



United States Senate

The USA Patriot Act



Chair: Khush Patel'23

Co-Chair: Michael Carr'24

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I. Letter From the Chair

Dear Delegates,

Welcome to BC High MUN 31! My name is Khush Patel and I am a senior here at Boston College High School. This is my first year on the secretariat as the Under-Secretary General, and my second year as a conference chair. Outside of Model UN, I am involved in the Business Club, our school newspaper, as well as scientific research.

Model UN has truly been a great experience. My first exposure to the club was when my senior mentor invited me to participate four years ago. Now, as a club leader, I hope to also spread this excitement, as he did for me. I am especially excited for this committee, as this will be the first time that one of such magnitude was created.

Lastly, we require that you submit a position paper one week in advance of the conference outlining your senator's position regarding the Patriot Act. This is done in order to ensure meaningful discussion throughout the conference from all delegates. Please email your paper to either email addresses below. I look forward to seeing you all!

Best,

Khush Patel'23, Committee Chair & BC High Model UN Undersecretary General

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II. Letter From the Co-Chair

Dear Delegates,

My name is Michael Carr, a junior here at BC High. First off, I would like to offer a sincere welcome to all the delegates in our committee. I started participating in Model UN as a freshman, and this will be my first Co-Chair assignment. Outside of Model UN, I am involved in Theater and Robotics Club, and I also enjoy both cooking and baking all sorts of items.

For me, Model UN has been one of my favorite parts of high school. I love the discourse and debate but most importantly the new understanding of arduous topics. I am deeply interested in modern American history which is why I am very much looking forward to this conference.

I look forward to having a great experience with you all, as I continue to embark on my own Model UN path. Feel free to reach out with any questions, and we will be happy to help you out.

Cordially,

Michael Carr'24 Committee Co-Chair

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III. Introduction

The USA Patriot Act was a three-hundred page document passed by the United States Congress with bipartisan support on October 26, 2001 by President George W. Bush. This occurred just weeks after the September 11 terrorist attacks.

Before the attacks, Congress focused on creating and passing legislation to prevent such international terrorism. However, after an April 1995 domestic terrorism bombing in Oklahoma City, the issue propelled itself to national attention. President Bill Clinton signed the “Antiterrorism and Effective Death Penalty Act of 1996” on April 24, 1996 to make it easier to identify and prosecute domestic and international terrorists. However, President Clinton said he wanted stronger antiterrorism laws in order to allow law enforcement the authority to wiretap and gain access to personal records. Congress refused to do so believing this was unconstitutional.

After the terrorist attacks on September 11, 2001, the Congress changed its stance on this topic. While they had largely been against such government surveillance before, now there was support for it. Millions of Americans and those outside America, anticipated the next Congressional move. Just weeks after that attack, the Congress passed the USA Patriot Act with support from both sides of the aisle. The law was intended to deter and punish terrorists not only in the United States of America, but around the world, through the use of investigatory tools and other means. Federal and state governments received much more power to track potential

terrorists. The intent was to assure the greater safety of the country. Critics argued that the federal and state governments had received too much power and that basic American freedoms had become restricted.

Today in 2023, is this law still relevant? Your task, Senators, is to revisit, as the Patriot Act and discuss its past effectiveness and whether or not it should still be enacted.

IV. Background

On the morning of September 11, 2001, Al Qaeda, a militant Islamist organization led by Osama Bin Laden, carried out a series of violent surprise attacks on the United States of America. Four commercial airplanes from large U.S. domestic companies were hijacked from the eastern coast of the United States by nineteen Al Qaeda operatives in order to carry out the attacks. The first two planes crashed into the twin towers of New York City's World Trade Center, two of the tallest buildings in the United States. A third plane then crashed into the western side of the Pentagon, the headquarters for the Department of Defense. The fourth and final plane never reached its target, as the passengers courageously stopped the operatives from being able to do so. However, they crashed into a field in Shanksville, Pennsylvania before they were able to regain control of the large commercial aircraft. The fatalities of that terrible day not only included those in the towers and on the planes, but also countless others on the ground nearby, as well as the first responders, who bravely risked their lives in order to save others. The estimated number of fatalities from that day are estimated to be around 3,000 people.

