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The PATRIOT Act; an American Perspective

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Abstract

Some Americans view the PATRIOT Act as justified for giving law enforcement officials the necessary tools to fight the war on terror. Others see the PATRIOT Act as misguided power that is destroying our civil liberties. Since the inception of the PATRIOT Act most of the ordinary American people have not fully understood its role in the fight against terrorism. The original bill was introduced soon after the September 11 attacks on the United States. Since this time it has been criticized, reviewed and changed to represent the protection of the American people's civil liberties. Some organizations think that many of the provisions in the Act still fringe upon the basic civil liberties. This paper will dispel these myths with the truth in government reality.

The PATRIOT Act; an American Perspective

In Michael Moore's movie *Fahrenheit 9/11*, Senators Jim McDermott and John Conyers are heard talking about the controversial PATRIOT Act. Senator McDermott said, "No Senator ever read the bill before it was approved." In fact, Senator Conyers said, "If we read every bill it would slow down the legislative process" (2004). Has this movie and the political views of many Americans given this law a chance to become a valuable tool in the fight against terrorism? Since the signing of the PATRIOT Act, Americans have generated a great deal of interest in the law and also much disinformation about its legal authority and scope.

October 26, 2001 is the birth date of the PATRIOT Act. This is the day that President Bush signed the Act of Congress making it a law. 45 days earlier Americans suffered a decisive blow when the terrorists attacked the World Trade Center. The passing of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 added substantial tools for government agencies in the global fight against terrorism. Since the attacks occurred on U.S. soil it was clearly apparent to Senators on both sides of the government that something needed to be done to give law enforcement officials the necessary tools to prevent and investigate domestic terrorism and any terrorist threat planned abroad, but directed and targeted against the United States.

Even though the PATRIOT Act passed through both majorities of the houses' of Congress, opponents have criticized and scrutinized it since the very beginning for weakening the protections of the civil liberties. This is not the only opposition it has received since its inception. There have been several legal challenges opposed against the act which have caused some federal courts to rule that a number of the provisions are unconstitutional.

As the opposition grew so did the judicial and legislative challenges. The first to come to light was the problem with Section 805. This section prohibited any person from providing support to a known terrorist organization, to include any advice or assistance. The problem with this was that two known groups, the Kurdistan Workers Party and the Liberation Tigers of Tamil Eealm were non violent groups that participated in peaceful demonstrations. A civil lawsuit was filed on their behalf stating that this was unconstitutional and the federal courts agreed. The court based its decision on the belief that certain sections of the Act where too vague to determine if a person of average intelligence was breaking the law. After that decision was made many more lawsuits and changes were proposed. The American Civil Liberties Union (ACLU) was the chief proponent of many of these lawsuits while many Senators lobbied for legislative changes. Although not all proposed legislative changes were bad. In July 2004, Senator Kyl introduced changes that would allow FBI agents to seek warrants for surveillance of “lone wolf terrorists,” allowed greater sharing of intelligence between federal authorities and state and local authorities, punish those making terrorism hoaxes, and impose 30-year mandatory-minimum penalties for possession of shoulder-fired anti-aircraft missiles, atomic and radiological bombs, and biological agents (2004).

Almost four years after its inception the act was due to expire at sunset on December 31, 2005. A few months before the sunset date many of its supporters where lobbying to make the act’s provisions permanent, while the ones that opposed it wanted to make various revisions to enhance civil liberty protections. After substantial changes to many of the sections in the bill, the Senate approved it reauthorization in July 2005. Simultaneously, the House’s version of the reauthorization bill kept most of its original wording. This made two very different versions of the bill. The committees conducted a conference to reconcile the bill, but Senators on both sides

criticized it for leaving out protections concerning civil liberties. On March 2, 2006, after many negotiations the new combined version of the bill made its way through Congress and four days later President Bush officially made it a law again.

