



# DEFENDING DISSENT FOUNDATION LETTER

1100 Wayne Avenue • Suite 1020 • Silver Spring, Maryland 20910  
202-529-4225 • info@defendingdissent.org • www.defendingdissent.org

*Founded in 1960 as the National Committee to Abolish HUAC*

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Dear Troublemakers,

As lawmakers fret over the enormous cost of the financial bailout as well as the huge budget proposed by President Obama, we have a message that should be music to their ears: you can restore our civil liberties and return our nation to the rule of law *for free*. It won't cost a penny, and will actually save money to stop spying on political activists, close Guantanamo, halt immigration raids, and end racial profiling to name a few. Members of Congress will be on recess from April 6 – 19, we encourage you meet with your Representative and Senators to discuss the Patriot Act (several provisions sunset this year) and legislation on the state secrets privilege and national security letters. We have a legislative primer for you on the back page of this newsletter, and additional resources on our website.

In Solidarity,

A handwritten signature in cursive script that reads "Sue Wiley".

## **Feds Helped State Police Track Activists**

When the Maryland State Police's extensive undercover operation targeting advocacy groups was revealed, Senators Cardin (D-MD), Mikulski (D-MD) and Feingold (D-WI) immediately wrote to the various federal intelligence agencies to find out what role those agencies played in the spying. The Senators are still awaiting answers from some agencies, but the Department of Homeland Security did write back, claiming they had no role and no knowledge of the unconstitutional spying. I guess they kept their fingers crossed when they typed that response, because it turns out not to have been exactly true...

The DC Anti War Network (DAWN) was one of the groups targeted by the Maryland State Police (MSP) spying, and a document recently released by the police reveal that DHS was also keeping an eye on the group and sharing information about their activities with the MSP. An entry in the police files on DAWN dated June 21, 2005 says:

"The US Department of Homeland Security, Atlanta, recently forwarded two emails from

[REDACTED] an affiliate of the DC DAWN Network and the [REDACTED]. Activists from DAWN, [REDACTED] and other groups working under the banner of [REDACTED] are going to stage several small (12-15) weekly demonstrations at the Silver Spring Armed Forces Recruitment Center (AFRC). If there is enough support these will become weekly vigils."

Obviously this entry raises a number of questions: why did DHS have these emails, how did they get them, why did they forward them to MPS and, of course, why did DHS deny to members of Congress that they apparently not only had knowledge of the MPS investigation but were participating in it?

Senators Mikulski and Feingold wrote a follow up letter to DHS asking those questions and more. They are still waiting for a response. Find a link to the Mikulski/Feingold letter on the DDF website.

## **Another Fusion Center Document Leaks**

Another disturbing Fusion Center memo has come to light, this time from the Missouri

Information Analysis Center, a fusion center established in 2005. “The Modern Militia Movement” educates Missouri law enforcement agents on the recent history of the militia movement including criminal activities, but goes on to try to help law enforcement to identify members of militias based on political affiliation and advocacy. The effect of the document is to conflate legitimate political activities and views with possible terrorist threats. From the document: “Militia members most commonly associate with 3<sup>rd</sup> party political groups. It is not uncommon for militia members to display Constitutional Party, Campaign for Liberty, or Libertarian material. These members are usually supporters of former Presidential candidate (*sic*): Ron Paul, Chuck Baldwin, and Bob Barr.... Militia members commonly display picture (*sic*), cartoons, bumper stickers that contain anti-government rhetoric.... Additionally, Racial, anti-immigration, and anti-abortion, material may be displayed by militia members”.

After an outcry over the report, Missouri State Police have halted its distribution of the report, and apologies were issued to Ron Paul, Chuck Baldwin and Bob Barr.

**Update:** The North Texas Fusion System memo we told you about last month that warned about the threat of tolerance toward Islam and alerted law enforcement to keep an eye on both Muslims and peace groups, has not generated a huge public outcry in Texas. In a statement to the [Texas Observer](#), Tom Wyatt, spokesman for the Fusion System, tried to downplay the importance of the memo, calling it just a ‘clipping service’. I asked a representative of the DHS Office of Civil Rights and Civil Liberties (OCRCL) about the memo and what steps their office could take to address civil liberties abuses at fusion centers. I was assured that staff from the OCRCL went to North Texas to discuss the problems with the memo, but the memo has not been retracted.

These memos are not isolated incidents, but part and parcel of a homeland security strategy that relies on looking for a type of

person, rather than criminal activity as a basis for investigation.

### **Homeland Security Intelligence**

The House Homeland Security Committee, Subcommittee on Intelligence, Information Sharing and Terrorism Risk Assessment held a hearing titled “Homeland Security Intelligence: Its Relevance and Limitations”. The focus of the hearing was local police and their role as ‘first preventers’ in counterterrorism. Representative Jane Harmon, Chair of the subcommittee, stressed in her opening statement that local police should focus on criminal activity and not become the ‘thought police’. Subsequent testimony illustrated that local police have trouble making this distinction.

Los Angeles Police Commander Joan McNamara testified about the power of “Suspicious Activity Reporting (SAR)”, a growing trend in law enforcement that seeks to ‘connect the dots’ through the massive collection of data about people engaged in ‘suspicious activity’. This includes perfectly legal (and not really very suspicious) activities such as taking pictures with no apparent aesthetic value, or making notes or sketches. A Nationwide SAR Initiative (NSI) is underway, so that information about vast numbers of innocent people doing ordinary things will be shared widely among federal, state and local law enforcement agencies. While we aren’t law enforcement experts, this sure sounds to us like ‘collecting more dots’ rather than “connecting the dots”, and it isn’t hard to imagine that information about innocent people will be misinterpreted and wrongly used.

