# RECLAIMING PATRIOTISM

## A Call to Reconsider the Patriot Act

ACLU
AME

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## *A Call to Reconsider the Patriot Act*

**Reclaiming Patriotism**
**A Call to Reconsider the Patriot Act**

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**THE AMERICAN CIVIL LIBERTIES UNION** is the nation's premier guardian of liberty, working daily in courts, legislatures and communities to defend and preserve the individual rights and freedoms guaranteed by the Constitution and the laws of the United States.



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Wanda Guthrie (pg. 21): Provided by Ms. Guthrie
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- [illegible]215 [illegible]
- [illegible]215 [illegible]
- [illegible]

[illegible]

- [illegible]

# INTRODUCTION

## REAL PATRIOTS DEMAND THEIR RIGHTS

[illegible]

In 1886, [illegible] [2] [illegible]

[illegible] [3]

[illegible] [4] In 1761, [illegible]

[illegible] [5] [illegible] [6] [illegible]

[illegible] [7] [illegible]

[illegible]

[illegible]

[illegible] 297. 72e(4r)2a 0 0 10[illegible]30(y)[illegible]09 [illegible]12 284.02246 [illegible]7(1(h)-5tAe)-1(h)-5t22(y)410 72 271[illegible]224-53(a)-[illegible]01(A10[illegible]

[illegible]

[illegible] 10

[illegible]

## United States v. United States District Court

> [illegible]

[illegible] 11

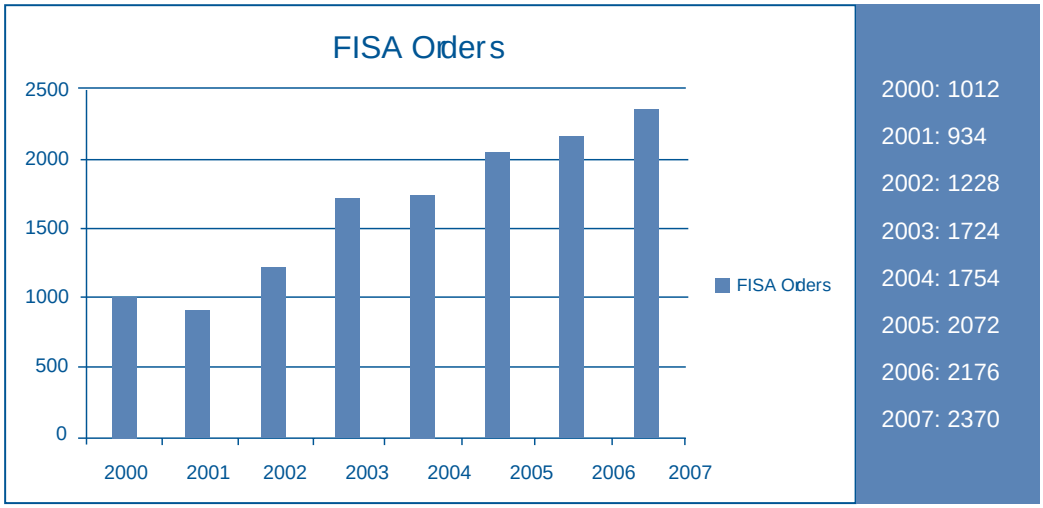
[illegible]

[illegible]

## Increasing Levels of Surveillance

[illegible]

Foreign Intelligence Surveillance Court Orders Approved
([illegible]
Section 218 [illegible]
[illegible]

