

### Voices

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## NSPD-51 and the Potential for a Coup d'Etat by National Emergency

William H. White



Can you think of anyone better than George W. Bush with whom to entrust the dictatorial powers hinted at in NSPD-51? Or perhaps you are unwilling to trust anyone with such powers, even Bush. That is not an option in **NATIONAL SECURITY PRESIDENTIAL DIRECTIVE 51 (NSPD-51)**, signed by Bush and released without comment by the White House on May 9, 2007. To quote from NSPD-51: "This policy establishes 'National Essential Functions,' prescribes continuity requirements for all executive departments and agencies, and provides guidance for State, local, territorial, and tribal governments, and private sector organizations in order to ensure a comprehensive and integrated national continuity program that will enhance the credibility of our national security posture and enable a more rapid and effective response to and recovery from a national emergency." What one would expect, but for some of its few details.

Under NSPD-51, only limited 'National Essential Functions' of government will continue, which may or may not include Congress and the courts. NSPD-51 assures us: "Enduring Constitutional Government means a cooperative effort among the executive, legislative, and judicial branches of the Federal Government, coordinated by the President, as a matter of comity with respect to the legislative and judicial branches..." This "matter of comity," which usually refers to the informal and voluntary recognition of jurisdiction among courts, is troublesomely ambiguous in this context. Is Bush claiming that he, rather than the U.S. Constitution as interpreted by the Supreme Court, determines which functions the three branches of the federal government shall continue to perform? Does the president decide for himself, as he "coordinates," which laws and court orders to faithfully execute?

NSPD-51 claims that it "provides guidance" to state and local governments, when in fact it does the opposite because it revoked the then existing **Presidential Decision Directive 67** of October 21, 1998 ("Enduring Constitutional Government and Continuity of Government Operations"), including "all Annexes thereto." And replaced them with NSPD-51, along with: "Annex A and the classified Continuity Annexes, attached hereto." But then the rabbit disappears as NSPD-51 soldiers on: "This directive and the information contained herein shall be protected from unauthorized disclosure, provided that, except for Annex A, the Annexes attached to this directive are classified

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and shall be accorded appropriate handling, consistent with applicable Executive Orders.” In other words, all the details are secret and even the non secret “Annex A” remains undisclosed by the White House.

Having revoked on May 9, 2007 the nation’s then existing emergency plan for continued national governance without explanation, Bush’s NSPD-51 calls for: “The Plan shall be submitted to the President for approval not later than 90 days after the date of this directive.” One assumes, during this lapse in emergency plans, no emergency was expected, or at least presented less risk than leaving that old Clinton plan in place. Since the national media, except one story each in the **Washington Post** and **Boston Globe**, have ignored NSPD-51, Bush has not bothered to explain any of this.

Especially if such explanations might raise questions about the decision to revoke the existing plan before finishing work on the new plan, which some might conclude serves only to rush the review of one of the most complex and sensitive plans in government in an attempt to slip something by the rest of us. Whatever the motive, abruptly revoking the existing plan, while mandating a new plan within 90 days, exhibits the same reckless, delusional optimism that characterizes much of Bush's planning record. Clearly Bush is confident he can do far better than Clinton, whose administration labored for years on that old plan. Much of the old plan may even be in the new plan, who knows?

Among those who do not know are members of the House Committee on Homeland Security. The Bush administration has repeatedly denied the committee access to NSPD-51, about which **Oregon Rep. Peter DeFazio (D)** complained in a **speech on the floor of the House of Representatives**. What we do know is those 90 days passed without a new plan approval being announced. Perhaps no plan gives the president exactly the maximum power and minimum accountability desired; or, perhaps the plan's approval is secret as well. Apparently, the "matter of comity" among the three branches of government, referred to in NSPD-51, does not include allowing NSPD-51 to be read by members of Congress, which the Congress, in a continuing pattern of acquiesce, has not challenged.

This almost entirely secret directive can be invoked when the president decides “any incident, regardless of location, that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the U.S. population, infrastructure, environment, economy, or government functions” occurred. Bush alone will decide when he must assume this burden, though surely only upon prayerful contemplation during the time saved not having to consult Congress. In addition, because of a **change to the Insurrection Act of 1807**, enacted as part of the 439-page 2007 Defense Authorization Bill signed into law in October 2006, Bush need no longer obtain a governor’s consent to take control of a state’s national guard units. This same bill **overturns the Posse Comitatus Act of 1878**, which limited the use of US military forces within the United States for law enforcement. In addition, Bush issued an **executive order** on July 17, 2007 authorizing the government to seize the assets of anyone "undermining efforts to promote economic reconstruction and political reform in Iraq" under provisions of the **International Emergency Economic Powers Act**. Could this include critics of the Iraq war, whom Bush has repeatedly accused of undermining the war effort?

