

NSA Surveillance:
Secret Truths and Historic Choices
by
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Good afternoon.

I want to talk about two larger dimensions of NSA spying upon Americans: 1.) First, the National Security Agency already operates a huge global surveillance system that does not obey the laws, or respect rights to privacy, of Europeans and other foreigners; President Bush has simply decided to treat Americans like everyone else. Our attention should be focused on this larger dimension because American foreign policy has been conveying a degree of *hubris* and disdain to the rest of the world that is reaching a “tipping point” and may permanently weaken American power.

2.) Second, American domestic politics is being affected dangerously by the non-rational group dynamics that William Golding portrayed in his novel, The Lord of the Flies. The legal arguments about NSA domestic spying - and President Bush almost certainly *has* violated the law - are less important than the fact that democratic and evidence-based discussion is being replaced by a dominance hierarchy in which the President and Vice President have used national security fears to change fundamental power relationships with Congress, the federal courts, the press, and

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the American people.

I. Overview: Historic Choices, Two Larger Dimensions

A. The International Danger: A "Tipping Point" in Global Popular Culture

We are on the verge of a tipping point in the psychology of world politics.² 1.) If we "connect the dots," the NSA's global surveillance system is part of a new capability for an American-run global police state. This is an astonishingly bold regime that includes "knock-on-the-door-in-the-middle-of-the-night" kidnaping ("renditions," in the official US phrase), an international network of secret CIA prisons where American enemies are held *incommunicado*, denied legal counsel, and are subject to torture.³ [After President Bush signed a recent anti-torture bill, the White House also posted a "signing statement" on its Website asserting his ultimate authority as Commander in Chief to order the use of torture for national security purposes if he deemed it necessary.]⁴

² Gladwell, M. (2000). The tipping point: How little things can make a big difference. Boston, MA, Little, Brown.

³ The Bush-Cheney Administration does not back down in the face of public disclosures and media controversy. For a useful overview: Priest, D. (2005). Covert CIA program withstands new furor. Washington Post. Washington, DC: A 1.

⁴ "When President Bush last week signed the bill outlawing the torture of detainees, he quietly reserved the right to bypass the law under his powers as commander in chief.

"After approving the bill last Friday, Bush issued a "signing statement" -- an official document in which a president lays out his interpretation of a new law -- declaring that he will view the interrogation limits in the context of his broader powers to protect national security. This means Bush believes he can waive the restrictions, the White House and legal specialists said.

The new American global-management framework includes President Bush's unilateral declaration of a right to the pre-emptive use of military force anywhere in the world. There are new capabilities for clandestine military operations and assassination squads inside the geographic territory of countries with whom the United States is not at war. The New York Times reported on March 8, 2006:

“The military is placing small teams of Special Operations troops in a growing number of American embassies to gather intelligence on terrorists in unstable parts of the world and to prepare for potential missions to disrupt, capture, or kill them.”⁵

A growing network of pre-positioned death squads? The new Secret Operations forces are operated by the Department of Defense, which removes them from the established mechanisms for briefing Congressional leaders about CIA covert operations.⁶

"The executive branch shall construe [the law] in a manner consistent with the constitutional authority of the President . . . as Commander in Chief," Bush wrote, adding that this approach "will assist in achieving the shared objective of the Congress and the President . . . of protecting the American people from further terrorist attacks."

"Some legal specialists said yesterday that the president's signing statement, which was posted on the White House website but had gone unnoticed over the New Year's weekend, raises serious questions about whether he intends to follow the law." Savage, C. (2006). Bush could bypass new torture ban: Waiver right is observed. Boston Globe. Boston, MA: Online at www.boston.com. January 4.

⁵ Shanker, T. and S. Shane (2006). Elite troops get expanded role on intelligence. The New York Times. New York: A1, A6. March 8.

⁶ Shanker, T. Ibid. Study is said to find overlap in U. S. counterterror effort: A5. March 18. President Bush already has authorized the CIA to create paramilitary teams to hunt and kill designated individuals anywhere in the world: Priest, D.

This is a heady brew - but the rest of the world is not imbibing. The current box-office hit across Turkey, the movie Valley of the Wolves Iraq, illustrates the danger of the inherent narcissism (self-absorption) of American foreign policy.⁷ Young and attractive Arab youths, who fight against America, are the heroes:

“With a budget of \$10m, *Valley of the Wolves Iraq* is the most expensive film ever made in Turkey - and it is pulling record crowds. At one of Istanbul’s biggest multiplex cinemas the blockbuster is showing in five separate screens and nearly all of the seats are sold out. It’s the same story across the country. . . . The action pits good Turks against very bad Americans. . . . In one scene, trigger-happy US troops massacre civilians at a wedding party. In another they firebomb a mosque during evening prayer. There are multiple summary executions. And for the first time, the real-life abuses of American soldiers at Abu Ghraib prison are played out on the big screen. . . .

- BBC News, 2/20/2006⁸

Since the film is making a large profit we can anticipate that the market system will produce more popular entertainment along these lines.

This shift is dangerous because the White House is not dealing with the familiar

(2005). Covert CIA program withstands new furor. Washington Post. Washington, DC: A 1. July 3.

⁷ This characteristic is not unique to American foreign policy.

