



CONTENTS

ON THE EDITORIAL PAGE

READER RESPONSES

TASTE

BOOKSTORE

CONTENTS

ON THE EDITORIAL PAGE

- Today's Featured Article
- Hot Topic
- Also on WSJ.com
- International Opinion

BEST OF THE WEB TODAY

E-MAIL SUBSCRIPTIONS

- Political Diary
- Free Updates

JOHN FUND ON THE TRAIL

PEGGY NOONAN

OPINION JOURNAL FEDERATION

- Featured Article
- Poll Watch

THE JOURNAL EDITORIAL REPORT

ELECTORAL COLLEGE CALCULATOR

POETRY FOR THE WAR

READER RESPONSES

OUR FAVORITE SITES

ARCHIVES

TASTE

LEISURE & ARTS

FIVE BEST

COLUMNISTS

- Pete du Pont
- Daniel Henninger
- Bret Stephens
- Kim Strassel

RSS FEED

ABOUT US

- Our Philosophy
- Who We Are
- Terms & Conditions
- Privacy Policy
- Contact Us
- How to Subscribe
- How to Advertise
- Op-Ed Guidelines

THE JOURNAL EDITORIAL REPORT

Lack of Intelligence

Congress dawdles on terrorist wiretapping. Plus pro sports scandals.

Monday, August 6, 2007 12:01 a.m. EDT

Paul Gigot: This week on "The Journal Editorial Report," as concerns of a new terror attack in the U.S. grow, our ability to track al Qaeda suspects has become far less effective. How partisan politics has gutted one of our best tools in the war on terror. And summer of shame: Barry Bonds slugs his way to a new homerun record, the FBI investigates point shaving in the NBA, and the Tour de France is roiled by doping charges yet again. Whatever happened to ethics in sports? Our panel weighs in after these headlines.

Gigot: Welcome to "The Journal Editorial Report." I'm Paul Gigot. Amid growing concern that al Qaeda is plotting another attack on U.S. soil, members of Congress debated the future of President Bush's terrorist surveillance program. The centerpiece of the program, the warrantless wiretapping of suspected terrorists, has been gutted in recent months after the president bowed to Democratic demands to require a warrant for the wiretaps of even foreign suspects. Our sources tell us that the program is just one-third as effective as it used to be.

House Intelligence Committee Chairman Silvestre Reyes did not respond to our requests for an interview. But here with us is Michigan Congressman Pete Hoekstra, the ranking Republican on the House Select Committee on Intelligence. He joins me now from Capitol Hill.

Welcome, Congressman.

Hoekstra: Hi, Paul.

Gigot: I think most Americans figure that the U.S. government is doing everything it can to pursue al Qaeda in this war on terror. But in the case of this intelligence program, we really are not. Why not, and what are we missing?

Hoekstra: Well we're missing a significant quantity of information. The answer is--why not?--



August 8, 2007
5:43pm EDT

RESPOND TO THIS ARTICLE

READ RESPONSES

E-MAIL THIS TO A FRIEND

PRINT FRIENDLY FORMAT

ARCHIVE

THE WALL STREET JOURNAL Sponsored By...

Before You Open That Nest Egg...

Order Custom Reprint Solutions
Click Here For Details

DOW JONES

YOUR COMPANY INFORMATION HERE!

VIEWPOINT

The American Spectator

The voice of the true conservative -- Ben Stein, the Washington Prowler and R. Emmett Tyrrell, Jr.

Keep Our Markets Free

Investing commentary from a conservative perspective.

Newt Gingrich - Free

Sign up for free email delivery of Newt's weekly newsletter - Winning the Future

Mutual Fund Lemon List

1,400+ Funds to banish from your portfolio now!

Ann Coulter Weekly Column

Ann's scathing commentary sent straight to your inbox every week Free!

Operation 5 Million Cups Supports the Troops

See how you can help the company delivering coffee to front lines

SuccessFactors

Employee Performance Management solutions for companies of all sizes.

