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The *High Tower*

# LOWDOWN

“Just as nightfall doesn’t come at once, neither does oppression. In both instances there is a twilight. And it is in such twilight that we all must be aware of the change in the air—however slight—lest we become unwitting victims of the darkness.”

—Supreme Court Justice WILLIAM O. DOUGLAS

EDITED BY JIM HIGHTOWER AND PHILLIP FRAZER

*A blitz of warrantless surveillance and imprisonments without trial*

## In the Constitution, “security” means protection *from* our law enforcers, not *by* them

**THE EARTH’S CORE**, consisting largely of iron, helps balance our spinning planet. On the other hand, the core of too many of today’s prominent political leaders consists almost entirely of unintended irony, which tends to make them go all wobbly on their political stands. This might be comical were it not so destructive for our nation.

**F**or example, check out the politicians who’re raising such a cacophony these days about big, intrusive government. Ironically, they’re usually the same knee-jerks who so fervently advocate the expansion of government’s biggest and most intrusive force: police power. Since 9/11, this bunch has screeched non-stop that the only way to make the American people secure in this terrifying age is to jackhammer the word “secure” out of the Fourth Amendment—the only place in the Bill of Rights where the term appears.

The founders (made of much stronger stuff than today’s political harpies) believed that genuine security for a democratic people comes from strengthening their right and ability to resist the autocratic impulses of the authorities. By deliberately placing “secure” in this key Bill of Rights passage, they certainly did not intend for it to be twisted into a meek call for ever-expanding police power to “protect” the citizenry, but instead to give citizens essential legal guarantees to protect themselves *from* police power.

It wasn’t political theory that shaped their phrasing—it was rough, real-life experience with King George III’s security forces. Thus, they wrote with unmistakable conviction: “The right of the people to be *secure* in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause....”

Those few words are our bulwark against the repressive enforcement power of a police state. Yet, practically from the start of America’s democratic experiment, the rights that the founders established in Amendment IV have constantly been chipped at, frequently ignored by authorities, and occasionally suspended by fear mongering politicians (ranging from the 1798 Alien Enemies Act to the infamous Patriot Act of 2001). The good news is that—after an ugly, repressive interlude—the people themselves have historically risen against each of these authoritarian assaults on the wisdom of the constitutional authors, and restored the liberty-protecting provisions of the Fourth to their proper place at the center of our nation’s governing ethos.

In 2008, many voters thought that by voting for Barack Obama, they were making just such a correction to the dangerously autocratic course steered by the Bush-Cheney-Ashcroft regime. And

why wouldn’t they? After all, despite getting hammered by Republicans for being “soft on terror,” Obama had campaigned aggressively that year against such grossly unreasonable searches and seizures as the FBI’s spying campaign on groups of law-abiding protesters, the Pentagon’s massive, data-sucking supercomputer that was covertly sifting through vast piles of personal information on millions of Americans, and the door-busting, pre-dawn raids by heavily armed federal agents into the private homes of medical marijuana users.

Shortly after taking office, the new president lifted the hopes of civil libertarians by

declaring that “our values have been our best national security assets—in war and peace; in times of ease and eras of upheaval.” Yes! Correct! Excellent!

But, where’d that guy go? Fine words are about the only changes that have come from the Obama administration, which overall has been distressingly Bush-Cheneyish on *expanding*—not reducing—the power of assorted police agencies to go far beyond legitimate law enforcement.



## REPUBLICANS FOR MERCURY POISONING

**WHY DO CONGRESSIONAL Republicans hate unborn babies?**

Yeah, I know they profess to love the unborn, even considering them “persons” from the very moment of conception.

Yet, when it comes to regulating an especially nasty industrial toxin that wreaks holy hell on unborn babies, they just say no. That nasty toxin is mercury, which spews into our air from old, coal-burning electric plants, falls into water, and builds up in fish. If pregnant women eat contaminated fish, the mercury messes terribly with the emerging nervous systems of their fetuses, producing babies with impaired IQs, unable to think and learn as they should.

Now, after 20 years of delay forced by electric company lobbyists, the Environmental Protection Agency finally came out in December with regulations to control the mercury emissions from power plants. *Hallelujah*—but the lovers of the unborn are not celebrating this move to stop industry from handicapping children’s IQs!

