

America's
antiterrorism
response: the patriot
act.



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Right or Wrong

After the terrorist attacks of September 11th, 2001 our country underwent a change that has drastically affected the fundamental values that our founding fathers instilled in this country. Since that tragic day in September the aftermath of the attacks has started to implicate our Civil Liberties that in this country we hold so dear. Just 45 days after the September 11 attacks, with virtually no debate, Congress passed the USA Patriot Act on October 5th, 2001. This act expanded the surveillance powers of domestic law enforcement and international intelligence agencies. The controversy that must be discussed is whether or not this legislation fully or in part has violated the Constitution and/or endangered our civil liberties in any way. John Kerry former presidential candidate is opposed to the patriot act stating " We are a nation of laws and liberties, not of a knock in the night. So it is time to end the era of John Ashcroft. That starts with replacing the Patriot Act with a new law that protects our people and our liberties at the same time." John Kerry is right in suggesting that the patriot act is thinning our freedoms. Those who feel the patriot act is going to protect us from harm fail to see the dark side of the legislation which is relinquishing us of our rights guaranteed to us in the Bill of Rights and the Constitution.

The USA Patriot Act or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 is a US legislative law enacted in response to the September 11, 2001 Terrorist Attacks. The bill passed 98-1 in the United States Senate, and 356-66 in the United States House of Representatives; Senator Russ Feingold cast the Senate's lone dissenting vote. President George W. Bush signed the bill into law on October 26, 2001. Assistant attorney general Viet D. Dinh was

the chief architect of the act. In the article written by Michelle Malkin titled "Antiterrorism Legislation Will Make America Safer" Malkin defends although unpopular the USA Patriot Act has allowed law enforcement to make America safer from terrorists. She maintains that the act has already thwarted further acts of terror by helping law enforcement break up terror cells, convict people guilty of terror-related crimes, and prevent foreign criminals and terrorists from entering the United States. She also concluded that the USA Patriot Act will continue to achieve similar triumphs without destroying civil liberties.

Malkin's support of the Act is based on the fact that it revised outdated rules that fatally hampered surveillance of suspected terrorists in America, helped craft plans to monitor the entry and exit of foreign students and implemented a federal program to register and track non-immigrant visitors from high-risk Middle Eastern countries. With its new granted power the federal government has busted more than 20 suspected al Qaeda, convicted 100 other individuals for terror-related crimes and since the September 11 attacks, has prevented a further mass terrorist attack on our homeland.

Malkin praises Viet D. Dinh, saying "to civil liberties alarmists, Viet Dinh is a traitor. To me, he is an American Hero." Her argument that the Act is no threat to civil liberties is supported by Viet Dinh and his supportive thesis.

Malkin states "opponents of the Bush Administration's homeland defense and immigration enforcement efforts complain that the war on terror has eviscerated civil liberties and constitutional rights, and they have likened John Ashcroft, Dinh and the Justice Department to the Taliban and the Nazis." Malkin uses Viet Dinh's response to the alarmists to defend her

position. Dinh states " The threat to liberty comes from Osama bin Laden and his al Qaeda terrorist network, not from the men and women in blue who work to uphold the law." He justifies his position through Edmund Burke's theory of " Ordered Liberty." The theory of Ordered Liberty argues that liberty cannot be exercised unless government has first provided civil order, and Dinh observes that " I think security exists for liberty to flourish and liberty cannot exist without order and security."

Malkin's ethical stance can be seen as a Utilitarian one. Utilitarianism is the greatest good for the greatest number the greatest good over the least pain, the morality of any action or law is defined by its utility. In this case we can look at the formation of the Patriot Act is in conformity with the principle of utility which states we should do the greatest good for the greatest number regardless of the consequences. Here I feel that Malkin and Dinh see the Act protecting millions of Americans from further terrorist attacks, and because it will only hamper a view foreigners and Americans it produces the greatest good for the greatest number. In a census the American population was 293, 027, 571 (July 2004 est.) , Malkin's article totals the number affected by the USA Patriot Act around 5, 700 arrested under the acts new powers. So it can be simply seen that she justifies the act because the consequences outweigh the good.

