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## DISCUSSION OF PATRIOT ACT

**PATRIOT ACT NEWSPAPER ARTICLES**  
**Prepared for Public Safety Committee**  
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STEVE LOPEZ POINTS WEST

## Democrats Need to Aim Much Higher

Steve Lopez

February 25, 2004

It took forever, but the Democratic presidential wannabes are finally on their way to California. So I pulled out my sample ballot to check the team roster.

Joe Lieberman? Scratch.

Wesley Clark? Scratch.

Howard Dean? Scratch.

Dick Gephardt? Scratch.

Carol Moseley Braun? Scratch.

Their names are all still on the ballot, but their campaigns flat-lined before we even had a chance to take their temperature here in the state with the most delegates. That leaves Democratic candidates John Kerry, John Edwards, Dennis Kucinich, Al Sharpton and, last as well as least, Lyndon LaRouche.

I thought President Bush got off a pretty good line Monday when he went after his challengers. It's an interesting crowd, he said, because it's for and against his tax cuts, for and against NAFTA, for and against the Patriot Act, and for and against the Iraq war.

"And that's just one senator from Massachusetts."

Bush's line was aimed at John Kerry, of course, but it neatly summed up the entire Democratic Party, which lost its way when Bill Clinton got one look at Monica Lewinsky's thong and went crazy.

Ever since that hallmark moment — if not when Clinton started shoplifting Republican ideas like ending the welfare state — Democrats have been like teenagers suffering through adolescence.

They're rebels who aren't sure what the cause is any longer, which is why they appear on the verge of a nervous breakdown over gay marriage, and don't have much in their arsenal beyond trashing George Bush.

The identity crisis makes for one awkward moment after another, as Sen. Edwards has just demonstrated. After railing against the North American Free Trade Agreement for siphoning jobs out of the United States, Edwards conceded this week that his redrafting of NAFTA wouldn't stem the job loss.

Huh?

Trade was the one flag the senator from North Carolina was flying to distinguish himself from Kerry. That issue could have won him some fans in California, which has seen thousands of jobs flee for Asia and India.

But Edwards has now waffled on NAFTA, and he also flubbed a question on European trade so badly, he had to confess his ignorance.

Kerry, meanwhile, has had his own problems figuring out why he's running for president. For a while, he chose an utterly banal course, charging that Bush is a prisoner of special interests.

Who in politics isn't?

Kerry's strategy backfired when his own record was put on public display, and it became downright embarrassing when The Times reported that he had written 28 letters in support of a defense contractor who happened to be a campaign donor.

The front-runner also has a patrician aloofness and genuine lack of pizzazz, and you wouldn't call him a legislative visionary, either. So what we've been sold so far is Kerry's Vietnam record of valor.

Sure, it compares favorably with Bush's daring missions to secure airspace over San Antonio and Plano. But that was then. Like Edwards, Kerry voted to blunder into war in Iraq, and like Bush, he hasn't made a compelling case for how to get us out of the mess there.

What I'm telling you, in other words, is that my heart has not been won by either Kerry or Edwards, so I'd like to invite the two of them to go for broke in Thursday's debate.

Yeah, I'm aware that current polls show either Kerry or Edwards beating Bush in November, but as GOP strategist Arnie Steinberg points out, this is February.

"Are the numbers accurate? Yes. Will they hold up? No."

Not if the Democratic candidate doesn't learn something from the essential truth about George Bush and the Republican Party: They know exactly what they stand for and how to herd the sheep.

It's always the same recipe: tax cuts, heterosexuals, tax cuts, God, tax cuts, military prowess, tax cuts, small government, tax cuts, big business, and, of course, tax cuts.

Stick to that formula, and all sins are forgiven. You can fudge claims about the reasons for war. You can go duck-hunting on Air Force Two with a Supreme Court justice.

Sure, there are sharp differences within the GOP on whether Bush is too big a spender, and on any number of social issues. But true conservatives would vote for a one-eyed parakeet if it promised to go after tax-and-spend liberals.

I'm asking the Democratic candidates, beginning with tomorrow night's debate, to put their own package together and start hammering away at it as Republicans do.

A total healthcare overhaul.

A fearless defense of the environment.

A guaranteed living wage.

A chicken in every pot.

A fat surtax on everyone in Dick Cheney's income bracket.

Something bold. Anything.

Lashing out at George Bush is great sport, sure, and certainly worth the effort. But I don't think it gets you the keys to the White House.

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*Look for sunny skies and highs of 102 today in Santa Paula.*

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NEWS ANALYSIS

## Bush Replays Themes That Worked in 2000 Election

By Ronald Brownstein  
Times Staff Writer

February 24, 2004

WASHINGTON — President Bush, in sharpening on Monday his case for reelection, signaled his determination to return to arguments that worked against Al Gore in 2000.

At the heart of Bush's speech at a Republican fundraiser was a determined effort to frame the 2004 election as a stark choice between more government and more individual freedom — the same contrast he used with success against Gore in the final two months of their razor-tight race.

