

DISTRICT ATTORNEYS USE SPYING AS COVER TO DEMAND A LAW ENFORCEMENT BACK DOOR

In response to a question Senate Intelligence Committee Chair Richard Burr posed during his committee's Global Threat hearing yesterday, Jim Comey admitted that "going dark" is "overwhelmingly ... a problem that local law enforcement sees" as they try to prosecute even things as mundane as a car accident.

Burr: Can you, for the American people, set a percentage of how much of that is terrorism and how much of that fear is law enforcement and prosecutions that take place in every town in America every day?

Comey: Yeah I'd say this problem we call going dark, which as Director Clapper mentioned, is the growing use of encryption, both to lock devices when they sit there and to cover communications as they move over fiber optic cables is actually overwhelmingly affecting law enforcement. Because it affects cops and prosecutors and sheriffs and detectives trying to make murder cases, car accident cases, kidnapping cases, drug cases. It has an impact on our national security work, but overwhelmingly this is a problem that local law enforcement sees.

Much later in the hearing Burr – whose committee oversees the intelligence but not the law enforcement function of FBI, which functions are overseen by the Senate Judiciary Committee – returned to the issue of encryption. Indeed, he seemed to back Comey's point – that local law

enforcement is facing a bigger problem with encryption than intelligence agencies – by describing District Attorneys from big cities and small towns complaining to him about encryption.

I've had more District Attorneys come to me that I have the individuals at this table. The District Attorneys have come to me because they're beginning to get to a situation where they can't prosecute cases. This is town by town, city by city, county by county, and state by state. And it ranges from Cy Vance in New York to a rural town of 2,000 in North Carolina.

Of course, the needs and concerns of these District Attorneys are the Senate *Judiciary* Committee's job to oversee, not Burr's. But he managed to make it his issue by calling those local law enforcement officials "those who complete the complement of our intelligence community" in promising to take up the issue (though he did make clear he was not speaking for the committee in his determination on the issue).

One of the responsibilities of this committee is to make sure that those of you at the table and those that complete the complement of our intelligence community have the tools through how we authorize that you need.
[sic]

Burr raised ISIS wannabes and earlier in the hearing Comey revealed the FBI still hadn't been able to crack one of a number of phones owned by the perpetrators of the San Bernardino attack. And it is important for the FBI to understand whether the San Bernardino attack was directed by people in Saudi Arabia or Pakistan that Tashfeen Malik associated with before coming to this country planning to engage in Jihad.

But only an hour before Jim Comey got done explaining that the real urgency here is to investigate drug cases and car accident cases, not that terrorist attack.

The balance between security, intelligence collection, and law enforcement is going to look different if you're weighing drug investigations against the personal privacy of millions than if you're discussing terrorist communications, largely behind closed doors.

Yet Richard Burr is not above pretending this about terrorism when it's really about local law enforcement.