

Civil Liberties under the “October Plan”: The New COINTELPRO

The Feds are spying on - and harassing - political activists with a fury not seen since the 1960s.

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EARLY THIS MONTH the federal government launched the latest crude offensive in its so-called war on terror. Titled the October Plan, the program called for “aggressive – even obvious – surveillance” of a wide range of individuals (regardless of whether or not they’re suspected of any criminal wrongdoing) until the Nov. 2 presidential election, according to an internal document leaked to the press.

The plan – a collaboration between the Federal Bureau of Investigation, Immigration and Customs Enforcement, and other agencies – involves renewed scrutiny of mosques and interrogations of people whose national origin, religious faith, or political leanings might, in the eyes of the feds, indicate even the most far-flung relationship to “terrorism.”

Immigrants and others interviewed by the FBI have been “questioned about immigration status – theirs and others’ – and about their political and religious views,” the National Lawyers Guild’s Stacey Tolchin said at an emergency press conference called by the San Francisco branch of the American Arab Anti-Discrimination Committee, the Bay Area Association of Muslim Lawyers, the NLG, and the American Civil Liberties Union of Northern California.

For staffers at these organizations, responding to these kinds of crackdowns has become alarmingly routine. This is the fifth round of FBI “informal interviews” targeting immigrants based on their national origin, religion, and, increasingly, their political views.

No one knows just how many have been deported as a result of the interviews or of the various dragnets conducted over the past three years. Local NLG attorney Nancy Hormachae reported that at least 13,000 people were forced into deportation hearings as the result of the notorious Special Registration program alone. And the fact that none of these campaigns has proffered a single al-Qaeda operative hasn’t deterred the Bush administration a bit.

So far, immigrant Muslims and those from the Middle East and Central Asia have suffered the brunt of the Bush administration’s attacks on civil liberties. But as NLG immigration attorney Mark Van Der Hout told me, “Going after immigrants is just the first step towards going after U.S. citizens.”

Indeed, a look at the past three years shows that Attorney General John Ashcroft’s offensive

has widened to include a range of citizens whose only real crime is their opposition to the Bush administration's policies.

The FBI Comes Calling

President George W. Bush, Ashcroft, and company have made it easier to spy on everyday citizens without probable cause of criminal activity, even allowing for the indefinite detention of Americans dubbed "enemy combatants," without charges or access to a lawyer. They've eviscerated laws meant to keep a wall between the CIA and the FBI and erected an extensive domestic-spying infrastructure, enlisting private citizens and relying on private industry to a degree never seen before. Today federal agencies are maintaining a grand total of 10 domestic watch lists.

The Bush administration has shifted federal funding away from traditional law enforcement and toward domestic spying, explained John Crew, an attorney with the ACLU of Northern California specializing in police practices and surveillance issues. "A lot of this activity is, in fact, being carried out by local police working with the Joint Terrorism Task Force," he told me, explaining that those agents are considered "federalized." They report to the FBI. Local city officials - even local police chiefs - are often not aware of what these "special officers" are doing.

As the Bush administration loosened professional standards for law enforcement, it simultaneously increased financial incentives for conducting surveillance, Crew continued. "To qualify for grants, [local law enforcement] must have organizations in their locale that are threats," he said. "They have to justify their own budget by amplifying the threat factor."

Here in San Francisco, the FBI was to assign 27 special agents - two with supervisory powers - to the San Francisco Police Department, according to a November 2002 agreement between the two agencies. The SFPD was to assign one investigator from its Intelligence Unit to coordinate supervision of the special agents alongside the FBI's two supervisory special agents.

"We usually don't know what they're really up to until many years later, if ever," Crew said.

Details of just how law enforcement is making use of its expanded powers remain clouded in secrecy. But one thing is clear: it doesn't take much to earn a surprise visit from federal agents these days.

Just ask San Francisco resident Denver Duffer. Duffer was questioned by a state trooper and a cop in Blair, Neb., during a three-week road trip last month. He had stopped to admire "a beautiful old railroad bridge over the Missouri River," wrote former roommate and Daily Journal staff writer Peter Blumberg in the Daily Journal, and had taken a few photos on his point-and-shoot. The officers had received several calls from concerned citizens reporting that a bearded Arab had been photographing the bridge's foundations.

