

**“Big Brother in the Sky”
and other Grave Civil Liberties Concerns about
the Administration’s Unilateral Action to Deploy Military Satellites
to Spy on the Continental United States for Domestic Law Enforcement Purposes**

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**before the
Committee on Homeland Security
United States House of Representatives**

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Chairman Thompson, Ranking Member King, and distinguished Members of the Committee on Homeland Security of the United States House of Representatives, we thank you for scheduling this full committee hearing so quickly to examine the administration’s announced deployment of spy satellites to surveil Americans in the continental United States. The Center for National Security Studies appreciates the opportunity to testify about our grave concerns regarding this unwise and proposal made unilaterally and containing no checks against abuse. The Center was founded over 30 years ago to help protect civil liberties and human rights against erosion by claims of national security, in the aftermath of the first wave of disclosures to Congress regarding extensive, secret military and civilian government surveillance of Americans in this country.

Kate Martin, the Center’s director, and I work closely on surveillance issues, and the types of military surveillance of the civilian population first disclosed in news articles during the August recess pose significant threats to our constitutional system and civil liberties. The administration continues to be tone deaf on matters of civil liberties, with all due respect to my colleagues on the first panel—their comments are an after-thought, a sound bite. As the Chairman mentioned in his letter, this satellite deployment was basically a “fait accompli” by the time it got to the agency privacy designees this spring.

At the outset, I would like to raise some questions and try to help clarify the scope of the surveillance at issue today. I will then discuss core constitutional and legal principles that call into question the extraordinary surveillance activities proposed. I will conclude by describing the need for more oversight and proposing some solutions.

I. Civil Liberties and Privacy Concerns Raised by the Civil Applications Committee’s Report.

In May 2005, the Director of National Intelligence commissioned a Civil Applications Committee Blue Ribbon Study, which was completed in September 2005. Several of the Committee’s recommendations, including the creation of the Domestic Applications Office in the ODNI have apparently been adopted. The domestic deployment of military satellites is also apparently the result of these recommendations. However, it is not known what other actions

have been taken in response to these recommendations. It is important to understand the breadth, scope and danger of the recommendations.

While the deployment of military satellites to monitor U.S. civilians has been the focal point of the press on this breaking story, the actual scope of Intelligence Community (IC) powers that could be deployed is broader than that, including “national satellite sensors; technical collection capabilities (archival, current & future) of the DoD; airborne sensors; NSA worldwide assets; military and other “MASINT” sensors; and sophisticated exploitation/analytic capabilities.” Civil Applications Committee’s Report (CACR), at p. 8. MASINT, which is the acronym for “Measurement And Signatures Intelligence,” describes technologies that “exploit fundamental physical properties of objects of interest” and techniques that include advanced radar, electro-optical sensors, infrared (including spectral) sensors, geophysical measures such as acoustics, and materials sensing, processing, and exploitation systems. MASINT is distinct from other techniques averred to in the report such as “imaging” (photography, both still photography and real-time video-type recording) and signals intelligence (SIGINT), which includes electronic surveillance, commonly called eavesdropping or wiretapping. While this list might sound like Big Brother incarnate, it might give some Americans comfort to know that these are the capabilities that have been created to protect us against *foreign enemies*. It should be obvious, however, that deploying these extraordinary powers against people in the U.S. would fundamentally alter the relationship between the government and the governed. Calling this “Big brother in the sky” is modest given the array of array that might be available multi-headed, medusa-like powers to monitor Americans encompassed by this array of arrays.

The Committee concluded that there is “an urgent need for action because opportunities to better protect the nation are being missed,” a finding contradicted later in the same report: “During the course of the study *no one said they were failing in their mission* due to lack of access to IC capabilities. *There was no ‘Burning Bridge’ identified* by the participating agencies and stakeholders.” *Compare CACR p.4 with id. p. 10* (emphasis added). To be plain, the question is whether this blurring of the lines between civilian and military activities is wise and prudent. The report has a view on that as well: while law enforcement has “traditionally focused on arrest and prosecution and the IC on disruption and prevention. These mission foci are blurring” and this blurring should be considered a “‘feature’ as opposed to a ‘flaw.’” *Id. p. 12.*

The report also casts a critical eye toward civil liberties, asserting that the protection of “individual civil liberties” and protection of sources and methods “are the predominant concerns” in the “risk-averse” environment. *Id. p. 10.* It then sets up a decision-making process about deploying IC technology domestically in which the protection of civil liberties is just one of ten factors. The report then proposes “fast-tracking” consideration and decisions on such legal concerns. *Id. p. 18.* It is striking that Congress is not mentioned anywhere in the process for flagging legal concerns and deliberating about how to resolve “issues on the boundary or not covered by policy.”

