



Power without Constraint: The Post-9/11 Presidency and National Security

Chris Edelson

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As a presidential candidate, Barack Obama criticized the George W. Bush administration for its unrestrained actions in matters of national security. In secret Justice Department memos, President Bush's officials had claimed for the executive branch total authority to use military force in response to threats of terrorism. They set aside laws made by Congress, even criminal laws prohibiting torture and warrantless surveillance. Candidate Obama promised to restore the rule of law and make a clean break with the Bush approach. President Obama has not done so. Why?

In a thorough comparison of the Bush and Obama administrations' national security policies, Chris Edelson demonstrates that President Obama and his officials have used softer rhetoric and toned-down legal arguments, but in key areas—military action, surveillance, and state secrets—they have simply found new ways to assert power without meaningful constitutional or statutory constraints.

Edelson contends that this legacy of the two immediately post-9/11 presidencies raises crucial questions for future presidents, Congress, the courts, and American citizens. Where is the political will to restore a balance of powers among branches of government and adherence to the rule of law? What are the limits of authority regarding presidential national security power? Have national security concerns created a permanent shift to unconstrained presidential power?

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