"The American people will decide between two visions of government: a government that encourages ownership and opportunity and responsibility, or a government that takes your money and makes your choices," Bush said.

That formulation echoed Bush's insistence in 2000 that he wanted "to empower the American people" while Gore wanted "to empower the federal government."

Many Democrats agree that assertion hurt Gore in the closing weeks of the campaign. Bush's return to the argument suggests that a key question in this year's campaign could be whether Americans are more worried about big government or the powerful corporate interests that Sens. John F. Kerry of Massachusetts and John Edwards of North Carolina — the two remaining major Democratic presidential candidates — promise to confront.

The choice between big government and small government "obviously worked to a large extent for Bush in 2000, and could well do that again in 2004," said Democratic pollster Geoff Garin. "But I think we are in a very different context in 2004, where the public is much more attuned to the need for government to play an active role in policing excessive corporate power."

In both his speech to the fundraiser for the Republican Governors Assn. and remarks earlier Monday to the National Governors Assn., Bush made it clear that he would aggressively rebut the Democrats' harsh critique of his domestic and foreign policies.

He defended not only the war with Iraq and his tax cuts, but his initiatives on other fronts. Among them:

- **The Patriot Act.** Kerry and Edwards voted for the law, adopted after the Sept. 11 attacks and billed as a way to strengthen the government's capacity to monitor suspected terrorists. As candidates, both have denounced it as an infringement on civil liberties. In his Monday morning remarks, Bush insisted the law needed to be renewed, saying, "It makes no sense not to have the tools available to chase these terrorists down."
- **Education.** Kerry and Edwards voted for the No Child Left Behind Act, Bush's plan requiring schools to show

progress in student performance on annual tests in reading and math. But as candidates, both have criticized the law and proposed loosening its accountability standards — the object of intense criticism from teachers unions. Bush said he would "vigorously defend" the law because "it's the absolute right role for the federal government ... to insist upon results, to say for the first time, 'Would you please show us whether or not the children are learning to read and write and add and subtract.' "

- **Trade.** Kerry and Edwards have escalated their attacks on free trade, saying they would shelve Bush's effort to expand the North American Free Trade Agreement unless it contained tougher provisions than the administration supported for stronger labor and environmental standards across the hemisphere. But Bush said, "We won't back off our desire to open up markets for U.S. products — farm products, ranch products, manufacturing products."

The addresses underscored Bush's determination — displayed in his recent appearance on NBC's "Meet the Press" — to present himself as a tested and reliable leader in a dangerous and changing world.

But the speech at the GOP fundraiser — the more overtly political of the two — was perhaps most notable for Bush's emphasis on the divide between the parties over the role of government, their most fundamental and enduring dispute.

Bush portrayed his agenda as one that would shift power to individuals — through tax cuts, allowing workers to invest part of their Social Security payroll taxes in the stock market, and the recent Medicare legislation that aims to increase the role of private companies in providing healthcare to the elderly.

Reprising his arguments against Gore, Bush insisted Democratic proposals would "increase the power of politicians and bureaucrats over your income, your retirement, your healthcare and your life. It's that same old Washington mind-set — they'll give the orders and you pay the bills."

The address launched what is likely to be a sustained GOP effort to paint Kerry — seen by Republicans as Bush's likely challenger — as a big-spending liberal who has abandoned the fiscal discipline that characterized the Democratic Party during President Clinton's administration.

That's another echo of 2000. In the final weeks of that campaign, the Republican National Committee ran ads accusing Gore of proposing three times as much new spending as Clinton did in 1992. On the stump, Bush accused Gore of abandoning Clinton's declaration that "the era of big government is over."

If Kerry wins the nomination, he could be vulnerable to similar arguments. Like most of the other Democrats who were in the nomination race, Kerry has proposed significant new spending; his plan to increase access to healthcare is more expensive than any single idea Gore advanced in 2000.

Republican strategists close to the White House already have been tallying the cost of Kerry's proposals to challenge his claim that he is more committed to fiscal discipline than Bush is.

Those Republican arguments could still carry a bite: A recent survey by Democratic strategist Stanley B. Greenberg found that nearly two-thirds of voters expressed doubts about Kerry when they were read Republican arguments that portrayed him as "a typical tax-and-spend liberal."

Bush's offensive on this front could increase pressure on Kerry to flesh out his ideas for reforming government and reducing the deficit — themes Kerry has muted while courting Democratic support in the primaries.

"Democrats have to remind voters that we want to reform government, not just expand it," said Bruce Reed, president of the centrist Democratic Leadership Council.

Even so, Reed and many other Democrats are optimistic that Bush will have a more difficult time than in 2000 framing



the election as a choice between his commitment to individual freedom and Democratic loyalty to big government.

Bush, they say, may have difficulty portraying anyone as fiscally irresponsible after presiding over the federal government's largest deficit.

Democrats also believe anxiety over the economic trends during Bush's first term — from the loss of jobs to the rise in the number of Americans without health insurance — has shifted public concern away from the power of government to the power of private interests. Recent polls have shown that most voters believe Bush cares more about the wealthy and corporate interests than about average Americans.

