



## Tea Party Cements Patriot Act Into Place

It took Congress scarcely six weeks after the 9/11 terrorist attacks to write, deliberate, and then overwhelmingly pass the Orwellian-named USA PATRIOT Act on October 26, 2001, and the Bill of Rights hasn't been the same since. In its chilling summary of the law, Wikipedia noted

The Act dramatically reduced restrictions on law enforcement agencies' ability to search telephone, email communications, medical, financial and other records ... expanded the Secretary of the Treasury's authority to regulate financial transactions ... [and] expanded the definition of terrorism to include domestic terrorism, thus enlarging the number of activities to which [the Act's] expanded law enforcement powers can be applied.



From its inception, government agents are now free to "search a home or business without the owner's permission or knowledge [and use] National Security Letters (NSLs) which allows the FBI to search telephone, email, and financial records without a court order ... including library and financial records."

The Act has 10 Titles, the most onerous of which is Title II, entitled "Enhanced Surveillance Procedures." It covers all aspects of surveillance of suspected terrorists, including American citizens, who may, among many other activities, be engaging in "computer fraud or abuse." The unconstitutional powers granted under this Title allow government agencies to gather "foreign intelligence information" from both U.S. and non-U.S. citizens. Niceties such as "probable cause" are addressed through the creation of a special court (FISA, or Foreign Intelligence Surveillance Act) which, when asked, will "approve" fishing expeditions if there appears to be the slightest suspicion of illegal activity, far below the "probable cause" requirement under the Fourth Amendment.

Title II includes the infamous "sneak and peak" warrants, "roving" wiretaps (without having to name the suspect or his location), and the ability of the FBI to determine, without permission, "the patterns of U.S. citizens."

Title V is the home of National Security Letters (NSLs), which are a form of administrative subpoena now frequently used by the FBI to "demand" that a specific entity or organization turn over various records and data pertaining to individuals. There is no probable cause here, nor any judicial oversight, and the terror is compounded by a gag order that prevents the recipient of the demand to inform the individual that his rights have been violated. Ex-FBI agent Michael German said: "What the national security letters do is allow them [the FBI] to collect information about people they don't suspect of



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doing anything wrong.”

Liberal movie mogul Michael Moore, in his *Fahrenheit 9/11*, quoted Congressman Jim McDermott that no one had read the bill before voting on it, and Representative John Conyers as saying: “We don’t read most of the bills. Do you really know what that would entail if we read every bill that we passed?”

The Rutherford Institute’s John Whitehead said that the Patriot Act “drove a stake through the heart of the Bill of Rights, violating at least six of the ten original amendments [including] the First, Fourth, Fifth, Sixth, Seventh and Eighth Amendments and possibly Thirteenth and Fourteenth Amendments as well.” He said also that the Patriot Act

redefined terrorism so broadly that many non-terrorist political activities such as protest marches, demonstrations and civil disobedience were [now] considered potential terrorist acts, thereby rendering anyone desiring to engage in protected First Amendment expressive activities as suspects of the surveillance state.

Suddenly for the first time in American history, federal agents and police officers were authorized to conduct black bag “sneak and peek” searches of homes and offices and confiscate personal property without first notifying you of their intent or their presence. The law also granted the FBI the right to come to your place of employment, demand your personal records and question your supervisors and fellow employees, all without notifying you; allowed the government access to your medical records, school records and practically every personal record about you; and allowed the government to secretly demand to see records of books or magazines you’ve checked out in any public library and Internet sites you visited. At least 545 libraries received such demands in the first year following passage of the Patriot Act.

Brandon Mayfield experienced early on the vicious power of the Patriot Act when, in 2004, he was arrested as a material suspect in the Madrid train bombings. The FBI said that his fingerprints were on a bag containing detonating devices following the bombings and arrested him, holding him in an undisclosed location under an assumed name. He had no contact with his family or his attorney, and only when an agent leaked to the press the nature of the charges did his family learn of his whereabouts *on the evening news!*

Prior to his arrest, the FBI, using the power of the NSL statute in the Patriot Act, entered his home several times and planted eavesdropping bugs and wiretapped his phone. Mayfield suspected something was going on, discovering that his home had been entered, but noting that nothing had been taken.

On May 20, 2004, his story broke in the press, and the FBI was forced to back down and issue an apology. Mayfield filed several lawsuits, claiming that the law was unconstitutional and that his rights had been violated. It turned out that the fingerprints weren’t Mayfield’s after all, but the FBI refused to change its story.

On September 26, 2007, U.S. District Court Judge Ann Aiken ruled that two provisions of the Patriot Act were unconstitutional. She wrote that the Foreign Intelligence Surveillance Act (FISA) “now permits the executive branch of government to conduct surveillance and searches of American citizens without satisfying the probable cause requirements of the Fourth Amendment.” The government settled with Mayfield for \$2 million but contested Judge Aiken’s decision, which was later overturned by a higher court.

Susan Lindauer’s story is even more harrowing. As a CIA agent covering the Iraqi Embassy at the



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United Nations for seven years, she was personally acquainted with conditions prior to the 9/11 terrorist attacks. She said,

My team gave advance warnings about the 9/11 attack and solicited Iraq's cooperation after 9/11. In August 2001, at the urging of my CIA handler, I phoned Attorney General John Ashcroft's private staff and the Office of Counter-Terrorism to ask for an "emergency broadcast alert" across all federal agencies, seeking any fragment of intelligence on airplane hijackings. My warning cited the World Trade Center as the identified target.

Thirty days afterwards, Lindauer was indicted under the Patriot Act, and effectively silenced. She now writes for *The People's Voice*, where she noted caustically, "The Patriot Act is first and foremost a weapon to bludgeon whistleblowers and political dissidents. Indeed, it has been singularly crafted for that purpose."

All of this was foreseen by Sen. Russell Feingold (D-Wis.), the only Senator to vote against the Patriot Act. On October 25, 2001, Feingold said,

Of course, there is no doubt that if we lived in a police state, it would be easier to catch terrorists. If we lived in a country that allowed the police to search your home at any time for any reason; if we lived in a country that allowed the government to open your mail, eavesdrop on your phone conversations, or intercept your email communications; if we lived in a country that allowed the government to hold people in jail indefinitely based on what they write or think, or based on mere suspicion that they are up to no good, then the government would no doubt discover and arrest more terrorists. But that probably would not be a country in which we would want to live...in short, that would not be America.

There was a recent flicker of hope that new members of the House supported by the Tea Party would vote against extending three measures of the Patriot Act, but, in the end, the extensions were passed overwhelmingly, 275-144. A recent poll by *The Public Record* asked prominent civil and human rights leaders "to explain their relatively passive positions on the renewal of the Patriot Act. Most did not respond. One who did requested that his name not be used, but said this: "Many of my colleagues have just given up on the Patriot Act, either expressly or implicitly. They don't seem to understand or recall just how foundational this supposedly 'emergency' law was in setting the stage for the infringements that came later."

This was borne out by another poll by Pew Research showing that 42 percent of those polled view the Patriot Act as "a necessary tool that helps the government find terrorists," up from 33 percent in 2004, while only 34 percent hold that the Act "goes too far and poses a threat to civil liberties," down from 39 percent.

As noted by Susan Lindauer,

Some things are unforgivable in a democracy. The Patriot Act should be right at the top of that list. Nobody who has supported that wretched law should ever be allowed to brag of defending liberty again. That goes for the Tea Party. By voting to extend surveillance of American citizens, they have abandoned the principles of freedom that brought about their rise to power. They have shown their true face.

Photo of Brandon Mayfield: AP Images



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