

The Bothwell Letter

News from the Law Offices of Anthony P. X. Bothwell

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BAR LEADERS DEBATE N.S.A. METADATA PROGRAM

Cindy Cohn, Electronic Frontier Foundation general counsel, told the American Bar Association annual meeting that NSA metadata collection violates civil liberties. But many ABA members applauded when Jill Rhodes, ex-deputy chief of staff, Office of Director of National Intelligence, called Edward Snowden “a thief and a traitor.” Rhodes, No. 2 at the CIA on the wikileaks case, said Snowden’s behavior “causes me to wonder, was he actually acting alone?”

Tony Bothwell offered a hypothetical. He compared NSA metadata to a highway patrol device that records numbers of license plates on passing cars not to be pulled over unless identified as linked to a crime. Both the NSA and highway patrol are subject to Fourth Amendment requirements. (The NSA is required to obtain a warrant before it can access content of Americans’ email or telephone communications.) Bothwell, ex-U.S. Army Intelligence School curriculum coordinator, taught antiterror law at John F. Kennedy School of Law.

After a KQED freelancer’s recording device was turned off, Rhodes said she thinks “the Snowden thing was a diversionary tactic.” Snowden’s leak just before the Obama-Xi summit took the wind out of U.S. complaints about recently discovered extensive Chinese Army hacking of U.S. databases.

Harvey Rishikof, chair of ABA’s national security advisory committee, said Article I empowers Congress to decide “what’s public and what’s private.” He called this constitutional issue “a political question,” *i.e.*, subject to the political branches of government, not the judiciary. (Once Congress has decided certain information is to be secret or published, the courts can enforce the Executive’s duty to carry out the congressional command; *e.g.*, the Espionage Act defines information that must be classified, while the Freedom of Information Act mandates disclosure of certain government records.)

The ABA annual meeting was held Aug. 8-11, 2013 in San Francisco. The next one is set for Aug. 7-12, 2014 in Boston.

BOTHWELL SUES CIA FOR JFK, RFK ASSASSINATION RECORDS

Atty. Tony Bothwell sued CIA Director John Brennan Nov. 22 in U.S. District Court in San Francisco. The suit asks the court to review *in camera* and order public disclosure of certain records on:

Jean Souetre, French OSA assassin, in Dallas on the day President Kennedy was killed.

Johnny Roselli, Jack Ruby associate, murdered shortly before he was to testify about rouge CIA operatives.

David Sanchez Morales, CIA Miami Station chief, allegedly boasted “we” killed JFK and Sen. Robert F. Kennedy.

Enrique Hernandez, reputed CIA trainer, in the Ambassador Hotel ballroom the night RFK was shot.

Thane Eugene Cesar, former hotel security guard, held a gun behind RFK when the senator was fatally shot in the back of the head.

The suit has been assigned to Magistrate Judge Jacqueline Scott Corley. Case management conference is set for Mar. 20, 2014.

Bothwell was an intern in the Senate office of Robert Kennedy.

RETALIATION AND BIAS CASES LITIGATED

Atty. Tony Bothwell helps people of conscience. Thus a safety manager obtained settlement after having been fired for stopping shipment of defective Emergency Core Cooling System controls to Florida and Nebraska nuclear power plants. A systems expert obtained settlement after he was fired for stopping an official report that would have covered up violations of federal plutonium-handling rules at Lawrence Livermore nuclear weapons lab. A Livermore lab SWAT team member won remedies after being fired for complaining about substandard equipment and training. A Pacific Gas & Electric worker – weeks before the fatal San Bruno explosion – warned of safety violations on the company’s gas transmission lines (he was fired, and later obtained settlement). Mexican American legal workers settled a discrimination suit against the Fresno law firm where they worked. Hispanic and Muslim PG&E workers obtained settlements after complaining of discriminatory job assignments. A San Francisco Department of Health doctor won court judgment after he had been fired for protesting a city policy that dispensed psychotropic drugs, without physician supervision, to children.

Currently, Bothwell represents seven past and present employees of three VA medical facilities in Texas and California, charging age and race bias, antisemitism, and retaliation for reporting mismanagement that harmed patients. And a rainbow coalition of doctors and nurses in a federal suit charging that Tripler Army Medical Center in Honolulu violated the Civil Rights Act of 1964 and the International Convention on the Elimination of All Forms of Racial Discrimination. Also, whistleblowers in retaliation cases pending against the State of Hawaii and Joint Base Pearl Harbor-Hickham.

Bothwell won a U.S. Department of Labor Administrative Review Board decision establishing that independent contractors can use under the federal statute that prohibits reprisal against “employees” who disclose nuclear-power safety violations. Bothwell suits for dozens of commercial airline pilots advanced as far as the docket of the U.S. Supreme Court and helped persuade the FAA and Congress to end the age-60 mandatory retirement rule that had been in effect for half a century.