"These things are very much the subject of pendulum swings," said Garin, arguing that the arguments Bush used in 2000 will be "substantially less powerful" this year.

That conclusion may be premature. What's clear from Bush's opening salvos Monday is that when it comes to the role of government, he is willing to bet most Americans still believe less is more.

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PATT MORRISON

## **A Labor Problem Made in the U.S.A.**

Patt Morrison

February 24, 2004

If this reads a bit awkwardly, it's because of a little experiment I've been conducting.

Overseas outsourcing. I'm having my column written by foreign workers.

I farm out my job to low-paid writers around the world, I get to keep most of my munificent wages, and I spend only about a half-hour on final inspection, compared to the dozen hours or more it takes to manufacture a column start to finish.

My nouns and pronouns are now made in Indonesia, verbs and adverbs in Mexico and adjectives in China. I tried subcontracting prepositions to Thailand, but someone thought I meant "propositions" and forwarded my inquiry to the Ministry of Sex Trade.

But the ideas are mine, generated right here, and that's why this column can proudly bear the words "Made in the U.S.A."

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I spent an hour on the phone this weekend with "Larry" the computer troubleshooter. "Larry" is probably "Rajiv" in New Delhi. But he stuck to his "Larry" script, using my name in every sentence because Americans are supposed to like that. There were lots of sentences, because I had to ask him to repeat himself so I could understand him.

Larry is what intellectuals in India call a "techno-coolie." He answers the phone when you call some 800 numbers after your computer commits suicide or your credit card balks.

The Larrys of the world get coached in American slang, sports and pop culture; Larry could probably have told me what happened on the last episode of "Sex and the City." Some "techno-coolies" make up American bios for themselves, like Savitha in Bangalore, prepped to tell any inquisitive American that her name's Betty and she loves "Buffy the Vampire Slayer."

Shipping white-collar, info-tech jobs to foreign countries now has the White Housekeeping Seal of Approval. The Bush administration said last week, like Martha Stewart crooning over a pine-cone centerpiece, that this outsourcing is "a good thing." It may hurt in the short run, but we'll all love it eventually.

These jobs are not the lettuce-picking, burger-flipping jobs they say Americans won't take here at home — and by the way, it isn't the jobs Americans won't take, it's the lousy paychecks.

No, these are the bright, prosperous Jobs of Tomorrow that Americans were promised if we all put down our socket wrenches and picked up tech textbooks. The information economy lay glittering at the end of the information superhighway — which, as it turns out, looks more like a one-way road heading straight out of America.

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Got laid off when Silicon Valley outsourced? Having a problem with your food stamps? You may find yourself talking to the foreign worker who got your job — because California has farmed out some telephone welfare services to India.

As for medical data — why bother making a big show of covering up my name on the doctor's office sign-in sheet, as required by the new patient privacy act, when some overseas outsourced medical tech could casually go flipping through my Pap smear results?

And the overseas outsourcing of consumer credit jobs means your Visa records and my Amex charges may be running across computer screens somewhere 10,000 miles away. Sen. Dianne Feinstein just wrote to the heads of credit corporations like Bank of America and Citigroup, "gravely concerned that consumer data is being sent overseas without proper safeguards."

I'm supposed to feel safer because the Patriot Act can check up on what I check out of the library, but any evil-doing Tom, Dick or Ahmed with an outsourced credit-company source may lay his mitts on my Social Security number, phony up a passport and slip into the country while airport security is busy cuffing some granny who left her crochet hook in her purse?

And what recourse would I have? Filing suit? I can't even get the local valet parking company to pay for breaking my car-door handle. How can I possibly recover an identity stolen in Uttar Pradesh?

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This is "a sweet spot" time for corporate profits — so said a big-bucks Philly investor — "no hiring, no discretionary capital spending, no inventory building."

"No hiring" should mean more overtime for workers who still have jobs. It doesn't. Corporations are finagling to stretch the definition of who's entitled to overtime and who's not. Some California companies tried to dodge overtime pay by promoting almost every worker to "manager" — even though the only thing some "managers" managed was a broom.

Last month, American workers — the ones President Bush referred to not long ago as the most productive in the world — once again got more stick and less carrot.

New federal standards trim the ranks of overtime-eligible employees. Among them may be people who have "training in the armed forces." Welcome back, soldier, thanks for the service — and oh, by the way, you won't be getting overtime any more.

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There's one job no one's talked about outsourcing: the presidency. Surely we can get more work for less money.

Hire Tony Blair for the showy stuff that Bush dislikes — the ringing speeches, the cut-and-thrust debates. The

Guardian newspaper estimated that Blair costs his country about \$38 an hour. Big savings there.

For the sneaky political work, there's Russian President and KGB alum Vladimir Putin. His financial declaration, filed a couple of weeks ago, shows he's been earning less than \$100,000 a year. A bargain.

