



Digitalized smart Constitution vs. Obama and maybe Romney

AUGUST 13, 2012 BY NAT HENTOFF

Former constitutional lawyer Glenn Greenwald has become a leading illuminator of how George W. Bush, Dick Cheney and Barack Obama have made “Extremism normalized” (Salon.com, July 31) in their ravages of the Constitution — such as the vanishing of personal privacy.

“Extremist powers become normalized,” explains Greenwald. “They just become such a fixture in our political culture that we are trained to take them for granted, to view the warped as normal.”

But there are encouraging signs that Americans are fighting back against this extremism. Citizens are actively protecting our Constitution by making video and audio recordings of government abuses of their personal liberties as they are actually taking place.

Betrayers of the Constitution are being caught in the act. Last week, I wrote about how the New Jersey branch of the American Civil Liberties Union had made available a smartphone app that could surreptitiously record police stops of New Jerseyans.

And, in what would greatly please James Madison, the Aug. 3, 2012 New York Daily News invites us to glory in its guest op-ed: “Your camera can stop NYPD abuse.” David Galarza writes about seeing “a man with a badge and a uniform” — dig this — “body slam a teenager on a Sunset Park subway platform.”

Galarza simultaneously made a video of that stop and frisk that was in contempt of our Bill of Rights.

This modern-day Tom Paine adds pertinently: “Most of us now carry cellphone cameras in our pockets. We have access to YouTube, which is a free and easy platform for sharing video. We should use these tools daily, if necessary, to keep police officers honest.”

And American.

Even more vital to helping other citizens recognize that we are part of a self-governing republic, Galarza adds:

“At Trinity Lutheran Church, where I am an active member and the Rev. Samuel Cruz is senior pastor, we strongly believe that monitoring the police contributes to public safety — which is why Trinity’s new project, La Casita Comunal de Sunset Park, is working with other groups to provide training to members of its congregation and the community.”

This training enables all who enroll to become active supporters of the Bill of Rights’ Fourth Amendment:

“We’ll be arming members of our congregation with cameras. We urge other congregations and groups to do the same.”

Wow! A new American Revolution — in the tradition of Samuel Adams’ Committees of Correspondence!

Galarza continues by declaring: “All New Yorkers, regardless of who they are or where they live, should be allowed to walk our streets without fearing the very law enforcement that is supposed to protect us.”

This, of course, does not prevent a police officer in any city from stopping and searching a person whom he reasonably believes has committed or is about to commit a crime. But that does not mean an officer can just stop a person who is — or appears to be — black or Latino, period.

As Galarza says — and this applies not only to New York City — “In too many neighborhoods, getting stopped and frisked is a rite of passage.”

That’s why I often ask: Is this still America?

As I said last week, in view of the ACLU-NJ already providing smartphone apps that let citizens record unconstitutional police stops, the national ACLU should encourage its other affiliates around the country to also put citizens’ Fourth Amendment independence into smartphone action.

As Galarza says: “The police work for us — and they should know that we are always watching” — at least on our streets.

However, in some states, there are laws that create obstacles to our keeping an eye on police, when officers place themselves above the law. Katie Wang, ACLU-NJ’s communications director, sent me a press release about these laws:

“The popularity of cellphones with video capabilities has raised legal questions about the rights of citizens to record in public. Fortunately, the courts have sided with citizens. In May 2012, a federal appeals court struck down an Illinois law that had made it illegal for citizens to record police officers on-duty.

“Also in May 2012, the Civil Rights Division of the Department of Justice released a letter affirming the constitutional rights to record the police in public. These two developments came on the heels of a landmark ruling in August 2011, which recognized the right of citizens to record police officers after a Massachusetts man in Boston Common was wrongfully arrested for filming an interaction with a police officer” (“ACLU-NJ Releases Police Accountability Smartphone App for Summer Beach Season,” www.aclu-nj.org, July 3).

The subhead of Glenn Greenwald’s previously quoted “Extremism Normalized” column is: “How Americans are efficiently trained to acquiesce to ideas once deemed so radical as to be unthinkable.”

Radical ideas such as how police can make blacks and Latinos believe they are continually suspect of disloyalty. More Americans, however — including judges — are rejecting that training. Just as past Americans ultimately rejected the Alien and Sedition Acts of 1798, the “Red Scare” of the 1920s and Sen. Joe McCarthy’s passionate pursuit of Un-American Activities.

Regardless of who is president and which party controls Congress in 2013, we the citizens are the only guarantee that such rising patriots as David Galarza will be able to continue to exemplify how James Madison defined Americans: “The censorial power is in the people over the government, and not in the government over the people.”

Nat Hentoff is a nationally renowned authority on the First Amendment and the Bill of Rights. He is a member of the Reporters Committee for Freedom of the Press, and the Cato Institute, where he is a senior fellow.