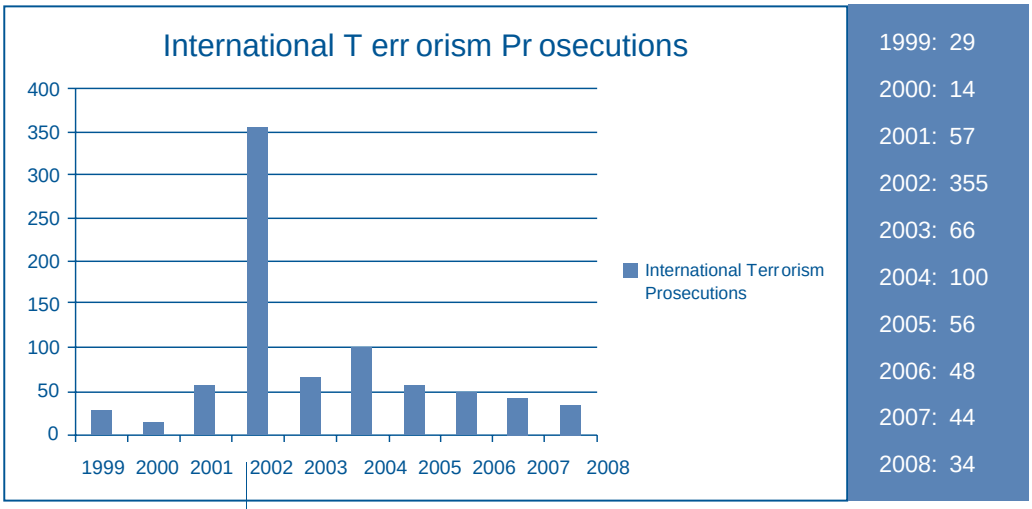



See [illegible] 1979-2007,
[illegible] 2 ([illegible], 2008).

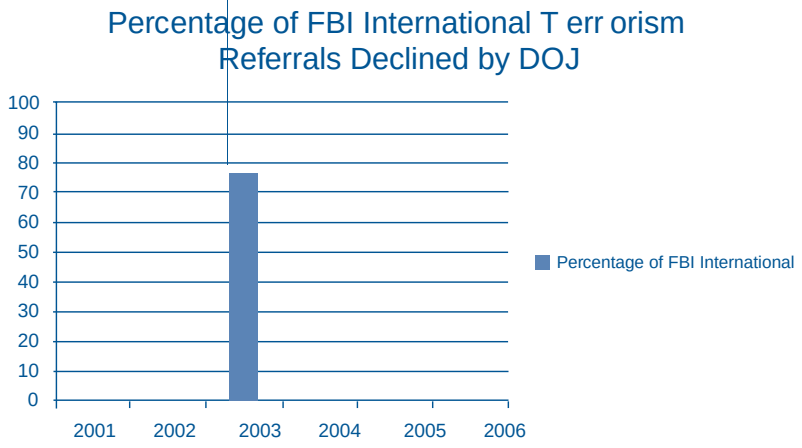
National Security Letter Requests*
Section 505 of the USA PATRIOT Act

## More Collection Does Not Result in More Prosecutions

[illegible]
[illegible]
[illegible]
2002 to 2008.*




[illegible]
[illegible]
[illegible]



## NEW SUNSET DATES CREATE OVERSIGHT OPPORTUNITY

[illegible] 2006, [illegible] 2004 [illegible].[18]

[illegible] section 206 [illegible] section 215 [illegible] section 6001 [illegible] 31, 2009. [illegible] 9/11 [illegible]

Section 206 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] 215 [illegible]

[illegible] 2006 [illegible]

[illegible] 215 [illegible]

[illegible] 9/11 [illegible]

[20] [illegible]

## National Security Letters

[illegible] section 505 [illegible]

[21] Section 505 [illegible]

[illegible]

[illegible][31] [illegible]

[illegible][32] [illegible] 2008 [illegible] 2006 [illegible][33] [illegible] 11 [illegible][34]

[illegible] 532 [illegible] 70 [illegible] (28 [illegible][35] [illegible]

**PETER CHASE** is the Director of the Plainville Public Library and was formerly the Vice President of Library Connection Inc, a consortium of 26 Connecticut libraries. In 2005, the FBI used an NSL to demand library patron records from Library Connection and imposed a gag order on the librarians, prohibiting them from speaking to Congress during the debate about the reauthorization of the Patriot Act. Peter and his colleagues decided to challenge the NSL demand and gag. “The government was telling Congress that it didn’t use the Patriot Act against libraries and that no one’s rights had been violated. I felt that I just could not be part of this fraud being foisted on our-193(o)5r5( )-d f

## Section 215 Orders

- section 215

[illegible]