And I'll bet Spanish Prime Minister Jose Maria Aznar would speak better Spanish for less.

So what work is left in America for an American president to do? In the State of the Union speech, Bush dwelt on the horrors of steroids, and demanded that sports officials "take the lead, to send the right signal, to get tough and to get rid of steroids now."

That's it — he can take charge of the one job that will always stay in America, that's too important to privatize or outsource: baseball commissioner.

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E-MAIL TO A FRIEND

## ARE THESE NEW TERROR THREATS AN ATTEMPT BY GOVERNMENT TO PUSH THROUGH POLICE STATE POWERS, PATRIOT ACT 2

*BUSH, SECRETLY WANTS TO SLIDE THROUGH POLICE STATE  
POWER, TIME TO GET IN YOUR SENATORS FACE*

TOTAL POLICE STATE TAKEOVER

The Secret Patriot Act II Destroys What Is Left of American Liberty

A Brief Analysis of the Domestic Security Enhancement Act 2003, Also Known as Patriot Act II

By Alex Jones

[www.infowars.com](http://www.infowars.com)

Congressman Ron Paul (R-Tex) told the Washington Times that no member of Congress was allowed to read the first Patriot Act that was passed by the House on October 27, 2001. The first Patriot Act was universally decried by civil libertarians and Constitutional scholars from across the political spectrum. William Safire, while writing for the New York Times, described the first Patriot Act's powers by saying that President Bush was "seizing dictatorial control.

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. The document consisted of a 33-page section by section analysis of the accompanying 87-page bill.

\*Note: On February 10, 2003 I discovered that not only was there a house version that had been covertly brought to Hastert, but that many provisions of the now public Patriot Act II had already been introduced as pork barrel riders on Senate Bill S. 22. Dozens of subsections and even the titles of the subsections are identical to those in the House version. This is very important because it catches the Justice Department in a bald-faced lie. The Justice Department claimed that the secret legislation brought into the House was only for study, and that at this time there was no intention to try and pass it. Now upon reading S. 22, it is clear that the leadership of the Senate is fully aware of the Patriot Act II, and have passed these riders out of their committees into the full bill. I spent two hours scanning through S. 22 and, let me tell you, it is a nightmare for anyone who loves liberty. It even contains the Our Lady of Peace Act that registers all gun owners. It bans the private sale of all firearms, creates a Federal ballistics

database, and much more.

The bill itself is stamped “Confidential – Not for Distribution.” Upon reading the analysis and bill, I was stunned by the scientifically crafted tyranny contained in the legislation. The Justice Department Office of Legislative Affairs admits that they had indeed covertly transmitted a copy of the legislation to Speaker of the House Dennis Hastert, (R-IL) and the Vice President of the United States, Dick Cheney as well as the executive heads of federal law enforcement agencies.

It is important to note that no member of Congress was allowed to see the first Patriot Act before its passage, and that no debate was tolerated by the House and Senate leadership. The intentions of the White House and Speaker Hastert concerning Patriot Act II appear to be a carbon copy replay of the events that led to the unprecedented passage of the first Patriot Act.

There are two glaring areas that need to be looked at concerning this new legislation:

1. The secretive tactics being used by the White House and Speaker Hastert to keep even the existence of this legislation secret would be more at home in Communist China than in the United States. The fact that Dick Cheney publicly managed the steamroller passage of the first Patriot Act, insuring that no one was allowed to read it and publicly threatening members of Congress that if they didn't vote in favor of it that they would be blamed for the next terrorist attack, is by the White House's own definition terrorism. The move to clandestinely craft and then bully passage of any legislation by the Executive Branch is clearly an impeachable offence.

2. The second Patriot Act is a mirror image of powers that Julius Caesar and Adolf Hitler gave themselves. Whereas the First Patriot Act only gutted the First, Third, Fourth and Fifth Amendments, and seriously damaged the Seventh and the Tenth, the Second Patriot Act reorganizes the entire Federal government as well as many areas of state government under the dictatorial control of the Justice Department, the Office of Homeland Security and the FEMA NORTHCOM military command. The Domestic Security Enhancement Act 2003, also known as the Second Patriot Act is by its very structure the definition of dictatorship.

I challenge all Americans to study the new Patriot Act and to compare it to the Constitution, Bill of Rights and Declaration of Independence. Ninety percent of the act has nothing to do with terrorism and is instead a giant Federal power-grab with tentacles reaching into every facet of our society. It strips American citizens of all of their rights and grants the government and its private agents total immunity.

Here is a quick thumbnail sketch of just some of the draconian measures encapsulated within this tyrannical legislation:

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. (Section 802 is the new definition of domestic terrorism,

and the definition is “any action that endangers human life that is a violation of any Federal or State law.”) Section 501 of the second Patriot Act directly connects to Section 125 of the same act. The Justice Department boldly claims that the incredibly broad Section 802 of the First USA Patriot Act isn’t broad enough and that a new, unlimited definition of terrorism is needed.