The PATRIOT Act included many key provisions to assist in the protection of terrorist threats in America. Although the Act mostly authorizes the increased ability for law enforcement officials to investigate and search telephone, e-mail, medical, financial and other related records, it has redefined the word terrorism to include “domestic terrorism.” This key definition expands the number of activities to which the PATRIOT Act’s law enforcement powers can be utilized. The newly enacted authorities are not necessarily new. The PATRIOT Act simply refined or added too many of the old laws that have been used for decades while not infringing on our civil liberties. It allows information sharing and collection to be spread to different agencies. This technique now allows for better protection to help prevent future attacks. It enhanced the law to keep up with current technologies and threats. Many of the laws were written to counter drug trafficking and organized crime more than two decades ago and it was impossible to apply these techniques to today’s technologies and threats. It also increased the punishment of those who are convicted of a terrorism crime.

The main article in the PATRIOT Act is Title I. This article provides for a number of miscellaneous provisions not identified in subsequent provisions. This provision is designed to enhance the security measures directed against the defeat of terrorism. It establishes a monetary fund for counter terrorism activities and organizations and increases the budget for the FBI to upgrade its technology in defeating terrorism. The military is authorized to assist government agencies involving activities of weapons of mass destruction when authorized by the Attorney General. Provisions are made against racial profiling; it condemns the discrimination of Arab

and Muslim Americans. Numerous other provisions fall under this section such as; background checks for all personnel requiring HAZMAT licenses, money dedicated to first responders for the purpose of defeating domestic and international terrorism, five million dollars was allocated to the DEA to train police forces in South-East Asia, authorizes the use of biometric devices to identify, track, and flag any people suspected of terrorism that enter the United States, provides airlines the names of suspected terrorists, the DOD is authorized to fund private security agencies for security reasons, and an official was named as a monitor of this provision to review and report to Congress any violation of civil liberties. The eight other provisions in the Act are:

Title II: Surveillance procedures – this provision is perhaps the most controversial because it involves all aspects of surveillance of suspected terrorists. It made amendments to the Foreign Intelligence Surveillance Act of 1978 (FISA) and the Electronic Communications Privacy Act of 1968 (ECPA) for the purpose of tearing down the “legal wall” between investigations for criminal actions and the surveillance of foreign intelligence. Wiretap procedures were changed to target a broader spectrum of the word. It now includes the network, addresses, routing of email and websites. It allows for access to stored voicemail and “protected computers” through the new warrant procedure without getting separate or more detailed warrants. Cable companies are now required to give the name, address, local and long distance telephone records, telephone number, length of service, session times and durations, payment methods to include bank account and credit card numbers (PATRIOT Act, Sec 210). It also established the “sneak and peak” search, which authorizes law enforcement officials the ability to search a home or business without the suspected person being home or notified. Roving wiretaps are also authorized. This means a wiretap can be issued without specific details on who they are trying to survey. It could incriminate all parties involved to include third parties.

Title III: Anti-money laundering – this provision breaks down into four sub categories for the purpose of preventing, detecting, and prosecuting anyone involved in money laundering on the international level for the purposes of financing terror. The first category is for putting more stringent rules on international banking and specifically against money laundering. The second category improves the communication process between banking institutions and law enforcement officials. It also enforces improved record keeping and reporting requirements. The third and final category enforces and strengthens the penalty for counterfeiting and smuggling foreign money up to four times the normal penalty.

Title IV: Border security – this provision basically enforces our border protection to deter anyone who might be tempted to cross into the United States for the purpose of committing a terrorist activity. It also allocated enough money to triple the amount of Border Patrol, Customs, and INS agents. It also funded 50 million dollars to upgrade the border agencies technology and equipment.

Title V: Terrorism investigation – this provision was intended to eliminate the red tape involved when investigating a terror act. It also approves the issuing of monetary rewards to prevent and identify terrorism reports and suspects. It also allows for a monetary reward for the information leading to the capture and conviction of identified suspects.

Title VI: Victims and families of victims of terrorism – this provision was set up to aid in the expedited payments to the families of falling public safety officers in the line of duty. The changes were made to ensure that payments were received to the family members no later than 30 days from when the officer was catastrophically injured or killed.

Title VII: Information Sharing – this provision enhances the ability of information sharing amongst different agencies and across jurisdictional boundaries.

Title VII: Terrorism criminal law – this provision redefines the word “domestic terrorism” to include mass destruction, as well as assassination or kidnapping as a terrorist activity that is intended to “intimidated or coerce a civilian population” (PATRIOT Act, sec 805). It also increased the penalties if convicted from 20 years to life in prison without parole.

