

ALBERTO GONZALES' BLACKMAIL NOTES AND JANE HARMAN'S SUPPORT

As I explained in the last post, CQ is reporting that NSA intercepts caught Jane Harman agreeing to help AIPAC avoid criminal charges in exchange for AIPAC's support for her to get the House Intelligence Chair. That post suggests Harman was willing to intervene in a criminal case in hopes of getting a powerful Chairmanship of a committee.

But the story also shows that Alberto Gonzales' efforts to ensure support from those members of Congress who didn't object to the illegal wiretap program worked. The story reveals that Gonzales spiked an investigation into Harman because he needed her to support the Administration as news of the warrantless wiretap program broke in 2005.

Justice Department attorneys in the intelligence and public corruption units who read the transcripts decided that Harman had committed a "completed crime," a legal term meaning that there was evidence that she had attempted to complete it, three former officials said.

And they were prepared to open a case on her, which would include electronic surveillance approved by the so-called FISA Court, the secret panel established by the 1979 Foreign Intelligence Surveillance Act to hear government wiretap requests.

First, however, they needed the certification of top intelligence officials that Harman's wiretapped conversations justified a national security investigation.

[snip]

But that's when, according to knowledgeable officials, Attorney General Gonzales intervened.

According to two officials privy to the events, Gonzales said he "needed Jane" to help support the administration's warrantless wiretapping program, which was about to be exposed by the New York Times.

Harman, he told Goss, had helped persuade the newspaper to hold the wiretap story before, on the eve of the 2004 elections. And although it was too late to stop the Times from publishing now, she could be counted on again to help defend the program

He was right.

On Dec. 21, 2005, in the midst of a firestorm of criticism about the wiretaps, Harman issued a statement defending the operation and slamming the Times, saying, "I believe it essential to U.S. national security, and that its disclosure has damaged critical intelligence capabilities."

I suspect there is even more here than meets the eye.

As I noted in 2007, when the Administration came to the Gang of Eight on March 10, 2004 and told them Comey had concerns about the warrantless wiretap program, but that they wanted to go forward anyway, Harman appears to have been one of (if not the only) the Democrats who agreed the program should move forward, making a majority with the Republicans who supported keeping the program in spite of the legal problems with it.

Since that time, we've learned that Alberto Gonzales, after the fact, made notes of that meeting and illegally dragged the notes around

with him in a briefcase even after he became Attorney General.

Gonzales told the OIG that President Bush directed him to memorialize the March 10, 2004, meeting. Gonzales stated that he drafted notes about the meeting in a spiral notebook in his White House Counsel's Office within a few days of the meeting, probably on the weekend immediately following the meeting. Gonzales stated that he wrote the notes in a single sitting except for one line, which he told us he wrote within the next day. Gonzales said that his intent in drafting the notes was to record the reactions of the congressional leaders during the meeting, as opposed to recording any operational details about the program that were discussed. In the notes, Gonzales listed who was present, followed by a general summary of the briefing given to the congressional leaders by intelligence agency officials, and the congressional leaders' responses to the briefing. [my emphasis]

As I suggested last year, it appears he was using the notes for his own self-protection, but also as a weapon to use against those members of Congress who had attended the meeting.

So here's what this looks like. In 2004, Gonzales makes notes of the March 10 meeting after it became clear Comey and friends might make legal trouble after Bush continued the program without DOJ authorization. He did so specifically to record the reactions of the Gang of Eight. Later that year, Jane Harman encourages the NYT to drop its story about Bush's law-breaking.

The following year, Gonzales' DOJ has Jane Harman caught in what it considers "a completed crime." Yet Gonzales declines further investigation and prosecution of that alleged

crime, because he needs Harman to give cover to the Administration for its own "completed crime," and he's got a briefcase full of notes to ensure she will give that cover.

A nice rule of law democracy we've got here, don't you think?