

Illegal NSA Surveillance of Americans: Secret Authorizations Granted by Bush and Obama

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The May 13th PBS “Frontline” documents that on 4 October 2001, President George W. Bush signed a secret authorization for the NSA to see the “metadata” (the to-whom, and from-whom) records for all phone calls, and also “a lot of content of phone calls. They’re actually recording the voices — not for all of our calls, but for a lot of U.S. telephone calls.”

Titled [“United States of Secrets,”](#) this documentary reports that only about a half-dozen people were informed of this operation, which was called “the Program.” NSA chief Michael Hayden was informed of it, and he supported it. Attorney General John Ashcroft was informed of it, but he opposed it as being illegal, a direct violation of the 4th Amendment, and also possibly of the 1st Amendment. The Justice Department was sidelined from it. President Bush’s order was drafted not by the President’s lawyer, Alberto Gonzales (though he supported it), but by David Addington, VP Dick Cheney’s Legal Counsel, who was not so much asked whether it was Constitutional, as he was asked to come up with an argument for its being Constitutional, even if only a fig-leaf argument — which it turned out to be. Cheney actually ran the country, and Bush rubber-stamped whatever came out of Cheney’s office.

Within 30 minutes after the President signing the order, Addington placed it into his office safe, and he showed it to very few people, only on a need-to-know basis.

President Bush is shown as saying to the public, “Nothing has changed, by the way. When we’re talking about chasing down terrorists, we’re talking about getting a court order before we do so.” And: “It’s important for our fellow citizens to understand constitutional guarantees are in place when it comes to doing what is necessary to protect our homeland because we value the Constitution.” These statements were simply lies from him, and there was no “court order” for anything in “the Program.” For a long time, the FISA (Foreign Intelligence Surveillance Act) Court wasn’t even informed about the existence of “the Program.” So: it didn’t even have FISA Court authorization.

Employees at NSA who balked at breaking the law, and who refused to do what they thought to be wrong, at least unless and until they saw legal authorization for it — which they were not presented to them — were threatened by their superiors. Some were fired. Others tried to contact reporters, and were then prosecuted. The Bush Administration wrecked their lives, broke up some marriages, and prosecuted one of them all the way into the Obama Administration, which threatened him with prison and then gave up when he was finally financially stripped and his marriage destroyed.

Arthur Sulzberger, the controlling owner of The New York Times, and his Editor, Bill Keller,

blocked their own reporters, James Risen and Eric Lichtblau, from publishing the fact (communicated by the leakers) that that Bush's statements that everything was hunky-dory legal were lies. Thus, Bush was able to win re-election against John Kerry in 2004. But, then, Risen got a book contract, and so was able to publish the truth after the 2004 election (which was what principally concerned Bush — his re-election); and, so, *The New York Times* finally allowed the truth to be published also in their pages, after the "election," and thus too late for the public to absorb the fact that they'd been deceived by Bush about this.

The news report was headlined on 16 December 2005, "[Bush Secretly Lifted Some Limits on Spying in the United States After 9/11, Officials Say.](#)" Online, it was headlined "[Bush Lets U.S. Spy on Callers Without Courts.](#)" The responses to this news story (such as were shown there at the print version) were largely from conservatives (people who trusted Bush's honesty), who accused the *Times* of being a voice of the Democratic Party, though the reality of this situation was more like the exact opposite. The reality was that the *Times* hid (actively suppressed) this information, for as long as possible.