[illegible] [42] [illegible]

[illegible] [43]

A [illegible]

[illegible] [44] [illegible]

[illegible] [45] [illegible]

[illegible]

[illegible] 215 [illegible]

[illegible]

[illegible] 215, [illegible]

[illegible] 215 [illegible]

[illegible] 215 [illegible]

[illegible] 215 [illegible]

[illegible] 608 [illegible] 169 [illegible]

[illegible] 312 [illegible] [46] [illegible]

[illegible] 215 [illegible]

[illegible] [47] [illegible] 2008 [illegible]

[illegible] 2007 [illegible] [48] [illegible]

## FACES of SURVEILLANCE



Photo Credit: Molly Davis, Internet Archive

BREWSTER KAHLE is the founder and digital librarian of the Internet Archive, a digital library. In November 2007, the FBI used an NSL to demand personal information about one of the Archive's users. The NSL also included a gag order, prohibiting the Archive from revealing the existence of the letter. In April 2008, the FBI withdrew the unconstitutional NSL as part of the settlement of a lawsuit brought by the ACLU and the Electronic Frontier Foundation. "The free fow of information is at the heart of every library's work. That's why Congress passed a law limiting the FBI's power to issue NSLs to America's libraries. While it's never easy standing up to the government - particularly when I was barred from discussing it with anyone - I knew I had to challenge something that was clearly wrong. I'm grateful that I am able now to talk about what happened to me, so that other libraries can learn how they can fght back from these overreaching demands."

[illegible]

[illegible] [49] [illegible]

## SUGGESTED REFORMS

% Repeal the expanded section 215 authorities that allow the FBI to demand information about innocent people who are not the targets of any investigation. Return to previous standards limiting the use of 215 authorities to gather information only about terrorism suspects and other agents of foreign powers.

## UNCONSTITUTIONAL: COURT CHALLENGES TO THE PATRIOT ACT

[illegible] Internet Archive v. Mukasey [illegible] [55] In April 2008, the FBI [illegible]

[illegible] [56] [illegible]

[illegible] 2007 Au[illegible]

[illegible]

Section 805 [illegible]

[illegible] section 810 [illegible] [64] [illegible]

[illegible] 2004 [illegible]

[illegible] [65] [illegible]

[illegible] [66] [illegible]

[illegible] [67]

[illegible] 2005, [illegible]

[illegible] 2004 [illegible]

[illegible] [68] [illegible]

[illegible] 500,000 [illegible]

[illegible]

[illegible]

## FACES of SURVEILLANCE

WANDA GUTHRIE, a volunteer with the Thomas Merton Center for Peace & Justice, an organization founded in 1972 to bring people from diverse philosophies and faiths together to work, through nonviolent efforts, for a more just and peaceful world, was monitored by the FBI Joint Terrorism Task Force. “The government’s surveillance of the TMC events and gatherings which may include those of Roots for Peace is just horrible. Spying invades peoples’ privacy and sacred space when they are speaking out - and make no bones about it, when you’re speaking out for peace it is sacred space. For the FBI to monitor us as if we were terrorists is unconscionable.”

[illegible]

[illegible] [69]

[illegible] 2006 [illegible] [70]

[illegible]

[illegible] intend [illegible]

(1) [illegible]

(2) [illegible]

(3) [illegible]

[illegible] [71] [illegible]

speci cally intended [illegible]

[73] [illegible]

## Ideological Exclusion

[illegible]

Section 411 [illegible]

[illegible] [81] [illegible]

[illegible] [82] [illegible]

[illegible]

[illegible] American Academy of Religion v. Chertoff.

[illegible] that [illegible]

[illegible]

[illegible] [83]

[illegible] [84] [illegible]

1998 to 2002 [illegible] [85]

[illegible]

## Relaxed FISA Standards

Section 218 [illegible]

[illegible]

[illegible]

In 2004, [illegible]

[illegible]

May eld v. United Sta[illegible]

[illegible]

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## CONCLUSION – IT IS TIME TO RECLAIM PATRIOTISM

[illegible] 2009, [illegible] 2006 [illegible][89] [illegible]

[illegible]

[illegible]

[illegible]

% [illegible]215: [illegible]. [illegible]
[illegible]
31, 2009.

