

ANONYMOUS PUSHBACK EMPHASIZES THAT SURVEILLANCE LEADS TO INFORMANTS

I've already suggested I suspect the government falsely claimed it didn't have a FISA warrant on CAIR's Executive Director Nihad Awad in an attempt to gain an advantage in EFF's suit challenging the phone dragnet.

The conflicting denials anonymous officials gave to ABC about the story – with one senior official implying the people the Intercept profiled actually were profiled, but other current and former officials claiming the Intercept may have misunderstood what they were looking at – don't change that suspicion in the least.

A senior government official said without knowing the underlying probable cause presented to a federal judge from the FISA court in each case, Greenwald and The Intercept cannot know why the e-mails of the purported targets were collected.

As a result, the official said, Greenwald and Snowden cannot know whether the surveillance revealed evidence or intelligence in each case that was incriminating or exculpatory – or whether some targets later cooperated with the FBI. Several officials said it was “irresponsible” to name individuals as surveillance targets when no public court record exists. The identified targets could be guilty or innocent or even cooperating with the government, the officials said.

“You don't know if somebody was later approached to become an informant,” the senior official said. “To the extent any

of these people were targets, [The Intercept report] is a serious compromise. And if they weren't targets, they shouldn't be named."

The Intercept said many of the emails on the spreadsheet titled "FISA Recap," which they said Snowden provided, "appear to belong to foreigners whom the government believes are linked to al Qaeda, Hamas and Hezbollah." But the report says their three-month investigation showed that "in practice, the system for authorizing NSA surveillance affords the government wide latitude in spying on U.S. citizens."

However, current and former U.S. officials told ABC News that Snowden or Greenwald may have misunderstood some of the NSA documents, which they reported are spreadsheets with 7,485 email addresses, including many among multiple accounts by individuals.

"You should not assume all of the names Glenn Greenwald has were targets of surveillance," a senior official familiar with Snowden's pilfered cache told ABC News last week.

A former senior official once closely involved in the FISA warrant process told ABC News that The Intercept's reporters were repeatedly warned by him that they "were getting it wrong" in how they interpreted what the NSA spreadsheets from Snowden signified. The documents also were curiously absent of the markings secret files typically carry which denote its specific level of classification and distribution limitations.

"The documents indicated to me that they were not targets," the former official said. [brackets original, emphasis mine]

Surely DOJ will point to any doubts about the document in an effort to prevent it from being used to obtain standing to sue.

I'm just as interested in the logic the anonymous senior official used to say these names shouldn't be released: that the person might have been approached to be an informant!

Sure, I get why the FBI probably wouldn't want its informants exposed (though more and more GWOT era informants have exposed themselves without being harmed).

But I'm particularly interested in how quickly this official talked about informants. As Ted Olson did, more obliquely, back in 2002.

NSA has offered hint after hint that its surveillance does serve to identify people to coerce into informing. I find it odd that this official, hiding behind the veil of anonymity, introduces it with such little self-awareness.