

DOJ: GIVE US MORE POWERS BECAUSE WE F* UP SO OFTEN**

I don't have time to do this EFF report justice—so just go read the whole thing. It traces the story of one of FBI's misuses of National Security Letters—and the way in which Robert Mueller, having misused the NSLs, used the story to claim FBI needed more investigative powers. The short version is:

- The FBI used a grand jury subpoena to get the educational records of an NC State Chemical Engineering student suspected of ties to the London subway bombers.
- Then, someone in FBI HQ effectively said, "No, let's use our fancy new toy, the National Security Letter, even though National Security Letters don't apply to academic records!"
- So the FBI returned the records, and then submitted a NSL.
- NC State, which apparently has better lawyers than AT&T and Verizon, read the law and said, "Golly, you can't use an NSL to get academic records!" So they denied the request
- The FBI then gave up on the NSL, submitted a second grand jury subpoena, and

voila! They got the records they had originally gotten with a grand jury subpoena.

- Robert Mueller went before Congress and claimed that the NSL process had resulted in a two-day delay in getting the records, which justified giving FBI more investigative powers. You will not be surprised to learn that Mueller didn't reveal the real details behind the request for records.
- The FBI did not report this incident to the Intelligence Oversight Board as a potential violation of civil liberties until two years later, at a time when the IG was already investigating the incident.

As I said, it's worth reading the entire EFF report, particularly its list of open questions about the incident.

But for now, I just wanted to point the the incident as yet another example (Mike McConnell's false claim that the FISA process resulted in a delay on wiretaps on Iraqis who had kidnapped American soldiers and Michael Mukasey's claim that FISA had prevented the FBI from learning that one of the 9/11 hijackers was communicating with a known Al Qaeda safe house are two others) where the government fucked up—and then used its own failure as an example to claim it needed more investigative powers.

It's really a disturbing pattern. The Bush

Administration apparently thinks it reasonable to argue, "we're incompetent, so give us more ways to invade your privacy."