

Civil Liberties

1) What is the USA PATRIOT Act?

Delivered to Congress two days after 9/11/2001 and passed in October 2001, it expands the federal government's powers to gather information about both US citizens and non-citizens, removing privacy protections and without accountability. It is Public Law #107-56.

The Patriot Act expanded many federal surveillance capacities, including allowing:

- FBI to investigate American citizens without probable cause for “intelligence purposes”
- Secret searches of private property without notice to the owner, including phone and internet surveillance (Section 213, 214)
- Records searches: Access to highly personal medical, financial, mental health, religious, charitable, library, and student records with minimal judicial oversight (Section 215)
- Collection of *foreign* intelligence information to searching information on US citizens (Section 218)
- Wiretapping and surveillance of political organizations
- Non-citizens may be jailed based on suspicion and be denied readmission to the US for engaging in free speech
- Suspects convicted of no crime may be detained indefinitely in 6-month increments without meaningful judicial review.

Sources: <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=12263&c=206>

http://www.fcnl.org/issues/item.php?item_id=238&issue_id=68

http://www.fcnl.org/issues/item.php?item_id=243&issue_id=68

<http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=13246&c=206#FileAttach>

Senate Judiciary Committee Chairman Patrick Leahy (D-VT), “Leahy ‘Deeply Troubled’ About Monitoring Of Conversations Between Detainees And Their Attorneys; Asks Answers From Attorney General Ashcroft,” Nov. 9, 2001, as reported at http://www.truthout.org/docs_01/11.11A.L2A.htm

2) What amendments to the US Constitution are threatened by the USA Patriot Act?

- First Amendment — freedom of religion, speech, assembly and the press.
- Fourth Amendment — freedom from unreasonable searches and seizures.
- Fifth Amendment — No person shall be deprived of life, liberty or property without due process of law.
- Sixth Amendment — Right to a speedy public trial by an impartial jury, right to be informed of the facts of the accusation, right to confront witnesses and have the assistance of counsel.
- Eighth Amendment — No excessive bail or cruel and unusual punishment shall be imposed.
- Fourteenth Amendment — All persons (citizens and non-citizens) within the US are entitled to due process and the equal protection of the laws.

Source: “Summary of the USA Patriot Act,” ACLU, <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=11813&c=207#FileAttach>

3) How many communities have passed resolutions opposing the Patriot Act, and why?

As of December 2003, an overwhelming 200 cities and counties, along with 3 states (Alaska, Hawaii, and Vermont), have passed resolutions opposing the Patriot Act. There is not another example of so many cities, counties, and states coming out with resolutions against any other similar act.

Public officials have voted for the resolutions against the Patriot Act for many reasons, including:

- Concerns about detaining and questioning immigrants who are not suspected of a crime;
- Doubts about the effectiveness of the Patriot Act against terrorism;
- Desire to protect constitutionally protected free speech and dissent;
- Worries about the intrusion of the FBI into local policing;
- Memories of the McCarthy era and other repressive periods of US history.

Sources: Bill of Rights Defense Committee, <http://www.bordc.org/Successes.htm>

“Patriot Revolution? Cities From Cambridge to Berkeley Reject Anti-Terror Measure,” Dean Schabner, ABC News, July 1, 2003, <http://abcnews.go.com/sections/us/DailyNews/usapatriot020701.html>

“Forward Thinking: Cantabrigians Stand up for Civil Rights,” Kristen Lombardi, *Boston Phoenix*, July 1, 2002, <http://www.bostonphoenix.com/boston/news%5Ffeatures/this%5Fjust%5Fin/documents/02288873.htm>

4) Open: The Department of Justice, under Attorney General John Ashcroft, introduced the Patriot Act into Congress on September 13, 2001 — a mere two days after 9/11. Since it obviously could not have been written in the day between the terrorist attacks of September 11 and the day it was put before Congress, when do you think this act was written?

Sources: For the complete text of the Patriot Act, see <http://www.aclu.org/Files/OpenFile.cfm?id=12250>

For a legal analysis, see <http://fpc.state.gov/documents/organization/10091.pdf>, especially page 5.

