

## Spygate Truth

### Episode #12 The FISA Swamp

#### Note to Readers

- The visual information is on the left side of the page.
- The text of the narrator's script is in Blue on the right half of the page.
- The interview text is in Red on the right half of the page.
- The name & title of the speaker is in Red on the left side of the page.

#### Video

#### Audio

Video/Graphic

Music

Video/Graphics

Carter Page and Team Trump were the targets of illegal spying. The FISA Court OK'd search warrants for electronic surveillance based on lies told by the FBI and Justice Department.

President Trump  
Speech

DT Dirty cops. Bad people.

President Trump  
w/media on White House Lawn

DT Well, we were abused by the FISA process. There is no question about it. We were seriously abused by FISA.

President Trump  
Speech

DT The FISA Courts should be ashamed of themselves.

Video/Graphic

Each of these FISA Court judges issued a warrant in the Carter Page case. Were they snookered? Absolutely. But the FBI, NSA and CIA have repeatedly misled the court in the past. Why does the court put up with that? Maybe the judges are too forgiving. As this former top FISA judge seems to be.

Judge John Bates

JB I don't think those are problems that I would call abuses...

Judge John Bates

JB mistakes were made.

Video/Graphic

Come again?

Judge John Bates

JB mistakes were made.

Video/Graphic

Those mistakes were violations of the constitution. Was anyone charged with a crime? No.

Video/Graphic

We'll hear more from Judge Bates later but first a little bit about the Court. The Foreign Intelligence Surveillance Act (FISA) created the court. The act is designed to catch spies and terrorists without violating the constitution.

John Spiropoulos In Studio

The FISA court issues search warrants based on Probable Cause. It also oversees spying programs that *don't* require a search warrant. And that's where there have been big problems.

Video/Graphic

- √ The FISA law allows spy agencies to collect and store emails and other electronic communications.
- √ The FBI, NSA and CIA may use that information without a search warrant *if*
- √ *if* they follow strict, FISA court-approved policies
- √ Policies that protect our 4<sup>th</sup> amendment rights against unreasonable government searches.

Video/Graphic

Who checks their work? They're on the honor system.

John Spiropoulos In Studio

Every year the agencies self report to the FISA Court. They explain what they did and wrong. Their track record? Awful!

Video/Graphic

Here we'll briefly review 3 FISA Court opinions of that track record. Let's flashback to an October 2019 headline. FBI's Use of Surveillance Database violated Americans Privacy Rights.

Video/Graphic

FISA Court Judge James Boasberg's 138 page ruling was highly critical of the FBI.

The major conclusion: “the FBI’s... procedures...are not consistent with...the 4<sup>th</sup> amendment.”

Video/Graphic

Now, let’s flashback to a 2017 headline. Secret Court rebukes NSA for 5-year illegal surveillance of U.S. Citizens. FISA Court Judge Rosemary Collyer’s 99 page opinion also slammed the FBI. What did it do wrong? The FBI allowed contractors illegal access to NSA databases.

Joe DiGenova  
Former U.S. Attorney

JD This opinion describes illegal activity by the FBI, illegal activity by contractors. And it calls it the improper disclosure of raw intelligence about Americans to unauthorized individuals. All of those things that the bureau did and the contractors, were crimes.

Video/Graphic

Wary of the FBI, Judge Collyer wrote...  
”The improper access granted to the contractors... seems deliberate.  
It was also an unwelcome surprise.

Video/Graphic

“The full scope of non-compliant...practices had not been previously disclosed to the Court.”

John Spiropoulos In Studio

Note: Judge Collyer refers to violations of the 4<sup>th</sup> amendment as a compliance issue, not a criminal one. Three years later, many questions remain.

Video/Graphic

Who were the FBI contractors?  
Who were they spying on?  
Why were they spying?  
Was there a pattern?  
Was it political opposition research?

John Spiropoulos In Studio

Judge Collyer knows she was hoodwinked. But no one was charged with a crime. She, the Court, the FBI and

the Justice Department apparently just let it go.

Video/Graphic

Now let's flashback to 2013 and this headline.

