

By Fred Branfman

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*The following is the [latest in a](#) [3] [series](#) [4] on the Executive Branch of the United States.*

Edward Snowden's revelations have illuminated the most critical political issue facing America today: how an authoritarian U.S. Executive Branch which has focused on war abroad for the last 50 years now devotes increasing resources to surveillance, information management, and population control at home, posing a far greater threat to Americans' liberties than any conceivable foreign foe.

Snowden's view of the basic issue [is](#) [5] that "I don't want to live in a world where everything that I say, everything I do, everyone I talk to, every expression of creativity or love or friendship, is recorded. That's not something I'm willing to live under."

Whether millions of other Americans accept the new surveillance status quo will determine the future not only of privacy but democracy in this nation. For even the critical issue of U.S. government of surveillance is only a part of a far larger pattern of undemocratic and unaccountable Executive Branch behavior, at home and abroad. The problem is not only that the Executive Branch operates in antidemocratic secrecy, with an "[Insider Threat Program](#)" [6] that even requires its employees to inform on each other or risk losing their jobs. It has also subverted the Congress, judiciary and mass media, so that they no longer provide constitutionally mandated checks and balances, and are instead largely today extensions of Executive power.

How do you feel about the fact that as you read these words the U.S. Executive Branch is storing information about your phone calls and Internet messages which, even years from now, could be used to embarrass, control and/or harass you, defeat you in an election, cause you to lose a job, break up your marriage, or even threaten you with imprisonment? Many say "I have nothing to worry about, I'm not a Muslim terrorist." But this displays a naïve complacency about the massive pools of data the Executive is collecting that have nothing to do with protecting us

from a relative handful of Muslim terrorists, and could easily be misused by secret and unaccountable government agencies in the future.

Even centrists like [Tom Friedman](#) [7] and [Bob Woodward](#) [8] have warned that America could turn into a "police-state" should another 9/11 occur. And the Executive Branch has created more of an [infrastructure](#) [4] for such a state than ever in our history under a Democratic president who professes a belief in civil liberties. Should a Republican become president in 2016, with a Cheney-like mindset using ["unitary Executive theory"](#) [9] to grab even more power, democracy could become little more than a pleasant daydream.

What is most troubling about America's political class today, who have mostly castigated Snowden but not even dared criticize a Dianne Feinstein for keeping U.S. Executive surveillance secret from the American people she theoretically represents, is not only that they are "willing to live under" a Surveillance State. It is that they don't even want to know.

They shoot the messenger rather than dare face his message, displaying precisely the kind of complacency that causes democracy to die.

Even decent pundits who oppose excessive wiretapping have buried their heads in the sand about Executive threats to democracy. *N.Y. Magazine's* Jonathan Chait has [put](#) [10] it in the category of just another "non-scandal" like Benghazi or the IRS, writing "but when the president is carrying out duly passed laws and acting at every stage with judicial approval, then the issue is the laws themselves, not misconduct." This is [seconded](#) [11] by Paul Krugman: "as Chait says, NSA stuff is a policy dispute, not the kind of scandal the right wing wants."

Putting the relevance of NSA spying in the context of whether it benefits or harms the Republican party, and falsely claiming that there are meaningful legislative or judicial checks on Executive power, is absurd. It points up our psychological difficulty in accepting the fact that the government we have been taught since birth protects democracy is today the greatest

threat it faces.

It requires profound changes in the mindsets that map our lives to realize that we are now paying our leaders vast sums to deceive, lie to, spy on, monitor and track us; that our own government threatens freedom of the press and information far more than any foreign foe; and that Edward Snowden and Bradley Manning, who believe that the U.S. government should not murder innocents abroad and spy on Americans at home, shame the rest of us with their moral commitment to try to save democracy.

And the Executive Branch is geometrically increasing its threats to democracy at the very moment the U.S. president has [told](#) [12] us that serious external terrorist threats have significantly declined, pose a far smaller threat to our lives than our own automobiles, and are best dealt with by careful police work conducted jointly with foreign allies. Domestic surveillance is clearly increasing because powerful Executive agencies seek more power, budget and staff, not because they need more money to protect us. There is nothing new about this. It is what unaccountable bureaucracies do.

