

OBAMA'S STUBBORNNESS AND THE RISK OF SNOWDEN

At the outset of this post, let me lay out my following assumptions (I can't prove these points, but I suspect them):

- The documents released so far by Guardian and WaPo – information on the Section 215 program, PRISM, and the PPD on cyberwar – have done negligible damage to our security (indeed, even Sheldon Whitehouse, a big defender of these programs, said the government should have been transparent about them earlier)
- China already knew the content of Edward Snowden's public revelations about our hacking into Chinese networks (we know China's compromises of us, so it is unlikely China, which is more successful and aggressive at hacking than we are, doesn't know our compromises of it); the revelations on this front so far have served primarily to even out the playing field on mutual accusations of hacking
- Snowden personally (and his

laptops) have information that China and Russia could both find of more use, particularly given that some of our programs targeting them were run out of HI

- Snowden may also have things that might be of use to others, such as organized crime (If I were planning on longevity and had access, for example, I would take some zero day exploits when I left the NSA, though the street value of them would diminish once NSA had inventoried what I took)
- The reporting I've seen has not confirmed reports that either China or Russia has debriefed Snowden or scanned his computers (indeed, this report on China's involvement in his departure from Hong Kong suggests they did not talk with him directly)
- Julian Assange knows where Snowden is, leading to the possibility he has escaped Russia to a country that has not yet been named in reports of Snowden's escape (named countries have included Venezuela, Cuba, Ecuador, and Iceland)

All of that is a roundabout way of saying that Snowden could do great damage to the US, but may not have yet, and certainly hadn't by the time he first revealed himself in Hong Kong.

If that's right, then it seems the Obama approach has been precisely the wrong approach in limiting potential damage to national security. The best way to limit damage, for example, would be to get Snowden to a safe place where our greatest adversaries can't get to him, where we could make an eternal stink about his asylum there, but still rest easy knowing he wasn't leaking further secrets. Indeed, if he were exiled in some place like France, we'd likely have more influence over what he was allowed to do than if he gets to Ecuador, for example.

The most likely approach to lead to further damage, however, is to charge him with Espionage. This not only raises the specter of the treatment we've given Bradley Manning – giving Snowden Denise Lind's judgement that Manning's rights were violated to include in any asylum application – but also easily falls under what states can call political crimes, which permits them to ignore extradition requests. That is, we appear to be pursuing the approach that could lead to greater damage.

By contrast, letting Snowden get someplace safe is perfectly equivalent to letting the CIA off for torture (or, for that matter, James Clapper off for lying to Congress). It's a violation of rule of law, but it also serves to minimize the tremendous damage the spooks might do to retaliate. Obama has chosen this path already when the criminals were his criminals; he clearly doesn't have the least bit of compunction of setting aside rule of law for pragmatic reasons. But in Snowden's case, he seems to be pursuing a strategy that not only might increase the likelihood of damage, but also lets China and Russia retaliate for perceived slights along the way.

All this is just an observation. I believe

Obama's relentless attacks on whistleblowers and his ruthless enforcement of information asymmetry have actually raised the risk of something like this. And he seems to be prioritizing proving the power of the US (which has, thus far, only proved our diminishing influence) over limiting damage Snowden might do.

Update: This fearmongering WaPo article nevertheless quotes a former senior US official admitting that what Snowden has released so far wouldn't help China or Russia.

A former senior U.S. official said that the material that has leaked publicly would be of limited use to China or Russia but that if Snowden also stole files that outline U.S. cyber-penetration efforts, the damage of any disclosure would be multiplied.