As a direct response to the worst terrorist attack in United States history, then President George W. Bush announced a War on Terror on September 20th, 2001 in an address to a joint session of the U.S. Congress. Operation Enduring Freedom, an international effort, was launched in October 2001, to remove the Taliban government from power in Afghanistan, which had harbored the Al Qaeda terrorist group (www.billofrightsinstitute.org).

The Patriot Act, enacted on October 26th, 2001, has been critical in preventing another international terrorist attack on the United States according to the U.S. Justice Department. The law allowed the federal government to modernize and innovate in its ability to probe and investigate various types of potential threats to our national security, as well as the security of the world.

As a world superpower, the argument supporting this law was not only to protect the citizens of the country, but also American allies. The law helped eliminate the time-constraining barriers to create and enforce effective national security investigations, and allowed for access to the same powerful tools available to other investigators.

Before the September 11th attacks, recent legislation regarding terrorism had been largely focused on the domestic side. Calls for stronger surveillance had been touted as unconstitutional by members from both political parties. However, after these terrible attacks, the USA Patriot Act was considered as a practical solution to international terrorism. The USA Patriot Act was the United States first major action after the attacks, and helped signal the federal government

would be ready to prevent a future attack by giving national security officials and law enforcement officials tools to protect the American citizenry.

Now called the Patriot Act was also updated in 2005, in which it added additional guidelines in order to protect the privacy of the citizens of the United States. This update also strengthened the security of our ports, which was also seen as a major national security threat, as well as providing the necessary tools to law enforcement to combat the spread of various drugs, including methamphetamine.

V. Current Issue

Shortly after its signing as a law, the USA Patriot Act and the updated Patriot Act (2005) had been the center of many controversies. Multiple lawsuits were filed in which it was stated that the government's surveillance powers had substantially grown and that they now possessed unchecked power as a result of the Patriot Act.

According the U.S. Justice Department, "The USA PATRIOT Act, enacted on October 26, 2001, has been critical in preventing another terrorist attack on the United States" (www.justice.gov). It modernized the federal government's ability to investigate threats to national security. It modified US government investigative tools to reflect modern technologies, eliminated barriers to effective national security investigations, and gave national security investigators the same tools available to investigators who handle non-national security matters.

The US Congress passed the USA PATRIOT Act Improvement and Reauthorization Act in 2005 (H.R. 3199). This legislation reauthorized all expiring provisions of the USA PATRIOT Act, added many additional safeguards to protect Americans' privacy and civil liberties, strengthened port security, and provided tools to combat the spread of the drug called methamphetamine.

As a result of the expansion of tools available to investigators, the Patriot Act made it much easier for law enforcement to be able to gain access to various records of United States citizens' activities that were in the hands of third parties unaffiliated with the government. This was a time in which the computerization of records was beginning to become much more commonplace. The FBI, and other government agencies, were able to force anyone to turn over records, both unrestricted and confidential. This allowed the government to have access to large amounts of information about individuals that was previously not available to them. Also, now the government no longer had to show evidence that the subjects were suspected of being an agent of a foreign power, something that had previously shielded United States citizens.

According to lawsuits filed by the American Civil Liberties Union (ACLU) the USA Patriot Act increases the government's surveillance powers in four areas:

1. Records searches. It expands the government's ability to look at records on an individual's activity being held by a third parties. (Section 215 of the law)
2. Secret searches. It expands the government's ability to search private property without notice to the owner. (Section 213 of the law)

3. Intelligence searches. It expands a narrow exception to the Fourth Amendment that had been created for the collection of foreign intelligence information (Section 218 of the law).
4. "Trap and trace" searches. It expands another Fourth Amendment exception for spying that collects "addressing" information about the origin and destination of communications, as opposed to the content (Section 214 of the law).

Also, there is unchecked power possessed by the US government, previously protected by the US Constitution. Here are some areas of concern:

Expanded access to personal records held by third parties. One of the most significant provisions of the Patriot Act makes it far easier for the authorities to gain access to records of citizens' activities being held by a third party. At a time when computerization is leading to the creation of more and more such records, Section 215 of the Patriot Act allows the FBI to force anyone at all - including doctors, libraries, bookstores, universities, and Internet service providers - to turn over records on their clients or customers. **Unchecked power:** The result is unchecked government power to rifle through individuals' financial records, medical histories, Internet usage, bookstore purchases, library usage, travel patterns, or any other activity that leaves a record.

