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Resisting the surveillance state

In the House, a fight to uphold privacy

By: Steve Chapman – July 29, 2013

George W. Bush and Dick Cheney spent eight years choking personal privacy to within an inch of its life. After they were done, Barack Obama showed up, expressed heartfelt sympathy and stood on its throat. But despite their efforts, it isn't quite dead. Last week, it showed definite signs of life.

That happened thanks to the combined efforts of people in Congress on the right and the left who assembled under a figurative banner reading, "They're liars and we don't trust them." Appalled by the mass collection of phone records by the National Security Agency, they proposed that such surveillance be limited to individuals who are actually being investigated.

It's not a radical idea. In fact, the Fourth Amendment to the Constitution — no "unreasonable searches and seizures" — has always meant the authorities couldn't ransack your home or your papers without a reason to think you've done something wrong. The administration takes the opposite approach. It insists it has to monitor millions of people continuously to find the few who are actually dangerous.

As the House considered the matter, President Obama and his subordinates tried to sow panic. His former national security adviser, James Jones, wrote a letter to insist, "Denying the NSA such access to data will leave the nation at risk."

The House Republican and Democratic leaders finally embraced that bipartisanship some people are always urging. Joining the chorus was Rep. Michele Bachmann, R-Minn., who said the limitation would serve "those who are seeking to achieve the goals of Islamic jihad."

The proponents say all this data has to be assembled not so the government can learn who you're calling but so it can find telltale patterns betraying terrorist activity. But it's not apparent that the dragnet has done any good at all in combating our enemies.

Julian Sanchez, an analyst at the libertarian Cato Institute in Washington, points out that when NSA Director Keith Alexander was grilled at a June House hearing about whether the program had stopped any plot, he "would not identify even a single case in which the bulk phone records collection had been 'essential,' or even claim that there *wassuch* a case that he couldn't discuss specifically."

Not that he or his boss ever planned on having to discuss the effort. For years they kept it secret from the American people, among others, and they would have gone on operating in that fashion. Obama said the other day he "welcomes a debate" on the program — though that debate came about only because of a whistleblower whom the administration wants to send to prison.

The scope of the surveillance came as a surprise even to the architect of the Patriot Act, Rep. James Sensenbrenner, R-Wis. The section the administration used to authorize the program, said Sensenbrenner, "was originally drafted to prevent data mining" of this sort.

Obama's interpretation is like reading the Ten Commandments to endorse murder and adultery — not plausible, and not at all what the author meant. The House measure aimed to restore something resembling what Congress had in mind.

There is no reason to believe that when it comes to seizing records, more is better. Police will have better luck nabbing criminals if they focus on people who have done something suspicious than if they stop and frisk everyone.

If you don't know how to locate fish, moving from a small lake to the Atlantic Ocean is not going to boost your catch. Nor are giant drift nets that scoop up every creature in the sea going to help you find a small and rare one.

This is not idle theorizing. William Binney, who once ran the NSA's global digital data gathering program, told *The Daily Caller*, "They're making themselves dysfunctional by collecting all of this data."

They are also compromising the privacy of millions of innocent Americans. Many people think they have no cause for worry because they have nothing to hide. If you're one of those, please send me your email address and password.

Fortunately, 205 House members saw through the fear-mongering to demand that our lives be free of relentless inspection by our overseers. In narrowly losing, a majority of Democrats and a large share of Republicans acted as though it's not too late to rescue our privacy from the maw of the surveillance state.

No thanks to Obama, John Boehner or Nancy Pelosi, but maybe it's not.

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