



Written by [Thomas R. Eddlem](#) on February 11, 2011

Rand Paul Opposes Patriot Act Renewal on Constitutional Grounds

"There are times when patriots must stand up and defend liberty, even if that defense of liberty is unpopular," the senator and medical doctor said in a video log [posted on his Senate website](#), "Certain legal principles such as innocent until proven guilty, the right to a legal defense, and the right to be free from warrantless searches are ingrained in America's origins." The Patriot Act allows FBI agents to write their own search warrants without approval of a judge, and allows the warrants to be open-ended without the specificity required by the Constitution's [Fourth Amendment](#).



Senator Paul recalled the days of the open-ended search warrants, the "Writs of Assistance," that the British imposed on the American colonists in the 1760s as the first objection colonists had to British rule. The eloquent opposition to the Writs of Assistance by Boston lawyer and legislator James Otis years before the Stamp Act became what John Adams called "the spark in which originated the American Revolution."

Dr. Rand Paul explained:

When I think of the PATRIOT Act, I also think of this fight against Britain's use of writs of assistance against the colonists. Otis condemned these general warrants as "the worst instrument of arbitrary power the most destructive of English liberty and the fundamental principles of law, that ever was found in an English law book." He objected to these writs of assistance because they "placed the liberty of every man in the hands of every petty officer." The Fourth Amendment was intended to guarantee that only judges, not soldiers or policemen, would write warrants. Otis' battle against warrantless searches led to our Fourth Amendment guarantee against unreasonable government intrusion.

This right was considered so important that it was among the first rights [codified in our Constitution](#): "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, 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." These words, like much of the prose that fills our founding documents, is strikingly simple, yet powerful and complete.

At least that's how it was supposed to work.

My main objection to the PATRIOT Act is that searches that normally require a judge's warrant are performed with an FBI agent's letter, a National Security Letter. I object to these warrantless searches being performed on U.S. citizens. I object to the 200,000 NSL searches that have been performed without a judge's warrant. I object to over 2 million searches of bank records, called



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Suspicious Activity Reports, performed on U.S. citizens without a judge's warrant.

In the aftermath of 9/11, our leaders said give us your liberty and we will keep you safe. We would be wise to remember Franklin's response that those who trade their liberty for security may wind up with neither.

Thumbnail photo at top: Sen. Rand Paul



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