Under critical reflection one should look to Malkin's theory's basis for fallacy, her belief in " ordered liberty" is based on the fact that security directly affects the ability for liberty to flourish. The main problem with this is that there is not clear cut definition of security. Security is something that gives or assures safety, in America security has no bearing on our liberty. Sure <https://assignbuster.com/americas-antiterrorism-response-the-patriot-act/>

some feel safer under the patriot act, but regardless liberty will flourish.

Liberty is affected by nothing more than the citizens of a country's will to ascertain that liberty, if they must secure something to gain liberty they will, if they need to sacrifice security they will, basically it is naive to think security is parallel with liberty.

Most people feel that a Deontological thinking towards the USA Patriot Act is more appropriate because it shows that indeed the Patriot Act is unethical because it hampers our civil liberties. Deontology states that an Act so as to treat humanity, whether in ones own personhood or in that of another, always as an end and never and never as a means only. Here the Patriot Act is a means for the government to capture terrorists, but it puts humanity in the means category not the means to an end. An end to terrorism would be to hunt out the terrorists on a wide scale directly, not by putting out a net and catching some terrorists and some non-terrorists, which is what the act does. Giving the powers to the government to hamper our civil liberties to find terrorists is an means, but since it allows law enforcement to use its new found powers to prosecute other criminals who would have not been caught if it were not for the act, shows that the act is a means with no end in sight. The act gives law enforcement powers that it can use as a mean or a means to an end, but the act strives off the path of hunting and stopping terrorists to giving law enforcement powers that violate our basic constitutional rights.

In my own personal opinion I am against the patriot act because it does indeed threaten our civil liberties. The law allows increased information sharing between domestic law enforcement and intelligence, repealing some of the barriers put up in the 1970s after the discovery that the FBI and CIA

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had been conducting joint investigations on over half a million Americans during the McCarthy era and afterwards, including Martin Luther King Jr. I obviously am not the only one who thinks this way, Al Gore called for the act's repeal, accused the Bush administration of suspending civil liberties, and claimed that the government was using "fear as a political tool to consolidate its power and to escape any accountability for its use."

Democratic front-runner Howard Dean has called the act "morally wrong," "shameful," and "unconstitutional." Many cities have refused to assist the federal government in its implementation.

The USA Patriot Act gives the government sweeping new enforcement powers many of which had been sought by federal law enforcement long before September 11, but were rejected by Congress, and which are now being applied without meaningful judicial review. These new powers apply to all federal investigations, whether related to terrorism or not, and this has very broad implications. On September 29th, 2004 those like me were glad to finally see the secret search and seizure powers of the anti-terror Patriot Act called unconstitutional. Manhattan judge Victor Marrero, declared "democracy abhors undue secrecy," and ruled the sneaky surveillance measures in the post-9/11 law violate the Constitution because the searches are not reviewed by a judge.

There are many other intrusive provisions of the Patriot Act, which clearly and dramatically emasculates key provisions of our Bill of Rights. Not only does it inhibit and chill free expression by American's, it is also an intrusive violation of our privacy and undermines the Fourth Amendment to our Constitution, which protects against unreasonable searches and seizures.

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There was obviously some concern about this by Congress, which is the reason that the Patriot Act was sunset at five years. One day after the terrorist attacks on the World Trade Center President Bush vowed, " We will not allow this enemy to win the war by changing our way of life or restricting our freedoms." Unfortunately, by becoming an aggressive advocate of the Patriot Act, the President is doing just that. During Bush's State of the Union speech, he emphasized that a key role of our government was to protect us from foreign terrorists. However, if the Bush Administration continues to advocate such measures as the Patriot Act, then an important question is raised: Who will protect us from our own government?

I conclude my stance with a quote from Senator Russel Feingold the sole senator who voted in opposition to the USA Patriot Act, Feingold passionately states " Preserving our freedom is one of the main reasons that we are now engaged in this new war against terrorism. We will lose that war without firing a shot if we sacrifice the liberties of the American people."