

“WE’RE NOT GOING TO LEAVE IT TO THE GUY WHO LIES TO CONGRESS WITH IMPUNITY ANYMORE”

The regular outlets for NSA leakers are presenting details of the recommendations the NSA Review Committee has given to President Obama (Gorman, Sanger). Curiously, Siobhan Gorman suggests that because the recommendations closely following the Leahy-Sensenbrenner bill, it bodes well for passage of that bill.

The panel’s idea “aligns very closely” with a bill offered by House Judiciary Committee Chairman James Sensenbrenner (R., Wis.) and Senate Judiciary Chairman Patrick Leahy (D., Vt.), said one person familiar with the report, suggesting it could give ammunition to congressional efforts.

From what I’ve seen so far, I’m not sure that’s actually true. Moreover, that’s not how intelligence reform generally works. Rather, usually the executive adopts changes asked by Congress, thereby dissuading Congress from actually passing those changes into enforceable law. With Jim Sensenbrenner correctly calling Dianne Feinstein’s Fake FISA Fix “a joke” and growing number of co-sponsors for Sensenbrenner’s bill, I can imagine why the Executive would want to pre-empt actual law.

Significantly, the proposed recommendations don’t end the concept of a phone dragnet; they just move administration of it elsewhere – either a third party or the telecoms – equally prone for abuse. The Review Committee apparently didn’t review efficacy of these programs.

Besides, according to David Sanger, the

proposals predictably focus more on Angela Merkel's privacy than the hundreds of millions of others whose privacy the NSA compromises.

The advisory group is also expected to recommend that senior White House officials, including the president, directly review the list of foreign leaders whose communications are routinely monitored by the N.S.A. President Obama recently apologized to Chancellor Angela Merkel of Germany for the N.S.A.'s monitoring of her calls over the past decade, promising that the actions had been halted and would not resume. But he refused to make the same promise to the leaders of Mexico and Brazil.

Administration officials say the White House has already taken over supervision of that program. "We're not leaving it to Jim Clapper anymore," said one official, referring to the director of national intelligence, who appears to have been the highest official to review the programs regularly.

[snip]

[National Security Council spokesperson Caitlin Hayden] added that the review was especially focused on "examining whether we have the appropriate posture when it comes to heads of state; how we coordinate with our closest allies and partners; and what further guiding principles or constraints might be appropriate for our efforts."

It's that James Clapper line that ought to be the tell, however: that folks within the Administration are boldly stating that James Clapper won't be able to run amok anymore.

The same James Clapper, of course, on whom the White House imposed no consequences for lying to Congressional overseers.

Which brings me to my favorite detail, from the NYT:

One of the expected recommendations is that the White House conduct a regular review of those collection activities, the way covert action by the C.I.A. is reviewed annually.

Obama suggested last week he serves in no more than an advisory role for the Deep State, someone who can propose changes, but not someone who can order them. That an advisory committee has to tell the President that the NSA operates with less oversight than the CIA whose covert operations have systematically exceeded the claimed authority granted by the President says something.

I do fear this Review will pre-empt some of the most important legislative fixes.

But I also hope we'll finally see heightened distance between the Deep State and the Executive that is overdue for reining it in.