September 11 TO THE PRESENT

BUSH LETS U.S. SPY ON CALLERS WITHOUT COURTS

DIRECTIONS: Read the article and answer the questions. Mark “T” for True and “F” for False.

1. _____ Months after the 9/11 attacks President Bush secretly authorized the NSA to eavesdrop on Americans without court-approved warrants.

2. _____ Under a presidential order the NSA monitored the international telephone calls and emails of hundreds, perhaps thousands of people inside the U.S. without warrants.

3. _____ The agency (NSA) no longer seeks warrants to monitor entirely domestic communications.

4. _____ Some wonder if the surveillance has stretched, if not crossed, constitutional limits on legal searches.

5. _____ Senator Jay Rockefeller of WV expressed concerns over the program.

6. _____ Administration officials were concerned that existing safeguards were not sufficient to protect the privacy and civil liberties of Americans.

7. _____ The White House asked the New York Times not to publish this article.

8. _____ The New York Times refused to delay publication of the article, as requested.

DEALING WITH A NEW THREAT

9. _____ The NSA (at the time of publication) was eavesdropping on about 500 people in the U.S. at any given time.

10. _____ Overseas, about 5,000 to 7,000 people with suspected terrorist ties are monitored.

11. _____ Officials say the program helped stop a plot by an naturalized U.S. citizen to bring down the Brooklyn Bridge using blowtorches.

12. _____ Another plot to use fertilizer bombs to attack British pubs and train stations was also exposed.

13. _____ Most people monitored by the NSA have been charged with crimes.

14. _____ The Supreme Court rejected the idea that people labeled “enemy combatants” were not entitled to judicial review on their open-ended detention.
15. ___ Bush’s executive order that allowed warrantless eavesdropping is based on classified legal opinions that gave the president broad legal powers from Congress, authorizing him to wage war on Al Qaeda.

16. ___ The agency refers to the warrantless eavesdropping as the “Special Collection Program.”

17. ___ Under longstanding rules, the NSA can intercept phone calls or email messages on foreign soil even if a recipient is in the United States.

18. ___ Usually the government can only target phone and email messages in the United States by first obtaining a court order form the Foreign Intelligence Surveillance Court (FISA).

19. ___ The NSA conducts warrantless eavesdropping only on those with a direct link to suspected terrorists.

20. ___ The agency would not be able to warrantlessly monitor a phone call originating in the United States (like New York) to Afghanistan, because the call is initiated by an American.

A WHITE HOUSE BRIEFING

21. ___ Congressional leaders from both political parties were brought to VP Dick Cheney’s office to learn about the program from Michael Hayden (NSA Director) and George Tenet (CIA Director).

22. ___ It is not clear how much members of Congress knew about the program.

23. ___ Senator Rockefeller told Dick Cheney he had no concerns about the program.

24. ___ Some have said the program is unnecessary, because they could warrants from the FISA court.

25. ___ The standards for getting a warrant from the FISA court is usually higher than what is required for a criminal warrant.

26. ___ It usually takes days for FISA to issue an approval for wiretaps.

27. ___ The NSA says it may need approval more quickly than FISA can give, and may need to begin monitoring large batches of numbers all at once.

28. ___ American intelligence agencies eavesdropped on Viet Nam war protesters and civil rights activists in the nation’s past.

CONCERNS AND REVISIONS

29. ___ Some people in the NSA wanted nothing to do with the program, fearing it might be illegal, and some worried about criminal investigations if John Kerry became president.

30. ___ In mid-2004, concerns over the program, and a judge, prompted the Bush administration to suspend elements of the program and revamp it.

31. ___ Judge Colleen Kollar-Kotelly had no concerns about the program, and recommended it be expanded.
In one case the FBI was monitoring the communications of a suspected terrorist with a warrant, while the NSA was doing the same, without one.

There were concerns about whether information gained in the warrantless wiretap could be used in court – and it was, a classified program would have to be revealed, or prosecutors would lie.

Bush administration officials argue that the civil liberties concerns are valid and the program will have to be tweaked to address it.

At a hearing, Senator Barbara Mikulski (MD) asked if the NSA can spy on the American people and she was told that generally they are not allowed to spy or gather information on American citizens.

President Bush asked Congress to include provisions for the NSA program in the Patriot Act.

THE LEGAL LINE-shifts

Seeking Congressional approval for the program was risky because if its existence was publicly acknowledged, its usefulness would end.

Mr. Yoo, a Justice Department lawyer argued just days after 9/11 that the government might be legally justified in taking electronic surveillance measures.

In November 2002, an appeals court decision on an unrelated matter said the president did not have the authority to conduct warrantless foreign intelligence surveillance.

The appeals court also stated that national security interests are not grounds to jettison the 4th amendment.

**FINAL QUESTION**

Do you personally believe the warrantless eavesdropping program violates the 4th Amendment?

The Fourth Amendment of the U.S. Constitution provides, “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”