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Opinion

Who'll dare fight King George now?

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By NAT HENTOFF

The National Security Agency is intercepting 1.7 billion e-mails, phone calls and other communications per day, according to the ACLU.

Yet President Obama, like President Bush, firmly supports the NSA.

And nearly all of the Democrats now in control of Congress follow the White House in lockstep on privacy issues.

A pending legal case focuses on the FBI's use of "dragnet-style warrantless cell tracking" in the investigation of a Connecticut bank robbery. The FBI engaged in "warrantless monitoring of the locations of about 180 different cell phones," the ACLU says.

In, United States of America vs. Luis Soto, now before the U.S. District Court in Connecticut, the ACLU and the Electronic Frontier Foundation assert the constitutional claim: "The Fourth Amendment requires the government to comply with the warrant requirement before accessing people's location and movement information, which reveal intimate details of their lives protected by reasonable expectations of privacy."

In this dragnet FBI operation, how many of the 180 cell phone owners — with no connection to the bank robberies — had their constitutional rights "rigorously" respected as the FBI's "Domestic Investigations and Operations Guide" commits the agency to do?

The Obama administration tells you not to worry. In the June 22 **Cnet.com** news story on the FBI dragnet, Department of Justice lawyers are quoted as assuring us that "a customer's Fourth Amendment rights are not violated when the phone company reveals to the government its own records."

Its "own" records — of us?

Even if the Republicans take control of Congress in the midterm elections, I doubt any action will be taken regarding Fourth Amendment concerns.

We should recall that a deep concern for individual privacy was a precipitating cause of the American Revolution and the subsequent drafting of the Fourth Amendment to the Constitution. While we were still under the rule of King George III, British customs officials had the power — without going before a court — to storm into homes and offices with "writs of assistance." These were general warrants the officials wrote out themselves. They would then seize documents and anything else they wished.

Those pre-Revolutionary Americans insisted on their privacy rights as British citizens.

Those rights had been defended by William Pitt in Parliament in 1763, in these words: "The poorest man may, in his cottage, bid defiance to all the forces of the Crown, the storm may enter; the rain may enter ... but the King of England may not enter."

In 1761 James Otis' passionate opposition to a writ of assistance in a Massachusetts court impressed a young lawyer, John Adams, who took notes. Years later Adams declared: "Otis was a flame of Fire!...Then and there the Child Independence was born."

But now, the FBI enters our personal cottage of electronic communications without hindrance from any court, Congress or the current president.

—Syndicated columnist Nat Hentoff is a senior fellow with the Cato Institute, a libertarian think tank.

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