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## Antiwar.com under Surveillance

By Kelley Vlahos

July 25, 2013

Irreverent and unyielding in its opposition to U.S. foreign policy, Antiwar.com has been called many things. But that Washington might consider the 17-year-old news and opinion website a threat to national security should be cause for alarm—especially today.

The Obama administration has come under scrutiny this summer following revelations that it's been snooping on journalists in connection with the unprecedented number of federal leak prosecutions in recent years. Meanwhile, thanks to revelations by Edward Snowden, the American public now knows the government has more access than ever to our Internet browsing habits, e-mails, Facebook accounts, and phone and Skype records.

The all-seeing eye may be putting the chill not only on privacy and free speech but also on investigative national-security journalism and the public's right to know. And this is not limited to the high-profile cases affecting big mainstream players like Fox News, the Associated Press or the New York Times, which have received most of the attention.

In May, with considerably less fanfare, Antiwar.com announced it was suing the FBI, demanding the release of records the editors believe the agency has been keeping on founder and managing editor Eric Garris and editorial editor Justin Raimondo. The suit stems from a 2004 memo a reader found through an unconnected FOIA request and passed along to Antiwar.com in 2011. The heavily redacted 94-page document clearly states the FBI had secretly investigated and monitored the website and declared—despite acknowledging there was no evidence of any crime—that further surveillance of Antiwar.com was necessary to determine if “[redaction] are

engaging in, or have engaged in, activities which constitute a threat to national security on behalf of a foreign power.”

When contacted by this writer—who is also a regular contributor to Antiwar.com—the FBI press office declined comment, citing pending litigation.

The non-profit Antiwar.com—which gets an average of 3 million page views a month and is a division of the libertarian-leaning Randolph Bourne Institute—describes itself as taking “seriously our purely journalistic mission, which is to get past the media filters and reveal the truth about America’s foreign policy” through original content generated by regular reporters and columnists. It is being represented in the case by the American Civil Liberties Union of Northern California, where the site is based.

The editors have filed several Freedom of Information Act (FOIA) requests since 2011 to obtain whatever records the secret investigation may have generated. While the FBI said it has nothing on other individuals working for Antiwar.com, it has neither confirmed nor denied records relating to Garris and Raimondo, who have been activists and writers in the San Francisco Bay area for decades. The lawsuit is the next legal step toward obtaining records that the ACLU says must be disclosed under FOIA and the 1974 Privacy Act, which states the government cannot collect surveillance on First Amendment-protected activities unless “the collection of such information is pertinent to and within the scope of an authorized law enforcement activity.”

“Freedom of the press is a cornerstone of our democracy, whether it is the AP or Antiwar.com,” Julia Harumi Mass, the ACLU attorney on the case, told this writer in May. “FBI surveillance of news organizations interferes with journalists’ ability to do their jobs as watchdogs that hold the government accountable.”

The lengthy FBI memo that reveals the bureau’s surveillance of Antiwar.com mostly concerns the 2001 case of five Israeli nationals who were ostensibly celebrating and taking photographs of the burning World Trade Center towers from a rooftop across the river from Manhattan on 9/11. The memo suggests that the men, who were detained for two months and investigated by both the FBI and the CIA, were eventually deported to Israel without charge.

Raimondo wrote about the case in 2002, and in doing so linked to versions of at least two different government terror watch lists already published on the Web. One of those lists apparently contained the name of the man who had owned the moving company the Israeli suspects had reportedly worked for. It’s unclear whether this sparked the FBI’s interest in Antiwar.com, but Raimondo’s articles were given particular scrutiny—as was the site’s readership. The memo noted that an Antiwar.com article had been passed around a “peaceful protest” at a British air base in the U.K and another was used as reference material about the Middle East by a neo-Nazi here in the United States. And according to seized hard drives in a separate 2003 FBI investigation, an unnamed suspect had browsed Antiwar.com “among many other websites.” Furthermore, the document declared, “many individuals worldwide do view this website including individuals who are currently under investigation and [two lines redacted].”

