

An Accidental Orwellian Nightmare

Poorly Informed Information Security

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Technical ignorance and poor judgment leads to exploitation of the people, and a deep invasion of privacy. Our current congress has very few technically capable members. The running joke is that they are not clued in to the joke. They're too thick, or stubborn, etc. Amusing and self-gratifying as the thought may be, it is a scary thought if left to dwell on it too long. Senator Wyden, after much reading, is the only name in Congress which I associate with "knows what they're doing". He's made moves to reform the Digital Millennium Copyright Act (DMCA) and the draconian Computer Fraud and Abuse Act (CFAA), but even he, who the trusted Electronic Frontier Foundation looks to, is straying from what's right for the people in his support of the Fast Track for the Trans-Pacific Partnership. My confidence in our Congress is weak. I am wary of future action, and the current situation is like a cheesy dystopian sci-fi setting.

Snowden's whistleblowing showed us we were spied on systematically by the NSA under provisions by the Patriot Act. He was promptly accused of treason, and he currently lives in effective hiding in Russia. In fairness, he did reveal some documents that should not have been revealed, but the whistleblowing on mass surveillance of the American people is to be applauded. We might never have known otherwise, and the NSA would have liked it that way.

The House recently passed two information security "information sharing" bills on 2015-04-22, the House Intelligence Committee's Protecting Cyber Networks Act (PCNA) and the House Homeland Security Committee's National Cybersecurity Protection Advancement Act. The plan is for them to be conferenced to create one bill and sent to the Senate for advancement. They are wholly unnecessary, and potentially dangerous. They authorize more private sector spying under new legal immunity provisions for corporations and use definitions that are not nailed down tight enough to prevent abuse of privacy. The bills also facilitate corporate sharing of personal information with the NSA without any liability. Information sharing is not a golden gun for killing the black hat beast, but most of the recent bills passed or brought to the floor for infosec rely on exactly that. There are three primary issues here: overly vague language, sharing of personal information, and the provisions for corporations to not face

any liability in doing so. (Mark Jaycox, EFF.org, "House... Passes Cybersecurity...")

The vague language in the Patriot Act from 2001, the provisions for which run out this year and congress is trying to renew, are what allowed the NSA to perform mass surveillance on we the people. The worry that vague language might be abused by corporations or agencies is justified. There are calls for more infrastructure for sharing information between companies and agencies. They already exist in well defined legal channels, particularly the Information Sharing and Analysis Centers (ISACs). We don't need more of it, especially not more with provisions for snooping on consumers. What is especially troubling is that corporations can do this without telling their users, and they are allowed to do so without facing liability for the shared information. (ISAC Council)

Currently, we lack the right to know what information companies have on us, what they share, and to whom. There was proposed legislation in the state of California in 2013, the Right to Know Act, which would give California citizens exactly that right. It died and hasn't been heard from since. One of the provisions of this act was that users would be made aware whenever their data might have been compromised, at all. Until such transparency with my own data is achieved, I don't trust corporations to share data responsibly. (Rainey Reitman, EFF.org, "California Right to Know...")

The attack on Sony has left many legislators worried, justly so. The attack was massive, brutal, and deep. It was a real scare. A knee-jerk reaction, as has been the holding pattern, is not the correct response, though. A level head will remind that Congress has already passed reasonable infosec bills, and that information sharing would not have stopped or helped in the attack. Between ISACs, and the Enhanced Cybersecurity Services created by Obama's administration in 2012, and the fact that the FTC and the DOJ noted that they won't prosecute companies for sharing security information, we already have a solid infrastructure for infosec. Congress has already passed reasonable infosec bills, CISPA, SECURE IT, CISA, and their mutant kin should all be shelved. (Mark Jaycox, EFF.org, "Congress Should Say No...")

The fact remains, Congress continues to floor bills addressing the same issues with the same

angle. They should be encouraging the use of the Department of Homeland Security's information hubs instead of imposing redundant and invasive bills on the people.