### **The “Fiction That Everybody in Congress Knows”**

But democracy depends on the other branches of government, and the Fourth Estate, checking its power. And nothing shames America’s leaders more than their knowingly perpetrating the fiction that Congress, the judiciary and mass media are doing so.

On June 5, 2013, for example, President Obama [stated](#) [13] that “the programs are secret in the sense that they are classified. They are not secret, in that every member of Congress has been briefed,”

Asked about this two days later by ABC News' George Stephanopoulos, Rep. Keith Ellison [replied](#),

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"I am not aware of this program that was revealed today. So I think it's a fiction, it's a fiction that everybody in Congress knows. We don't know what we don't know."

And those members who serve on the Intelligence committees learn only what the Executive allows them to know, "don't know what they don't know," and are muzzled from doing anything meaningful about even the limited information they receive. As Jeremy Scahill has [explained](#) [15]

, "there are a handful of U.S. senators that are allowed to go to what's called a secured classified intelligence facility, a SCIP, and to review certain memos, not all, but certain memos the White House has deemed appropriate to share with Congress." And they must come alone without staff, and "they're not allowed to bring a writing utensil. They can't bring paper. They're not allowed to bring anything with a battery. And they look at certain memos, not all that the White House has agreed to show them. And then, they're not permitted to share what they've seen with anyone. Not their constituents. Not other lawmakers."

There may be no more dramatic revelation of the truth of unaccountable Executive power than when Senate Intelligence Committee member Ron Wyden [stated](#) [16] in 2011, "I believe that the American people would be absolutely stunned, I think members of Congress, many of them, would be stunned, if they knew how the PATRIOT Act was being interpreted and applied in practice. I'm going to insist in significant reform in this area."

He was right. But unlike a patriotic and courageous whistleblower who has risked his very life to bring this information to the American people, even an elected legislator who knew it was a "stunning" abuse of power did not dare reveal it to the American people.

The notion that Executive power is subject to meaningful judicial review is another fiction. The FISA court [rubber-stamped](#) [17] 1,788 out of 1,788 applications for wiretapping, allowed by the Executive only to rule on the processes it claimed to follow not the actual people being wiretapped. And, even more disturbing, the *N.Y. Times* has [revealed](#) [18]

that the 11-member secret FISA court, including 10 conservative Republicans appointed by John Roberts, has become an antidemocratic Star Chamber that has not only failed to limit but actually expanded Executive Power to spy on us.

Adjudicating a case in which the ACLU sued to obtain illegal Executive "kill lists," federal judge Colleen McMahon [wrote](#) [19], "I find no way around the thicket of laws and precedents that effectively allow the Executive Branch of our Government to proclaim as perfectly lawful certain actions that seem on their face incompatible with our Constitution and laws, while keeping the reasons for their conclusion a secret." The Patriot Act was specifically [designed](#)

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to preclude meaningful judicial review

And the U.S. mass media, although some journalists have done important work revealing Executive wrongdoing, primarily serves to convey Executive "talking points" to the public on an hourly basis.

The media dutifully [broadcast](#) [21] around the nation former FBI agent and current House Intelligence Chair Mike Rogers' unproven [claim](#) [22] that Edward Snowden is a traitor because of "changes we can already see being made by the folks who wish to do us harm." The media then reported that Senate Intelligence Committee member Saxby Chambliss [said](#)

[23]  
that "the bad guys are now changing their methods of operation." Then, after we were told that this program would help the enemy if revealed, anonymous NSA officials were suddenly made available to discuss it with the *Washington Post*, Reuters, CNN, and the AP, which

[ran](#)  
[24]  
a story headlined "Al-Qaida Said To Be Changing Its Ways After Leaks" that appeared in newspapers around America.

The charge was hardly credible since the NSA provided no evidence to support its claim, Snowden had a strong self-interest in not providing details which could have helped his prosecution for espionage, and the unnamed "folks who wish to do us harm" have long known their emails and phone calls were monitored. But the Executive Branch had succeeded in its goal of using the mass media to bombard the American people with these messages to support its indicting him as a spy.