Under Section 501 a US citizen engaging in lawful activities can be grabbed off the street and thrown into a van never to be seen again. The Justice Department states that they can do this because the person “had inferred from conduct” that they were not a US citizen. Remember Section 802 of the First USA Patriot Act states that any violation of Federal or State law can result in the “enemy combatant” terrorist designation.

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 301 and 306 (Terrorist Identification Database) set up a national database of “suspected terrorists” and radically expand the database to include anyone associated with suspected terrorist groups and anyone involved in crimes or having supported any group designated as “terrorist.” These sections also set up a national DNA database for anyone on probation or who has been on probation for any crime, and orders State governments to collect the DNA for the Federal government.

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 101 will designate individual terrorists as foreign powers and again strip them of all rights under the “enemy combatant” designation.

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.

SECTION 106 is bone-chilling in its straightforwardness. It states that broad general warrants by the secret FSIA court (a panel of secret judges set up in a star chamber system that convenes in an undisclosed location) granted under the first Patriot Act are not good enough. It states that government agents must be given immunity for carrying out searches with no prior court approval. This section throws out the entire Fourth Amendment against unreasonable searches and seizures.

SECTION 109 allows secret star chamber courts to issue contemp charges against any individual or corporation who refuses to incriminate themselves or others. This sections annihilate the last vestiges of the Fifth Amendment.

SECTION 110 restates that key police state clauses in the first Patriot Act were not sunsetted and removes the five year sunset clause from other subsections of the first Patriot Act. After all, the media has told us: "this is the New America. Get used to it. This is forever."

SECTION 111 expands the definition of the "enemy combatant" designation.

SECTION 122 restates the government's newly announced power of "surveillance without a court order."

SECTION 123 restates that the government no longer needs warrants and that the investigations can be a giant dragnet-style sweep described in press reports about the Total Information Awareness Network. One passage reads, "thus the focus of domestic surveillance may be less precise than that directed against more conventional types of crime."

\*Note: Over and over again, in subsection after subsection, the second Patriot Act states that its new Soviet-type powers will be used to fight international terrorism, domestic terrorism and other types of crimes. Of course the government has already announced in Section 802 of the first USA Patriot act that any crime is considered domestic terrorism.

SECTION 126 grants the government the right to mine the entire spectrum of public and private sector information from bank records to educational and medical records. This is the enacting law to allow ECHELON and the Total Information Awareness Network to totally break down any and all walls of privacy.

The government states that they must look at everything to "determine" if individuals or groups might have a connection to terrorist groups. As you can now see, you are guilty until proven innocent.

SECTION 127 allows the government to takeover coroners' and medical examiners' operations whenever they see fit. See how this is like Bill Clinton's special medical examiner he had in Arkansas that ruled that people had committed suicide when their arms and legs had been cut off.

SECTION 128 allows the Federal government to place gag orders on Federal and State Grand Juries and to take over the proceedings. It also disallows individuals or organizations to even try to quash a Federal subpoena. So now defending yourself will be a terrorist action.

SECTION 129 destroys any remaining whistleblower protection for Federal agents.

SECTION 202 allows corporations to keep secret their activities with toxic biological, chemical or radiological materials.

SECTION 205 allows top Federal officials to keep all their financial dealings secret, and anyone investigating them can be considered a terrorist. This should be very useful for Dick Cheney to stop anyone investigating Haliburton.

SECTION 303 sets up national DNA database of suspected terrorists. The database will also be used to "stop other unlawful activities." It will share the information with state, local and foreign agencies for the same purposes.



SECTION 311 federalizes your local police department in the area of information sharing.

SECTION 313 provides liability protection for businesses, especially big businesses that spy on their customers for Homeland Security, violating their privacy agreements. It goes on to say that these are all preventative measures – has anyone seen Minority Report? This is the access hub for the Total Information Awareness Network.

SECTION 321 authorizes foreign governments to spy on the American people and to share information with foreign governments.

SECTION 322 removes Congress from the extradition process and allows officers of the Homeland Security complex to extradite American citizens anywhere they wish. It also allows Homeland Security to secretly take individuals out of foreign countries.

SECTION 402 is titled “Providing Material Support to Terrorism.” The section reads that there is no requirement to show that the individual even had the intent to aid terrorists.

SECTION 403 expands the definition of weapons of mass destruction to include any activity that affects interstate or foreign commerce.

SECTION 404 makes it a crime for a terrorist or “other criminals” to use encryption in the commission of a crime.

SECTION 408 creates “lifetime parole” (basically, slavery) for a whole host of crimes.

SECTION 410 creates no statute of limitations for anyone that engages in terrorist actions or supports terrorists. Remember: any crime is now considered terrorism under the first Patriot Act.

SECTION 411 expands crimes that are punishable by death. Again, they point to Section 802 of the first Patriot Act and state that any terrorist act or support of terrorist act can result in the death penalty.

SECTION 421 increases penalties for terrorist financing. This section states that any type of financial activity connected to terrorism will result to time in prison and \$10-50,000 fines per violation.

