

HILLARY CLAIMS TO SUPPORT TARGETED SPYING BUT ADVISOR MATT OLSEN WAS CHAMPION OF BULK SPYING

Spencer Ackerman has a story on what Hillary Clinton meant when she said she supports an “intelligence surge” to defeat terrorism. Amid a lot of vague language hinting at spying expansions (including at fusion centers and back doors), her staffers told Ackerman she supported the approach used in USA Freedom Act.

Domestically, the “principles” of Clinton’s intelligence surge, according to senior campaign advisers, indicate a preference for targeted spying over bulk data collection, expanding local law enforcement’s access to intelligence and enlisting tech companies to aid in thwarting extremism.

The campaign speaks of “balancing acts” between civil liberties and security, a departure from both liberal and conservative arguments that tend to diminish conflict between the two priorities. Asked to illustrate what Clinton means by “appropriate safeguards” that need to apply to intelligence collection in the US, the campaign holds out a 2015 reform that split the civil liberties community as a model for any new constraints on intelligence authorities.

The USA Freedom Act, a compromise that constrained but did not entirely end bulk phone records collection, “strikes the right balance”, said [former NSC and State Department staffer and current

senior foreign policy advisor Laura] Rosenberger. “So those kinds of principles and protections offer something of a guideline for where any new proposals she put forth would be likely to fall.”

It then goes on to list a bunch of advisors who have been contributing advice on the “intelligence surge.”

The campaign did not identify the architects of the intelligence surge, but it pointed to prominent counter-terrorism advisers who have been contributing ideas.

They include former acting CIA director Michael Morell – who has come under recent criticism for his attacks on the Senate torture report – ex-National Counterterrorism Center director Matt Olsen; Clinton’s state department counter-terrorism chief Dan Benjamin; former National Security Council legal adviser Mary DeRosa; ex-acting Homeland Security secretary Rand Beers; Mike Vickers, a retired CIA operative who became Pentagon undersecretary for intelligence; and Jeremy Bash, Leon Panetta’s chief of staff at the CIA and Pentagon.

It appalls me that Hillary is getting advice from Mike Morell, who has clearly engaged in stupid propaganda both for her and the CIA (though he also participated in the Presidents Review Group that advocated far more reform than Obama has adopted). I take more comfort knowing Mary DeRosa is in the mix.

But I do wonder how you can take advice from Matt Olsen – who was instrumental in a lot of our current spying programs – and claim to adopt a balanced approach.

Olsen was the DOJ lawyer who oversaw the Yahoo

challenge to PRISM in 2007 and 2008. He did two things of note. First, he withheld information from the FISC until forced to turn it over, not even offering up details about how the government had completely restructured PRISM during the course of Yahoo's challenge, and underplaying details of how US person metadata is used to select foreign targets. He's also the guy who threatened Yahoo with \$250,000 a day fines for appealing the FISC decision.

Olsen was a key player in filings on the NSA violations in early 2009, presiding over what I believe to be grossly misleading claims about the intent and knowledge NSA had about the phone and Internet dragnets. Basically, working closely with Keith Alexander, he hid the fact that NSA had basically willfully treated FISA-collected data under the more lenient protection regime of EO 12333.

Charlie Savage provided two more details about Olsen's fondness for bulk spying in *Power Wars*. As head of NCTC, Olsen was unsurprisingly the guy in charge of arranging, in 2012, for the NCTC to have access to any federal database it claimed might have terrorist information in it (thereby deeming all of us terrorists). Savage describes how, in response to his own reporting that NCTC was considering doing so – at a time when the plan was to have a further discussion about the privacy implications of the move – ODNI pushed through the change without that additional privacy consideration. That strikes me as the same kind of disdain for due process as Olsen exhibited during the Yahoo challenge.

Finally, Savage described how, when Obama was considering reforms to the phone dragnet in 2014, Olsen opposed having the FISC approve query terms before querying the database as legally unnecessary. It's hard to imagine how Olsen would really be in favor of USAF type reforms, which codify that change.

In short, among Hillary's named advisors, the one with the most direct past involvement in such decisions (and also the one likely to be

appointed to a position of authority in the future) has advocated for more bulk spying, not less.