

The PATRIOT Act

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“THOSE WHO SACRIFICE FREEDOM FOR SECURITY DESERVE NEITHER”

~BENJAMIN FRANKLIN

Introduction

The PATRIOT Act violates the personal privacy of all American citizens. It has deprived the citizens of this country of some of the basic rights that were promised to them in the Constitution. The rights that the PATRIOT Act puts into jeopardy are innate and it is the government’s responsibility to protect our innate rights. The legislation surrounding this Act has also reduced judicial checks and balances that were put into place by this country’s founding fathers. The PATRIOT Act was passed in response to the September 11, 2001 attacks on the World Trade Center. Specifically, the official name of the Act is: “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act”.¹ It disregards many federal communication privacy laws and gives the government an unprecedented amount of surveillance power. The Act gives federal officials greater authority to track and intercept communications, both for law enforcement and foreign intelligence gathering purposes.²

Argument Against The PATRIOT Act

Our country needs protection against terrorism, but there should be an alternative Act in place. The PATRIOT Act is unethical because it compromises people’s communication privacy by monitoring their personal lives in an unprecedented way. The Act strips U.S. citizens of some of their privacies and still does not guarantee them enhanced security. There is no public evidence available that shows that the Act’s new surveillance methods will stop an attack. It also eliminates government accountability because it decreases checks and balances.

Background Information About The Act

The PATRIOT Act makes adjustments to how the government conducts online activities and surveillance. The Act expands many of the surveillance methods that the U.S. government had in place prior to 9/11. Specifically, sections 213, 214, 215, and 218 of the Act are the four most radical changes.

Section 213 expands the government's ability to conduct secret searches. With the extension of this section, the government is allowed to search individuals and not notify them until considerably after the fact. This section allows the government to have search warrants for even minor crimes and not just terror or espionage cases.³

Section 214 of the PATRIOT Act expands the Fourth Amendment exception for spying that collects "addressing" information about the origin and destination of communications.⁴ This section expands the pen register exception of wiretap law. Now, if the government wants to access e-mail logs and addresses of past e-mail correspondents, they only need to show specific facts showing reasonable grounds to believe that the records are relevant and material to the ongoing criminal investigation.⁵ The PATRIOT Act allows the government to obtain a pen/trap order by simply telling the court that the surveillance is relevant to a criminal investigation.⁶ The Act also gives secret courts the right to authorize U.S. intelligence agencies to conduct surveillance; eliminating many checks the government would previously have to go through.⁷

Under section 215, the government is given the ability to look at personal records held by a third party. It states that the government has the power to force any company to turn over their personal client records. This power gives the government free reign to look at anyone's medical histories, financial records, and anything else that is on file.

The PATRIOT Act also includes new tactics to obtain foreign intelligence. Section 218 eases some of the restrictions on foreign intelligence gathering within the United States and affords the U.S. intelligence community greater access to information unearthed during a criminal investigation.⁸ It also lowers the bar for launching foreign intelligence wiretaps.⁹ The American people need to decide how much surveillance is too much surveillance. The PATRIOT Act suspends American citizen's personal privacy and needs to be modified so that the government's surveillance behavior is checked and regulated.

Why Americans Support the PATRIOT Act

According to a poll conducted by the Center for Survey Research and Analysis at the University of Connecticut, almost two-thirds, or 64 percent of Americans, said they support the PATRIOT Act.¹⁰ Fewer than half of those polled (42 percent) were able to correctly identify the law's main purpose of enhancing surveillance procedures for federal law enforcement agencies.¹¹ This statistic shows that many Americans are in favor of the Act, but are still unclear of what it actually entails. The Act was formed "to deter and punish terrorist Acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes,"¹² but there is no actual evidence that these new measures of surveillance will actually stop an attack. Many citizens also agree with the PATRIOT Act because they think there is no harm in being monitored if they are not doing anything "wrong." The problem with this is that the public is not aware of who has access to the personal information that the government is collecting. Even if a citizen is not doing anything technically "wrong," their personal information could still be viewed negatively if it fell into the wrong hands. For example, if someone was on anti-depression medication and their potential employer found out, he or she might not want to hire that individual. Even though the citizen is not doing anything illegal, his or her personal information could still be hurtful.

American citizens also support the PATRIOT Act because they are not offered another alternative form of government protection against terrorists. The PATRIOT Act is not the only way the government can potentially protect the citizens of this country. The citizens of this country should be made aware that the Act could be modified in a way to give them more privacy and still offer them protections.

Before Examining the PATRIOT Act

Before examining the details of the Act and specific examples of how it has impacted individuals' daily lives, there must be an agreement that terrorism is present, it is a threat, and some form of legislation is needed to help protect United States citizens. For the past few decades, America has encountered several terrorist events; the most impacting being the World Trade Center attacks of September 11, 2001. Proponents and opponents of this legislation cannot deny there is a problem with terrorism and protection of citizens is a way to combat the effects of it. Some people now argue that the primary function of government is to protect its citizens. There is a huge controversy over this issue because this primary function was not the

same one decade, two, or even three decades ago. In the past, individuals have argued that the role of a government is to serve its citizens and then get out of the way. Because fear has been instilled in almost every American, it has become the United States' job to enact these forms of legislation. If everyone can agree on this point, the argument can move further toward examining whether or not the PATRIOT Act is ethical and what alternatives lay ahead.

