



The Bush Administration has put forward several arguments to justify the President's illegal actions. **Let's debunk them, shall we?** Learn more at www.aclum.org/actions/ruleoflaw

MYTH #1

The NSA program on warrantless domestic spying is legal and necessary to keep us safe; FISA takes too long.

REALITY

Warrantless spying violates the Fourth Amendment to the Constitution, as well as federal laws, including the Foreign Intelligence Surveillance Act (FISA). In our system, no person is above the Constitution or the laws, not even the President. Moreover, the FISA warrant system is fast and even allows warrants to be obtained retroactively in emergencies. Rather than keep us safe, government spying on ordinary Americans undermines respect for the law, chills free speech, violates our privacy, and weakens our democratic system of checks and balances.

MYTH #2

Warrantless spying on Americans by the National Security Agency is a "terrorist surveillance program" that has no effect on ordinary Americans.

REALITY

The criminal code and intelligence laws already authorize eavesdropping when terrorism or other crimes are suspected. In contrast, the illegal NSA program allows electronic monitoring without any evidence of wrongdoing. Absent court oversight, there is no way to ensure innocent people's everyday communications are not monitored or catalogued by the NSA or other agencies for political or non-terrorism related purposes. The danger is not hypothetical: we already know that the government has engaged in surveillance of political groups and individuals involved in the peace movement, animal rights groups, and environmental organizations.

MYTH #3

The United States does not use or condone torture, nor does it kidnap people and fly them to other countries to be tortured.

REALITY

Evidence abounds that the U.S. has indeed practiced torture, violating U.S. and international law and human rights conventions: look at the photos and Abu Ghraib reports at www.salon.com/news/abu_ghraib/2006/03/14/introduction and read the government documents about the abuse of detainees at www.aclu.org/torturefoia. Lawsuits against the United States government have been brought by a German citizen kidnapped off a bus in Macedonia and sent to a secret CIA prison in Afghanistan and by a Canadian taken from JFK airport and tortured in Syria.

While signing the McCain amendment banning torture, President Bush maintained he has the Constitutional authority to depart from it whenever he deems it necessary.

MYTH #4

Detaining individuals in Guantanamo and other prisons without trial is a “necessary part of protecting the American people” (George Bush, January 13, 2006).

REALITY

According to the Pentagon, only 8% of Guantanamo detainees have links to Al Qaeda. Imprisoning people without any hope of a trial or due process has damaged America’s reputation as a champion of the rule of law, has undermined international respect for human rights conventions, and has served as a recruiting tool for would-be terrorists.

MYTH #5

The USA PATRIOT Act has been fixed and its provisions are necessary to fight terrorism.

REALITY

While it contains some cosmetic changes, the reauthorized PATRIOT Act retains the most serious flaws from the original PATRIOT Act. In some respects it’s been made even worse since many provisions are now permanent and new repressive measures have been added. The PATRIOT Act still allows the records of ordinary Americans to be secretly obtained by the government without adequate court oversight, and imposes a gag order to silence people who receive such record subpoenas. It also expands the use of so-called “National Security Letters” that permit the records of ordinary Americans to be secretly obtained by the FBI without any court oversight whatsoever. The revised PATRIOT Act also preserves secret “sneak and peek” searches of your home without your knowledge for an indefinite time period (despite Department of Justice admissions that fully 88% of sneak-and-peek searches are unrelated to terrorism investigations). The revised act also undermines the right to public political protest by creating “exclusion zones” for any “event of national significance” – a term never defined in the Act – and imposes federal prison sentences on anyone who enters such zones. Finally, the Act creates new rules for federal habeas claims that make it more difficult for indigent defendants to challenge death penalty sentences on the grounds of ineffective assistance of counsel.

MYTH #6

Speaking out against the administration’s policies is unpatriotic and helps the enemy.

REALITY

Don't you think that Al Qaeda assumes that all phone calls are tapped? Public discussion of this illegal government surveillance program and U.S. detention and interrogation practices does not entail release of confidential intelligence information. Rather, public debate over the legality and appropriateness of administration policies are fundamental to preserve our democracy and to keep us safe. In America, exercising our First Amendment right to question our government’s policy is not only a free speech right, it is a patriotic duty.