While the report contends that a “strict set of legal and protection of civil liberties guidelines would be followed,” such secret guidelines could be changed at the direction of the executive or the whim of a zealous attorney at OLC, such as a John Yoo. That is precious little protection. In fact, the report relies upon the kind of now-discredited parsing of words engaged in by the Office

of Legal Counsel in the first term of this administration. For example, one of the reasons why the report supports encouraging the U.S. Marshals Service to use IC technology is that because their job is to execute warrants by apprehending fugitives there is “a very low probability the IC’s involvement would be subject to a judicial proceeding,” a kind of don’t ask-don’t tell/win-win situation according to the operating “ethos” of the report. *See id.* at p. 24.

Even when reading legal precedents, the report puts its thumb on the scale of increasing surveillance of the American people, by providing a roadmap for activities that proponents would likely argue are permissible, if the government took more of a “risk management” rather than “risk-averse” approach to civil liberties issues:

- Warrantless “aerial searches of private property”;
- Warrantless “use of highly sophisticated mapping cameras to photograph the interior of a building”; and
- Warrantless satellite surveillance of this same kind.

The report does acknowledge that the Supreme Court recently held that thermal imaging of a residence without a warrant was unlawful. *See Kyllo v. United States*, 533 U.S. 27 (2001). However, the report notes that there is “no clear authoritative guidance issued on the impact” of this decision on “the use of domestic MASINT.” CACR at p. 30. Despite this decision that post-dates other decisions relating to aerial searches, the report goes on to justify expansion by claiming that the Congress “did not substantiate the allegations of the illegal use” of photographic sensors to image domestic areas, hardly a ringing endorsement of doing so now. *See id.* The report is also critical of the “cultural aversion toward collection of domestic imagery based on concerns involving the potential of congressional oversight sanctions centering around 4th Amendment concerns.” *Id.* at 32.

The report credits the tragic events of 9/11 and the “global war on terror” with creating a better environment for domestic expansion of these authorities. And, the report suggests that simply having a Privacy and Civil Liberties Oversight Board is sufficient to ensure that Americans’ privacy is being protected. The actual report of the PCLOB earlier this year demonstrated far from model oversight—the report was basically a rubber-stamp of White House initiatives. The White House’s editing of the report led in part to the resignation of the only Democratic appointee of the five-member board. (Subjecting the board members to Senate confirmation, as the 9-11 implementation bill did, is unlikely to change the make-up of the board until the end of the next presidential term.) This utterly inadequate Executive Branch “check” is no substitute for robust congressional oversight and judicial review to protect the Fourth and First Amendment rights of Americans. To the contrary, as the Committee recognizes, the PCLOB can be enlisted to help ratify, the domestic use of IC capabilities. *See id.* pp. 31-32 & n.11.

It is also quite worrisome that the report recommends revising Executive Order 12333 that governs U.S. intelligence activities “to permit as *unfettered* an operational environment for the collection, exploitation, and dissemination as is reasonably possible” of domestic intelligence activities. *See id.* at p. 31 (emphasis added). We are also concerned that the report proposes a way around U.S. person rules by adding unique ID numbers to information derived through foreign intelligence electronic surveillance to make it easier to know more about subjects without their names attached. *Id.* p. 41. Lest any Member believe this issue is distinct from the disastrous changes in the law rammed through Congress before August vacation, it is clear that

surveillance of Americans' communications is included in the report's recommendations for expanding domestic applications of satellite and other IC technologies. Yet it seems highly likely that there has been no forthright or comprehensive briefing of Congress on how this issues impact each other; certainly there has been no public debate to evaluate the potentially severe impact on the privacy rights of Americans.

