

THE GOVERNMENT'S DATABASE ARBITRAGE

I have long believed that the government put Iran on its list of approved target countries under the Section 215 dragnet not to use for counterterrorism purposes (the terror Iran seems to have sponsored of late is largely US generated), but instead to support sanctions.

Yesterday, the government claimed it has been using a drug trafficking database (one described differently than Hemisphere) to support sanctions on Iran.

At least that's the implication of the declaration unsealed in the Shantia Hassanshahi case submitted in response to the judge's order for more information on how it had identified the defendant.

This database [redacted] consisted of telecommunications metadata obtained from United States telecommunications service providers pursuant to administrative subpoenas served upon the service providers under the provisions of 21 U.S.C. § 876. This metadata related to international telephone calls originating in the United States and calling [redacted] designated foreign countries, one of which was Iran, that were determined to have a demonstrated nexus to international drug trafficking and related criminal activities. This metadata consisted exclusively of the initiating telephone number; the receiving telephone number; the date, time, and duration of the call; and the method by which the call was billed. No subscriber information or other personal identifying information was included in this database. No communication content was included in this database.

In other words it's just like the Section 215

phone dragnet (and different in a few ways from Hemisphere, the drug-related database collecting US calls), but collected under 21 USC 876, the drug war's version of Section 215 tangible things provision, rather than Section 215. And they used it to go after sanctions violators, not drug traffickers.

The declaration goes on to say that this database got shut down – at least, shut down under this authority – in September 2013.

Use of the [redacted] database [redacted] that returned the 818 number was suspended in September 2013.¹ This database [redacted] is no longer being queried for investigatory purposes, and information is no longer being collected in bulk pursuant to 21 U.S.C. § 876.

1 [5+ lines redacted]

The NYT broke the story of Hemisphere on September 1, 2013, so the month this thing was shut down. September 2013 is also, conveniently enough, the month Hassanshahi was arrested.

But of course, the declaration doesn't even say it was shut down. There's the redacted footnote, saying who knows what about the suspension. And the declaration only says this stuff isn't collected in bulk under 21 USC 876, not that it's not being conducted in bulk.

Maybe the government has finally moved its Iran sanction phone dragnet under Treasury sanctions authorities, where it should be?