

CRIMINALS HAVE MORE RIGHTS THAN THE POLICE

(AND BE VERY GLAD THEY DO)

BY CLAIRE WOLFE

The Founding Fathers, those sterling folk we've been taught to revere, were soft on crime. They were a bunch of liberal whiners who considered it more important to protect criminals than to give the police effective tools to fight crime.

This is the absolute truth. Why else, when they wrote the Bill of Rights (the first 10 amendments to the Constitution), did five of their 10 basic statements of liberty focus on protecting accused crooks?

Even more outrageous: The Founders believed criminal suspects have inborn rights, while government agencies merely have delegated powers. Powers that can be revoked by the people at any time and must always be strictly limited.

In the blind eyes of justice and the highest law of the land, criminal suspects and individual police officers have *exactly the same rights*, while police agencies have no rights at all. Yep, if the Founders were around today, they might be card-carrying (although also *gun-toting*) members of the ACLU.

And for that we should all be glad.

When you read the Bill of Rights you see right away that Amendments 5, 6, 7, and 8 focus on protecting accused criminals. Jury trials. No forced self-incrimination. No excessive bail or fines. Right to counsel. Right to confront accusers and present defense witnesses. No cruel or unusual punishment. Indictments only by grand jury. No re-trying someone after he's been found to be not guilty.

There's one other crook-protecting amendment, the Fourth. We'd better look at that one quickly, because that loud sucking sound you hear is the Fourth Amendment running down the drain. Here's the full text:

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.

We're losing those protections fast—particularly every time we hop in our cars. No big deal, you say? A good thing, even? The Fourth gives crooks too many advantages over police?

Some people think so. But when the Fourth is gone, police and criminals alike (not to mention the rest of us) will live in a miserable and more dangerous world.

Like all the Founders' other soft-on-crime amendments, the Fourth rose out of English legal tradition. But more than the others, the Fourth was inspired by real abuses American colonists suffered at the hands of their British rulers before the Revolutionary War.

And here's an irony for you. Today, the Fourth Amendment is being destroyed because courts and legislatures are okaying broader search power in the name of "fighting crime." Specifically fighting druggies and terrorists. Yet the Fourth Amendment was written, in part, because the British had used ever-broader search powers in the name of "fighting crime." Specifically fighting smugglers and tax evaders.

Of course the Founders actually wrote all ten amendments to confirm their belief that *everyone* has a pre-existing right to a broad range of freedoms. Any of us can end up accused of a crime, whether a murder we didn't commit or a drug crime whose evidence was planted on us by an enemy. Any of us can come under suspicion by government agents eager to search through our homes, cars, businesses, communications, or paperwork.

Something *must* stand between individuals and the overwhelming, often arbitrary, power of government. The Fourth has been our best hope.

Until the twentieth century, the Fourth

Amendment remained strong in America. Memories were long. School children were taught the horrors of government agents busting down doors, ransacking property, and plowing through people's private possessions—and doing it all on flimsy evidence, or no evidence at all.

After World War II, the example of Nazi Germany made Fourth Amendment protections seem even more vividly important. I remember being taught that the number one difference between a police state and a free country was that in a free country "the authorities" couldn't stop you at will. They couldn't search you just because they felt like it. They couldn't demand, "Your papers, please." They couldn't kick down your door at night and ransack your possessions.

Until about forty years ago, our homes and possessions were considered sacred. No warrant, no entry, no search—except in the most extreme urgent circumstances, for instance, when someone's life was in immediate peril.

Then came the War on Drugs—and we forgot our traditions, our history, our protections, our rights.

First, police needed "no-knock" raids because drug users might flush their stash if given any warning. Then "no-knock" raids started to be used even where there was no possibility of the suspect flushing evidence down the toilet. Then came ever-expanding rights to search vehicles, drivers, and passengers. Then came checkpoints for drunk driving. Which gave rise to checkpoints for every non-criminal triviality from insurance to seat-belt use. And on it goes.

In the latest Supreme Court judgment against the Fourth, *Illinois v. Roy I. Caballes*, the black-robed lawyers decreed that drug dogs could be set to sniffing *any* vehicle at *any* traffic stop—even where police had no reason at all to suspect drug use or drug selling. Your vehicle. My vehicle. Your daughter's vehicle.

Your mother's. Anyone's.

After *Caballes* was announced in January 2005, Sgt. Dave Huntimer of the Sioux Falls, South Dakota, police department told his local TV station, "This sends an excellent message that if you use drugs or if you transport drugs in the United States, we're going to use whatever tools are available to catch you." He added, "You are going to see nothing but more dogs being used in ... more roles." And, "It's very non-intrusive."

I can tell you that, as a kid who grew up on World War II films featuring uniformed German officers and their fierce German shepherd dogs, I'd find it extremely intrusive to have a police dog sniffing around me for no reason at all.

In the *Caballes* decision, Justice John Paul Stevens wrote that since a person can have no "legitimate" privacy right to contraband, then a dog-sniff that's intended only to reveal the presence of contraband does not violate rights.

Stretch that opinion just a little further and you reach a point where any search that turns up something illegal automatically becomes a legal search.

Stevens' position is closer to King George's than to Madison's, Jefferson's, or Patrick Henry's.

But King George didn't know about database searches, drug-sniffing dogs, infra-red technology, satellite imaging, aerial cameras, chemical sniffing, microphones, phone taps, keystroke loggers, and a host of other modern search and surveillance technologies—all of which present both the ability and the profound temptation to search anybody and everybody—just in case they might be up to no good.

Down that road lies the police state. At the end of that road, we won't find a crime-free society, though the prisons will be full. At the end of that road, we won't find good citizens, working together with trusted and valued police officers, both committed to justice. At the end of that road, police won't find themselves respected and valued for their role in protecting the rest of us.

We'll find merely millions of cowed and resentful citizens who'll consider police their oppressors and their enemies. And no one—not even the police—will benefit. ☺

Developed, tested and proven in real world situations



 Interoperable with all other Blackwater Gear equipment



VEST SYSTEMS



KNIVES



BASE LAYER APPAREL*



PACKS AND CASES



MOLLE COMPATIBLE POUCHES

Equipment for tomorrow's soldier, today

Only Blackwater Gear™ combines expert engineering with American manufacturing and real world operator testing to bring you the finest tactical equipment on the market today.

Call for your free catalog (800) 649-0610

©2005 Michaels of Oregon Co. All rights reserved. *Blackwater Gear Apparel is made from American fabrics and manufactured outside of America.



A DIVISION OF
MICHAELS OF OREGON CO.
OREGON CITY, OR 97045 USA
WWW.BLACKWATERGEAR.COM

Complete issues of S.W.A.T. from October 2001 to the present are available for download as PDF files at

www.swatmag.com

Get the information you need NOW!