Furthermore, the story itself misrepresented even some basic facts, in the direction of softening Bush's lies. For example, the opening two sentences of it were: "Months after the Sept. 11 attacks, President Bush secretly authorized the National Security Agency to eavesdrop on Americans and others inside the United States to search for evidence of terrorist activity without the court-approved warrants ordinarily required for domestic spying, according to government officials. Under a presidential order signed in 2002, the intelligence agency has monitored the international telephone calls and international e-mail messages of hundreds, perhaps thousands, of people inside the United States without warrants over the past three years in an effort to track possible 'dirty numbers' linked to Al Qaeda, the officials said. The agency, they said, still seeks warrants to monitor entirely domestic communications." Here is how Frontline reports the actual event, not the *NYT's* reporting of it: "On October 4th [2001], in a secret signing with Cheney, the president officially authorized 'the program'." The *NYT*-implied Bush reluctance, of "Months after the Sept. 11 attacks," was a fiction. Cheney immediately, on 9/11, told his people to come up with proposals for whatever they thought needed to be done, and said that he would get it done; and Bush was 100% supportive of that must-do, can-do, will-do, attitude, and of "the Program." Furthermore, the description provided by *NYT* of the Program, understated its scope; and, to refer to "the court-approved warrants ordinarily required" was itself a lie, because those warrants were a legal *requirement*, which had been legislated shortly after Richard Nixon was booted from the White House for Watergate, and adherence to that law wasn't just "ordinarily required," but it was *always adhered to*, because NSAers didn't want to go to prison. This documentary makes that fear, of breaking the law, clear. Furthermore, to say that "messages of hundreds, perhaps thousands, of people inside the United States" were the scope of this "Program," which actually encompassed virtually all telecom traffic of the hundreds of millions of American citizens, would be ludicrous if such a lie could be funny at all. So: the *NYT's* report was highly sanitized.

This documentary also reports Barack Obama's lies. It shows candidate, Senator, Obama promising, "No more secrecy. That's a commitment that I make to you as president!" And, "I will provide our intelligence and law enforcement agencies with the tools they need to track and take out the terrorists without undermining our Constitution and our freedom. That means no more illegal wiretapping of American citizens." And, "No more ignoring the law when it is inconvenient. That is not who we are. That's not what is necessary to defeat the terrorists." And, then, finally: "BARACK OBAMA, President of the United States: The laws that

are written will be more open to the public. No more secrecy. That's the commitment I make to you as president!" (And he now was President.) All of those promises, from Obama, were also lies.

Furthermore, this documentary makes clear that both Bush and Obama have consistently tried to imprison whistleblowers, within the NSA and elsewhere, who attempted to get word out about this rampant law-breaking by the Federal Government. Edward Snowden was just the last of a long line of those. At one point, practically the entire top rung of the U.S. Justice Department were preparing to resign over this matter. NSA Senior Executive Thomas Drake was fired over it, prosecuted with the threat of life imprisonment, and then, when Obama ultimately couldn't find anything serious to charge him with, just stripped financially to pay his legal expenses. And, of course, Obama still wants to kill Edward Snowden for exposing this "Program."

However, this documentary is itself largely a cover-up. It presents "the Program" as being a response to 9/11, but actually the desire and intention to do it began almost as soon as George W. Bush entered the White House.

On October 11th of 2007, wired.com bannered "[NSA Domestic Surveillance Began 7 Months Before 9/11, Convicted Qwest CEO Claims.](#)" and Ryan Singel reported that Joseph Nacchio, the CEO of the phone company Qwest, claimed in court documents that he had been sentenced to prison because he had decided in February 2001, just a month after George W. Bush entered the White House, that he could not authorize his company to participate in warrantless wiretaps of Americans because such wiretaps would be illegal. Nacchio's April 2007 statement to the court was just now being released by the court, and said that he "respectfully renews his objection to the Court's rulings excluding testimony surrounding his February 27, 2001 meeting at Ft. Meade with representatives from the National Security Agency (NSA) as violative of his constitutional right to mount a defense. Although Mr. Nacchio is allowed to tell the jury that he and James Payne [Qwest's government liason] went into that meeting expecting to talk about the 'Groundbreaker' project," a multi-billion-dollar NSA telecom contract (it didn't yet have the name "the Project"), and that he "came out of the meeting with optimism about the prospect for 2001 revenue from NSA, the Court has prohibited Mr. Nacchio from eliciting testimony regarding what also occurred at that meeting. [REDACTED, but presumably referring to demands by NSA for Qwest to permit federal snooping on Americans without court warrants.]

