

# **CIVIL WAR TO CIVIL RIGHTS**

**The Law of the Marvel Cinematic Universe**

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# AGENDA

Global Searches of Cell Phones

4th Amendment to the US Constitution

That Time Heroes Committed Murder

Bringing Back Coulson

Winter Soldier & Treason

Toxic Tort Liability

Civil Rights

Treaties

Cruel & Unusual Punishment



# LOOKING FOR LOKI

**SHIELD Conducts Global  
Search of All Cell Phone  
Cameras**

**No Search Warrant**

**No Order from FISA**



**JUDGES SIGN NATIONAL  
WARRANTS WITHOUT  
PROBABLE CAUSE,  
RIGHT?**



# 4TH AMENDMENT

*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.*



# NSA & FOREIGN INTELLIGENCE SURVEILLANCE ACT

FISA **"to authorize and regulate certain governmental electronic surveillance of communications for foreign intelligence purposes."**

FISA created a procedure for the Government to obtain **ex parte judicial orders authorizing domestic electronic surveillance** upon a showing that, inter alia, the **target of the surveillance was a foreign power or an agent of a foreign power.** 50 U.S.C. §§ 1804(a)(3), 1805(a)(2).

Congress also created two new Article III courts—the Foreign Intelligence Surveillance Court ("FISC"), composed of eleven U.S. district judges, "which shall have jurisdiction to hear applications for and grant orders approving" such surveillance, § 1803(a)(1), and the FISC Court of Review, composed of three U.S. district or court of appeals judges, "which shall have jurisdiction to review the denial of any application made under [FISA]," § 1803(b).<sup>13</sup>



# BULK METADATA COLLECTION

The Government has developed a "counterterrorism program" under Section 1861 of FISA in which it **collects, compiles, retains, and analyzes certain telephone records**, which it characterizes as "business records" created by certain telecommunications companies (the "Bulk Telephony Metadata Program").

The records collected under this program consist of "metadata," such as information about what **phone numbers** were used to make and receive calls, **when the calls took place**, and **how long** the calls lasted.



Oops...Did We Need a  
Search Warrant Before  
Hacking Those US Citizens?



# COMPUTER SEARCHES

Or Did SHIELD Violate the Constitution?



# SEARCH WARRANT EXCEPTIONS

- 1) The gravity or violent nature of the offense with which the suspect is to be charged;
- 2) Whether the suspect is reasonably believed to be armed;
- 3) A clear showing of probable cause to believe that the suspect committed the crime;
- 4) Strong reason to believe that the suspect is in the premises being entered;
- 5) A likelihood that the suspect will escape if not swiftly apprehended;  
and
- 6) The peaceful circumstances of the entry





# LAWFUL ARRESTS



**Come On, Not  
Like Anyone  
Named a Planet  
Miranda.**



MIRANDA RIGHTS



# NEVER GIVEN BY SHIELD

*Miranda*: Bars the government from using the statements of a defendant made during a custodial interrogation, to prove the case against the defendant, provided the statements were made before the defendant was told of their rights to remain silent and to an attorney. See, *Miranda v. Arizona*, 384 U.S. 436, at 444 (1966).

**Goal of “exclusionary rule” is to prevent unlawful police conduct.**

**“Overriding considerations of public safety”** could justify a failure to provide Miranda warnings before initiating custodial interrogation. *New York v. Quarles*, 467 U.S. 649 (1984).



**Agent Sousa Properly  
Stated Charges for  
Arresting Agent Carter  
AND  
There Were  
Exigent Circumstances to  
Search Carter's  
Apartment!**



AGENT CARTER FOLLOWED CONSTITUTION  
BETTER THAN AGENTS OF SHIELD





**WHOOOPS!**  
There was **NO** Vice President of the United States in 1946?  
  
Who Was Next in Line under the Presidential Succession Act of 1886?

## PRESIDENTIAL SUCCESSION

Chief Dooley Said the Vice President Called Him.  
Problem: The US Did **NOT** Have a Vice President in 1946



# EXCESSIVE FORCE

**ZAPPING DOTTIE TWICE WAS  
TOTALLY OBJECTIVELY REASONABLE  
UNDER THE PARTICULAR CIRCUMSTANCES.**







# THE INSANITY OF TREASON

Trial of the Winter Soldier

# WHAT IS TREASON?

Treason is defined under the Constitution as “levying War against them [The United States], or in adhering to their Enemies, giving them Aid and Comfort.” United States Constitution, Article III, Section 3.