SECTIONS 427 sets up asset forfeiture provisions for anyone engaging in terrorist activities.

There are many other sections that I did not cover in the interest of time. The American people were shocked by the despotic nature of the first Patriot Act. The second Patriot Act dwarfs all police state legislation in modern world history.

Usually, corrupt governments allow their citizens lots of wonderful rights on paper, while carrying out their jackbooted oppression covertly. From snatch and grab operations to warrantless searches, Patriot Act II is an Adolf Hitler wish list.

You can understand why President Bush, Dick Cheney and Dennis Hastert want to keep this legislation secret not just from Congress, but the American people as well. Bill Allison, Managing Editor of the Center for Public Integrity, the group that broke this story, stated on my radio show that it was obvious that they were just waiting for another terrorist attack to

opportunistically get this new bill through. He then shocked me with an insightful comment about how the Federal government was crafting this so that they could go after the American people in general. He also agreed that the FBI has been quietly demonizing patriots and Christians and "those who carry around pocket Constitutions."

I have produced two documentary films and written a book about what really happened on September 11th. The bottom line is this: the military-industrial complex carried the attacks out as a pretext for control. Anyone who doubts this just hasn't looked at the mountains of hard evidence.

Of course, the current group of white collar criminals in the White House might not care that we're finding out the details of their next phase. Because, after all, when smallpox gets released, or more buildings start blowing up, the President can stand up there at his lectern suppressing a smirk, squeeze out a tear or two, and tell us that "See I was right. I had to take away your rights to keep you safe. And now it's your fault that all of these children are dead." From that point on, anyone who criticizes tyranny will be shouted down by the paid talking head government mouthpieces in the mainstream media.

You have to admit, it's a beautiful script. Unfortunately, it's being played out in the real world. If we don't get the word out that government is using terror to control our lives while doing nothing to stop the terrorists, we will deserve what we get - tyranny. But our children won't deserve it.

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## Features

### The USA PATRIOT Act and Patron Privacy on Library Internet Terminals

*By Mary Minow*

Mary Minow is a library law consultant with [librarylaw.com](http://librarylaw.com). She is currently writing a book on library law for the American Library Association with Tomas Lipinski. This librarylaw.com column is not intended to replace legal advice. For a particular fact situation, consult an attorney.

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Within hours after the September 11 attacks, the FBI began serving search warrants to major Internet Service Providers to get information about suspected electronic communications.<sup>2</sup> Within a week, police and FBI agents received tips that some suspects used libraries in Hollywood Beach and Delray Beach, Florida. FBI agents have since requested computer sign-in lists from other libraries. President Bush signed the USA PATRIOT Act into law on October 26, 2001. This law is expected to greatly increase the number of requests for sign-in lists at libraries.

#### What is the USA PATRIOT Act?

The USA PATRIOT Act stands for the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001. The legislation is broad and changes immigration laws, tightens controls on money laundering, and greatly expands the legal use of electronic surveillance.

The Act greatly expands the use of "roving wiretaps." This means that a wiretap order targeted to a person is no longer confined to a particular computer or telephone. Instead, it may "rove" wherever the target goes, which may include library computers. The new law allows a court to issue an order that is valid anywhere in the U.S. This greatly increases a library's exposure to court orders. Further, the use of pen/trap orders is now "technology neutral" and applies to the Internet as well as telephones. Whereas incoming and outgoing phone numbers have long been available upon the mere showing that they are relevant to an ongoing investigation, now email headers and URLs visited are available under the same low standard. Civil liberties advocates argued that such information is not analogous to phone numbers, but far more revealing (including, for example, the keywords used in Google searches such as <http://www.google.com/search?hl=en&q=mary+minow>).

Much of the Act expands the Foreign Intelligence Surveillance Act (FISA), in which the standards for courts to approve surveillance of foreign intelligence gathering are far less demanding than those required for approval of a criminal wiretap, which requires a showing of probable cause.

Librarians can get a good sense of the legal requirements by reading the guidance just issued to federal agents by the Department of Justice.<sup>3</sup>

#### What does the USA PATRIOT Act mean for libraries?

The upshot is that there will be a great many more surveillance orders, everywhere in the country, and in turn there will be more requests for library records, including Internet use records. Think of law enforcement as needing to enter two doors to apprehend a suspect.

Door One leads to the computer server. Law enforcement can find electronic tracks through email or Internet history logs. They may have intercepted messages through surveillance or other means. This leads to a particular computer terminal, date and time.

Door Two leads to the individual. This person could be someone using the Internet in a library, particularly someone who wishes to remain anonymous. The FBI (or others) will want to see a library record of who was using the library's terminal(s) at a particular date and time. If the library keeps sign-up records, law enforcement will want to see those records.

### **Will the FBI (or other law enforcement) ask to put surveillance technology on library computers?**

In many cases, the surveillance technology will be placed elsewhere, and lead law enforcement directly to Door Two. However, it is possible that the FBI will approach the library and ask to place software (such as the controversial DCS1000 (also known as Carnivore) on library servers.<sup>4</sup> Libraries should be sure to insist on a court order before complying. Note that libraries that share servers with cities or others may not be directly approached.

