
The Impact of the U.S. Patriot Act on American Democracy:
Filtering the Provisions of the USA PATRIOT Act Through the Founding Principles of the Constitution
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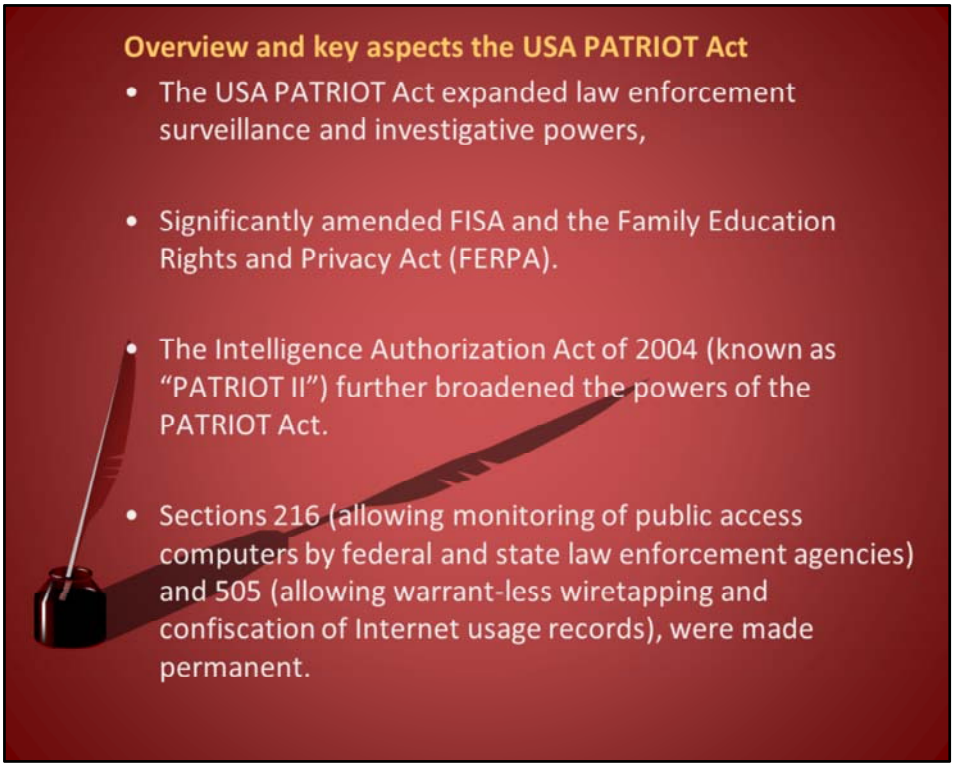
I'd planned to give you a short lesson in defining democracy. That's not going to happen. During my research what I discovered is that you, like most Americans, have your own definitions of democracy and they center around what our individual values are. Values like Security, Privacy, Freedom, and Liberty. So, instead of focusing on definitions, lets talk briefly about the "essence" of democracy. Literally, the things that keep us awake at night.

Consider how much value you place on the aforementioned. Innately we all want to be in control of or at a minimum, assured that these "values" are not threatened.

Now imagine someone someone's listening to your private phone calls, archiving your text messages and emails, or heaven forbid—using any of this information to keep you from doing something you desire to do.

Even America's closest allies were taken aback by the revelation that the NSA listened to and recording their conversations. This is not new. It's been "thought to have been happening since Water gate, the Kennedy assassination, Malcolm X…

The difference is that now, this knowledge is empirical for each and every American citizen.



The name of the act perhaps helped ensure its easy passage; USA PATRIOT stands for Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism.

Overview and key aspects

Adopted in October 2001 as an immediate response to the terrorist attacks of September 11, the PATRIOT Act expanded law enforcement surveillance and investigative powers, and significantly amended more than 15 other statutes, including FISA and the Family Education Rights and Privacy Act (FERPA). The Intelligence Authorization Act of 2004 (known as "PATRIOT II") further broadened the powers of the PATRIOT Act, while, in 2006, Congress reauthorized the original legislation as the USA PATRIOT Improvement and Reauthorization Act of 2005. Sections 216 (allowing monitoring of public access computers by federal and state law enforcement agencies) and 505 (allowing warrant-less wiretapping and confiscation of Internet usage records), were made permanent.