Far from it. Congressional Republicans want to overturn the EPA’s regulation of mercury, and a bunch of them say they want to kill the EPA itself to stop such “governmental interference” in the corporate pursuit of profits. Unborn babies make great politics, but they don’t make big campaign donations. The GOP goes with whom it really loves.

How ironic that the defenders of mercury pollution are “mad as a hatter” about the EPA’s protection of children. Maybe they don’t know that the phrase comes from 19th century hat makers who used mercury compounds in their work, causing mental damage that literally drove them mad.

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Unbeknownst to most people—and unmentioned by candidates in this year’s presidential elections (with the important exception of Ron Paul)—Team Obama, the entire Republican leadership, tea party lawmakers, and assorted state and local officials have jointly been moving America toward the darkness of unbridled police intrusion into our lives and liberties.

Groups fighting for the preservation of those liberties feel betrayed by a Democratic presidency that has proven to be openly hostile to the Fourth Amendment, taking regressive actions and pushing extremist laws that extend the security state beyond what even Dick Cheney could’ve imagined! The founders would be in a rage—and we should be, too.

### National Defense Authorization Act of 2012.

This is a massive bill that okays spending \$662 billion in the next fiscal year on the Pentagon’s “everywhere and forever” war on terrorists, which presently involves the US in military “hostilities” in Afghanistan, Iraq (still), Pakistan, Yemen, Somalia... and, now flashing on the radar as our next war: Iran. But, what makes this year’s war authorization so incendiary and outright un-American is that it explicitly expands the military’s battlefield into the USA itself—and it takes direct aim at the Fourth, Fifth, and Sixth Amendment rights of all citizens.

Tucked deep inside the NDAA is section 1031, a legislative atrocity that empowers any president (Obama, Romney, Gingrich, Trump, Palin, whomever) to order the military to sweep in, seize, and imprison anyone anywhere (including any place in America) and hold them indefinitely without charging them with any crime or putting them on trial. All this can be done simply on the say-so of a president that the hapless detainee might have some kind of connection (which need not be stated and can be very vague, distant, and totally innocent) to any group that authorities suspect of being involved in terrorism. Some legal scholars say the act encourages just about anyone with a badge to send a fellow citizen to military detention, to be tried if and when the President says so.

This autocratic “homeland battlefield” decree reincarnates King George III and his tyrannical Redcoats! It enables one official to cancel a sheaf of our fundamental constitutional rights: probable cause, arrest by written warrant, no deprivation of liberty without due process, speedy and public trial by an impartial jury, and *habeas corpus*.

How did this get written into law? By stealth. Pushed by the superhawk GOP House, a mere handful of congressional and White House leaders negotiated in secret late last year to slip 1031 into the bill with no

public input nor a recorded vote. Publicly, Obama made a show of opposing it, even threatening a veto. But Sen. Carl Levin, a key negotiator for Democrats, refutes that pose, saying the White House had demanded that American citizens be included as proper targets of the provision.

Sure enough, when NDAA passed in December, the promised veto shrank into a meek statement by Obama that he would sign the bill “despite having serious reservations with certain provisions.” He even declared that “my administration will not authorize the indefinite military detention without trial of American citizens.” Yet, there it is, engraved in law and available to any president who chooses to use it.

Tellingly, Obama quietly signed the bill on December 31, when the media and the people were on holiday and busy partying.

### Domestic Investigations and Operations Guide.

This is the FBI’s official manual governing the work of its 14,000 agents, giving them the do’s and don’ts of proper investigative techniques. After 9/11, successive Bush attorneys general “updated” the rules of behavior to loosen and sever many of those pesky constitutional reins on agency snooping, freeing agents to spy on law-abiding Americans and domestic organizations because of their political activity, ethnicity, or religion—with no evidence needed to show that the targets are doing anything wrong.

Then the Democrats displaced the Bushites, and the Obama team issued its own revised edition of the guide last summer. It’s a doozy. Valerie Caproni, the FBI’s chief lawyer, pooh-poohed the revision as “more like fine-tuning than major changes,” but take a peek at the tweaks. Those 14,000 agents gained new powers to conduct an “assessment” of the connections and actions of any US citizen or group even if they are not suspected of criminal activity or terrorist ties. Agents were newly authorized to burrow into people’s trash, secretly search their databases, and even compel them to take lie detector tests—all without requiring the agency to make a record of the intrusive probe. Also, specially trained “surveillance squads” can now secretly tail these assessment targets any time, with no warrant required.

