

FEINSTEIN'S FAKE FIX MAY EXPAND USE OF THE PHONE DRAGNET

Dianne Feinstein and 10 other Senate Intelligence Committee members approved a bill yesterday that purports to improve the dragnet but actually does almost nothing besides writing down the rules the FISA Court already imposed on the practice.

I'll have far more on DiFi's Fake Fix later, but for now, I want to point to language that could dramatically expand use of the phone dragnet database, at least as they've portrayed its use.

Here's how, in June, DiFi described the terms on which NSA could access the dragnet database.

It can only look at that data after a showing that there is a reasonable, articulable that a specific individual is involved in terrorism, actually related to al Qaeda or Iran. At that point, the database can be searched. [my emphasis]

Here are the terms on which her Fake Fix permits access to the database.

there was a reasonable articulable suspicion that the selector was associated with international terrorism or activities in preparation therefor. [my emphasis]

The bill passed yesterday does not require any tie to al Qaeda (or Iran!). An association with al Qaeda (and Iran!) is one possible standard for accessing the database. But it also permits use of the data if someone is "associated with activities in preparation" for international terrorism.

Does that include selling drugs to make money to

engage in "terrorism"? Does that include taking pictures of landmark buildings? Does that include accessing a computer in a funny way?

All of those things might be deemed "activities in preparation" for terrorism. And this bill, as written, appears to permit the government to access the database of all the phone-based relationships in the US based not on any known association with al Qaeda (and Iran!), but instead activities that might indicate preparation for terrorism but might also indicate mild nefarious activity or even tourism crossing international borders.