The bill also offers more access to case opinions made by judges of the secretive Foreign Intelligence Surveillance Court, which has oversight over surveillance of suspects overseas..

Critics of the bill say that it is ceremonial at best and offers no real change or limitations to the way NSA currently operates.

And now AT&T is responsible for my privacy and security?

Information Sharing

Sec. 203(b) and (d): Allows information from criminal probes to be shared with intelligence agencies and other parts of the government.

Pro: Supporters say the provisions have greatly enhanced information sharing within the FBI, and with the intelligence community at large.

Con: Critics warn that unrestricted sharing could lead to the development of massive databases about citizens who are not the targets of criminal investigations.

Roving Wiretaps

Sec. 206: Allows one wiretap authorization to cover multiple devices, eliminating the need for separate court authorizations for a suspect's cell phone, PC and Blackberry, for example.

Pro: The government says roving wiretaps are needed to deal with technologically sophisticated terrorists.

Con: Critics say the language of the act could lead to privacy violations of anyone who comes into casual contact with a suspect.

Access to Records

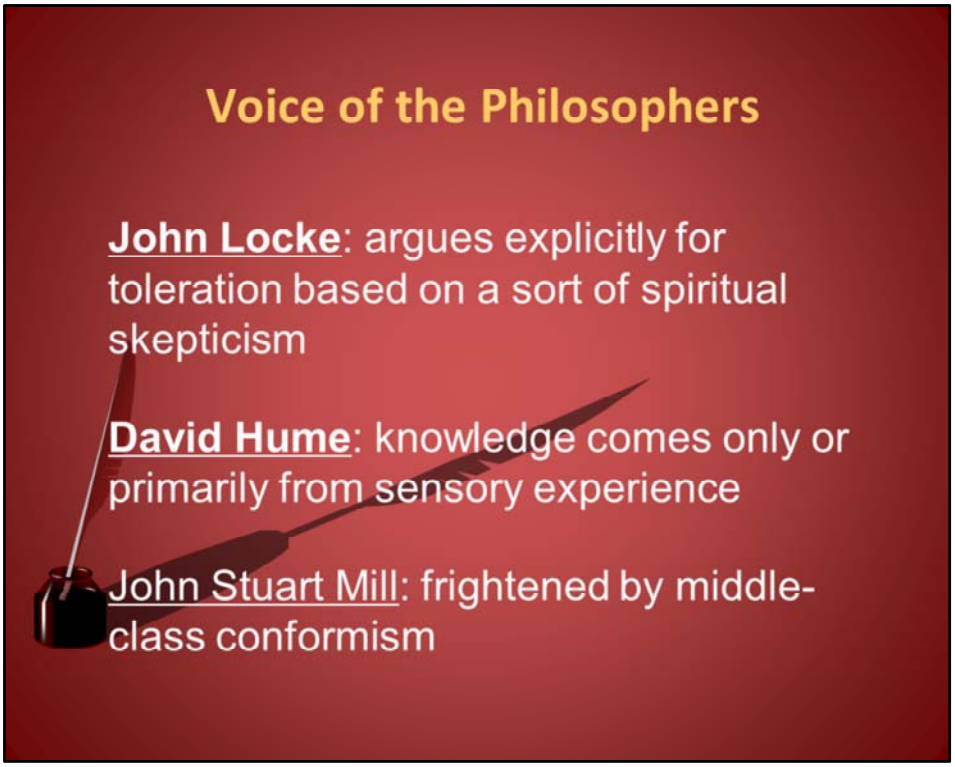
Sec. 215: Allows easier access to business records in foreign intelligence investigations.

Pro: The provision allows investigators to obtain books, records, papers, documents

and other items sought "in connection with" a terror investigation.
Con: Critics attack the breadth of the provision, saying the law could be used to demand the reading records of library or bookstore patrons.

Foreign Intelligence Wiretaps and Searches
Sec. 218: Lowers the bar for launching foreign intelligence wiretaps and searches
Pro: Allows investigators to get a foreign intelligence wiretap or search order, even if they end up bringing criminal charges instead.
Con: Because foreign intelligence probes are conducted in secret, with little oversight, critics say abuses could be difficult to uncover.