Security Cameras

Search

GO

Wall Street Journal Online Subscribers GO DIRECTLY TO

Select a Page

[WSJ.com Network](#)

[Wall Street Journal](#)

[CareerJournal](#)

[CollegeJournal](#)

[RealEstateJournal](#)

[StartupJournal](#)

[WSJbooks](#)

[CareerJournalAsia](#)

[CareerJournalEurope](#)

[MarketWatch](#)



-is that the Democrats have imposed on our National Security Agency--our national security intelligence community--outlandish requirements as to what they need to do to be able to try to get information from terrorists or even countries like North Korea, Syria and Iran.

Very simply, it says if you want to tap a phone line of a suspected al Qaeda terrorist who might be in Pakistan calling into Iraq, and, you know, you think that the best place to perhaps intercept that phone call might be somewhere near a U.S. facility or U.S. geographically, you need to go to a U.S. court and you need to establish probable cause. You need to get a warrant to be able to listen to terrorist XYZ in Pakistan. It's absolutely outrageous.

Gigot: Congressman, I've always understood foreign-to-foreign contacts--that is, a terrorist in Pakistan calling another one in Pakistan--did not require a warrant by a U.S. court. Why now we would require that warrant?

Hoekstra: The reason we require that, or that some people believe we now require that warrant and that's what they want to put into the law even more clearly, is the way that we collect information. Technology has changed dramatically from when the FISA law went into effect in 1978. The law never kept pace with technology. Right now you try to steal light off of different cables rather than trying to grab stuff out of the air. So that change in technology has required that for the kind of information that's most important to us, real-time collection of information, now requires a warrant.

Gigot: So just so our viewers understand, because of modern technology and fiber optics, packet switching, some of these foreign-to-foreign communications actually go through United States telephone switches. And that's why people say this is now, even these foreign-to-foreign contacts are so-called domestic intercepts. Is that how you understand how technology works?

Hoekstra: That's a pretty good explanation of how technology works today in 2007. Exactly.

Gigot: OK, so President Bush in 2001, after 9/11, authorized this program. It worked for a while until it was exposed--without encumbrance until it was exposed in late 2005. And this January, he put--the president made the decision to put this program under the jurisdiction of the FISA court, requiring these warrants. And that's why we've had this reduction--is one of the reasons we've had the reduction in the effectiveness of the program. Was that presidential decision in retrospect a mistake?

Hoekstra: I think as you take a look at what's happening right now and what the directory of national intelligence says is that we're missing significant gaps. We've got significant gaps. Yeah, I think it was a bad decision. But you also have to go back to 2001, Paul. The president didn't authorize this program. He maybe put his name on the piece of paper--

Gigot: He approved it.

Hoekstra: He approved it, but he did it in consultation with the leadership of the Republicans and Democrats in the House and the Senate, and at that point this time, they all said this is exactly what we need to do and we don't think we should go to Congress to get the legislative changes, because if we go to Congress to update the law, then our enemies will know what we are trying to do. And the most important thing here is that we keep this program secret so we don't tip off al Qaeda what our capabilities are. Of course, that was all blown when the New York Times blew, you know, exposed the program.

Gigot: All right, I understand there's another issue here of telephone company liability. That is, for a while the telephone companies cooperated with the National Security Administration in helping with these wiretaps. But after the program was exposed, some of them said, *Wait, for legal liability we're going to reduce our cooperation or perhaps not cooperate at all.* Is this liability protection something the administration wants, and are Democrats resisting?

Hoekstra: Absolutely. It's something that our communications companies need. These are companies who were doing the patriotic thing. They were helping the U.S. government, the

[Security Cameras](#)

[Car Donation](#)

[Hotels France](#)

[Home Security](#)

Protect your home and your privacy, with the company that lets you be in control.

[Wall Street Careers](#)

[\\$100k+ job search](#)

Advertisement

American people, get the information that we believe we needed to keep us safe. They voluntarily participated, and now that the program is exposed, they've been open to all kinds of lawsuits. You know, Congress is not stepping in to protect them.

