



The Patriot Acts I & II: Picking Away at Our Freedom 5/8/2003

Introduction

On October 26, 2001, President Bush signed the USA Patriot Act (USAPA) into law. With this law we have given sweeping new powers to both domestic law enforcement and international intelligence agencies and have eliminated the checks and balances that previously gave courts the opportunity to ensure that these powers were not abused. Most of these checks and balances were put into place after previous misuse of surveillance powers by these agencies, including the revelation in 1974 that the FBI and foreign intelligence agencies had spied on over 10,000 U.S. citizens, including Martin Luther King.

A Rush Job

The bill is 342 pages long and makes changes, some large and some small, to over 15 different statutes. This document provides explanation and some analysis to the sections of the bill relating to online activities and surveillance. Other sections, including those devoted to money laundering, immigration and providing for the victims of terrorism, are not discussed here. Yet even just considering the surveillance and online provisions of the USAPA, it is a large and complex law that had over four different names and several versions in the five weeks between the introduction of its first predecessor and its final passage into law. While containing some sections that seem appropriate -- providing for victims of the September 11 attacks, increasing translation facilities and increasing forensic cybercrime capabilities -- it seems clear that the vast majority of the sections included have not been carefully studied by Congress, nor was sufficient time taken to debate it or to hear testimony from experts outside of law enforcement in the fields where it makes major changes. This concern is amplified because several of the key procedural processes applicable to any other proposed laws, including inter-agency review, the normal committee and hearing processes and thorough voting, were suspended for this bill.

Were our Freedoms the Problem?

The civil liberties of ordinary Americans have taken a tremendous blow with this law, especially the right to privacy in our online communications and activities. Yet there is no evidence that our previous civil liberties posed a barrier to the effective tracking or prosecution of terrorists. In fact, in asking for these broad new powers, the government made no showing that the previous powers of law enforcement and intelligence agencies to spy on US citizens were insufficient to allow them to investigate and prosecute acts of terrorism.

-- **Electronic Frontier Foundation** , <http://www EFF.org/>

Some Things to Expect from the Second Patriot Act

On February 7, 2003 the Center for Public Integrity, a non-partisan public interest think-tank in DC, revealed the full text of the Domestic Security Enhancement Act of 2003. The classified document had been leaked to them by an unnamed source inside the Federal government. Some notable sections:

SECTION 501 (Expatriation of Terrorists) expands the Bush administration's "enemy combatant" definition to all American citizens who "may" have violated any provision of Section 802 of the first Patriot Act. They will be stripped of American citizenship and no longer be protected by any legal due process.

SECTION 201 of the second Patriot Act makes it a criminal act for any member of the government or any citizen to release any information concerning the incarceration or whereabouts of detainees. It also states that law enforcement does not even have to tell the press who they have arrested and they never have to release the names.

SECTION 312 gives immunity to law enforcement engaging in spying operations against the American people and would place substantial restrictions on court injunctions against Federal violations of civil rights across the board.

SECTION 102 states clearly that any information gathering, regardless of whether or not those activities are illegal, can be considered to be clandestine intelligence activities for a foreign power. This makes news gathering illegal.

SECTION 103 allows the Federal government to use wartime martial law powers domestically and internationally without Congress declaring that a state of war exists.

... and it just keeps going on like that.