



Written by [Joe Wolverton, II, J.D.](#) on February 19, 2014

Director of Intelligence Clapper's Claims of Surprise Don't Add Up

In [an exclusive interview with The Daily Beast](#), Director of National Intelligence James Clapper (shown) made what some are portraying as a startling admission against interest. Speaking of the uproar that followed Edward Snowden's disclosure of the NSA's dragnet collection of phone and Internet data of millions of Americans, Clapper said:



I probably shouldn't say this, but I will. Had we been transparent about this from the outset right after 9/11 — which is the genesis of the 215 program [Section 215 of the PATRIOT Act] — and said both to the American people and to their elected representatives, we need to cover this gap, we need to make sure this never happens to us again, so here is what we are going to set up, here is how it's going to work, and why we have to do it, and here are the safeguards ... we wouldn't have had the problem we had.

Clapper indicates that if the federal intelligence consortium had come clean with the American public about the wholesale violation of the Fourth Amendment in the name of fighting "terrorism," then the spooks wouldn't be so despised:

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I don't think it would be of any greater concern to most Americans than fingerprints. Well people kind of accept that because they know about it. But had we been transparent about it and [said] here's one more thing we have to do as citizens for the common good, just like we have to go to airports two hours early and take our shoes off, all the other things we do for the common good, this is one more thing.

"The common good." These three little words have been the justification for the quickest and quietest denial of civil liberties in the history of our Republic. We have, despite the wise warnings of our Founders, anxiously traded liberty for safety; but in the case of the current transaction, the government has put its huge thumb on its side of the scale, demanding much more of our precious liberty than even their version of the situation merited.

These "candid" comments by Clapper lose much of their impact when one considers them in context of the DNI's earlier efforts to keep the scope of the surveillance well hidden.



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In July of 2011 and again in May 2012, Senators Mark Udall (D-Colo.) and Ron Wyden (D-Ore.) wrote a letter to Clapper, asking him a series of four questions regarding the activities of the NSA and other intelligence agencies regarding domestic surveillance.

In one of the questions, Senators Udall and Wyden asked Clapper if “any apparently law-abiding Americans had their communications collected by the government pursuant to the FISA Amendments Act” and if so, how many Americans were affected by this surveillance.

In a response to the inquiry dated June 15, 2012, I. Charles McCullough III, deputy inspector general at the Office of the Director of National Intelligence, informed the senators that calculating the number of Americans who’ve had their electronic communications “collected or reviewed” by the NSA was “beyond the capacity of his office and dedicating sufficient additional resources would likely impede the NSA’s mission.”

In other words, Clapper had the chance to come clean three years ago, but he was too busy illegally recording our private e-mails, texts, Facebook posts, and phone calls to give us the chance to get behind the betrayal of the Constitution.

That’s not the only contradiction exposing Clapper’s faux disappointment over the lack of forthrightness that he could have corrected at any time.

On January 3, Robert Litt, the general counsel of the Office of the Director of National Intelligence, wrote [a letter to the editor of the New York Times](#) in which he attempted to explain away Clapper’s stiff-arm of Senators Wyden and Udall. Litt wrote:

Senator Ron Wyden asked about collection of information on Americans during a lengthy and wide-ranging hearing on an entirely different subject. While his staff provided the question the day before, Mr. Clapper had not seen it. As a result, as Mr. Clapper has explained, he was surprised by the question and focused his mind on the collection of the content of Americans’ communications. In that context, his answer was and is accurate.

When we pointed out Mr. Clapper’s mistake to him, he was surprised and distressed. I spoke with a staffer for Senator Wyden several days later and told him that although Mr. Clapper recognized that his testimony was inaccurate, it could not be corrected publicly because the program involved was classified.

This incident shows the difficulty of discussing classified information in an unclassified setting and the danger of inferring a person’s state of mind from extemporaneous answers given under pressure. *Indeed, it would have been irrational for Mr. Clapper to lie at this hearing, since every member of the committee was already aware of the program.* [Emphasis added.]

Of course, the committee members may have been aware of the program — but the American people were not.

But Clapper told the Daily Beast that he misunderstood Wyden’s question. So was he surprised or did he misunderstand? Was he distressed or does he regret not taking the chance to reveal the surveillance when he had a chance?

Here’s the truth: Clapper wasn’t surprised by the question; he couldn’t have been. In fact, he received reams of questions on the issue months in advance of the hearing where Wyden asked about the collection of data. So it is also very unlikely that he misunderstood the question.

Furthermore, if, as Clapper claims, “There is only one person on the planet who actually knows what



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[he] was thinking” at the time of the hearing, how does Robert Litt know Clapper was “surprised” by the questioning? Again, there is an accumulation of lies that the intelligence chief and his water carriers believe they can float past the American people.

There are more concrete and legally clever reasons to create the “surprise” story. If one dodges and parries key constitutional questions when he’s under oath and claims the answer is “classified,” then when he’s caught in a lie he can invent the “deer in the headlights” justification.

Imagine, though, if any American citizens were to try that same trick when it comes to the tax code! One doubts “tax dodgers” would have the same success.

Clapper’s “admission” sounds about as sincere as the confession of a criminal caught in the act.

Along those lines, it may be less a confession for his own sake than for the sake of his boss, who is potentially [facing a slate of impeachment charges](#).

Either way, Americans must be, as George Washington counseled in his Farewell Address, “constantly awake” if they are to avoid the “insidious wiles” of the “traitors, tools, and dupes” in positions of power.

Nothing sounds more like Clapper and his collaborators: hoping that Americans are asleep and meanwhile, hiding their plans, then concocting stories claiming to be surprised by the questions, rather than admitting their active abridgment of fundamental civil liberties formerly protected by the Constitution.

Though the hour is late, there is still hope. Beginning today, Americans can wake up and refuse to reelect any lawmaker who has voted to fund the NSA or any other federal agency whose existence is not specifically permitted by the Constitution. We can unite, as did our forefathers, in the ennobling cause of the end of tyranny and the promotion of those unalienable rights granted to us — and revocable only — by our Creator.

Otherwise, we are hoping to be ignorant and free, something that never was and never will be.

Photo of James Clapper: AP Images

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