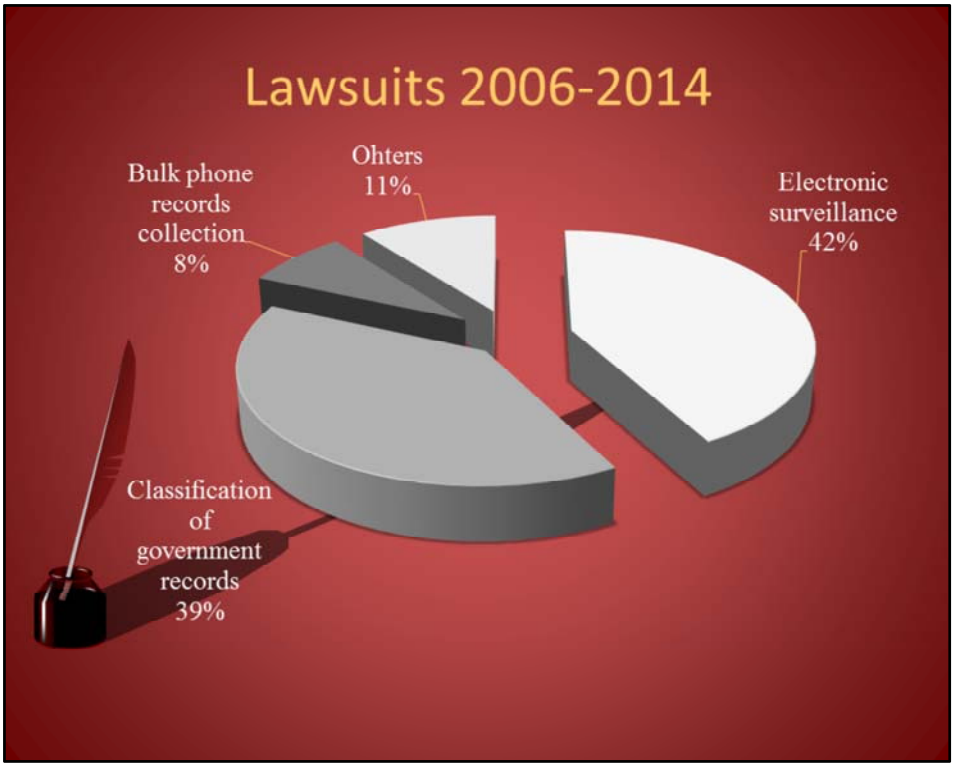
"Sneak & Peek" Warrants
Sec. 213: Allows "Sneak and peek" search warrants, which let authorities search a home or business without immediately notifying the target of a probe. **Does not expire.**
Pro: Supporters say this provision has already allowed investigators to search the houses of drug dealers and other criminals without providing notice that might have jeopardized an investigation.
Con: Critics say the provision allows the use of "sneak and peek" warrants for even minor crimes, not just terror and espionage cases.



John Locke: argues explicitly for toleration based on a sort of spiritual skepticism

Hume: Empiricism is a theory that states that knowledge comes only or primarily from sensory experience. Ultimately, Hume argues for a mitigated skepticism. We have no good reason to believe much of what we believe about the world, but human nature helps us function in all the ways that reason cannot.

