

'Get Smart' in Washington

Democrats pretend to be serious about intelligence.

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Imagine this scenario: U.S. intelligence against al Qaeda has declined by two-thirds because of court restrictions, and President Hillary Rodham Clinton is asking Congress to fix the problem. But Senate Republicans refuse to cooperate until the White House turns over executive branch documents, and because they won't protect phone companies from lawsuits for cooperating on the wiretaps.

Do you think President Clinton would be denouncing Congress? Or that there might be a political uproar? Or that the press corps would assail Republicans for endangering national security?

Yet this is precisely what is now happening in Washington--albeit with the political party roles reversed--and almost nobody seems to care. President Bush is mum while his aides beg Congress to do something, and Democrats claim they want to help but keep adding legal roadblocks that would continue to limit U.S. intelligence. The only person showing any alarm is Pete Hoekstra of Michigan, the ranking Republican on the House Intelligence Committee, but he's in the minority and so is ignored by the press.

As we reported last week, Director of National Intelligence Michael McConnell has been working behind the scenes for weeks to restore what even Democrats now concede is declining U.S. ability to eavesdrop on terrorists abroad. The phone companies have limited their cooperation due to the risk of lawsuits following the New York Times exposure of the wiretap program in 2005.

Mr. Bush's January decision to subject these wiretaps to the supervision of the special FISA court has eroded intelligence even further. In many cases, the National Security Agency now needs a warrant to tap even foreign-to-foreign contacts that happen to be routed through U.S. telephone switches. No wonder Osama bin Laden thinks America is a "weak horse." Our politicians are behaving with all the gravitas of Don Adams listening to the phone in his shoe in "Get Smart."

Democrats are the worst actors here because they won't even agree to mere six-month legal fix before they leave town this weekend for their August vacation. The White House has already compromised far too much and is only asking for two main temporary changes: Allow foreign-to-foreign calls to be tapped without a warrant. And if Democrats won't give the phone companies retroactive liability protection, then at least give them prospective immunity so they can cooperate from now on.

But even this is proving to be too much for Democratic leaders, who are apparently worried more about MoveOn.org than they are about another intelligence failure. They say they want to fix the foreign-to-foreign problem. But they're worried that a suspected foreign terrorist might call someone in the U.S., either a citizen or permanent resident, and so they have been insisting that any wiretap on *that* terrorist's communications require a warrant from the FISA court.

Thus if Ayman al-Zawahiri calls a terror cell in Detroit to give the green light for an operation, the NSA had better get a warrant before it listens in. Warrants for wiretaps on such calls originating overseas have never been required on FISA, for the obvious reason that foreign enemies don't deserve the same due process protections as U.S. citizens. What Democrats are seeking is an entirely new restriction on the executive branch's ability to gather intelligence during wartime.

By our deadline yesterday evening, Democrats were also still insisting on limiting warrantless wiretaps to known "foreign terrorists." Admiral McConnell, the DNI, wants to be able to listen in to the larger universe of "foreign targets" as well, because America's enemies include state actors and others who may not be terrorists or linked to al Qaeda. In other words, Democrats want the NSA to get a warrant even to listen to, say, North Korean spies.

And all of this, keep in mind, would only be for a six-month fix. If Mr. Bush wants a permanent fix for the next President, the White House would still have to deal with Democratic demands for documents related to the origins of the warrantless wiretap program after 9/11. Judiciary Chairman Pat Leahy has been blocking any wiretap compromise until the White House discloses documents that may well be protected under executive privilege. Mr. Leahy's purpose isn't to sort out the right policy but to score partisan points by claiming the Bush Administration has broken the law. Never mind that every President has claimed the Constitutional power to wiretap our enemies without a warrant in the name of national security.

This episode is most distressing for what it reveals about the unseriousness of our political class. Democrats so loathe the Bush Administration that they are willing to throw away one of our best weapons in the war against al Qaeda. It's long past time the President stopped pleading with Congress, and started explaining this outrage to the American people.