The Court has also refused to allow Mr. Nacchio to demonstrate that the agency retaliated for this refusal by denying the Groundbreaker and perhaps other work to Qwest." In other words, Mr. Nacchio was alleging that this huge federal contract had been denied to Qwest because Qwest had refused to participate in Bush's illegal warrantless snooping on phone and e-mail communications of Americans. This is before 9/11. In 2001, Nacchio sold some of his Qwest stock shares, and the Bush Administration charged him with insider trading, because Qwest's share-price declined after that sale. "Nacchio unsuccessfully attempted to defend himself by arguing that he actually expected Qwest's 2001 earnings to be higher because of secret NSA contracts, which, he contends, were denied by the NSA after he declined in a February 27, 2001 meeting to give the NSA customer calling records." The court refused to allow Nacchio to present to the jury any information regarding the NSA's demands which Nacchio had turned down. Consequently, according to Nacchio's lawyer, he was convicted and received a 6-year prison sentence.

Two days later, on October 13th, the Washington Post bannered [“Former CEO Says U.S. Punished Phone Firm,”](#) and reported: “A former Qwest Communications International executive, appealing a conviction for insider trading, has alleged that the government withdrew opportunities for contracts worth hundreds of millions of dollars after Qwest refused to participate” in Bush’s NSA surveillance against Americans. “Former chief executive Joseph P. Nacchio, convicted in April of 19 counts of insider trading, said the NSA approached Qwest more than six months before the Sept. 11, 2001, attacks, according to court documents unsealed in Denver this week.” That would have placed it probably back in February 2001.

If Nacchio’s allegations were true, then Bush was already organizing the illegal wiretapping against Americans months before 9/11 even occurred, and Nacchio’s prosecution was retaliation against his non-cooperation with Bush’s illegal NSA program.

A week later, on October 22nd, the WP headlined [“Immunity for Telecoms May Set Bad Precedent, Legal Scholars Say.”](#) The Bush Administration was trying to push through Congress immunity for Verizon and ATT, which, unlike Qwest, *had* participated in Bush’s illegal spying against Americans.

Bush’s proposal, now in 2007, was to retroactively legalize what those companies had done, even though this would constitute a form of *ex post facto* law: It would retroactively change the law in order to immunize those two companies. This type of *ex post facto* law is known as an “amnesty law,” because it amnesties, or retrospectively legalizes, rather than illegalizes, the defined activities. Article I Section 9 of the U.S. Constitution states: “No ... *ex post facto* Law shall be passed.” That includes an amnesty law (certainly of this type, though not necessarily of illegal immigration, since that isn’t a criminal violation). To Republicans, and to the conservative Democrats who also were pushing Bush’s legislation, the U.S. Constitution was merely an inconvenience; only the Bible was the Law, to them.

On 5 November 2007, the Electronic Frontier Foundation headlined [“AT&T Whistleblower to Urge Senate to Reject Blanket Immunity for Telecoms,”](#) and reported that a retired AT&T technician, Mark Klein, said, “My job required me to enable the physical connections between AT&T customers’ Internet communications and the NSA’s illegal, wholesale copying machine for domestic emails, Internet phone conversations, web surfing and all other Internet traffic.” The following day, the *Austin American-Statesman* bannered [“AT&T Whistleblower: Say No to Telecom Immunity,”](#) and Rebecca Carr reported that Klein said “I have first-hand knowledge of the clandestine collaboration between one giant telecommunications company, AT&T, and the NSA to facilitate the most comprehensive illegal domestic spying program in [U.S.] history.” Then, the next day, on November 7th, the *Washington Post* bannered [“A Story of Surveillance: Former Technician ‘Turning In’ AT&T Over NSA Program.”](#) Ellen Nakashima reported Klein as saying, “This splitter was sweeping up everything, vacuum-cleaner style. ... The NSA is getting everything.” Moreover, this AT&T facility which he installed “carry not just AT&T’s customers but everybody’s.” Klein described specific AT&T “links to 16 entities,” including Global Crossing, Verizon, Level 3, Sprint, and Qwest. It was the central hub for all international U.S. telecommunications traffic. ABC headlined concerning only the internet aspect, [“Big Brother Spying on Americans’ Internet Data,”](#) and reported Klein as asserting that, “An exact copy of all Internet traffic that flowed through critical AT&T cables — e-mails, documents, Web browsing, voice-over-Internet phone conversations, everything — was being diverted to equipment inside the secret room.”