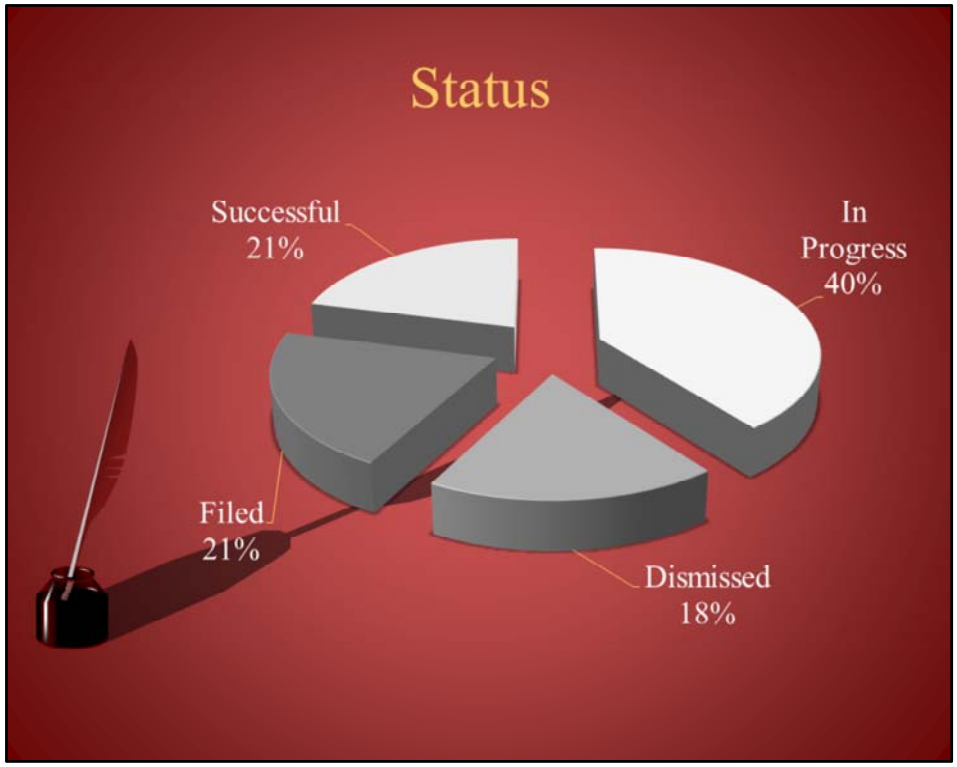
John Stuart Mill: The truth is that Mill was frightened by middle-class conformism much more than by anything to be looked for from an enfranchised working class. It was a fear he had picked up from reading Alexis de Tocqueville's *Democracy in America* 1836, 1840; America was a prosperous middle-class society, and Mill feared that it was also a society that cared nothing for individual liberty.



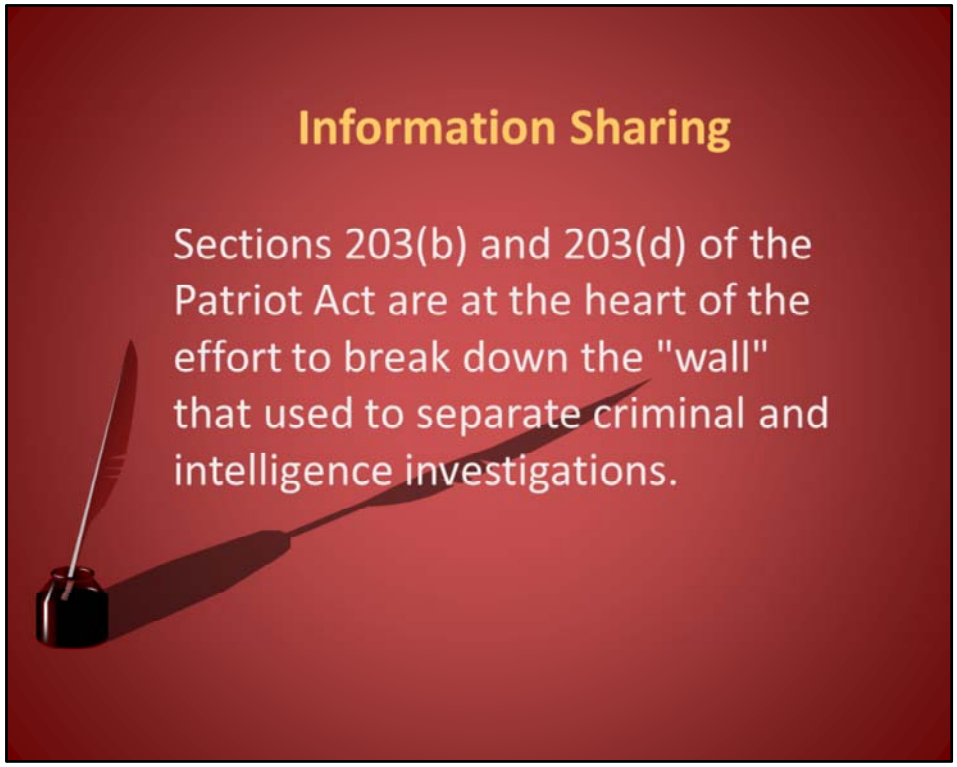
Here's a breakdown of all the lawsuits filed between 2006 and 20014.