Authoritarian secrecy and deception is the beating heart of Executive power. Former Obama administration official Ronan Farrow, who had a top-secret clearance, has [reported](#) [25] that "trillions of new pages of text are classified each year," and that "a government agency was found to be classifying the equivalent of 20 million filing cabinets filled with text." It is obvious that almost none of this would be of use to "Muslim terrorists," and that the Executive's main goal is to keep information of its abuses and mismanagement from reaching taxpayers, which

might threaten its funding. When the Justice Department indicted whistleblower [Thomas Drake](#)

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for espionage, after he had futilely gone through proper internal channels to try and correct serious NSA mismanagement, the Executive's goal was clearly not "to protect national security" but to keep the evidence of its incompetence from reaching American taxpayers.

### **Eisenhower and the Myth of Presidential Control Over the Executive Branch**

Although those who suggest the U.S. Executive Branch is subverting democracy are often maligned as radicals, alarmists, unpatriotic, or worse, it was one of America's most respected generals and popular presidents who first brought this issue to public attention 52 years ago. On January 17, 1961, Dwight David Eisenhower famously [warned](#) [27] that the "conjunction of an immense military establishment and a large arms industry is new in the American experience. The total influence -- economic, political, even spiritual -- is felt in every city, every State house, every office of the Federal government. In the councils of government, we must guard against the acquisition of unwarranted influence by the military industrial complex. We must never let the weight of this combination endanger our liberties or democratic processes."

The man who embodied patriotism itself warned us that our liberties were threatened at home by the "military-industrial complex" which we call here the U.S. Executive Branch, meaning the powerful Executive agencies and private corporations which lobby for and benefit from Executive funding, and have today morphed into one entity of mutual self-interest operating behind a wall of secrecy.

The U.S. Executive Branch derives much of its legitimacy from the public's belief that it is under the control of a democratically elected "Commander-in-Chief," the president. But in reality, Executive agencies are far more powerful than any president. The rarely quoted but most important passage of Eisenhower's speech was that: "this need is so sharp and apparent I confess that I lay down my official responsibilities in this field with a definite sense of disappointment."

Even Eisenhower, who knew firsthand the dangers the Executive Branch posed to democracy, could not control it. He presided over a period of tremendous growth in Executive Branch power, and only warned of its threat to freedom as he was leaving office. And if even Ike could not control it then, how can a far weaker Obama control far more powerful, sophisticated and

insidious Executive Branch power today?

Yes, citizens get to vote for president every four years. But the candidates of both major parties support the same basic Executive Branch military policies. Voters in the 2012 presidential election had no one to vote for if they opposed drone strikes, threats to attack Iran, continued senseless war in Afghanistan, or the global deployment of U.S. assassins. And even when they vote for a candidate like Obama who promised greater Executive transparency in 2008, such promises are broken post-election.

But the myth of presidential control over the Executive Branch goes far deeper. Because Americans expect their president to function as Commander-in-Chief, presidents are forced to pretend to be in charge of what they are not. Barack Obama did not admit that he felt "trapped" by the military into escalating in Afghanistan, as Bob Woodward has reported. Neither a president nor Secretary of State Clinton admitted publicly what they acknowledge privately: that because of military opposition they were forced to betray their own values by [failing](#) [4] even to fight for ratification of such basic humanitarian measures as banning landmines and cluster bombs, let alone even beginning to bring the military-industrial complex to heel.

As giant Executive agencies relentlessly act out their bureaucratic imperatives of seeking to justify bigger budgets by manufacturing new missions—whether spying on millions of Americans, establishing a network of police operations around the country, conducting signature drone strikes against unnamed suspects, and expanding assassination around the globe—the notion that even a president who wants to can significantly reduce these activities is not only naive but dangerous to preserving democracy itself.

### **A Threat to Rationality**

Executive claims that its immense spying on countless Americans at home is needed to protect them from terrorists abroad threatens rationality itself.

Imagine an old fashioned scale with U.S. Executive power on the left side, and the threat it claims to be protecting us against on the right. On the left we have the 1.4 million employees of the Pentagon, CIA, NSA, Department of Homeland Security and FBI, etc., 1,000 other government entities and 2,000 private companies located in 17,000 buildings collecting data

on hundreds of millions of Americans' phone calls and Internet communications a year, and the world's largest arsenal of weaponry.

