

# FISA REDUX: THE SLIPPERY SLOPE BECOMES A MINE SHAFT



(photo h/t Pointed Words)

Those who would give up essential liberty, to purchase a little temporary safety, deserve neither liberty nor safety.

With the utterance of those words and placement of quill to paper, by Founding Father Benjamin Franklin, so began the half life decay of his wisdom. The surveillance state we occupy today is the festering, mature result of the acts of cloying politicians and barons of power to serve their own political and financial goals by declaring themselves the protectors of law and order. The daddy state. They spread fear of isolated, and ultimately inconsequential, yet publically hyped acts of crime and terror in order to supplicate the nation at large.

It has been a singularly effective scheme.

So it began with characterization of hideous and substantive Fourth Amendment violations of fundamental search and seizure law as "mere technicalities". Soon judges and prosecutors, being elected or politically appointed officials themselves, started shading their duties, principles and morals under the law to find creative ways around Constitutional protections in order to avoid results that would be unpopular. Then the officials ran again for reelection proudly proclaiming how they protected the "law and order for the citizens" by "clamping down on criminals" and "elimianting the criminal's use of technicalities". The more they talked the talk, the more they walked the walk. Down the slippery slope.

And that is where we find ourselves today. From

Spencer S. Hsu and Carrie Johnson in today's  
Washington Post:

The Justice Department has proposed a new domestic spying measure that would make it easier for state and local police to collect intelligence about Americans, share the sensitive data with federal agencies and retain it for at least 10 years.

The proposed changes would revise the federal government's rules for police intelligence-gathering for the first time since 1993 and would apply to any of the nation's 18,000 state and local police agencies that receive roughly \$1.6 billion each year in federal grants.

Quietly unveiled late last month, the proposal is part of a flurry of domestic intelligence changes issued and planned by the Bush administration in its waning months. They include a recent executive order that guides the reorganization of federal spy agencies and a pending Justice Department overhaul of FBI procedures for gathering intelligence and investigating terrorism cases within U.S. borders. (Emphasis added)

This is sick. Quite frankly, the contours of this have been quite obvious, and even partially stated, as being on the way for a while now if you were paying attention. This is why I was foaming at the mouth when the Protect America Act (PAA) was passed a year ago, and especially when Congress voted "just to extend (renew) it for a period". The passage of the PAA occurred under such fraudulent and dishonest conditions that it could have been discarded or unwound; but by the time the "extension" was voted on, the depravity and dishonesty of the Administration, what it had done, and what it was doing, was clearly evident. That vote set the die because it was done with fair knowledge

and scienter where the first vote for PAA passage was quite arguably not.

And, so, here we are. Again, from the Post:

...law enforcement agencies would be allowed to target groups as well as individuals, and to launch a criminal intelligence investigation based on the suspicion that a target is engaged in terrorism or providing material support to terrorists. They also could share results with a constellation of federal law enforcement and intelligence agencies, and others in many cases.

Criminal intelligence data starts with sources as basic as public records and the Internet, but also includes law enforcement databases, confidential and undercover sources, and active surveillance.

It seems any citizen, right here in the good old USA, can become an investigative target based upon raw suspicion; and suspicion may be found from sources as innocuous as public records, "the internet" (That's kind of broad eh? Know anybody that uses the net?) or confidential tips. Want to know a little secret? I have encountered an awful lot of "confidential tips", almost always attributed to unknown and unidentified "concerned citizens" in the various warrant affidavits and departmental reports I have had to deconstruct over the years, and more often than not those "confidential tips" are planted or instigated by the officers or agents working the case. Go figure. Who could of predicted that?

But wait! There's more!

The rule also would allow criminal intelligence assessments to be shared outside designated channels whenever doing so may avoid danger to life or property – not only when such danger is "imminent," as is now required, German

said.

...

If police officers no longer see themselves as engaged in protecting their communities from criminals and instead as domestic intelligence agents working on behalf of the CIA, they will be encouraged to collect more information," German said. "It turns police officers into spies on behalf of the federal government."

Well, there is one positive here. We ought to be able to dispense with prostate and colorectal exams since we'll all effectively have probes up our rear constantly. We will have *that* going for us. Oh yes, lest I forget the icing on the cake.

Attorney General Michael B. Mukasey said that the Justice Department will release new guidelines within weeks to streamline and unify FBI investigations of criminal law enforcement matters and national security threats. The changes will clarify what tools agents can employ and whose approval they must obtain.

I feel safer already, don't you? How nice of the Bush/Cheney Administration to get all this cleaned up and in place for us before they leave.

The PAA and resultant FISA Amendments Act (FAA) were never about the "tweaking of FISA", anybody with a lick of common sense could see that. It was, from the start, a designed gutting of the 4th Amendment right to privacy and due process probable cause, the 6th Amendment confrontation clause, and to a greater degree than is obvious, the root presumption of innocence; all the primary foundations to which the rule of law, as has existed in this country since it's founding, is based.

If the words and intent of our basic

Constitutional criminal and privacy law in the United States is the sail of our societal ship, what we are witnessing with the FAA passage, the measures described herein, and the DOJ Guidelines "streamlining" that Mukasey will soon be announcing (these will seek to remove the same firewalls between law enforcement and prosecution that are being removed here between intelligence and all other law enforcement agencies; among other niceties) is the wind being shifted almost completely on the sail. As far as privacy and presumptive rights as citizens being the wind at our back, they are now the storm in our face.

This is what Obama, Pelosi, Reid and Hoyer hath wrought when they sold out on FISA for the sake of their petty and transient political power. And let me repeat something I have said before: once law enforcement, political and prosecutorial entities are vested with power and dominion such as described herein; it is never substantially relinquished; it becomes the new norm. The Democratic Leaderssheep have led the lambs to slaughter. At least the evidence will be preserved in that datamine shaft. For *at least* ten years. I wonder if this is still the kind of "change" Mr. Obama supports?