



DEFENDING DISSSENT FOUNDATION LETTER

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To protect and advance the right to dissent in the United States

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Dear Troublemakers,

We are happy to welcome in the New Year in our new office. We are now located just outside of the District of Columbia in Silver Spring, Maryland. It's a quick ride on the Metro to Capitol Hill and downtown Washington so we have easy access to both Congress and our civil liberties partners and allies. Please note our new address (above) for future correspondence, and please stop by and visit if you are in the Washington area.

LEGISLATIVE

One Last Chance to Stop Warrantless Wiretapping

The Senate left town in December without voting on S.2248 (the FISA Amendments Act). Majority leader Harry Reid opted to delay the vote until January (or beyond) due to a filibuster threat by Senator Dodd.

In November, the Senate Intelligence Committee (IC) passed one version of the FISA reform law, while the Judiciary Committee (JC) passed another. The JC bill offers us a better starting point – prohibiting bulk collection of communications and remaining silent on immunity for telecoms (rather than granting immunity as in the IC bill). Our legislative strategy is to demand that Reid bring the JC bill to the floor and work for amendments that will improve it.

In December, Senator Reid elected to bring the IC version of the bill to the Senate

floor. This procedural decision stacked the decks in favor of telecom immunity, prompting the Dodd threat to filibuster.

When the Senate returns to D.C. on January 22, they will have to act quickly. The interim bill the Congress passed in August is due to sunset on February 1.

An ad hoc coalition is coming together in Washington to coordinate advocacy to ensure that the FISA reform legislation that passes the Congress will follow the Constitution. DDF has joined this coalition, and we encourage you to participate:

- **Sign the petition to Sen. Reid:** <http://action.aclu.org/reidpetition>
- **National Call-in Week Jan. 21-25**
Call the Capitol Hill Switchboard at 202-224-3121 and ask for your Senator's office. Tell your Senator to respect the Constitution and require a warrant before the government can wiretap Americans. Tell them not to grant immunity to telecoms that broke the law by turning over private records to the government.
- **Check our website for updates,** and additional materials (talking points, sample letters, etc): www.defendingdissent.org

Improvements to FOIA!

The Open Government Act of 2007 passed the Senate and the House in December by voice vote, and was signed into law by President Bush on New Year's Eve. The bill was sponsored in the House by Rep. Clay (D-MO) and in the Senate by Sen. Leahy (D-VT) and Cornyn (R-TX).

The bill requires agencies to respond to FOIA requests within 20 days, and establish a tracking number if the request will take longer than 10 days. The tracking system will be accessible via internet and phone. Additionally, the bill establishes penalties for foot-dragging and creates a government-wide ombudsman at the National Archives. The bill also includes private government contractors in the scope of FOIA.

In a press release, Rep. Clay said that the law reaffirms "the idea that the United States government belongs to the people, and whenever possible, we should err on the side of full disclosure of information."

Read the text of the legislation at <http://thomas.loc.gov>, search for S.2488

EXECUTIVE BRANCH

Back and Forth on White House Visitor Logs

On December 17, U.S. District Judge Royce C. Lamberth ruled that White House visitor logs are public documents and are subject to FOIA requests. The Bush Administration had tried to argue that the logs are private presidential records. The ruling was a result of a lawsuit by Citizens for Responsibility and Ethics in Washington (CREW) seeking the visitor logs. The Judge ruled the logs must be turned over to CREW within 20 days

On the same day however, the same Judge ruled in a second case that CREW could not seek an injunction barring the Secret Service from destroying the logs. [CREW believes that the Secret Service must get permission from the Archivist before destroying any records, so they should be safe for now.]

But we aren't finished yet! On December 21, Judge Lamberth agreed to let the Bush Administration keep the visitor logs secret until an appeals court can decide whether the documents are public records.

The Bush Administration is also appealing another ruling on visitor logs. In October, U.S. District Judge Ricardo Urbina ruled that visitor logs to the Vice President's Residence were public records and must be released (in this case, it was the Washington Post asking for the logs). The Justice Department filed an appeal on December 13, claiming that the logs are protected by executive privilege.

CASES

\$156 Million Award Overturned

On Friday, December 28, the U.S. Court of Appeals for the Seventh Circuit overturned a \$156 million verdict against the Holy Land Foundation, the American Muslim Society and Muhammad Salah. As readers of this newsletter know, a federal jury awarded the sum in 2004 to the family of an American student killed in the West Bank. The appeals court ruled that the family did not prove that the U.S. charities' activities contributed to the fatal attack on David Boim. The case has been remanded to district court.

This is the latest in a string of losses for the U.S. government in its attempt to implicate U.S. Muslim charities in funding Islamic terrorism.

In October, the Holy Land Foundation 'won' a mistrial in a case accusing the Foundation of material support for terrorism. Similarly, in February, Salah was acquitted of charges of supporting Hamas terrorist activities.

Rights Groups Allowed to Protect Sources

Lawyers for Amnesty International argued that the group should be afforded the same right to protect sources as journalists, since they play the role of the press in gathering and disseminating information about human rights. On January 1, a federal judge agreed, ruling that Amnesty did not have to reveal the names of lawyers it had quoted in a 2002 report. The issue came up as part of a 2004 lawsuit charging that officials at a federal jail in New York had recorded lawyer-client conversations.

This is a positive ruling for human rights and other advocacy groups whose sources depend on confidentiality in order to come forward with information.

Academic Freedom Denied

Tariq Ramadan, a respected academic was asked to teach a course on Islamic ethics at the University of Notre Dame in 2004, but was not allowed to enter the U.S.

Originally, the government denied his visa under the Patriot Act, but later changed its tune and said Mr. Ramadan could not enter the country because of his contributions to -- you guessed it -- a charity with ties to Hamas. Mr. Ramadan made the contributions from 1998 to 2002; the charity, Association de Secours Palestinien, was not designated a terrorist group by the U.S. until 2003. The Judge wanted him to provide "clear and convincing" evidence that he was unaware of the charity's links to terrorism when he made his contribution.

WELCOME TO THE FUTURE

FBI Biometrics Database

According to a report in the Washington Post, the FBI is spending \$1 billion to create a vast (the largest in the world) database of our physical characteristics – fingerprints, facial features, eyeballs, and DNA. The FBI calls it "Next Generation Identification".

While the current technology does not allow for the covert collection of biometric data, government agencies are interested in achieving that goal.

We're all used to fingerprints, but what about iris scans and face imaging technology? Could this collection of biometric data eventually turn our bodies into de facto national identification cards?

The huge cache of information kept on the database is available to a range of government agencies, increasing the risk of a security breach. This gives 'identity theft' a whole new meaning; Paul Saffo, a Silicon Valley technology forecaster, is quoted in the article as saying "If someone steals and spoofs your iris image, you can't just get a new eyeball."

Swat that Fly

Several protesters at an anti-war demonstration in D.C. in September noticed some elaborate unnatural-looking dragonflies hovering nearby. Were they flies, or were they spies?

An article in the November 2007 *Economist* reported on a new trend in technology – small, buglike, Unmanned Aerial Vehicles (UAVs) which can be outfitted with cameras. Already in England, police have used an unmanned spy drone at a music festival to catch illegal activities.