Here are specific changes allowed by the updated USA Patriot Act (2005):

- The federal government no longer has to show evidence that the subjects of search orders are an "agent of a foreign power," a requirement that previously protected Americans against abuse of this authority.
- The FBI does not have to show a reasonable suspicion that the records are related to criminal activity, much less the requirement for "probable cause" that is listed in the Fourth Amendment to the Constitution. All the government needs to do is make the broad assertion that the request is related to an ongoing terrorism or foreign intelligence investigation.
- Judicial oversight of these new powers is essentially non-existent. The government must only certify to a judge - with no need for evidence or proof - that such a search meets the statute's broad criteria, and the judge does not even have the authority to reject the application.
- Surveillance orders can be based in part on a person's First Amendment activities, such as the books they read, the Web sites they visit, or a letter to the editor they have written.
- A person or organization forced to turn over records is prohibited from disclosing the search to anyone. As a result of this gag order, the subjects of surveillance never even find out that their personal records have been examined by the government. That undercuts an important check and balance on this power: the ability of individuals to challenge illegitimate searches. (www.aclu.org)

The committee's task is to evaluate and analyze the current world situation and to discuss, negotiate, and decide whether the Patriot Act is needed, while remembering that this act allowed the government to have the power of surveillance upon its own citizens. You must take into account both national and international security, as well as remembering to uphold the

constitutional values that our country values greatly.

VI. Questions to Consider

1. Is the large amount of power and surveillance granted to the United States government through the Patriot Act necessary in today's world of unknowns?
2. When and how has the government abused the power granted to them through the Patriot Act, and how can this be prevented in the future?
3. Lastly, should the Patriot Act be reduced to its pre-attack version, or if it is deemed necessary, what general changes should be made, in order to adapt it from its original version created over 20 years ago? More specifically, what changes should be made in order to adapt to a world with technological advancements made continuously?

Sources

ACLU Myths and Realities About the USA Patriot Act

<https://www.aclu.org/other/myths-and-realities-about-patriot-act>

Oklahoma City Law Review of the Patriot Act 2005 Reauthorization

<https://lawweb.colorado.edu/profiles/pubpdfs/mart/TheChainsOfTheConstitution.pdf>

USA Patriot Act

<https://www.govinfo.gov/content/pkg/PLAW-109publ177/html/PLAW-109publ177.htm>

US Justice Department Archive

<https://www.justice.gov/archive/ll/archive.htm>

White House Archive

<https://georgewbush-whitehouse.archives.gov/infocus/patriotact/#:~:text=The%20Patriot%20Act%20Reauthorization%20Tackles,rather%20than%20traditional%20financial%20institutions.>

VII. Positions:

Democrats:

1. Chuck Schumer
2. Dick Durbin
3. Debbie Stabenow
4. Amy Klobuchar
5. Mark Warner
6. Elizabeth Warren
7. Cory Booker
8. Joe Manchin
9. Tammy Baldwin
10. Gary Peters
11. Catherine Cortez Masto
12. Brian Schatz
13. Jeff Merkley
14. Michael Bennet
15. Richard Blumenthal
16. Tom Carper
17. Ben Cardin
18. Ed Markey
19. Jeanne Shaheen
20. Jack Reed
21. Bob Casey
22. Ron Wyden
23. Tammy Duckworth
24. Patty Murray
25. Maggie Hassan
26. Sheldon Whitehouse
27. Tim Kaine
28. Diane Feinstein

29. John Tester
30. Sherrod Brown

Republicans:

1. Mitch McConnell
2. John Thune
3. John Barrasso
4. Joni Ernst
5. Shelley Moore Capito
6. Steve Daines
7. Mike Lee
8. Mike Crapo
9. Chuck Grassley
10. Lisa Murkowski
11. John Boozman
12. Marco Rubio
13. Jerry Moran
14. Rand Paul
15. Susan Collins
16. Roger Wicker
17. John Hoeven
18. J.D. Vance
19. Lindsey Graham
20. Mitt Romney
21. Ted Cruz
- 22.
- 23.
24. ***Independents:***

1. Bernie Sanders
2. Kyrsten Sinema
3. Angus King