⁸ Rainsford, S. (2006). Turkish rush to embrace anti-US film. BBC News online. February 20.

polls and popularity ratings that fluctuate in American politics.⁹ Rather the danger is a shift in emotional consensus, which requires a different model to foresee. The emotional basis for political action, in the language of Carl Jung, is personified *archetypes*. A straightforward example, based on these ideas, is the movie Star Wars: The universe-dominating ambitions of Darth Vader and his Death Star are always arrayed against the young, egalitarian Luke Skywalker, Princess Leia, and the good expression of a powerful spiritual/religious force. Yes, American officials can impress themselves by the “fear and awe” of American firepower, but we are becoming the wrong side of the drama - Darth Vader/Dick Cheney manipulating the world for dominion, the kind of people who would engage in high-tech global spying, kidnaping, torture, and death squads: If the “tipping point” occurs, and the image of the US shifts in the world’s popular culture, the historic loss of American moral credibility and power will be beyond the skill set of White House press secretaries.

B. The Domestic Danger: *The Lord of the Flies* and American politics

Domestically, our political psychology has become the public psychodrama forecast by William Golding in his novel The Lord of the Flies.¹⁰ A group of British

⁹ Although these ratings have fallen too: Kessler, G. and R. Wright (2005). Report: U. S. image in bad shape. The Washington Post. Washington, DC: A16. September 24. See also the data concerning negative US images worldwide: www.pewglobal.org.

¹⁰ Golding, W. (1987). The Lord of the Flies: Text, Notes, and Criticism. New York, Perigree. See also Lasswell’s 1941 model of the Garrison State reprinted in Lasswell, H. D. and J. Stanley, Eds. (1997). Essays on the Garrison State. New Brunswick, NJ, Transaction Publishers. Social scientists have found that escalating conflicts can produce similar polarizing changes in the political systems of all participants: Coleman, J. S. (1957). Community conflict: A review and synthesis of the literature. New York, Free Press.

children is stranded on an island. They begin as a democracy. Fear of a nonexistent Beast grows and begins to alter their politics. Jack, one of the boys, is especially driven by fear, and he also exploits it to gain power and establish a dictatorship and aggressive, militaristic policies. He also successfully engages in intimidation, spying, torture, and the death of enemies - although the final hunt to kill Ralph, the earlier democratic leader, is halted by a last-minute intervention and rescue by adults.¹¹

To discuss these dimensions, I will present the background of the NSA surveillance system. Next, I will discuss six trends and problems related to these dangers. Finally, I will suggest four policy conclusions.

II. Background: The NSA System

A. Global (Huge) Capabilities

Under the Bush-Cheney Administration, the covert intelligence budget has grown to a remarkable \$42 billion/year - about \$7 for each non-American man, woman, and child on the planet. It is not widely known, but NSA is much larger than the CIA and receives the largest share of this budget. (Estimates range from 38,000 - 60,000 employees and up to \$ six billion/year.)¹²

¹¹ Golding is especially provocative when he sees personality traits of social groups in the personalities of different boys: Simon, for example, is a small and frail boy with true and healing spiritual insights but the growing tribal passions result in his death and his truths are never communicated. Genuine religious/spiritual leaders also fail to get their messages across in adult politics.

¹² Keefe, P. R. (2005). Chatter: Dispatches from the secret world of global eavesdropping. New York, Random House.

Originally, the NSA focused on codes and code breaking. During the Cold War its role expanded to include wholesale, worldwide intercepts of electronic communications. (The *Echelon* interception project, with the British, remains a major activity with headquarters at a 560-acre site at Menwith Hill in England.¹³ Surveillance also includes, since at least 1994, the telephones of the Saudi royal family - i.e., penetration of other nations that, officially, are allies.¹⁴) NSA has been a leader in foreseeing the potential of the digital era: it regularly purchases and operates the world's fastest supercomputers and began to acquire petabit storage capacity in the early 1990s.¹⁵ It has helped to shape US strategy to route much of the world's digital traffic through North America or Echelon-linked countries and provide government access to Internet routing switches.¹⁶ In addition, with law enforcement agencies, it has built a farsighted system of laws and accommodations by which most (and perhaps all) major manufacturers of cell phones and other communications devices include "back doors" (without disclosure to customers)

¹³ Wikipedia (2006). Echelon. Online at <http://en.wikipedia.org/wiki/ECHELON>.

¹⁴ E.g.: Hersh, S. (2004). Chain of command: The road from 9/11 to Abu Ghraib. New York, HarperCollins.

¹⁵ A good rule of thumb is that NSA is two steps ahead of Google. For example: Google's new online translation technology for 75+ languages (http://www.google.com/language_tools?hl=en) requires huge databases and sophisticated probability calculations that were available to NSA in the 1990s. NSA's Google-type desktop and search engine for classified information is called Intelnet.

¹⁶ Lichtblau, E. and J. Risen (2006). Spy agency mined vast data trove, officials report. The New York Times. New York: A1, A12. February 24. Thus about 1/3 of Internet traffic across American borders is in transit to another country: Gellman, B., D. Linzer, et al. (2006). Surveillance net yields few suspects. NSA's hunt for terrorists scrutinizes thousands of Americas, but most are later cleared. Washington Post. Washington, DC: A1, A10. February 5. For general data see

which help monitoring by law enforcement and intelligence organizations.¹⁷ The US government also can tap the world's undersea copper-wire and fiber optic cables directly. The latest, state-of-the-art submarine with this capability is the nuclear submarine USS Jimmy Carter, commissioned in February 2005.¹⁸ Worldwide, there are about 650 million communication intercepts/day - huge, although equal only to about two to three telephone calls/e-mail messages per teenager and adult in the US).¹⁹ NSA also uses a network of private contractors for data mining and other operations.

