

A Critique of the Surveillance Flap

Written by Rhodri Jeffreys-Jones

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RHODRI JEFFREYS-JONES, JUN 30 2013

It's a flap, no other word for it. Like toothache, it will go. You find out your daughter's been up to something you didn't know about, all of a sudden your toothache disappears. The same with scandals involving the intelligence services. It happened in the "Year of Intelligence". In 1975 the FBI and CIA were the main targets for congress and media attention. Phillip Agee, the Edward Snowden of his day, revealed the identities of hundreds of CIA agents. Then it was suddenly all over. It was hello oil crisis, goodbye intelligence reform.

The past can help us keep things in perspective. At the same time, it provides a warning. Intelligence problems are cumulative, and need to be addressed. The Irishman John Philpot Curran remarked in 1790 "The condition upon which God hath given liberty to man is eternal vigilance, which condition if he break, servitude is at once the consequence of his crime, and the punishment of his guilt." That's not to say, of course, that freedom can wait for an eternity. Reformers and the media need to strike while the iron's hot.

In spite of the immediacy of some of the reporting, the program of mass surveillance by the NSA and its affiliates is new only in its scale and technical characteristics, not in its intent. The UC, Davis historian Katie Olmsted is surely right (*Real Enemies*, 2009) in saying that conspiracy fears are now directed at the federal government, not at minorities like Catholics or Jews, and right also in saying that the federal government with its secrecy and intrusiveness has brought the suspicion on itself.

Examples spring readily to mind. When President Theodore Roosevelt established the Bureau of Investigation (precursor of the FBI) in 1908 it was ostensibly for the best of motives, the prevention of land fraud and suppression of slavery's stepchild, peonage. But Senator James A Tawney (R-OR) wanted to know why the number of federal agents had more than tripled to 3,113, his colleagues asked why the new bureau was established in a congressional recess, and there was outrage at the use of special agents to investigate members of both chambers in the national legislature.

The mushroom growth of the private detective industry in the Progressive era and its revolving door with federal surveillance agencies disturbed people at the time, and is a precedent for the difficult-to-control arrangements of the present day.

Cable-tapping has a long history. The British did it to the Germans in World War I, and their interception of the Zimmerman telegram promising the restoration of pre-1846 lands to Mexico in the event of war helped to draw the USA into the pointless bloodbath. And oh, the British were also reading US secret messages. Ah, yes, and the Americans did that to the Japanese at the Washington naval conference of 1922, the discovery of which humiliating practice contributed to the militarization of Japan and the attack on Pearl Harbor. It seems almost needless to add that the British were reading US secret messages at the time of the Washington conference.

We see a repeat scenario in World War II and the Cold War. Once again, it is evident that America (and the UK) spied on friends as well as enemies. The parliament of the European Union was outraged in the 1990s when it discovered that America was spying on confidential communications by European governments and businesses. No flies on the French, of course. They had wired up Air France flights so that their own businessmen could be tipped off about the mile-high deliberations of US commercial rivals.

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Those who beat the civil libertarian and privacy drums are often (though not always) liberals or leftists. They have had some prime conservative targets. Richard Nixon deployed the federal surveillance apparatus against Vietnam War protestors, the Pentagon Papers leaker Daniel Ellsberg, and of course the Democratic Party at its Watergate offices. More recently George Bush through the Patriot Act and the FISA courts set up the systems that concern people today.

What makes the problem more serious and longterm, is that liberal administrations have been just as culpable, if not more so. The Red Scare of 1919-20 was the continuation of Progressivism by other means. President Franklin D. Roosevelt authorized the FBI to conduct blanket surveillance of his political opponents. President Lyndon B. Johnson was actually the initiator of the intrusive surveillance tactics that brought about the downfall of his successor President Nixon. President Barack Obama has promised a great deal, but how many of his predecessor's surveillance practices has he so far annulled? Liberals believe in their own righteousness, and it's a short step to justifying shady practices in the interest of what they have defined as the greater good.

