

The following text may be printed, copy/pasted, or downloaded and emailed.

Politics: Police-State Powers Are Our Biggest Threat

Martin Garbus
[New York Observer](#)
December 23, 2005

What has happened in this country?

The Pentagon has a secret court created by the Foreign Intelligence Services Act (FISA). The courtroom is in a windowless room on the top floor of the Department of Justice. There are seven rotating judges. The court meets in secret, with no published opinions or public records. No one, except the FISA judge involved and the Department of Justice, knows what is done. No one, except the government and the FISA judge, knows at whom the warrants are aimed. There is no review by anyone. Over 12,000 search warrants permitting eavesdropping, surveillance and break-ins have been sought by the government. Only once has the FISA court denied a warrant.

The FISA court has issued more warrants than the more than 1,000 district judges in the federal system.

The Pentagon has already expanded its domestic-surveillance activity beyond any previous time in history. It breaks into homes, wiretaps and eavesdrops at will, and builds secret dossiers on citizens while arguing that there can be no judicial review of its activities. President George W. Bush argues that there can be no judicial review of any decision he makes when he decides whether an alien or an American citizen is or is not an enemy combatant. Congress supports this; so does the judiciary.

The expansion of Presidential powers and the expansion of police powers is the single most important issue facing this country. It is safe to say the new Supreme Court and a majority of Congress (both Democrats and Republicans) are prepared to give Mr. Bush a blank check. On Nov. 15, Carl Levin, the liberal Democratic Senator from Michigan and an outspoken opponent of the war in Iraq, joined his Republican counterpart from South Carolina, Lindsey Graham, in supporting legislation validating the President's Alice-in-Wonderland legal system and the expansion of his police powers. The Senate vote was 79 to 16 in favor.

What's more, the Patriot Act had been extended. For the last three years, the President has justified torture, and Congress will soon give him legal permission to use it.

If or when there's another terrorist attack, the government will seek more powers, claiming that it shows current laws are inadequate. We will certainly see, as we recently saw in Britain, the head of government ask for 90-day detentions of terror suspects without access to court. The attempt to end habeas corpus started at **Guantánamo**; it is now spreading to the rest of America.

Five years after we opened the **Guantánamo** prison, not one person in that prison has been found guilty of anything.

The legal system to treat the new prisoners of the war on terror, created out of thin air, disgraces us. No one ever before suggested such a legal system—not during the Civil War, not during World War I or World War II, and not during the Cold War.

We are better than military commissions, Abu Ghraib, **Guantánamo**, the Patriot Act and "rendition"—the sending of prisoners overseas to be tortured at C.I.A.-controlled prisons.

This country is approaching a dangerous turning point. There has long been a desire and a political movement in America for restrictions on democratic rights, for an authoritarian government propelled by a combination of religious and nationalistic fervor. The helplessness caused by the events of Sept. 11

and the domestic and international war against Muslim "terrorists" deepened this desire. Never before was there such a possibility of such long-term constitutional violations, because there has never before been such an open-ended war.

In Weimar Germany, a feeling of helplessness led to Hitler's rise and the creation of the ultimate police state. There are similarities—and, of course, very significant differences—between America in the 21st century and Germany in the 1920's.

Mr. Bush has suggested that he was chosen by God to lead the United States in the aftermath of the 9/11 attacks. The Nazi government, against religion, saw the salvation of the German people in messianic terms.

Many liberals and conservatives are concerned where all of this might lead. Professor Fritz Stern, a professor of German studies at Columbia University, pointed out that Hitler saw himself as "the instrument of providence" who fused his "racial dogma with Germanic Christianity." Paul Craig Roberts, a senior fellow at the Hoover Institution and a former Wall Street Journal editor, writes of the "brownshirting" of American conservatism—he says the hype about terrorism serves little or "no purpose other than to build a police state that is far more dangerous to Americans than terrorists."

The pressure for fascism comes not just from the top. Without the people's support, the Weimar government would not have been overthrown.

The change here is incremental and harder to see.

How we conduct the "war on terror" tells the American people who we are and what this country stands for. America has the oldest and most dynamic democracy in the world. It can right itself if the people want it bad enough to fight harder.