposing its own

minimization procedures and reporting requirements (though not – as a court operating with more transparency might have done – denying orders). Finally, in March 2013, DOJ adopted minimization procedures (though it did not start actually complying with them until more than four months after Edward Snowden's leaks focused more attention on bulk 215 orders).

In other words, Congress imposed a mandate designed to protect innocent Americans' privacy in 2006. And DOJ blew that statutory mandate off for years. And FISC let it do so for years, approving order after order requiring FBI to have fulfilled that mandate. And only after 7 years (and some unexpected transparency) did DOJ start following the law.

These are the people Congress is rushing headlong to provide new authorities (including an Emergency provision that is designed to invite abuse): government agencies who simply refuse to follow Congressional mandates.