### **Should a library cooperate with the FBI (or other law enforcement) in giving library Internet sign up lists?**

Yes, but advisedly with a court order. This is where the library's individual policies and procedures will become increasingly important. Does the library require sign-ups? If there are no sign-up lists, the inquiry essentially halts. Does the library allow first names only, or made-up names? Does it require identification? Library cards with addresses? Does it keep sign-up records, and if so, for how long? Does it use an automated system that ties library card numbers (tied to registration information) to Internet use? Is such information electronically disengaged after use and electronically shredded? Is it backed up on computer tapes? How long are backup tapes kept?

Search warrants are court orders, signed by a magistrate or a judge. Libraries are explicitly barred under Calif. Gov't. Code §6267 from disclosing patron registration or circulation records, excepting staff administrative use, written consent by the patron, or an order from the appropriate superior court.<sup>5</sup>

Whether or not the law protects Internet use records from disclosure without a court order (this includes search warrants) is not entirely clear. Many libraries consider these records as an extension of registration/circulation records, in that personally identifying information linking patron names with content is involved. Additionally, another section of the law known as the "personal privacy" exemption, provides that certain types of information may be kept confidential by a public agency where the disclosure would constitute an unwarranted invasion of personal privacy.<sup>6</sup> Finally, library policies that protect such records, if well drafted, might protect Internet use records. For an argument that the state law should be updated to reflect the use of Internet in California libraries, see my article in California Libraries April 4, 1999.<sup>7</sup>

Should my library use sign-ups for Internet terminals? If we use sign-up records, are they subject to the California Public Records Act, making us at risk if we destroy them?

Libraries generally decide on whether and how to use sign-up procedures based on the supply and demand of Internet terminals. Sometimes libraries want identification to afford a measure of accountability i.e. prevent hacking. Libraries should be aware, however, that the sign-up procedure has considerable privacy implications. If records are kept, it is best if precise information can be extracted (e.g., user at Terminal #2 on November 13, 2001 at 1 p.m.) without giving out other patron's data.

Under the California Public Records Act, the library is not required to create or maintain Internet use records, any more than numerous other temporary records libraries may keep, such as reference query logs. Once records are created and kept, however, they are subject to court orders, and possibly to open records requests. (Remember that it's possible these records have the same privacy safeguards as circulation and registration records described above.)

Although libraries are not required to create or maintain such records, it is definitely not advisable to destroy the records after a law enforcement or public request for disclosure. In a case in New Hampshire, a father requested a school's computer internet logs (in this case, the electronic records of sites visited). He was concerned that the school library's acceptable use policy was inadequate. When the school did not turn over the logs, the father sued under the state's Right-To-Know law. The county superior court ordered the school to turn over the logs, with the user names and passwords omitted. In January 2001, however, the Court found that the school had intentionally

deleted the logs after the father filed suit. It found the school to be in contempt of court, and ordered it to produce the remaining records and pay the father his costs and attorney's fees.<sup>8</sup>

In addition, local ordinances may apply. Check with the library's attorney.

**I read that the USA PATRIOT Act allows federal agents to get court orders for the production of "business records." Does that include library records?**

The Act states that the FBI may apply for an order requiring the "production of any tangible things (including books, records, papers, documents and other items) for an investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment..."<sup>9</sup>

This provision is designed to get ISP records of user billing information. Library patrons who are merely accessing information on Internet terminals should have strong First Amendment arguments. Nevertheless, it's not clear whether they would win. Senator Russ Feingold tried to get an amendment to clarify that the Act would not preempt existing federal and state privacy laws, by maintaining existing criteria for records, such as library records. This amendment failed. Also, it should be noted that this "business records" provision is an amendment of the FISA law, which means that court proceedings are not open and are sealed.

**I read that a research librarian tipped off the police in Florida. Can I do that, or must I wait for them to come to me?**

If you recognize a picture in the newspaper as one of your patrons, that is not divulging a library record. If, on the other hand, you recognize a suspect's names from library records, you should definitely check in with your attorney before deciding whether to call the police.

In Broward County, Florida, the library was issued an order by a federal grand jury to collect library records when a patron fitting the description of Mohamed Atta, an alleged terrorist leader, was seen using computers with Internet access.<sup>10</sup> The order was given with specific instructions not to release information to anyone other than federal authorities.<sup>11</sup>

Recall that the vast majority of library patrons are not terrorists, and libraries should make all efforts to protect patron privacy.

**Wasn't there an FBI program years ago that sent FBI agents into libraries asking for reading habits of suspicious looking people?**

Yes. The FBI Library Awareness Program was a program that ran for about 25 years, in which FBI agents tried to enlist the assistance of librarians in monitoring the reading habits of "suspicious" individuals. Such individuals were variously defined as people with Eastern European or Russian-sounding names or accents, or coming from countries hostile to the U.S.<sup>12</sup> During the Library Awareness Program, some FBI agents wrongly claimed that they were not subject to statutes protecting library records.<sup>13</sup> The efforts were largely unsuccessful, due to the tremendous outrage and resistance from those in the library profession.

