

# The USA PATRIOT ACT and Government Actions that Threaten Our Civil Liberties

## New legislation and government actions take away our freedom

With great haste and secrecy and in the name of the "war on terrorism," Congress passed legislation that gives the Executive Branch sweeping new powers that undermine the Bill of Rights and are unnecessary to keep us safe. This 342-page USA PATRIOT Act was passed on October 26, 2001, with little debate by Members of Congress, most of whom did not even read the bill. The Administration then initiated a flurry of executive orders, regulations, and policies and practices that also threatened our rights.

### The USA PATRIOT Act:

Expands terrorism laws to include "domestic terrorism" which could subject political organizations to surveillance, wiretapping, harassment, and criminal action for political advocacy.

Expands the ability of law enforcement to conduct secret searches, gives them wide powers of phone and Internet surveillance, and access to highly personal medical, financial, mental health, and student records with minimal judicial oversight.

Allows FBI Agents to investigate American citizens for criminal matters without probable cause of crime if they say it is for "intelligence purposes."

Permits non-citizens to be jailed based on mere suspicion and to be denied re-admission to the US for engaging in free speech. Suspects convicted of no crime may be detained indefinitely in six month increments without meaningful judicial review.

### What rights are being threatened?

**First Amendment** - Freedom of religion, speech, assembly, and the press.

**Fourth Amendment** - Freedom from unreasonable searches and seizures.

**Fifth Amendment** - No person to be deprived of life, liberty or property without due process of law.

**Sixth Amendment** - Right to a speedy public trial by an impartial jury, right to be informed of the facts of the accusation, right to confront witnesses and have the assistance of counsel.

**Eighth Amendment** - No excessive bail or cruel and unusual punishment shall be imposed.

**Fourteenth Amendment** - All persons (citizens and non-citizens) within the US are entitled to due process and the equal protection of the laws.

### New Federal Executive Branch Actions

- 8,000 Arab and South Asian immigrants have been interrogated because of their religion or ethnic background, not because of actual wrongdoing.
- Thousands of men, mostly of Arab and South Asian origin, have been held in secretive federal custody for weeks and months, sometimes without any charges filed against them. The government has refused to publish their names and whereabouts, even when ordered to do so by the courts.
- The press and the public have been barred from immigration court hearings of those detained after September 11<sup>th</sup> and the courts are ordered to keep secret even that the hearings are taking place.
- The government is allowed to monitor communications between federal detainees and their lawyers, destroying the attorney-client privilege and threatening the right to counsel.
- New Attorney General Guidelines allow FBI spying on religious and political organizations and individuals without having evidence of wrongdoing.
- President Bush has ordered military commissions to be set up to try suspected terrorists who are not citizens. They can convict based on hearsay and secret evidence by only two-thirds vote.
- American citizens suspected of terrorism are being held indefinitely in military custody without being charged and without access to lawyers.

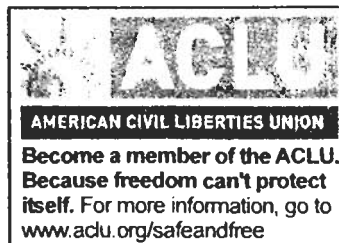
### What can be done?

This lack of due process and accountability violates the rights extended to all persons, citizens and non-citizens, by the Bill of Rights. It resurrects the illegal COINTELPRO-type programs of the '50s, '60s, and '70s, where the FBI sought to disrupt and discredit thousands of individuals and groups engaged in legitimate political activity.

The American Civil Liberties Union, along with thousands of organizations and individuals concerned with protecting our civil rights and civil liberties, is campaigning to ensure that our rights are not a casualty of the war on terrorism.

Join us in this effort to regain our hard-won freedoms.

- Support a resolution in your city rejecting the USA PATRIOT Act, joining your city with others across the country in upholding the Bill of Rights.
- Contact your elected representatives and the President to express your opposition to the USA PATRIOT Act.
- Send letters to local newspapers. Organize discussions in your schools, organizations and religious institutions.



## A Layperson's Guide to the USA PATRIOT Act and Federal Executive Orders

Amendment	Title or Provision	How it can be misused
Amendment I	USAPA §802: Definition of domestic terrorism	Broad definition may be used against activists exercising their rights to assemble and to dissent.
Amendment I	USAPA §215: Access to records and other items under the Foreign Intelligence Surveillance Act	Puts people at risk for exercising their free speech rights to read, recommend, or discuss a book or to write an email.
Amendment I, IV & V	Attorney General's Edict for Increased Surveillance of Religious and Political Organizations	Opens the door to COINTELPRO operations. Reduces previous standard from "probable cause." Unsuspecting participant in a religious or political meeting may be "compelled to be a witness against himself."
Amendment I	Attorney General's edict subverting Freedom of Information Act requests	Enables federal agencies to ignore many FOIA requests for unclassified information.
Amendment I	Attorney General's approval of a Bureau of Prisons emergency surveillance order	Abridges freedom of speech.
Amendment IV	USAPA §203: Authority to share criminal investigative information.	No court order is required. CIA may share the information with other agencies and with foreign governments.
Amendment IV	USAPA §218: Foreign intelligence information	Eliminates judicial supervision by giving the FBI the ability to gather "foreign intelligence information" without a warrant, unless the evidence sought is to be used in a criminal proceeding. "Probable cause" of a crime is no longer needed.
Amendment IV	USAPA §206: Roving surveillance authority under the Foreign Intelligence Surveillance Act of 1978.	These wiretaps may be authorized secretly.
Amendment IV	USAPA §213: Authority for delaying notice of the execution of a warrant (AKA "sneak and peek")	Person whose home is to be searched cannot view the warrant to make sure the address is correct or to make sure that the agent adheres to the warrant's description of what is to be searched.
Amendment IV	USAPA §215: Access to records and other items under the Foreign Intelligence Surveillance Act	No legitimate checks and balances; rather, the judge becomes a 'rubber stamp'.
Amendment IV	USAPA §411: Definitions relating to terrorism	Lowers standard for terrorist designation; possibility of groups that dissent peacefully being so designated as the result of an action by an agent provocateur.
Amendment IV, V, VI, & VIII	USAPA §412: Mandatory detention of suspected terrorists; habeas corpus; judicial review	Reduces previous standard from "probable cause." Deprives immigrants of "liberty without due process of law, a speedy and public trial, an impartial jury, being informed of the nature and cause of the accusation, being confronted with witnesses against him," and "Counsel for defense." May result in "cruel and unusual punishments" (deportation).
Amendment IV	Attorney General's approval of a Bureau of Prisons emergency surveillance order	Constitutes "unreasonable searches" without the necessity to meet the standard of "probable cause."
Amendment IV	Attorney General's TIPS program	May damage someone's record due to innocent activities.
Amendment V & VI	Attorney General's approval of a Bureau of Prisons emergency surveillance order	A prisoner may be made to witness against him or herself. A prisoner who knows that law enforcement may listen in on conversations with an attorney may forego requesting Counsel to aid in his or her defense.
Amendment V	President Bush's Military Order	Denies "due process of law," to all "persons" in the US. Allows secret evidence and hearsay to be used.
Amendment V & VI	President Bush's order designating "Enemy combatant"	No opportunity to prove innocence. Denial of "liberty without due process of law." Deprives immigrants of "liberty without due process of law, a speedy and public trial, an impartial jury, being informed of the nature and cause of the accusation, being confronted with witnesses against him," and "Counsel for defense." May result in "cruel and unusual punishments" (deportation).