Title IX: Improved Intelligence – this provision combined efforts between the Director of the Central Intelligence and the Attorney general to establish requirements and priorities for foreign intelligence collection and dissemination. The provision requires that all agencies share information relating to terrorist activities unless it will jeopardize a current ongoing investigation.

With all the newly enacted laws incorporated into the PATRIOT Act over the last few years a great deal of controversy has been stirred up. Opponents against the Act continue to voice their opinion that the Act was passed with little debate because of its opportunistic timing. This was also widely documented in Michael Moore’s movie *Fahrenheit 9/11*. Moore has been a major adversary against the Act. In his documentary he drove around the National Capital in an ice cream truck broadcasting the Act to people passing by. Moore did this to prove his point that not a lot of people had heard of the PATRIOT Act before it was passed through the Senate floor. This information was again challenged when a Gallup poll was conducted in 2003. The poll found that only 10 percent of the population polled were “very familiar” with the PATRIOT Act, while 40 percent were “somewhat familiar”, while 25 percent were “not too familiar” and another 25 percent were “not at all familiar” with the Act. By January 2006 this had only risen to 17 percent who were “very familiar”, 59 percent were “somewhat familiar”, 18 percent who were “not too familiar” and 6 percent were “not familiar at all” (USA Today, 2006).

Another major adversary of the PATRIOT Act is the ACLU. They have challenged the Department of Justice numerous times by stating that the PATRIOT Act violates our most basic civil liberties (Gerdes, 2005). They made a commercial condemning the Act and suggested to the American people to have it repealed. The ACLU has been involved with many of the civil lawsuits and has been a big proponent of making changes to the Act for violating 4th Amendment rights. The ACLU has made a number of accusations against the Act, but the Department of Justice counters most of their accusations as myths vs. reality. The ACLU claims that the Surveillance provision subjects a Political Organization to its liabilities. The DOJ states that if the organization is peaceful and does not break any laws then they will not be targeted. The ACLU claims that the people are unaware that their everyday habits are tracked by the government. The DOJ counters by saying that the PATRIOT Act does not violate 1st Amendment rights and the terrorism investigators are not concerned with ordinary people's everyday habits. Another claim by the ACLU is that delayed notification search warrants will change current policy and law. Again, the DOJ states that delayed warrants have been around for decades and nothing has changed except for redefining the word "domestic terrorism".

Some Americans are definitely un-informed of the PATRIOT Acts magnitude and scope and there are some organizations that think it is a violation of our civil liberties. But I have found that it is, and will continue to be a valuable tool in our fight against terrorism. Since the enactment of this bill the United States government has identified and disrupted 150 terrorist cells, over two-thirds of Al Qaida's leadership has been captured or killed, 3000 operatives around the world have been incapacitated, 5 terrorist cells in the U.S. have been identified and broken up, and 375 individuals have been convicted criminally during terrorism investigations. Any of the lawsuits that have been considered unconstitutional have been adjudicated by the

courts and amendments to the Act have been pushed forward to the House for consideration. I believe if more Americans would start researching a controversial issue themselves instead of watching it in a documentary or reading it on a blog site they would understand why this law was passed and what remarkable results have been accomplished. The PATRIOT Act is for the protection of America against hostile forces that wish to rule by terror. It is not unconstitutional if it is necessary.

“On September 11, 2001, a war was started on the United States soil. It was not a war we voluntarily entered. It was not a war we started. We were not given a choice. We were dragged into a war that day----a war of terrorism” (Sensenbrenner, 2001). When terrorists struck the United States on September 11, 2001 the country was in shock and the America as we knew it changed forever. We had experienced acts of terrorism in the country before but not on such a large scale. The acts of terror on September 11 proved that the U.S. was vulnerable and that we needed to change our thoughts and ways of looking at it. In America, we are used to hearing about acts of terror on such large scales in other countries but not here. We had always been under the assumption that our government was doing everything it could do to protect us. After 9/11, we would have to reassess those assumptions and the government would have to reassess and change how it went about protecting its citizens and to question whether they were doing everything it could to assure their safety. The U.S. Congress passed the controversial legislation known as the PATRIOT Act. This legislation would provide the necessary means and basis for protecting the country against terrorism, some of which still remains controversial. The use of warrantless wiretaps, eavesdropping, and data mining because of privacy issues are just a few of them. The country would have to address these methods versus privacy. How do we strike the

balance? Even though the fear is that the government will use wiretapping, eavesdropping, and other technologies as a dragnet for other crimes; we should explore their use to identify terrorists.