While asserting the need to abide by "the rule of law," the report concludes that many rights "have now been abridged at least in practice if not in law." *Id.* at p.38. The defense contractors call this the "new normal" and note that there is a whole body of "Presidential memoranda and executive branch decisions that direct certain actions and events that are germane," documents that it is highly likely the congressional branch, charged with writing the law—in contrast to the executive branch that is charged with *executing* the law—has likely never even seen. *See id.* p. 39. The report concludes by positing a very troubling, Cheney-esque point of view, claiming that the Church and Pike Committee investigations "created a hyper-conservative view of what can be done." *See id.* at p. 42. It recommends that overseers should not look for "black and white" distinctions but instead "experimentation" should be the rule, while remaining thoughtful about the "legitimate" rights of Americans, whatever those may be. *Id.* at p. 43. That's a very sunny view, but the reality is that there is no country in the world where domestic intelligence collected in secret has not been misused by the government in power, usually against its political opponents, including the United States. The long-standing rules and understandings that this report and the DNI's proposed office seeks to undo would turn back the clock to the dark days when military surveillance of the American people was the "new normal," but would do so with exponentially better, more intrusive technology than J. Edgar Hoover ever dreamed of.

II. Constitutional and other Legal Considerations Support Being "Risk Averse" to Protect Rights

The proposed expanded surveillance of Americans call to mind the 1998 movie, "Enemy of the State," where Will Smith's character is tracked by NSA and other government agents via satellite surveillance, through tiny GPS transmitters, via bank records, and through via electronic monitoring of domestic conversations and call data without warrants. It's just a fictional movie, of course, but it is one of the more recent visual depictions of some of the IC capabilities at issue here. In response to questions raised at the time of the film's release about whether the National Reconnaissance Office (NRO), which maintains the spy satellite network, could "read the time off your watch" NRO spokesman Art Haubold pointed out that, "legally, his organization is not allowed to turn its surveillance systems on the United States." If the Domestic Applications Office is allowed to pursue the proposals made by the Committee, that assurance will no longer be true.

The principle at stake, as stated by the NRO, was that satellite technologies were not allowed to be turned on the U.S. Now the administration spokespeople are left with saying don't worry, we won't be able to "tell if you need a haircut," not the same kind of assurance at all. To the contrary, it implies the opposite of the uniform assurances made before this administration—now they might be watching but can watch you, they just do not yet have the technology to see everything.

Less than a decade ago, commercial satellites could conduct what is known as panchromatic electro-optical surveillance with a resolution of one to .5 meters. According to public accounts, the actual resolution of military satellite technology four decades ago, in 1967, was one meter, which means the ability to distinguish objects almost three feet across. Recall the black and white photos later released regarding the Cuban missile crisis. There is no doubt that military technology has made dramatic leaps forward since then and while the true resolution is secret, public estimates are that the military can create visual images of much better quality than the commercial applications, in the range of 10-15 centimeters, or objects up to four inches across. That is why the Department of Homeland Security can claim there is no worry about seeing your haircut from space. To which I would add one word: yet. It's imminent.

What this means is the government will have the capacity to photograph from satellites or platforms on high not just borders or buildings or missiles or cars but ordinary people. And there are the other sensors, infra-red, thermal, audio/greatly amplified hearing devices and the patented technological capacity to sort through conversations in a crowded room. There are GPS transmitters, which Americans rely on for driving directions or in their cell phones and which the government could easily use to track individuals.

There is only one given in this debate: that technology will continue to improve. As Bill Gates has remarked, technology will improve often in "great leaps over relatively short periods." The resolution of military satellite images and quality of other IC sensors are only going to get better and better, especially with the amount of money available for R & D.

The rules for turning military satellites inward on the American people should not depend on how great the photo resolution and GPS tracking technology is at the moment. The rule should depend on principles, what the report disdains as "black and white distinctions". These conservative principles, which the report criticizes as "risk averse," are the principles that have preserved our civilian democracy from military control. One principle that has been the glue that has preserved the compact between the citizens and the state is that the branch that uses power cannot be the branch that creates the rules for such use or enforces them. Turning military satellites and sensors inward on Americans should not be the unilateral decision of the DNI, or other intelligence officials, or of the proponents of the untrammelled executive power.

Much has been said over the years about whether the *Posse Comitatus* Act applies or does not apply to a given activity. The posse comitatus statute itself has a bit of a checkered past, as it was passed a decade after the end of the Civil War in response to complaints by Southerners against federal troops still policing reconstruction efforts and in particular the rights of African Americans to vote. The statute makes it a crime to "willfully use" the military "to execute the laws," except in cases "expressly authorized by the Constitution or Act of Congress." Congress has created several exceptions over the years, such as emergency situations as with an insurrection or health quarantine as well as narrowly drawn exceptions for circumstances involving nuclear weapons or assassination. Other exceptions have been less well drawn, such as enforcement of federal drug laws, although that has been confined to the borders.

