

# How NSA Invites Totalitarianism

President Obama has unveiled some modest “reforms” of U.S. intelligence gathering, noting that just because NSA can vacuum up nearly all electronic data doesn't mean it should. But the bigger issue is the future and how these powers may be unleashed, says Dutch tech expert Arjen Kamphuis.

By Arjen Kamphuis

After more than six months of revelations about the global surveillance infrastructure built by the U.S. government and its “allies” (i.e. smaller countries that believe smiling-at-the-crocodile-in-the-hope-he-eats-you-last is a good long-term strategy), many people and politicians still tout the “I have nothing to hide” attitude toward the most over-armed, hyper-intrusive super-power in human history.

In a recent *New Yorker* article, U.S. Sen. Dianne Feinstein, D-California, chair of the Senate Intelligence Committee, was quoted as saying: “My phone numbers, I assume, are collected like everybody else's, but so what? It does not bother me. By the Supreme Court decision in 1979, the data is not personal data. There's a Google Map that allows somebody to burgle my house, it's so clear and defined, and I can't do anything about it.”

For an elected U.S. senator to state the above is quite astonishing. Apparently a 35-year-old court decision, Smith v. Maryland, from a technologically different era is considered unalterable scripture (by a lawmaker!) and the power of the Google Corporation is simply accepted as a law of nature. Like the speed of light or the boiling point of water. What did that influential Italian political thinker from the 1920s say about the merger of state and corporate power? Wasn't that the (political) F-word?

Europeans look on in dismay at how the world's once-leading democracy has utterly lost the plot and slides in accelerating fashion toward societal models that we tried in the 1930s and 1940s and found seriously wanting. We've seen this movie and know how it ends; with way too many people in scary uniforms and lots of barbed wire everywhere.

## The Dutch Example

Those lessons are particularly instructive for us Dutch. Since the mid-1600s, Amsterdam was a refuge for ethnic and religious groups from all over Europe who fled various forms of repression and persecution. This freedom and societal diversity was one reason why the Dutch trading empire flourished with

technological advances (such as wind-powered sawmills for fast boat-building) and economic (corporate and stock) innovations.

The tolerance and diversity helped the Netherlands develop into a conflict-avoiding nation of traders who got along with everyone so they could sell them stuff. We kept out of World War I and sold a lot of planes to Germany. Municipalities registered people's religion and ethnicity for a range of practical (and mostly benign) purposes such as allowing the local civil servants to operate in a culturally sensitive way.

The Dutch government kept this fantasy of remaining neutral going for a long time, right up to the early morning of May 10, 1940, when the German Wehrmacht rolled into the country and swept away our poor excuse for an army in barely four days. After the Dutch surrender, the vast majority of the German army was pulled out of the Netherlands and put to work in other places.

For the vast majority of Dutch people life went on pretty much as before. Resistance to the occupation was almost non-existent and many Dutch were happy to work for the government (the number of civil servants almost doubled during the occupation) or in industries that boomed because of orders from the German army.

It was not until 1942 that the enthusiastic data collection by the Dutch government turned into a human catastrophe. Over 100,000 people who thought they "had nothing to hide" had provided accurate data on their Jewish identity and listed their addresses, enabling the most complete persecution of Jewish people in any country during World War II (with the exception of Poland where the Nazis had more time and fewer logistical challenges).

The other problem was the pro-authority attitude of most Dutch (even if that authority was a brutal military occupation by a foreign army). The famous Dutch "tolerance" often expressed itself as "I don't care what you do as long as you don't bother me." That included shoving fellow citizens into cattle-cars on their way to death-camps.

There was no occupied country where Pastor Martin Niemoller's famous poem "first they came for the Socialists" was more applicable than the Netherlands.

### **Troubling Comparisons**

Though comparisons with the Nazi era are always problematic, aspects of that time and U.S. society today are eerily similar. The United States seems under the de facto control of a consortium of banksters and a military-industrial-security complex, all feeding off each other and feeding into a political/media system that controls the national agenda and marginalizes people who dissent.

This structure has made many citizens afraid of their own shadows and lacking the information to ask meaningful questions even if they so desired. There are two political parties, the minimum number to have at least the pretense of a democracy, but on issues relating to “national security” and the “surveillance state” the Republicans and Democrats offer little that is significantly different, except at the fringes of the two parties.

Sen. Feinstein’s blasphemous acceptance of the National Security Agency’s collection of electronic metadata on virtually everyone and President Barack Obama’s mild “reforms” of the NSA – announced on Friday – fit with what you can expect from many “security-conscious” Republicans, too.