Bear in mind that FBI assessments are not something the agency does infrequently—agents open thousands of these clandestine, “proactive” probes each month, and now Obama allows the intrusions to go deeper into the private lives of innocent Americans than even Bush got away with.

The rationale, according to Obamacans, is that, while these people might not be doing anything wrong, they might know someone who is! As lawyer

## DoSomething! Check out these great groups

With very high quality research staff and lawyers on board, these Bill of Rights watchdog groups produce extensive reports on various aspects of America’s expanding surveillance state. They frequently go to court to defend our Fourth Amendment rights against both overreaching police authorities and corporate intruders, and they rally citizens to defeat repressive legislation and executive actions at all levels of government. In addition, they offer how-to tips and self-defensive action kits to help individuals and local groups stand up to invasive governmental and corporate powers.

■ **ACLU:** [www.aclu.org](http://www.aclu.org)

Report: A Call to Courage: Reclaiming Our Liberties Ten Years after 9/11: [www.aclu.org/national-security/report-call-courage-reclaiming-our-liberties-ten-years-after-911](http://www.aclu.org/national-security/report-call-courage-reclaiming-our-liberties-ten-years-after-911)

New Eyes in the Sky: Protecting Privacy from Private Drone Surveillance: [www.aclu.org/blog/technology-and-liberty/new-eyes-sky-protecting-privacy-domestic-drone-surveillance](http://www.aclu.org/blog/technology-and-liberty/new-eyes-sky-protecting-privacy-domestic-drone-surveillance)

■ **Bill of Rights Defense Committee:** [www.bordc.org](http://www.bordc.org)

■ **Electronic Frontier Foundation:** [www.eff.org](http://www.eff.org)

■ **Electronic Privacy Information Center:** [www.epic.org](http://www.epic.org)

Caproni explained, agents merely want to sift through trash cans and databases of the innocent in hopes of surfacing some bit of information that would pressure the innocent ones to help the government go after an actual suspect. Ah, yes, tighten the screws—the old squeeze play is newly legit in our land of the free! Who's advising Obama on this stuff—George Orwell?

**Patriot Act: The Thing that won't die.** This hydra-headed monster arose from the swamp of fear following the 2001 crashbombing of our people, having been spawned by the Machiavellian opportunism of Cheney, Ashcroft, and other far-right authoritarian zealots. They foisted it on America in the name of "protecting" us from foreign fiends, but we quickly learned that the act itself was the fiend, endowed by its creators with multiple powers to rampage over innocent people's rights. Its Big Brother abuses throughout the Bush years made the Patriot Act a hot political issue in the 2008 presidential contest, and Obama promised again and again that he could and would tame the beast.

Sir Barack the Gallant's shining moment came last May, when congressional Democrats and Republicans were grappling over reforms to several major provisions of the oppressive law:

- **Section 215**, a sweeping and widely despised power, lets the FBI grab "any tangible thing" it considers "relevant" to a terrorism investigation—your library records, phone calls, emails, credit card data, websites visited, etc. Agents can seize your information even if they don't suspect you of being guilty of anything, and they can (and routinely do) search your records without ever telling you they've snuck into your privacy.
- **Section 206**, known as the "roving John Doe wiretap," simply erases the Fourth Amendment's requirement that the government state specifically who or what place is to be searched and what it's looking for before it can get a warrant. The Patriot Act says that agents in vaguely defined terrorism investigations can get a warrant to wiretap an unnamed John Doe just because they want one.
- **Section 505** hands secret and frighteningly invasive power to FBI agents through "national security letters." These totalitarian documents compel phone, internet, financial, and other corporations to hand over all data on the private communications and transactions of their customers. This is the surveil-

lance-vacuum-cleaner-from-hell, sucking in ridiculous volumes of info on Americans who are not even suspected of doing anything unlawful. The FBI issues tens of thousands of the letters each year in far-flung fishing expeditions that yield practically nothing of value to the agency, much less to America's security. NSLs are the stuff of the old KGB, coming complete with gag orders that prohibit corporate recipients from ever revealing that they got such a letter, while also precluding any court from questioning whether the gag is necessary to protect national security.

