

James Madison Project v. CIA, Civil Action No. 08-0708 (D.D.C.)(JR)

EXHIBIT “4”

Updating the Record

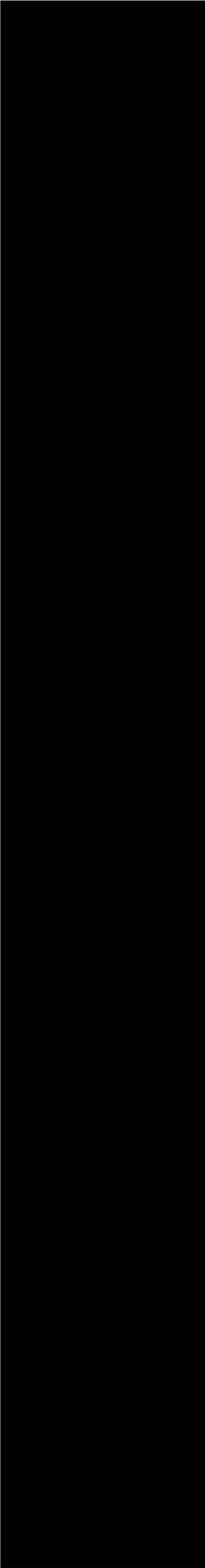
Our friend smitheus on Daily Kos [blogged earlier this week](#) about the changes being voted upon in the Senate to the Foreign Intelligence Surveillance Act, or FISA, the law that is supposed to govern electronic surveillance in national security cases, that was ignored when the NSA began its secret warrantless wiretapping of Americans believed to have ties to al-Qaeda. The blog made the point that relying on four inspectors general to report to Congress in the future on such programs may be futile, since the IGs in question frequently lack the independence or resources necessary to accomplish such a mission.

Although smitheus was generous in his crediting of POGO, and our ongoing project examining the IG law and how it works (or doesn't), he quoted a passage from our [report from February this year](#) that we can now actually update and clarify. We had noted with alarm that CIA Director Michael Hayden had launched a "management review" of CIA Inspector General John Helgerson. We had termed this "perhaps the most astonishing known infringement of an IG's independence," and lamented the unprecedented interference with the IG's mandate. We noted that published reports "have stated that the IG has changed procedures and will install an 'ombudsman' in his office. It appears that this solution has been imposed on the IG against his will, and may have seriously damaged his independence."

Since that was written and published, we've continued talking to people in the IG community and on the Hill, and can now report that not only did IG Helgerson not have any solution imposed upon him against his will, but in fact he turned down at least two recommendations that had been proposed by the management review team.

First, the review team had recommended the creation of a new position that would serve as both quality control officer and ombudsman. Helgerson decided on his own to create two new positions: a quality control officer to look over investigative reports before they reached Helgerson and his top deputies; and an ombudsman to handle complaints about fairness and treatment. But in both cases, Helgerson chose the officers now assigned to those posts, and they report directly to him, not to agency management.

Helgerson has told Hill staff that Hayden had promised him all along that he would only implement the recommendations that Helgerson thought made sense. In fact, POGO has been told, there were two recommendations to which the IG flatly said "no way": 1)



the idea that the Director should play a role in the appointment of staff in the IG's office. Helgerson said it was clear to him that such interference would violate the statute [NOTE: the CIA IG was actually created by a separate law from most IGs, but the CIA statute very closely tracks the IG law]; and 2) the idea that the IG's legal counsel should report to the agency's general counsel. Here again, Helgerson replied that the CIA IG's shop had always had its own counsel who reports directly to the IG.

We're told that Helgerson further informed the Director that pending legislation to change the IG law would have to be reviewed, and if it passes, it may be necessary for Helgerson to recommend that the separate CIA IG statute be similarly amended. Helgerson has been assured by Hill staffers that anything they do will serve only to strengthen, not weaken, the IGs' powers.

We are particularly happy to set this record straight because there are some out there in the anti-IG community who have seized upon the CIA episode to send "attaboys" to Director Hayden. We are glad to say that praise seems to have been misinformed and misdirected.

-- Beverley Lumpkin

July 10, 2008 in [Watching the Watchdogs](#) | [Permalink](#)

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