Trial of Vice President Aaron Burr held that “levying war” against the United States includes those who “perform a part in the prosecution of the war” commit treason. *In re Burr*, 1807 U.S. LEXIS 406, 10 (U.S. 1807).

This requires that a traitor performs a part of an overt act and be “leagued with the conspiracy.” *In re Burr*, at \*13-14.





# INSANITY DEFENSE

1. When (he/she) committed the crime[s], (he/she) **had a mental disease or defect;**

*AND*

2. Because of that disease or defect, (he/she) was incapable of knowing or understanding the nature and quality of (his/her) act or was **incapable of knowing or understanding that (his/her) act was morally or legally wrong.**

*None of the following qualify as a mental disease or defect for purposes of an insanity defense: personality disorder, adjustment disorder, seizure disorder, or an abnormality of personality or character made apparent only by a series of criminal or antisocial acts.*



# HYDRA & TREASON

All of the HYDRA Agents at the **Hub** levied war against the **United States** by:

- 1) Being part of the conspiracy to build flying aircraft carriers that target people by DNA for mass executions;
- 2) Killing Agents of SHIELD in their take over of the facilities in furtherance of Project Insight;
- 3) All other actions done in prosecution of the war against the US government.



OMG.  
We Have a Serious  
Branding Issue.



# KNOWN TRAITORS

**Let's See...**

**US Vice President Rodriguez sided with AIM in an attempted coup;**

**US Senator Stern was HYDRA;**

**SHIELD Secretary Alexander Pierce ran HYDRA;**

**Garrett, Ward, and Every US Citizen in HYDRA...**





**Hulk voice:  
I said creating  
AI was ultra-hazardous!**



KILLER ROBOT LIABILITY



What do you mean,  
we cannot break into a lab  
with the intent to steal  
top-secret drugs,  
and then claim self-defense when  
the guards shoot at us?

Why  
Can't We Argue  
the Necessity  
Defense?



# VISITING THE GUEST HOUSE

That Time the Good Guys Killed Those Two Dudes

# NECESSITY DEFENSE

(1) There is *no legal alternative* to violating the law;

(2) The harm to be prevented is *imminent*; and

(3) A *direct, causal relationship is reasonably anticipated to exist between defendant's action and the avoidance of harm.*





The  
Supreme Intelligence  
Did Not Think of  
Toxic Tort  
Liability for the  
Terrigen Mist!

KREE TOXIC TORT LIABILITY



# FOREIGN SOVEREIGN IMMUNITIES ACT

**Cover the Kree?**

**Property Rights  
Exception?**

**Death or injury  
exception?**







# FISH OIL LIABILITY

Side Effects Include:  
Eugenic Weapon or Turn into Teleporting Dog



# PRODUCTS LIABILITY



**How Can a Dietary Supplement  
Cause Strict Liability?**

**"[A] manufacturer is strictly liable in tort when  
an article he places on the market ...  
proves to have a defect that causes  
injury to a human being."  
Greenman v. Yuba Power Products, Inc.,  
377 P.2d 897, 900 (Cal. 1963).**

Plaintiffs would have to prove that the risk of the Terrigen Crystals was *knowable from currently available scientific knowledge*.



Does the fact a helicarrier is a  
1,000 foot long, 100,000 ton  
flying aircraft carrier mean the  
HYDRA/SHIELD Double Agents  
committed a  
Mutiny or Aircraft Piracy?



**IS STEALING A HELICARRIER MUTINY OR AIR PIRACY?**

Mutiny may occur on a ship while at dock in a harbor, either foreign or domestic, as well as at sea.

Aircraft Piracy is “seizing or exercising control of an aircraft..by force, violence, threat of force or violence, or any form of intimidation, and with wrongful intent.”



MUTINY VS AIR PIRACY



**It Is Awesome  
When A Judge Says  
"It is repugnant to reason, and  
to the positive law of the land."**



UNLAWFUL ORDERS

# DID YOU FOLLOW HYDRA ORDERS?

“I Was Just Following Orders.”

DC Circuit Judge Washington in 1813 on being required to follow illegal orders with, *“It is repugnant to reason, and to the positive law of the land. No military or civil officer can command an inferior to violate the laws of his country; nor will such command excuse, much less justify the act.”*

*United States v. Jones*, 26 F. Cas. 653, 657-658 (C.C.D. Pa. 1813).

