

US government continues to escalate domestic spying

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Nearly five months after the secret National Security Agency spying program was first revealed in the media, the US government continues its unchecked expansion of domestic spying powers. Several recent reports document this expansion, which is taking place on many fronts, involving the military, federal intelligence agencies, and local police forces.

The NSA program, which involves the warrantless monitoring of emails and other communications in violation of the 1978 Foreign Intelligence Surveillance Act (FISA), has received the most attention. In spite of its blatant illegality, the program continues, with no serious move by either political party to stop it. The Bush administration has openly flouted decisions by Congress and the courts, asserting that warrantless spying on US citizens is part of the president's powers as commander-in-chief in the "war on terror."

The NSA program is only one component of a much broader policy undermining basic democratic and constitutional rights in the United States, all justified by a supposedly ubiquitous terrorist threat. However, their real purpose is to vastly expand the powers of the government to monitor and repress internal dissent under conditions of mounting social tension and political opposition to the policies of the Bush administration.

Taken together, these developments provide a picture of a government that is systematically laying the foundations for a police state.

On Monday, May 1, the Justice Department released statistics documenting a sharp increase in the number of court-approved warrants the FBI has sought and received as part of the procedures established by the FISA Act. In 2005, the FBI received 2,072 warrants from the FISA court to conduct searches and electronic surveillance, up 18 percent from 2004.

Significantly, the FISA court did not reject any of the government's applications for warrants. The supposed difficulty of receiving warrants through the FISA procedures has been cited as one of the principal justifications for the warrantless NSA spying program, which is being carried out outside of any judicial oversight.

In addition to the FISA warrants, the government reported that the FBI issued 9,254 "national security letters" to US businesses and institutions to demand information on over 3,500 US citizens and residents. National security letters are used by the FBI to get personal records, including everything from Internet activity to records of purchases. They do not require any court review. The ability of the FBI to issue these letters was significantly expanded by the Patriot Act, passed shortly after the attacks of September 11, 2001.

A *Washington Post* article published last year reported that the FBI is now issuing 30,000 national security letters every year, an enormous increase over previous years. However, unlike the figure of 9,254 reported by the government, the *Post*'s numbers included a type of subpoena that only requests limited information such as a person's name. It is therefore impossible to say whether the 2005 figure represents an increase over the figure reported by the *Post*.

No information has been provided by the government as to who it has

targeted with these secret subpoenas, or what information has been collected.

The House passed the Fiscal Year 2007 Intelligence Authorization Bill on April 26, allocating \$44 billion to the various US intelligence agencies.

Republicans in the House blocked various amendments placing minor restrictions on the NSA spying program, including one that would require that classified reports on the program be given to the full House Intelligence and Judiciary committees. This hardly would have hampered the illegal spying on US citizens, as the government has already given regular reports for years to a smaller group of legislators of both parties, who have helped keep the program secret from the American people.

The intelligence bill must pass the Senate before becoming law. Republican Senator Arlen Specter, the chairman of the Senate Judiciary Committee, has suggested that he might file an amendment that would block spending for the NSA program. However, Specter has already assured the White House that he won't actually seek a vote on the amendment at this time.

In addition to massive spending and the rejection of any constraints on the NSA program, the intelligence authorization bill also includes several measures that would significantly increase the spying and policing powers of the CIA and the NSA. Sections 423 and 432 of the bill would give certain personnel responsible for security within the CIA and the NSA authority to "make arrests without a warrant for any offense against the United States committed in the presence of such personnel, or for any felony cognizable under the laws of the United States." Section 432 also gives NSA officials explicit authority to carry firearms.

In an April 24 letter sent to Chairman of the House Intelligence Committee Peter Hoekstra and ranking Democrat on the panel Jane Harman, the Project on Government Oversight (POGO) noted that the majority of illegal acts committed by the CIA in the 1960s and 1970s were done in the name of CIA security powers to protect its facilities—the powers that are now being expanded to allow the agency to arrest anyone, anywhere in the country.

"As the 1976 Church Committee report noted," POGO wrote, "the stated basis for the creation of programs that resulted in the improper investigation of US citizens and US political groups, such as Projects RESISTANCE and MERRIMAC, was a dubious reading of statutes authorizing the Director of Central Intelligence to 'be responsible for protecting intelligence sources and methods from unauthorized disclosure.' This was expansively interpreted by the CIA as 'authorization for the protection of CIA personnel and facilities against any kind of "security threat" including the possibility of violent demonstrations by the public.' The application of this interpretation resulted in the proactive infiltrating by CIA operatives into student and political groups."

The intelligence bill not only gives the CIA increased powers needed to engage in such activities again, but grants the same powers to the NSA at a time when the agency has been implicated in massive illegal spying of

US citizens. The NSA police forces, which currently have the power to arrest people within a 500-foot perimeter of NSA facilities, have also been recently involved in collaborating with local police forces to monitor peace groups planning protests of the NSA.

These measures are further steps in the establishment of a secret intelligence/police agency in the United States that is able to monitor virtually any communications between US citizens and rapidly make arrests of individuals deemed to be engaging in illegal activities, including protesters who are designated as “threats” to intelligence or defense facilities.