☞ Concerning future revelations: Congressional hearings probably will reveal NSA's global access to credit card and banking transactions and security systems, which is somewhat helped by the outsourcing of back office operations (e.g., American Express) to India. [Once voice communications or data from US citizens are beyond the water's edge, NSA has no legal constraints.] It can monitor international travel reservations and corporate communications. NSA also monitors the 3,500 - 4,000 jihadist Websites, Web cafes in target countries, and other

www.telegeography.com.

¹⁷ Shane, S. and K. Belson (2006). Attention in N.S.A. debate turns to telecom industry. The New York Times. New York: A11. February 11. Some requirements are legal (e.g., the 1994 Communications Assistance for Law Enforcement Act required companies to install new equipment to address call-forwarding and other changes in technology): Rhoads, C. (2006). "More surveillance puts strain on carriers. Third parties help telecom, Internet firms fill law enforcement's increasing data requests." The Wall Street Journal: B3. February 9.

¹⁸ Wikipedia (2006). USS Jimmy Carter (SSC-23). Online at http://en.wikipedia.org/wiki/Uss_Jimmy_Carter.

¹⁹ P. R. Keefe (2006). Can network theory thwart terrorists? The New York Times Magazine. March 12, p. 16.

Websites of interest.²⁰ It probably uses (and implants) cookies and sophisticated spyware to identify visitors to these sites, track usage of their computers, etc.²¹

B. Digital-Age Dissolution of Legal Distinctions

The NSA system unilaterally dissolves several centuries of hard-won American rights and legal distinctions.²² This is so because the US has three legal regimes governing different types of communications: 1.) Speech and press, which have strong guarantees against any government intrusion; even government activities with a “chilling effect” have been ruled unacceptable; 2.) The law of common carriers (e.g., the telephone company and the postal service) which typically requires and guarantees privacy, except by court order on a case by case (“retail”) basis, with a “reasonable probability” standard of relevance to illegal activity (sometimes defined as one chance in two or three); 3.) Mass communications (e.g., television, radio) which can be monitored and typically have required government licenses and adherence to content rules established and policed by the federal government (e.g.,

²⁰ Nye, J. (2005). How to counter terrorism's online generation. Financial Times. London: 13. October 3.

²¹ Until recently NSA also implanted “cookies” on the computers of everyone (including foreigners) visiting its Website.

²² However these rights usually have been compromised during wartime or concerning national security issues. Other than its illegality, the Bush Administration’s response has been less repressive and xenophobic than the baseline of American federal and state government behavior. By contrast, during the “100% American” movement after WWI, 37 states restricted the teaching of foreign languages in public schools). For an overview: Freedman, L. M. (2002). American law in the 20th century. New Haven, CT, Yale University Press.

FCC decency standards, etc.).²³

Today, all three types of communications move across the Internet and other digital-age technologies without distinction. The digital age converts all types of communications into a common language of 0's and 1's. Everything enters the bitstream as equal-length packets, intermingling with millions of packets of other users, following different routes depending upon traffic conditions. Everything travels the high-speed highways of the Internet backbones as billions of anonymous flashes of light along fiber optic filaments. Thus, NSA surveillance must begin with wholesale wiretapping: capturing and copying everything, decoding billions of anonymous flashes into constituent packets, reading header labels and reassembling packets into original messages, etc.

“The American Bar Association told President George W. Bush on Monday to either stop domestic eavesdropping without a warrant or get the law changed to make it legal.”

- Reuters, 2/13/2006²⁴

As the alarmed leaks have underscored, no legal framework allows the NSA, or companies complying with its orders, to receive court warrants and wiretap the US Internet backbones. And wiretapping for pure research and large-scale data mining is always illegal: under American law, governments cannot (directly or indirectly)

²³ Pool, I. de Sola (1984). Technologies of freedom. Cambridge, MA, Harvard University Press.

²⁴ Conlon, M. (2006). Lawyers group slams Bush on eavesdropping. Yahoo News - Reuters: Online. February 13.

acquire thousands of haystacks of private communications data with only a remote possibility of illegal activity (rather than one in two or one in three). At this point (if we sum across all newspaper stories concerning related national security topics, and the number of sources indicated by the reporters), it appears that dozens, and perhaps hundreds, of inside-the-loop political appointees and career government employees have broken the law, and [surely, in the view of the President and Vice President] been insubordinate, to alert the press to highly secret and *prima facie* illegal activities whose extent must still be investigated. However the NSA system is inherently unconstitutional and it cannot be made legal by a quick-fix law, a “don’t ask/don’t tell” non-investigation, and the orchestrated layers of “plausible deniability” that are part of the culture and government oversight of the covert world.²⁵

I want to expand the discussion of these two major problems, international and domestic, in six areas. Then I will turn to four solutions.

III. Six Problems

A. A Non-Learning Hegemon

The psychological forces that shape the behavior of individual American decision makers reflect larger system-level mechanisms. Today, America is behaving like an unchallenged global superpower - a “hegemon” - which begins to exhibit *hubris* and becomes self-destructive.²⁶ [*Hubris*, one of the principal explanations of international

²⁵ Wikipedia (2006). Plausible deniability. Online at http://en.wikipedia.org/wiki/Plausible_deniability.