On the right we have the handful of Al-Qaeda members whom Mr. Obama on May 23 downgraded to a minor threat, and a few thousand Pakistani, Yemeni and North African tribesmen who would focus entirely on their domestic concerns if our leaders would stop bombing and assassinating them. Can anyone in the right mind claim we need to fund the giant apparatus at the left to protect us from the minuscule group of folks on the right?

There may be no greater evidence of the ability of fear, self-interest and fantasy to overwhelm rationality than the fact that the U.S. Congress does not even discuss whether the Executive really needs to spend over [\\$1 trillion](#) [28] a year to protect us in a world in which China and Russia are no longer even our enemies, and the most effective way to reduce whatever terrorist threats do exist is clearly to engage in old-fashioned police work with local police forces who see us as allies, not enemies.

And the single most irrational fact of American "national security" policy today, as several dozen of America's most knowledgeable national security experts have [attested](#) [4], is that this \$1 trillion a year is actually not protecting but

[endangering](#)

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us, by creating far more enemies than it kills, increasing the risk of more 9/11s, destabilizing friendly governments, and making it more likely that Pakistani nuclear materials will fall into anti-American hands.

### **Information Management to Protect a Failed Institution**

Although the Executive is America's most powerful institution, it has an Achilles heel. The private sector produces wealth and builds; the Executive consumes wealth and destroys. It thus depends for its life on convincing taxpayers to fund it despite its 70-year record of failure, wasted resources and innumerable lies.

The U.S. Executive Branch has not won any of the major wars it initiated over the past 50 years, [sending](#) [30] over 62,697 American youths to their deaths and wounding over 185,625 in



Indochina and Iraq, on the basis of lies. Its support for the Shah of Iran and invasion of Iraq brought to power and strengthened its major Middle East foe; its costly intelligence agencies supported the Mujahidin in Afghanistan who became al Qaeda and the Taliban, failed to prevent 9/11, falsely claimed that Saddam Hussein had weapons of mass destruction, and failed to predict the Arab Spring. It has today turned most of Latin America against it and wasted [\\$4-6 trillion long-term](#) [31] on its losing wars in Iraq and Afghanistan, even as China has invested similar sums in buying up many of the world's resources, leading the clean energy revolution, and moving to become the dominant Asian power.

The Executive Branch has succeeded on its own terms, steadily accumulating power for 70 years now. But it is clearly an institution that has failed the American people. If Americans realized this truth they might likely dramatically reduce its funding and control its activities.

As a result, Executive officials' top priority is to maintain secrecy about their countless failures, and actively propagandize the American public about real and imagined successes.

For such officials "truth" and "lies" are not operational categories of thought. The purpose of any communication with the public or Congress is to further their agency's mission. Lying is rewarded not punished, as when General Stanley McChrystal was promoted after [knowingly](#) [32] lying when he said that Pat Tillman was killed by enemy rather than friendly fire. The only firing offense is telling the truth, as when State Department spokesman P.J. Crowley was dismissed for [stating](#) [33] that "what is being done to Bradley Manning is ridiculous and counterproductive and stupid on the part of the Department of Defense."

Executive Branch officials almost always lie in those cases where they are acting illegally or could be embarrassed, as when National Intelligence Director James Clapper [responded](#) [34] "no, not wittingly," when asked on March 26 by Senator Ron Wyden "does the NSA collect any type of data at all on millions or hundreds of millions of Americans?" (Clapper further [compounded his lie](#) [35] by claiming he had misunderstood the simple question. Senator Wyden had sent it over to him the day before.)

Given their decades-long record of misleading the American public about life-and-death issues, from the Tonkin Gulf to Iraq's fictional weapons of mass destruction, it is naive to give Executive officials the benefit of the doubt when they respond to charges of abuses. It is only logical to assume they are lying unless they provide evidence to the contrary. This is why they need to be sworn in and indicted for perjury when they lie to Congress.