It is plain that under the terms of the statute Congress can make exceptions, although it is not plain to us that every exception would pass constitutional muster. We believe that a new

statutory exception for the deployment of spy satellites to spy on the American people without any judicial check would not only swallow the rule but would be unconstitutional. It does not appear, however, that the Executive Branch is asking for your permission or a statutory exception. It is instead a “fait accompli.”

I suspect their arguments are two-fold. First, that so long as they are not permitting the military to arrest a person they are not executing the law. (But the military has already taken a citizen and others into custody inside the United States without charges as “enemy combatants.”) This would be a rather narrow interpretation of what it means to execute the law, especially for an administration that claims for itself maximum deference in its executive functions. The more sophisticated argument they might make on this point is that such IC capabilities would be passive, not directed at executing the law. (Such an argument might reach back to some lower court decisions stemming from the particular facts of the massacre at Wounded Knee where a military officer was reported to have directed law enforcement agents.) The statute should not be read so narrowly.

On these points I would refer the Committee to the eloquent legal analysis of Dr. Christopher Pyle. As he demonstrates in his memorandum, “the primary objective of the Posse Comitatus Act has not been merely to forbid energetic, aggressive, intrusive assistance, but to forbid routine assistance as well.” He presciently observed that “the political pressures for information may cause the armed forces to redefine the ‘normal course of military operations’ so as to re-involve the military in the surveillance of civilian political activity.” This forecast unfortunately came true in the case of the recently abandoned “TALON database,” which the Defense Department used to collect information on innocent Quakers and members of other peaceful religious groups that have spoken out against the war in Iraq. As Dr. Pyle noted:

During the late 1960s, it was “normal” for the U.S. Army Intelligence Command to dispatch plainclothes agents to observe nearly every demonstration in the United States involving 20 or more persons, to infiltrate domestic political groups, to maintain huge data banks on dissidents, and to share information about wholly lawful political activity with civilian law enforcement agencies, including some with notorious records for violating First Amendment rights. Overseas, it was normal to open civilian mail, wiretap American civilians, and violate confidential communications between American civilian attorneys and their clients.

(I would ask to make his full statement part of the record, as an attachment to my testimony.) While some of these specific activities have since been prohibited, the proposal to deploy satellite and other technologies involves the same dangers.

I would submit that there are also larger principles at stake than that particular statute, based on the Constitution’s structure of limited powers. For example, the Constitution means to make the imposition of martial law the rare exception by barring standing armies and forbidding the suspension of the writ of habeas corpus except in rebellion or invasion (and grants that power to Congress, not the president, in Article I). As Senator Sam Ervin noted: the “Constitution clearly contemplates that no part of the armed forces may be used in the United States for any purpose other than the following: 1) to repel a foreign foe; 2) to quell a domestic insurrection against the

government; or 3) to suppress domestic violence which the states are unable to suppress without federal aid.” Senator Ervin conducted a lengthy and thorough investigation of the use of the armed services to spy on Americans, and I would ask that a historical article and letter from him regarding military surveillance be included in the record as an attachment to my testimony. In his article, Senator Ervin noted that Congress had documented the abuses that occurred the last time the military was permitted to engage in domestic surveillance. Among the many examples cited, I would note in particular the following example from an Army Intelligence unit in Chicago in the late 1960s and early 1970s:

He described how this unit targeted for surveillance 800 persons in Illinois, collected by overt and covert means information about them, stored such information in dossiers, and transmitted some of it to intelligence installations elsewhere. Among those persons spied upon were Senator Adlai E. Stevenson, Representative Abner Mikva, and United States Circuit Judge and former Illinois Governor Otto Kerner, as well as state and local officers, clergymen, journalists, lawyers, and contributors to political and social causes.

Senator Ervin also stated that through notes, recordings, and photography, the dossiers recorded the “attitudes, aspirations, thoughts, beliefs, private communications, public utterances” and financial information. The stated justifications for some of this surveillance was predict civil disturbances. In all, “[m]ore than 100,000 civilians were subjects of surveillance by military intelligence.... Their reports were fed into scores of computers and data banks across the country. No meeting or demonstration was too trivial to note; no detail of one’s personal life too irrelevant to record.”