They now need to go back and take a look at protecting the equities of their shareholders, their customers and their employees. And it's kind of like they're reconsidering their decision to help the federal government, to help our intelligence community voluntarily, because we're not willing to provide them with the protection that they need from these frivolous lawsuits that are out there. So yeah, they have to--they have to do what's in the best interest of their companies.

Gigot: All right. You've--you're a Republican. What's your advice to President Bush to get this off the dime and get this done?

Hoekstra: I think the president's going to do it, and hopefully he'll be successful. He's going to need to demand that Congress stay in session, not go home for its August recess, until he and the intelligence community are given the tools that are necessary to keep our troops in Iraq and Americans at home safe.

Gigot: All right, Congressman Peter Hoekstra. Thanks very much for being here.

Hoekstra: Hey, great. Thank you.

Gigot: Much more on the future of the terrorist surveillance program when we come back. Also ahead, doping, gambling, dog fighting--news from the sports world just keeps getting worse, leaving some fans wondering what role, if any, ethics still play. I'll ask our panel when "The Journal Editorial Report" continues.

Gigot: We're back with more on the future of the terrorist surveillance program. Joining the panel this week, Wall Street Journal columnist and editorial page deputy editor Dan Henninger, editorial features editor Rob Pollock and in Washington, columnist Kim Strassel.

Kim, you've been covering this story. If as, you heard Congressman Hoekstra, the damage to U.S. intelligence is as severe as he says--and I think he's right about that; that's what our sources tell us--why isn't the president shouting this fact from the rooftops to get this fixed?

Strassel: It's a huge question. He talked about it in his radio address last weekend. But that isn't very high-profile. And he should be doing what Congressman Hoekstra said, which is he should be telling Congress they shouldn't be allowed to leave until they fix it and really setting up a confrontation. Because it's a huge deal. I think one reason they haven't is the administration is worried about being accused of playing politics with an intelligence tool, except for that they're not the ones that started this.

Gigot: But is it also maybe the White House's worry that since the president made this decision in January, to put this program underneath--under the FISA court jurisdiction, and the damage has been done as a result of that, that he's partly responsible for this problem, Rob.

Pollock: Well look, if he wants to be gutsy about it, he doesn't have to tell Congress "You can't leave until this is fixed." He can say, "I made the decision to put the program under the FISA law. I am now making the decision to take it back out from under the FISA law, and I'm going to reassert the authority that all presidents before me have asserted to listen to our enemies during wartime without a warrant."

Gigot: But that will take care of the problem that the courts have imposed on this by demanding warrants in advance. That doesn't take care of the issue of phone company liability, however. As I understand it, that's also a very big problem. Because, Kim, I gather without the cooperation of these telephone companies, the program just isn't going to be as effective.

Strassel: No, that one-third number that we talked about in the opening of the show--it's only one-third as effective--that is this large part, or significant part, because phone companies are struggling with the decision to help with this. And one of the things that the administration requested this week--they said, *Please, give us foreign-to-foreign ability and also let us have liability protection for companies going forward. Just forget about what's happened in the past; just let us do it going forward, so we can make sure we have their cooperation.* Democrats are balking at even doing that.

Gigot: They're not giving protection at all to--retroactive liability protection which means that

they could be on the hook for billions of dollars of liability for, in good patriotic faith, cooperating with this after 9/11.

Strassel: This is remarkable too. You have to think about this. This is Democrats kowtowing to a special interest group, their trial lawyer community, and putting national-security interests after that. That should be very concerning.

Henninger: Well, look, Paul, we've put a lot of detail about what's going on here on the table. I agree with Rob that the president should force the issue so he has the opportunity to explain to the American people what's going on. They're in the dark. They're sitting there thinking, *Oh, this is about wiretapping ordinary Americans*. There is much more going on here than simply that issue. For instance, the Democrats have said, in their proposal, that we could only wiretap they call as "known foreign terrorists" versus "foreign targets," which is what the administration--that's a crucial distinction.

Gigot: Explain that distinction.

Henninger: The Democrats are saying "known foreign terrorists"--in other words, terrorists we have already identified, as opposed to people we suspect could be engaged in terror, including state actors in places like Syria and South Korea. The president needs to explain this to the American people.