Yet, the unpleasant reality is that the U.S. government has built a turnkey infrastructure for a level of totalitarian control that repressive leaders of past eras could only dream about. The NSA’s metadata lets the government chart a spider’s web of your associations with multiple “hops” to draw in the networks of other people whom you have never met. The scheme takes guilt-by-association to a whole new level.

The U.S. government also reserves to itself the right to kill anyone, anywhere who supposedly represents a “terrorist” threat to the United States and to do so on the say-so of some unaccountable and essentially anonymous intelligence officials. The blood lust even extends to whistleblowers like former NSA contractor Edward Snowden.

## **A Political Excuse**

The only missing element for a full-scale tyranny is a political excuse to flip the switch and turn this machine to full-power. Perhaps the excuse could come from another “terrorist attack” or from another financial meltdown as the government seeks to control social unrest. Or a thoroughly unscrupulous President might just rev it up to go after his enemies. But the point is the equipment is now in place and ready to go.

Many people still find it hard to accept that the U.S. government could take such a monstrous turn. But its modern history from Hiroshima through the Vietnam War to support for death-squad regimes in Latin America and the invasion of Iraq shows a callous disregard of human life and an acceptance of mass slaughter, even genocide, as a policy choice.

I realize that these concerns that I’ve raised violate what’s known as “Godwin’s Law,” i.e. the avoidance of comparing current events to the Nazis, but regrettably these comparisons are increasingly unavoidable. One could even revise Niemoller’s famous poem for the present:

“First they came for the Muslims in a dozen countries

but most of us did not share that faith so we said nothing

Then they came for union leaders and social activists

but we did not want to be labeled as lefties and so we said nothing

Then they came for the journalists

but we long stopped reading political news and so we said nothing

Then finally, when the government came for us

there was no one left to say anything”

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## When Protesting Bush’s Wars Was a Crime

In 2004, at the height or depths of George W. Bush’s presidency, the very idea of protesting his “war on terror” or invasion of Iraq was deemed worthy of repressing, the backdrop for mass arrests outside the Republican National Convention in New York City, as Nat Parry recalls.

By Nat Parry

After nearly a decade of legal wrangling, there is finally some justice for more than 1,800 peaceful protesters, including me, arrested during the 2004 Republican National Convention in New York City. The \$18 million agreement announced Wednesday is the largest protest-related civil rights settlement in American history, and an important message to police departments around the country about the constitutional rights of assembly and free speech.

Although the deal does not explicitly assign liability on the part of the New York Police Department, it nevertheless involves a payment of \$10.4 million to individual plaintiffs and to 1,200 members of a class action, and a further \$7.6

million in attorneys' fees, costs and expenses.

The settlement comes 15 months after a ruling by a federal judge in September 2012, which determined that "there was no probable cause to arrest protestors" and that "an officer must have individualized probable cause to arrest an individual and that mere proximity to illegal conduct does not establish probable cause with respect to an individual."

In that decision, Judge Richard Sullivan, a George W. Bush appointee, fretted that the continued delay of the case's settlement largely the result of countless legal roadblocks erected by the City of New York would "achieve the worst of each alternative, to the detriment of all parties and the Court itself."

"With that in mind," Sullivan wrote, "the Court urge[d] the parties and their counsel to confer and assess the proper course toward a speedy and just resolution of these actions."

As one of the plaintiffs in the case, arrested with 225 others on a sidewalk on Fulton Street near the World Trade Center on Aug. 31, 2004, I have long been waiting for vindication of what I always saw as unjust treatment at the hands of the NYPD, especially the prolonged detention we endured in a filthy old bus depot converted into a makeshift detention center for RNC protesters on Pier 57, or what we arrestees sardonically called it, "Guantanamo on the Hudson."

I had travelled to New York from Washington with members of the DC Anti-War Network (DAWN) to protest the Republicans, specifically motivated by the Iraq War, Bush's indefinite detention and torture policies, as well as the very fact that Bush/Cheney reelection campaign was cynically using the backdrop of the 9/11 tragedy for its convention. I couldn't help but see the choice of New York City as anything but a callous attempt to further exploit the victims of 9/11 to advance the Bush administration's neoconservative agenda.

By then, the Iraq War had turned ugly, with the first battle of Fallujah taking place just a few months earlier. In April 2004, U.S. Marines killed untold numbers of Iraqi civilians in the restive Iraqi town. "Two football fields were turned into cemeteries, with hundreds of freshly dug graves, marked with wooden planks scrawled with names some with names of women, some marked specifically as children," reported the Associated Press at the time.

For those of us committed to peaceful alternatives to the "war on terror," the only question was which of the many decentralized demonstrations to join in New York. I and other DAWN members were intent on voicing our opposition to the war, and decided therefore to focus on protests with the clearest antiwar messages.

