



Written by [Becky Akers](#) on September 17, 2009

## Extending the Patriot Act — and Tyranny

In his ongoing impersonation of George W. Bush, Barack Obama supports extending two provisions in the USA PATRIOT Act of 2001 that would otherwise expire at year's end.

The first is section 206, which authorizes "roving" wiretaps. Previously, the FBI could tap only a specific phone or computer. Section 206 lets the agency monitor any and all "communications devices" a suspect might be using — without even having to name the suspect. In effect, this makes the FBI privy to the entire country's phone calls and emails.

Obama wants section 215 continued as well. Infamous as the "library provision," 215 allows the feds to force businesses and other third parties to snitch on us. They must surrender our records, from credit-card purchases to books we've checked out of the library to medical diagnoses, simply because the government wonders whether we might be spies or terrorists. Nor may these unwilling informants inform us of this treachery.



The [USA PATRIOT Act](#) is a synthesis of the Senate's bill, "Uniting and Strengthening America Act of 2001," and the House's equally totalitarian version, the "Provide Appropriate Tools Required to Intercept and Obstruct Terrorism Act." Congress rushed to capitalize on 9/11's turmoil by passing this legislation within weeks of the tragedy. Its Orwellian name is a clue to its evil: it overturns the Constitution under the guise of combating terrorism and other crime (notice the mission creep).

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Among many horrors, it repeals the [Fourth Amendment's prohibition](#) against governmental scrutiny of us. This upstart Act voids the venerable Amendment's requirements for both "probable cause" and a warrant.

A limited, constitutional government may not arrest anyone arbitrarily, even if it doesn't like him or thinks — but can't prove — he's dangerous. Nor may it search people en masse, either, just in case someone somewhere might be hiding contraband. Any State that so assaults its citizens is despotic by definition, and "the people" have the "right ... to alter or to abolish it," as the [Declaration of Independence](#) puts it.

Freedom's philosophy also holds that there are very few actual crimes justifying either a search or an arrest — basically, only those instances when one man initiates force against another: murder, theft,



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kidnapping, blackmail, and fraud. These offenses are straightforward; they leave hard, physical evidence to collect and analyze; there are victims and damages.

A government confined to redressing such crimes is minuscule — and abnormal: as Jefferson observed, “The natural progress of things is for liberty to yield and government to gain ground.” So the State labels an enormous number of mundane activities with neither victims nor damages as “crimes.” Often, these bogus misdeeds involve commerce. Consumers want good products at cheap prices; domestic manufacturers realize their foreign competitors can undersell them, so they lobby Congress to outlaw the import or to encumber it with a tariff. Voila! — customers become criminals when they smuggle the prohibited or untaxed item. Or perhaps politicians who hope to make us as virtuous as themselves legislate against drinking alcohol or smoking pot. Abracadabra! — more criminals as sinners persist in their wickedness.

Rather than victims and damages, these “crimes” have eager participants who don’t file complaints, and the “evidence” they leave isn’t as obvious as a corpse or a stolen car, either. So government must go to great lengths to prove a crime occurred at all, *i.e.*, it must snoop and pry.

The Fourth Amendment constrains such interference. So Leviathan constantly chips away at those restraints. One of the sneakiest chiselers is the Supreme Court, whose decisions often seem to uphold the Fourth while actually splintering it. [Katz v. United States](#) in 1967 was typical. Cops had eavesdropped on a bookie named Charles Katz by wiretapping the public phone-booth from which he conducted his illegal business. The justices sided with Katz, agreeing that wiretapping constituted a search from which the Fourth protected him. But they also required certain conditions to prevail before the Amendment does protect us, saying, for example, that a person must “reasonably” expect a conversation to be private. This reduced the Amendment from an absolute to a contingency. It also dodged the real issue: Katz had neither stolen nor murdered, so why was the government collecting evidence against him? And why eavesdrop for that evidence — unless Katz’s “crime” wasn’t a real one?

Congress, too, carved away at the Amendment. Like their accomplices on the bench, legislators pretended to strengthen the Fourth while actually undermining it. In the 1970s, they used President Richard Nixon’s spying against his political enemies as a pretext for their Foreign Intelligence Surveillance Act (FISA). This supposedly barred our rulers from domestic espionage even as it established a special, secret court to expedite their spying on foreign visitors. FISA dispensed with the requirement for a warrant for such spying — after all, the Feds weren’t pursuing American citizens. But the Fourth never mentions citizens: it speaks of “people”; indeed, the entire Bill of Rights binds the feds regardless of their victims’ identities or citizenship.

Between Katz, FISA, and Leviathan’s other whittling, the heroic Fourth shrank from a mighty fortress against arbitrary search and seizure to a forlorn and sagging outpost. The Patriot Act demolishes even that. No wonder a Democratic Congress and administration cozily collaborate to extend a [Republican president’s pet legislation](#).

Sen. Patrick Leahy (D-Vt.), chairman of the Judiciary Committee, thinks it’s “[important that Congress](#) and the executive branch work together to ensure that we protect both our national security and our civil liberties.” Right. Sorta like a fox and a wolf working together to protect the henhouse.

Ronald Weich, Assistant Attorney General at the Department of Justice, enthusiastically agrees. He responded to Leahy’s request for “recommendations” on the extensions with a [letter](#) quoting “President Obama[’s] ... speech at the National Archives on May 21, 2009”: “We are indeed at war with al Qaeda



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and its affiliates. We do need to update our institutions to deal with this threat.” Hmm. Like we updated the banks last fall to deal with the threat of the market’s rebellion against federal meddling? It’s a big, bad world out there; now that communism has achieved its soft victory in the Cold War and subsumed America, the feds need another boogeyman to scare us into silence as they eviscerate the Fourth. Terrorism fills the bill. Catch the arrogance and the smug contradictions as [Weich magnanimously announces](#) that “the Administration is willing to consider [modifications to the Patriot Act to provide additional protection for the privacy of law-abiding Americans], provided that they do not undermine the effectiveness of these important authorities.”

Basically, a government that distrusts us wants us to trust it. Leviathan steals, lies, and murders, yet it considers us the criminals even if our “crimes” are so manufactured it must rummage through our lives for proof. But we need not fret: the beast promises to police itself and respect our privacy the while. Thus do the Feds add insult to injury as they play us for fools.

I’d sooner trust Jack the Ripper.



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