Gigot: Terrorists aren't the only enemy of the United States. You have state actors. You have people in North Korea, for example, North Korean spies we might want to listen to. And that's why the NSA, the National Security Administration, and the director of national intelligence wants to be able to wiretap these people who are so-called foreign targets. But that turns out to be a big dispute in these negotiations.

Kim, the administration earlier put on--they wanted to make a permanent fix. Put this into law, make it permanent, so that the next president of the United States wouldn't have to deal with this controversy. Now they've reduced that request to only a six-month temporary fix, as I understand it. Is that right?

Strassel: Yes. And what is remarkable is that Democrats aren't agreeing to do this. You know, one of the things that's disturbing here is they are so focused on the moment at embarrassing the president over this wiretapping program. And Dan talked about the important thing here, which is, they've been out there for the last year saying--two years, saying, *This is about wiretapping ordinary Americans*. Well, it's not. This particular fix and these things that we're trying to deal with at the moment are not about that. I happen to think that that also has been overblown anyway. But this is not what people are talking about. And they are not being honest with everyone about what this current fix is and they don't know quite how to walk back from this political situation they're in now.

Gigot: Well, you're a good libertarian, Rob, typically. If there was a known call from Pakistan to, say, Detroit by--a terrorist call, a known terrorist, Zawahiri, say, from Pakistan to Detroit, do you think that should be--require a court wiretap?

Pollock: Absolutely not. The critical distinction here is not where the call originates and where it ends. The critical distinction is what is the purpose of the wiretap. Is it a wiretap for criminal purposes in the United States, or is it a wiretap for intelligence purposes as part of the war on terror? Every administration, Democratic and Republican, has always held to the position that the president has the inherent authority to conduct warrantless taps for intelligence purposes pretty much wherever.

Gigot: Do you trust Dick Cheney with that kind of power, Rob?

Pollock: I do, because the powerful disincentive--

Gigot: Let me put it other words: Do you trust President Hillary Rodham Clinton with that kind of power?

Pollock: I do. I think the most powerful disincentive to abuse is not some kind of court issuing a warrant or not issuing a warrant. It's the fear of exposure later on. No president wants to be remembered as--

Gigot: J. Edgar Hoover.

Pollock: J. Edgar Hoover. Right.

Gigot: Or Richard Nixon.

Pollock: Yeah. That is the disincentive. No one wants to go down as someone who spied on their domestic political enemies. It's not going to happen.

Gigot: All right. Still to come, from doping to dog fighting, Barry Bonds to Michael Vick, our panel looks at the breakdown of ethics in sports.

Gigot: It's been a rough summer for sports fans. Barry Bonds's assault on the homerun record continues--controversial assault--as the Tour de France is roiled once again by doping allegations. The NBA is facing a point-shaving scandal, and NFL star Michael Vick has been indicted on federal charges in a bizarre dog-fighting ring.

We're back with Dan Henninger, Rob Pollock and Kim Strassel, and also joining us from Washington is Wall Street Journal editorial board member Steve Moore.

Steve, I know you and your sons are big sports fans. What does it tell us about society when sports are dirtier than politics?

Moore: Well, you know, we have seen all these scandals lately, Paul, but there's good news. There are some true heroes in sports. This past weekend, we saw Tony Gwynn and Cal Ripken being inducted in the baseball Hall of Fame--two of the real great icons of the game.

I am going to do something, though. I am going to defend Barry Bonds. Look, Barry Bonds probably has been using steroids. But let's face it, Major League Baseball never made it illegal. Other Major League hitters, like Sammy Sosa and Mark McGwire in that era, were using steroids too. The point is that Barry Bonds has been a real joy to watch over the last 10 years. You throw the guy a strike, he hits it out of the park: That's what fans want to see.

Gigot: All right, Dan, Steve laid down a marker: Steroids in baseball, great.

