

Security Now!

Contributed by Ryan Francis

Fans of the television comedy Seinfeld remember the episode "The Serenity Now" from the show's final season. Dialogue from the first scene of that episode reads, "Frank: Doctor gave me a relaxation cassette. When my blood pressure gets too high, the man on the tape tells me to say, 'Serenity now!' George: Are you supposed to yell it? Frank: The man on the tape wasn't specific." That humorous exchange is built on throughout the episode as George Costanza's father Frank continues to yell "Serenity Now" to decrease his stress and blood pressure, but the yelling instead just fuels Frank's anxiety and makes the situation worse. On October 17, 2006, President Bush signed the Military Commissions Act of 2006 into law. The President characterized the new law as "one of the most important pieces of legislation in the War on Terror", but in reality the MCA is the equivalent of the US government yelling "Security Now!" The Military Commissions Act allows the federal government to take away an American's basic constitutional rights while claiming to do so for the safety of the country.

The MCA has drawn a lot of attention from the national media as well as international media. Early on, the media focused on the clarifying of the Geneva Conventions' definition of torture as it applied to the US government's coercion of "unlawful enemy combatants." Talk of water-boarding and stress positions was all over cable news, newspapers and Internet blogs. The MCA states, "As provided by the Constitution and by this section, the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions and to promulgate higher standards and administrative regulations for violations of treaty obligations which are not grave breaches of the Geneva Conventions." In layman's terms, the President decides what is torture and what is not torture. The current coercion techniques are here to stay until at least 2009. Despite the outcry from the Left, this issue is not as cut and dry as it may seem. These coercion techniques (which some have classified as torture) may bring out information needed to stop terrorist plots and save American lives. On the other side of the coin, how can the United States continue to claim to be morally superior to terrorists and rogue nations when we are using the same type of methods they use? How can we now be outraged and demand justice be done if in the future captured American soldiers are tortured for information? The new interpretation of the Geneva Conventions Article III by the United States is not nearly as troubling as the potential loss of habeas corpus for American citizens. The MCA clearly eliminates the writ of habeas corpus for aliens of the United States. The laws states, "No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination." This is another gray area. Even though aliens in the past have been given the full protection of the Constitution when being held for a crime, the Constitution makes no mention of the protection of non-citizens. The suspension of the writ of habeas corpus for non-citizens should not be the main concern however. Sec. 948a. (1) of the MCA states, "UNLAWFUL ENEMY COMBATANT — a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense." The President or the Secretary of Defense can declare anyone they wish to be an enemy combatant and hold them indefinitely—including US citizens. Also, the first half of the unlawful enemy combatant definition is vague: "A person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda, or associated forces)." If a Muslim American citizen gave money to a mosque in Saudi Arabia and the executive branch later decided that mosque helped fund al Qaeda, that American citizen could very well be considered an unlawful enemy combatant and stripped of his constitutional rights. The Military Commissions Act is unconstitutional. Article 1 Section 9 of the United States Constitution plainly reads, "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." There is no rebellion. There is no invasion. Of the 303 Republican members of Congress, only seven voted against the bill (no GOP Senator voted against the MCA). What happened to the Republican Party philosophy of strict interpretation of the Constitution? The MCA is yet another example of the GOP disregarding their conservative principles to maintain power. One of the main reasons the MCA was voted on in late September and signed in mid-October was the GOP wanted to paint Democrats who voted against the MCA as weak on national security only a month before the midterms. Power and the desire to hold onto power continue to corrupt the Republican leadership in Washington. The Military Commissions Act of 2006 puts at risk American's constitutional rights in the name of security. When President Bush addressed Congress just ten days after the 9/11 attacks he said, "Freedom and fear are at war." Five years later, it seems fear is winning the war. Trading freedom for security is unacceptable. Legal challenges to the MCA are already being prepared and hopefully the courts will act quickly against this unconstitutional law. If this law is upheld through the judicial process it will be a dark day for Americans and I will have to start yelling "Hoochie mama!"