

Bush defends illegal spying on Americans: the specter of presidential dictatorship

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President George Bush's defense of his illegal authorization for the National Security Agency (NSA) to monitor phone conversations and email in the US without court approval is an assertion of unchecked executive power.

By deciding, after the secret NSA program was revealed in Friday's *New York Times*, to not only acknowledge it, but declare that it would continue so long as he remained president, Bush has escalated his administration's attack on congressional oversight and the entire Constitutional setup in the US. His defiance of laws passed by Congress amounts to a bid to establish a form of presidential dictatorship.

Bush did not even address the controversy surrounding the NSA spying operation in his prime time speech on Iraq Sunday night. He merely made an oblique reference to it toward the end of his remarks, declaring that his responsibility to "protect our nation" required him to make "tough decisions."

The decision to publicly defend the secret spy program, which has targeted thousands of American citizens and residents, and denounce its critics—in effect, accusing them of giving aid and comfort to terrorists—was taken after intensive deliberations Friday within the highest circles of the administration. It followed a successful filibuster in the Senate on Friday that blocked passage of a bill to reauthorize the USA Patriot Act—the measure passed within days of the 9/11 attacks that vastly expands the authority of police and intelligence agencies to spy on the American people.

With key provisions of the Patriot Act set to expire at the new year, the White House has rejected calls by Senate Democrats and some Republican senators to extend the act for three months, in order to work out a compromise that would retain the repressive essence of the law, while adding minor and largely cosmetic civil liberties safeguards.

In keeping with the basic *modus operandi* of the Bush administration, its response to the political crisis over the Patriot Act, itself fueled by growing mass opposition to the war in Iraq, is to up the ante. Bush and his key advisers, such as Vice President Dick Cheney, do so in the confidence that their critics in the media and the Democratic Party are themselves too cowardly and too compromised by their own complicity to mount any serious opposition.

They calculate that by going on the offensive, they can once again expose the impotence of the Democrats and further undermine any Congressional oversight of the actions of the White House.

Bush, in an interview Friday evening on the Public Broadcasting System's evening news broadcast, refused to affirm or deny the existence of the NSA domestic spying operation. Meanwhile, Cheney and Bush's Chief of Staff Andrew Card were meeting with members of Congress to browbeat them into reversing their votes on the Patriot Act.

On Saturday morning, Bush took the unusual step of broadcasting his weekly radio address live from the White House. He denounced those who had voted to block the Patriot Act for "irresponsibly" undermining the "war on terror." Then he acknowledged that he had authorized the

NSA spying program in the weeks after 9/11 and had reauthorized it more than thirty times since. He claimed that he had the authority to do so based both on the authorization of force resolution passed overwhelmingly by Congress in the days after 9/11 and his inherent war-time powers as commander in chief.

Bush denounced the leaking of information on the NSA program and its publication as an illegal breach of classified information, implicitly threatening the *New York Times* with prosecution. He said that he would reauthorize the program "for as long as our nation faces a continuing threat from Al Qaeda and related groups."

Aside from these sweeping assertions of quasi-dictatorial powers, Bush defended his actions by pointing out that he had briefed key leaders in Congress "more than a dozen times on this authorization and the activities conducted under it." The implication was clear: Democratic leaders who now sought to criticize the unlawful spying were themselves complicit. They were now complaining only because the program had been revealed to the public.

Among the Democrats who were informed of the NSA program were Rep. Nancy Pelosi, then the ranking Democrat on the House Intelligence Committee and now the minority leader in the House of Representatives, and Senator John D. Rockefeller IV, the vice chairman of the Senate Intelligence Committee.

News of the secret NSA program and Bush's defiant defense of his role in authorizing it have sparked protests from congressional Democrats and a number of Republicans. The *New York Times*, the *Washington Post* and the *Los Angeles Times* have all published editorials acknowledging that Bush broke the law. However, the most any of them has demanded is the holding of congressional hearings. Not one has suggested that Bush should be impeached for his crimes.

That Bush has committed crimes, violating both the Constitution and specific statutes, is beyond dispute. The NSA is a massive and highly secretive spy agency whose legal mandate is to intercept and monitor the electronic communications of foreign governments and organizations. It is explicitly barred from spying on telephone and other communications that originate in the US, unless it first obtains a warrant to do so from a secret court established to deal with foreign intelligence-gathering.

The Foreign Intelligence Security Court was established by a 1978 law (the Foreign Intelligence Security Act—FISA) passed in response to revelations of massive spying by the NSA and other intelligence and military agencies on civil rights activists and opponents of the Vietnam War. FISA explicitly bars the kind of warrant-less wiretaps and intercepts first authorized by Bush in late 2001.

Such police-state practices are proscribed, moreover, by the Fourth Amendment to the US Constitution, which prohibits unreasonable searches and seizures.

Bush, however, has advanced the position that the "war on terror" gives him the power, as the commander in chief, to take virtually any measures unilaterally, without having to obtain congressional authorization. From a

constitutional standpoint, this assertion of unchecked war-time powers is an Orwellian distortion of the powers actually granted the president by the Constitution. That founding document declared the president to be the commander in chief of the military so as to assert the supremacy of the civilian, elected authorities over the military. The Bush administration has sought to turn this democratic principle into its opposite, portraying the president as an imperial commander in chief of the nation as a whole.

