

“Almost Orwellian”: US Judge indicts NSA spying

18 December 2013

A ruling handed down by a United States District Court judge in Washington Monday found the massive spying operation in which the National Security Agency sweeps up and stores the records of virtually every phone call made to, from or within the United States to be “almost Orwellian.”

While Judge Richard Leon’s decision does nothing to curb the illegal and unconstitutional domestic spying by the NSA, this extraordinary description nonetheless stands as an acknowledgment that the US government is guilty of methods appropriate to a police state.

Edward Snowden, the NSA contractor who exposed the existence of the NSA domestic spying dragnet, justifiably claimed the decision as a vindication of his decision to expose these secret operations to the American and world public.

“I acted on my belief that the NSA’s mass surveillance programs would not withstand a constitutional challenge, and that the American public deserved a chance to see these issues determined in open courts,” Snowden said in a statement. “Today, a secret program authorized by a secret court was, when exposed to the light of day, found to violate Americans’ rights.”

In his ruling, Judge Leon, an appointee of former President George W. Bush, said of the NSA’s “metadata” surveillance program: “I cannot imagine a more ‘indiscriminate’ and ‘arbitrary’ invasion than this systematic and high-tech collection and retention of personal data on virtually every single citizen for purposes of querying and analyzing it without judicial approval.”

He ridiculed the government’s claim that a 1979 US Supreme Court decision involving police acquisition of phone records of a robbery suspect over a two-day period could serve as a precedent legalizing wholesale spying on the American people more than three

decades later.

Even more significantly, the judge rejected the core pretext invoked by the Obama administration, and the Bush administration before it, to justify not only unrestrained domestic spying, but every other attack on democratic rights at home and every act of militarist aggression abroad: the war on terror.

Leon pointedly observed that the government failed to cite “a single case in which analysis of the NSA’s bulk metadata collection actually stopped an imminent terrorist attack.” He based his decision in part on “the utter lack of evidence that a terrorist attack has ever been prevented” by “searching the NSA database.”

The decision found that the practices of the NSA almost certainly violated the core democratic rights guaranteed by the Fourth Amendment of the US Constitution, which affirms “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”

While the ruling covered only the two individual plaintiffs who brought the case, the judge found that without injunctive relief not only would they suffer irreparable harm, but that the public at large would be in jeopardy, given the “unprecedented scope” of the NSA’s spying operations.

In spite of all of these conclusions, however, Judge Leon, “in light of the significant national security interests at stake in this case,” agreed to stay his order issuing an injunction against the NSA spying operation pending the government’s appeal—a process that would take more than six months and potentially years before ending up in the US Supreme Court.

Thus, in the end, the ruling merely provided a cowardly echo of the drumbeat heard from every layer of the US political establishment: democratic rights must be abrogated to serve the interests of “national security.”

The response of the Obama administration—brought into office on promises of “transparency” and “change”—has been one of utter indifference to the historically unprecedented assault on constitutional rights embodied in the NSA spying, a defense of the agency’s police state methods and a vilification of Snowden for revealing them.

Nowhere in the political establishment is there any suggestion that government officials, including the president himself, should be held accountable for these criminal operations. To the extent that there has been any response, it is to try to repackage the NSA operations to ensure that the domestic spying continues. This is expressed most clearly in Obama’s presidential advisory committee, which is preparing recommendations aimed at affirming and institutionalizing all of the agency’s spying programs, while attempting to divert popular anger with empty talk of “restraint” and “reform.”

Other court cases remain to be heard, including those brought by the American Civil Liberties Union and the Electronic Frontier Foundation, based on the same revelations made six months ago by Edward Snowden. Given the record of the courts—including that of the Supreme Court—it is altogether likely that each of these cases will end with similar deference to the “war on terror,” “national security” and state secrecy.

In a moving “Open letter to the people of Brazil,” published in the daily *Folha de Sao Paulo* Tuesday, Snowden debunked these pretexts, writing that “these programs of dragnet mass surveillance that put entire populations under an all-seeing eye and save copies forever ... were never about terrorism: they’re about economic spying, social control, and diplomatic manipulation. They’re about power.”

Snowden concluded: “When all of us band together against injustice and the defense of privacy and basic human rights, we can defend ourselves from even the most powerful systems.”

The key questions raised by these fundamentally correct observations are: 1) Why does the US government continuously lie to and conspire against the American people, and the people of the entire planet? and 2) How can an effective defense of basic democratic rights be mounted?

The government in Washington operates as a permanent conspiracy because it represents social

interests that are diametrically opposed to those of working people, the vast majority of the population. This government—the Obama administration, the Congress, the courts and the vast military-intelligence complex—functions as the political instrument of a financial oligarchy that has vastly enriched itself by criminal and parasitic means, looting the social wealth produced by the working class, while driving down the living standards of the population as a whole.

Within this ruling social layer and among those who represent its interests, there is no constituency for democracy, which is untenable in the face of unprecedented social inequality. It views the masses of working people as an enemy and a threat to be dealt with by means of repression, including not only unconstitutional surveillance, but also extra-judicial executions, carried out under Obama by means of drone missile strikes.

Within the working class, however, there are powerful democratic traditions—the historical legacy of basic rights having been won through mass social struggles.

Neither the courts, nor any section of either big business party provide the means of defending the democratic rights of hundreds of millions—or for that matter the life and freedom of Edward Snowden—against a government of the corporate and financial elite. The fight for these rights is possible only through the development of an independent political movement of the American and international working class, guided by a socialist program and directed against the capitalist system, which is the source of the drive toward a police state.

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