See also: <http://www.aclu.org/Files/OpenFile.cfm?id=11812>

<http://www.epic.org/privacy/terrorism/hr3162.html>

<http://www.epic.org/privacy/terrorism/usapatriot/>

5) Was the Patriot Act subject to debate in Congress?

No. With the name “USA Patriot Act” it was overwhelmingly passed into law in both the Senate (98-1) and the House of Representatives (356-66) on Oct. 26, 2001, after the Republican-controlled House and Senate had *no* discussion of its merits and problems. Many members of Congress admitted they had not even completely read the legislation before voting for it.

Source: <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=12263&c=206>

6) What’s the major change in the way the US government can investigate US citizens?

Without probable cause, the Patriot Act allows FBI agents, under the claim of “intelligence purposes” to investigate US citizens for crimes. This is a major departure from civil liberties protection. Under Section 215 of the Patriot Act, the FBI can now demand:

- Personal belongings, such as books or computers, and searching other private property without notice to the owner;
- A list of persons who visited a website;
- Membership lists of organizations and houses of worship;
- Lists of people who subscribe to a magazine or have borrowed a particular book from the library.

The law also prohibits the holders of the information, like librarians, under risk of going to jail, from ever telling patrons that they have disclosed their records. Judicial oversight of these new powers is essentially non-existent. The government must only certify to a judge — with no need for evidence or

proof — that such a search meets the statute’s broad criteria, and the judge does not even have the authority to reject the application.

Sources: http://www.fcnl.org/issues/item.php?item_id=344&issue_id=68
<http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=13246&c=206>

7) What are some of the effects of the Patriot Act?

The Patriot Act has emboldened Attorney General John Ashcroft to direct the FBI to perform surveillance on, and take photographs of, US citizens participating in legal, peaceful protest and in nonviolent protest training programs.

There is no judicial oversight for authorizations for investigation called “National Security Letters,” which allow the FBI to access information about citizens under the Patriot Act. This lack of judicial oversight is in violation of our former rights and protections under the US Constitution. Also, this information on citizens picked up by the FBI can now be shared with the CIA, without judicial oversight.

Sources: “A Guide to the Patriot Act, Part 1: Should you be scared of the Patriot Act?” Dahlia Lithwick and Julia Turner, Sept. 8, 2003, <http://slate.msn.com/id/2087984/>

“Trash Patriot Act and start over from scratch,” Susan Ives, *San Antonio Express-News*, Dec. 6, 2003, <http://news.mysanantonio.com/story.cfm?xla=saen&xlb=1090&xlc=1094813&xld=1090>

See also: http://www.aclu.org/patriot_foia/
<http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=12302>
http://www.fcnl.org/issues/item.php?item_id=238&issue_id=68

For a proposed bi-partisan Congressional response to the effects of the Patriot Act, see “Protecting Rights of Individuals Act (PRIA)”: S 1552, Sen. Murkowski (R-AK) and Sen. Wyden (D-OR), fall 2003.

8) How has this act affected Muslim Americans?

Because the FBI is able to gain membership lists more easily, membership in and donations to mosques in some areas have sharply decreased. The ACLU has initiated a lawsuit, *Muslim Community Association of Ann Arbor et al. v. John Ashcroft*, filed in US District Court for the Eastern District of Michigan, to address this chilling effect of the Patriot Act.

Source: “Patriot Act Fears Are Stifling Free Speech,” Nov. 3, 2003, <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=14307&c=262>

9) How have immigrants’ rights been affected by this new “anti-terrorism” legislation and social climate?

Approximately 13,000 men from predominantly Islamic nations have been deported without cause. In most cases, it was apparent that the INS had arrested men who were simply waiting for approval of their green card applications, or those with minor visa problems. During the process in 2002, thousands of boys and men from 25 Arab and Muslim countries were ordered to report to the INS in a Special Registration program (NSEERS). Many INS abuses occurred, including the separating of minors from their parents, ill-treatment of sick and elderly immigrants, and immigrants’ exposure to cold in long, outdoor lines. Some immigrants were flown to various INS holding centers far from their homes.