²⁶ Etheredge, L. S. (1979). "Hardball politics: A model." Political Psychology 1(1): 3-26., Etheredge, L. S. (1985). Can governments learn? American foreign policy and Central American revolutions. New York, Pergamon Press. Modern research concerning narcissistic disorders has expanded our understanding of *hubris*, which

relations since the time of the early Greek historians, was marginalized from mainstream American politics and foreign policy textbooks during the Cold War.] Typically, a hegemon's abusive use of power induces fear and hostility beyond its borders; the balance of power begins to rebalance.²⁷ The genius of American foreign policy - after World Wars I and II, until the Bush-Cheney Administration - was to avoid this reaction by institutionalizing American power into alliances, working partnerships, and international institutions.²⁸ Wilsonian idealism, moral credibility, and respect for human rights played a key role in holding this international system together;²⁹ even prominent neo-conservative theorists who advocated Bush-Cheney foreign policies did so with the claim that American could exercise a "benevolent hegemony" because of its moral credibility.³⁰ Today, we are not simply losing the battle of archetypes in global popular culture, and the imagination of young people, the balance of power is likely to begin rebalancing.

B. Almost Irresistible Technology - That Will Become More Attractive.

The surveillance technologies of the digital age are almost irresistible to governments. The *danger* is that governments and politicians will be drawn to these

has several dimensions that contribute to self-destructive effects. Concerning uses of the concept in Ancient Greece, see references in Wikipedia (2006). Hubris. Online at <http://en.wikipedia.org/wiki/Hubris>.

²⁷ Walt, S. M. (2005). Taming American power: The global response to U. S. primacy. New York, W. W. Norton.

²⁸ Ikenberry, G. J. (2000). After victory. Princeton, NJ, Princeton University Press.

²⁹ Mandelbaum, M. G. (2002). The ideas that conquered the world: Peace, democracy, and free markets in the twenty-first century. New York, Public Affairs.

³⁰ Fukuyama, F. (2006). America at the crossroads: Democracy, power, and the

technologies, and to police state and military responses, rather than political solutions, to legitimate political conflicts.

Surveillance, including communication surveillance, has become more intense overseas, especially in Europe, than in America.³¹ Great Britain, for example, also has installed more than 500,000 surveillance cameras in London.³² The US surveillance system probably involves cooperation agreements with the intelligence services of other NATO countries.³³

We also may anticipate that governments will be increasingly drawn to these surveillance/police technologies because the Internet and related digital-age communication technologies will accelerate political conflict. Earlier in Western

neoconservative legacy. New Haven, CT, Yale University Press.

³¹ "Communication surveillance has intensified even more heavily overseas, particularly in Europe. Some countries, such as Italy, as well as government and law-enforcement agencies, are able to remotely monitor communications traffic without having to go through the individual service providers." Rhoads, C. (2006). "More surveillance puts strain on carriers. Third parties help telecom, Internet firms fill law enforcement's increasing data requests." The Wall Street Journal: B3. February 9. In Great Britain, all Internet traffic entering the country is copied automatically to New Scotland Yard.

³² Stecklow, S., J. Singer, et al. (2005). Watch on the Thames. Wall Street Journal. New York: B1, B3. July 8.

³³ Secretary Rice's defense that the "US respects the sovereignty of other countries" implies that the US system of kidnaping foreigners in European countries involves some degree of working relationship among NATO intelligence services. However there is controversy across different government entities and little candid disclosure. See, for example, Priest, D. (2005). Help from France key in covert operations. Paris's 'Alliance Base' targets terrorists. Washington Post. Washington, DC: A1, A16. July 3; Smith, C. S. (2006). Human rights director urges Europe to improve oversight. The New York Times. New York: A8. March 2; Whitlock, C. (2006). Europe urged to restrain foreign spies. The Washington Post. Washington, DC: A17. March 2.

history, the invention of the printing press turned a minor theological dispute by an obscure monk in a remote German province into the Reformation and counter-Reformation and set Europe ablaze.^{34 35} Later, the inventions of mass communications were exploited by Hitler and set Europe ablaze. Today, discrimination and injustice remain ubiquitous in the world and many reformist political movements are waiting to be organized.³⁶ And the technologies for violence will improve: in the 20th century, direct and indirect deaths from political violence were about 10% of the world's population in the year 1900 and the percentage has been increasing for at least five centuries.³⁷ Conflicts about cultural change, not just traditional conflicts about power, money, and injustice, also are likely to be on the

³⁴ Between 1517 and 1520 Martin Luther's thirty publications sold more than 300,000 copies. See Eisenstein, E. L. (1983). The printing revolution in early modern Europe. New York, Cambridge University Press. Eisenstein, E. L. (1979). The printing press as an agent of change: Communications and cultural transformations in early-modern Europe. New York, Cambridge University Press. For a current discussion: Ignatius, D. (2006). From 'connectedness' to conflict. Washington Post. Washington, DC: A 15. February 22.

³⁵ Judging from the Western history of the Reformation and counter-Reformation, the Bush Administration's pro-democracy campaign against the authority of the fundamentalist *mullahs* of Islam is unlikely - if it begins to work - to be a peaceful process.

³⁶ See, for example: Gurr, T. (2000). Peoples versus states: Minorities at risk in the new century. Washington, DC, United States Institute of Peace Press.