Video/Graphic

Secret Court Rebuked NSA on Surveillance. The NSA collected tens of thousands of domestic emails of US citizens. All in violation of the 4<sup>th</sup> amendment. FISA Court Presiding Judge John Bates issued a blistering 85 page opinion. He criticized the NSA for "repeated inaccurate statements" over a three-year period.

Video/Graphic

He also wrote the agency "frequently and systematically violated...the court-mandated oversight regime."

Judge John Bates  
Former Chief Judge  
FISA Court  
(2014 Interview)

JB And the agencies took it very seriously. They really looked carefully at these. To their credit, made adjustments as the court's required.

Video/Graphic

Judges rarely speak on-the-record outside the courtroom. But an internet search found this little seen clip with Judge Bates dating from 2014—after he left the FISA Court.

John Spiropoulos In Studio

While it may look like an interview. It's not. It's just a series of softball questions from a friendly member of the legal community. Nevertheless, it's quite revealing.

Video/Graphic

While critical of the intelligence community in his written opinions, he was very forgiving when asked about those 4<sup>th</sup> amendment violations.

Judge John Bates  
Former Chief Judge  
FISA Court

JB I think those problems identified by various judges including myself in various compliance contexts

(2014 Interview)

are real problems, are important problems. They are problems of concern to the judiciary and should be to the public.

John Spiropoulos In Studio

Let's deconstruct his answer. First, neither Judge Bates nor other FISA judges discovered anything. The agencies self reported the violations.

Video/Graphic

Second the judge considers the 4<sup>th</sup> amendment violations a compliance issue, not a criminal matter.

Judge John Bates

JB I don't think those are problems that I would call abuses by the executive branch, be it NSA or other entities within the executive branch and the intelligence community. I would call them failures.

John Spiropoulos In Studio

Failures? You might call one or two violations of the 4<sup>th</sup> amendment *failures*. Thousands of violations *is* abuse. Abuses the judge sees as mere *situations*.

Judge John Bates

JB I would call them situations where the law wasn't followed correctly in all instances.

John Spiropoulos In Studio

You heard right. He said "The law wasn't followed correctly." Try that excuse on a cop the next time you're pulled over 'sfor a traffic violation. You'll get laughed. But the judge said it with a straight face. Watch again.

Judge John Bates

JB I would call them situations where the law wasn't followed correctly.

John Spiropoulos In Studio

The judge offered one euphemism after another for violations of the constitution.

Judge John Bates

JB Situations where mistakes were made,

John Spiropoulos In Studio

“Mistakes were made.” Mistakes were made.” That the oldest excuse in Washington. And ensures no one is to blame or punished for it.

Judge John Bates

JB Situations where mistakes were made, not intentionally but because of errors in interpretation of court orders, errors in interpretations the court ultimately found, of the law.

John Spiropoulos In Studio

Duly noted: 4<sup>th</sup> amendment violations are mere errors of interpretation. Nothing to see here. Move on.

Judge John Bates

JB They’re of concern. But I would not say that they undermine the trust that one should have in the Intelligence Community.

John Spiropoulos In Studio

He trusted the spy agencies even after they repeatedly lied to him year after year after year.

Judge John Bates

JB While these issues were significant I, personally, never felt there was bad faith or intentional conduct by members of the Intelligence Community.

John Spiropoulos In Studio

There’s that phony issue of intent again? Who cares what the motive was? The fact is there’s been a pattern of illegal activity by the nation’s spymasters before, during and since Judge Bates served over the FISA Court.

Video/Graphic

The law that that allows surveillance without a warrant led to lawlessness. The result: the 4<sup>th</sup> amendment rights of hundreds of thousands, if not millions, of Americans were violated. Plainly, the FISA process is broken. Some people want to scrap it. Others want to reform it.

Video/Graphic

Whatever happens, all 11 FISA judges are surely embarrassed by the Carter Page case. That alone should result in greater scrutiny of future FISA warrant requests.

John Spiropoulos In Studio

Finally, a memo to the FISA judges. Stop coddling the deep state. When a federal official or contractor breaks the law, don't consider it a compliance issue. Treat it for what it is: a crime. Hold them in contempt of court. Demand the Justice Department file whatever other criminal charges apply. If you can't do that in defense of the constitution, resign from the Court. This is John Spiropoulos reporting.