

THE MERCURY

Who will teach our police our Bill of Rights?

Nat Hentoff October 30, 2013

My primary hero of the full existence of the Constitution is George Mason, a Virginia delegate to the 1787 Constitutional Convention. Why him? He refused to sign the Constitution because it didn't have a "declaration of rights" -- the individual liberties of American citizens.

Because of George Mason, who was followed by other non-signers, James Madison introduced the Bill of Rights. These first 10 amendments to the Constitution, when ratified by enough states in 1791, guaranteed to We The People specific limits on government power.

In this self-governing republic, the Fourth Amendment in these guarantees clearly states:

"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, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

In last week's column, I focused on two shocking cases, unknown to most Americans because the media in its various forms ignored them. These cases dealt with public school students who had been "locked down" in mass searches by police and drug-sniffing dogs. The searches were conducted without court warrants or any indication that the students being searched for drugs or drug paraphernalia had any connection at all to these suspicions.

The cases were *Burlison v. Springfield Public Schools* in Missouri (2013) and *Diane Doe v. Renfrow* (1981) in Indiana. I concentrated on the astonishing refusal of the Supreme Court to even hear the cases, thereby excluding students from the Constitution. But now I must go on and focus my attention on the police and the media treating all Americans as though they're barred from the Constitution.

No high court justice dissented in the decision to not hear the *Burlison* case, but in *Doe*, there was a tumultuous dissent from Justice William Brennan concerning this. He asked how students could become responsible citizens if their schools ignored their fundamental constitutional freedoms.

Six years later, his mind still turbulently focused on that case, Justice Brennan, during an interview with NPR's Nina Totenberg, delivered an attack on the media's too frequent ignorance of the Bill of Rights. He wasn't just referring to its lack of attention to the *Burlison* case.

His indictment applies now more than ever. I can't explain the present-day media's frequent omission of these very specific safeguards for individual Americans from stories they cover. Perhaps it's inattention or just plain ignorance. The media too often do not hold the police responsible for violating citizens' personal liberties, and they dismiss the government's violations of the Bill of Rights as mere "technicalities" -- if they mention them at all.

"You in the media," Brennan said, "ought to be ashamed of yourselves to call the provisions and the guarantees of the Bill of Rights 'technicalities.' They're not.

"They're very basic to our very existence as the kind of society we are. We are what we are because we have those guarantees ...

"And no matter how awful may be the one who is the beneficiary time and time again, guarantees have to be sustained, even though the immediate result is to help out some very unpleasant people. They're there to protect all of us."

The public school students in the *Burlison* and *Doe* cases were, of course, not "unpleasant" people. However, there have been other cases in which the Supreme Court ought to be ashamed of itself for scorning innocent individuals' privacy and other protections under the Bill of Rights.

I am waiting, for example, on John Roberts' Supreme Court to act on Barack Obama's signing of the National Defense Authorization Act, which lets the military hold U.S. citizens indefinitely here in America on vague suspicions of connections to "terrorists."

The media has lost interest in that matter.

But Brennan was right to call stinging attention to how often the media act as if the due process protections of citizens under the Fifth Amendment, among other guarantees in the Bill of Rights, don't exist.

In New York City, where I live, it took years for enough of the media -- prodded hard by the New York Civil Liberties Union and certain civil rights organizations -- to force the courts to declare unconstitutional the New York City Police Department's street missions of "stop and frisk." These examinations of millions of New Yorkers, predominantly blacks, as possible "terrorists" or dangerous criminals were done without an ounce of reasonable suspicion that any of them had done anything wrong.

As evidence of how ignorant far too many New Yorkers are of the Bill of Rights, Police Commissioner Raymond Kelly, an ardent advocate and enforcer of stop and frisk, could have been elected mayor this year had he chosen to run. He is popular with the electorate of this supposedly "hip" city.

Wherever you live in this sweet land of liberty, how often do the media inform the citizenry whether their local and state police give a damn about the Bill of Rights' guarantees of those they arrest?

Keep in mind what Frank LoMonte of the Student Press Law Center says about keeping us authentic Americans: “Asking people who have never learned foundational civics lessons to intelligently participate in elections (and in post-election governing) is like expecting a person who knows only one-third of the alphabet to write a novel” (“O’Connor civics commission draws a road map toward freedom of expression. Will schools follow it?” www.splc.org, Oct. 14, 2011).

I ask fellow reporters around the country to wake up and insist that cops -- local, state and federal -- get educated on our crumbling Bill of Rights.

Of course, to do that, many of them -- and you -- may have to begin educating yourselves on why and how George Mason saved our Constitution (and us) by refusing to sign it until our Bill of Rights was added.

How many of you know who George Mason was? Does our president?