

Thursday, January 4, 2007

### **Paying taxes to be spied upon.**

Today, it is hard to pick one's nose without it being caught by surveillance, whether one is driving by traffic cameras, buying diapers at the Target store (which has more visible security cameras than I have seen in any other retail establishment), walking on the National Mall, or walking down a so-called high-crime area. The National Security Agency prominently stuck its nose in our business -- with George W. Bush's full blessing -- with its domestic spying on phone calls, as revealed in May 2006 by USA Today, which for a long time I considered to be not much better than a rag. Curiously, when I ribbed an NSA employee and former high school classmate about a dozen years ago about the NSA's activities, with the most earnest and serious look imaginable he maintained that the NSA processed raw data. However, to process the data, the data must first be obtained, and sometimes it is obtained in violation of civil liberties and privacy. The Federal Bureau of Investigation admits that from 1942 to 1967, it conducted Black Bag operations, wherein FBI agents "illegally entered offices of targeted individuals and/or organizations, and photographed information found in their records." To get a flavor of the FBI's widespread surveillance activities, visit the FBI's Freedom of Information Act reading room. (Admittedly, not all the information there is about violations of privacy rights, but it shows how much the FBI has over-monitored people). Among the many documents found there are: - A section on the Doors rock band: "The Doors was a group of musicians that performed with Jim Morrison. Letters were written to Director Hoover and Senator Sam Ervin, Jr. complaining that lyrics to songs performed by this group were filthy, vulgar, and offensive." - Materials concerning the criminal investigation of McDonald's founder Ray Kroc "for contributing an excessive amount of money to the reelection campaign of Richard M. Nixon in 1972. These contributions made by the business were to try and ensure a grant of 'exclusive and monopolistic rights to all food services that will be officially approved by the American Revolutionary Commission for the 1976 bicentennial celebrations.' An investigation of the matter did not have enough proof to prosecute the case." - A section on sex researcher Alfred Kinsey. Here is the American Civil Liberties Union's view of the FBI's surveillance of John Lennon. Government violations of our privacy rights continue. Thank goodness for the American Civil Liberties Union -- to which I have belonged for two decades, and on whose local Washington, DC, board I sat from 1992 to 1995 -- for having none of it. For instance, the ACLU fought a grand jury subpoena (meaning a subpoena approved by a grand jury at a federal prosecutor's request) demanding that the ACLU turn over declassified documents it obtained concerning the "Permissibility of Photographing Enemy Prisoners of War and Detainees." How does this all relate to my criminal defense practice? Hopefully such information will make judges and jurors recognize that police and other government officials are mere humans, many of whom grossly abuse their power and even stand up for those abuses once they are revealed. The world does not function in black and white, and police should never be seen as white knights protecting the Shire. Jon Katz.

Posted by Jon Katz in Constitutional Law at 00:00