Meanwhile, representatives in Congress, most of which can't secure their own websites, don't use email, or by all other indications have no idea what they're talking about, are the ones behind the most recent cybersecurity bill pushes. Congress has atrocious cybersecurity practices. None of the members actually on the Senate's Intelligence Committee, the most influential body on cybersecurity, have websites with basic HTTPS encryption. Basically the standard for websites who want any security protections for visitors. One of the loudest voices on pushing "cybersecurity" spying bills, John McCain, doesn't even use email. He also wants the subject matter to be placed under the control of his Armed Services committee. His website returns security errors. His hyperbole on the topic is gross, regarding the Sony attack as an "act of war" and called the voluntary, slight delay in the release of The Interview "the greatest blow to free speech that I've seen in my lifetime probably". Congress never bothered to ask actual security experts whether these bills really make sense. Earlier (week ending 04-18), 65 security professionals and academics signed a letter slamming these "info-sharing" bills, the very same, as both unnecessary and dangerous. Congress doesn't have to be completely ignorant about tech issues. Previously, there existed the Office of Technology Assessment and it gave Congress nonpartisan advice on technical matters. Newt Gingrich killed it in the mid-1990s. When Rep Rush Holt, a nuclear physicist, tried to revive it, his plan was voted down nearly 2:1. (Trevor Timm, The Guardian, "Congress cannot be taken seriously...")

Members of congress should have at least some working knowledge of the topics they legislate, or else actually listen to the experts on the topic. Reddit user /u/factoid_ pointed out in the comments for the cited Guardian post: "It's worth noting that this is not unique to technology. Politicians don't know much about anything except the law because 70% of them are lawyers. There are a few who are engineers, a few who are doctors, and a number who have worked in business. But by and large they are lawyers, and without exception almost none of them have any expertise in the areas which they

oversee in committees and such. What qualifies a politician to regulate economics, or science, or technology, or gun control, or healthcare?" This is a fair statement, however, this does not keep representatives from making judgments based on input from experts, but they need to make the distinction between those who have the interests of the people in mind, and not their own interests. The Electronic Frontier Foundation, it seems, has been largely ignored by Congress. The EFF's user driven campaigns of awareness seem to have made a larger impact than the EFF itself, insofar as congress' decisions go. Larger special interests with deeper pockets have had a more direct line of communication with representatives. To paraphrase user /u/idgarad, part of the problem lies in that "expert opinion" is usually not funded by the people. The idea festers, "How could we compete against those powerful lobbyists." There are lobbyists representing shady interests, or interests with deep pockets. If you want to actually solve the problem, you're going to need to actually donate to something like the EFF and stop wishing for change. (/r/technology, "Members of Congress...")

An ad hominem attack on our representatives would be unfair and fallacious, but all indications would show that there is a vacuum of competency when it comes to science and technology. Civilian oversight of our bills should be implemented in some fashion to garner public opinion on the matter. Congress is free to ignore our opinions as always, but our bills and agreements shouldn't be developed behind closed doors. Given the subject matter, the appropriate computer science equivalent to this is the difference in Cathedral vs Bazaar approaches. When building a hypothetical cathedral, all planning is done by a group, and no plans are released for public viewing until the work is complete. When building a hypothetical bazaar, the planning is completely open throughout development. Snags, bugs, and other variety of nastiness are eliminated before the final product is built. Currently, President Obama is requesting that critics of the Trans-Pacific Partnership agreement actually produce an argument against the agreement, which we can't do, because they haven't actually released the draft. The TPP is a nasty can of worms that most technology and security groups are rightfully wary of, and it is a perfect example where transparency in development would be justified, either to gain input, ease

our fears, or justify them. (Mike Misnick, techdirt.com, "President Obama Demands Critics...")

One doesn't need a tinfoil hat to make a judgement that our rights in the digital space are being trampled upon, and ones that should be recognized are hardly a blip on the radar of Congress next to their fears surrounding security. Bills are being flooded and passed that violate privacy and a right to our own information, and corporations don't mind this one bit. This is an Orwellian nightmare, and the only thing missing in full force are thought crimes. We need a calm Congress which doesn't resort to knee-jerk reactions. We need a Congress with better judgment in their advisors. We need a Congress not so willfully ignorant of new and different ideas.

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Various Users. "Members of Congress—most of whom can't secure their own websites, and some of whom don't even use email—are trying to force a dangerous 'cybersecurity' bill down the public's throat. Everyone's privacy is in the hands of people who, by all indications, have no idea what they're talking about." 2015-04-18. Technology subreddit. Retrieved 2015-04-27.
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