



Interview with Mark Riebling

The Big Story with John Gibson: June 4, 2002

GIBSON: Ghosts from the past are haunting the FBI. Back in the '70s, Congress put limits on the FBI's ability to spy on foreign terror groups. In light of recent events, some people say it's time to change. The critics worry that civil liberties will be harmed in the process.

Mark Riebling, editorial director for the Manhattan Institute for Policy Research and author of "Wedge -- The Secret War Between the FBI and the CIA," says it is time to uncuff the FBI.

Turn them loose? Let them do what they need know how to do? What?

MARK RIEBLING, MANHATTAN INSTITUTE: I say we go back to what we did under Franklin Roosevelt, which was engage in warrantless surveillance against clear, foreign-directed, national-security threats. In fact, the Supreme Court has always ruled that this is what we should do, up until 1978 when Congress changed it.

GIBSON: Well, I think the argument would come at what is a clear foreign intelligence threat or foreign terror threat? You would trust the FBI to make that distinction, what is clear and what is murky?

RIEBLING; I think that in the emergency situations like we have with potentially weapons of mass destruction, the agent in the field needs as much flexibility as he can and the decision of probable cause as to what's going to occur needs to be made not in headquarters and not by the attorney general and not by a special court in Washington, but by the agent in the field who needs to respond immediately.

GIBSON: We've all watched the movies, and we're left with the impression that FBI agents have wide powers and wide latitude, and they are the vaunted feds who can do almost anything, certainly do more than local cops. That's not true?

RIEBLING: Actually, that's not true at all, and, in fact, the patrolman who pulls you over for weaving and smells bourbon on your breath has a lot more authority to request a breath test than if an FBI agent thinks you're a terrorist -- a member of terrorist group. He can't search your laptop computer if he thinks you might do something. He has to go through all these bureaucratic hoops fire.

Now I think, given the threat, this is terrible. We have to do the constitutionally-permitted maximum to protect ourselves.

GIBSON: What is it that an FBI has to do that limits him so much? Him or her.

RIEBLING: Right now, he has to get a warrant, OK? And the Supreme Court has ruled that you don't need a warrant in national security cases like you do in domestic criminal investigations.

Unfortunately, Congress imposed a warrant requirement in 1978 which JFK didn't use when he went after the Klan. He put the Klan out of business, but he didn't do it with -- by going through the courts. He did it by burglarizing Klan offices.

I think we need to use hardcore tactics against a hardcore threat.

GIBSON: What would you have -- if you could issue the instructions -- Robert Mueller's invited you in and said tell him what to do, what would you tell him to do?

RIEBLING: I would tell field agents to use all their discretion, and, if I were Mueller, I would go to Congress and I would beg and plead to get the Foreign Intelligence Surveillance Act of 1978 repealed immediately, tomorrow, so that our agent cans do their jobs.

If you go out and talk to FBI agents and you ask them what they need, they need full discretionary authority, just like a patrolman on the beat has.

GIBSON: Well, why wouldn't we worry that an FBI agent is going to start kicking in your door or my door when we want him after Mohammed Atta's door?

RIEBLING: He might. We have to take that chance, OK, and if he abuses his power, we should punish him, and there are laws on the books for that. But just because a power can be abused doesn't mean you take away the power.

Congress can declare war unjustly. What do we do if they do so? Do we take away their power to declare war? No. We somehow reprimand Congress. We vote them out of office.

If a senior official or a field agent leaks some personal information on someone, they should go to jail, and they will.

GIBSON: Why -- are you suggesting that FBI field agents essentially have no supervision?

RIEBLING: No, they're -- there is a clear chain of command from headquarters all the way down. There's too much supervision as it is.

GIBSON: You're saying that they should be cut loose with virtually none?

RIEBLING: Everyone knows what it's like to be in an office where you have to go through all -- fill out all these forms just to get new pens and pencils. That's what it's like for the FBI, unfortunately, and I think it should be less like that.

GIBSON: Mark Riebling writing today in "The Wall Street Journal" on this very subject.

RIEBLING: That's right.

GIBSON: OK, Mark. Thanks very much.

Still to come on THE BIG STORY, preventing future terror attacks by any means necessary? Should, for instance, racial profiling be used as an investigative tool in this war on terror? We will have more on that.

And could Canada's open-door immigration policy leave us open to further terror attacks? An in-depth look at how easy it is for you, me, or terrorists to sneak across the Canadian border. That is straight ahead on THE BIG

STORY.