While the military acknowledged its failings and adopted new rules to prevent such surveillance by individual personnel, Senator Ervin’s warnings from the past about the need for clear rules are again relevant given the technology now available. History was already repeating itself in the TALON database and, while we welcome the announcement of its demise, the potential for mission creep by the military, with its enormous resources, is still quite dangerous. It is the nature of the military to take actions on a massive scale, with individual collectors simply following orders, collecting against requirements from on high. Indeed, one of the military’s strengths is its massive force and capabilities. But this sledgehammer-like strength should not be deployed, even or perhaps especially via surveillance, against the American people as a whole or against selected groups or individuals here in the U.S., without judicial oversight, in response to requests by civilian law enforcement agencies at all levels of government seeking military involvement and assistance in the enforcement of all kinds of criminal and civil laws.

III. The Need for More Complete Disclosure and More Investigation into this Matter

Clearly, more investigation is warranted.

Two years ago, the report produced by the non-governmental Civil Applications Committee recommended establishing a “Domestic Applications Committee” in ODNI to fund and accommodate access to current Intelligence Community “collection and processing capabilities” as well as to increase funding for R & D, acquisition and “Tasking, Collection, Processing, Exploitation, and Dissemination” (TCPED). In essence, military contractors studied the

potential to use military resources domestically and agreed that these military resources should be used for domestic intelligence and domestic law enforcement with increased funding. I suppose one should not be surprised by this result.

What should surprise, or at least offend, Congress is that in the two years the DNI has had this report and on the eve of its implementation it took the press to discover this revolutionary plan. It appears that this Committee was not informed that the DNI had begun to implement this taxpayer-funded study. (Although the administration told reporters that it had briefed “key” members of this Committee, as well as Appropriations and Intelligence, press also reported that neither the Chairman nor the Ranking Member of this Committee were aware of it before it was reported in the news.) There is no public record to support the conclusion that the DNI consulted with this Committee before striking a deal in May with the Department of Homeland Security and its secretary Michael Chertoff, to provide access to information about people in the U.S. collected via satellites flying over the U.S. There is no record to indicate that DHS sought advice from this Committee before entering into the reported Memorandum of Understanding (MOU) or that the Members of this Committee have seen this MOU and have a clear understanding of its scope, its intended effect and its likely unintended consequences.

How many times have Director McConnell or Secretary Chertoff or their staff been up to Congress in the last four months or two years, making assurances and claims, without mentioning this massive expansion of domestic surveillance? How much longer can you continue to rely on assurances when time and time again Executive Branch officials have omitted key facts or provided you with carefully selected information in response to only the precise questions asked. This game of hide and seek is unbecoming a democracy.

There is also no record to support the conclusion that Congress has any concrete estimate of how much this might cost or what the opportunity costs are of directing military satellites toward the American people, let alone a full and accurate assessment of civil liberties and privacy concerns, other than what has been presented by military contractors and *political appointees* of the Executive Branch. It is the nature of the Executive Branch to maximize executive power and discretion, which is why robust checks are essential. We have witnessed this inherent tendency in overdrive over the past six years due to the extreme views of Vice President Cheney about inherent, unlimited power of the president, views that have been adopted and implemented throughout the Executive Branch. Some of the related OLC opinions were written by the discredited John Yoo, whose views the subsequent head of OLC, Jack Goldsmith called “tendentious,” “overly broad” and “legally flawed.” See Jeffrey Rosen, “Conscience of a Conservative,” *The New York Times Magazine* (Sept. 9, 2007).

I mention this background because in my observation Congress needs to establish its own Office of Legal Counsel for purposes of assessing the scope of authority under the Constitution and statutes, because the Justice Department’s OLC has an institutional bias in favor of the branch within which it resides. In some ways the Congressional Research Service fulfills this role, but it has not been given the responsibilities or credit it deserves to be a counterweight to OLC’s defense of presidential power and diminution of congressional controls, as evidenced in this recent period.

Despite the great flaws in some of these OLC opinions, they are important markers for what the Executive Branch *thinks* it has the power to do. The tradition prior to this administration was to make almost all of the opinions that relate to the interpretation of public law public even if redactions were needed. And, yet, as we sit here today debating whether public statutes, such as the Posse Comitatus Act preclude the deployment of military satellites to target or track civilians in the U.S., this Committee does not have the relevant memos from the administration to assess what the administration thinks it has the power to do with or without the consent of Congress. Specifically, the administration apparently reinterpreted the Posse Comitatus Act, along with several other statutes in October 2001. As stated in footnote 16 of the OLC August 2002 “torture memos”:

We recently opined that the Posse Comitatus Act, 18 U.S.C. s. 1385 (1994), which generally prohibits the use of the Armed Forces for law enforcement purposes absent constitutional or statutory authority to do so, does not forbid the use of military force for the military purpose of preventing and deterring terrorism within the United States. See Memorandum for Alberto R. Gonzales, Counsel to the President and William J. Haynes II, General Counsel, Department of Defense, from John C. Yoo, Deputy Assistant Attorney General and Robert J. Delahunty, Special Counsel, Office of Legal Counsel, Re: Authority for the Use of Military Force to Combat Terrorist Activities within the United States at 15-20 (Oct. 23, 2001).

