

Summary

This Minority Report has been produced at the direction of Representative John Conyers, Jr., Ranking Member of the House Judiciary Committee. The Report is divided into two principal parts - Part I, released in draft form in December, 2005, concerns "The Downing Street Minutes and Deception Manipulation, Torture, Retribution, and Cover-ups in the Iraq War;" and Part II, released in June 2006, concerns "Unlawful Domestic Surveillance and Related Civil Liberties Abuses under the Administration of George W. Bush." (At the conclusion, we include an Addendum including additional matters which have come to light since Part I of the Report was issued in December, 2005 and Part II was written in May, 2006).

In preparing this Report we reviewed tens of thousands of documents and materials, including testimony submitted at two hearings held by Rep. Conyers concerning the Downing Street Minutes and warrantless domestic surveillance; hundreds of media reports, articles, and books, including interviews with past and present Administration employees and other confidential sources; scores of government and non-profit reports, hearings, and analyses; numerous letters and materials submitted to Rep. Conyers; staff interviews; relevant laws, cases, regulations, and administrative guidelines; and the Administration's own words and statements.

In brief, we have found that there is substantial evidence the President, the Vice-President and other high ranking members of the Bush Administration misled Congress and the American people regarding the decision to go to war in Iraq; misstated and manipulated intelligence information regarding the justification for such war; countenanced torture and cruel, inhuman and degrading treatment in Iraq; permitted inappropriate retaliation against critics of their Administration; and approved domestic surveillance that is both illegal and unconstitutional. As further detailed in the Report, there is evidence that these actions violate a number of federal laws, including:

- Making False Statements to Congress, for example, saying you have learned Iraq is attempting to buy uranium from Niger, when you have been warned by the CIA that this is not the case.
- The War Powers Resolution and Misuse of Government Funds, for example, redeploying troops and initiating bombing raids before receiving congressional authorization.
- Federal laws and international treaties prohibiting torture and cruel, inhuman, and degrading treatment, for example, ordering detainees to be ghosted and removed,

and tolerating and laying the legal ground work for their torture and mistreatment.

- Federal laws concerning retaliating against witnesses and other individuals, for example, demoting Bunnatine Greenhouse, the chief contracting officer at the Army Corps of Engineers, because she exposed contracting abuses involving Halliburton.
- Federal requirements concerning leaking and other misuse of intelligence, for example, failing to enforce the executive order requiring disciplining those who leak classified information, whether intentional or not.
- Federal regulations and ethical requirements governing conflicts of interest, for example, then Attorney General John Ashcroft's being personally briefed on FBI interviews concerning possible misconduct by Karl Rove even though Mr. Rove had previously received nearly \$750,000 in fees for political work on Mr. Ashcroft's campaigns.
- Violating FISA and the Fourth Amendment, for example intercepting thousands of communications "to or from any person within the United States," without obtaining a warrant.
- The Stored Communications Act of 1986 and the Communications Act of 1934, for example, obtaining millions of U.S. customer telephone records without obtaining a subpoena or warrant, without customer consent, and outside of any applicable "emergency exceptions."
- The National Security Act, for example, failing to keep all Members of the House and Senate Intelligence Committees "fully and currently informed" of intelligence activities, such as the warrantless surveillance programs.

With regard to the NSA's domestic surveillance programs, we have also found that members of the Bush Administration made a number of misleading statements regarding its operation and scope; the legal justifications proffered by the Bush Administration are constitutionally destabilizing; there is little evidence the programs have been beneficial in combating terrorism and may have affirmatively placed terrorism prosecutions at risk; and the programs appear to have designed and implemented in a manner designed to stifle legitimate concerns.

The Report rejects the frequent contention by the Bush Administration that their pre-war conduct has been reviewed and they have been exonerated. No entity has ever considered whether the Administration misled Americans about the decision to go to war. The Senate Intelligence Committee has not yet conducted a review of pre-war intelligence distortion and manipulation, while the presidentially appointed Silberman-Robb Commission Report specifically cautioned that intelligence manipulation "was not part of our inquiry." There has also not been any independent

inquiry concerning torture and other legal violations in Iraq; nor has there been an independent review of the pattern of cover-ups and political retribution by the Bush Administration against its critics, other than the very narrow and still ongoing inquiry of Special Counsel Fitzgerald into the outing of Valerie Plame.

There also has been no independent review of the circumstances surrounding the Bush Administration's domestic spying scandals. The Administration summarily rejected all requests for special counsels, as well as reviews by the Department of Justice and Department of Defense Inspector Generals. When the DOJ Office of Professional Responsibility opened an investigation, the Bush Administration effectively squashed it by denying the investigators security clearances. Neither the House nor Senate Intelligence Committee have undertaken any sort of comprehensive investigation, and the Bush Administration has sought to cut off any court review of the NSA programs by repeatedly invoking the state secrets doctrine.

As a result of our findings, we have made a number of recommendations to help prevent the recurrence of these events in the future, including:

- obtaining enhanced investigatory authority to access documentary information and testimony regarding the various allegations set forth in this Report.
- reaffirming that FISA and the criminal code contain the exclusive means for conducting domestic warrantless surveillance and, to the extent that more personnel are needed to process FISA requests, increasing available resources.
- requiring the President to report on the pardon of any former or current officials who could implicate the President or other Administration officials implicated by pending investigations.
- requiring the President to notify Congress upon the declassification of intelligence information.
- providing for enhanced protection for national security whistle-blowers.
- strengthening the authority of the Privacy and Civil Liberties Oversight Board.

We also make a number of additional recommendations within the jurisdiction of the House Judiciary Committee to help respond to the ongoing threat of terrorism, including:

- increasing funding and resources for local law enforcement and first responders and insuring that anti-terrorism funds are distributed based on risk, not politics.
- implementing the 9-11 Commission Recommendations, including providing for enhanced port, infrastructure, and chemical plant security and ensuring that all loose nuclear materials are secured.

- banning corporate trade with state sponsors of terrorism and eliminating sovereign immunity protections for state sponsors of terrorism.
- enhancing laws against wartime fraud.