³⁷ Emmott, B. (2003). 20/21 vision: Twentieth-century lessons for the twenty-first century. New York, Farrar, Straus and Giroux. The response to anomie, confusion, and an impending sense of chaos can be a search for charismatic and demagogic personalities to rebuild the secure fortress of traditional, tribal and religious, values. Modernizing change also be psychologically threatening to a majority of the world's population that does not yet possess self-assured cosmopolitan identities: Wilber, K. (2000). A theory of everything: An integral vision for business, political, science, and spirituality. Boston, MA, Shambhala.

political agenda in many countries in the years ahead.³⁸

C. From Evidence-Based to Psychodynamically-Driven Policy

The Lord of the Flies syndrome (discussed above) was brought to life by 9/11 and the later anthrax attacks. Jack [Vice President Cheney] has gained power.³⁹ And almost every American politician fears that they will end their political careers if they dissent and America is attacked again, and - a prediction from the Lord of the Flies model - especially fears imperial wrath and lightning bolts from the Bush-Cheney-Rumsfeld-Rove Administration and their right-wing attack machine.⁴⁰

Concerning the change in America to fear-driven (rather than evidence-driven) foreign policy: a \$42 billion/year government intelligence budget notwithstanding, consider how little real evidence even thoughtful newspaper-reading Americans have seen to justify “the long war” against resistant elements of Islamic terrorism, worldwide, being planned in the new defense budget (“possibly forty years” of war, the Defense Secretary has claimed). *How many hidden/actual enemies are out*

³⁸ E.g., Barboza, D. (2006). The wild web of China: Sex and drugs, not reform. The New York Times. New York: Online at www.nytimes.com. March 8.

³⁹ Concerning Vice President Cheney’s personality as a predictor of a hardball politics mindset and operating style: Etheredge, L. S. (1979). "Hardball politics: A model." Political Psychology 1(1): 3-26; Etheredge, L. S. (1985). Can governments learn? American foreign policy and Central American revolutions. New York, Pergamon Press. The 9/11 events also have been exploited by Karl Rove and the Republican Party.

⁴⁰ President Bush and Vice President Cheney also will be fearful that their own political careers will end again, if America is attacked, as others promote themselves to assume the role of Jack.

there, and where? The Bush Administration's "global war on terror" has spent \$400 billion and the national debt ceiling has recently been raised to \$9 trillion. Why, by now, is not al-Qaeda a virtually leaderless organization, with its few former leaders hiding in deep caves in Pakistan? If the "lurking threat" (in President Bush's term) is still resilient, adaptable, and even growing - why do the American people and Congress not ask for the hard evidence that has been gleaned from \$42 billion/year, or see it presented (daily and convincingly) on each evening's news?⁴¹

D. Over-Reliance on a Limited-Benefit Technology

Large databases are useful for solving crimes and answering well-defined, specific questions. (AT&T has 1.92 trillion records of telephone calls online, covering many decades, that are routinely searched by domestic law enforcement agencies.)⁴² However, pure data mining is almost useless: Social scientists have discovered "the small world" phenomenon - there are *many* connections.⁴³ For example, how many steps, by personal acquaintance, would be required to find a link between two individuals selected at random; or - to take another example - to

⁴¹ For other causes: Fenton, T. (2005). Bad news: The decline of reporting, the business of news, and the danger to us all. New York, HarperCollins.

⁴² Markoff, J. (2006). Taking snooping further: Government looks at ways to mine databases. The Washington Post. Washington, DC: B13. February 25.

⁴³ Pool, I. d Sola and M. Kochen (2000). Contacts and influence (1978). Humane politics and methods of inquiry. L. S. Etheredge. New Brunswick, NJ, Transaction Publishers: 189-246; Watts, D. J. (2003). Small worlds: The dynamics of networks between order and randomness. Princeton, NJ, Princeton University Press; Kochen, M., Ed. (1989). The small world: A volume of recent research advances commemorating the work of Ithiel de Sola Pool, Stanley Milgram, Theodore Newcomb. Norwood, NJ, Ablex. See also: Gellman, B., D. Linzer, et al. (2006). Surveillance net yields few suspects. NSA's hunt for terrorists scrutinizes thousands of Americas, but most are later cleared. Washington Post. Washington, DC: A1,

the President of the United States? [There is a similar parlor game and Website, based on the ubiquitous actor Kevin Bacon, called the “six degrees of Kevin Bacon.”]. An example of the problem is that Prince Bandar, the recent Saudi Ambassador to Washington knows President Bush and Vice President Cheney and members of the bin Laden family, who know Osama. An aggressive data mining algorithm could put President Bush and Vice President Cheney on the list of terror suspects, along with millions of other people.

Any reader of Tom Clancy novels also will recognize that overwhelming an NSA data-mining system is easy. President Bush has said that “If al-Qaeda is calling you, we want to know why:” Computer science students in Islamabad could equip al-Qaeda cell phones with random digit dialing programs used by academic researchers and marketing companies and use Skype to make tens of thousands of “incriminating” daily calls to innocent American telephones. Al-Qaeda could buy CDs on the black market with one million US internet addresses for \$35 - and intersperse any secret messages by using code words embedded in Viagra spam messages flooding US mailboxes. Etc.⁴⁴

The problem is that access to secret information gives American officials an irrational sense of power, arrogance, and superiority *and* it can misdirect thoughtful use of these new surveillance technologies. Instead of hunting for hidden enemies, NSA’s global communication intercepts could be used to *listen* to people. As Pool has written:

A10.

⁴⁴ With modest experiments, it might be possible to manipulate “chatter” and hackers could develop a new hobby to raise and lower America’s color-coded threat levels.

“Content analysis [computer-assisted analysis of communications] is one of our best tools for understanding each other’s human passions, motives, and plans . . . It is the social sciences that best help us understand the conditions by which a group may achieve consensus, the basis of psychopathological disturbances, the needs of minorities for respect . . .”

- Ithiel de Sola Pool ⁴⁵

For \$6+ billion/year, the NSA surveillance system needs to make a human connection. Cunningham has contrasted the success of the FBI’s activities against the Ku Klux Klan with its unsuccessful programs against the antiwar movement of the 1960s. He concluded that surveillance and diligence alone made little difference: it was the ability of FBI to “grasp the motivations, concerns and passions of everyday Klan adherents.”⁴⁶

E. Nightmare Scenarios: Damaging the spirit/psychology of freedom in the world?

Setting aside a knee-jerk liberal reaction, will unsupervised Executive branch surveillance *actually* do any harm?