The Pentagon Papers is the gold standard for understanding how Executive officials think since they have rarely written down their inner thoughts since. The Pentagon Papers reveal that Executive Branch leaders were not only indifferent to Vietnamese life, they were even willing to betray American youth for their own political ends. While the Johnson administration publicly claimed it was sending U.S. troops to help the people of Vietnam, Deputy Defense Secretary John McNaughton [described](#) [36] U.S. Executive Branch objectives as "70% to avoid a humiliating U.S. defeat. 20% to keep SVN (South Vietnam) from Chinese hands. 10% to permit the people of SVN to enjoy a better, freer way of life."

And while Robert McNamara was publicly claiming the U.S. never killed civilians, he privately [wrote](#)

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that "the picture of the world's greatest superpower killing or seriously injuring 1000 noncombatants a week, while trying to pound a tiny backward nation into submission (might) produce a costly distortion in the American national consciousness and in the world image of the United States."

McNamara did not express concern about his mass murder. He focused only on keeping it secret from the world and the American citizens he claimed to represent.

Daniel Ellsberg, in *Secrets*, tells of accompanying McNamara on a plane trip from Saigon to Washington, during which McNamara privately stated "we've put more than a hundred thousand more troops into the country over the last year and there's been no improvement. Things aren't any better at all. That means the underlying situation is really worse!" But when McNamara deplaned he told a crowd of reporters:

"Gentlemen, I've just come back from Vietnam, and I'm glad to be able to tell you that we're showing great progress in every dimension of our effort. I'm very encouraged by everything I've seen and heard on my trip." (2)

Such countless lies betrayed a generation of American youth. Many volunteered to fight in Vietnam because they idealistically believed their leaders' public statements that the U.S. goal was to help the Vietnamese people. Others were forced to fight and die as their leaders concealed from them that they knew their strategy wasn't working. And U.S. Executive Branch leaders' lawless mass murder of the innocent fatally divided their nation at home, creating deep fissures which continue until today. Had Americans simply been told the truth by their leaders, had U.S. leaders said in public what they wrote in private, the war might well have ended years earlier, and thousands of American lives and tens of billions of dollars would have been saved.

As the Executive Branch now extends its operations in the U.S., its bureaucratic interests are similarly opposed to those of the American people. Huge sums given to the Pentagon, CIA and NSA diverts money from the public's top economic needs: investment in infrastructure, education and a high tech manufacturing base. And so the Executive must wage constant disinformation campaigns offering relief from exaggerated fear, false accomplishments and, above all, operations to defeat criticism.

The key concept for understanding how the U.S. Executive manages to convince taxpayers to fund it despite its countless failures is that of "information operations." In *The Operators* Michael Hastings explained that the military officially draws a distinction between its behavior toward the American and foreign publics, as when David Petraeus explained in April 2008 that "public affairs is there to inform [domestic audiences] and Information operations is there to influence foreign audiences." (3)

The latter [refers](#) [38] to "actions taken to affect adversary information and information systems while defending one's own information and information systems."

But Hastings learned in Iraq and Afghanistan that there was no real distinction between information operations directed at foreign or domestic audiences. Referring to General William Caldwell's attempts to gain more funding for training Afghan troops, Hastings reported that "despite his own statements that information operations are for 'foreign audiences', he'll assign a team of American information operation specialists to target the U.S. public. The IO team, which had received training in conducting psychological operations, is tasked with convincing visiting senators and other VIPs to give Caldwell more funds." (4)

The concept of "information operations" is the most accurate one to describe Executive Branch officials' communications with the American people as well. When Dick Cheney [appeared](#) [39] on "Meet the Press" to warn of Saddam Hussein's weapons of mass destruction, ties to al Qaeda and to claim the U.S. would be greeted as liberators, he was conducting information operations designed to build support for the Bush invasion and occupation of Iraq. It did not even occur to him to think in terms of "lies" or "truths."

Hastings reported that the U.S. military employs spends \$4.7 billion a year to employ 27,000 "information operation specialists"—the equivalent of the army's largest division—as well as private P.R. firms. (5) Yes, a whole division of troops is deployed not to fight the "enemy," but to manipulate the American public.

