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## **The Patriot Act and Attention Deficit Democracy**

**by James Bovard**

The American political system failed when Congress and the media recently rolled over in favor of extending the most onerous provisions of the USA PATRIOT Act. Despite stark evidence of both the law's abuses and widespread popular opposition, Bush got a rubber-stamp extension of a law that has come to symbolize boundless government intrusions since 9/11.

The reenactment of the Patriot Act symbolizes how America is becoming an "attention deficit democracy" — characterized by pervasive negligence and ignorance throughout society and much of the government. Most Americans appear to no longer care whether there is any leash on government power.

Many Americans did try to stop this juggernaut. More than 400 cities and communities have passed resolutions condemning or opposing the Patriot Act. Yet Sen. Russ Feingold (D-Wis.), an opponent of the bill, perfectly captured what Congress did: "What we are seeing is quite simply a capitulation to the intransigent and misleading rhetoric of a White House that sees any effort to protect civil liberties as a sign of weakness."

The Founding Fathers intended Congress to be a vigorous check on and balance to executive power. But Congress has never done anything more than concoct fig leaves for itself in response to public outrage over the Patriot Act. In late 2004, Congress mandated the creation of the Privacy and Civil Liberties Oversight Board. But the board is totally controlled by the branch of government committing the abuses. The president appoints all five board members, and the board is located in the White House. Bush dallied before announcing his picks, and then appointed as chairman the former co-chair of Lawyers for Bush-Cheney. The board never bothered to hold a single meeting.

With the Patriot Act renewal, Congress made what Senate Judiciary Committee chairman Arlen Specter (R-Pa.) described as "cosmetic changes" — and then congratulated themselves for defending civil liberties.

With the revised Patriot Act, it will be more difficult for the feds to seize public library records with a Section 215 search warrant (approved by the secret Foreign Intelligence

Surveillance Act court). But the feds will still be able to seize library records by invoking other provisions in the law.

Businesses, nonprofit groups, and other organizations hit by Section 215 search warrants are prohibited from disclosing that they have been compelled to surrender customers' information and other data to the feds. The new, improved Patriot Act will allow individuals and organizations hit by such searches to publicly complain about the intrusion — but only after they wait a year after they have been searched, and only if they can persuade a federal judge that the G-men acted in bad faith. A 365-day waiting period is Congress's notion of due process and fair play for American citizens.

The biggest Patriot Act bombshell of recent times detonated last November when the *Washington Post* revealed that the FBI is issuing 30,000 National Security Letters (NSLs) a year. The Patriot Act made it far easier for the FBI to use NSLs to compel private citizens, banks, nonprofits, and other entities to surrender information upon demand. These subpoenas, like Section 215 searches, are accompanied by a gag order: Anyone who discloses receiving such a "letter" can be sent to prison. FBI field offices issue NSLs on their own in cases that they claim involve international terrorism or clandestine intelligence activities.

NSLs empower the FBI to seize records on people's earning, spending, travels, web searches, emails, and telephone calls. Each NSL can lasso the records of thousands of people. Federal judge Victor Marrero ruled that the Patriot Act's NSL provision "has the effect of authorizing coercive searches effectively immune from any judicial process." (The Bush administration is appealing the ruling).

The White House hyped the Patriot Act renewal as a political triumph. The Associated Press reported, "Republicans declared victory as they sought to polish their national security credentials this midterm election year." Republicans prattled on about how the revised Patriot Act provides "safeguards." Apparently, a "safeguard" is anything that a government official can mention when asked about possible abuses of federal powers.

If enough Americans comprehend this "patriot" charade, it will become far more difficult for the White House and Congress to pull off similar infringements on freedom in the future. At the very least, citizens can still make it hot for anyone in Washington who betrays his oath to uphold the Constitution.

*James Bovard is author of [The Bush Betrayal](#) as well as [Lost Rights](#) (1994) and [Terrorism and Tyranny: Trampling Freedom, Justice and Peace to Rid the World of Evil](#) (Palgrave-Macmillan, September 2003) and serves as a policy advisor for The Future of Freedom Foundation.*

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