After grilling Duffer and rifling through his car and luggage, the officers let him go. But three weeks later, two FBI special agents appeared at Duffer's home.

The G-men let him off the hook after questioning him and Blumberg for 20 minutes and looking at the panoramic photos Duffer had shot during his trip. But the visit raised a disturbing question: how did a false tip, checked out and then dismissed by local cops in

Nebraska, wind up on the desk of FBI agents in San Francisco?

Just a week before Duffer's Nebraska run-in, 19-year-old Derek Kjar of Salt Lake City had also found himself being grilled by two agents – at least one from the Secret Service – after a neighbor called the feds to report a bumper sticker on Kjar's car that read, "King George – Off with his head."

"They said it was 'borderline terrorism,' " Kjar told Matthew Rothschild, a reporter for the Progressive's online McCarthyism Watch.

Media reports have documented dozens of such incidents over the past three years.

Viewed piecemeal, these episodes are troubling enough. But when considered alongside other disturbing patterns, they point to a much more insidious, Machiavellian offensive against everyday activists who dare to organize in opposition to the Bush administration's draconian policies.

These patterns provide evidence that, despite official claims to the contrary, law enforcement may be directing much of its domestic antiterrorism efforts into COINTELPRO-style programs – keeping tabs on activists and otherwise assaulting legitimate dissent.

"If you're going to start focusing on people not because they're engaged in violent activity – if the focus of your approach is going to be because of the political views that they hold – then inevitably that's going to lead to the kind of political disruption that was used in COINTELPRO," Center for Constitutional Rights legal director Jeff Fogel told me. "To me, that's the logical result."

The Criminal Quakers

A rash of scandals involving sinister, new intelligence outfits corroborate Fogel's suspicions.

In March 2002, the Denver ACLU filed a class action suit against the local police department that eventually uncovered proof that Denver cops had been monitoring and keeping files on more than 3,200 individuals and 208 organizations – the vast majority of whom posed no threat – despite a city policy prohibiting intelligence gathering not directly associated with criminal activities. Among what became known in the local press as the "Denver spy files" were documents labeling the American Friends Service Committee, an 85-year-old pacifist Quaker group, as one of numerous "criminal extremists."

"We got, through discovery, documents indicating that the [FBI's] Joint Terrorism Task Force was also collecting information about people's peaceful activities – activities that solely involve political views, not criminal activity," Mark Silverman, legal director for the Denver ACLU, told me. One year after the "Denver spy files" scandal and closer to home, internal documents originally released in response to a public records request by the Oakland Tribune revealed that the California Anti-Terrorism Information Center – launched just two weeks after the Sept. 11, 2001, attacks – had been monitoring protest activities throughout the state and had "issued 30 special advisories that mention political groups in the Bay Area alone," reporters Ian Hoffman and Sean Holstege wrote in a July 15, 2003, article. Included among the groups: the International Action Center, Direct Action to Stop the War, Not in Our Name, Critical Mass, Black Bloc, the Ruckus Society, the Bay Area Independent Media Center, and various environmental, animal rights, peace, and nuclear disarmament

organizations.

The exposé prompted state attorney general Bill Lockyer to issue a series of guidelines banning California law-enforcement agencies from monitoring political and religious groups without reasonable suspicion of a crime.

New guidelines didn't come soon enough for members of Peace Fresno. On Sept. 1, 2003, members of the antiwar group were surprised to find an obituary in the Fresno Bee for Aaron Stokes, a man they'd thought was part of their organization – but whom the paper identified as a local sheriff's department officer. As it turned out, Stokes (who'd died in a motorcycle accident) had belonged to the Fresno County Sheriff Department's Anti-Terrorism Unit. He'd infiltrated Peace Fresno and conducted undercover surveillance of the group and its members for six months.

"What they do with that information ... who knows," Denver ACLU's Silverstein cautioned.

Meanwhile, the FBI continues to issue secret Intelligence Bulletins similar to CATIC's on a weekly basis. The FBI requires law-enforcement agencies nationwide to keep an eye on "possible indicators of protest activity and report any potentially illegal acts to the nearest FBI Joint Terrorism Task Force," according to a leaked FBI Intelligence Bulletin issued Oct. 15, 2003.

