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## Republicans and Democrats are both wrong about leaks from intelligence agencies

Julian Sanchez

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It's a Washington tradition as hoary as the White House Easter Egg Roll: Power changes hands, and partisans suddenly swap positions on an array of issues. Erstwhile champions of a strong executive begin worrying about tyrannical overreach (and vice versa). Laments about obstructionism and gridlock fade into paeans to our ingenious system of checks and balances. And, perhaps most remarkably in the Trump era, the right discovers the deep perfidy of the "deep state" while progressives pin their hopes on the American intelligence community.

Yes, this is a bit of a caricature. Establishment Washington's coziness with the spookshow has long been a bipartisan affair (see: Feinstein, Dianne). So has civil libertarian opposition; the hippies at the American Civil Liberties Union were singing "Kumbaya" with the bow-tie brigade at the American Conservative Union to oppose the Patriot Act way back in aught-one. All the same, it's a weird state of affairs.

Among the myriad sideshow oddities of the Trump era: Republicans in Congress, as if suddenly awakening to the massive surveillance apparatus they spent the past 15 years constructing, belatedly echo civil liberties concerns they once reflexively ridiculed; they even threaten to curtail some Bush-era surveillance authorities. Meanwhile, many on the left grow positively giddy over leaked transcripts of Americans' National Security Agency-intercepted conversations, provided said Americans work for the Republican White House.

The facile, cynical read on this would be that the only bedrock principle in politics is tribal advantage — which is probably half the story. But seen through a more charitable lens, this recent inversion both obeys a shared underlying logic and reflects a common underlying confusion.

The underlying logic is this: Excessive autonomy from, and excessive domination by, the political branches of government have long been recognized by intelligence scholars as the twin perils of spycraft. Excessive autonomy gives rise to what we could dub the J. Edgar Hoover problem, after the legendary and infamous FBI director whose umbral half-century tenure saw the bureau run as a personal fiefdom, largely insulated from political accountability. The trove of embarrassing secrets — personal and political — about prominent Americans stored in Hoover's files gave his nominal overseers in Congress and the White House good reason to fear crossing him.

Concerns of this sort have traditionally been more prominent on the left, in no small part because of the long and ignominious history of intelligence abuses directed at that end of the political spectrum. More recently, the intelligence bureaucracy that conservative demonology now dubs the “deep state” was the subject of Tufts international relations scholar Michael Glennon’s essay “National Security and Double Government” (later expanded into a book of the same name). Contemporary invocations of the concept routinely veer into the realm of conspiracy theory, but the core idea — that there is an entrenched national security establishment with significant power to advance its own aims, even in the face of opposition from the political branches — is neither novel nor fantastical.

Excessive subordination to the political branches, however, is no less dangerous. Call that the Richard Nixon problem, recalling how a Senate investigation concluded that the president had “authorized a program of wiretaps which produced for the White House purely political or personal information unrelated to national security.” It is entirely too easy to imagine a political loyalist at the head of the FBI, directing the bureau to selectively investigate Fox News’s villain of the day while turning a blind eye to potential misconduct by those close to the White House. This seems to be exactly what former director James Comey feared.

Because both poles represent genuine dangers, determining which is the more urgent risk ultimately comes down to a judgment call about which looms closer under present circumstances. So it’s probably inevitable that your level of alarm depends on your assessment of the current president and his propensity to abuse power. The error partisans tend to make is to pretend that only the threat about which they’re currently most concerned is real.

That’s linked to another fundamental mistake by both sides: the tendency to use current partisan attitudes as the lens through which law-enforcement phenomena can be understood. When Comey recommended that no charges be filed against Hillary Clinton for mishandling classified information, Republicans blasted him for carrying water for Democrats. When Comey later informed members of Congress that the FBI was (briefly and without consequence, as it transpired) resurrecting the Clinton investigation, liberals accused him of deliberately seeking to throw the election to Donald Trump. Both accounts are mistaken. Whatever you think of Comey’s judgment, the intelligence community and the people who staff it follow the institutional logic and interests of their agencies. That may mean that their actions overlap with the agenda of either party at any given time, but that agenda is rarely the driving force.

