

THE RNC AND THE DEAD-ENDERS

If you've spent much time in political party conventions, you likely know that the resolution process largely serves as an opportunity for active members to vent. While party resolutions might represent where the ideological base of the party is, nothing prevents the elected leaders of the party to blow off resolutions (though at times resolutions are deemed toxic enough for leaders to undermine by parliamentary stunts).

Which is why I find the response to the RNC's resolution renouncing the NSA's "Surveillance Program" (it mentions PRISM and, implicitly, the phone dragnet) so interesting.

There are responses like this, from Kevin Drum, who spins it as pure politics.

I get that politics is politics, and the grass always looks browner when the other party occupies the Oval Office. And there are plenty of liberals who are less outraged by this program today than they were back when George Bush and Dick Cheney were in charge of it.

But holy cow! The RNC! Officially condemning a national security program that was designed by *Republicans* to fight terrorism!

Benjy Sarlin, in the account Drum linked, got the politics more clear, reading this, in part, as the influence of libertarians who largely gained ascendance as part of a backlash against Bush policies or at least failures.

But the resolution also is a sign of the increasing influence of the libertarian wing of the party, especially supporters of Ron Paul and his son, Rand Paul, who have made government overreach in

pursuit of terrorists a top issue. Both Orrock and fellow Nevada Committeeman James Smack, who presented the resolution on her behalf, supported the elder Paul's presidential campaign.

But I also think there's more to it.

There is certainly a great deal of opportunism here (note, Democrats' utter disdain for tech companies' concerns about the dragnet make this a monetary, as well as political opportunity for the GOP, one already bearing fruit). And while the GOP establishment is still cautiously trying to regain control over the Tea Party forces that it once encouraged, there has also been a slow change in traditional conservatives' stance, too, which I measure through Amash-Conyers opponent Bob Goodlatte's changing position.

Goodlatte has issued three statements in recent weeks (January 9, January 17, and January 23) calling for reform (including more civil liberties protections and attention to tech companies' concerns) and more transparency. In the most interesting of the statements, Goodlatte suggested that if Obama wanted to keep the dragnet he'd have to explain what purpose it was really serving and then argue that that purpose

Over the course of the past several months, I have urged President Obama to bring more transparency to the National Security Agency's intelligence-gathering programs in order to regain the trust of the American people. In particular, if the President believes we need a bulk collection program of telephone data, then he needs to break his silence and clearly explain to the American people why it is needed for our national security. The President has unique information about the merits of these programs and the extent of their usefulness. This information is critical to informing Congress on how far to go

in reforming the programs. Americans' civil liberties are at stake in this debate. [my emphasis]

As I've been pointing out for some time, no dragnet defenders have yet to explain what purpose it really serves, and I'm struck that Goodlatte seems to suggest the same. Note, too, that Goodlatte was among the 6 Representatives who attended Bruce Schneier's briefing on what NSA was really doing, along with leading GOP dragnet opponents Jim Sensenbrenner and Justin Amash and 3 Democrats.

I would suggest to Democrats who see this resolution exclusively as an overly cynical attack on Obama there may, in fact, be things that could explain why Republicans specifically or reasonable Americans more generally might have good reason to oppose the dragnet.

Now back to the resolution. As Sarlin notes, "Not a single member rose to object or call for further debate, as occurred for other resolutions." (I like to think that had Michigan's retrograde Dave Agema been able to participate rather than fending off calls for his resignation, he might have spoken up for authoritarianism.)

Instead of opposition from the Republican Party then, came first this quote to Sarlin,

"I think it probably does reflect the views of many of the people who really want to turn out the vote and who are viewing the world through the prism of the next election," Stewart Baker, a former Bush-era Homeland Security official, told msnbc in an email. "It's a widespread view among Republicans, but I think the ones that know this institution best and for whom national security is a high priority don't share this view."

Then what Eli Lake reports as a letter (Lake

doesn't say to whom) from just one elected official – KS Representative and House Intelligence Committee member Mike Pompeo – and 7 Bush officials (including Baker) blasting the resolution. Part of the letter, apparently, serves to waggle National Security seniority, as Baker already had.

Their letter says: "The Republican National Committee plays a vital role in political campaigns, but it has relatively little expertise in national security."

And part of it serves to correct a technical inaccuracy that may not be one.

In particular the letter takes issue with the resolution's claim that the NSA's PRISM program "monitors searching habits of virtually every American on the internet."

"In fact, there is no program that monitors the searches of all Americans," the letter says. "And what has become known as the PRISM program is not aimed at collecting the communications of Americans. It is targeted at the international communications of foreign persons located outside the United States and is precisely the type of foreign-targeted surveillance that Congress approved in 2008 and 2012 when it enacted and reauthorized amendments to the Foreign Intelligence Surveillance Act."

At issue is the language of the resolution, which starts by discussing PRISM, but then talks about what is clearly the phone (though it would encompass the Internet) dragnet, but then explicitly returns to both, by name of the authority that govern them.

WHEREAS, the secret surveillance program called PRISM targets, among other

things, the surveillance of U.S. citizens on a vast scale and monitors searching habits of virtually every American on the internet;

WHEREAS, this dragnet program is, as far as we know, the largest surveillance effort ever launched by a democratic government against its own citizens, consisting of the mass acquisition of Americans' call details encompassing all wireless and landline subscribers of the country's three largest phone companies.

[snip]

RESOLVED, the Republican National Committee encourages Republican lawmakers to enact legislation to amend Section 215 of the USA Patriot Act, the state secrets privilege, and the FISA Amendments Act to make it clear that blanket surveillance of the Internet activity, phone records and correspondence – electronic, physical, and otherwise – of any person residing in the U.S. is prohibited by law and that violations can be reviewed in adversarial proceedings before a public court;

RESOLVED, the Republican National Committee encourages Republican lawmakers to call for a special committee to investigate, report, and reveal to the public the extent of this domestic spying and the committee should create specific recommendations for legal and regulatory reform to end unconstitutional surveillance as well as hold accountable those public officials who are found to be responsible for this unconstitutional surveillance; [my emphasis]

7 Bush officials and 1 HPSCI member (but not, oddly enough, the always boisterous Mike Rogers)

have weighed in to say that the NSA doesn't monitor the searches of some Americans and then trots out the tired "targeted at foreign persons" line, without addressing the question of blanket surveillance of communications more generally.

Sarlin, in his piece, similarly retreats to "targeting" claptrap, claiming only that "lawmakers have accused the agency of overreaching."

Somehow both the Bush dead-enders and Sarlin neglect to mention backdoor searches, which allow the NSA to use metadata collected under a range of dragnets to obtain US content without even Reasonable Articulable Suspicion.

And while it's not all that surprising that Sarlin chose not to discuss how NSA can get domestic content, as I will show in a follow-up post the collection of dead-enders (Lake fleshed out the list here) who weighed in to deny that the NSA dragnet gets US person content is particularly instructive, as I'll show in a follow-up post.