



Written by [Joe Wolverton, II, J.D.](#) on July 14, 2016

Bipartisan Group of Reps Creates Caucus to Protect Fourth Amendment

Fresh off his successful campaign to keep the House of Representatives from expanding the federal government's power to violate the rights protected by the Fourth Amendment, Representative Justin Amash (R-Mich.) is cashing in that political capital.

As reported by *USA Today* on July 13:

An unusual coalition of 13 Republicans and 12 Democrats on Wednesday announced the creation of the House Fourth Amendment Caucus to protect Americans' privacy rights against calls for increased government surveillance in the wake of terrorist attacks.

The group named itself after the Fourth Amendment because the lawmakers fear that the government is increasingly seeking the power to search Americans' electronic data without a warrant. They see that as a threat to the Constitutional amendment's protections against unreasonable searches and seizures.

"A caucus dedicated to defending Americans' Fourth Amendment-secured rights is needed now more than ever, and its formation illustrates the growing awareness among the American public and their representatives in Congress of the far-reaching implications of the surveillance state," Amash said in a statement. "In the face of difficult circumstances, some are quick to pursue extreme, unconstitutional measures; the Fourth Amendment Caucus will be a moderating influence that gives voice to countless Americans whose rights are violated by these ill-conceived policies."

The libertarian-leaning congressman joined Representatives Zoe Lofgren (D-Calif.) and Ted Poe (R-Texas), who formed the caucus that officially launched at an event held on Capitol Hill on July 13.

At the meeting, Lofgren and Poe made statements setting out the purpose of the formation of the caucus and the impetus for its creation.

"Members of the House of Representatives from both parties are eager to debate and vote on privacy and surveillance issues that are far too often drafted in secret and jammed through the legislative process under tight deadlines, restrictive procedures, and little debate," said Lofgren. "From shutting the backdoor on warrantless spying to leading efforts to protect privacy, this Fourth Amendment Caucus gives members a new, nonpartisan forum for ideas, organization, and strategy as we fight to protect the Constitution and the American people."

"As technology continues to evolve and improve, Congress must ensure that the Fourth Amendment rights of citizens are protected," said Poe. "Technology may change, but the Constitution does not."

One of Amash's colleagues in the caucus is his friend and fellow constitutionalist Representative

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Thomas Massie (R-Ky.).

“Congress has passed, and continues to pass, dangerous legislation without regard for our Constitution,” Massie said. “The Fourth Amendment Caucus presents a nonpartisan opportunity to discuss ways to protect our right to privacy.”

Given the role that rebellion against the unreasonable, unwarranted searches and seizures by government played in igniting the spark that lit the fires of armed resistance in America and the American Revolution, it is remarkable that that liberty now is so threatened that there is a caucus — a small caucus — of congressmen who feel compelled to unite to protect the right not to be subject to such official actions.

James Otis is a name that is almost completely forgotten by contemporary Americans, but he was once the most famous lawyer in the colonies, and it was his renowned recrimination of unreasonable searches in Boston that earned him fame and influenced his countrymen to resist the tyranny of these deprivations.

At a [trial challenging the constitutionality of the General Writs of Assistance](#), Otis spoke eloquently and persuasively in favor of freedom from the unreasonable searches being carried out by 18th-century government agents:

Now, one of the most essential branches of English liberty is the freedom of one’s house. A man’s house is his castle; and whilst he is quiet, he is as well guarded as a prince in his castle. This writ, if it should be declared legal, would totally annihilate this privilege. Custom-house officers may enter our houses when they please; we are commanded to permit their entry. Their menial servants may enter, may break locks, bars, and everything in their way; and whether they break through malice or revenge, no man, no court can inquire. Bare suspicion without oath is sufficient.

This wanton exercise of this power is not a chimerical suggestion of a heated brain. I will mention some facts. Mr. Pew had one of these writs, and, when Mr. Ware succeeded him, he endorsed this writ over to Mr. Ware; so that these writs are negotiable from one officer to another; and so your Honors have no opportunity of judging the persons to whom this vast power is delegated. Another instance is this: Mr. Justice Walley had called this same Mr. Ware before him, by a constable, to answer for a breach of the Sabbath-day Acts, or that of profane swearing. As soon as he had finished, Mr. Ware asked him if he had done. He replied, “Yes.” “Well then,” said Mr. Ware, “I will show you a little of my power. I command you to permit me to search your house for uncustomed goods” — and went on to search the house from the garret to the cellar; and then served the constable in the same manner.

In 1788, nearly three decades after Otis’ speech in defense of the right to be free from unwarranted searches and seizures, his equally eminent sister, Mercy Otis Warren, echoed her brother’s bold attack on despotism. Writing under the pseudonym [“Columbian Patriot,”](#) Warren said:

There is no provision by a bill of rights to guard against the dangerous encroachments of power in too many instances to be named: but I cannot pass over in silence the insecurity in which we are left with regard to warrants unsupported by evidence — the daring experiment of granting writs of assistance in a former arbitrary administration is not yet forgotten in the Massachusetts; nor can we be so ungrateful to the memory of the patriots who counteracted their operation, as so soon after their manly exertions to save us from such a detestable instrument of arbitrary power, to subject ourselves to the insolence of any petty revenue officer to enter our houses, search, insult,



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and seize at pleasure.

Today, though, we live in the post-9/11 era where the rights guaranteed by the Fourth Amendment and almost all others in the Bill of Rights have been forcibly seized from the people and laid by agents of government on the altar of “safety from terrorism.”

It is for this reason that Amash, Massie, Lofgren, Poe, and their colleagues in the House Fourth Amendment Caucus felt compelled to unite in defense of these fundamental liberties — liberties once the common inheritance of all Americans.

For the efforts of these congressmen, Americans should remember the wise words of Mercy Otis Warren and be grateful to “the patriots who counteracted” the government’s assault on this most precious prerogative.



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