

FISA REDUX AGAIN: THE SLIPPERY SLOPE LEADS DOWN A RABBIT HOLE

Five days ago, in the post "FISA Redux: The Slippery Slope Becomes A Mine Shaft", we discussed the new set of domestic spying protocols that the Bush Administration is determined to entrench into law and practice before leaving office. The measures would:

...make it easier for state and local police to collect intelligence about Americans, share the sensitive data with federal agencies and retain it for at least 10 years. ... would apply to any of the nation's 18,000 state and local police agencies.

Criminal intelligence data starts with sources as basic as public records and the Internet, but also includes law enforcement databases, confidential and undercover sources, and active surveillance.

...also would allow criminal intelligence assessments to be shared outside designated channels ... It turns police officers into spies on behalf of the federal government.

As if that wasn't enough fun for one post, we also learned that Attorney General Mukasey

...would release new guidelines within weeks to streamline and unify FBI investigations of criminal law enforcement matters and national security threats.

Well, that didn't take long. Guess what; they're here. It is amazing how when it comes to protecting the rights and privacy of American citizens, the health and stability of the

environment, the education of our children, and the care and compassion to military veterans, the Bush Administration produces nothing but bad faith delay, obstruction and, often, outright refusal to act. They are imminently capable, however, of moving with breathtaking alacrity when they sense the opportunity to seize unheard of domestic police state powers that undercut the Constitution, solely by Administrative fiat, and that fundamentally alter the way the American public exists in relation to its government in terms of their privacy and, in an existential sense, if not physical, their right to liberty and the pursuit of happiness.

Here, courtesy of the New York Times, is the new joy the Attorney General is announcing to "protect yer freedoms":

A Justice Department plan would loosen restrictions on the Federal Bureau of Investigation to allow agents to open a national security or criminal investigation against someone without any clear basis for suspicion, Democratic lawmakers briefed on the details said Wednesday.

...

The senators said **the new guidelines would allow the F.B.I. to open an investigation of an American, conduct surveillance, pry into private records and take other investigative steps "without any basis for suspicion."** The plan "might permit an innocent American to be subjected to such intrusive surveillance based in part on race, ethnicity, national origin, religion, or on protected First Amendment activities," the letter said. It was signed by Russ Feingold of Wisconsin, Richard J. Durbin of Illinois, Edward M. Kennedy of Massachusetts and Sheldon Whitehouse of Rhode Island. (emphasis added)

At first blush, you are tempted to think "this

is the same thing we talked about last week, what's new here?" But there is a significant difference. The provisions last week took the controls off of domestic intelligence gathering, created new roles for intelligence agencies and authorized greater coordination and sharing of intelligence information with state and local police agencies. The instant provisions remove the controls from the FBI/DOJ end of things, a separate, but critical distinction. Taken in total, however, the two announced sets of changes to domestic spying and surveillance rules create an unrestrained and unbound free for all for any and all governmental interests whether federal, state, local, or some combination thereof, to collect and retain effectively any and all information imaginable on American citizens.

There is a higher authority, all knowing and all powerful, that knows everything about everyone; and it isn't god, it's the government. That, however, is not even the most frightening aspect of this scheme. No, the worst part would appear to be that, from this mass database of everything, the government will be free to cherry pick unrelated, and indeed even innocuous, bits and pieces of information on an individual or group of individuals and cobble it together to imply suspicion sufficient to target said individuals and/or groups for formal criminal and national security investigations. This makes "Big Brother" look like an infant stepchild.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Not any more. Nope, the Fourth Amendment is so "pre 9/11". How quaint and archaic. 9/11 changed

that. 9/11 changed everything. There was only one way for terrorism, whether it be from al Qaida, Iran, Iraq, or timbuktu, to destroy this country, and that was if we, ourselves, let the grip of abject terror and fear consume us from within and destroy our basic Constitutional ethic. The craven neocon authoritarians of the Cheney/Bush Administration have seen to it that just that result occurred. Heckuva job. Mission accomplished.

We have met the enemy, and it is us.