

THE FATHER OF THE DEA DRAGNET SICS IT ON FREE SPEECH

BuzzFeed had an important scoop yesterday, revealing that Timothy Shea – the Billy Barr flunky who presided over the US Attorney's Office in DC long enough to interfere in the Mike Flynn and Roger Stone prosecutions who has since been put in charge of the DEA – requested authority to engage in domestic surveillance targeting George Floyd protestors.

On top of the problematic implications of the move, in the abstract, it's worth considering what it might mean more specifically. It might be best understood as Barr deploying all the investigative tools he finds so inexcusable when used against Trump associates being cultivated by a hostile foreign government, using them against Americans exercising their Freedom of Speech and Assembly.

Using the DEA to surveil protestors gives Barr a number of things (in addition to more bodies to throw at the problem). While the DOJ IG Report on Carter Page revealed the FBI has a source with tentacles into all branches of society, the DEA's informant network is understood to be even more extensive, and often more easily leveraged because of steep war on drug sentences.

There's good reason to believe the DEA's access to Stingrays used to track cell phone location escapes the close scrutiny of other agencies. As Kim Zetter noted on Twitter, that may include Dirtboxes, plane-based Stingray technology.

But the FBI and, especially, the US Marshals also have that technology.

What they don't necessarily have, however, is access to a surveillance program the precursor to which Barr approved, with no legal review, the last time he was Attorney General.

In 1992, Barr authorized the DEA to use a drug related subpoena authority, 876(a), to start collecting the call records between certain foreign countries and the United States. Over time, the dragnet came to include every country the government could claim had any involvement in narcotics trafficking. That dragnet was the model for the phone dragnet that Edward Snowden revealed in 2013. While it was shut down in the wake of the Snowden revelations (and after it became clear DOJ was using it for entirely unrelated investigations), OLC had initiated the process of reauthorizing it in 2014. Given Barr's fondness for surveillance, it would be unsurprising if he had gotten Trump's supine OLC to reauthorize and possibly expand its use.

So one thing Barr may be using is the kind of dragnet civil libertarians are celebrating the cessation of in Section 215.

But there's another DEA dragnet that would be more powerful in this circumstance, and would not need reauthorization: Hemisphere, which was first disclosed in 2013. That's a program operated under the Drug Czar's authorities (and therefore substantially hidden under White House authorities). Rather than collect a dragnet itself, the government instead relies on the dragnet AT&T has collected over decades. It asks AT&T to do analysis, not just of call or text records, but also co-location.

A DOJ IG Report on the DEA's various dragnets released in March 2019 makes it clear (based on redactions) that Hemisphere is still active.

There are many reasons why Barr might want his flunky at DEA to get involved in surveilling Americans exercising their First Amendment rights. Chief among them probably include DEA's extensive informant network and DEA's practice of mapping out entire networks based solely on subpoenas served on AT&T.

Both of those are things that Barr has said were totally inappropriate surveillance techniques deployed against political activity.

Curiously, he no longer has any apparent concern about deploying invasive surveillance against sensitive political issues.