

DOJ'S NEW "TRANSPARENCY" ON THE DRAGNET: ADMITTING THEIR "PHYSICAL SEARCH" WAS THE "DRAGNET"

DOJ has been boasting to the press for weeks that it will give Jamshid Muhtorov (though they didn't name him) notice that they used NSA spook authorities to catch him in his alleged support for Uzbekistan's Islamic Jihad Union. Now that they have released his name, there are a lot of reasons to be cynical about that: the possibility they'll try to implicate Human Rights Watch, the possibility they'll tie him to Najibullah Zazi (like Muhtorov) living in Aurora, CO, the apparent fact that they have no other evidence against him except intercepts.

But here's what this notice constitutes. Here's the notice they filed in February 2012.

Comes now the United States of America, by John F. Walsh, United States Attorney, and Gregory Holloway, Assistant United States Attorney, both for the District of Colorado and Jason Kellhofer and Erin Creegan, Trial Attorneys United States Department of Justice, National Security Division, Counterterrorism Section, and hereby provides notice to this Court and the defendant, Jamshid Muhtorov that **pursuant to Title 50, United States Code, Sections 1806(c) and 1825(d)**, the government intends to offer into evidence or otherwise use or disclose in any proceedings in the above-captioned matter, **information obtained and derived from electronic surveillance and physical search conducted pursuant to**

the Foreign Intelligence Surveillance Act of 1978, as amended, 50 U.S.C. §§ 1801-1811, 1821-1829.

And here's the notice they filed today, in their big bid for transparency.

Comes now the United States of America, by John Walsh, United States Attorney, and Gregory Holloway, Assistant United States Attorney, both for the District of Colorado and Erin Creegan, Trial Attorney United States Department of Justice, National Security Division, Counterterrorism Section, and hereby provides notice to this Court and the defense, **pursuant to 50 U.S.C. " 1806(c) and 1881e(a)**, that the government intends to offer into evidence or otherwise use or disclose in proceedings in the above-captioned matter **information obtained or derived from acquisition of foreign intelligence information conducted pursuant to the Foreign Intelligence Surveillance Act of 1978, as amended, 50 U.S.C. ' 1881a.** Dated this 25th day of October, 2013.

That is, their idea of "transparency" is to notice 50 USC 1881a, which is Section 702 of FAA (wiretapping based off a foreign target), instead of 50 USC 1825(d) which is physical search. (See here and here for just two of the instances where I note they're calling dragnet searches physical ones.)

That's it. For years, they've been telling defendants they were subjects of a physical search, when in fact they were subjects of a dragnet.

And this is their gleeful new exhibit of transparency.