

THE PERILS OF GIVING JOHN BRENNAN UNCHECKED POWER

Before you read this post, go read this Glenn Greenwald one highlighting an Eli Lake interview with John Brennan. Lake reports John Brennan describing “dozens” of Americans against whom the US will bring the full brunt of its power.

“There are, in my mind, dozens of U.S. persons who are in different parts of the world, and they are very concerning to us,” said John O. Brennan, deputy White House national security adviser for homeland security and counterterrorism.

[snip]

“If a person is a U.S. citizen, and he is on the battlefield in Afghanistan or Iraq trying to attack our troops, he will face the full brunt of the U.S. military response,” Mr. Brennan said. “If an American person or citizen is in a Yemen or in a Pakistan or in Somalia or another place, and they are trying to carry out attacks against U.S. interests, they also will face the full brunt of a U.S. response. And it can take many forms.”

Glenn points out the number (we previously knew only that three Americans were targeted), the global scope of this, and the continuity Brennan claims with Bush’s counter-terrorism.

But I’d like to focus on John Brennan himself.

Brennan asserts that the Obama Administration is largely building on the Bush Administration counterterrorism policy.

“There has been a lot of continuity of effort here from the previous

administration to this one," he said.
"There are some important distinctions,
but sometimes there is too much made of
those distinctions. We are building upon
some of the good foundational work that
has been done."

Glenn notes that this assertion is all the more notable since Brennan was, after all, a top Bush counterterrorism official. Brennan is saying there's continuity between what he did under Bush and what he's doing now.

So let's recall the reason John Brennan is even able to rejoin government after having worked in the Bush Administration and then profited in the Intelligence Industrial Complex for a few years: retroactive immunity.

Brennan was in charge of picking the Americans George Bush would illegally wiretap—including during the period after March 11, 2004, when Bush reauthorized the illegal wiretap program in spite of the fact that DOJ had told him there was no legal basis for it. Brennan was directly involved in illegally wiretapping Americans (though he likely did not know that the entire program was even more illegal at that point than previously). And lo and behold, about the time that Brennan assumed a significant role on candidate Obama's team, Obama flip-flopped on retroactive immunity, pretty much ensuring that Bush's—and Brennan's—would never receive real scrutiny.

Would John Brennan be Obama's Homeland Security Advisor right now if Americans knew the full extent of his role in targeting Americans for illegal wiretapping?

This is the guy, then, boasting that we've got not three, but dozens, of Americans against whom we intend to bring the full brunt of the US military. A guy who was previously involved (possibly unknowingly) in wiretapping Americans without the requisite legal review.

And while we're speaking of legal review, note

this sleight of hand Lake pulls off:

Mr. Brennan also said that the U.S. law enforcement community has the means to monitor Web forums affiliated with al Qaeda that have in the past proven to be a gateway for recruitment into the terrorist organization.

But he also said that any investigations or monitoring of such sites needed to first pass a threshold of probable cause.

“There needs to be some type of predicate or premise for there to be reasonable suspicion that someone is engaged in activity that is unlawful,” he said. “The mere engagement in political speech, even if it is radical, is not in itself a cause for investigation.”

Now, we’re talking monitoring of websites, not targeting with the “full brunt” of US power. Nevertheless, Lake claims that Brennan limits such monitoring to cases where there is “probable cause.” That’s not what Brennan said: he said “reasonable suspicion.”

The difference is a legal distinction that has been at the core of the expansion of surveillance powers since 9/11. The government doesn’t even show reasonable, individualized suspicion. Rather, it often needs to show only some “reasonable” theory to justify doing things like monitoring websites, presumably in bulk, without individualized suspicion.

Mind you, as skeptical as I am of the review they’re using before they target Americans with the “full brunt” of US power anywhere in the world, I trust they’re using a higher standard than reasonable suspicion.

But the point is that the guy at the center of this targeting with no due process—the guy boasting of lethally targeting dozens of

Americans to Eli Lake—is also one of the guys who was at the center of Bush’s surveillance targeting with no due process. No one reasonable now doubts that that earlier counterterrorism effort was blatantly illegal, though thanks to Obama, Brennan has been shielded from any consequences for his participation.

If the guy illegally targeted Americans in the past, we ought to be doubly suspicious of the basis with which he’s lethally targeting these Americans now.