When might Bush invoke NSPD-51? My own guess would be Spring '08, after Bush is "forced" to attack Iran, perhaps with nuclear weapons, and Iran then fails to cooperate, attacking US ships in the Gulf and Mediterranean instead of accepting our offers of assistance. Even if Iran denied Bush his basic objective by refusing to be goaded into reacting beyond its own borders, the resulting global economic chaos and spontaneous popular reactions beyond Iran could compel Bush to invoke NSPD-51, quite apart from whatever our new enemy might undertake. On the other hand, under NSPD-51 any provocation of Bush could lead to him creating a pretext for declaring a national emergency. For example, **Ralph Nader quotes Massachusetts Rep. John W. Olver (D)**, who has a PhD from MIT, when presented with the votes of 13 Town Meetings [real **Town Meetings**, not the media events staged for candidate performances] in Olver's congressional district calling for impeachment of Cheney and Bush,

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Olver responded that he opposed any impeachment move against Bush because "the current autocratic executive [Bush] would attack Iran from the air, declare a national emergency, institute **marshal law**, and call off the 2008 elections were the Democrats to initiate impeachment."

Should Bush declare a national emergency and begin exercising the many powers available to him in law, as well as the ever expanding powers he claims by fiat, our nation would cross into a world increasingly difficult to predict, largely beyond our national experience, except perhaps for our revolution and civil war, subject to ad hoc, unchecked decision making, with genuine rule of law no longer an available guide. It would likely become increasingly difficult, in the absence of reliable information, to understand and deal with the originating crisis, however real or contrived. And to distinguish it from the difficulties arising from the declaration of a national emergency itself. However, this sort of thing has sadly occurred in many other countries, with much the same result likely here: a self-sustaining crisis, in which the chief rationales for continuing the national emergency are the effects of the national emergency themselves, compounded by errors in governance and crimes by those who seized power, sustained by their fear for what would happen to them should they give it up. The longer term prospect would likely include national decline and insurrection, with an even more unpredictable array of international consequences starting with a widening war.

In the short term, one can imagine Congress, demonstrating its usual wisdom and courage, expressing concern about the clearly large, though secret, number of American citizens "detained," surprise at the scope of firearm and asset seizures, discomfort with the pace of executions under the **Military Commissions Act of 2006**, and outrage at being locked out of its capital offices due to a classified biological threat of undetermined duration, thus preventing Congress from voting to set benchmarks for Iran and to demand our readmission to NATO. But Congress would likely find some comfort in the "delay" of the 2008 elections, given Bush's decision to allow all incumbents, including those temporarily detained, to remain in office, which many in Congress would praise for its "unifying bipartisan comity," and await the president's determination when it is safe for Congress and the Supreme Court to actually meet again. Just as many in corporate America would appreciate the need to "defer" collecting capital gains and corporate taxes in the interests of helping the economy in a time of national crisis. Besides, how could anyone resist the perfectly Orwellian logic of declaring a dictatorship to insure "Constitutional Continuity" for the "homeland," while setting aside the actual Constitution of the United States?

Whatever unknowable future a declaration of national emergency might bring, clearly many are going to be profoundly unhappy with such a turn of events. And that may be why Kellogg Brown & Root, a Halliburton subsidiary, is already **building detention centers** around the nation to "**support the rapid development of new programs**" that could accommodate those incompatible with Constitutional Continuity, the dead-enders who actually protest or resist, plus the usual suspects who might think to object.

But how would all those potential incompatibles, certainly tens of thousands and likely far more, find their way to an appropriate detention center? After all, the Bush administration has managed to prosecute only a handful of businesses for hiring illegal aliens who number in the millions. Its clearly a matter of priorities. So, despite such distractions as hurricane Katrina, the Justice Department has been conducting mass arrest exercises code named **Operation Falcon**, whereby thousands of law enforcement officers from federal, state, county and local agencies arrested some 10,000 individuals within seven days, working from lists provided by the U.S. Marshall's Service, all coordinated to commence across the country simultaneously. Since practice makes perfect, three mass arrest exercises have been conducted: Two national (Falcon I April 4-10, 2005 arresting 10,340; Falcon II April 17-23, 2006 arresting 9,037); and one "eastern half of the country" (Falcon III October 22-28, 2006 arresting 10,733).