**No one can be convicted for NOT following an illegal order.**

*United States v. Jordan*, 7 U.S.C.M.A. 452, 456 (C.M.A. 1957).



**WHY DID THE GUY  
WHO LOVES CAPTAIN AMERICA  
ACT LIKE THE PUNISHER?**



# KILLING GRANT WARD

Was Coulson Justified?



# TARGETED KILLING OF US CITIZENS ON ALIEN MOONS

DOJ White Paper on Target Killings:

An **informed, high-level official of the U.S. government** has determined that the targeted individual poses an **imminent threat of violent attack** against the United States

**NO= Coulson Rogue**

**Capture is infeasible**, and the United States continues to monitor whether capture becomes feasible; and

**Not for the United States**

The operation would be **conducted in a manner consistent with the applicable law of principles.**

**Absolutely Not.**





**OMG, HYDRA LOVES  
THUNDERBOLT ROSS'S  
SMASHING CIVIL RIGHTS RECORD**

**ARE THE  
SOKOVIA  
ACCORDS  
CONSTITUTIONAL?**





# SOKOVIA ACCORDS

*In accordance with the document at hand, I hereby certify that the below mentioned participants, peoples and individuals, shall no longer operate freely or unregulated, but instead operate under the rules, ordinances and governances of the afore mentioned United Nations panel, acting only when and if the panel deems it appropriate and/or necessary.*





**SO... ANYONE GOING TO ASK  
THE SENATE FOR THEIR APPROVAL?**

TREATIES CANNOT VIOLATE THE CONSTITUTION



**ARE THE SOKOVIA ACCORDS  
MANDATORY CONSCRIPTION?**







# THE RAFT

Prison Ships Violate the 8th Amendment



**DON'T TELL MY AUNT!**



# SPIDER-MAN

Child Endangerment?



## PERMISSION FORM WAIVER

I May Reilly Parker, the parent of Peter Parker ("my child"), give permission for my child to attend the capture of Captain America, Falcon, Scarlet Witch, Hawkeye, & Ant-Man.

I understand that personal injury can and may occur to my child, and I hereby authorize **Tony Stark, CEO Stark Industries, member of the Avengers**, or another appointed Avenger, to seek and consent to emergency medical attention for my child as needed; and I further agree to be liable for and to pay all costs incurred in connection with such medical attention.

I hereby release the **United Nations, the United States, the Federal Republic of Germany, and the Avengers**, its employees, agents and volunteers, from any and all liability, claims, demands, causes of action and possible causes of action whatsoever arising out of or related to any loss, damage or injury (including death) that may be sustained by my child while participating in or traveling to and from this event.

The following is all of the insurance information, restrictions, allergy and medication information necessary for my child to receive appropriate medical care.

Blue S.H.I.E.L.D. of New York, AF15081962. Peter gets low blood sugar if he does not eat any protein. Allergic to venom.

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I give permission for my child to ride in any vehicle designated by **Stark Industries**, its employees and adult volunteers, while participating in and traveling to and from this event.

I agree to accept full responsibility, financially or otherwise, for any damage my child may do to the property of **the Federal Republic of Germany**, properties visited on outing, other's personal property, or vehicles used for transportation.





# DIPLOMATIC IMMUNITY

Can Kings be International Super-Heroes?





SUSPENDED ANIMATION



Can We Experiment  
on Dead People?



Legality of  
Resurrecting  
Phil Coulson



# PLAYING DOCTOR

**Informed Consent Required** for Medical Experiments

California law is specifically designed to give legal effect to the Nuremberg Code of Ethics in Medical Research and Declaration of Helsinki to **prohibit unethical experiments on living human beings**. Cal Health & Saf Code § 24171.

Removing Skullcap and brain surgery would violate prohibition of unnecessary physical and mental suffering.






How do you get the informed consent for a medical experiment from a dead guy?



HOW DO THE DEAD GIVE CONSENT?





I am from HR  
with your  
SHIELD  
Advance Heath  
Directive.

It gives  
us the power of attorney  
to consent to advanced  
medical experiments on  
your body in the event of  
your death.

DID FURY HAVE POWER OF ATTORNEY?



Is it desecration of a  
corpse to reanimate  
a dead body?



ONLY IF YOU FAIL





**ANY  
QUESTIONS?**



# THANK YOU

THE LEGAL GEEKS  
WILL RETURN

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