

The USA Patriot Act and Constitutional Liberties

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In October 2001, Congress passed the controversial USA PATRIOT Act, a “backronym” that stands for “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001” (US Congress). The act was quickly passed in response to the infamous 9/11 terrorist acts the previous month, but many questioned the judgment and constitutionalism of the act. Purportedly, the Patriot Act would increase prison sentences for terrorists, allow more comprehensive search warrants, and provide better ways of fighting biological attacks. However, the Patriot Act additionally allows an increase in wiretapping and overall looser regulations on warrants. Despite President George Bush saying that “It upholds and respects the civil liberties guaranteed by our constitution” (“President Bush Signs Anti-Terrorism Bill”), it can easily be seen as a breach of constitutional rights. As well, critics argue that it has actually not lead to a single terrorist being caught — that is, one who was not already under investigation resulting from existing, classical surveillance methods. As such, it can be said that the USA Patriot Act of 2001 is a nearly direct violation of fundamental civil liberties, as well as an ineffective and inefficient bill.

By far, the biggest breach of the rights outlined by the US Constitution’s Amendments is that having to do with the Fourth Amendment. The Fourth Amendment gives the right to be protected against searches and seizures without a valid cause or warrant, particularly stating “The right of the people to be secure... against unreasonable searches and seizures... 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 (Constitution Amd. IV).” However, the Patriot Act allows for indiscriminate bulk datatapping and collection (Ron

Wyden Senator for Oregon), a violation of the Fourth Amendment (“Electronic Surveillance”). In addition, many dubious searches have occurred as a result of the Patriot Act, including those under so-called “Sneak and Peek” searches, secret searches of homes and offices where the owner is only notified after the search, including notification of any assets or electronic information seized. As well, out of the 1755 sneak-and-peek warrants issued between 2006 and 2009, only 15 of those cases (0.8%) were directly related to terrorism, with the rest being related to drug use or fraud (Timm).

However, it would be possible to excuse these transgressions if not for the fact that the USA Patriot Act is inexcusably inefficient and ineffective. Hundreds of millions of dollars have been allocated to it (United States. Cong. House H.R. 3162). One of the Patriot Act’s biggest tools is the NSL, or National Security Letter, a form of subpoena. Despite all the funding, out of over 192,000 NSLs issued, only a *single conviction* resulted (German, Richardson 16), i.e. a 0.0005% success rate, and said conviction was of a drug-related crime. This rate is frankly inexcusable for a fully funded and ratified government bill, showing just how inefficient the bill is overall.

As well as enabling the transgression of the Fourth Amendment, the USA Patriot Act gives grounds to violate the First Amendment as well. The First gives the right of freedom of speech and expression. Under the USA Patriot Act, there are what are known as “gag orders.” These orders usually accompany NSLs, and federally forbid and censor any speech about a certain specified topic and/or subpoena. With the First Amendment giving freedom of speech, this is a pretty clear violation of it, with Judge Victor Marrero agreeing that “the... automatic, absolute, and permanent gag order violated the First Amendment (Herman 156).” As well under

the Patriot Act are the clauses attempting to restrict financial support to organizations supporting terrorism. However, this can backfire in the way that donators to charities and charitable organizations can actually be held responsible for said organization's actions (Herman 51).

Overall, we can see that not only was the USA Patriot Act of 2001 a disastrous failure in terms of effectiveness, it was also a gross breach of Americans' constitutional rights. With the Patriot Act being rushed through congress, pushed by the ever-present shock from the 9/11 attacks, the wisdom of the bill can be debated, with the broad data collection and gag orders almost directly violating the Fourth and First Amendments, respectively. Throughout, the USA Patriot Act was a panic-driven bill aimed at taking fundamental rights and liberties in a desperate trade-off for security and safety, overall pushing the United States towards a degradation of both.

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