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Who is watching the Watchmen?

By: [Gene Healy](#)

Examiner Columnist | 5/5/09 4:47 AM

April was a cruel month indeed for new Homeland Security Secretary Janet Napolitano. The weeks before the Swine Flu outbreak found her stumbling through reporters' questions about a DHS threat assessment memo on "Rightwing Extremism."

That memo urged law enforcers nationwide to monitor the allegedly gathering danger from Rightist radicals, including pro-lifers, immigration opponents, and those who reject "federal authority in favor of state and local authority."

Was this a sinister conspiracy by an administration full of Chard-sipping arugula eaters determined to spy on Red-State patriots? That's quite unlikely: The memo was commissioned during the Bush administration, as was a similar memo focusing on "Leftwing Extremists."

But conservatives were nonetheless right to be concerned. The DHS memo suggests that bureaucratic "mission creep" can be as dangerous to liberty as a deliberate campaign of repression.

America's experience with domestic spying in the pre-Watergate period makes that clear. Presidents Johnson and Nixon believed antiwar groups were being funded by the Soviet Union, and pressured the CIA, the FBI, and the military to establish the link.

Federal intelligence operatives assigned to domestic spying programs like COINTELPRO and Operation CHAOS found little evidence of communist subversion.

Yet it's the rare bureaucracy that closes up shop for lack of anything useful to do: instead, COINTELPRO and CHAOS agents began keeping files on law-abiding citizens who disagreed with their government.

The U.S. military got into the act as well. The Army kept files on over 100,000 citizens, including such dangerous national security threats as folk singers Arlo Guthrie and Joan Baez.

Senate Judiciary Committee hearings on the program revealed that "comments about the financial affairs, sex lives, and psychiatric histories of persons unaffiliated with the armed forces appear throughout the various records systems."

Given the history, it's not entirely paranoid for conservatives to wonder if federal observers might lurk among the crowds at future tea parties.

A more recent example of mission creep's dangers can be seen in the Pentagon's TALON program. TALON, short for Threat and Local Observation Notice, encouraged military personnel and civilian DoD employees to file reports on suspicious activities, which could then be sent on to law enforcement. As before, the military quickly began to monitor peaceful protests.

In March 2005, the Army's 902nd Military Intelligence Group warned the Akron, Ohio, police department about an assembly of middle-aged peace activists organized by local Quakers.

Responding to criticism of the Army's Quaker-watching excursion, a Pentagon spokesman declared, "The fact that the marches proceeded peacefully is irrelevant to leveling criticisms against the Army in this instance. Hindsight is always 20/20."

Public ridicule led to TALON's end in 2007. But other post-9/11 surveillance efforts continue apace. Yale law professor Jack Balkin warns that fear of terrorism has contributed to the growth of what he calls "the National Surveillance State," a regime in which the federal government uses its expanded information gathering capabilities to monitor the citizenry and ward off potential threats.

That in itself presents a threat, Balkin writes, because "the more powerful government becomes in knowing what its citizens are doing, the easier it becomes to control people's behavior."

In the Vietnam era, keeping tabs on dissenters was a low-tech affair. FBI and CIA agents depended on paper files and index cards; they needed to physically open letters and individually review telegrams. Today, with modern processing power and data-mining technology, the possibilities for surveillance are staggering. And so is the potential for abuse.

In March, Rod Beckstrom, the DHS official in charge of cybersecurity, resigned, citing concerns about an information security plan that envisioned a lead role for the NSA, giving the agency a dangerous level of access to civilians' web searches and email.

And the week after the "Rightwing Extremism" memo was revealed, Justice Department officials admitted that the NSA had been engaged in illegal "overcollection" of Americans' domestic communications.

Though some bloggers and radio hosts may have overreacted to the DHS memo, it was heartening to see conservatives finally show concern over possible abuses by the national security bureaucracy.

But their level of outrage shouldn't depend on whose ox is getting gored—constitutional privacy shouldn't be a Red Team/Blue Team issue. As the National Surveillance State grows, the need for new checks and balances has never been greater.

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