The fear that the government may use wiretapping, eavesdropping, and other technologies as a dragnet for other crimes may be due to missteps made by the government in different cases. In one particular case, Brandon Mayfield of Portland, Oregon became the subject of FBI surveillance. He and his family were subjected to weeks of wiretapping and their home secretly searched by the FBI because of suspicions involving the bombing of the Madrid, Spain in March 2004. Mr. Mayfield was deemed a terrorist by the FBI because he once defended a Muslim in a child custody case and that he had converted to Muslimism. Mayfield was subsequently arrested and detained for two weeks because of erroneous finger printing. Even though the government of Spain had its doubts about Mr. Mayfield's connection to the bombing, the U.S. continued to pursue the case. A federal judge dismissed the case in 2006 without merit and Mr. Mayfield went on to sue the government over wrongful imprisonment. The FBI settled out of court with Mr. Mayfield for \$2 million, contending that they did nothing wrong in the case.

Although some of the methods used to detect and identify terrorists have been around since the 1980's, their recent applications have come under much scrutiny with warrantless wiretaps being the most controversial because of problems like in the case of Brandon Mayfield. During today's environment our government must be able to use all the technologies available to detect and prevent against acts of terror. The intercepting of wire, oral, and electronic communications most commonly known as wiretapping must not be taken off the table if we are to gain an upper hand in protecting the country and its citizens. This method of surveillance has become one of the most effective means of stopping terrorists. Wiretapping is effective because

it allows investigators the means to detect and monitor terrorists before they are able to commit any acts of terrorism.

In the years since September 11, FISA has been used steadily for anti-terrorism wiretaps. This trend in itself would not be negative if it weren't for the secrecy surrounding the warrants used to procure the wiretaps. They are normally taken before a secret panel of judges. Once approved these wiretaps have very little oversight from courts to ensure that they are being used for their intended purpose. These wiretaps are also in effect much longer than if procured through the regular court system. This provides an added advantage of the FISA orders. If the wiretaps are to be effective they must be kept secret from the public.

Another advantage of going through the FISA Courts are that law enforcement officials do not need to show probable cause when it involves a criminal case. The approval process through the courts has given the government an added advantage in going after terrorists. The last year that an application for wiretapping was disapproved prior to 1996 was 1988 and during that year 736 out of 738 were approved. Since that time applications for electronic surveillance have increased by more than 100 percent. In 2005, the FISA Courts approved 2072 applications with zero denials. Since 1978 the courts have disapproved only four requests for surveillance. On the surface this seems troubling, but the U.S. Government must be able to use all available tools in the fight against terrorism. The ability of the government to protect its citizens must stay unencumbered.

Another example of their efforts to thwart terrorism is the use of the pen register and trap and trace devices. These devices have become an important effort to procure data through the interception of phone numbers dialed and received of suspected terrorists. These devices are the least intrusive assets available to the agencies investigating terrorism. Because these devices do

not record the content of conversations, the Supreme Court has held that they are not protected under the 4th Amendment. The limitation on information provided is still extremely important to our fight against terrorism. The leads that are provided by the collected phone numbers may help in the efforts to apply for a full wiretap through the courts. Prior to the PATRIOT Act, any Federal agencies requesting to use these devices for common crimes had to provide basic information such as; the person being investigated, the agencies conducting the investigation and information proving that the data collected was related to the case being investigated. If a person was being investigated for terrorism activity the agency would also have to provide a more detailed explanation of how the data collected related to their case. The government also had to show that the data collected would be used to commit or facilitate an act of terror. This tool has become an effective asset in the fight against terrorism while it minimally impacts U.S. citizens. The safeguards put in place prohibit the government from investigating U.S. persons solely on activities covered under the 1st Amendment.

