

OPINION | REVIEW & OUTLOOK

Schiff's Surveillance State

The Democrat demands, and then discloses, the call logs of his opponents.

By The Editorial Board

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Adam Schiff and Devin Nunes in Washington, D.C., Nov. 21. PHOTO: ALEX BRANDON/ASSOCIATED PRESS

Democrats are trying to convince Americans that President Trump should be ousted for trying to “dig up dirt” on a rival. They’d have more credibility if they didn’t abuse their

surveillance powers for drive-by smears of Republicans and a free press.

Adam Schiff’s 300-page House Intelligence impeachment report doesn’t include much new about Mr. Trump’s Ukrainian interventions. But it does disclose details of telephone calls between ranking Intelligence Republican Devin Nunes, Trump attorneys Rudy Giuliani and Jay Sekulow, reporter John Solomon, former Giuliani associate Lev Parnas, the White House, and others. The details are “metadata” about the numbers and length of the calls, not the content.

The impeachment press is playing this as if the calls are a new part of the scandal, but the real outrage here is Mr. Schiff’s snooping on political opponents. The Democrat’s motive appears to be an attempt to portray Mr. Nunes, a presidential defender and Mr. Schiff’s leading antagonist in Congress, as part of a conspiracy to commit impeachable offenses.

“It is, I think, deeply concerning, that at a time when the President of the United States was using the power of his office to dig up dirt on a political rival, that there may be evidence that



How Did Adam Schiff Get Devin Nunes's Phone Records?



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there were members of Congress complicit in that activity,” Mr. Schiff

told the press on Tuesday. Complicit in what? Doing his job of Congressional oversight? Talking to Mr. Trump’s lawyer to get a complete view of the Ukrainian tale? Apparently Mr. Schiff now wants to impeach Members of Congress too.

This is unprecedented and looks like an abuse of government surveillance authority for partisan gain. Democrats were caught using the Steele dossier to coax the FBI into snooping on the 2016 Trump campaign. Now we have elected members of Congress using secret subpoenas to obtain, and then release to the public, the call records of political opponents.

Our sources says Mr. Schiff issued a subpoena in September to AT&T, demanding call logs for five numbers—including Mr. Giuliani’s. Subsequent subpoenas to AT&T and Verizon demanded more details. Republicans were told of the subpoenas, yet under rules of committee secrecy couldn’t raise public objections.

Readers may recall that only a few years ago Democrats were in high dudgeon over the executive branch’s collection of metadata against terrorists. They claimed the National Security Agency was “spying” on Americans, and in 2015 Congress barred NSA from collecting bulk domestic metadata. Federal investigators must offer legitimate reasons to obtain metadata from telecom companies, and they are subject to restrictions on divulging it.

Yet here the companies appear to have handed over metadata based on little more than Mr. Schiff’s say-so—and in AT&T’s case in response to a request that was made before the House began a formal impeachment inquiry.

AT&T released a statement Wednesday saying it is “required by law to provide information to government and law enforcement agencies.” But AT&T can question the validity of subpoenas in court—and had grounds to do so given the highly political nature of these requests. Then again, maybe it felt it had no choice. We’ll leave it to legal experts to decide whether a powerful Congressman’s demands of a highly regulated company are extortion.

Mr. Schiff's metadata disclosures hardly bear on his impeachment case. Mr. Giuliani had broadcast to the world that he wanted Ukraine to investigate Hunter and Joe Biden, but he is also Mr. Trump's personal attorney. Does Mr. Schiff have a legal opinion saying he could ignore attorney-client privilege? Mr. Schiff published a select log of Mr. Giuliani's calls, but he presumably has a record of everyone Mr. Giuliani spoke to for months. Imagine the political outrage if Republicans had snooped on Bill Clinton's attorneys.

Mr. Schiff's accusations against Mr. Nunes are even more suspect. The Democrat doesn't know the content of Mr. Nunes's conversations, and the Republican says he believes his spring talks with Mr. Giuliani related to the Mueller report. Mr. Nunes can speak to whomever he likes, and Mr. Schiff has no authority to investigate fellow Members. Since Mr. Schiff is going to release the call logs of Republicans, can we see the logs of his calls with the impeachment press—and, by the way, with any whistleblowers?

The press corps might also notice that Mr. Schiff's targets include one of their own—Mr. Solomon, who was until recently a columnist at The Hill and whose reporting called attention to Ukraine's involvement in the 2016 election. How is Mr. Solomon's reporting trail relevant to impeachment? The media usually condemn government officials who use surveillance to track and intimidate the media, but here they are cheering Mr. Schiff on.

Mr. Schiff's extraordinary and secret plunge into metadata, followed by its gratuitous public disclosure, is one more example of the partisan score-settling that motivates this impeachment exercise. In the cause of impeaching Donald Trump, anything goes.