## A31

It was day two of the 2004 Republican National Convention, a hot and humid Tuesday, and tensions between protesters and police were high. Two days earlier, a mass march of at least 500,000 had ended in chaos when a group of black-clad protesters set fire to a giant papier mache dragon directly in front of Madison Square Garden, where GOP delegates would be gathering for the RNC.

Later that night, there was mayhem in the theater district, where protesters were actively confronting RNC delegates who were attending Broadway shows. The police responded by attempting to corral demonstrators using orange snow fencing.

A march on Monday, organized by the Poor People's Economic Human Rights Campaign, had also ended ingloriously, with police stopping the procession before it could reach the Garden and detaining people on the street. While some protesters ended up in jail that day, there were no mass arrests, only some modestly aggressive policing and scattered stand-offs between demonstrators and officers.

Tuesday, however, was A31 (or August 31 to the uninitiated), a day in which some activists had planned to engage in disruptive civil disobedience. Those who dared to participate had the distinct sense that the 12,000 NYPD officers assigned to police the demonstrations were not going to allow anyone to upset the smooth functioning of the RNC.

Although we felt there was a good chance of a police clampdown, our DAWN contingent decided that we would participate in some of the "low-risk" activities of A31, none of which had any stated goals of "disrupting" the convention.

We started off the day at a morning demonstration against torture and arbitrary detention. The protest sought to highlight the plight of Muslims targeted by post-9/11 counterterrorism measures and drew connections between those policies and the regular police brutality that urban communities endure every day across America.

Police allowed the rally to take place without incident, and somewhat emboldened by that experience, I and other DAWN members agreed that we would join another demonstration that afternoon. The War Resisters League had called for demonstrators to gather at the World Trade Center site Ground Zero from where we would proceed to Madison Square Garden in a somber procession.

The plan was to silently march to the site of the RNC, where those who wanted to risk arrest could participate in a "die-in," a symbolic act of civil

disobedience in which participants would lay down on the sidewalk to represent those who had been killed in U.S. wars in Iraq and Afghanistan.

Even three years after 9/11, gathering at Ground Zero was a moving and surreal experience. The massive hole in the ground was a stark reminder of the gravity of the tragedy, a reality not lost on anyone gathered that day. Indeed, some wept as they looked out on the colossal construction site, which we all understood was also a mass grave. That feeling of sadness over the tragedy of 9/11 combined with righteous indignation over how it had been exploited by the Bush administration in the years since seemed to increase the resolve of protesters to make our voices heard.

No chants were made at Church and Fulton, being respectful of the hallowed ground that we were on, but we were all determined to solemnly proceed to the RNC site with our message. We marched under a banner that read, "LIBERATED IRAQIS GULF WAR: 150,000; SANCTIONS: 500,000."

Incidentally, it seems that it was this banner that ultimately led to our arrests. As Judge Sullivan explained in his 2012 ruling, NYPD Inspector Thomas Galati "appeared to be particularly concerned about a banner that the protesters wanted to carry and concluded that it should be carried sideways, parallel to the sidewalk facing Fulton Street, rather than facing forward, so that those carrying it would not be walking several abreast and blocking the sidewalk."

The organizers of the march were in negotiations with NYPD officers on the scene, and had been conveying assurances to the marchers that the march would be allowed to proceed to the convention site as long as we stayed on the sidewalk and did not obstruct traffic.

Suddenly though, the police reneged on their guarantees, blocked off the march, and isolated 226 of us at the front, using orange netting to seal us in. Despite our pleas, the police would not allow us to disperse, and after some time declared us all under arrest and began loading us one by one onto a city bus.

We were all assigned individual "arresting officers," and I remember asking mine what the charges were. He looked a bit flustered and said, "Uh, 'illegal conduct.'"

## **The Pier**

Arriving at Pier 57, I couldn't help but think back on the march earlier that day against arbitrary detention. It seemed that what we had protested against earlier was what we were now personally experiencing. But while our new home had been dubbed "Guantanamo on the Hudson," I knew that this was not entirely fair.

Although the cages on Pier 57 chain-wire fenced holding cells with barbed wire at the top looked eerily similar to the confines of Guantanamo that had been made famous in photographs seen across the world, the RNC protesters were not wearing black hoods or orange jumpsuits, and more importantly we knew that despite our predicament, we would likely be brought before a judge at some point to ascertain the lawfulness of our detentions. The same could not be said for Guantanamo detainees.

Being one of the early A31 arrestees, I watched busload after busload of protesters brought in throughout the afternoon and night, as the picture of systematic mass arrests on a grand scale began to slowly come into focus. When a new bus was unloaded, those of us who were already detained would welcome them with a huge cheer, and as the hours dragged on and the Pier 57 detainee population grew, this cheer grew louder and louder.