The most important reason why we should explore the use of these tools to identify terrorists is because their actions will prevent further acts of terrorism. In order to do this we must remove some of the obstacles that prevent government agencies from the investigation process. Under the PATRIOT Act the U.S. is allowed to offer rewards to anyone providing information that leads to the capture of an individual or organization that is planning, committing, or connected to acts of terror. The government would also have easier access to telephone toll and transactional records. These records and the information contained within them can be shared with other agencies in the fight against terrorism. Applications for these records come in the form of National Security Letters. Controversy surrounding these letters erupted in the Congress when the Inspector General reported that these letters were sometimes

used illegally. The letters had sometimes gone to the wrong individuals because of errors within the FBI's database. The actual number of letters sent out was under estimated because there was no system of tracking them. The use of the letters provides the agencies access to telephone toll records to include voice messages and email records. It is very important that the access to this information is not impeded. The effects on citizens' rights are minimally impacted by their use and the information gained may help to prevent further attacks on the country.

Although the fear exists that the government may use wiretapping, eavesdropping, and other technologies as a dragnet for other crimes, we should explore their use to identify terrorist for two main reasons. First, it minimally affects citizen's rights and second their use will prevent further attacks against the U.S. The attacks on September 11, proved that the U.S. was vulnerable and that we needed to change our techniques in indentifying, preventing, and disrupting terror. This is not only an overseas problem anymore; it has come to our shores. Our Federal agencies must have all the necessary tools to prevent acts of terror directed against this country and to protect its citizens wherever they may be.

The Federal Government is working diligently to dismantle and disrupt terrorist activities. The PATRIOT Act is a measure put in place after the September 11 terrorist attack which many American citizens consider unconstitutional. However, it can be argued that it's working because no other attacks against the United States have happened since this measure took effect.

The disruption of terrorist funding is a key area that the Federal Government is working on to dismantle terrorism. This is proving to be a major success however, they are finding that this is not an easy task, nor do they have experience and trained personnel in this department. The good news is as of December 2006, \$66 million of funding belonging to organizations that

support terrorism have been frozen. The Federal Government froze \$33 million in assets within the United States and coalition governments in other countries have frozen an additional \$33 million in terrorist funding (Harris, 2002). “Nearly all countries around the world have submitted reports to the United Nations on actions they have taken to comply with the requirements of UN Security Council Resolution 1373, which includes obligations to freeze the assets of terrorists and to prohibit anyone in the country from providing financial or other material assistance to terrorists or their supporters” (Patterns of Global Terrorism, 2003, p.v).

A taxicab driver, a native of India was working late one night in a major city on the east coast. He explained how hard it is to support his family located in his native country. He was happy to mention that when business is good and money is available to send to his family, he uses a reliable system that gets the money to them very quickly. He knew of several ways to do this; the traditional banking system or by means of money laundering. Although he was not referring to either method, he was alluding to an unofficial system that has been around for a long time and is almost untraceable. The name of this system is called Hawala. It is a very simple system and an easy way to get money from one location to another. He explained that when he needs to get money to his family in India he would locate a Hawala dealer in his local area. He would then provide the dealer with the amount of money he wants to get to his family, along with a small fee and the Hawala dealer would contact another dealer in India. The dealer in India would receive the information and then he would get the money to its final destination. This is completed by a simple phone call between the two Hawala dealers. Soldiers serving in Vietnam would use a similar system to pay their bills and get money back to their loved ones in the United States. It was cheaper for them to use this system than going through the banking system. Keep in mind there were no direct deposit, internet, or on-line banking during this time.

Immigrants that enter the United States rely heavily on this system as well because they need no identification to use this system. As stated, this act is almost untraceable because the dealers very seldom keep any type of records. If they do, it is in codes and they quickly destroy them as soon as the transaction is completed. Now knowing how this system works just think how easy it is for terrorist organizations to quickly transport money to finance their terrorist plots. This system has been a major concern to the Federal Government every since the September 11, 2001. The same taxicab driver explained that it is now harder to find Hawala dealers after the September 11 terrorist attack. This isn't because they are detained, it just shows that they are keeping a low-profile because they know that the Federal Government is looking for them (Harris, 2002).

