



Written by [Becky Akers](#) on July 30, 2009

Savaging the Constitution to Save the Country

Violating the Constitution is like trusting a politician: there's just never a good reason to do so. Nonetheless, our rulers constantly flout the country's highest law while claiming their criminality protects us from some dire threat.

Intriguingly, the threat is usually one they've provoked. Even more intriguingly, it often menaces only them, not us.

Consider President Abraham Lincoln's regime. It scorned habeas corpus, instituted a draft, and slaughtered 620,000 Americans to save the rest from political disunion. But halving the country would have hurt neither Ohioans nor Georgians nearly as much as did forfeiting their sons, husbands, brothers, and fathers to battlefields from Ft. Sumter to Appomattox. Yet Lincoln sacrificed lives and families lest federal power wane.

Seventy years later, politicians nationalized much of the economy. President Franklin Roosevelt contended he would thereby safeguard consumers from the Great Depression that federal meddling with business and finance had inflicted. No doubt by sheer coincidence, his legislation vastly increased government's power over those consumers.

Leviathan continues shredding the Constitution and flexing its muscle. Now it asserts that it must defeat the terrorists its foreign policy creates by spying on us taxpayers. Yet Inspectors General (IGs) from five federal bureaucracies concluded earlier this month that the success of such spying is ambiguous at best: their "Unclassified Report on the President's Surveillance Program" (PSP) says that while "many... officials believe that the PSP filled a gap in intelligence collection," others "had difficulty evaluating the precise contribution of the PSP to counterterrorism efforts..." Like his predecessors, President George Bush trashed the Constitution under the pretext of defending us while exponentially growing government's power.

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"In the weeks following the terrorist attacks of September 11, 2001," write IGs from the Departments of Justice and Defense, the Central Intelligence Agency, the National Security Agency (NSA), and the Office of the Director of National Intelligence, "the President authorized [the NSA] to conduct a classified program to detect and prevent further attacks in the United States. As part of the NSA's





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classified program, several different intelligence activities were authorized in Presidential Authorizations, and the details of these activities changed over time.” Those “activities” included eavesdropping on our phone calls and reading our email — all to smoke out the terrorists lurking among us. Nor did our rulers bother with search warrants. Instead, they simply ordered telecommunications companies to funnel the data zipping along their wires through federal computers. Neither the government nor the telecoms informed us of this aggression.

In fact, we’d still be in the dark if [the New York Times hadn’t exposed the conspiracy in 2005](#). A technician retired from AT&T read the *Times*’ story; [he stepped forward with documents](#) showing how Ma Bell connived with the Feds. We can presume other carriers collaborated in similar fashion.

But wiretapping the nation was only the beginning of the government’s domestic espionage. The IGs continue: “other intelligence activities [were also] authorized under the Presidential Authorizations....” Such as? How much of our lives are bureaucrats freely, easily, and impudently scrutinizing? We can only speculate: “The specific details of the Other Intelligence Activities remain highly classified, although the Attorney General publicly acknowledged the existence of such activities in August 2007.” Indeed, they were so highly classified that bureaucracies neither knew about nor used the data rival bureaucracies collected.

The [Fourth Amendment to the United States’ Constitution](#) forbids government from “unreasonably” searching our “persons, houses, papers, and effects.” That outlaws the PSP’s “publicly disclosed” wiretapping as well as its other “highly classified” assaults on our privacy. So it’s both insulting and bizarre that the Feds pretend to kowtow to the Constitution even as they eviscerate it. The IGs note that “The Department of Justice’s Office of Legal Counsel...assess[ed] whether there was ‘a sufficient factual basis demonstrating a threat of terrorist attacks in the United States for [the PSP] to continue to be reasonable under the standards of the Fourth Amendment for the President to [continue] to authorize the warrantless searches involved’ in the program” — rather like [Hannibal Lecter’s worrying about which fork](#) etiquette prescribes for his fava beans and liver.

Not surprisingly, the Constitutional slicing and dicing was in vain: the IGs found little evidence that the PSP helped uncover terrorists. If preventing another 9/11 were truly the government’s objective here, it fumbled as incompetently as it always does.

But spying on us was undoubtedly the PSP’s actual goal and terrorism only its excuse, just as political separation and economic turmoil furnished earlier rulers with a rationale for augmenting their power. Indeed, the [National Security Agency was already eavesdropping on our phone calls](#) well before 9/11. Its justification then was saving Americans from illegal drugs — even those Americans who choose to ingest such drugs and who fear the government far more than they do the entrepreneur selling pot or methamphetamine.

Government will always spy on us and defend doing so (the IGs’ report is remarkable only because it discredits the Feds’ current excuse: wiretapping us not only caught no terrorists, it hobbled purported efforts to do so). That’s because eavesdropping on citizens, ferreting out their thoughts and secrets, searching them, hands the State incredible power — the same sort a blackmailer exploits. And for most of human history, both rulers and ruled assumed the former’s right to so abuse the latter.

Then came the Enlightenment. The ruled began shucking their chains, asking why some men should run other men’s lives. When Britain’s king ordered his subjects to buy shoddy, expensive products from his cronies rather than cheaper foreign ones, they shrugged and smuggled rather than obey. And so King



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George III authorized his customs agents to search anyone at any time, even without specific suspicion or evidence against their victim. He tossed a cloak of legality around this outrage by arming his officers with “Writs of Assistance.” Writs mocked a man’s freedom from arbitrary searches as mercilessly as PSP does: these “warrants” named neither the person suspected of smuggling nor the contraband. No judge swore them out, either. In essence, Writs licensed agents to search “smugglers” whenever they pleased for whatever they pleased — just as the Feds today monitor masses of “terrorists.”

Supreme Court Justice Felix Frankfurter agreed with John Adams that Writs and their generalized searches “more than any one single factor” spawned a Revolution for liberty.

Pray the PSP does, too.



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