Henninger: Yeah, well, it sounds as though we're getting pretty close to turning sports into a videogame. I mean, let's just pump all these guys full of steroids and turn them into robots. No, I think there is a problem here, including the other things you describe, like the Tour de France. I believe that professional sports has gotten so big that a lot of these athletes begin to believe that the sort of marketing campaigns and the fame the media attaches to them, and they just become larger than life, and they forget simple things like right and wrong, and they get obsessed with winning because of the prizes that sports puts in front of them. They just become completely confused about what's the right thing to do and what's the wrong thing to do.

Moore: Hey Dan, don't you think, though, it's a bit hypocritical for Major League Baseball to say, *Oh, we are not really that excited; Bud Selig might go to the game?* But they turned a blind eye to this. So you got to blame some of the pro sports franchises as well.

Henninger: And you know why they turned a blind eye to it, Steve, it's because the Tour de France put in a strong dope-testing program, and when they did, all their problems came to the surface. And now they've been described as a sport with a big problem. That's why baseball and basketball won't do it, because they don't want to be perceived as a sport that's just riven with this kind of problem.

Gigot: Well, it's true. I didn't pay any attention to the Tour de France this year. I mean, it was like you didn't know whether you were watching actual athletes or "I, Robot."

Henninger: Yeah, you try to do the right thing and you get punished.

Strassel: Hey, but look, the other problem is because of--I'll lay it out: people like Steve, who basically say, *I'm willing to go see this stuff. I love Barry Bonds no matter whether he used steroids or not.* And so what incentive is there for all of these guys to crack down?

Gigot: One reason we admire athletes is because of their discipline and their ability to push limits and do things that normal human beings can't. At least that's one of the reasons I admire athletes, because I can't do those things. So if suddenly it's all better living through chemistry, why should we watch athletes? Why should we admire them the way we do, Rob?

Pollock: Well, I don't know. Maybe you can make a distinction between sort of your brute force sports, like football, to a certain degree baseball when it comes to hitting, and sports that

require more skill, like soccer and perhaps even ice hockey that sort of normal people play that there would be no reason to get 'roided up to do, and maybe the fans, if they decide they don't like drugs in sports, will move over to the other venues.

Moore: Let's not forget, Paul, that some of the sports figures we've idolized in the past--I mean, I wonder what Dan would say to this. Babe Ruth, the greatest athlete maybe in America in the last 100 years, this guy was a boozier and a womanizer. What about him?

Henninger: Yeah but we used to have like one problem a year. Now we've got five problems a week.

Strassel: Look, another aspect to this, though, is it's not just the reputation and what this does to sports, but it's also the message that these guys send to young kids, and there's a health aspect to this too. You're looking at a high school kid who thinks, *Well, can I get a college scholarship?* and maybe he'll decide to use steroids. What's that going to do to him down the road in terms of a health problem? There are bigger societal issues with steroid use.

Gigot: Let's change the--

Moore: Kim, you know--

Gigot: Go ahead, Steve.

Moore: I was just going to say one quick thing. Kim makes a good point, and one of the things I really liked about Cal Ripken's speech last week at the Hall of Fame is he said, *We are role models for kids whether we like it or not.* And that's all the more reason that these athletes really should clean up their act.

Gigot: All right, Steve. The NFL commissioner has said that Michael Vick should not attend training camp. Do you think he ought to be suspended for the season or until this case is settled in court?

Moore: What about the principle of innocent until proven guilty?

Gigot: So you say no, he ought to be able to play and no problem at all. Is that what you're saying?

Moore: Well I'm just of a mixed mind because the guy has not been convicted of anything, and he's still--

Pollock: I'm sorry, but I don't think it is incumbent upon a professional sports league to wait for the verdict of a court. You know, we're not putting a guy in prison here.

Gigot: So they can discipline their sport whenever they want?

Pollock: Absolutely.

Gigot: Some of the description in the indictment--I grant you, Steve, innocence until proven guilty is important--but a couple of the people who are also indicted have already copped a plea, and the description of details in the indictment are pretty horrific.

Moore: No, I agree with that, and when you look at what's at stake for the sport, I think Dan's point is exactly right, that there's been a real stain on these professional sports and the danger is that although it's been putting people in the seats when you have people hitting homeruns, that if people get so disgusted with it, you know what, they're going to turn away from pro sports.