As the *Washington Post* pointed out on Sunday, "On occasion the Bush administration has explicitly rejected the authority of the courts and Congress to impose boundaries on the power of the commander in chief, describing the president's war-making powers in legal briefs as 'plenary'—a term defined as 'full,' 'complete,' and 'absolute.'"

On this basis, the Bush White House has carried out an unprecedented assault on democratic rights, from the military detention of American citizens as "enemy combatants," to the establishment of military tribunals, to abductions, secret prisons, and the use of torture against detainees.

The NSA operation is only one part of a vast expansion of government spying on the American people. All of the illegal practices against political dissidents that became notorious during the Vietnam War period have been revived—and expanded.

Only recently it was revealed that the Pentagon is overseeing a data base on alleged "threats," which includes those who engage in peaceful and legal protests against the Iraq war and military recruiting at high schools and campuses.

The Patriot Act allows the FBI to force banks, hospitals, libraries, book stores and similar institutions to hand over information on citizens and residents who have been charged with no crime.

Given the fact that the threshold for obtaining warrants from the FISA court is extremely low, and the court has refused only a handful of such requests, generally granting them within a few hours, the decision of the Bush administration to proceed independently indicates that it deliberately sought to establish a precedent for unchecked presidential powers.

It also indicates an intention to target people so clearly without terrorist links that warrants might be difficult to obtain even from the compliant FISA court—including Americans whose only "crime" is political opposition to the war and other government policies.

By the logic of his arguments and actions, there is nothing to prevent Bush, as commander in chief, from suspending Congress altogether and ruling by decree. Under such conditions, the wire taps and data bases would be used to round up political opponents en masse.

The war on terror is, and always has been, a propaganda façade for launching military actions abroad and attacking democratic rights at home. It is a mantra behind which American imperialism carries out its drive to establish global hegemony. That it has little to do with defending the American people against catastrophes was established conclusively by the incompetence and indifference of the government to the plight of New Orleans and the other Gulf Coast regions devastated by Hurricane Katrina.

The war on terror was announced by Bush in the immediate aftermath of 9/11 and accepted uncritically by the entire political and media establishment. Never declared by Congress, it was and remains a "war" of indefinite duration that embraces the entire globe, including the territory of the United States and its inhabitants.

As Bush reiterated in his radio address on Saturday, this "first war of the 21st century" has as one of its "most critical battlefronts... the home front." In other words, Bush's unchecked powers as commander in chief apply within the borders of the US as well as without.

This assertion of essentially dictatorial powers is the outcome of a protracted decay of the foundations of American democracy. The Bush administration itself, it must never be forgotten, was the product of a criminal conspiracy and a stolen election. Bush was installed in 2000 through the suppression of votes and the diktat of a Republican majority on the Supreme Court.

That watershed event in the disintegration of constitutional and democratic processes was prepared and preceded by a high-level conspiracy to effect a political coup d'état against the Clinton White House, in the form of the Monica Lewinsky sex scandal and the witch-hunt led by Independent Counsel Kenneth Starr.

Then came the still unexplained events of September 11, 2001. A veritable mountain of evidence has emerged pointing to the likelihood that those who carried out the attacks on New York and Washington operated under the protection of intelligence and law enforcement officials.

The murky events of 9/11 provided the pretext for launching the "war on terror," whose main result has been the invasion and occupation of Iraq—a war launched in the basis of lies against a country that had no connection to Al Qaeda or 9/11. The quagmire in Iraq has, in turn, become the justification for further military interventions and ever more sweeping attacks on democratic rights within the United States.

The crimes of Bush's administration not only match, but exceed those of Richard Nixon's. In 1973, Congress responded to Nixon's lawless actions by initiating impeachment proceedings, charging Nixon with breaking the law with his secret war in Cambodia and his authorization of illegal wiretaps and searches against his political opponents. Today, the erosion of American democracy is so far advanced that similar action against Bush is virtually unthinkable.

Why are there no calls for Bush's impeachment? One could easily draw up an indictment that met the constitutional threshold of "high crimes and misdemeanors."

Why, amid the hand-wringing in sections of the press and among some politicians, are there no demands for the release of the NSA records? Who was targeted? How many? No section of the political establishment or the media wants such information released to the public because they know it would include prominent individuals in political life, including members of Congress, as well as artists, intellectuals and others who have no conceivable connection to terrorism.

Bush's open defense of illegality and assertion of quasi-dictatorial powers bring the political crisis in the US to the boiling point. His defiance of Congress, the law and the Constitution are the culmination of a record of criminality. But the Bush administration has concluded, with good reason, that it will face no serious opposition from any section of the political establishment.

Every official US institution is implicated in the conspiracy against the democratic rights of the American people. The mass media has systematically functioned to propagate the administration's lies and cover up for its crimes. The *New York Times*, in its article revealing the secret NSA spying operation, admitted that it had withheld its report for a full year, after meeting with White House officials who demanded that it suppress the information.

The Democratic Party, from its refusal to expose the conspiracy behind the Clinton impeachment, to its acceptance of a stolen election in 2000, to its collusion in covering up the facts surrounding 9/11, to its collaboration in the "war on terror" and the invasion and occupation of Iraq has demonstrated conclusively its indifference to democratic rights. Whatever its tactical differences with the Bush administration, the Democratic Party fundamentally defends the drive of US imperialism for global domination, with all of its brutal implications for the American people and the entire world.

What working people confront is an unprecedented assault on their democratic rights. Serious resistance can come only through the independent political mobilization of the working class, outside and independently of Congress and the two capitalist parties.



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