Most interestingly, the memo states the FBI accessed unspecified supporting data through a secret FISA (Foreign Intelligence Surveillance Act) request. The FISA court has lately come under fire <sup>[11]</sup> not only for its secrecy but its apparent proclivity to approve blanket requests for massive snooping operations like the phone records warrant leaked by former NSA analyst Edward Snowden and reported by *The Guardian* in June.

Investigators also pursued information on Antiwar.com and “one or more individuals” working for the website through Lexis-Nexis, FBI central records, the bureau’s Electronic Case File, credit-report provider Dun & Broadsheet, and the Department of Motor Vehicles, according to the memo.

“There are several unanswered questions regarding www.antiwar.com,” the memo says. “It describes itself as a non-profit group that survives on generous contributions from its readers. Who are these contributors and what are the funds used for?”

Reporting on this document in August 2011, Antiwar.com raised concerns about government overreach and intimidation of critics of the country’s wars and national-security policy. Even disclosing the memo’s existence proved hazardous: the site began to lose major funders—to the tune of approximately \$75,000 a year, according to Garris—who now feared that donating would draw unwanted attention from the feds.

Garris says Antiwar.com’s experiences are no different from the government obtaining phone and email records of top journalists or compelling writer James Risen to testify about his sources in court. “They’re getting away with systematic intimidation and sabotage” of those who seek to dig deeper into the goings-on of the national-security state, he told *TAC*.

He says the headlines since May have put their case into stark relief. “I would say I am more alarmed now,” Garris says. “It’s not only about what they’ve done, but what they are capable of.”

Just ask other independent journalists like Laura Poitras, a documentary filmmaker who has spent the last several years gathering footage and interviews about Iraq and the War on Terror. Until last year, the Department of Homeland Security saw fit to detain her at the U.S. border—confiscating her personal laptop, cameras, and notebooks—after nearly every one of the 40 trips she made overseas.

Robert McChesney—professor, media critic, and co-founder of the advocacy group Free Press <sup>[16]</sup>—tells *TAC* that the post-9/11 climate of fear has allowed the First Amendment to be undermined with impunity. “Mainstream thinking, as a rule, has a difficult grasp on this. But when government has the ability to spy on people and are basically unaccountable for it—in other words, they can get away with it—they will abuse that power,” he says.

Invariably they will go after people who are threatening the power structure. As you see with Antiwar.com, they went after people who were critical of the war and war policies of the United States. And that is outrageous.

Critics like McChesney say the major media tend to ignore the plight of other journalists, while leaning too much on government sources and talking points. When controversial stories break, they concentrate on messengers (like Snowden) at the expense of the message—in this case, that of government overreach and the expanding security state. According to recent polling, the American public believes the government is going overboard. Why can't the media get with the program?

“This is Access Journalism 101 playing out right before our eyes,” Kevin Gosztola, reporter for Firedoglake.com, tells *TAC*. Concerned about their access to official sources, mainstream reporters fear that “one, they will come under scrutiny of the government” if they push the boundaries, and “two, if they write too negatively about the government, they will be frozen out.”

Recent events should tell them that they are at risk whether they play the game or not. “I think I am standing in a moment where the future of journalism is actually at stake,” Gosztola says. “People’s ability to cover national security is completely at risk. It’s stunning the press isn’t looking out for its own interests.”

Ray McGovern, a former CIA analyst, tells *TAC* that President Obama is “setting a new record for trying to repress dissent” and that both the press and Congress have failed to exercise their powers of oversight. McGovern has more faith in the online activist-journalism movement—including Antiwar.com—that is challenging the status quo.

“The Fourth Estate is dead. The good news is there is a Fifth Estate—that’s the one in the ether, and cannot be controlled easily, and where a whole new generation has grown up. Not only do they have the technical skills, but a respect for the Constitution,” says McGovern in an interview.

“The government cannot function the way it has, for long, with a whole generation having this ethos.”

Meanwhile, Antiwar.com hopes its story will begin to attract wider attention.

“The question is, do you shut up about [the surveillance], hope it goes away, and hope it doesn’t turn into anything major—or make a big deal about it, and hope it doesn’t cause more problems?” says Garris. “Anyone in that situation,” he laments, “is in a real quandary. That’s just what the government wants.”