Although, according to Nacchio's testimony, George W. Bush's laying the groundwork for illegal spying against regular American citizens began well before the 9/11 attacks, the press in the United States continued to parrot unquestioningly, in their stenographic "news" stories, the White House's line, that the spying program began *as a response to 9/11 in order to prevent a recurrence*. Long afterward, Bush was still successful in getting the AP, *The New York Times*, and other "news" organizations, to put this dubious assumption before the American public, as a supposedly established fact, in "news reports." On 14 March 2008, georgia10 at dailykos.com headlined "[Dear Media: Please Stop Repeating This Lie.](#)" She documented there cases in which the media had recently presented this Bush assertion as if it were an established fact. The pleading here was in vain. America's major "news" media are propaganda agencies.

On 16 December 2007, *The New York Times* headlined "[Wider Spying Fuels Aid Plan for Telecom Industry.](#)" and reported that, "At stake" in the battle over retroactive immunization of the traitorous telecom companies which had served the aspiring dictator "is the federal government's extensive but uneasy partnership with [these criminal elements in, not with (as here implied) all] industry to conduct a wide range of secret surveillance." A lawsuit "claims that in February 2001, just days before agency officials met with Qwest officials, the N.S.A. met with AT&T officials to discuss replicating a network center in Bedminster, N.J., to give the agency access to all the global phone and e-mail traffic that ran through it."

When these meetings with telcos were occurring, requesting these companies to provide the Bush Administration access which was prohibited by existing laws, such as the FISA act, President Bush was simultaneously shoving off anti-terrorism chief Richard Clarke, who was futilely trying to get the Administration to pay attention to the Al Qaeda threat. So, Bush's Big Brother effort here had nothing whatsoever to do with Al Qaeda or other terrorist groups. The Executive Order of the President, that Bush signed in October 2001 "legally" authorizing this spying, was merely using 9/11 as the convenient excuse, a pretext, for something that Bush had planned all along. A lawyer for one of the whistle-blowing telecom employees said, "What he saw ... was decisive evidence that within two weeks of taking office, the Bush administration was planning a comprehensive effort of spying on Americans." George W. Bush, at the time this news story appeared, December 16th six years after the Program's start, was threatening the U.S. Senate, by saying that he would veto any FISA reauthorization which failed to provide his demanded unconstitutional retroactive immunity for the telephone companies which had participated in Bush's police-state initiative. He needed them to be immune, because otherwise he himself would not be. After all: they were doing *his* bidding.

Thus, it was even more shameful that America's major media continued peddling Bush's lie that the illegal surveillance program was a response to 9/11 — a deception that is reinforced by this Frontline piece on 13 May 2014.

On the same day, December 16th of 2007, the headline that appeared of this news at rawstory.com wasn't the Republican newspaper's tepid and misleading "Wider Spying Fuels Aid Plan for Telecom Industry," but was instead the very direct and honest: "[AT&T Engineer Says Bush Administration Sought to Implement Domestic Spying Within Two Weeks of Taking Office.](#)" An attention-grabber like that isn't what a U.S. President wants in a headline for such a news report. This news story also didn't "bury the lede" as the *NYT* had done. Instead, it opened directly, by saying: "Nearly 1,300 words into Sunday's New York Times article revealing new details of the National Security Agency's domestic eavesdropping program, the lawyer for an AT&T engineer alleges that 'within two weeks of

taking office, the Bush administration was planning a comprehensive effort of spying on Americans' phone usage.'" *The New York Times* is the supreme master of news-slant, not just "burying the lede," but burying truth.

On account of the widespread lie that Bush's surveillance program was a response to 9/11, Siobhan Gorman of the Wall Street Journal bannered on 14 March 2008, "[Democrats Dig In for Surveillance Battle,](#)" and reported a "Partisan Battle" over retroactive telecom immunity, because 74% of Republicans (and a lower 52% of all respondents) polled by Princeton Survey Research Associates had said that, "Government surveillance of suspected terrorists without court permission" is "Generally right," while 57% of Democrats (and 44% of all respondents) said it's "Generally wrong."

