

Spying on Members of the US Congress: DoJ Tapped Congressional Rooms as Well as Reporters' Offices

By [Washington's Blog](#)

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Has the Obama Department of Justice Violated the Separation of Powers?

California Congressman Devin Nunes (R-CA) says that the Department Of Justice tapped phones in the rooms where Congress members speak informally and off the record, eat, sleep and socialize when they're not on the floor of the House of Representatives or in their individual offices. These rooms are known as "cloak rooms", which are the spaces in which [a lot of informal conversations occur](#) ... both between Congress members, and Congress members and reporters.

Congressman Nunes told [Hugh Hewitt](#):

[Congressman Nunes]: **I don't think people are focusing on the right thing when they talk about going after the AP reporters. The big problem that I see is that they actually tapped right where I'm sitting right now, the Cloak Room.**

[Interviewer]: Wait a minute, this is news to me.

Congressman Nunes: The Cloak Room in the House of Representatives.

[Interviewer]: I have no idea what you're talking about.

Congressman Nunes: **So when they went after the AP reporters, right? Went after all of their phone records, they went after the phone records, including right up here in the House Gallery, right up from where I'm sitting right now.** So you have a real separation of powers issue that did this really rise to the level that you would have to get phone records that would, that would most likely include members of Congress

Now that is a separation of powers issue here

Liberals rightfully lambasted the Bush administration for considering doing something similar. As Mother Jones [reported](#) in 2009:

James Risen and Eric Lichtblau [report in the New York Times today](#) that the NSA may have exceeded the wiretapping authority it was given by Congress in 2008.

But then there's this buried in the middle of the story, which isn't vague at all:

New details are also emerging about earlier domestic surveillance activities, including the agency's attempt to wiretap a congressman without court approval on an overseas trip, according to interviews with current and former intelligence officials.

...The agency believed that the congressman, whose identity could not be determined, was in contact as part of a congressional delegation to the Middle East in 2005 or 2006 with an extremist who had possible terrorist ties and was already under surveillance, the official said. The agency then sought to eavesdrop on the congressman's conversations to gather more intelligence, the official said.

The official said the plan was ultimately blocked because of concerns from some officials in the intelligence community about the idea of using the N.S.A., without court oversight, to spy on a member of Congress.

Jesus. If a member of Congress isn't a "United States person" protected from warrantless surveillance by every version of FISA that's ever been on the books, who is? Shouldn't this have set off alarm bells at every possible level at NSA, rather than merely being "ultimately blocked" because "some" officials had "concerns" about it?

But - even though top expert say that Obama is trampling on separation of powers and Constitutional liberties [more than Bush](#) or [Nixon](#) - many Democrats are still hypnotized by what liberal writer Glenn Greenwald calls the "[cult of personality](#)".

Update: Nunes' director of communications - Jack Lagner - has [issued a clarification](#):

What Rep. Nunes meant by "tapped" was that the DOJ seized the phone records, as has been widely reported. There was a little confusion between him and the host during the conversation: He did not mean to refer to phone records of the cloakroom itself, but of the Capitol. This refers to the phone records for the AP from the House press gallery, which the DOJ admitted to looking at. He was explaining that if those phone records were seized, they would reveal a lot of conversations between the press and members of Congress, since reporters often speak to Members from the press gallery phones. The notion of the DOJ looking at phone records from the Capitol of conversations between Members of Congress and reporters is something that concerns Rep. Nunes, bringing up issues related to the separation of powers.

Nunes' point still stands, though. The Department of Justice collection of phone records of conversations between Congress members and reporters violates the principal of separation of powers.

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