

JIM COMEY: FOR FBI, SECTION 215 ONLY PROVIDES AGILITY

In yesterday's Threat Hearing, James Clapper and John Brennan provided so much news early, I suspect many didn't stick around to hear the question Angus King posed to Jim Comey. He asked about the significance of the phone dragnet.

SEN. KING: Director Comey, do you have views on the significance of 215? You understand this is not easy for this committee. The public is very skeptical and in order for us to continue to maintain it, we have to be convinced that it is in fact effective and not just something that the intelligence community thinks is something nice to have in their toolkit.

DIR. COMEY: Yeah, I totally understand people's concerns and questions about them. They're reasonable questions. I believe it's a useful tool. For the FBI, its primary value is agility. That is, it allows us to do in minutes what would otherwise take us in hours. And I'll explain what I mean by that. If a terrorist is identified in the United States or something blows up in the United States, we want to understand, OK, is there a network that we're facing here?

And we take any telephone numbers connected to that terrorist, to that attack. And what I would do in the absence of 215 is use the legal process that we use every day, either grand jury subpoenas or national security letters, and by subpoenaing each of the telephone companies I would assemble a picture of whether there's a network connected to that terrorist. That would take hours.

What this tool allows us to do is do that in minutes. Now, in most circumstances, the difference between hours and minutes isn't going to be material except when it matters most. And so it's a useful tool to me because of the agility it offers. [my emphasis]

Comey prefaced his entire answer by making it clear he was only addressing the way the FBI uses the dragnet. That suggests he was bracketing off his answer from possible other uses, notably by NSA.

If the FBI Director brackets off such an answer after 7 months of NSA pointing to FBI's efforts to thwart plots, to suggest his Agency's use may not be the most important use of the dragnet, can we stop talking about plots thwarted and get an explanation what role the dragnet really plays?

That said, it's worth comparing Comey's answer to what the PCLOB said about FBI's use of the dragnet. Because in the 5 cases the government cited claiming the dragnet found particular leads (the exception is Basaaly Moalin, which PCLOB said might have been found via active investigations FBI already had going), FBI found the same leads via other means (and the implication for some of these is that FBI found those other leads first).

Operation WiFi: Those numbers simply mirrored information about telephone connections that the FBI developed independently using other authorities.

[snip]

David Headley: Those numbers, however, only corroborated data about telephone calls that the FBI obtained independently through other authorities.

[snip]

3 other cases: But in all three cases, that information simply mirrored or

corroborated intelligence that the FBI
obtained independently through other
means.

That is, usually the dragnet isn't even a matter
of agility. It's a matter of redundancy.

It seems Jim Comey, sharing the dais with
several colleagues who've already torched their
credibility, had no interest in pretending the
dragnet is primarily about the investigations of
his Agency.

Perhaps the rest of the us can dispense with
that myth too now?