The most important lesson that libraries learned was the importance of training the "friendly front desk clerk" and even volunteers not to hand over the information, but to refer all inquiries, even by badged FBI agents, to the library director.

**How is the library community responding to the anti-terrorism legislation?**

The American Library Association joined with the Association of Research Libraries and the Association of American Law Libraries in issuing a statement on the proposed anti-terrorism measures. It says that libraries do not monitor information sought or read by library users. To the extent that libraries "capture" usage information of computer logs, libraries comply with court orders for law enforcement.

The statement is also concerned that the legislation, which makes it easier to access business records, may in some cases apply to library circulation records. It recommends that legislators keep high standard for court order regarding release of library records.<sup>14</sup>

## Where should libraries go to get guidance on FBI search warrants?

The Freedom to Read Foundation is making some legal assistance available to librarians. Librarians are advised to call the ALA Office for Intellectual Freedom and request legal advice from Jenner & Block without disclosing the existence of a warrant. For more details, see the ALA's recently issued Alert: USA PATRIOT Act.<sup>15</sup>

### Footnotes

1. This "bottom line" is dedicated to Thad Phillips, who said, "Mary, I know you're smart, but when I read your articles, I just want to get to the bottom line."
2. "FBI turns to Internet for terrorism clues," <http://www.cnn.com/2001/TECH/internet/09/13/fbi.isps/> (visited November 15, 2001).
3. See United States. Department of Justice. Computer Crime and Intellectual Property Section. Field Guidance on New Authorities that Relate to Computer Crime and Electronic Evidence Enacted in the USA Patriot Act of 2001, <http://www.usdoj.gov/criminal/cybercrime/PatriotAct.htm> (visited November 13, 2001).
4. For more on current software/hardware surveillance technology, see Jack Karp, Chewing on Carnivore, TechTV, October 16, 2001 (visited November 13, 2001).
5. See Calif. Gov't. Code §6254 and §6267 (2001). The library may not disclose these records except to a) staff within the scope of administrative duties, b) with written consent from the patron, or c) by order of the appropriate superior court. Although California law refers to the "appropriate superior court," the USA PATRIOT Act still requires court orders, but allows courts in any jurisdiction to issue orders. Federal law will supercede state law in this case (unless the Act is later found unconstitutional).
6. Calif. Gov't. Code, § 6254(c) (2001).
7. See Mary Minow, "Library patron internet records and freedom of information laws," California Libraries, April 4, 1999, pp. 8-9, reprinted at <http://www.librarylaw.com/publicrecords.html> (visited October 3, 2001).
8. James M. Knight v. School Administrative Unit #16 Docket No. 00-E-307, Rockingham, SS. Superior Court, New Hampshire. See "Exeter Internet Ruling, Complete Ruling," Portsmouth Herald, January 8, 2001 at [http://www.seacoastonline.com/news/1\\_8special.htm](http://www.seacoastonline.com/news/1_8special.htm) (visited November 15, 2001).
9. USA PATRIOT Act H.R. 3162, Title II Section 215, amending the Foreign Intelligence Surveillance Act (FISA), Title V, Section 501(a)(1) <http://leahy.senate.gov/press/200110/USA.pdf> (visited November 13, 2001)
10. Florida Statute 257.261 The Florida Statute is very similar to the Calif. Gov't Code §6254 and §6267.
11. John Holland, Paula McMahon, Fred Schulte and Jonathon King, "Library computers targeted in terrorism investigation," Sun-Sentinel, September 18, 2001 at <http://www.sun-sentinel.com/news/southflorida/sfl-culpri918.story> (visited October 3, 2001).
12. See Herbert N. Foerstel, Surveillance in the Stacks: The FBI's Library Awareness Program, (Greenwood Press 1991); Ulrika Ekman Ault, "Note: The FBI's Library Awareness Program: Is Big Brother Reading Over Your Shoulder?" 65 N.Y.U.L. Rev. 1532 (December, 1990);
13. Senator Simon, Academic Libraries Must Oppose Federal Surveillance of Their Users, 100th Cong. 2nd Sess., 134 Cong Rec. S 4806 (1988)(republishing an article by Gerald R. Shields, Chronicle of Higher Education) cited in Mark Paley, The Library Awareness Program: The FBI in the Bookshelves at <http://hometown.aol.com/paleymark/library.htm> (visited October 1, 2001).
14. Library Community Statement on Proposed Anti-Terrorism Measures and Library Community Letter to Congress on Anti-Terrorism Legislation (pdf file) at <http://www.ala.org/washoff/> (visited October 4, 2001).
15. American Library Association. Office for Intellectual Freedom Alert: USA Patriot Act

<http://www.ala.org/alaorg/oif/usapatriotact.html> (Editor's noted (SP), this link changed after publication, and has been corrected).

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