President Bush's administration quickly integrated a Federal taskforce after the September 11, terrorist attack. It consisted of agents from the FBI's Financial Review Group and the Treasury Department. The name of this taskforce is called Operation Green Quest. This taskforce is constantly working trying to disrupt and destroy systems such as Hawala and other money laundering systems that they believe terrorist organizations are using. This taskforce is certain that the Hawala system was used by the 19 terrorists that successfully carried out the attack on September 11, 2001. This taskforce is moving swiftly trying to stop future terrorists from succeeding in such a manner. They are looking closely at all resources that were at the disposal of the personnel associated with the September 11 attack. Since this taskforce assembled they have been working hard to "disrupt and dismantle" all terrorist funding sources within the United States and abroad. One of the major problems they are confronted with is lack of experienced personnel dealing with money-laundering; keep in mind that this taskforce consist of Federal agents with tons of experience dealing with smugglers and tax evaders and very little experience

dealing with terrorist. This is the first time that agents associated with the FBI and the Treasury department has come together to investigate terrorist finances and resources.

Alluding back to the east coast taxicab driver and many others that already have the knowledge of quickly moving money from point one location to another, Operation Green Quest is just now learning how the system operates. This taskforce has also discovered that terrorist organizations don't just use the Hawala system, but also uses the traditional money laundering systems such as wire transfers, cash deposits into banks, and off-shore accounts set up by terrorist pretending to be a lawful business within the United States and other foreign countries (Alto, 2005).

Operation Green Quest is working despite their inexperience. They have disrupted and dismantled several illegal businesses and fund-raising organizations associated with supporting terrorist activities. A lot of this success comes from international supporters that are involved in dismantling terrorist's resources, mainly in the Middle East. Their support and dedication is crucial to this cause because Operation Green Quest is mainly targeting terrorist organizations within the Middle East and the United States. This taskforce is also ready to change their concentration to other regions if they find substantial financial terrorist activity there. With the sever crackdown on terrorist funding they are finding it very difficult to come up with innovative ways to covertly penetrate the inner-circle of the large sophisticated money laundering organizations (Alto, 2005).

President Bush's administration is also working hard to increase border protection in their efforts to disrupt and dismantle terrorism. The Control Act of 2005 was a bill in the 109th United States Congress. It was passed by the United States House of Representatives on December 16, 2005 by a vote of 239 to 182. In this bill, 92 percent of Republicans supported it with 82 percent

of Democrats opposing it. However, it did not pass the Senate (Wikipedia, 2007). This bill can be cited as the start of the 2006 legislation that the house of Congress passed to crackdown on immigration. This bill started a lot of protest about immigration rights. I will touch briefly on some of the major points this piece of legislation addressed.

One of the most controversial issues is the construction of a fence covering over 700 miles between the United States and the Mexican border. This fence targets the area where the majority of the illegal immigrants cross the border. Then next issue addresses all undocumented personnel, if apprehend by local authorities they would be turned over to the Federal Government for prosecution. This would terminate the customary “catch and release” practice that border patrol officials were instructed to do because of limited funds available for legal action. This piece of legislation would also provide reimbursement to local law enforcement officials in the counties that surround the border for costs associated with arresting these undocumented personnel. The ones captured would be charged a fine of \$3,000 and have 60 days to attain the money if they agree to leave the United States voluntarily, before being deported. Also, anyone that provides assistance to known undocumented personnel would be consider a criminal and could face a minimum sentence of 10 years imprisonment along with a fine. A tougher sentencing will be imposed on those helping terrorists and drug smugglers. Penalties continue to increase for anyone involved with document and marriage frauds, or helping any terrorist or illegal immigrant that are currently on the Federal Government watch list. Before any immigrant can be granted legal United States citizenship a complete investigation must be conducted to ensure that they are not on the Federal Government watch list (Wikipedia, 2007).

