

REVISITING JANE HARMAN'S OVER- REACTION TO PARTISAN PRESSURE ON FISA

In October 2007, when Jane Harman was cozying up to Crazy Pete Hoekstra to forge a bipartisan compromise on FISA, I wrote this:

Buried in this article on Democrats compromising with Republicans, I noticed this paragraph:

And as Democratic leaders push their own legislation to rein in the wiretapping program, Rep. Jane Harman (D-Calif.) has been quietly exploring avenues of compromise with Rep. Peter Hoekstra (Mich.), the ranking Republican on the House intelligence committee. Centrist Democrats hope those talks can dovetail with the Senate intelligence committee's own bipartisan measure on surveillance of suspected terrorists.

Jane Harman, of course, is a former member of the HPSCI. Only, with the changeover in Congress, she got bounced from HPSCI and relegated to chairing the Subcommittee on Intelligence, Information Sharing and Terrorism Risk Assessment over at Homeland Security, which means she is not in a formal position of leadership on this issue. Harman made news last month when she called the Republicans on their bullshit attempts to use a sketchy terrorist threat as an excuse to push FISA amendment through. But she also appears

to have been one of the only Democrats (if not the only Democrat) to have approved uncritically of Bush's illegal wiretap program.

But now, apparently, she's taking it upon herself to negotiate her own version of a FISA Amendment, presumably one designed to bypass HJC (which wants nothing to do with telecom immunity) and HPSCI, which under Reyes is proving to be increasingly skeptical of Bush's BS.

How nice, that the one Democrat who gave approval to this illegal program is the one now negotiating immunity for them. Not a conflict of interest there, not at all.

Strangely, she took time out of her bipartisan schmoozing to yell at two DFH bloggers for being critical.

Jane Harman sent a response to this post via a staffer.

What rubbish! For those like me who insist that the President's domestic surveillance program must comply fully with the Constitution and the 4th Amendment, the only way for Congress to get there is with a veto-proof majority. That's why I'm working with Republicans. Got a better idea?

I opposed the FISA-gutting Protect America Act last August and supported the much-improved H.R. 3773, which did not include retroactive immunity for telecommunications companies. I call on the White House to do more than share selected documents with a handful of Senators – how do we know what the White House is not

providing? In my view, the question of retroactive immunity cannot even be considered until Congress is fully informed about what happened and under what authority.

It's the same response she posted to drational's diary at DKos, which responds to the same WaPo passage I used, but takes a different approach than I did in discussing it.

Given the CQ story on Harman today, I agree with drational that her response in 2007 is that much more interesting (and not a little ironic). Look, in particular, at the form of her rebuttal.

She claims the only way to bring Bush's illegal wiretap program—though she refers to it only as his "domestic surveillance" program—into compliance with the Constitution is to pass amendments with a "veto proof majority." Oddly, she doesn't mention bringing the illegal program into compliance with FISA, which I thought was the point. And she suggests that the only way to do that was to "work with Republicans"—but in so doing (she doesn't admit this part), to undercut efforts of her own caucus in the House. In particular, to undercut Silvestre Reyes and, arguably, even Nancy Pelosi.

And of course, she doesn't consider simply refusing to negotiating with the Bushies intransigent stance.

In fact, she repeats the same talking point—the "veto proof majority"—that BushCo was pushing at the time to portray the Jello Jay version as inevitable.

But then there's the weird game with her purported support for the release of all documents pertaining to the program. All documents. Which would presumably include whatever documents memorialized the March 10,

2004 meeting.

Even while, at the same time, playing into the Republican push for retroactive immunity—the one thing the Bushies demanded and needed.

Now, her embarrassing over-reaction may have absolutely nothing to do with to events depicted in the CQ story. But I must say I was shocked by it when it happened. And utterly puzzled when trying to figure out precisely what she meant was rubbish.