⁴⁵ Pool, I. de Sola. (2000 (1969)). Content analysis and the intelligence function. Humane politics and methods of inquiry. L. S. Etheredge. New Brunswick, NJ, Transaction Publishers: 19-41.

⁴⁶ Cunningham, D. (2004). Re-Evaluation: What the G-Men Knew. The New York Times Magazine. New York: 20, 22. June 2; Cunningham, D. (2004). There's something happening here: The New Left, the Klan, and FBI counterintelligence. Berkeley, CA, University of California Press. Even a 1% shift of the \$42 billion/year would be an unimaginable cornucopia for US universities to build research centers abroad, to study the world’s changing politics and build politically-useful

Traditionally, the Western answer has been: “Not immediately, but it is too great a temptation. Eventually this power will be secretly abused as a political weapon.” In Ancient Greece and Rome, citizens frequently voted to suspend democratic processes, and increase dictatorial powers of a ruler, at times of war and national emergency. However, these decisions required the full participation of all citizens because they were among the most consequential and dangerous choices a democratic political system could make. It was essential that the identities of the specific individuals who would get these new powers be known. The suspensions were always for a fixed time. By contrast, neither Congress nor the public knows the identities of the NSA/CIA/DOD employees who are entrusted with this new surveillance and police state framework. And these employees may change: when norms are violated and internal protest does not work, internal critics resign, to be replaced by loyal and compliant personalities like Attorney General Alberto Gonzalez.⁴⁷

We have seen serious abuse in American history. The targets are not ordinary Americans but do include prominent political, and even cultural, challengers. The first Director of the FBI, J. Edgar Hoover, held a reputation as the most committed and incorruptible law-enforcement officer in the country - and he also ran a “secret police” operation, with secret private files, and served his own ends, and those of Presidents, by illegal break-ins, wiretaps, and other investigations of political critics. (The Watergate break-in, for which President Nixon faced impeachment, was the

understandings.

⁴⁷ The Administration has pressed aggressively to find compliant government lawyers: Priest, D. (2005). Covert CIA program withstands new furor. Washington

kind of illegal activity that the FBI conducted.) The Judge who reviewed Hoover's private files after his death noted that these capabilities also were used by Democrats: One of President Johnson's aides, Walter Jenkins, was arrested for a homosexual act in a public washroom and Judge Silberman reports that the FBI files include a written request from a White House assistant, Bill Moyers, on behalf of President Lyndon Johnson, directing Hoover to find out if any homosexuals were on the staff of Senator Barry Goldwater, a Republican opponent of Lyndon Johnson. Illegal break-ins and wiretaps were used both against the Ku Klux Klan and Martin Luther King.⁴⁸

- The surveillance problem, and abuses, will grow in other countries (e.g., China, Iran), especially if political conflict increases and governments are tempted to use the back doors, spyware, and other resources of emerging police technology.⁴⁹ And, worldwide, we do not know how many enemies the Bush-Cheney Administration may assassinate, at what threshold of danger, before it leaves office; however, it could be wishful thinking to *assume* that their expanded capabilities will not be used.

The most alarming nightmare scenario is not suppression *per se* but a future for American and global culture in which people are presented with no choice except to acquiesce to the new psychology of surveillance and hierarchical domination. There

Post. Washington, DC: A 1. December 30.

⁴⁸ Silberman, L. (2005). FBI files. Hoover's institution. Anecdotes from the FBI crypt - and lessons on how to win the war. Wall Street Journal. New York: Online. July 20. The Beatle John Lennon was investigated by the FBI as a national security threat as he became culturally prominent, although the secret surveillance concluded that he was so consistently high on marijuana and LSD that he posed no national security threat.

⁴⁹ Dickie, M. (2006). China's virtual cops pinpoint Web dissent. Financial Times.

is likely to be a permanent and unhealthy *cultural* effect on the psychology/spirit of freedom in the world's future if the American people, and the citizens of the world, are induced to accept the imposition of such new and broad surveillance. Even in its most benign "good shepherd" form, there may be harmful effects: to develop an idea from de Tocqueville, the result might be like turning American culture into Canadian culture. I doubt that we want to take any of these risks at the current level of political conflict.⁵⁰

F. Blowbacks

A final problem is the virtual certainty of blowbacks. It is madness, unless absolutely essential, for any government agencies to operate secretly. No government in the history of the world has built and tried to manage *\$42 billion/year* secret agencies, with the encryption keys to the world's banking and personal/corporate/government communication systems and whose cultures support training in illegal activity. There will be trouble ahead.⁵¹ ⁵² The problems will be made even greater by the substantial use of civilian contractors, in many countries, who -

North American edition: 3. February 17.

⁵⁰ de Tocqueville saw the greatest threat to freedom in America in the slow growth of a "good shepherd" state with many groups, seeking security and comfort, seriatim expanding government control to supervise and regulate the behavior of each other. de Tocqueville, A. (2000). Democracy in America. Chicago, IL, University of Chicago Press.

⁵¹ For a technical overview of the growth of non-government spyware: Krebs, B. (2006). Invasion of the computer snatchers. Washington Post. Washington, DC: W 10. February 19.

