



## EAVESDROPPING 101: Spin of the Union

### Watch, Listen and Make Up Your Own Mind

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In his fifth State of the Union address, President Bush will undoubtedly attempt to justify his illegal NSA domestic spying program.

Over the last two weeks, the administration has mounted an aggressive PR campaign to make the illegal spying sound necessary and within the bounds of the law. But the ACLU, its supporters and leaders in Congress who have called for hearings know better.

To help you cut through the rhetoric, we've prepared a "Spin of the Union" guide, listing some of the spin tactics the Bush Administration has been using in recent days.

Listen closely during Tuesday night's address and check which spin you hear the most.

#### SPIN

- This is a "terrorist surveillance program."
- This program could have prevented the 9/11 attacks.
- Your civil liberties matter, *really*.
- As president, I'm allowed to break the law if I really have to.

#### FACTS

- With little disclosure about this program, there is no assurance that this is true. And FBI investigators' reports of being flooded with worthless tips about schoolteachers and other innocent Americans casts further doubt on this claim. Even if the program is just focused on suspected terrorists, how large a group is that? Is the cousin of a known terrorist automatically a "suspected terrorist"? People who receive a telephone call from him?

- As the 9/11 Commission found, the government knew who some of the hijackers were and had the legal tools to spy on them, but failed to do so because of bureaucratic problems. What was needed was a dose of competency and old-fashioned investigative techniques, not more fishing-expedition spying powers.

- Even assuming the current operators of the system are not abusing the program, that is cold comfort if it creates a system with no checks and balances, where abuses over time are all but inevitable.

The program gives enormous power to the government without commensurate checks on that power. That is why politicians from all points of the political spectrum have joined in opposing illegal spying.

- The laws controlling government eavesdropping on Americans are well-established and crystal clear. President Bush's claim that he is not bound by the law is simply astounding. Numerous legal scholars from both left and right as well as the non-partisan Congressional Research Service all agree.

The president has no more right to eavesdrop on Americans outside the law than he does to abduct them in the middle of the night and summarily execute them.

The balance between government power and intelligence needs is an extremely delicate matter.

President Bush arrogated to himself the power to unilaterally determine that balance – not only in secret but actually in contravention of the existing balance that was democratically reached and enacted into law.

## SPIN

- These wiretaps could never happen to you (probably).
- This is a new world with new rules.
- The program has already saved thousands of lives.
- Congress was briefed on this program.
- Democrats ♥ Terrorists. Anyone who disagrees with me is sympathizing with the terrorists.

## FACTS

- Legend has it that everyone in the world is tied by only six degrees of separation; we have no idea where the government draws the line, and the group “suspected terrorists” could well be extremely large.

During the Cold War, after all, the list of people accused of being “communists” was a long and illustrious one. Could the same thing happen today with “terrorists”? Just ask Cat Stevens.

All too often security programs alleged to be necessary to catch terrorists are used to target peace activists and others who disagree with the government. We are seeing that even now with the FBI and military spying of peaceful protesters that has been uncovered by the ACLU and others.

- If President Bush believed that existing protections for Americans’ privacy excessively endangered American lives, he should have asked Congress to change the law, not swept those protections aside.

Security is never an either/or matter; it is always a question of degrees of risk balanced against costs, whether financial or social.

- Since the program is a complete secret the president can make this claim without ever needing to back it up, but the administration has not shown that this program was effective or necessary and there are many reasons to think otherwise.

The fact is, the Bush Administration has a track record of pursuing anti-terrorist dragnets that are both overreaching and ineffective. Examples include airline passenger identity screening programs and the debunked Total Information Awareness data mining program.

FBI agents have said that information from this program was useless and led to an enormous waste of resources and of the time of trained FBI investigators. According to *The New York Times*, rank-and-file agents reportedly started to joke that the intelligence gleaned from the spying was so unreliable that a new batch of tips meant more “calls to Pizza Hut.”

- Even if warrantless spying was actually supported by every single member of Congress (which it most certainly was not), it was still illegal unless and until the full Congress actually votes to change the law (and even then would probably remain unconstitutional).

In addition, the Congressional briefings that took place make a mockery of the concept of true oversight. The administration quite likely violated the law by failing to notify more than a few committee chairs of this program – the finding of a report by the nonpartisan Congressional Research Service.

- Concern over the president’s illegal spying on Americans cuts across party lines.

Numerous legal scholars from both left and right as well as the nonpartisan Congressional Research Service all agree that the laws controlling government eavesdropping on Americans are well-established and crystal clear.

The White House would love Americans to accept their claim that we must choose between being safe and free, but we all know better. We can fight terrorism and protect our civil liberties at the same time.