Americans' Previous Rights

The civil liberties of everyday Americans have been suspended in a variety of ways, mostly in terms of online communications. The main problem with the new set of liberties is that there is no actual data to prove that these new measures will prevent a terrorist attack. This is the first argument we will make to come to our conclusion regarding the future of the PATRIOT Act. Perhaps this is because there was not a sufficient amount of time for debate over the bill. Our nation was in a state of pure shock after the events on September 11, and it seemed okay to make these changes, some large and some small. Although this was a difficult time for lawmakers and ordinary Americans, Congress had no right to create this Act simply because of what has happened in the past. There is no evidence that our freedom prior to 9/11 had any direct impact on the World Trade Center being attacked. America has always been known as the land of opportunity and it would be unjust for United States citizens to not have the freedom they deserve. In any nation, free or not, there will be individuals that challenge authority. Personal liberties and those people have no correlation. Interestingly, there are probably more terrorists living in countries that don't provide the freedoms that America does. In other words, our previous freedom didn't create any barrier from tracking terrorists.

Normally, when Congress goes through the process of adopting a bill, they look at past experiences in history as to how this new legislation will make America a better, sometimes safer place. In 2001, the government "made no showing that the previous powers of law enforcement and intelligence agencies to spy on U.S. citizens were insufficient to allow them to investigate and prosecute acts of terrorism."¹³ This argument is likely to be one of the most challenging aspects of the future of United States government.

Americans' civil liberties have been compromised in the passing of the PATRIOT Act in the loss of their ability to keep their lives and personal affairs out of public view. Provisions of the Act give the government access to an unprecedented amount of individual's personal

information. Our second argument concerns this violation of Americans' personal privacy and the effects it has on the people that are subject to it.

The PATRIOT Act Invades People's Personal Privacy

Every individual has innate rights. These rights include the right to safety, the right to privacy, the right to freedom, etc. It is the government's duty to protect all of our rights, not just our right to safety. Our personal right to privacy is a very important liberty and it is ethically wrong for the government to take it away. By passing the PATRIOT Act, the government has blatantly deprived its citizens of some of these fundamental privacy rights. The government now has access to personal records that were previously protected. This access could potentially greatly hinder a person's well being. For example, patient doctor confidentiality allows patients to be honest about their health problems without being concerned about who could potentially have access to their health records. Knowing that medical records are not private could deter patients from being honest with their doctor, causing potential harm to their health.

The Act also uses loose definitions when specifying the types of people or activities that could be "terrorist." A computer hacker is defined as "anyone who accesses a protected computer without authorization."¹⁴ According to the PATRIOT Act, a computer hacker is guilty of computer fraud and abuse offences and could be potentially "harmful" or a "terrorist."¹⁵ A computer hacker is subject to "pen registers" and "trace devices." Three out of four Americans have Internet access and with this broad definition of a computer hacker, many people doing legal Activities will be monitored by the government and their personal information put into a government database.¹⁶ It needs to be stressed that the amount of information the government is able to collect using pen registers and other devices is significant. In the database, the information will exist indefinitely, leaving great potential for abuses concerning privacy.

Profiling individuals based on their behaviors is a potential abuse of private information that can have long lasting, detrimental effects on an individual if they happen to have the same characteristics as a group of potential "terrorists." Profiling also increases the possibility an individual's privacy will be violated in the future if his or her characteristics/behaviors are similar to those of other individuals who are deemed "harmful." Who has access to this information is another area for potential abuse. Employers, marketers, insurance companies, etc., could use the information in a variety of ways to make pre-conceived decisions concerning

individuals. Information abuse does not stop with computer surveillance and government access to personal records. The immense freedom authorities, both domestic and international, were given with the passing of the PATRIOT Act all contribute to the gathering of private information, and therefore the abuse of it.¹⁷

The PATRIOT Act Eliminates Government Accountability

Although not blatantly stated, the provisions of The PATRIOT Act allow for more secrecy and less oversight by the government than ever before. In allowing the PATRIOT Act into law, Congress permitted a dramatic decrease in government accountability. By eliminating the need for permits, evidence, and probable cause, the government no longer needs valid reasons for invading individuals' privacy and can be very ambiguous with the information they provide the public concerning their searches and progress in accomplishing the main goal: "to intercept and obstruct terrorism."¹⁸ Americans are unaware if the Act has been successful in obstructing terrorism because this information is not made available to the public. Individuals who are monitored and searched are not given the right to know why they were targeted, even after the fact.

In a recent addition to the Act, the FBI was given a great amount of power regarding decisions concerning investigation techniques.¹⁹ In addition, the provision weakened the oversight of the executive branch on these same investigation matters.²⁰ The passing of these new provisions allows the government an easy way to escape blame if investigations are unsuccessful in deterring terrorism. With its new power, the FBI is now accountable.

Conclusion

When the PATRIOT Act was first signed into law, there was a surprising lack of objections regarding the effect the radical provisions would have on our society. It was a chaotic time. The short time period in which the bill was written, signed, and voted through Congress did not allow people enough time to think logically about the best solution. The United States does need laws to increase the safety of our country against future terrorist attacks, but with less government accountability and compromises to basic civil liberties, the current Act is not the best solution. It needs to be modified so the United States government has authority where it needs to, but in an ethical manner, without taking away the freedom our country was founded on.

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