Kate Martin, DDF Board Member and Director of the Center for National Security Studies also testified, urging the committee to take a comprehensive look at domestic surveillance and intelligence authorities, which were put into place in an atmosphere of fear-mongering. A rational threat assessment as well as an understanding of the effectiveness (or lack thereof) of different surveillance authorities is crucial. In addition, excellent testimony was provided by DDF allies Greg

Nojein (Center for Democracy and Technology) and the ACLU's Caroline Frederickson. A link to their testimony can be found on the DDF website

## **STATE NEWS**

### **State Police Spying and State Legislatures**

As we've previously reported, Maryland State Senator Jamie Raskin introduced a strong anti-spying measure in response to the scandal. DDF supported the measure and sent the legislature a letter signed by a dozen national organizations, including Greenpeace, National Organization for Women and Veterans For Peace, urging support for the bill and asking that no changes be made to weaken it. Unfortunately, several key protections have been left out of the final bill, and although it has a good chance of becoming law, it will not be the model for other states that we envisioned.

Meanwhile, across the country in New Mexico, another strong bill was introduced to prohibit police from collecting information on a person's political, religious or social associations or activities that doesn't directly relate to a criminal investigation. The bill would also have provided for civil liability (allowing victims to sue the state). The bill's sponsor did not expect the bill to pass this year, and it didn't, but we look forward to its re-introduction next year.

### **California Loyalty Oath**

We reported last spring that the California Assembly was considering a bill that would eliminate California's loyalty oath and repeal the law that allowed the firing of public school and community college teachers who are Communist Party members. The bill did pass the state legislature only to be vetoed by Governor Schwarzenegger, who clearly did not understand the new law, as evidenced by his veto statement:

Many Californians have fled communist regimes, immigrated to the United States and sought freedom in our nation because of the human rights abuses perpetuated in other parts of the world. It is important particularly for those people that California maintains the protections

of current law. Therefore, I see no compelling reason to change the law that maintains our responsibility to ensure that public resources are not used for purposes of overthrowing the U.S. or state government, or for communist activities

Of course there was nothing in the bill that would have allowed public resources to fund the overthrow of any government or for communist activities.

## **CASES**

### **Ideological Exclusion**

The Obama Justice Department stuck with Bush in another court case this month, asking a judge to uphold the Bush administration's decision to deny a visa to an Islamic scholar. The scholar, Tariq Ramadan was hired by the University of Notre Dame (that cauldron of radicalism), but the Bush administration used "ideological exclusion" to keep him out of the country. That means he was denied entry based on his views or associations. We are disappointed that the Obama administration has decided to uphold the practice.

Ideological exclusion was discredited long before the Bush administration revived it. During the cold war, the U.S. refused entry to Columbian novelist Gabriel Garcia Marquez, British writer Doris Lessing and Chilean poet Pablo Neruda, among others. Obviously, excluding these intellectuals did nothing to enhance the security of the United States. DDF joined dozens of civil rights groups, unions and advocacy groups in writing a letter asking the Obama administration to end the practice. The letter argued that "ideological exclusion impoverishes academic and political debate inside the United States. It sends the message to the world that our country is more interested in silencing than engaging its critics. It undermines our ability to support political dissidents in other countries. And it deprives Americans of a right protected by the First Amendment... No legitimate interest is served by the government's use of the immigration laws as instruments of censorship". The letter is available on the DDF website.

## LEGISLATIVE

### **Take Action**

Members of Congress will be at home for the spring recess from April 6 – 19. This is a great time to meet with them and ask them to restore our civil liberties. Specifically, you can ask them to:

Co-sponsor **The State Secrets Protection Act** (HR984 in the House and S417 in the Senate). The Bush DOJ, and now the Obama DOJ have used the state secrets privilege to stop lawsuits in order to hide embarrassing or unlawful government conduct. The State Secrets Protection Act would ensure that trial judges independently examine the evidence to determine if the state secrets claim is valid.

Co-sponsor the **National Security Letter Reform Act** (HR1800), which will restrict the use of NSLs to suspects connected to terrorism or espionage and limit the ‘gag’ that attaches to an NSL. The Patriot Act vastly expanded the FBI’s authority to obtain business and personal records of Americans without judicial oversight. FBI abuse of NSL authority has been widely documented. The bill provides needed oversight and guidelines to protect Americans’ privacy and free speech rights. (No corresponding legislation has been introduced yet in the Senate).

### **Let Patriot Act Provisions Sunset!**

Three provisions of the Patriot Act will sunset at the end of this year. Congress should use this opportunity to review and examine all the surveillance laws, and reform or repeal those that have been found unconstitutional or subject to abuse. That review must include not only the Patriot Act, but the FISA Amendments Act and the Attorney General Guidelines (or FBI Guidelines). Under no circumstances should Congress consider renewing these provisions without taking a look at the whole surveillance picture.

These are the provisions due to sunset:

Section 206: Roving ‘John Doe’ Wiretaps, which are roving warrants that do not specify a particular person or place.

Section 215: FISA Orders for Any Tangible Thing, which allows for the seizure of a tangible thing (a car, a computer hard drive...) of a person who need not be a suspected terrorist or even in contact with one

Section 6001: Lone Wolf Surveillance and Search Orders, which allows someone unaffiliated with a terrorist organization to be a target of surveillance.

For more information, check the DDF website for a link to the ACLU’s report on the Patriot Act: *Reclaiming Patriotism*

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