The other Executive agencies—the CIA, NSA, FBI, Departments of Homeland Security, State and Defense—spend billions more to convince Americans to fund them. Every day Executive Agencies send out countless messages on an hourly basis, through briefings of journalists, press releases, press conferences, congressional testimony, appearances on radio and TV, etc., designed to build public support for its activities.

Overall, these information operations in the U.S. seek to 1) build a positive image of Executive actions—claims of military success, captures or kills of terrorists, turning Joint Special Operations Command (JSOC) assassins into heroes, etc. 2) sell its main product, "protection." The Executive sells "relief from fear," seeking to convince a fearful post-9/11 public that is protecting them despite the massive evidence that it is not; and 3) to "attack adversary information" emanating from U.S. journalists, liberal Members of Congress and whistleblowers which reveals truths that Executive officials fear could reduce public support for their funding and activities.

### **Anatomy of Two Information Operations: From a Remote Afghan Village to the White House**

Nothing more embodies the Executive's Information Operations than JSOC. We have already noted Jeremy Scahill's report describing how JSOC assassins cold-bloodedly murdered a pro-American Afghan police chief and four other family members, and then dug the bullets out of the bodies of three mothers they had murdered to try and cover up their crimes. (6)

Since they dug the bullets out of these bodies while still on the scene, they clearly knew almost immediately that they had made a mistake. But they placed hoods and shackles on seven surviving family members, took them to prison, mistreated them and finally released them after three days. They then issued a series of press releases falsely claiming they had taken fire, that "insurgents" had killed the three women in an "honor killing," been killed by knives rather than bullets, that JSOC commandoes were "heroes" who had tried to rescue them.

Eventually a British reporter named Jerome Starkey published the truth in the *Times of London*. McChrystal's press team then declared the story "categorically false," and attacked Starkey personally claiming he was not a "credible journalist." Finally, as the entire pro-American province was up in arms about the murders, JSOC was forced to admit they had killed the women but continued to falsely claim the unarmed men at the dance had shown "hostile intent." And, Scahill reports, he has now spent three years fruitlessly trying to obtain internal military reports on the incident. The cover-up has continued until today.

This incident contains all the essential elements of the Executive Branch's typical media strategy, even or especially when they know they have committed a crime: (1) acting in secret; (2) lying if the secret is revealed; (3) attacking journalists or others who reveal their lies; (4) conducting a cover-up; and (5) claiming it was a justified mistake or aberration if the cover-up fails. The strategy has worked. Nothing more illustrates the success of Executive "information operations" than its turning a band of lawless JSOC assassins into America's greatest heroes.

Under Bush but vastly expanded by Obama, the Executive secretly [switched](#) [40] from a small number of "targeted drone strikes" aimed at "senior al-Qaeda and Taliban leaders" to indiscriminate "signature strikes" killing thousands of people whose names they did not know based on patterns of association. Under Obama a large infrastructure of drones, drone operators and targeting personnel had been assembled, but they had run out of named targets. So they moved on to "signature strikes" which, a

[study](#)

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has just revealed, are often even more bloody than conventional bombing despite Executive claims to the contrary.

So when Mr. Obama [told](#) [42] Americans in September 2012 that a drone strike "has to be a situation in which we can't capture the individual before they move forward on some sort of operational plot against the United States," he was conducting an "information operation" designed to aid his presidential campaign and build support for U.S. drone killing.

Apologists for drone assassination often cite polls showing that a large majority of Americans support drone strikes. But who wouldn't support a fictional version of drone strikes only surgically conducted against people actively planning to kill Americans who cannot be stopped any other way?

But suppose the American people were told the truth. Imagine if the polling question read "do you support drone strikes which General McChrystal, former Director of National Intelligence Admiral Dennis Blair, and dozens of other experts say are creating far more enemies than they kill, primarily kill many civilians and low-level militants who pose no threat to America, and are thus both endangering your life and immoral?"

Consent obtained through lies is not consent. It is victimization, and should be treated as a felony. And again, when warmaking Executive Branch officials lie, their lies kill Americans as well as countless foreigners.

