

Is Warrantless Wiretapping Justified to Protect National Security? Dalton Nell

Over 3,000 people had died in the attacks on 9/11 (CNN). The fear it had generated was immense, enough so that the executive branch of the United States began a massive eavesdropping initiative which spied on huge numbers of Americans to find possible inside terrorists. This would've been perfectly fine if congress passed a law that allowed it, but unfortunately the executive branch not only bypassed congress; the executive branch was also violating earlier laws put in place, *and* was acting out of its clearly expressed powers. The United States may have needed warrantless spying to protect national security, but the methods used by the executive branch to achieve warrantless spying is outside the executive branch's defined powers. The actions of the executive branch is a threat to the fundamental foundation of our government. So is warrantless wiretapping justified to protect national security? No, because it sets a dangerous precedent, is unnecessary, and violates the law.

Does the president have the authority to engage in secret surveillance? Or more precisely, *should* the president have the authority to engage in secret surveillance? In the extreme circumstances of 9/11, most people would say yes! However with the passage of the Foreign Intelligence Surveillance Act of 1978, the president is in direct violation with the *law*. The Foreign Intelligence Surveillance Act, or FISA for short, prevents surveillance on a suspected foreign agents without a judge's consent. By secretly spying on "suspected foreign agents" without getting permission from a judge means that the executive branch was directly violating acts passed by congress. This is outside of the executive branch's defined power. Given the circumstances it seems quite OK

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though. When Authorization for Use of Military Force, or AUMF for short, was passed by congress; the president was authorized to “use all necessary and appropriate force” against the terrorists of 9/11. This was used as the justification of warrantless wiretapping, but it doesn't change the fact that it is in direct violation of the law and the fourth amendment.

Warrantless wiretapping violates the law, and for what? Surely it revealed a lot of would-be terrorists, but is it really necessary? Vice President Cheney stated it was because it would have earlier identified the plane hijackers of 9/11 and possibly prevented it from happening, but what Cheney didn't know is that the NSA already had information on two of the hijackers and also had enough information which would have led to the identification of the other plane hijackers, but there was little action that went into handling this information. The system we had already worked fine to identify national threats, the fact that the entire nation panicked enough to disregard our constitution and previous laws in order to catch future terrorists is a disrespect to the foundation of our nation. It's not worth the possible precedent to allow another blatant disregard of the law to happen again to catch the few terrorists that probably would be caught anyway with the previous system we already had in place. Others may argue that the president was within his rights after the passing of AUMF, but this holds no ground because of the fact that the executive administration knew that the NSA project violated existing law, and that he had asked if congress could change the laws in order to make it legal-- but they said *no*. So suddenly the AUMF excuses the violation of the law? I don't think so. Many years have passed

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and the NSA are still abusing their power, peeping in on decent American lives without good reason. In 2002, during the Winter Olympic Games, the NSA unconstitutionally spied on the contents of all emails and text messages of every person in Salt Lake City for a period of up to six months. In fact Rocky Anderson, the previous mayor of Salt Lake City, has stated:

“...Each instance of such surveillance was a clear violation of the U.S. and Utah Constitutions and of U.S. and Utah criminal laws (respectively, the Foreign Intelligence Surveillance Act and the provision of the Utah code that prohibits surveillance, without a warrant, of communications between people unaware of the surveillance).”

Not only is it breaking the law, but it's an unnecessary breach of the 4th Amendment of the Constitution of the United States and Article 1, Section 14 of the Utah Constitution to be secure from “unreasonable searches and seizures.”

Most people would say the threat of terrorism is a real problem of the United States, and it's true. Terrorism has claimed the minds and lives of many many people and something must be done, but that something shouldn't break our laws or sacrifice our system of government in order to protect us from terrorism. When the executive branch acts outside of its clearly defined constitutional role, it should be stopped by the other branches of government. Despite the blatant violation of the law by the executive branch, congress nor the judicial branch has stopped it. When our government acts out of line like this,

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especially behind closed doors, it stops being a government of laws and becomes a government of men (Paine, Thomas). We do not become stronger from our government breaking its own rules, the rules of the people. We become weaker and more vulnerable. The very fabric of our government is law; in other countries their king is King George the III, or God-Emperor Kim Jung Un. In our country, our king is law. When our government acts outside of the law the security of our lives as the people under it are threatened. In the best interest of everyone, the only thing that needs to be done is for a warrantless wiretapping bill to be sent through the proper legislature procedure in order to reach a proper compromise in which the executive branch could be acting within their constitutional rights, and the structure of our government doesn't have to be threatened.

In review, warrantless wiretapping isn't justified to protect national security because it sets a dangerous precedent, is unnecessary, and violates the law. Threatening the very structure of our government is not worth catching a few terrorists here and there, and what's worse is that we don't even know if any terrorists have been caught because of the executive branch and NSA being highly secretive about it. A better response to 9/11 would be for previous laws to be amended or legally made nil and for a warrantless wiretapping bill to go through congress just like any other bill, and for it to be iterated and compromised upon until it passes. Sure this is slightly slower than ignoring laws put in place in the past, but it would surely make everyone happy.

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"September 11th Fast Facts." *September 11th Fast Facts*. CNN, 8 Sept. 2014.

Web. 14 Oct. 2014. <<http://www.cnn.com/2013/07/27/us/september-11-anniversary-fast-facts/>>.

Paine, Thomas. *Common Sense*. Charlottesville, Va.: U of Virginia Library, 1993.

Print.

Rocky Anderson, email 2014.