Typical classification levels
Top secret (TS)
Secret
Confidential
Restricted
Official
Unclassified
Clearance
Compartmented information

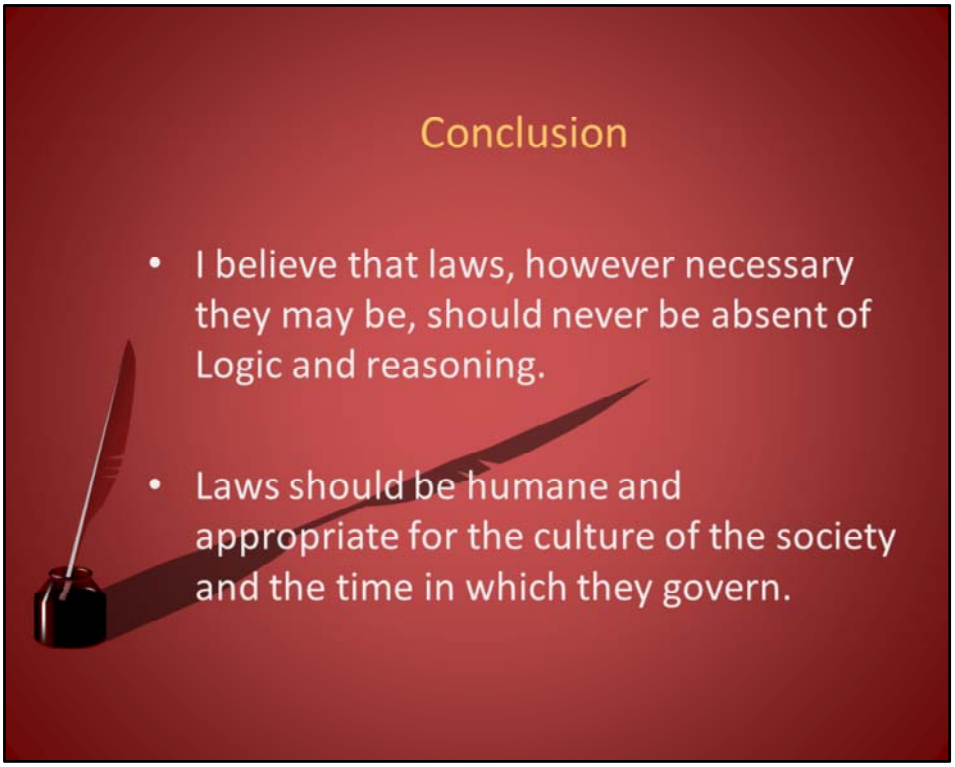
Electronic surveillance: mass storage of phone records and other electronically transmitted meta data flles



The philosophical divide between toleration and the protection against harm, which has demarcated the line between individual privacy and common good, has long existed in a legal framework that did not contemplate the events of September 11. Now, the rhetorical balance between individual privacy and the common good has shifted. Where the potential for harm in a liberal democracy exist, toleration is jeopardized.



The Justice Department has frequently blamed the “wall” for the failure to find and detain Sept. 11 hijackers Nawaf al-Hazmi and Khalid al-Midhar prior to the attacks. CIA agents had information that both men were in the United States and were suspected terrorists, but the FBI says it did not receive that information until August 2001.



Is the PATRIOT ACT appropriate and necessary for our time and culture? Is the PATRIOT ACT prudent? Morals and strategic intellect not religious tenants and fear should guide lawmakers. The former would greater serve the will of the people. As for Public policies derived from unjust laws…

When judicial powers are called upon to sanction laws, and they find them unjust or calculated to injure their own citizens, they ought to be rejected.[11]

Geoffrey Stone, a University of Chicago law professor who served on President Obama's task force that recommended changes in surveillance programs said it best when he said "We want and need to be safe, but we're now in a better position to take a deep breath, step back and look more carefully about how best to balance the competing interests in security and individual freedom."

Paulsen, Monrad G., and Michael I. Sovern. 1956. ""public Policy" in the Conflict of Laws". *Columbia Law Review* 56 (7). Columbia Law Review Association, Inc.: 969–1016. doi: 10.2307/1119628.