

ELECTRONIC SURVEILLANCE

James Risen and Eric Lichtblau have a report today supporting what many around these parts have suggested—that one effect of the amendments to FISA is to expand the kinds of surveillance the Administration can do.

Broad new surveillance powers approved by Congress this month could allow the Bush administration to conduct spy operations that go well beyond wiretapping to include “without court approval” certain types of physical searches of American citizens and the collection of their business records, Democratic Congressional officials and other experts said.

[snip]

“This may give the administration even more authority than people thought,” said David Kris, a former senior Justice Department lawyer in the Bush and Clinton administrations and a co-author of “National Security Investigation and Prosecutions,” a new book on surveillance law.

Several legal experts said that by redefining the meaning of “electronic surveillance,” the new law narrows the types of communications covered in the Foreign Intelligence Surveillance Act, known as FISA, by indirectly giving the government the power to use intelligence collection methods far beyond wiretapping that previously required court approval if conducted inside the United States.

These new powers include the collection of business records, physical searches and so-called “trap and trace” operations, analyzing specific calling

patterns.

Note that David Kris is pretty smart about these issues, so if he thinks this is possible, then it probably is.

I'm also struck by the inclusion of trap and trace operations in this list. Somewhere, I expect us to be discussing data-mining again, and with trap and trace we're getting closer to data-mining.

In addition to reiterating some of the concerns that have been raised here and in other blogs covering this, Risen and Lichtblau give sketchy details of two meetings that have occurred since the passage of the bill, one I didn't know about...

These new powers are considered overly broad and troubling by some Congressional Democrats who raised their concerns with administration officials in private meetings this week.

[snip]

The senior intelligence official acknowledged that Congressional staff members had raised concerns about the law in the meetings this week, and that ambiguities in the bill's wording may have led to some confusion. "I'm sure there will be discussions about how and whether it should be fixed," the official said.