Yet if it's important to offer a critique of the critics who inflate present dangers and pay an unfair blame game, it's important also to challenge current practices.

I'd like to join in the chorus of those who point out that the war on terrorism is a figment of the imagination, a sledgehammer to crack a nut. We need to remember Poland's King Jan Sobieski. When he repulsed the forces of Islam at the gates of Vienna in 1683, it was end of story. The Ottoman Empire was already in decline, and the Janissaries a spent force. The West, led by the ignorant and ill-advised George Bush, was a mug to believe in the Islamist menace. We fell dumbly into the trap laid by Al Qaeda, a narcissistic fringe group in search of the oxygen of publicity.

Casualties inflicted by terrorists on the West are insignificant. Think traffic accidents, think of casualties that we inflict on foreigners, 9/11 many times over. Domestic terrorist incidents are a convenient prop to the rhetoric of politicians who want to build up the secretive powers of the federal government. But they distract attention from the more serious issues of our day – nuclear proliferation, cyber sabotage, and the Sunni-Shia conflict. The latter conflict reminds me of Europe's Thirty Years War when Catholics and Protestants engaged in sectarian slaughter. Sunni-Shia could drive whole swathes of the globe into barbarism. Why are we spending trillions on the surveillance of something insignificant?

The associated problems are plain to see. Out-sourcing and privatization, supposedly solutions to the unmanageability of size, lead to profiteering and poor control. Congressional oversight has become institutionalized – too many convivial meetings with those who are supposed to be overseen. The targeting rules for federal surveillance are inadequate. If you spy on protest groups, politicians or journalists you get away with it, or receive a feeble slap to the wrist. But these practices are seriously undermining democracy and liberty. Privacy walls in the social media are ineffective. There's a lack of research and investment in that. It's like the disposal of nuclear waste – nobody makes any money out of it.

The distinction between surveillance and espionage (including counterespionage) has become blurred. The Intelligence Reform Act of 2004 demoted the CIA and assigned to it new tasks such as drone surveillance – and acts of terror by drone strike. How otherwise to describe the murderous and illegal drone program so enthusiastically pursued by President Obama who, it must be remembered, authorizes every mission?

The "reform" created the space for the National Security Agency and Defense intelligence Agency to move in as the main providers of intelligence, in the case of the NSA through programs of mass surveillance. Compared with the CIA, these agencies have a poor record of accountability. In May of this year, the president asked the CIA to re-vamp its core espionage mission. But it remains to be seen what will happen.

We still need an intelligence arrangement that we can trust. The theme of my book *In Spies We Trust* is that secret intelligence became a friend of the people in the wake of World War I. No longer just a way of winning wars, it became a means of limiting collateral damage (civilian casualties), and of avoiding war.

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Intelligence cooperation became important, and one can trace the rise, fall and obsolescence of the US-UK “special” intelligence relationship. The British Foreign Secretary William Hague had just reiterated his faith in that arrangement. But good friends who trust each other are frank. When did London last tell Washington about its bad breath? The US-UK intelligence relationship is now one of obsequiousness, not trust, as we saw at the time of the Weapons of Mass Destruction debacle.

Just as significantly, people need to trust their intelligence agencies. That’s why, for example, fair hiring is vital. Not just to secure the best people and a selection of cosmopolitan variety that can understand the problems of the world, but also so that citizens will pay the taxes to sustain intelligence, and cooperate with the agencies when they need that support.

It is that faith in federal government and its agencies that is now at one of its all-time lows. It’s an opportunity for reform, but won’t last long. Let’s see what transpires by the Fall.

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Rhodri Jeffreys-Jones is Emeritus Professor, History, University of Edinburgh and Honorary President of the Scottish Society for the Study of America. He has written several books and articles including *We Know All About You: The Story of Surveillance in Britain and America*, *In Spies We Trust: The Story of Western Intelligence*. His book *The American Left: Its Impact on Politics and Society since 1900* won the Richard E. Neustadt Prize for the best book of 2013 on U.S. government, politics and political history.