### **Executive Subversion of Congress**

The Executive subversion of Congress has gone even beyond muzzling members of the Intelligence committees. Scahill reports that it has redefined JSOC assassination and torture activities as "Advance Force Operations," so they can avoid even Senate Intelligence Committee oversight and be "carried out with minimal external oversight for a significant period of time." (6)

The structural reasons for congressional rubberstamping Executive warmaking include matters that have often been discussed since Eisenhower declared that the military-industrial complex's "total influence—economic, political, even spiritual—is felt in every city, every State house, every office of the Federal government."

The Pentagon has spread huge military bases around America, providing local constituencies for military spending in every state and dozens of congressional districts, as do the large corporations they fund. Conservative veterans have been a potent domestic lobby for Executive war-making, and are often elected to Congress. And of course a dominant factor is

campaign contributions from corporations which benefit from military spending.

Why do even powerful US. senators so fear the Executive Branch? Part of it is indeed its real power back in their states or districts. But the answer goes even deeper. The term "National Security" is the closest thing to a secular religion in this country, and being accused of violating it is the political equivalent of being accused of heresy during the Middle Ages. No senator or congressman believes that she or he could survive politically were the Executive to mount a campaign accusing them of violating "national security." And even more, if the charge could be proved, they fear being incarcerated themselves.

### **Executive Subversion of the Mass Media**

The mass media's main function today is to serve as a public relations arm for the Executive. There are dozens of honest and talented investigative reporters who expose Executive wrongdoing. But they constitute a small minority of the nation's mass media, and while they often deserve their Pulitzers they have at best a marginal impact on overall Executive behavior.

*Washington Post* reporter Dana Priest with Bill Arkin deservedly won plaudits for *Top Secret America*, one of the most important books of the decade. But their reporting had no noticeable impact on the growth of the Executive Surveillance State. Much such "adversarial" reporting even has the paradoxical effect of maintaining the illusion of "free press" while Executive officials continue their war-making unimpeded by media reporting, congressional action, or public opinion. There are also dozens of reporters who, day to day, report essential facts about Executive activities. The diligent reader, looking for a story here, a paragraph there, can piece together much useful information about U.S. warmaking abroad.

The heart of Executive information operations in America are the constant stream of media reports based on the statements by Executive Branch officials. Journalists do this because their jobs depend upon it. Top journalists, e.g., covering the Defense, State or Homeland Security departments, depend on their Executive Branch "sources." Maintaining their relationships with these officials is critical to their careers and livelihoods.

Over the last several decades there has been so much intermingling between top journalistic and Executive officials that they have become indistinguishable from each other, a collusion that is on display each year at the White House Correspondents' Dinner.

CBS correspondent Bernie Kalb capped off his career by becoming a spokesman for Reagan's State Department, defending Central American death squad and contra murders. The present White House spokesman, Jay Carney, is a former executive. Former Obama spokesman Robert Gibbs and political director David Axelrod have landed lucrative gigs with MSNBC, as have dozens of other Executive Branch officials.

And the ties go even deeper. As the *Washington Post* has [reported](#) [43], "ABC News President Ben Sherwood is the brother of Elizabeth Sherwood-Randall, a top national-security adviser to President Obama. His counterpart at CBS, news division president David Rhodes, is the brother of Benjamin Rhodes, a key foreign-policy specialist. CNN's deputy Washington bureau chief, Virginia Moseley, is married to Tom Nides, who until earlier this year was deputy secretary of state under Hillary Rodham Clinton. White House press secretary Jay Carney's wife is Claire Shipman, a veteran reporter for ABC. And NPR's White House correspondent, Ari Shapiro, is married to a lawyer, Michael Gottlieb, who joined the White House counsel's office in April. Biden's current communications director, Shailagh Murray is married to Neil King, one of the *Wall Street Journal's* top political reporters."

What emerges out of this combination of careerism, well-paying jobs, revolving doors, and even intermarriage between top Executive officials and journalists is a shared mindset. Yes, a top journalist can occasionally point to stories that embarrass government officials. But even such stories are a drop in the bucket compared to their day-to-day, hour-by-hour stories conveying Executive Branch information operations to the public. The Executive Branch does not tell mass media journalists what to write. It has absorbed them.

