



5 Ways Patriot Act Violates Fourth Amendment

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June 4, 2015

As Patriot Act provisions expired in mid-2015 and the Freedom Act redefined the National Security Agency's role in phone data collection, the constitutional issues of the Fourth Amendment continue to be carefully examined.

The now-shut down Patriot Act was often challenged as a violation of the Fourth Amendment, which protects citizens from unreasonable searches and seizures. The Patriot Act, established in response to the September 11, 2001, attacks, enabled the Department of Homeland Security and other law enforcement agencies to easily obtain records on individuals without their knowledge.

It also allowed law enforcement to access personal records and information with simpler search warrants, [according to Cornell University Law School](#).

Here are five ways opponents have argued the Patriot Act violated the Fourth Amendment:

1. Sneak-and-Peek Warrants, Section 213

Sneak-and-peek warrants, also called delayed-notification warrants, allowed law enforcement to conduct a covert search without informing the suspect of the search until later. In 2007, a District Judge found such warrants to be unconstitutional, [ABC News reported](#).

However, the government appealed this ruling, and these warrants still remain concerns for citizens today, [according to Vice News](#).

2. Roving Wiretaps, Section 206

Roving wiretaps have long been used in criminal cases to allow law enforcement to "follow a target across multiple telephone or Internet accounts when there's reason to believe the suspect is frequently changing lines to frustrate surveillance," [according to the Cato Institute](#). However,

the Patriot Act expanded this use of power.

Now, these wiretaps can be used in cases of intelligence on top of criminal activities. The Cato Institute argued the intelligence cases violate the Fourth Amendment by allowing broader requirements for these taps.

The institute explained that in criminal cases, law enforcement must provide at least a named suspect, or a list of specific facilities that will be monitored. In intelligence investigations, only a "'specific' description of the target" needs to be given.

3. Trap and Trace Searches, Section 214

Also known as "pen register searches," these searches do not obtain content but rather "transactional and addressing information attached to a communication," the [American Civil Liberties Union](#) explained. The ACLU argued these are a breach of the Fourth Amendment since there are no probable cause requirements in obtaining these warrants.

"[The FBI] must only certify to a judge – without having to prove it – that such a warrant would be 'relevant' to an ongoing criminal investigation. And the judge does not even have the authority to reject the application," the ACLU said.

The Patriot Act further expanded the use of these searches by making an order issued by a judge applicable to the internet and nationwide – a provision which the ACLU argued "marginalizes the role of the judiciary."

4. Bulk Data Collection and Storage, Section 215

Section 215 was the most recent provision that expired June 1, 2015, and was not renewed under the new Freedom Act. Less than a month before its expiration, it was found that provision was illegal to justify bulk data collection, [The New York Times reported](#).

5. Intelligence Wiretaps, Section 218

The Foreign Intelligence Surveillance Act of 1978 provided an exception to the Fourth Amendment when it came to wiretaps with the purpose of gathering foreign intelligence. The ACLU explained that FISA did not require probable cause for these searches under the assumption that it was not to put someone on trial, but rather was to gain foreign intelligence.

The Patriot Act expanded this right to allow searches without probable cause if "'a significant purpose' is intelligence. [Which] lets the government circumvent the Constitution's probable cause requirement even when its main goal is ordinary law enforcement," the ACLU said.