What can not be found among these data is mention of any legitimate law

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enforcement purpose served by these **mass arrests**. While some arrested were serious criminals, most were of the unanswered warrantee and support payment delinquent sort, soon released. The important element here appears to be getting operational experience and, perhaps most critically, habituating state and local police agencies to conducting mass arrests from lists provided by the federal government. In the eastern regional Falcon III alone, 103 state agencies, 430 county sheriff's offices/departments and 482 police departments did just that according to the **U.S. Marshals Service** web site. At the current pace, perhaps Falcon IV, for the western half of the U.S., will be the last drill and then the real thing: Operation Falcon V.

So its likely, when Bush addresses his fellow citizens after declaring the national emergency, many of his critics will be listening most attentively to detention camp loud speakers. As for how detainees will be treated, one can assume every effort will be made to maintain our current standards for indefinite detention without trial and torture assisted interrogation, where little slip-ups under the press of numbers and emergency conditions are likely to be of little consequence. What is certain, should coup d'etat by national emergency take place, is it will be denied even as it unfolds, and this is likely to be followed by assurances it will be temporary, lasting "not one day more than it needs to," followed by accusations the resisters are responsible for prolonging the state of emergency, and finally appeals to turn in others if you want your own relatives released soon from detention or your property/assets returned; all lies to sustain a long planned, permanent state of national emergency.

What is likely to be important in most corporate media is demonstrating our determination to carry on by shopping as well as selecting the proper anthem for our new world order. I'm hoping for something stirring along the lines of "Deutschland Uber Alles," except with a touch of Texas twang as in "Dallas Uber Alles," in an arrangement using fewer trombones plus a weeping steel guitar. However, since this is such an important decision, our new anthem, with its companion national prayer and corporate logo, should be selected by 'We the people of the United States' from among three finalists chosen by our First Lady, in our first-ever national referendum, proving yet again our commitment to democracy and putting all those new voting machines to use in November '08 after all.

Or you might send this and/or additional such materials to others, including your congressional delegation as well as the press, to warn about the danger Bush's NSPD-51 presents, and demand steps be taken to prevent it. Since the courts are hopelessly slow given the immediate danger, Congress must do its duty. And we must do our duty and demand Congress end its reluctance to stand up to Bush's repeated, escalating, bullying contempt: if its unnecessary, it should be easy; if its not easy, it is all the more necessary.

**NOTE TO THE READER:** It is entirely true that each real event cited here has alternative, plausible explanation, and those participating in these events may be entirely unaware of the darker ends to which their work may be put. The essay's many conjectures are exactly that. However, the price of liberty is eternal vigilance not good faith or trust. Nor is the US Constitution based on trust, but rather on checks and balances, in a arrangement designed to avoid the gravest of follies and to contain inevitable mischief, embracing sound assumptions about the weaknesses of human nature rather than its virtuous pretenses. Knowing the Bush administration's record of reckless lawlessness and radical mind set, the possibility of a coup d'etat by national emergency can not be ignored, especially within the context of recent institutional actions that can be reasonably interpreted as being consistent with and preparatory to such an undertaking. These include Bush's relentless assault on and blatant affront to the constitutional limits on executive power, exemplified by the brazenly sly release without comment of NSPD-51, and encouraged by congressional failure to stand up to his flagrant excesses. I believe the risk to our republic is real. And needs to be confronted immediately, with the objective of using existing

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congressional power and establishing additional safeguards, formal and informal, to prevent it. Better to prevent what some may claim was never going to happen, than to suffer betrayed good faith, with the appalling costs of experiencing and undoing this grave folly Bush appears to be edging toward, as relentlessly as **he undertook the invasion of Iraq from the first days of his administration.**

Further reading:

**Congressional Research Service Report - National Emergency Powers Operation Falcon and the Looming Police State** by Mike Whitney  
**The Bush Push to Militarize America** by Jerome Corsi

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November 5, 2007 By *William H. White* Comments to [nspd51@nota.org](mailto:nspd51@nota.org)


 **1 Voice**

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**Comment from: Jesse Hemingway [Member]**

If hillary Clinton is NOT the democratic presidential nomination in 2008 then NSPD-51 will be the fall back play. They will not to need to execute NSPD-51 with hillary there is no difference then the bush administration and the clinton.

What we need to keep an eye on is if one of the corporate democrat lackeys does not make into the lead position then NSPD-51 will be enacted. If John Edwards breaks out into the lead then they will have take the NSPD-51 option.

 11/05/07 @ 09:06

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