Bush employs “Big Lie” technique to defend illegal spying on Americans

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The Bush administration is employing its standard tactics of fear-mongering, intimidation and lies to defend its illegal spying on Americans. Bush, Vice President Cheney and other administration spokesmen repeatedly assert that Bush’s secret authorization for the National Security Agency (NSA) to monitor international telephone calls and email messages sent from the US without obtaining court-issued warrants does not violate either legal statutes or the Constitution.

In fact, the practice directly contravenes the Fourth Amendment’s prohibition of unreasonable searches and seizures and violates the Foreign Intelligence Surveillance Act (FISA), passed by Congress in 1978. That law was enacted in response to revelations of illegal government spying on Americans on a massive scale that emerged during the Watergate crisis. FISA established the Foreign Intelligence Surveillance Court as a secret body to oversee and approve government requests for wiretaps and other forms of electronic surveillance. The law explicitly bars warrantless wiretaps.

So brazen is the administration’s defiance of the law and the constitutional principle of congressional and judicial oversight of the executive branch that one of the eleven judges on the secret FISA court resigned Monday in protest. This is a court which routinely grants government requests for wiretaps, usually within a few hours and, when requested, retroactively—a fact the White House ignores in claiming that it must bypass the court to quickly track the movement of terrorist suspects within the US.

One of Bush’s claims, that the NSA program does not target purely domestic communications, was exploded by a report in Wednesday’s *New York Times*. The article cited unnamed officials who affirmed that the NSA had intercepted communications to and from people within the borders of the US.

Vice President Cheney, speaking on Tuesday to reporters aboard Air Force Two as he flew from Pakistan to Oman, indicated the real motivations behind the administration’s decision to override legal limits on its powers to conduct electronic surveillance. According to press reports, he said, “Watergate and a lot of the things during the ’70s served, I think, to erode the authority I think the president needs to be effective, especially in the national security area.”

In other words, the Bush administration deliberately set out to roll back and reverse the measures, limited as they were, that were taken to prevent the kind of illegal and unconstitutional practices for which the Nixon administration became notorious—and which ultimately led to impeachment proceedings and Nixon’s resignation. These practices included the compilation of an “enemies list,” massive surveillance of anti-Vietnam War protesters, civil rights activists and political opponents, and an array of “dirty tricks” operations including break-ins and other criminal acts.

The terrorist attack of September 11, 2001 was used by the Bush administration as the pretext for mounting this assault on constitutional safeguards and democratic rights, with the so-called “war on terror” providing the overarching rationale.

That such practices are once again rampant is documented by recent reports of spying on opponents of the Iraq war and political dissidents by the military, the FBI and other government agencies. The Bush administration has gone beyond Nixon in asserting dictatorial presidential powers, with its policy of seizing so-called “enemy combatants,” including US citizens, and placing them in indefinite military confinement without any recourse to the courts. Now it is defiantly asserting its right to disobey acts of Congress by declaring it will continue to authorize warrantless wiretaps.

Bush’s assurances that only people known to have links to Al Qaeda or other terrorist groups are being targeted by the NSA program have zero credibility, coming from an administration that has made lying its basic modus operandi. Were the NSA wiretaps targeting only terrorists, there would be no need to circumvent the FISA court. The decision to conduct warrantless surveillance makes sense only if the aim is to target political “enemies” who have no plausible connection to terrorist organizations.

On Wednesday, press and television news outlets cited remarks made by Bush in April of 2004 to suggest that he is lying when he now gives assurances about protecting civil liberties. Speaking in Buffalo, New York last year, Bush said: “Now, by the way, any time you hear the United States government talking about wiretaps, it requires—a wiretap requires a court order.”

Bush continued: “Nothing has changed, by the way. When we’re talking about chasing down the terrorists, we’re talking about getting a court order before we do so. It’s important for our fellow citizens to understand, when you think Patriot Act, constitutional guarantees are in place when it comes to doing what is necessary to protect our homeland, because we value the Constitution.”

Bush gave this speech some two-and-a-half years after he authorized warrantless wiretaps of American citizens—a program he has boasted of reauthorizing dozens of times since.

As for fear-mongering and intimidation, Cheney on Tuesday reiterated the statements made earlier by Bush to the effect that those who criticized the NSA surveillance program and the administration’s assertion of quasi-dictatorial powers were disarming the country, threatening the safety of the American people, and giving aid and comfort to the terrorists. He told reporters on Tuesday, according to a December 21 *Washington Post* article: “Either we believe that there are individuals out there doing everything they can to try to launch more attacks, try to get ever deadlier weapons to use against us, or we don’t...

“And so if there’s a backlash pending, I think the backlash is going to be against those who are suggesting somehow that we shouldn’t take these steps in order to defend the country.”

One canard employed by Bush to defend his violation of the law is particularly revealing. On two occasions, the first being his live radio address last Saturday, Bush cited as a justification for the NSA program the example of Nawaf al Hazmi and Khalid al Mihdhar, two of the 9/11

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hijackers. These two Al Qaeda operatives from Saudi Arabia are believed to have been among the men who commandeered American Airlines Flight 77 and crashed it into the Pentagon.

Bush said last Saturday that al Hazmi and al Mihdhar communicated with suspected Al Qaeda members overseas while they were living in the US. But, because of the FISA requirement for warrants, "we didn't know they were here until it was too late."

