

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).¹³

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.



Congress OF THE United States
begun and held at the City of New-York, on
March, one thousand seven hundred
States, having at the time of their adopting the
in order to prevent
the beneficent ends of the
assembled, two kinds of
concerning, that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, to be valid to all intents and purposes, as part of the said Constitution: viz.
ARTICLES in addition to, and amendment of the Constitution of the several States, pursuant to the fifth Article of the original Constitution:
the first. After the first enumeration required by the first Article of the Constitution, there shall be one Representative for every thirty thousand Persons, which, the proportion shall be so regulated, by Congress, that there shall be not less than one hundred, and not more than one hundred and thirty Representatives, until an equal Proportion be attained.
the second. No Law, varying the Compensation for Services of the Senators and Representatives, shall take Effect, until an equal Proportion be attained.
the third. Congress shall assemble at least once in every Year, and such Meeting shall be held in the City of New-York, until they shall have provided otherwise by Law.
the fourth. A well regulated Militia, being necessary to the security of a free State, the Congress shall provide for arming and disciplining the Militia, and for governing such Part of them as may be employed in Services of the United States, in Order to keep and bear Arms, and for the Discipline of the Militia in Cases of War, and for the Discipline of the Militia in Cases of Peace.
the fifth. No Soldier or Sea-Man shall be Quartered in any House, or other Building, without the Consent of the Owner.
the sixth. 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 Warrants shall not be issued, without just Cause, supported by Oath or Affirmation, and describing the place to be searched, and the persons or things to be seized.
the seventh. No person shall be held to answer for a Capital, or otherwise infamous Crime, unless on a presentment or indictment of a Grand Jury, except in Cases arising in the land or naval Forces, and then only in Cases of War, or the public Defence.
the eighth. Excessive Bail shall not be required, excessive Fines imposed, nor shall cruel and unusual Punishments be inflicted.
the ninth. This Enumeration of Rights shall not be construed to deny or disparage Rights retained by the People.
the tenth. The Powers not delegated to the United States by the Constitution, nor prohibited to the States, are reserved to the States respectively, or to the People.

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?**





**OH, SO THAT'S WHY-PRISON SHIPS
NEVER MADE A COME BACK**

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.

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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