The NSL outrages were the subject of a 2009 reform effort when Democrats had a congressional majority. While Obama's official position was that he supported the reforms proposed by his fellow Democrats, his justice department furtively wrote the amendments that stripped away those reforms, then worked behind the scenes to get Republican lawmakers to sponsor and pass the amendments.

Last May, with several of the Patriot Act's liberty-busting provisions set to expire, the White House and Congress had an opportune moment to restore our Bill of Rights' supremacy over the sprawling surveillance superstructure imposed on us by that awful piece of legislation. The tea party Republicans controlling the House, however, mocked their professed devotion to liberty by locking arms against reform. The Obamacans, having no stomach for a fight, meekly retreated. On May 26, with little media attention and no debate, the Repubs and Dems joined in a rare bipartisan vote—to punt the Bill of Rights. They extended the Patriot Act—including sections 215, 206, and 505—for four more years.

### Technology marches on!

Every new high tech advance comes with a flurry of hype about how this latest device or system will "free" humankind from the limits of the old ways.

From the invention of the spyglass forward, nearly every new techno-gizmo has been adopted or adapted by the hundreds of separate (and often competing) local, state, national, and international police agencies that now monitor us. Each breakthrough is hailed by the authorities as an essential tool for protecting you and me from "bad guys." Few politicians are willing to question that, so more tax dollars and broadly invasive authority constantly surge into the automation of surveillance, while our privacy steadily seeps out of the system.

## WE EXPORT IT— OUR PRICES SOAR

### THE CORPORATISTS IN

Congress barked at Obama that he must approve that Keystone XL pipeline from Canada to the Gulf Coast. Because Exxon, Chevron, et al. need to get all that Canadian tar sands oil to their Texas refineries. That'll increase the supply of gasoline and lower the price at the pump.

Really? Well, consider this complicating fact: Big Oil has quietly been siphoning oceans of fuel from their US refineries and shipping it to Asia, Europe, and Latin America. Last year, for the first time ever, fuel became the top export of the United States—the big refineries shipped 117 million gallons of gasoline, diesel, and jet fuel per day out of our country. Suddenly, fuel exports are bigger in dollar value than the foreign sales of American aircraft, agriculture, or any other product.

Commuters, truckers, farmers, airlines, and others who're dependent on those fuels have been soaked in the past year by gasoline pump prices that have averaged \$3.52 a gallon—a record high. This price shock has given Big Oil's political puppets an excuse to yap ceaselessly about the urgent need to "build that pipeline." The environment be damned, is their cry, full speed ahead to increase supply.

These ranters don't mention the giant refiners' control and manipulation of our gasoline supply for their own profit. Refiners refuse to reveal how much they profit from exporting fuel, the more they send overseas, the less there is at home, allowing them to jack up our prices. No surprise then that the Big Five gasoline makers enjoyed record profits in 2011.

### Correction: Co-op income

January's *Lowdown* put the annual income of all co-ops nationally at \$650 million. That should have been \$650 BILLION.

## The *Lowdown*

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## STUCK ON OUR ECONOMIC LADDER

**ONE OF THE HIDEBOUND** myths in our culture is the Horatio Alger fantasy: you might be born poor, Bucko, but America's the land of upward mobility—grit and gumption can get you from the very bottom of the economic ladder all the way to the top.

Lately, this musty myth is being challenged by everyone from academics to Wall Street protestors. Even prominent politicians are catching on—as one said last fall, “[Movement] up into the middle income is actually greater... in Europe than it is in America.” That's no liberal talking, it's Rick Santorum! The same guy who now says “There are no classes in America” was at least visiting reality just a few months ago.

While GOP leaders still try to dismiss the issue of income inequality, the mobility issue goes to the very core of America's identity. John Bridgeland, a former Bush aide who now heads the policy group Opportunity Nation, says bluntly that Republicans “will feel a need to talk about a lack of mobility—a lack of access to the American Dream.”