In conversations on the pier, one theme that I heard expressed repeatedly was that these arrests were likely a “dry run” for what was expected to be widespread repression if Bush was reelected. Drawing connections with the arbitrary detention policies of Guantanamo Bay, many RNC arrestees worried that a similar fate awaited Bush’s antiwar critics in a second term.

Many arrested protesters also engaged the detaining officers in conversations, or sometimes just heckling. When police officers with white shirts indicating ranks of Lieutenant or higher walked past the cages, detainees would shout “Lawsuit!” or “You better lawyer up!” One arrestee pointed to a bus being unloaded and called out, “Are you telling me that all these people broke the law? I think you broke the law!”

By the time the pier had filled up to its capacity of about 1,000 people, the chants and songs were downright deafening.

To the tune of “Yellow Submarine,” protesters sang, “We all live in a military state!” To the tune of Queen’s “We Will Rock You,” the arrestees assured the NYPD brass, “We will, we will sue you, sue you!” There were also chants of “Power to the people” and “Let us go!” In recognition of the NYPD’s ongoing contract dispute with the city, we chanted: “Overworked, underpaid! NYPD needs a raise!”

But as the hours dragged on and the cages filled up past capacity, the sad situation that we found ourselves in became increasingly clear and slowly despondency started to set in. The old bus depot that we were crowded into was covered in oil and grime, with arrestees forced to sit on the filthy floors and after some time the chants and songs slowly faded. Those who attempted to rekindle the sense of defiance found themselves defeated by a collective sense

of dejection, with most people just trying to find a piece of floor to sit on to have a rest.

## **The Tombs**

Finally, after many long hours at the pier, we were loaded back onto buses and taken to New York's Central Booking, commonly known as The Tombs. There, protesters were segregated from "common criminals," and throughout the police department, there were "Bush/Cheney '04" posters plastered on the walls. Some police officers made clear their hostility to us by shouting "four more years!" Others, however, let us know that they appreciated what we were doing and that they agreed with our cause.

I remember one African-American cop with tattoos covering his arms telling some of us that he knew that what they were doing to us was wrong but that he didn't have a choice. "I'm just following orders," he said, to which an arrestee responded, "Yeah, that's what the Nazis said too."

Despite the occasional pleasant conversation with an arresting officer, it was an eye-opening experience for us all to see the lengths that police would go to in defense of the Bush agenda. It seemed almost as if they were taking their marching orders directly from the administration, and years later evidence would emerge indicating that this was a distinct possibility. It came out during our lawsuit, in fact, that since 9/11, the CIA had been working closely with the NYPD in counterterrorism strategies. According to a CIA's inspector general report, one CIA officer embedded with the NYPD "believed he had 'no limitations' as far as what he could or could not do."

Documents also emerged showing that the NYPD engaged in systematic and likely unconstitutional surveillance of antiwar and human rights groups leading up to the 2004 protests, as well as in subsequent years.

"For at least a year before the 2004 Republican National Convention, teams of undercover New York City police officers traveled to cities across the country, Canada and Europe to conduct covert observations of people who planned to protest at the convention, according to police records and interviews," reported the New York Times in 2007.

It certainly appeared that the mass arrests were part of a comprehensive strategy to stifle any expressions of dissent during the RNC. As New York Police Commissioner Ray Kelly stated at the close of the convention, on Sept. 3, 2004, "Most of the security aspects of the Republican National Convention played out the way we anticipated."

He congratulated his officers for their "fine performance" in arresting a total

of 1,827 demonstrators, noting that “approximately 65 percent of those arrested were not residents of New York State.”

### **Turning the Page**

Former Mayor Michael Bloomberg, who presided over Ray Kelly during the Convention, had for years defended the conduct of the NYPD in its policing of the RNC protests in August and September 2004, saying the aggressive tactics had been justified by intelligence of possible violence. “But the documentary evidence to support that claim has never been released,” noted the Guardian on Wednesday.

As the Guardian pointed out, the timing of the agreement’s announcement just two weeks into the term of New York’s new mayor, Bill de Blasio may not be entirely coincidental. It is possible, the paper speculated, that de Blasio is attempting to finally turn the page on this sad chapter and make a clear break with the previous administration.

Regardless, civil libertarians are hailing the settlement as an important vindication of protesters who were wrongly arrested and a significant statement upholding the fundamental right to free speech and assembly.

“This historic settlement must serve as a reminder to New York City and government across the country that the right to protest is a fundamental pillar of a fair and functioning democracy,” said Donna Lieberman, Executive Director of the New York Civil Liberties Union. “And it is the role of government and law enforcement to not only tolerate protest, but protect and defend it.”

**Nat Parry is the co-author of *Neck Deep: The Disastrous Presidency of George W. Bush.* [This story is cross-posted at Essential Opinion.]**

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