

HOW ABC INVESTIGATIVE REPORTS TURN INTO NSA BRIEFINGS TO THE SSCI

I'm still working through the NSA reports to the Intelligence Oversight Board posted right before Christmas. Here's a detail (in the Q4 2008 report) I find interesting:

~~(S//SI//NF)~~ On 6 October 2008, NSA notified the Senate Select Committee on Intelligence (SSCI) of an impending televised interview of James Bamford by ABC News, and the impending release of his book *The Shadow Factory: The Ultra-Secret NSA from 9/11 to the Eavesdropping on America*. The subject of the interview was the allegation that NSA had engaged in improper intelligence activities. The allegation and book were based in part on allegations made last year by retired SGT Adrienne J. Kinne, a U.S. Army Reservist, who had been assigned to the Army Intelligence and Security Command at Fort Gordon, Georgia. Representatives from the NSA/CSS OIG, OGC, and Office of Legislative Affairs have since met with SSCI and HPSCI staffs to discuss the recent allegations of NSA misconduct by Ms. Kinne and former Navy Cryptologic Technician (Interpretive) Second Class Petty Officer David M. Faulk. NSA is investigating the claims of Mr. Faulk. The Department of the Army is investigating Ms. Kinne's claims.

The Shadow Factory was published on October 14, 2008.

8 days before that, the NSA notified the Senate Intelligence Committee (just the SSCI at first?!?!) about an impending (it aired on October 9) Brian Ross interview with whistleblowers from James Bamford's book on ABC.

The interview included a clip from Michael Hayden's 2006 CIA Director confirmation hearing before SSCI in which he claimed Americans' private conversations would never be intercepted.

In testimony before Congress, then-NSA director Gen. Michael Hayden, now director of the CIA, said private conversations of Americans are not intercepted.

"It's not for the heck of it. We are narrowly focused and drilled on protecting the nation against al Qaeda and those organizations who are affiliated with it," Gen. Hayden testified.

He was asked by Senator Orrin Hatch (R-UT), "Are you just doing this because you just want to pry into people's lives?"

"No, sir," General Hayden replied.

It also included flaccid responses from both then CIA Director Hayden and his spokesperson Mark Mansfield (who was actively involved in pre-emptive leaks to the press on torture) and Keith Alexander (who was Deputy Chief of Staff for Army Intelligence at the time of the violations).

In addition, the ABC report included a quote from then SSCI Chair Jello Jay Rockefeller (who, of course, would have found out about it from the agency days before the report).

The chairman of the Senate Intelligence Committee, Jay Rockefeller (D-WV), called the allegations "extremely disturbing" and said the committee has begun its own examination.

"We have requested all relevant information from the Bush Administration," Rockefeller said Thursday. "The Committee will take whatever action is necessary."

It also made clear that Orrin Hatch had been the one to pitch the softball to Hayden in 2006, about which – it is abundantly clear – he lied about.

Finally, it includes an anonymous quote from a "US intelligence official" making it clear that all US government employees might be spied on, contrary to Hayden's public claims during the confirmation process.

Asked for comment about the ABC News report and accounts of intimate and private phone calls of military officers being passed around, a US intelligence official said "all employees of the US

government" should expect that their telephone conversations could be monitored as part of an effort to safeguard security and "information assurance."

There appear to be several things going on with this.

First, this is ABC News, one of the outlets notorious for laundering intelligence claims; indeed, it is possible this is a limited hangout, an attempt to preempt one of the most alarming revelations in Bamford's book. While the report doesn't say it explicitly, it implies the claims of whistleblowers Kinne and Faulk prove Hayden to have lied in his CIA Director confirmation hearing, in response to the softball thrown by Hatch. In any case, the briefing about this disclosure appears to have gone exclusively to SSCI (with follow-up briefings to both intelligence oversight committees afterwards), the committee that got the apparently false testimony (and not for the last time, from Michael Hayden!). But by briefing the Committee, it also gave Jello Jay an opportunity – and probably, explicit permission – to sound all stern about a practice the Committee likely knew about.

In the IOB Report, this is portrayed as a model of oversight. But from what we know about the parties involved, it is just as likely to have been an effort at press management.

Update: The 3Q 2009 report describes the outcome of the report. It found "no targeting of US persons."