Many recent studies confirm that we have class “stickiness.” A Pew research report finds that about 62 percent of Americans born on the top rungs of the economic ladder stay there, and 65 percent born on the bottom rungs remain stuck there. In a ranking of nine affluent countries, Canada was tops in upward mobility and the US was last.

Upward mobility starts with a unity of purpose among all of our people—and we can't achieve that as long as top corporate and governmental leaders deliberately widen the chasm separating the rich from the rest of us.

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**Tracking you.** Stakeouts, wiretaps, and actually tailing suspects have required police to specify their suspicion of wrongdoing and get a judge's okay to snoop. Last November, however, Obama's Justice Department argued before the Supreme Court that police are free to track anyone they want (even people not suspected of a crime) by secretly attaching a GPS device to the target's car. No warrant necessary, claimed the Justice Department, because people have no right to expect the movement of their cars on public roadways to be private.

The Supremes were stunned to hear the government's lawyer say that the police could easily slip GPS trackers onto the judges' own cars and follow their travels for weeks or more. The technology, he insisted, merely makes agents more efficient in their job of capturing data. However this pill proved too bitter for even the prosecutor-coddling Roberts Court to swallow—the Justices ruled unanimously on January 23 that such GPS tracking violates the Fourth Amendment's privacy rights.

**Tweets and twits.** Last fall, Emma Sullivan, an 18-year-old high school student in Kansas, sent a tweet from her cell phone as she listened to Gov. Sam Brownback speak to students. “He sucked,” was the opinion she sent to her personal Twitter followers. It turns out, though, that Brownback staffers secretly monitor social media, trolling for any mention of the gov. Unhappy with Sullivan's opinion, these gubernatorial twits contacted school authorities.

She was scolded and ordered to write an apology to his eminence—but the feisty teen refused, instead going to the media to talk about free speech in social media. Brownback then got such a blowback from outraged Kansans that he was the one who had to apologize to her “for our overreaction.” Nice ending, except Kansans are still wondering why their governor has the time, money, staff, and arrogance to be eavesdropping on teen tweets.

It's not just a Kansas issue, for last February the humongous Department of Homeland Security issued a little-noticed announcement that it has set up a permanent Social Media Monitoring and Situational Awareness program. It's a computerized system that routinely monitors the postings of all users of Twitter, Facebook, blogs, and other electronic communications by private citizens. DHS is deploying search tools, forming social media profiles, analyzing “an array of potentially sensitive search terms,” recording

results, storing the information (including names of senders) for up to five years, and disseminating relevant findings “to federal, state, local, and foreign governments, and private-sector partners.”

**Look, up in the sky!** Neither a bird nor Superman, the next must-have toy for assorted police agencies is the unmanned aerial vehicle, better known as drones. Yes, the same miniaturized aircraft that lets the military wage war with a remote-controlled, error-prone death machine is headed to your sky, if the authorities have their way. Already, Homeland Security officials have deployed one to a Texas sheriff's office to demonstrate its crime-fighting efficacy, and federal aviation officials are presently proposing new airspace rules to help eager departments throughout the country get their drones.

But airspace problems are nothing compared to the as-yet-unaddressed Fourth Amendment problems that come with putting cheap, flying-surveillance cameras in the air. As usual, this techno-whiz gadget is being rationalized as nothing more than an enhanced eye on crime. But the drone doesn't just monitor a particular person or criminal activity, it can continuously spy on an entire city, with no warrant to restrict its inevitable invasion of innocent people's privacy. Drones will collect video images of identifiable people. Who will see that information? How will it be used? Will it be retained? By its nature, this is an invasive, all-encompassing spy eye that will tempt authorities to go on fishing expeditions. The biggest question is the one that is not even being asked: Who will watch the watchers?

## First, secure liberty

Astonishingly, the present, widespread torching of the Fourth Amendment is being done by or with the complicity of politicians who claim to be on our side! Now is not the time to push back on police power, they tell us. Jobs, war, deficits, and such have to come first. Hello—the Constitution is on fire!

The good news is that we do have a solid core of liberty stalwarts in public office across the country (including some police officials), and there is a host of smart, intrepid organizations working across the country to put out the fires of authoritarianism and to plant new seeds of democratic rights (see p. 2).

When leaders won't stand tall, We the People must. Connect with these folks to help secure the tools of liberty that the founders put in the Bill of Rights.

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