### **Executive Subversion of the Judiciary**

Although judicial rubberstamping of Executive activities is significant, the Executive Branch subversion of judicial power goes far deeper, and is far more serious. Because the Executive dominates Congress, it has had Congress pass numerous laws that increase its power and shield it from judicial redress.



One of the most significant is the ["State Secrets Privilege"](#) [44] which allows the Executive to exclude from any legal proceeding any evidence that chooses to call "state secrets," entirely on its own say-so. Under George Bush this excluded massive evidence of torture and rendition of suspects from judicial review.

Another example is an amendment to the 2012 National Defense Authorization Act, introduced by Senate Carl Levin at the behest of the Executive. Guantanamo detainee lawyer Barry Wingard has [summed](#) [15] it up: "The scariest development in the indefinite detention battle is that under the National Defense Reauthorization Act of 2012 recently signed, you as an American citizen can be detained forever without trial, while the allegations against you go uncontested because you have no right to see them."

The NDAA amendment has been challenged in court by a lawsuit brought by Chris Hedges and others, including Dan Ellsberg and Noam Chomsky. On September 12, 2012, Judge Katherine Forrest ruled in favor of Hedges et al., [stating](#) [45] that "the due process rights guaranteed by the Fifth Amendment require that an individual understand what conduct might subject him or her to criminal or civil penalties. Here, the stakes get no higher: indefinite military detention—potential detention during a war on terrorism that is not expected to end in the foreseeable future, if ever. The Constitution requires specificity. Courts must safeguard core constitutional rights."

The Obama administration then appealed her ruling, and the issue is currently pending either changes in the law by Congress or a higher court ruling.

Although the NDAA amendment is currently in legal limbo, its meaning is not. The Executive Branch asserts its right to indefinitely imprison any American it chooses without even letting them see the charges against them let defend themselves in court. The Executive seeks to effectively eliminate judicial control of its powers to incarcerate and murder Americans as well as foreigners.

But the most striking example of how the Executive threatens both democracy and an independent judiciary is revealed in the case brought by the ACLU and *N.Y. Times* in late 2012 demanding information regarding the administration's legal justification for its kill program, including its murder of 16-year-old Abdul-Rahman Al-Awlaki in Yemen, as explained by Jeremy

Scahill. (8)

Federal Judge McMahon wrote that White House secrecy raised "serious issues about the limits on the power of the Executive Branch under the Constitution and laws of the United States, and about whether we are indeed a nation of laws not men." She strongly criticized the Obama administration for refusing to reveal its criteria for its program of secret and lawless murder, saying that doing so would "allow for intelligent discussion of a tactic (like torture before it) remains hotly debated. It might also help the public understand the scope of the ill-defined yet vast and seemingly ever-growing exercise."

But even this judge, who clearly believed that the Executive was taking actions "incompatible with our Constitution and laws," felt she could not grant the ACLU's request because Congress had given the Executive the power to keep "the reasons for their conclusion a secret."

### **Conclusion**

It is clear that anyone who genuinely cares about America's core values, not to mention its people, has no choice but to oppose the threat to democracy posed by the U.S. Executive Branch. The issue is not simply opposing any particular Executive injustice. It is recognizing that the Executive Branch itself is an antidemocratic, authoritarian institution which does not represent either the interests or values of the American people.

The American people thus owe it neither their moral allegiance nor their tax dollars, unless and until it truly comes to represent them. What this implies for each of will be the subject of the conclusion to this series.

### Footnotes

(1) Obama's Wars, by Bob Woodward, Kindle Location 3410

(2) Secrets, by Dan Ellsberg, pp. 141-2

(3) The Operators, by Michael Hastings, Kindle Location 3904

(4) The Operators, by Michael Hastings, Kindle Location 3991

(5) The Operators, by Michael Hastings, Kindle Location 448

(6) Dirty Wars, by Jeremy Scahill, Kindle Location 7078

(7) "United States Security Agreements and Commitments Abroad, Kingdom of Laos,"Hearings Before the Subcommittee on United States Security Agreements and Commitments Abroad of the Committee on Foreign Relations, United States Senate, Ninety-First Congress, First Session, Part 2, October 20, 21, 22, and 28, 1969, p. 484

(8) Dirty Wars, by Jeremy Scahill, Kindle Location 10813

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