Homeland Security is on the forefront of President Bush's administration and the PATRIOT Act plays a major role in this. "On October 9, 2007 the President issued an updated National Strategy for Homeland Security. This update will serve to guide, organize, and unify our Nation's homeland security efforts" (Wikipedia, 2007). President Bush has made it clear that this strategy is a National Strategy, not a Federal strategy and explained how the Nation must approach Homeland Security over the next several years to ensure safety for all Americans. This strategy continues to strengthen the first National Strategy for Homeland Security implemented in July 2002 and reinforces two other strategies that took effect. The first was March 2006 and the other was approved in September 2006. Both of these focus on Americans understanding the threats that confront the United States. It provides information on lessons learned from real world situations and exercises and explains how Americans can ensure long term success by the foundation we have built. President Bush states that Congress must make the FISA reforms in the Protect America Act of 2007 permanent. Since the terrorist attack on our homeland our ideas of securing the homeland has evolved to higher measures. This strategy incorporates the increased understanding by acknowledging that we must also focus on the offensive at home and abroad and not just a defensive strategy. Also, understanding how non-terrorist events can quickly escalate into major disastrous situations involving homeland security. This strategy is inclusive at all levels of government, to include private and non-private sectors all the way down to the individual citizens. In order to achieve this, Americans must focus its Homeland Security strategy on the following four goals:

1. Prevent and disrupt terrorist attacks. In order to insure this we must strengthen our borders and disrupt and deny terrorists from bringing weapons and related items into our country, as well as disrupting their efforts to recruit and rout out homegrown extremist.

2. Protect our citizens, critical infrastructure, and key resources. Protecting the American people's livelihood can only be accomplished if we collectively understand how to deter terrorist activities.

3. Respond to and recover from incidents that do occur. Regardless of how strong our offense and defense may be, terrorist organizations may still be able to maneuver another major attack on American soil. The key in this event is that Americans must prepare for a coordinated response in an effort to save lives and minimize suffering.

4. Continue to strengthen the foundation to ensure our long term success. Americans must not let complacency to gain the upper hand when it comes to defending our Homeland. Terrorist are always planning and plotting against Americans. Regardless if another attack happens on American soil tomorrow or 100 years from now, we must continue to educate, train and finance the organizations that protect us from terrorism (Secretary, 2007).

Remarkable progress has been made within the United States and abroad to disrupt and dismantle terrorism since the September 11, 2001 attack. The Federal Government's implementation of Homeland Security and fighting the war on terror has successfully disrupted numerous potentially deadly plots against the United States. This is a direct reflection of increased worldwide counterterrorism efforts since September 11. The PATRIOT Act has made it very difficult for al-Qaeda to attack the homeland and has proven to terrorist groups that the United States is a harder target to strike.

On September 11, 2001 nineteen Al-Qaeda affiliated terrorists set forth synchronizing attacks against the United States of America. Despite years of warning and the likelihood of a terrorist attack on American soil, it took the events of September 11, 2001 to jolt Americans to this reality. Just 43 days later, President George W. Bush signed into law the PATRIOT Act.

The purpose of the PATRIOT Act is to protect the United States from further attacks by granting law enforcement officials extended power to locate terrorists and track down those who intend to do us harm. The establishment of the PATRIOT Act put into motion changes to several previous Acts of U.S. Law including: FISA, the Electronic Communications Privacy Act of 1968 (ECPA), Money Laundering Control Act of 1986 and Bank Secrecy Act (BSA), as well as the Immigration and Nationality Act of 1952. (Wikipedia, 2007).

Many agree that the PATRIOT Act's 161 provisions are legitimate and uncontroversial (Leone & Anrig, 2007). However, the ACLU, Electronic Frontier Foundation (EFF), and the People for the American Way insist several sections of the Act lower previous civil liberties and privacy standards by removing judicial checks and balances. The ACLU further questions the need for change to powers that already exist. The ACLU points out that with probable cause the government has the authority to prosecute those who have committed or are planning to commit crimes (American Civil Liberties Union, 2007). From the perspective of foreign intelligence gathering the FISA provides the legislative skeleton for electronic surveillance (Bazan, 2004). The challenge Congress faced in creating the Act was providing equilibrium between the Nation's security requirements and the privacy rights of its country's citizens. The Act's subchapters on electronic surveillance, physical searches, pen registers and trap and trace devices for foreign intelligence, and admittance to business records for foreign intelligence enables the government to conduct physical and electronic surveillance for the collection of foreign intelligence.

