

SURVEILLANCE, SPYING, AND RACIAL PROFILING IN OBAMA ERA

I'm watching a panel on online surveillance with Safir Ahmed (who edited Anatomy of Deceit and all of Markos' books), Josh Gerstein, Farhana Khera, Michelle Richardson, and Adam Serwer.

Safir starts with a question about what has changed.

Gerstein: We don't have a really good idea of what they're doing with surveillance and racial profiling. We haven't seen a lot of substantive changes. Gitmo closure, 9/11 trials, photos of detainee abuse. Admin fighting wiretapping lawsuits as aggressively as the Bush Administration did. Very against any dialogue with those on terrorist list. Privacy and Civil Liberties board, Obama hasn't appointed anyone. Obama Admin a lot more careful about using terms like Islamic terrorism.

Khera (reported to Russ Feingold, dealt w/PATRIOT, Exec Director of Muslim Advocates): WaPo Top Secret just scratched the surface of the problem of IIC. Profiling at the border. Describes a woman scheduled to get married to a British man of Pakistani decent. US govt refused him a visa. She had to cancel wedding.

Richardson (now at ACLU, used to work for Conyers): Anything that goes over the internet, they're collecting. One thing we can look at is PATRIOT Act. Obama did oppose reasonable limits on PATRIOT. Section 215. Can be hard drive of your work computer, can be entire database of information. No limit of what they can get. Opposed efforts to reform NSL authority. Laws have moved in one direction since 9/11: toward collecting information on innocent people. Raises efforts to require review of programs in Intell Communities. FISA Amendments Act expiring during Presidential year.

Serwer: Two big changes to highlight. Aftermath of Christmas bomber, DHS and Justice now regularly meet with Muslim groups to talk about national security, wasn't going on under Bush. During Bush Admin, you had Dems in Congress strident about opposing abuses. Now Dems who once attacked PATRIOT now insisting that these powers are needed. SJC which had some of the most articulate critics of Bush passed their version of PATRIOT w/o any of changes that Feingold suggested. Feingold: What is this the prosecutors committee. (An implicit damnation of Whitehouse and Leahy, who were two who changed their stance on these issues.) **DOJ now suing AZ over draconian illegal immigration law, but FBI guidelines allow profiling in surveillance.** Muslim community most important asset, but that conflicts w/putting Muslim community under constant surveillance. Most important thing in WaPo piece—can't figure out if this is making us safer. Information overload problem.

Khera talking about infiltration of religious communities. FBI unwilling to prove that they're only infiltrating religious communities w/evidence of wrong-doing.

Richardson talks about people who are tracked: Ron Paul supporters, historically black universities, Audubon society, environmentalists, peace groups.

Gerstein: Lack of energy in Congress to do anything about surveillance. Easier for press to cover if there's partisan conflict, or if there's a real battle over it. A lot more attention to this stuff when Bush was in office. Program started after Christmas day, special scrutiny for travelers (didn't include UK). Uncannily similar to one Ashcroft proposed, generated a lot of controversy, this one generated no controversy.

Serwer: One of the largest stakeholders in Muslim community—media faces cultural barrier when covering this community, it hasn't been covered before, rushed into this conversation as part of national security, not a lot of

reporters who have much contact with Muslim community. Coverage is often shallow. Not a very good understanding of who's influential in the community. People who've been paying attention to community right wing conspiracy theorist, press coverage vulnerable to right wing conspiracy theorist. Incredible outcry on DHS report on right wing extremists. I hoped it might indicate a rise of community that would be skeptical. People on right who are paranoid about being surveilled, think it's okay for govt to do to Muslims. Opposition isn't to surveillance state broadly.

Questions

Ben Masel: When DHS report came out, lefties largely mocked them, didn't reach out to them.

Richardson: Organizing has to be done at local level. Publicity issue, bloggers and press has to get involved in it.

DannyD: How to connect it to marginalized community, use of snitches.

Q: Why hasn't this changed?

Serwer: Tendency to personalize this on O, but a ton of stakeholders invested in this. O decided things like climate change are more important.

Gerstein: Some of it driven by events. Christmas day bombing.

[No mention of John Brennan, who was key to implementing the Bush surveillance program]

Jen Nessel: What kind of messaging would work?

Journalists don't want to answer. Khera: Reengaging non-traditional allies. Generals, military officials, making argument that it's ineffective.

Q: Racial profiling is popular. People support it. How do we reverse these trends?

Gerstein (who is covering AZ trial): Almost all the legal discussion was about other issues.

Serwer: It would be legally extremely difficult to prove this was discriminatory w/o law going into effect. Holder says that if law goes into effect and people are profiled, DOJ will then pursue those issues.

Gerstein: I think that's largely true, but not entirely true. If Admin were going to make that argument, WH would be making argument that leg and people of AZ are racist.

Serwer: Not any Civil Lib groups who are upset that Admin didn't file on those grounds.

Richardson: Groups are talking in advocacy about it as a racial profiling issue.

Khera: To go back to question: have to go back to police chiefs who say that racial profiling doesn't work. Most passengers on Christmas bombing flight didn't think Abdulmutallab was Muslim.

Q: Many people think white supremacists are patriots. What about them. Also, Conyers bill allowing people to sue on racial profiling.

[But of course with all the laws preventing people from filming cops]

Khera: Also look at double standard with Churchs, minister in SoCal praying for death of President and those in Congress who voted for HCR. That hasn't led people to say all churches should be infiltrated.

Questioner (Venegas?) was apparently only one of two chiefs of police who opposed PATRIOT. (from Sacramento). I thought best way to pursue terrorism was in community policing. We still have threats with homegrown idiots. Best intelligence we get comes from those neighborhoods. We accepted racial profiling. We allowed embedding of news folks as we made invasions and we called it patriotism. I believe that any question which is our singlemost obligation is to question whether govt is doing the right thing went out the window. Press became agent of failing to question, if you did

so you became unpatriotic. The attacks are being done en masse to our Constitution. Currently direct law enforcement engagement initiative. How do we defeat 1070 and other lookalikes.

Q: I'm David Grant, are we under surveillance?

Q: Why is it that no one picked up sensational story of surveillance?

Richardson: Barbara Lee has Church Committee bill, H Res 383, to investigate all post-9/11 issues. Difference you saw in the 1970s. They were surveilling Congresspeople themselves, they took it personally. Post-9/11 mentality. What came out of Church Committees is intelligence committees. Now Congress is trusting those committees to do the oversight themselves. Some of these committees can go a year w/o a single public hearing.

Gerstein: Obama has opposed that sort of thing. Can't look backward.

Serwer: Some of the best work done at Cato, by Julian Sanchez.