

BILL LEONARD: CONGRESS IS RESPONSIBLE FOR CIA NOT INFORMING THEM

Bill Leonard makes an important point about the HPSCI investigation into whether or not the CIA is adequately informing Congress.

No matter the seriousness of the challenge, some politicians, members of the media, pundits, et. al. insist on reducing issues of grave importance to a "left vs. right" or "tough vs. soft on terrorism" didacticism. This week's announcement by the House Permanent Select Committee on Intelligence (HPSCI) that it has opened an investigation into whether the Bush administration violated the law by not notifying Congress of certain classified intelligence programs, to include an alleged program to assassinate key al-Qaeda leaders, is the latest example.

In many regards, the substance of the program is irrelevant. However, if the latest fuss is, in fact, about an alleged covert program to assassinate key al-Qaeda leaders in the aftermath of the attacks of September 11, 2001, once again you do have to wonder from whom the "covert" nature of the program was intended to keep its existence secret. Clearly not the al-Qaeda leaders who knew they would be hunted down, as Bush himself said, "dead or alive." That's why so many of them have chosen to live the rest of their lives holed up in a cave somewhere.

What is relevant is that much of the controversy is of Congress' own doing. In an interview with the Washington

Post, Director of National Intelligence Dennis Blair said agency officials may not have been required to notify Congress about the program, though he believes they should have done so. "It was a judgment call," Blair said in the Post interview. "We believe in erring on the side of working with the Hill as a partner."

Blair is absolutely right, it is a "judgment call" but only because Congress made it one by giving the executive a loophole through which anyone could drive a Mack truck, even one loaded with numerous CIA assassination teams. As I wrote about earlier, while the National Security Act of 1947, as amended, requires the President to make sure the intelligence committees "are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activity," the statute goes on to state that such briefings should be done "to the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters."

Imagine a law setting the speed limit on highways which requires drivers to travel 55 MPH "to the extent consistent with due regard" to other issues drivers regarded more important in their sole, unilateral judgment. While that may sound a lot like the Capital Beltway, it is also a law without meaning.

Now, I actually think the inclusion of the shutdown of an American missionary's plane in Peru in the investigation will go some way to blunt any claims of partisanship here, because it should get Crazy Pete Hoekstra aboard as a

willing participant. When Crazy Pete puts aside his partisan hat, he's actually a much fiercer champion of Congress' need to be informed than Democrats have traditionally been.

That said, given Obama's veto threat of the requirement that the Administration brief the full committee, it would take real bipartisan effort to amend the National Security Act to take out the Mack truck sized loophole Leonard describes.