Update: In the first week of December 2003, the US government abruptly cancelled the second round of “Special Registration” without explanation.

Source: “Administrative Detentions And Right To Due Process,” Statement by Sen. Bingaman, July 14, 2003, http://www.fcnl.org/issues/item.php?item_id=515&issue_id=70 and Congressional Record: July 14, 2003 (Senate), pp. S9321-S9323.

10) Without due legal process, how many people have been imprisoned and interrogated by the US military in Guantanamo Bay, a US naval base in Cuba?

663,660 men and three minors (boys between the ages of 13 and 16) from 43 countries, suspected by the government to have connections with Al-Qaeda, have been detained at Guantanamo Bay under the

control of the Department of Defense. They have had no legal representation or contact with family members. None has yet been charged with a violation of law, nor had access to habeas corpus to determine if detention is justified. The US government has categorized them as “enemy combatants,” a label with no legal definition under the Geneva Conventions. The International Red Cross has called their conditions of detention “inhumane.” Over two dozen prisoners have made 32 unsuccessful suicide attempts. If the detainees are tried, the attorneys for both prosecution and *defense*, and the judges, would be members of the US military. If found guilty of certain crimes, their appeal would go through the Pentagon to President Bush, not to a court of law, and *they probably would be executed*.

Sources: http://www.fcnl.org/issues/item.php?item_id=625&issue_id=70

http://www.fcnl.org/civil_liberties/guantanamo.htm

<http://www.whitehouse.gov/news/releases/2001/11/20011113-27.html>

David Cole, “Enemy Aliens: Double Standards and Constitutional Freedoms in the War on Terrorism,” 2003, p. 42.

“Suicide Attempts at Guantanamo Reach 32,” Associated Press, Aug. 26, 2003.

11) How many times has the Freedom of Information Act been denied, and what order has been put in place to deny access to former presidents’ records?

In more than 300 separate instances, federal, state, and local officials have restricted access to government records by executive order or proposed new laws to sharply curtail their availability, according to the National Conference of State Legislatures.

In addition, President Bush signed Executive Order 13233, sharply restricting public access to the papers of former presidents. The Bush order overrides the post-Watergate 1978 Presidential Records Act, guaranteeing that a president’s papers must be made available to the public 12 years after he leaves office. Now George W. Bush can personally decide when the White House documents of his father and of Ronald Reagan will be made public. This executive order has provoked not only widespread, bipartisan outrage, but also remedial legislation and broadly supported litigation to block its implementation.

Source: “Freedom of Information Under Attack,” Charles Lewis, The Center for Public Integrity, Sept. 22, 2003, <http://foi.missouri.edu/federalfoia/foiaattack.html>

12) What were some of the voting issues facing African American voters in Florida in 2000?

The Civil Rights Commission report found that black voters were nine times more likely than white voters to have their ballots rejected during the counting process. Faulty voting systems were more likely to be used in areas with higher percentages of minority voters, but even in counties where the voting systems were the same, black voters still had a higher rejection rate than white voters, the report said.

The commission’s report found that voter disenfranchisement was “widespread” and that state and county officials, including Bush and Secretary of State Katherine Harris, “failed to fulfill their duties in a manner that would prevent this disenfranchisement.”

The report said “countless unknown eligible voters” were wrongfully turned away from the polls or purged from voter registration lists because of procedures and practices used by election officials.

Source: “Civil rights commission approves report assailing Florida vote,” CNN, June 8, 2001, <http://www.cnn.com/2001/ALLPOLITICS/06/08/florida.vote/>

Five months before the election, Florida Secretary of State Katherine Harris ordered the removal of 57,700 names from Florida’s voter rolls on grounds that they were felons. Voter rolls contain the names of all eligible, registered voters. 90.2% of the people were completely innocent of any crime — except for being African American. We didn’t have to guess about that, because next to each voter’s name was their race.

Source: Greg Palast, *The Best Democracy Money Can Buy*, A Plume Book, Penguin Putnam, 2002, 2003, <http://www.gregpalast.com/detail.cfm?artid=217&row=2>