



Written by [Joe Wolverton, II, J.D.](#) on March 20, 2014

## Activists Aim to Cut Off the Water to Dry Up NSA Surveillance

Thankfully, there are some Americans willing to stand up and do something to slow the National Security Agency's (NSA) construction of the surveillance state.

In Utah, for example, a group of activists is working to cut off the supply of water to the NSA's massive Utah Data Center located near Bluffdale.

Utah state Representative Mark Roberts offered a bill (HB 161) during the recent legislative session that would prohibit "cooperation between a federal agency that collects electronic data and any political subdivisions of the state." In other words, cities would be required to refuse to support the NSA's data collection within the state of Utah. And, in case any town is reluctant to stand up to the federal government, the bill empowers citizens to "bring an action to enforce the refusal."

Roberts' language is very similar to that of James Madison, who in *Federalist* 45 encouraged state lawmakers, in order to prevent federal abridgment of fundamental liberties, to refuse "to co-operate with the officers of the Union."

On the national stage, no one has done more to give states the guidance they need to protect citizens from having their most basic civil liberties abridged by the federal government than Michael Boldin, founder and executive director of the Tenth Amendment Center. The Tenth Amendment Center is part of the OffNow Coalition.

In an appearance on the NPR show *Here and Now*, Boldin explained to host Robin Young the purpose of the OffNow Coalition, a consortium of groups working to turn off the spigot, cutting off the water cooling the NSA's massive supercomputers.

This is about violating the rights, and this facility being used for it. Now, as far as turning off power to this facility, whether in Utah or the new one coming online in Maryland that is going to be using up to five million gallons of water a day provided by Howard County, Maryland, or the new one coming online in San Antonio, Texas, using the Texas power grid to provide electricity or expansions in Tennessee or Georgia or in Hawaii, or elsewhere, who knows where they're going to expand.

Referencing historic state protections of civil liberty as a model for the OffNow strategy, Boldin said:

And this was a state law that in essence banned the state of Massachusetts from providing material





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support or assistance to the enforcement of the Federal Fugitive Slave Act.

Now, if anyone has watched the film “12 Years a Slave,” we know the horrors of what was slave rendition. That’s what they called it at the time. And Massachusetts took a very bold stance, saying, well, we may not be able to stop this thing on a federal level, but we can say we’re not going to participate in it. And that state law, in essence, banned state employees — like law enforcement officers or judges — from helping the federal government enforce it, and it was extremely effective.

Now, our model legislation, the Fourth Amendment Protection Act, is based on this exact strategy, saying we’re not going to participate, we’re not going to allow the use of our resources to the NSA to continue its violation of our rights. And, in fact, some of the language in the model Fourth Amendment Protection Act that has been introduced was lifted exactly from the Massachusetts Personal Liberty Act of 1855. And I think that gives us a great moral high ground, as well.

In order to stop the lights and the water from keeping the listening stations and data collection centers operational, the sample legislation Boldin mentioned provides guidelines that can be used by liberty-minded state and local lawmakers. Here are a few details:

The 4th Amendment Protection Act bans state and local governments from helping the NSA — in any way — carry out its spying program. Specifically, it would prevent states, cities, and towns from

- Delivering, or assisting in any way, with the delivery of natural resources
- Using information in criminal investigations when provided without warrant from the NSA
- Continuing business with corporations assisting the NSA

Overall, the surveillance-stifling strategy is comprised of a multi-pronged attack.

A successful campaign against the NSA creating, as James Madison advised, “obstructions which the federal government would hardly be willing to encounter,” hits five areas:

1. State legislation
2. Local resolutions
3. Corporate protests — opposition to those providing the resources needed to carry out the NSA spying program
4. Campus actions — a) protests against NSA/university partnerships, and b) organizational and student government resolutions formally calling for an end to such partnerships
5. Environmental concerns — the waste of resources is massive, with millions of gallons of water being used every single day at just one NSA facility.

OffNow’s decision to focus its resistance on the local and state levels is wise and is more likely than federal efforts to make headway in the fight to preserve the civil liberties protected by the Fourth Amendment.

The rights protected by the Constitution are natural rights that are the birthright of all people — American citizens or otherwise — and the protections afforded by the Bill of Rights should be sufficient to restrain the government.

Admittedly, the day has now come when the Constitution is viewed by the federal government as nothing more than a “parchment barrier” to be torn through on its march toward absolutism. The



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answer to systemic disregard for laws protecting our liberty cannot be found, however, in the multiplication of federal laws purporting to protect our liberty.

Designing lawmakers, presidents, and judges are unlikely to heed the provisions of a constitution-supporting bill proposed by this or that federal senator or congressman given that they demonstrate no respect whatsoever for the Constitution itself.

The remedy to this mortal malady seems to be the one described by Thomas Jefferson as the “rightful remedy”: nullification. In the Kentucky Resolution, Jefferson wrote:

In cases of an abuse of the delegated powers, the members of the general government, being chosen by the people, a change by the people would be the constitutional remedy; but, where powers are assumed which have not been delegated, a nullification of the act is the rightful remedy: that every State has a natural right in cases not within the compact, (*casus non fœderis*) to nullify of their own authority all assumptions of power by others within their limits: that without this right, they would be under the dominion, absolute and unlimited, of whosoever might exercise this right of judgment for them.

If the federal government’s drive to accumulate unbounded power is to be thwarted, states and citizens must unite in their opposition to federal overreach and refuse to participate in or permit the enforcement of any unconstitutional federal act within their sovereign borders.

During his interview on NPR, Boldin recognized that regardless of the power of the weapon of nullification, the fight against constitutional disregard and constant federal surveillance will not be easily won.

“Now, if anybody tells you that you can just introduce one bill on a state level and it’s like a silver bullet, it’s going to stop the NSA from spying on you, from violating the Fourth Amendment, they’re lying to you,” Boldin admitted. “I don’t want to be a snake-oil salesman. I want to come up with a real strategy that can work.”

A powerful first step in that workable strategy is to pass state laws and local ordinances cutting off the NSA’s access to the power and the water that keep their watchful eyes open.

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