Gigot: Steve, what would it take for you to get disgusted by basketball?

Strassel: That's what I want to know.

Gigot: All right, thanks, Steve.

We have to take one more break. When we come back, our "Hits and Misses" of the week.



Gigot: Winners and losers, picks and pans, "Hits and Misses." It's our way of calling attention to the best and the worst of the week.

Item one, a big miss for Congress as it heads into its August recess--Dan?

Henninger: A mammoth miss to Congress. You know, the Wall Street Journal just produced a poll in which it said that something like two-thirds of the American people think the American economy is in a recession. That's a fairly mysterious figure since there's growth in the American economy. But perhaps they've been looking at the 20% approval of Congress and the economic policies they've been producing.

Let go through the list: There are more tax-increase proposals on the table than one can count; there must be five or six. Both the House and Senate committees have proposed antitrade policies against China, with the Senate opening the door to antidumping policies against China. Third, the trade agreements with South Korea, Colombia and Peru have all been put on hold. Now if this economy suddenly stalls, I think the reason is that Reid and Pelosi have flooded the tank.

Gigot: All right, Dan, thanks.

Next, a hit for Barack Obama. Kim?

Strassel: Poor Barack Obama. He has just been shelled right, left and center this week for his comments that as president, he would put U.S. troops in Pakistan to take on al Qaeda. I can make the argument this is one of the few times talking about foreign policy that Mr. Obama deserves some applause.

Look, if you're looking at the Democratic debate so far, it's been kind of dispiriting. Most of the contenders have been in a race to see who can be most pacifist and do the least amount to fight the terror threat. And Barack Obama has been in there as well, unfortunately. He still doesn't understand Iraq is the central battlefield in the war on terror. But should at least get credit for being one of the only ones who comes out and says he would be willing to use force somewhere. And in addition to that, I think it's good news that he is telling those Democratic primary voters that the next president, no matter whether it's President Bush or a Republican or a Democrat, is probably going to have to use troops somewhere, and at least he's telling us where he would.

Gigot: All right, Kim, thanks.

Finally something Steve Moore and Eliot Spitzer can agree on. Steve?

Moore: Kudos to Eliot Spitzer for legalizing ticket scalping. This means now when you buy a ticket or you want to resell a ticket for a sporting event or a concert, you can do it legally. Forty states are looking at doing this. It means there are no longer going to be long lines to go to sporting events. And the most interesting thing about that is that Eliot Spitzer said, when asked why he's doing this, he said, *I want to give the free market a try*. Paul, wouldn't it be wonderful if he did that in other areas of the economy as well?

Gigot: All right, Steve. What's the most you've ever paid for a ticket for a sporting event?

Moore: I paid \$50 last week to go to the bleachers for a Cubs game. It used to cost me a buck to sit in the bleachers.

Gigot: You paid too much, Steve. I'm a Brewers fan.

All right, that's it for this week's edition of "The Journal Editorial Report." Thanks to Dan Henninger, Rob Pollock, Kim Strassel and Steve Moore. I'm Paul Gigot. Thanks to you for watching. I hope to see you right here next week.

[RESPOND TO THIS ARTICLE](#)

[READ RESPONSES](#)

[E-MAIL THIS TO A FRIEND](#)

[PRINT FRIENDLY FORMAT](#)

[HOME](#)

[TOP OF PAGE](#)

[ARCHIVE](#)

[SUBSCRIBE TO THE WALL STREET JOURNAL ONLINE](#) OR [TAKE A TOUR](#)

[SIGN UP TODAY FOR FREE MARKETWATCH MEMBERSHIP](#)

[ADVERTISERS LINKS](#) | [WHAT'S THIS?](#)

[Contact us if you have mesothelioma.](#)

We can help you and your family.

www.asbestos-now.com

Online Stock Trading

Trade free for 45 days and get \$100. No maintenance fees. Sign up now.

www.TDAMERITRADE.com

Free Commodities Website

Register for free quotes, charts, news and trade recommendations.

TheCommodityChannel.com