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Bush's War on Democracy

By Marjorie Cohn

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When George W. Bush's weapons-of-mass-destruction rationale for invading Iraq evaporated, his excuse morphed into bringing democracy to the Iraqi people. But the way Bush has eviscerated our democracy in the United States is proof positive that his democratic credentials are phony.

We have seen our government assault First Amendment rights in the past - during the McCarthy era, and when the FBI instituted COINTELPRO to spy on and discredit civil rights activists.

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But Bush has taken the attack on civil liberties to a new level. The most striking warning of his strategy to stifle dissent in an unprecedented way was former White House Press Secretary Ari Fleischer's admonition shortly after the September 11 attacks that Americans should "watch what they say, watch what they do."

That statement is now the mantra of Team Bush.

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The Bush administration depicts as public enemies, and even potential terrorists, those who speak out against U.S. government policies.

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In an annual survey by the First Amendment Center in 2003, 93 percent of respondents agreed that individuals should be allowed to express unpopular opinions in this country. Two-thirds supported the right of any group to hold a rally for a cause even if offensive to others.

Three new developments on Bush's watch have a chilling effect on protected First Amendment activity: 1) the shift from reactive to preemptive law enforcement; 2) the enactment of domestic anti-



terrorism laws; and 3) the recent relaxation of FBI guidelines on surveillance of Americans.

From Reactive to Preemptive Law Enforcement

Like Bush's new "preemptive" or "preventative" war strategy which led us into Iraq in violation of the United Nations Charter, law enforcement in the United States has moved from reaction to "preemption," in violation of the U.S. Constitution.

Collective preemptive punishment against those who wish to exercise their First Amendment rights has taken several forms: content-based permits, where permission to protest is screened for political correctness; pretextual arrests in anticipation of actions that haven't yet occurred; the setting of huge bails of up to \$1 million for misdemeanors; the use of chemical weapons; and the employment of less lethal rounds fired without provocation into crowds.

Protestors are painted by the government and the mainstream media as violent lawbreakers.

In this week's demonstrations against the Republican Convention in New York, police are prepared to use *sound*, ostensibly to convey orders to the crowd. This Long Range Acoustical Device (LRAD) has been utilized by the U.S. military in Iraq, and during the Miami free trade protests last year.

When employed in the weapon mode, LRAD blasts a tightly controlled stream of caustic sound that can be turned up to high enough levels to trigger nausea or fainting. Even if LRAD is not used by the police, the warning that it might be was designed to frighten potential protestors from taking to the streets of New York.

New Domestic Anti-Terrorism Laws

The USA PATRIOT Act, rushed through a timid Congress a month after September 11, 2001, creates a new crime of "domestic terrorism," defined so broadly that anyone who may have, at some time, participated in civil disobedience, or even a labor picket, could be targeted.

This provision has been used to label environmental and animal rights groups "terrorist." Congressman Scott McInnis (R-Co) called Earth Liberation Front, which was responsible for major property damage in Colorado, a major domestic terrorist organization. Rep.

George Nethercutt (R-Wash) suggested treating Earth Liberation Front like the Taliban: "I propose," he said, "that we use the model that has worked so well in Afghanistan. Give them no rest and no quarter." These politicians draw no distinction between human rights and property interests.

Relaxed FBI Surveillance Guidelines

During the McCarthy period of the 1950s, in an effort to eradicate the perceived threat of communism, the government engaged in widespread illegal surveillance to threaten and silence anyone who had an unorthodox political viewpoint. Many people were jailed, blacklisted and lost their jobs. Thousands of lives were shattered as the FBI engaged in "red-baiting."

COINTELPRO (counter-intelligence program) was designed, by its own terms, to "disrupt, misdirect and otherwise neutralize" political and activist groups. In the 1960s, the FBI targeted Dr. Martin Luther King Jr. in a program called "Racial Matters."

King's campaign to register African-American voters in the South raised the hackles of FBI director J. Edgar Hoover, who disingenuously claimed King's organization was being infiltrated by communists.

In fact, the FBI was really concerned that King's civil rights and anti-Vietnam War campaigns "represented a clear threat to the established order of the U.S." It went after King with a vengeance, wiretapping his telephones and securing very personal information, which it used to try to discredit him and drive him to divorce and suicide.

A congressional committee chaired by Frank Church documented the abuses of COINTELPRO. As a result, in 1976, Congress established guidelines to regulate FBI activity in foreign and domestic intelligence-gathering.

John Ashcroft, again using the excuse of September 11, has relaxed the 1976 guidelines on FBI surveillance, spying and infiltration of political groups and meetings. The probable cause requirement for initiating surveillance of individuals and organizations has been removed. FBI surveillance of all public meetings and demonstrations is now authorized.

An internal FBI newsletter encouraged agents to conduct more interviews with activists protesting the war "for plenty of reasons, the chief of which it will enhance the paranoia endemic in such circles and

will further serve to get the point across that there is an FBI agent behind every mailbox."

The national drive by the FBI to collect intelligence related to protests through local law enforcement has resulted in the harassment of people in places such as Denver, Fresno, CA, New York, and Drake University in Iowa.

In an October 2003 memo, the FBI urged law enforcement to monitor the Internet, because "protestors often use the Internet to ... coordinate their activities prior to demonstrations," reported The New York Times.

The Justice Department's Office of Legal Counsel (OLC) - the same group that wrote the memos advising Bush how to get away with torturing prisoners - blessed the 2003 FBI memo. The OLC said that interrogating and gathering evidence on potential political protestors raised no First Amendment concerns. But, it went on to say, any "chilling" effect would be "quite minimal" and far outweighed by the overriding public interest in maintaining "order."

The Bad News and the Good News

As we approach the November election - and for the next four years if Bush secures another term - we can expect that opponents of the Bush administration's repressive policies will increasingly be targeted.

But over 300 cities and four states have called for the repeal of the PATRIOT Act, and organizations like the National Lawyers Guild have filed lawsuits challenging the unconstitutional actions of the government.

And in the largest demonstration ever at a political convention, hundreds of thousands of demonstrators registered their protest Sunday against the assault on democracy by the forces of George W. Bush.

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