

Obama's 'I welcome the debate' on NSA spying is the real 'Lie of the Year'

By [Gene Healy](#)

December 23, 2013 - 12:00 AM

It's not easy to pick the year's most transparent lie from the self-styled "["most transparent administration"](#) in history." There are so many to choose from -- such a richness of embarrassment.

For its "Lie of the Year," PolitiFact [went with](#) President Obama's "if you like your health plan, you can keep it"; the Washington Post Fact-Checker [put the same statement](#) at the top of its "biggest Pinocchios of 2013" list. It's a choice that has a lot to recommend it, but Obama's been singing that refrain [since at least 2009](#).

For my money, the biggest presidential lie of the year [came on June 7](#), the week after former [National Security Agency](#) contractor [Edward Snowden](#) revealed the agency's secret collection of call records data on millions of Americans. "I welcome this debate," Obama proclaimed--even as his administration was hunting down the whistleblower who started it and preparing to hit him with 30 years of Espionage Act charges.

Of course, if the president actually wanted this debate, he didn't need to wait for an NSA contractor to risk his freedom by kicking it off. Senator Ron Wyden, D-Ore., had been warning for years about a "Secret Patriot Act"; Obama could have ended the secrecy himself at any time by publicly revealing that it interprets section 215 of that act broadly enough to authorize bulk collection of all Americans' phone records ([and likely much more](#)).

Since June, just how little [President Obama](#) "welcomes" this debate has been evident in his petulant, defensive demeanor when questioned -- and the actions his administration has taken to squelch it.

At his final take-your-medicine press conference of 2013 on Friday, the president grudgingly took several questions on NSA spying. His answers, and evasions, left a lot to be desired. Still, after six months, he's almost done welcoming the debate, and may be ready for it to start: "I'm going to make a pretty definitive statement about all of this in January." Meanwhile, just after the press conference was over, Obama's [Justice Department](#) once again [invoked the "state secrets" privilege](#) to shield NSA surveillance programs.

A week ago Monday, in federal district court in Washington, Judge Richard J. Leon ruled that the metadata program was almost certainly [unconstitutional](#). "Surely such a program infringes on that degree of privacy that the Founders enshrined in the Fourth Amendment," he wrote. The "author of our Constitution," James Madison, "would be aghast."

Judge Leon seemed rather aghast himself: his opinion features more exclamation marks than you typically see from a federal judge. On the government's contradictory assertions that the program is "comprehensive" but plaintiffs can't show their data was collected: "Candor of this type defies common sense and does not exactly inspire confidence!" On the "burdens" of removing plaintiffs' information: "[T]he public has no interest in saving the government from the burdens of complying with the Constitution!"

Importantly, Judge Leon noted that there was "no indication" that metadata searches "were immediately useful or that they prevented an impending attack." Though the administration claimed that the programs in question have prevented over 50 terrorist incidents, "no proof of that has been put before me" even though "the government could have requested permission to present additional, potentially classified evidence in camera."

Two days after Judge Leon's ruling, the president's own Review Group on Intelligence and Communications Technologies released its report, which was similarly skeptical about the security benefits of dragnet data collection: "Our review suggests that the information contributed to terrorist investigations by the use of section 215 telephony meta-data was not essential to preventing attacks and could readily have been obtained in a timely manner using conventional section 215 orders."

Whether the president likes it or not, the debate is on.

GENE HEALY, a Washington Examiner columnist, is vice president at the [Cato Institute](#) and author of "[The Cult of the Presidency](#)."

Original Link: <https://www.washingtonexaminer.com/obamas-i-welcome-the-debate-on-nsa-spying-is-the-real-lie-of-the-year/article/2541165>