⁵² There may be commercial damage to US communication companies, seeking new contracts in foreign countries, as their secret collaboration with NSA spying becomes known.

unconstrained by US laws - also will have independent incentives.⁵³ NSA has the largest anti-security R&D budget in the computer world and it has trained thousands of people worldwide with the anti-security skill sets, knowledge of technical weaknesses and back doors, of whom to bribe, etc. And the problem is not limited to future career choices of NSA personnel. Once it is known that there *are* back doors, it is in the interest of hackers and blackmailers to find them.

IV. Four Strategic Solutions

Many emergency actions were required, after the 9/11 and anthrax attacks, to learn the scope of threats to America. We probably are indebted to Vice President Cheney for moving with impressive executive skill to build these new systems and evaluate the extent of Administration blind spots - just as we are even more indebted to The New York Times for breaking the story when the Administration decided not to disclose its activities and seek long-run legal authority from Congress at the time of the renewal of the Patriot Act.⁵⁴

In drawing long-run strategic implications from the analysis in this paper I am guided by the apparent nonexistence of major terrorist networks in the US, established by extensive surveillance. I also am guided by the experience, earlier in my career, of eight years as a member of the MIT Political Science Department

⁵³ E.g., Pincus, W. (2006). Increase in contracting intelligence jobs raises concerns. The Washington Post. Washington, DC: A3. March 20.

⁵⁴ Risen, J. (2006). State of war: The secret history of the C.I.A. and the Bush administration. New York, Free Press.

where three of my senior colleagues had been, in their idealistic youth, Trotskyites. One, Ithiel de Sola Pool, had been a charismatic firebrand as an undergraduate at the University of Chicago and an advocate of world revolution. Each of these men retained their deep idealistic passion even as their practical political thinking evolved after they witnessed the repressive reality created by the Russian Revolution. I doubt that these men should have been killed - or that their counterparts in the Islamic world should be killed. Thus - and especially as a psychologist - I draw a sharp distinction between *verbal* aggression and overt acts. We may not - yet - have permanent enemies.

It will be obvious that the President's illegality must be investigated and addressed: One of the dangerous errors on the Lord of the Flies island was to accept the early erosions of standards.⁵⁵ Here are four additional implications that I draw:

A.) Rebalance Foreign Policy Priorities

At this point, there is no compelling reason - apart from aggressive anti-nuclear/WMD vigilance - for a "global war on terrorism" to become America's defining foreign policy priority. A long list of countries has an even greater interest in vigilance against violent Islamic jihadists - France, Germany, Great Britain, Spain, Israel, the Saudi royal family, Egypt, Russia. The governments of India, Indonesia, Pakistan, and China have reason to fear the rise of jihadist Islam within their borders. These countries, with their indigenous Muslim populations, are far better

55 For a broader theoretical discussion: G. L. Kelling and C. M. Cowles. Fixing broken windows: Restoring order and reducing crime in our communities. NY: Free Press, 1998. Reprint edition.

equipped to understand the languages, politics, personalities, institutions, and cultures and to penetrate emerging movements . . . Violent jihadist revolutionaries will be in a great deal of trouble. I see no reason for Lord of the Flies rhetoric and an American-run system of universal spying, secret prisons, and death squads.

- International health, for example, would be a good candidate to share equal billing with the promotion of democracy. Millions of people die, each year, from attacks of microbes and mutating viruses. America has an enormous contribution to make, through biotechnology and the emerging discoveries based on the mapping of the human genome. A commitment to health of ordinary men and women in all countries connects to people, to idealistic youth, and it can build alliances across religious and political lines. We can run for global office on such a program and begin to heal some of the damage of hegemonic *hubris*.⁵⁶

B.) Continue R&D and require technologies to show success in the war on drugs.

We should continue a program of aggressive R&D for these new technologies. Currently, data mining technologies are of limited benefit but they might become useful in some areas.⁵⁷ As I discussed above, we may need them; especially, if American public diplomacy continues to be astonishingly narcissistic, ineffective, arrogant and alienating. (It is worth recalling that, once, King George's men violated

⁵⁶ Etheredge, L. S. (2004). Statement for the Subcommittee on Commerce, Justice, and State, the Judiciary, and Related Agencies of the House Appropriations Committee. Unpublished. Online at www.policyscience.net. New Haven, CT, Policy Sciences Center Inc.

⁵⁷ Markoff, J. (2006). Taking snooping further: Government looks at ways to mine databases. The Washington Post. Washington, DC: B13 February 25.

the privacy and abused the rights on American Colonials looking for hidden enemies. And soon the King's enemies numbered in the millions, and they signed their names boldly on public documents.)

Too, the technology truly *is* almost irresistible. The problem of finding patterns in unstructured databases with billions of elements is one of the exciting challenges in science, and it also occurs in the challenge of merging information about billions of DNA pairs with the electronic treatment records of hundreds of millions of patients. (The state-of-the-art problem is not to test new hypotheses; rather it is to write software that will discover the new hypotheses.) There is likely to be fruitful collaboration between NSA R&D and other research challenges to the scientific community.

“[J]ust a few weeks ago . . . the White House drug-policy office reported that ‘Cocaine is widely available throughout most of the nation.’ The office offered similar assessments for heroin and marijuana.”