The failure or refusal to understand this prevents partisans from comprehending what’s going on when intelligence and politics parlously intersect. It also leads them to cheer or damn developments more wisely regarded with cautious ambivalence.

Consider a story broken by Reuters recently. Contrary to White House denials, it said, Trump campaign officials had numerous undisclosed contacts with the Russian government, both before and after the November election. Michael Flynn, the former national security adviser, and Russian Ambassador Sergey Kislyak “discussed establishing a back channel for communication between Trump and Russian President Vladimir Putin that could bypass the U.S. national security bureaucracy, which both sides considered hostile to improved relations.”

That account is ascribed to “four current U.S. officials,” so it seems reasonable to infer that it was derived from intelligence intercepts of Kislyak and Flynn’s conversations. It’s not hard to imagine why intelligence officials might view the disclosure of such information as both legitimately in the public interest and, in the wake of Comey’s dismissal, even necessary. One need not speculate about “Obama holdovers” (a phrase often deployed by conspiratorially minded commentators on the right as a synonym for “career intelligence professionals”) dedicated to undermining the administration to explain such a leak. We had, after all, an incoming national security adviser — later revealed to have been acting as an unregistered paid agent of Turkey, as well as to have accepted undisclosed payments from Russian state media — collaborating with the ambassador of a country that had just meddled in a presidential election to avoid scrutiny by American intelligence agencies. With the administration taking drastic steps that appeared calculated to tamp down an investigation into the “made-up” question of collusion between the Trump campaign and Russia, intelligence officials with no particular partisan ax to grind might view going to the press (a felony, incidentally) as the only way to prevent facts with significant national security implications from vanishing down the memory hole.

Yet in addition to Nixon’s “purely political” wiretaps, history provides numerous examples of intelligence abuses with origins in some inquiry with a plausibly legitimate national security purpose. (The FBI’s notorious COINTELPRO operation, for instance, initially targeted radical groups advocating armed violence before metamorphosing into a campaign of harassment against peaceful left-leaning activists.) And it’s probably impossible to know how any public-spirited motives for the latest Flynn disclosure might be colored by widely reported resentment within the FBI toward the dismissal of a well-loved director, in a peremptory manner that many viewed as an insult. This leak ought, then, to give even the administration’s fiercest critics pause.

If we take it at face value (leaving aside whether that’s proper), the Flynn intercept reveals a president-elect apparently worried that his foreign policy would be undermined by his own government’s intelligence agencies. It would be easier to dismiss that fear as yet another fit of Trumpian paranoia if it didn’t seem like we were learning about that conversation from wiretaps.

Progressives who’ve recently learned to stop worrying and love the surveillance state should think hard about the precedent such leaks set — and the implicit message they send to political actors — even if any particular instance can be justified as serving the public interest. The leaks may not be, as conservative media would have it, the only real scandal, but nobody should be too enthusiastic about the prospect of living in a country where officials who antagonize spy agencies find their telephone conversations quoted in news headlines.

Trump fans, meanwhile, should not make the mistake of thinking that the only reason to worry about the deep state is that it remains Barack Obama’s deep state. The most effective bulwark against abuse of the intelligence community’s power is not the bodies charged with overseeing the spy agencies — all ultimately depend on candor and disclosure from the agencies themselves — but the fragile culture of restraint that fitfully emerged in the aftermath of the scandals of the 1960s and ’70s. Whatever remains of that culture 16 years into the war on terrorism, hollowing out the intelligence bureaucracy to make room for appointees selected for their personal loyalty to Trump would probably finish it off.

*Julian Sanchez is a senior fellow at the Cato Institute and studies issues at the busy intersection of technology, privacy, and civil liberties, with a particular focus on national security and intelligence surveillance.*