The *Washington Post* on December 21 published an article by Josh Meyer citing "current and former counter-terrorism officials" who debunked both the claim that US intelligence had failed to track these communications and the notion that the warrant requirements of FISA constituted an impediment to doing so.

According to the *Post*, the officials "said there were repeated phone communications between a safe house in Yemen and the San Diego apartment rented by Alhazmi and Almihdhar. The Yemen site had already been linked directly to the Al Qaeda bombings of two US embassies in Africa in 1998 and to the 2000 bombing of the US destroyer Cole in Yemen.... Those links made the safe house one of the 'hottest' targets being monitored by the NSA before the Sept. 11 attacks, and had been for several years..."

The article continued: "Authorities also had traced the phone number at the safe house to Almihdhar's father-in-law, and believed then that two of his other sons-in-law already had killed themselves in suicide terrorist attacks. Such information, the officials said, should have set off alarm bells at the highest levels of the US government.

"Under authority granted in federal law, the NSA was already listening in on that number in Yemen and could have tracked calls made into the US by getting a warrant under the Foreign Intelligence Surveillance Act. Then the NSA could have—and should have—alerted the FBI, which then could have used the information to locate the future hijackers in San Diego and monitored their phone calls, e-mail and other activities, the current and former officials said."

The *Post* noted that the NSA did not reveal the existence of the phone calls until after September 11, and then quoted one "senior counter-terrorism official familiar with the case" as saying, "The NSA was well aware of how hot the number was ... and how it was a logistical hub for Al Qaeda, and it was also calling the number in America half a dozen times after the Cole and before Sept. 11."

So much for the claim that the NSA was unable to monitor the phone calls of al Hazmi and al Mihdhar.

The case of these two hijackers, far from legitimizing the "war on terror" and the resulting arrogation of unchecked presidential powers, is one of the most damning of the many murky aspects of 9/11 that remain entirely unexplained and render the official version of the attack completely implausible.

Both were known Al Qaeda operatives, identified by the CIA in January 2000 as participants at an Al Qaeda meeting in Malaysia. Even earlier, according to the 9/11 Commission report issued last year, the two were being tracked by the NSA.

The report states: "In late 1999, the National Security Agency (NSA) analyzed communications associated with a man named Khalid, a man named Nawaf, and a man named Salem. Working-level officials in the intelligence community knew little more than this. But they correctly concluded that 'Nawaf' and 'Khalid' might be part of 'an operational cadre' and that 'something nefarious might be afoot.'"

Despite this, they were allowed to fly to the US shortly after the Malaysia meeting under their own names and set up residence in San Diego. There they took a course at a flight training school, where instructors noted their insistence on learning how to fly a Boeing commercial jet, and their lack of interest in learning how to take off or land.

According to the 9/11 Commission report, "The al Qaeda operatives lived openly in San Diego under their true names, listing Hazmi in the telephone directory."

Not only that. The Commission report further notes: "The housemate who rented the room to Hazmi and Mihdhar during 2000 is an apparently law-abiding citizen with long-standing, friendly contacts among local police and FBI personnel. He did not see anything unusual enough in the behavior of Hazmi or Mihdhar to prompt him to report to his law enforcement contacts. Nor did those contacts ask him for information about his tenants/housemates."

This despite the fact that, according to the Commission report, Hazmi "developed a close relationship with his housemate." In a footnote, the Commission writes: "Although Hazmi did not use his housemate's telephone to make calls, he apparently received calls on it..."

Unlike virtually all other individuals cited in the 9/11 Commission report, the "housemate" is never named. This confirms the fact that he is an important FBI informant on Islamist groups and individuals in San Diego. The claim that his FBI handlers never inquired about his housemates is incredible on its face.

When one of the pair's visas expired, the State Department quickly renewed it, and al Mihdhar, who left the US in June 2000 to return to Yemen, was allowed to return prior to September 11, 2001 without the slightest difficulty.

According to the official cover-ups carried out by the 9/11 Commission and a separate congressional inquiry, the CIA never informed the FBI of the movements or activities of al Hazmi and al Mihdhar. This was, the story goes, one of the many failures to "connect the dots" that contributed to a massive "failure of intelligence" and allowed the 19 hijackers to seize the planes and fly them into the World Trade Center and the Pentagon.

Others include the rejection by FBI headquarters of a request from the FBI office in Minneapolis to seriously investigate Zaccarias Moussaoui, the Islamist extremist whom local FBI agents suspected of seeking flight training for terrorist purposes, the failure of the FBI leadership to follow up on a memo from the Phoenix, Arizona office warning of Islamists taking flight training in various parts of the country, and Bush's inaction following his August 6, 2001 daily briefing from the CIA entitled "Bin Laden Determined to Strike in US."

Last August, news surfaced of the existence of a special military intelligence unit called Able Danger that in 2000 identified Mohammed Atta, the purported 9/11 ringleader, and three other future hijackers, including al Hazmi and al Mihdhar, as Al Qaeda. According to a member of Able Danger, the unit was blocked from sharing the information with the FBI, and the 9/11 Commission refused to mention its existence in its official report.

All of this points not to a "failure of intelligence," but to a deliberate policy of shielding the hijackers and allowing them to prepare some kind of terrorist attack. The new right-wing administration needed a Pearl Harbor-like event to shift public opinion and create an atmosphere of fear and patriotic hysteria so it could press forward with plans, already well prepared before 9/11, for military interventions in the oil-rich Middle East and Central Asia, and an unprecedented assault on democratic rights at home.

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