

THE FISA AMENDMENT WILL LEGALIZE DATA MINING, PART ONE

I've been puzzling over something since the temporary FISA amendment passed in August. The Administration has claimed they needed an easy fix: to allow NSA to wiretap electronic communication that starts and finishes on foreign soil, whether or not that communication passes through the US between sender and recipient. Yet both times when Congress sets about providing that easy fix to FISA, the Administration demands much more. I believe those demands reveal what this FISA amendment is really about, and I believe this bill will legalize the Total Information Awareness program (or something like it) that the Administration had to scrap because Americans hated the idea. In other words, the battle happening in Thursday's Senate Judiciary Committee mark-up of the bill is about massive data mining—it's not primarily about discrete taps of individuals' phones.

There are two demands on which the Administration has refused to budge:

- Minimization
- Basket warrants

I'm going to do a three-part series, looking first at each of these issues on which the Administration is intransigent, then explaining why I think this means they're trying to authorize a massive data mining program.