

OF COURSE THE INTELLIGENCE AUTHORIZATION WOULD HAVE A SIGNING STATEMENT

Because that's just how these carefully crafted bills are treated by Presidents guarding their Executive Power.

DDay pointed me to the signing statement that Obama issued in conjunction with the new Intelligence Authorization. There are three key points, IMO.

Presidents still control all the secrets

One thing Obama does is reaffirm the President's right to control all the secrets.

Section 331's requirement to provide a "general description" of a covert action finding or notification provides sufficient flexibility to craft an appropriate description for the limited notification, based on the extraordinary circumstances affecting vital interests of the United States and **recognizing the President's authority to protect sensitive national security information.**
[my emphasis]

I'm not all that surprised or bugged by this. Basically, he seems to be saying that the members of the Intelligence Committees who just won the right to be briefed on covert operations will have to be very creative to understand the statements crafted with "sufficient flexibility" to keep them in the dark. But hell, this is still a damn sight better than it was.

Note, though, that Obama insists—as most of the legal filings we read here do—that the President retains all of the authority over secrets

(presumably including deciding when to leak them broadly to people with no clearance).

Congress still won't get to see OLC memos

I'm rather more intrigued by this statement, which I take to suggest that the Administration will share the "legal basis" (as in, "the AUMF") for covert ops, but won't share documents over which the Administration claims a privilege (which in the past has included OLC documents).

Also, as previously indicated, my Administration understands section 331's requirement to provide to the intelligence committees "the legal basis" under which certain intelligence activities and covert actions are being or were conducted as not requiring disclosure of any privileged advice or information or disclosure of information in any particular form.

This is pretty important, given that last we heard there were OLC documents authorizing FBI wiretaps and drone strikes that—as far as we know—remain totally secret. Which still means the President will insist on writing law for himself until the Courts tell him differently.

Congress may never know the results of John Durham's investigation

Then there's this bit, which would clearly include John Durham's investigation of the former and some still current members of the intelligence community (heck, it might even include John Brennan's role in Dick Cheney's illegal wiretap program).

In accordance with longstanding executive branch policy, my Administration understands section 405's requirement that the Inspector General make an immediate report to congressional committees regarding investigations focused upon certain current or former IC officials **as not**

requiring the disclosure of privileged or otherwise confidential law enforcement information.

Not only does this say that Obama refuses to let the Inspector General tell Congress whether there will be any accountability for torture, or even (given the broad claims the Administration made to shield Dick Cheney's Plame testimony) what Durham found after he has closed his investigation, but it also suggests that the IC IG may not tell Congress things that CIA's IG told Congress in the past. For example, this would cover some of the deaths by torture which were investigated but not prosecuted. So long as DOD or DOJ could claim to be investigating them, it seems, the IC IG would not necessarily tell Congress of the investigation.

Perhaps more troubling, this statement would seem to shield all of FBI's investigative work—things like surveilling peace activists and conducting data mining of its massive databases.

I'm going to do some more research on what Obama's trying to do with his statement about whistleblowers.

Moreover, the whistleblower protection provisions in section 405 are properly viewed as consistent with President Clinton's stated understanding of a provision with substantially similar language in the Intelligence Authorization Act for Fiscal Year 1999. See Statement on Signing the Intelligence Authorization Act for Fiscal Year 1999: Public Papers of the Presidents of the United States, William J. Clinton, 1998 (p. 1825).

But I assume it sharply limits the rights of intelligence community whistleblowers.

This is not as bad as some of Cheney's signing statements. But it's clear that the President wants to avoid oversight of his super duper

powers.