America's conservative masses were passionately supportive of this surveillance; they were driven by fear, even if they were playing into the hands of the worst forces; and their pettiness was destroying everything that made the United States great. They didn't at all fear America's tyrant at that time, George W. Bush.

Surveillance without a warrant isn't just "Generally wrong"; it's always wrong. Lawbreaking by Government is always wrong, especially when it threatens basic constitutional freedoms, and most especially when it threatens the introduction of a police state.

In June 2008, a large minority of congressional Democrats joined all but one Republican in a FISA "compromise," H.R. 6304, which seemed to give the President what he wanted, because otherwise, without it, Democrats would likely lose crucial seats in Congress, representing conservative districts, where fear of alien Muslim terrorists exceeded even their fear of immigrants and of other aliens in general. On 20 June 2008, Massimo Calabresi in *TIME* bannered "[Behind the Compromise on Spying,](#)" and he explained how stupid it would have been for congressional Democrats to support the U.S. Constitution during this key election year. America's high-school-civics teachers had failed disastrously, and so America's voters possessed virtually no idea of what a constitutional democracy really is, much less of how to continue to be one.

How, for example, could American voters intelligently evaluate the Republican and Democratic Presidential candidates' respective positions on warrantless wiretapping? A political game was being played here, and voters were the ultimate chips to be won or lost in this game. They weren't the ultimate deciders; the ultimate deciders were the players of the game. It was no democracy.

However, this new snooping law didn't actually provide Bush protection after all. Buried in its Title II, Section 802 of the revised FISA law, was an obscure clause which restricted legal immunity to only things telecoms did that were "authorized by the President during the period beginning on September 11, 2001." That was its key clause, and it hadn't been in the previous versions of the bill. In this new version, there was no immunity at all for anything which was illegal and which the President had authorized prior to 9/11, such as had been revealed by Joe Nacchio, and also by the AT&T whistleblower, Mark Kline, both of whom referred to illegal snooping demands by Bush occurring in February of 2001.

Bush couldn't very well veto this bill once it passed Congress; he had to sign it into law, because he claimed publicly that 9/11 had caused this snooping, that this snooping was a response to 9/11. And Republicans in Congress couldn't vote against the bill either, because it gave both them and the President what they were publicly demanding. The

Democrats were now essentially calling the Republicans' bluff on their demands, and doing it during a Presidential election year, in which the Republican Party was now widely loathed, and when Republican Representatives and Senators feared the real prospects of losing their seats. Basically, congressional Democrats had congressional Republicans, and the Republican President, caught in a political trap, from which there was no way out. So, the supposed telecom-immunity was, essentially, a fiction. On 18 September 2008, rawstory.com bannered "[Domestic Spying Lawsuit Targets Bush, Cheney, NSA,](#)" and reported that, "Based on news reports and information obtained from former AT&T employee Mark Kline, EFF [Electronic Frontier Foundation] alleges a massive surveillance apparatus has been trained on Americans to vacuum up information on virtually every telephone call, e-mail and Internet search to feed a massive database maintained by the NSA. ... Information on the lawsuit and a link to the 55-page filing is available on EFF's Web site."

So: As soon as Obama came into the White House, he not only continued, virtually unchanged, George W. Bush's bailouts of Wall Street, non-enforcement and non-prosecution against banksters, and rabid prosecutions against whistleblowers in government, but he also refused to prosecute George W. Bush and Dick Cheney for their lawless regime. He thereby established the precedent that the U.S. President is, in effect, above the law, that he's supposed to enforce. He made this a bipartisan dictatorship.

We do not have a free press. It's a propaganda operation, by, and for, the people at the top.

Investigative historian Eric Zuesse is the author, most recently, of [They're Not Even Close: The Democratic vs. Republican Economic Records, 1910-2010](#), and of [CHRIST'S VENTRILOQUISTS: The Event that Created Christianity](#).

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