

“THERE ARE TWO MORE ISSUES INTELLIGENCE OFFICIALS WANT NOTED”

Walter Pincus fancies his work to be about “reading documents” and finding the bits that everyone else has missed.

The way I’ve always done it is reading documents. I mean there is a huge amount of public material that’s put every day out in the public record and people don’t read it. The key to the column whether it’s good or not is documents. I just – I try to base every column on something I read; a transcript, a report, a hearing, whatever.

Somehow, that approach to journalism has resulted in this, basically an entire piece listing the things Intelligence Community bigwigs wish people had noticed in the White Paper released last Friday.

There are two more issues intelligence officials want noted.

For the most part, however, Pincus’ piece either reiterates the same tired bullet points the IC keeps repeating.

The NSA document notes that of 54 terrorist events discussed publicly, 13 had a U.S. connection, and in 12 of them, the phone metadata played a role.

[snip]

Intelligence officials later pieced together – and have remembered ever since – that 9/11 hijacker Khalid Almihdhar resided in California in early 2000 and that while some of his

conversations with an al-Qaeda safe house in Yemen were picked up, the NSA did not have that U.S. phone number or any indication that he was located in San Diego.

[snip]

Another point they note is that over the length of these NSA programs, and similar ones that date to the late 1960s, there have been layers of oversight by the NSA, the Justice and Defense departments, Congress and the judiciary.

Or, in what is really only Pincus' close focus on the released documents, uses thin evidence from the White Paper to "support" whiny complaints from the IC.

What also angers many former senior intelligence officials is the complaint by members of Congress and particularly some on the intelligence oversight committees that they were never told about the extent of the phone metadata program.

As the Justice paper notes, the Senate and House Intelligence and Judiciary committees "by December 2008 . . . had received the initial application and primary order authorizing the telephone metadata collection. Thereafter, all pleadings and orders reflecting significant legal developments regarding the program were produced to all four committees."

What Pincus fails to mention is that the White Paper actually proves the critics to be correct. Not only does it prove the Administration waited 5 months – from Silvestre Reyes' September 30, 2009 request to their December 14, 2009 response to Reyes' request to the February 24, 2010 letter to members making them aware of that

notice, effectively stalling through the entire period of debate over this issue – before actually informing Congress about the dragnet. It also suggests – as has been all-but confirmed since – that Mike Rogers simply decided not to pass on the notice at all the following year. The White Paper proves critics’ point, but Pincus hides that fact.

And all those details about 2009 and 2011 distract from the question of why the Bush Administration didn’t even try to give notice to Congress in 2006, when it had already briefed the FISA Court it planned to use the “relevant” language Congress intended to use to constrain Section 215’s use to blow up it up beyond recognition. Why is it adequate to provide the judiciary committees notice (note, even here the Administration’s claims fall short, as I’ll show in a follow-up) only 3 years after the fact?

Remember, too, that Pincus is a JD. At least in theory, he is trained to do the kind of analysis that Jeffrey Rosen and Orin Kerr have done, pointing out the legal flaws in this logic. Or maybe he might just want to point out how hard the Administration had to look for a definition of “relevant” that didn’t totally undermine their argument.

All of which is to show that Pincus has himself failed to do what he claims is his schtick. A close reading of the White Paper actually introduces more problems, not fewer, for the Administration’s dragnet programs.

Which makes these two parroted claims all the more painful to read.

Such transparency is useless if the news media do not pass it on to the public. Few, if any, major news outlets carried any of the details from the Justice and NSA papers.

[snip]

Intelligence officials say that if the U.S. media do not provide what the

government claims are the facts
underlying what critics and supporters
say, the public cannot understand the
issue.

Here Pincus is in a major news outlet passing on
not what the White Paper actually shows, not the
actual facts presented there, but reinterpreting
it with the mostly anonymous guidance of the IC,
spinning it to put in better light.

I guess Walter Pincus should read Walter Pincus.