Preemptive Strikes

Paul Bame, a 45-year-old software engineer in Fort Collins, Colo., returned from his lunch break on July 23 to find a security guard waiting at his desk. The guard escorted him to the building lobby, where FBI agent Ted Faul was waiting for him.

As it turns out, Faul had looked for Bame at home the evening before and spoken to one of his neighbors, then left Bame a phone message. Bame had called back the agent in the morning and left a message on his voice mail.

Faul appeared at Bame's work, unannounced, anyway.

The agent wanted to know if Bame – a pacifist who'd been arrested on minor infractions at the 2002 anti-World Bank and International Monetary Fund protest in Washington, D.C., and at the anti-Free Trade Area of the Americas demonstrations in Miami last November – had knowledge of any plans to disrupt the Republican National Convention taking place a month later.

Faul warned the activist that it's a crime to have such knowledge and not disclose it. He came equipped with a thin folder bearing Bame's name.

"I was shaking with terror," Bame told me in a phone interview. "To visit my home, call, and visit me at work, all within an eight-hour work day, shows a sense of urgency, like he was tracking down a criminal."

Faul decided not to push for an interview after Bame told him he wouldn't speak without a lawyer present. But "his role was done when he came to the door," Bame said. "My feeling is that they wanted to make it known that they were watching."

Bame was just one of numerous activists approached by special agents in different parts of

the country prior to the RNC. But the campaign didn't end with these interviews.

Just a couple of weeks earlier, on Aug. 15, the New York Times broke the story – leaked by someone inside the FBI – that six-person teams of federal agents had been assigned to trail 56 activists from around the country, beginning immediately and continuing until the end of the anti-RNC protest activities.

This reporter experienced the joys of being followed by what appeared to be undercover cops while in New York for the anti-RNC activities too. (They denied being officers.) I'd met up with a small group of activists who'd called saying they were being followed for the third time. The undercovers stalked the group everywhere we went, for hours. They'd mention details of where some of the activists were from and where they'd been. They harangued us – creating suspicion about us to people on the street and trying to instigate a confrontation (see "The Intimidators," 9/8/04).

In fact, the campaign against activists that preceded the RNC was just one of the recent preemptive strikes in the weeks and months leading up to major demonstrations in the United States.

Three university students from Kirksville, Mo., were among the targets prior to the Democratic National Convention in Boston. They reported being trailed 24 hours a day and interrogated by the FBI in late July and "were then subpoenaed to appear before a grand jury on the very day they were planning to be in Boston for [the protest]," Matthew Rothschild reported for The Progressive's McCarthyism Watch Web site. Agents also questioned their parents.

Of course, the government practice of keeping tabs on dissenters is nothing new. In June 2000, Bay Area anti-globalization activist David Solnit was stopped by Canadian officers after arriving in Windsor. They had a printout about him provided by the FBI, Solnit told Bay Guardian reporter A.C. Thompson at the time. Solnit wound up spending four days in the brink before being released without charges and warned to leave the country (see "Big Brother Was Watching," 10/18/01).

Other outspoken advocates of nonviolent civil disobedience have had similar experiences while trying to travel to Canada or returning to the United States from abroad. Their experiences indicate that the feds have been sharing intelligence on U.S. activists with other countries for some time now.

Starhawk and a friend were stopped by immigration agents when they flew into Ottawa, Canada, in 2001. She was allowed to enter the country after officials questioned her and checked her bags, but her friend was detained. Records turned up as part of a lawsuit later filed by her friend showed that the Canadian officials had stopped Starhawk based on information about her arrest during the 1999 World Trade Organization demonstrations in Seattle, she said. (She'd been arrested for obstructing a pedestrian and spent five days in jail before the charges were dropped. "I was never convicted of anything," she told me.)

Starhawk, a 40-year-old veteran of progressive movements, reported being stopped every time she flies into Canada now.

Five customs agents greeted her in Los Angeles as she exited a plane returning from the WTO protests held in Cancun little more than a year ago.

“There’s definitely been a dramatic escalation in these kinds of activities since [the anti-WTO protests in] Seattle, and particularly since Sept. 11,” Solnit told me. “They’re criminalizing the concept of protest.”