- The New York Times (3/2/2006)⁵⁸

I would suggest that Congress permit testing and refining these profiling/data mining systems using the war on drugs. Statistically, it is an easier beginning. Instead of almost-nonexistent terrorists, you have a larger N to discover, thousands of people engaged in the illegal drug trade in America. And tens of billions of dollars worth of shipments that somehow evade the security at US borders, ports, and airline terminals. The study of drug trafficking also will educate NSA about the

⁵⁸ Brinkley, J. (2006). U. S. lists its pluses and minuses in fighting narcotics worldwide. The New York Times. New York: A13. March 2.

dangers of counter-penetration, as it is likely that the wealthy international drug cartels, by bribery and other means, penetrate and wiretap federal, state, and local law enforcement agencies. Someday, if we are to fight a “war on terror,” we should learn from the limited success of the government “war on drugs.” Today, judging by completed shipments, the international drug cartels probably outsmart the best efforts of the US government about two-thirds of the time.⁵⁹

C.) Strong pre-emptive countermeasures

As I have argued, the legal/Constitutional issues that are framing the NSA surveillance debate are not the most important dimension. The broader issue is a new psychology of hierarchical domination, here and abroad. A professional analysis of Vice President Cheney’s personality suggests that it is unrealistic to believe that rational discourse will persuade he and President Bush to surrender any of their power - and they may worsen the damage by legal retaliations against the press and lawbreaking government employees who have talked with reporters.

Thus:

1.) Remove the President’s Power to Classify Information about Domestic Surveillance Without Court Supervision

After Democrats regain power in the midterm elections, Congress should remove the President’s power to classify domestic surveillance undertaken by the Executive branch, without a court warrant, after the first fifteen days of a national emergency or

⁵⁹ If terrorists want to smuggle illegal explosives into the US, they should label it as cocaine and ship it through Miami airport. See: Naim, M. (2005). Illicit: How smugglers, traffickers, and copycats are hijacking the global economy. New York,

declaration of war. (This change makes it more likely that whistle blowers will inform the press and Congress of any questionable activity and permit the American system of checks and balances to operate.)⁶⁰ It also should follow Moynihan's suggestion to limit secrecy across most of the \$42 billion/year budget.⁶¹

2.) Adopt technical preemption, worldwide, to preserve the Internet as a technology of freedom

Once, social scientists imagined that public policy choices concerning the freedom of the Internet would be made by democratic debate.⁶² However the US Executive branch, and even other democratic governments, have failed to act in good faith and have gone around this process.

As Lawrence Lessig has written, the de facto laws of cyberspace can be written by software programmers.⁶³ There is a great deal of work that needs to get underway to create a successful *fait accompli* for freedom. [One of many technical options to preserve freedom, for example, is the development of new encryption

Doubleday.

⁶⁰ All three branches of the US government have failed to provide democratic checks on the Bush Administration's illegitimate NSA surveillance initiatives. Only one newspaper (The New York Times) has been willing to break the story - and it delayed more than a year.

⁶¹ Moynihan, D. P. (1999). Secrecy: The American experience. New Haven, CT, Yale University Press.

⁶² Pool, I. de Sola. (1984). Technologies of freedom. Cambridge, MA, Harvard University Press.

⁶³ Lessig, L. (1999). Code and other laws of cyberspace. New York, Basic Books.

software based on photographs. Thus, two users create a series of “reference” snapshots. A simple software program encrypts a message by subtly altering a snapshot at the pixel level - with only the recipient’s software having a copy of the original and being able to detect the changes. Or even knowing that a coded message is being sent: all the NSA will see is an email message: “Here is a picture of young James celebrating his sixth birthday. We miss you - .”^{64]}

D.) Redirect Surveillance and Shift to Deterrence

Even if we wish to operate a global police state, there are more effective - and politically healthier - ways to do it. The police sometimes use spies and undercover agents. Yet the first line of defense is deterrence - visible, public, street patrols and armed, uniformed guards.⁶⁵

For example, it may be possible to achieve political agreement to focus NSA’s and NATO’s secret Internet surveillance on countries that sponsor international terrorism. Any country on the State Department’s watch list could be placed on public notice and subjected to aggressive (secret) communication surveillance, including taps on all forms of communications entering or leaving the country (Internet, wireline and wireless telephone, mail, electronic financial transactions - and domestic surveillance to the extent possible) as well as monitoring of

⁶⁴ See also: Etheredge, L. S. (2006). Nine options to reduce illegitimate surveillance of the Internet. Draft online at www.policyscience.net; Rhoads, C. (2006). In threat to Internet's clout, some are starting alternatives. Rise of developing nations, Anti-US views play role; Pioneer sounds the alarm. The Wall Street Journal. New York: A1. January 19.

⁶⁵ Good policemen also talk with people. And, rather than being authoritarians, they have a deep sense of the ubiquity of unjustified suffering. See: Muir, W. F. (1979).

international travelers and 24x7 high definition satellite surveillance of suspicious activity.⁶⁶ (The NSA and CIA probably are doing this already.) The efforts to intercept international traffic by wholesale monitoring of the Internet backbones that cross North America and other advanced industrial countries would end; physical surveillance of Internet and other communications would be placed near the borders of the target countries.

Yes, there is the possibility of adaptation, once terrorist enemies know officially about American and NATO capabilities that had escaped their attention. But I think the deterrent effects will be much stronger: The knowledge of these capabilities will sober people, and potential recruits, about the amount of work that is required for secrecy, and the enormous costs and risks of attempting to incite violence beyond their borders.

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⁶⁶ The US government operates about 140 "known but secret" satellites, including surveillance satellites. The budget of about \$7 billion/year is independent of CIA and NSA Keefe, P. R. (2006). "I spy." Wired(February): 129-133. Also see www.heavens-above.com. Years ago, the argument against discussing surveillance satellites was that terrorists might hide their activities when US spy satellites were overhead. Today, with virtual 24x7 coverage over key areas, there is little need for secrecy and greater benefits might be obtained by deterrence.

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