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Congressional Authority over Surveillance Classification

- I. Introduction: Congress holds vast authority over the classification of surveillance gathered by the intelligence community of the United States. Privileges abound allowing the legislative branch to keep classified from the American people important security information, supposedly on the advice of experts from within American intelligence agencies. These privileges allow Congress to hold committee meetings in secret during which they discuss sensitive, surveilled information away from public scrutiny. Members of Congress are thus allowed to do with critical information whatever they please and to operate freely without accountability for their subsequent actions and interactions in private. By analyzing the issue of surveillance classification in the United States through the lens of authority, the legitimacy of congressional powers, the relationship between Congress and the intelligence community, and the state secrets privilege may be put into question and scrutinized.
- II. Assertion: Congressional powers regarding surveillance classification are very broad, and there are very few instances in which the authority of Congress over classification may be overridden.
 - A. Reasoning: Essentially, “surveillance is about exercises of power and the performance of power relationships” (Monahan 495). Congress’s authority over

surveilled information and its classification is much less about the safety of the American power as it is such an exercise of power.

- B. Evidence: The powers of Congress over surveillance have proliferated over the decades, despite widespread opposition. “Many critics of surveillance have advocated stronger regulations, yet these have been regularly superseded by new technologies, overturned by emergency powers, undermined by loopholes and made hollow by weak enforcement” (Martin 32).
 - A. Summary: Though faced by strong opposition, Congress holds nearly unlimited authority over the classification of surveillance.
 - B. Transition: The legislative branch of the United States claims to employ its vast powers over surveillance to thwart domestic terrorism by evaluating controversial surveilled information regarding the American people.
- III. Assertion: Both houses of Congress possess great control over everyday Americans’ personal information and may classify and use collected data from the cybersecurity dealings of the American intelligence community to identify possible threats to national domestic security.
- A. Reasoning: Because the United States Central Intelligence Agency and Federal Bureau of Investigation were formed upon approval by Congress, both the House and Senate hold great power over the two executive agencies with regard to surveillance information and classification. “A great deal of interaction takes place between the [agencies] and Congress,” with the agencies providing “substantive intelligence support to congressional committees that relates to their respective jurisdictions” (Snider 95).

- B. Evidence: “Intelligence agencies . . . collect up everything” and “are reacting rationally to the demand that they ensure ‘never’ comes true” (Greer 92). This is what Congress uses to justify the information they demand of the American intelligence community regarding the personal data of everyday Americans. “The more complex the society [they are] charged with protecting becomes, the more they must surveil, the more they must analyze, the more data fusion becomes their primary focus” (Greer 92).
 - C. Summary: Congress has the ability to classify information surveilled of American citizens and justify this ability by claiming to ensure domestic security, when in reality it may just be to the benefit congressional committee hearings.
 - D. Transition: Not only does Congress hold great authority over classified information, but they also have the power to go against the wishes of the intelligence community by refusing to declassify any data that may be useful or relevant to House and Senate intelligence committees.
- IV. Assertion: Over time, Congress has assumed more power than the intelligence community of the United States when it comes to the classification of sensitive intelligence information that may be useful or relevant to House and Senate intelligence committees by invoking what is known as the state secrets privilege.
- A. Reasoning: The state secrets privilege is “a mechanism by which the United States can ensure the secrecy of information related to foreign affairs and national security that would do harm to the United States if publicly disclosed” (Collingsworth 10). It extends to both the legislative and executive branches of

government, but the President and the Congress have the ultimate authority on whether an issue remains classified or is declassified to the American public.

- B. Evidence: “Secrecy provides concealment from ‘violations of law, inefficiency, or administrative error,’ not to mention embarrassing information, misjudgment, ignorance, and crimes against humanity—things that [are not] supposed to be protected” (Berghel 65). This means that the government, and specifically the United States Congress, has the ability to classify information not just for the security of the American people but in order to advance politicians’ own agendas in private, hidden from the influence of organizations and journalists who could hold them accountable for their often underhanded actions.
- C. Summary: Because the final decision on the classification of sensitive security information rests upon elected officials and not upon American intelligence experts, both the President and Congress hold significantly more power than the intelligence community on the security matters of the United States, which power may be used corruptly by commanders-in-chief and legislators alike.
- D. Transition: The state secrets privilege is of the utmost importance when considering surveillance classification, though whether or not elected representatives should possess the authority to secretly discuss vital, sensitive information while keeping it hidden from the public is certainly debatable.
- V. Conclusion: In the end, Congress’s broad authority over the classification of surveillance has both positive and negative consequences. It can be argued that Congress, as the most directly representative branch of the United States government, should have the most power over information that could affect millions of Americans’ safety and security given

that members of the House and Senate are supposed to exclusively represent the interests of their constituents. In that same vein, it can be conversely argued that because those with the most power are merely elected officials and not all experts in the field of intelligence, the ultimate authority over classification should not rest in their hands. At its core, the debate over congressional authority regarding surveillance is not that information should never be classified or that matters of national security should be freely accessible to the public; at its core, this debate is over the actions of Congress and the accountability of everyday Americans' representatives. Does the supreme legislative body of the United States act in favor of the American people or in favor of personal interests? Do they treat national security as a matter of politics or the extraordinarily serious subject it is? That is most definitely up for debate, and rightfully so.

Works Cited

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