

# Spying on Americans: Democrats Ready to Gut the Constitution

To Protect Their "Constituents" -- The Telecoms

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Proving the old axiom that Congress "is the best that money can buy," congressional Democrats are preparing to gut the Constitution by granting giant telecom companies retroactive immunity and liability protection on warrantless wiretapping by the Bush regime.

According to *Congressional Quarterly*, "Congressional leaders and the Bush administration have reached an agreement in principle on an overhaul of surveillance rules."

Tim Starks [reports](#),

According to sources familiar with the negotiations, the compromise would be very similar to the last proposal by Sen. Christopher S. Bond, R-Mo., to House Majority Leader Steny H. Hoyer, D-Md.

Sources said the major change is that a federal district court, not the secret FISA court itself, would make an assessment about whether to provide retroactive legal immunity to telecommunications companies being sued for their alleged role in the Bush administration's warrantless surveillance program. ("Agreement Could Pave Way for Surveillance Overhaul," *Congressional Quarterly*, June 13, 2008)

In other words, the telecommunication corporations and their "customers," the NSA, FBI and other members of the "intelligence community" will get everything they want-retroactive immunity and billions of dollars in continued taxpayer subsidies for intelligence "outsourcing."

Without clear standards for determining whether immunity for these privateers is even justified, the courts will be forced to issue virtual get-out-of-jail-free cards to corporate executives and their shareholders, thus freeing them from any and all liability, should companies claim they had "received assurances" from the state that its spying program was "legal."

Indeed, no warrants at all would be required when the administration and their outsourced private "partners" choose surveillance "targets" under "exigent," or urgent circumstances. Needless to say, such "exigent" circumstances are determined by executive branch "intelligence officials," of whom fully [70%](#) are private mercenaries in the employ of corporatist state structures.

However, civil liberties' campaigners charge that language currently under consideration by

House and Senate “leaders” is “judicial theatre” and a “mirage.” According to the [ACLU](#),

Allowing phone companies to avoid litigation by simply presenting a “permission slip” from the president is not court review. This is immunity pure and simple because the companies are NOT being judged on whether they followed the law. A document stating that the president asked them to conduct warrantless wiretapping is not enough justification for violating the basic privacy rights of Americans. (“Facts on Senator Kit Bond’s (R-MO) FISA Proposal,” American Civil Liberties Union, June 13, 2008)

Under rules being considered by Senate Intelligence Committee Chairman Jay Rockefeller (D-WV), Senate Intelligence Committee Vice Chairman Kit Bond (R-MO), House Majority Leader Steny Hoyer (D-MD), House Minority Whip Roy Blunt (R-MO) and Bush administration officials, the deal would allow the federal district court “to look at a lower standard of evidence to determine if companies received such orders—a provision sought by the GOP, according to one person involved in the talks,” *The Hill* [reports](#).

Who then, are the privateers that “opposition” Democrats want to “protect” from litigious “radicals” such as the ACLU and the Electronic Frontier Foundation? Some of the wealthiest recipients of “outsourced” intelligence handouts, that’s who! Major players in the administration’s illegal spying programs include, according to [Washington Technology’s](#) 2008 Top 100 Government IT Contractors : Verizon Communications Inc., \$1,320,637,982 (No. 18); Sprint-Nextel Corporation, \$839,946,000 (No. 25); AT&T Inc., \$505,358,533 (No. 38); Qwest Communications International Inc., \$306,617,000 (No. 51).

If this weren’t bad enough, mendacious “leaders” such as Jay Rockefeller claim that spying telecoms “deserve” immunity because they were “ordered” by the NSA to cooperate with the administration. Indeed, back in [January](#),

Rockefeller defended the actions of the telecom companies, arguing that the companies received explicit orders from the National Security Agency to cooperate with the supersecret surveillance effort. The West Virginia Democrat said the telecom companies were being “pushed by the government, compelled by the government, required by the government to do this. And I think in the end, we’ll prevail.”

Rockefeller added: “If people want to be mad, don’t be mad at the telecommunications companies, who are restrained from saying anything at all under the State Secrets Act. And they really are. They can’t say whether they were involved, they can’t go to court, they can’t do anything. They’re just helpless. And the president was just having his way.” (Daniel W. Reilly, “Rockefeller predicts win in FISA fight over telecom immunity,” Politico, January 23, 2008)

Pity the poor “helpless” telecoms! But as investigative journalist Tim Shorrock documents,

The history of telecom cooperation with the NSA is a guide to how the NSA went about winning cooperation with the industry in 2001. During the 1940s, when telephone and telegraph companies began turning over their call and telegram records to the NSA, only one or two executives at each firm were in on the secret. Essentially, the government raised the issue of patriotism with them, and the companies went along. That kind of arrangement continued into

the 1970s, and is likely how cooperation works today. “Once the CEO approved, all the contacts” with the intelligence agencies “would be worked at a lower level,” Kenneth Bass, a former Justice Department official with the Carter administration, told me. “The telecos have been participating in surveillance activities for decades—pre-FISA, post-FISA—so its nothing new to them.” Bass, who helped craft the FISA law and worked with the NSA to implement it, added that he “would not be surprised at all” if cooperating executives received from the Bush administration “the same sort of briefing, but much more detailed and specific, that the FISA court got when [the surveillance] was first approved.” (Spies for Hire, New York: Simon and Schuster, 2008, p. 320)

Helpless indeed! Let’s make a couple of things clear: the Democratic party is completely beholden to their “constituents”—the multinational corporations, including the telecoms, the giant defense contractors and the well-heeled lobbyists who fill their campaign coffers. Since 9/11, with few rare exceptions that can be counted on one hand, the Democrats have been complicit with the Bush administration’s quasi-fascistic “war on terror” and everything that followed in its wake—illegal spying, torture, wars of aggression, not to mention the looting of public assets for private profit known as “outsourcing.”

The facile “debate” over retroactive immunity for spooky telecommunication corporations will reach its inevitable denouement with the Democrats allowing either the FISA court or Federal District courts to essentially rubberstamp immunity orders issued by the Bush administration.

As the ACLU’s Caroline Fredrickson told *The Hill*, “Whatever silk purse Hoyer tries to make of Bond’s sow’s ear and no matter how they try to sell it, the end result of all this negotiating will be exactly what the administration has wanted from the beginning—FISA rewritten to delete court oversight of surveillance and immunity for its pals at the telephone companies.”

In the final analysis, these “negotiations” are taking place behind closed doors, subject to input by influence-peddlers and corporate lobbyists, without even a cursory—let alone, *public*—exploration of whether these mercenary outfits violated the law.

It’s a rigged game without a referee...

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