What does this memo say about using military force or tools, such as satellites or what is known as “remote sensing” data or devices on these shores? Was the administration’s rhetorical argument that the battlefield is everywhere translated into legal opinions that would permit the military to electronically surveil Americans without warrants and seize and “arrest” civilians on the general ground of terrorism prevention, hold them in military brigades and detain them without trial. These matters are all inter-related and Congress has not yet gotten to the bottom of what has been wrought, although it has now begun to do so.

We respectfully request that this Committee begin a comprehensive review, jointly with the Judiciary and Intelligence Committees, of how domestic surveillance powers are being used. As former CIA advisor Suzanne Spaulding has noted:

The inquiry should start with an open question about the design or efficacy of oversight and accountability mechanisms. The inquiry should ask first whether some powers should ever be granted to the government; whether the law or institutional safeguards can ever be adequate to protect constitutional government and individual liberties against the kind of power a government will amass when it harnesses all potential technological surveillance capabilities.

The proposal to deploy military surveillance powers domestically only adds to the urgency of the need for a systematic review of domestic and foreign surveillance powers, as currently deployed and as proposed by the administration. In the absence of such an examination and full disclosure to Congress, no new surveillance powers should be approved and ratified.

We also believe this Committee has a duty to insist on seeing the Yoo memo and any subsequent memos that attempt to justify domestic use of military satellites for intelligence gathering in the U.S. related to terrorism or for other purposes. Has this memo and any later clarifying memos by Jack Goldsmith or by officials at ODNI or elsewhere on the application of the posse comitatus or other restraints been provided to this Committee? If it has been provided, we would ask that it be made public to the extent possible. We suspect, given this administration's dubious claims of the need to classify or keep secret even interpretations of public laws, that the Committee has not received the Yoo memo or any others we have identified. We do not think, however, that the Congress should permit the Domestic Applications Committee to implement recommendations until these and other key documents are transmitted. Even then the Congress should examine carefully this dramatic expansion of the use of military resources in the US homeland against people in the US and withhold approval if the only case that is made is that it might have some utility.

The administration seems to be operating under a variant of the bureaucratic dictum, it is easier to ask for forgiveness than permission: often they seek neither permission nor forgiveness. They simply act in secret, violating statutes such as the Foreign Intelligence Surveillance Act, until their unlawful conduct is leaked and then they investigate the whistleblowers. They then seek to legalize what they have done and institutionalize it with Congress' acquiescence. We are concerned that the administration plans to implement the domestic satellite spy program with or without the formal blessing of Congress, although it is possible that this expense is obscured in some ambiguous line in the so-called black budget.

Congress, however, has some tools in its constitutional toolbox and should enact a funding rider to prevent any more American taxes from being spent on the Domestic Applications Committee or the implementation of the satellite-spying proposal. This House should use the power of the purse and let the president threaten to veto the federal budget over this, or the House should at least take steps to force the president's allies in the Senate, from whatever side of the aisle they hail, take a vote on the record in favor of spy satellite surveillance of the American people. Congress should not just let this proposed activity be implemented without those who support spying on Americans paying any price. Without such credible action by this Congress, the next 14-17 months at least will be filled with more liberty eroding policies being implemented without consequence. Once implemented, such programs and expenditures can be very difficult to undo.

IV. Conclusion

Intelligence officers have sometimes described the IC's capabilities as a "weapon." We believe these incredible powers should not be trained on the American people. The Center for National Security Studies stands by its initial fears about the proposed surveillance—it is big brother in the sky. The military surveillance activity that could be deployed unilaterally by this administration as proposed "experimentation" is nothing short of revolutionary. We call on this Committee to continue to investigate this proposal and to withhold funding unless and until full information is received and it is clear that such capability is necessary and consistent with the Constitution and the protection of civil liberties. Thank you for considering our views.