

-----Original Message-----

From: David.Kris@timewarner.com <David.Kris@timewarner.com>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Thu Jan 19 23:31:45 2006
Subject: RE: NSA

Not responsive to request



tmp.htm (6 KB)

Courtney

I'm making my way through the whitepaper now, and of course it's very professional and thorough and well written. I kind of doubt it's going to bring me around on the statutory arguments -- which I have always felt had a slightly after-the-fact quality or feeling to them -- but you never know, and in any event I can respect the analysis even if I don't fully agree. And I will remain open on the constitutional arguments, which is what I have always felt this was really about; I just don't feel I have much to say on the constitutional issues without knowing the facts.

But I do have one fairly minor question about this whitepaper that I may as well send you now. I am a little puzzled as to why you guys didn't rely more heavily on footnote 54 on page 100 of the 1978 House Intelligence Committee Report. You have the New York Telephone case cited and you make the pen-trap argument (on page 22), but I would have thought you'd put footnote 54 in neon lights.

Talk to you later.

-- David

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