I’ve spoken with and received e-mails from numerous activists – in northern California, the Los Angeles region, Boston, New York, and New Jersey – over the past month detailing similar experiences. They describe being approached by federal agents asking them to reveal protest plans and names of other activists, and being trailed.

“The only things we know about the October Plan is what’s been leaked,” Crew of the ACLU of Northern California said, adding that there are no guarantees that U.S.-born activists aren’t being targeted as part of that surveillance scheme too.

Media Mouthpieces

During the week of the RNC protests in August, the New York-based Daily News published an article titled “Anarchists Hot for Mayhem,” cautioning New Yorkers about 50 activists in town to create havoc. The New York Post published an equally scandalous report on some of the very same protesters. “Finest Prep for Anarchy,” screamed the headline.

Solnit, Starhawk, and other prominent (and avowedly nonviolent) political organizers were on the list, their photos displayed prominently in the Daily News’ pages.

Solnit and Starhawk said nobody from the News or the Post ever called them for comment.

That kind of sensational behavior might be typical (if inexcusable) for the scandal-loving New York tabs – but it didn’t end there. ABC’s eminently respectable Nightline followed suit, in a segment titled “Vote 2004: Protecting the Republican National Convention” featuring officers of the NYPD and the Secret Service.

On Aug. 31, the same evening President Bush officially accepted the Republican Party’s nomination at Madison Square Garden, viewers across the nation watched Ted Koppel warn Americans about more than two dozen activists whom he referred to as “particularly troublesome, even dangerous anarchists who infiltrate other groups and then try to provoke violence.” The segment included mug shots of the suspects, fed to the media by local authorities. Solnit’s photo from when he’d been arrested at the FTAA protests in Miami was among them.

“That’s as serious as it gets,” CCR’s Fogel said. “The same way they use the word ‘9/11’ in connection with Iraq, without ever saying ‘Iraq caused 9/11,’ in the hopes that people will believe that there’s a connection between 9/11 and Iraq – it’s the same as the association of the word ‘terrorism’ and protest activity. The equation of the word ‘anarchism’ with violence is an extraordinary equation. I don’t know where that comes from except their desire to paint particular people with a particular viewpoint as being violent. Because there is no connection between those two things.”

(Interestingly, Solnit doesn’t even describe himself as an anarchist.)

The consequences are two-fold, he said: to “discourage people from attending such demonstrations” and to “negate the impact the protest may have” by casting it in a negative light and characterizing organizers as thugs feeding into the terror threat.

The spoon-feeding of damaging material to the press is eerily reminiscent of what happened to Stanford University professor H. Bruce Franklin in the late 1960s (see “They’re Watching,” page 19).

Meanwhile, the feds continue to launch assaults against antiwar, grassroots media activists who try to get the other side of the story out. At the behest of the Secret Service – the agency charged with coordinating the law-enforcement response for special security events – the Justice Department subpoenaed New York City’s Indymedia Center’s Internet service provider in August for records associated with a posting that included the names of RNC delegates.

Authorities subpoenaed San Antonio-based Rackspace, another IMC Web-hosting provider, demanding access to another of the group’s servers two weeks ago. Rackspace handed over the data and shut down a second server used to stream various electronic radio programs, without a word to the IMC.

Both servers were situated in London, where Rackspace operates an affiliate company. The move affected approximately two dozen IMC sites throughout the world.

Feeling Safer?

Civil liberties watchdog groups obviously worry about the chilling effect these kinds of surveillance and crackdowns have on our faltering First and Fourth Amendments. But they also insist that Ashcroft and company’s approach isn’t making us any safer.

When law enforcement fails to distinguish between violent criminal activity and legitimate dissent – and when it favors collecting as much information on as many people as possible rather than useful intelligence resulting from bona fide criminal investigations – it’s “choosing quantity over quality,” Crew said. “You develop good leads by generating trust, not by disrespecting people’s rights.... [And] if you’re looking for a needle in a haystack, adding more hay doesn’t help any.”

The bills that have recently passed through the House and Senate in response to the 9-11 Commission’s findings, reorganizing intelligence gathering and expanding Big Brother’s reach even further into our everyday lives, just promise more of the same.

“It’s during times of fear when civil liberties are most at risk,” Crew said.

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