The bill also includes a measure that would require the director of national intelligence to study the possibility of revoking the pensions of intelligence agents who leak classified information without authorization. The section is a transparent response to a number of significant leaks in recent months that have revealed aspects of the criminal activities of the government, including the NSA spying program and the CIA’s use of secret torture and detention centers in Europe.

The administration has threatened to criminally prosecute intelligence agents as well as journalists for their role in publishing classified information.

The intelligence authorization bill passed the House by a vote of 327-96, with overwhelming bipartisan support.

On the same day that the intelligence bill passed the House, the government filed a motion in a federal court in San Francisco to dismiss a lawsuit brought against AT&T by the Electronic Frontier Foundation. EFF, an organization that promotes electronic privacy, has brought a class-action civil lawsuit against the telecommunications giant, charging it with collaborating with the NSA in violating the privacy of its customers by giving the government access to emails and other communications.

As part of the suit, the EFF has filed documents obtained by a former technician at AT&T proving that the company set up a separate room for the NSA and allowed the agency to monitor all the communications passing through its routers. The agreement with AT&T was part of the NSA’s secret spying program. Administration officials have claimed that the program is intended to monitor only calls involving someone in another country who is suspected of having ties to Al Qaeda. The documents obtained by the EFF, however, indicate that the NSA has access to vast databases of communications that include purely domestic emails and calls between US residents and citizens.

The government, which is not named in the suit, has appealed for the case to be dismissed on the grounds that it could reveal state secrets. William Weaver, a law professor and senior advisor to the National Security Whistleblowers Coalition, told *Wired News* that the government’s intervention will almost certainly end the EFF case and ensure that any documents in the case remain sealed. “There has never been an unsuccessful invocation of the state secrets privilege when national security is involved,” he said. “The suit is over.”

If the case is dismissed, it will close one of the few avenues available for challenging the illegal domestic spying.

A report in the *Wall Street Journal* on April 27 (“Pentagon Steps Up Intelligence Efforts Inside US Borders” by Robert Block and Jay Solomon) documents the military’s role in the surveillance of opposition groups in the United States.

“After 9/11,” the newspaper reported, “the Bush administration declared the continental US a theater of military operations for the first time since the Civil War.... Now several parts of the vast Pentagon bureaucracy are building large databases of information from sources including local police, military personnel and the Internet. In doing so, the military is edging toward a sensitive area that has been off-limits to it since the 1970s: domestic surveillance and law enforcement.”

The military has focused on antiwar protesters and according to the *Journal*, “the Pentagon has monitored more than 20 antiwar groups’

activities around the country over the past three years. It has reviewed photographs and records of vehicles and protesters at marches to see if different activities were being organized by the same instigators.”

The military database is connected to the program run by the NSA, as well to initiatives that were originally part of the Pentagon’s now officially abandoned Total Information Awareness program. After a public outcry over TIA, which was to involve the accumulation of vast databases to help the government spy on the American people, the program was renamed and several of its components were moved around, but the basic plan has remained in place.

According to the *Journal*, some of the TIA components ended up in the hands of the Army’s 902nd Military Intelligence Group, “the military’s largest counterintelligence unit [which] has hundreds of soldiers stationed around the country.” The 902nd makes extensive use of the Joint Regional Information Exchange System, “which gathers information collected by civilian law enforcement agencies around the country,” the newspaper reported. “The Pentagon and local authorities including the New York Police Department and California’s justice department set it up in December 2002,” but it “got a boost when the Department of Homeland Security took it over and expanded it to include information from all 50 states and major urban areas.”

Meanwhile, according to an article appearing in the May 8 issue of *US News and World Report* (“Spies Among Us,” by David E. Kaplan), the Justice Department is spending hundreds of millions of dollars to fund state and local police intelligence units. Additional funds have gone into the development of regional law enforcement databases.

The newest intelligence units are called “fusion centers,” which pool information from multiple local jurisdictions. These centers now exist in 31 states, with more on the way. There are plans to eventually have 70 such centers across the nation, providing what *US News* calls “a coast-to-coast intelligence blanket.”

According to the *US News* article, Jack Tomarchio, the new deputy director of the Department of Homeland Security, told a law enforcement conference in March that the department intends to embed as many as three DHS agents and intelligence analysts at every site, adding that “the states want a very close synergistic relationship with the feds.”

The New York Police Department (NYPD) has the largest number of officers assigned to homeland security—one thousand. The NYPD’s chief of intelligence is the former director of operations at the CIA and its head of counterterrorism was a counterterrorism coordinator for the State Department. In addition, the NYPD has officers posted in half a dozen other countries.

Lawsuits filed against the NYPD reveal that its undercover officers have joined antiwar rallies, among other protest gatherings, and that they have acted as agents provocateurs in order to provoke arrests at at least one demonstration. Investigations also have been launched against undercover agents elsewhere, including in Fresno, California, where a sheriff’s department officer infiltrated a local peace group.

US News also reported that in order to qualify for federal homeland security grants, local authorities are now required, to report on how many “potential threat elements” or “PTEs” exist in their jurisdictions. “The definition [given by the Department of Homeland Security] of suspected terrorists was fairly loose,” the magazine reported. “PTEs were groups or individuals who might use force or violence ‘to intimidate or coerce’ for a goal ‘possibly political or social in nature.’”



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