

ROBERT MUELLER: CIVIL LIBERTIES DON'T NEED A "FRESH" REVIEW

This exchange last Thursday between Senator Al Franken and FBI Director Robert Mueller was frustrating enough—Senator Franken's questions were the only ones on civil liberties Mueller faced, and the Director seemed pretty miffed to be questioned on the subject in the first place.

But I'm even more troubled by the exchange now that we've learned about the FBI's new investigative guidelines that allow, among other things, database searches without any record and new powers to coerce informants.

After all, Mueller's response to Franken's concern about NSLs boasted that they had implemented a compliance system for NSLs and "other areas" where FBI might "fall into the same habits." (What do you suppose those other areas are? Is he addressing FISC concerns?)

But perhaps as important if not more important, we set up a compliance program to address not just [National] Security Letters, but other areas such as National Security Letters where we could fall into the same, the same pattern, or habits. And so the National Security Letters I believe we addressed appropriately at the time, and it was used as a catalyst to set up a compliance program that addresses a concern in other areas comparable to what we had found with regard to National Security Letters.

Getting rid of the records on database searches would seem to eliminate any compliance system. And Mueller knew he was planning to do so (as did, I presume, Franken) when he gave this answer.

And in response to Franken's question about infiltration of mosques and peace groups, Mueller assured Franken that FBI complied with its own guidelines.

I'm not certain it needs a fresh, a fresh, uh, look because I'm very concerned whenever those allegations arise. I will tell you that I believe that in terms of surveillances of religious institutions we have done it appropriately and with appropriate predication under the guidelines in the applicable statutes, even though there are allegations out there to the contrary. I also believe that when we have undertaken investigations of individuals expressing their First Amendment rights, we have done so according to our internal guidelines and the applicable statutes. And so, whenever these allegations come forward, I take them exceptionally seriously, make sure our inspection division or others look into it to determine whether or not we need to change anything. And I will tell you that addressing terrorism, and the responsibility to protect against attacks, brings us to the point where we are balancing day in and day out civil liberties and the necessity for disrupting a plot that could kill Americans and it's something that we keep in mind day in and day out.

But of course, FBI is about to change those guidelines, making it easier for the Agents to attend political meetings undercover and track innocent people. And it doesn't much matter if FBI complies with its own guidelines if those guidelines support abusive investigations. Mueller is basically insisting that he doesn't need to reconsider FBI's actions because FBI complies with its own guidelines and therefore the underlying guidelines themselves don't need any more scrutiny.

And that canard about balancing civil liberties with the necessity of disrupting a plot (there's zero evidence of course, that the FBI's surveillance of peace groups has any tie to a plot, save against political speech)? Not only is this not a zero sum game, but the FBI doesn't take similar civil liberties-infringing actions to disrupt right wing plots.

When he was gently, respectfully challenged to defend his civil liberties record, Mueller instead resorted to that same old terror fear-mongering. Given the new permissive guidelines, such an attitude is even more troubling.