Title II: Enhanced Surveillance Procedures of the PATRIOT Act made significant changes to the FISA of 1978 and the ECA of 1986. For civil liberty watchdog groups one of the more troubling changes is Section 206's use of roving wiretaps. The People for the American

Way feel roving wiretaps create a moving “no privacy zone” that follows a suspects location (People For The American Way, 2005). If a surveillance suspect enters your residence, your phone can be wire tapped, creating a loss of privacy for the innocent inhabitants of the residence.

The standard for court orders allowing law enforcement to monitor phone numbers but not conversations are low. Law enforcement officials can monitor a telephone with a pen register device which records only numbers dialed from that phone line. A pen and trace device records all incoming calls on that phone line. From a privacy stand point there is not a lot of insightful information a person can derive from a phone number. The PATRIOT Act applies the same low standard to internet addresses which seems logical on the surface. Civil liberty advocates contest this standard because one can derive more sensitive information from e-mail routers and web page URLs than phone numbers. Civil libertarians view this lowering of standards as a violation of a person’s expectation of privacy and another example of the PATRIOT Act’s erosion of civil liberties.

Prior to the PATRIOT Act, the government could gain access to a subjects’ or institutions’ records and documents through a subpoena. The purpose of the subpoena is to ensure the rights of the target of an investigation have been met with judicial oversight, prudence and safeguards. In particular, Section 215 of the Act broadens the scope of a FISA court order to access any tangible item no matter who is in possession of it. This includes records or documents from any business, hospital, house of worship, or library. Library documents pertaining to a citizen’s book loaning records and computer usage at a local library are now open to government scrutiny. This sensitive subject brings back memories of the FBI’s Library Awareness Program. In the 1980s, the FBI used library records to determine the identity of Soviet agents searching for national secrets. Upon the public’s discovery of the program great

concern ran amongst the nation's librarians and their patrons. Upon the completion of Congressional hearings most libraries dictated policies on how to assist the FBI without violating their patrons' privacy rights.

It is clear that the majority of the PATRIOT Act presents no threat to our democracy. However, it is important to acknowledge the United States of America does possess the tools to combat the war on terror without the sweeping changes to search and surveillance that eliminates the checks and balances needed to protect our liberties. The lack of governmental oversight leaves citizens feeling that we are trading one form of uncertainty for another, sacrificing liberty for security. It is in this country's best interest that liberty endures and the Congress restores Title II's imbalances to an even scale through repeal and oversight. In 2004, the 911 Commission warned that the government's new power and authority would need a system of checks and balances to protect our liberties. The states of Montana, Maine, Alaska, and Hawaii voiced their concerns by passing state-level resolutions prohibiting state agencies from participating in these federal security measures. Prominent conservatives including Newt Gingrich, former speaker of the House of Representatives expresses concern with regard to balancing America's needs in the war against terrorism and the 200-year legacy of the principles that made this country great (Gingrich, 2003). As American journalist Dorothy Thompson once held, "It is not the fact of liberty but the way in which liberty is exercised that ultimately determines whether liberty itself survives" (Wikipedia, 2007).

Conclusion

In conclusion, for the majority of Americans it is clear that the PATRIOT Act presents no real threat to our democracy. The PATRIOT Act continues to be an effective tool in the "War on Terror". The PATRIOT Act enables law enforcement officials to detect terrorist cells within the

United States as with the Lackawanna 5, near Buffalo, New York. It enables prosecutors to take legal action against terrorist supporters across the country as in Operation Green Quest. Despite concerns of civil liberty groups and scrutiny from the U.S. Congress and U.S. Senate, a conference committee moved to reauthorize the PATRIOT Act. The committee renewed its sunset clauses and extended protection against terrorism in the United States and abroad. Americans understand the real threat comes from the terrorists and not our government. It is important to understand the PATRIOT Act is not a stand-alone fix that keeps America safe. The PATRIOT Act is an important cog in a system which protects this nation and its people from those who wish to do us harm. The myths of this Act have been dispelled through researching the government reality. If the Americans who oppose this law would do the same research, maybe we could stop fighting each other and concentrate on the real threat to America.

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