% [illegible]216: [illegible]. [illegible]
[illegible]

% [illegible]218: [illegible]. [illegible]
[illegible]

% [illegible]219: [illegible]. [illegible]
[illegible]

% [illegible]220: [illegible]. [illegible]
[illegible]

% [illegible]411: [illegible]. [illegible]
[illegible]

% [illegible]505: [illegible]. [illegible]
[illegible]

% 6302: Ebbtn

## ENDNOTES

1 [illegible] Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001).

2 Boyd v. United States, 116 U.S. 616, 624 (1886).

3 [illegible] Recovering the Original Fourth Amendment, 98 Mich. L. Rev. 547, 556 (1999).

4 See Boyd v. United States, 116 U.S. 616 (1886).

5 Id. at 625.

6 Id. at 625.

7 [illegible] Patriot Act Under Fire, American Enterprise Institute Online, Oct. 1, 2003, available at http://www.aei.org/publications/pubID.19661,filter.all/pub.asp

8 Marcus v. Search Warrant, 367 U.S. 717, 729 (1961).

9 Marron v. United States, 275 U.S. 192, 196 (1927).

10 Stanford v. Texas, 379 U.S. 476, 485 (1965).

11 United States v. United States District Court (Keith), 407 U.S. 297, 313 (1972).

12 Boyd v. United States, 116 U.S. 616, 625 (1886).

13 S. Rep. No. 107-351 (Dec. 2002); H.R. Rep. No. 107-792 (Dec. 2002).

14 [illegible] 23, 2001) (on file with author), available at http://www.epic.org/privacy/terrorism/hr3162.html; [illegible] 23, 2001) (on file with author), available at http://www.epic.org/privacy/terrorism/hr3162.html.

15 [illegible] 4, 2005) (on file with author), available at http://www.epic.org/privacy/terrorism/hr3199.html.

16 USA PATRIOT Act of 2001: Hearing Before the S. Select Comm. on Intelligence, 107th Cong. 100 (2005) (statement of [illegible]). [illegible] 2003 and 2005 [illegible] 19 [illegible] 2007. See Dep't. Of Justice, Office Of Inspector General, A Review Of The Federal Bureau Of Investigation's Use Of National Security Letters 69 (March 2007), available at http://www.usdoj.gov/oig/special/s0703b/final.pdf. See Gonzales was told of FBI violations, Wash. Post, July 10, 2007, at A1, available at http://www.washingtonpost.com/wp-dyn/content/article/2007/07/09/AR2007070902065.html; In Intelligence World, a Mute Watchdog, Wash. Post, July 15, 2007, at A3, available at http://www.washingtonpost.com/wp-dyn/content/article/2007/07/14/AR2007071400862.html.

17 [illegible] Act of 2005 (PATRIOT), Pub. L. No. 109-177, 120 Stat. 192 (2006).

18 Pub. L. No. 108-458, 118 Stat. 3638 (2004).

19 [illegible] Act of 1968. See 18 U.S.C. § 2510-2520 (2006).

20 PATRIOT, supra note 17, § 119(a).

21 [illegible] Act, 18 U.S.C. § 2709 (2000), [illegible].

[illegible]

[illegible]

(b) [illegible]

[illegible]

§ 2339B. [illegible]

(a) [illegible]

(1) [illegible]

[illegible]

(b) [illegible] . . .

(4) [illegible] 2339A; . . .

(6) [illegible]

§ 219 [illegible] Act.

63 66 Stat. 163, § 219, codified at 8 U.S.C. § 1101 et seq., as amended by 18 U.S.C. § 2339A and § 2339B [illegible] Act (PATRIOT Act), [illegible] 50 U.S.C. § 1705 (2007).

64 PATRIOT Act, supra note 1, § 805(a)(2); 18 U.S.C. § 2339A(b) and § 2339B(g)(4).

65 PUBLIC LAW 108-458, 118 Stat. 3638 (2004).

66 See Humanitarian Law Project v. Gonzales, 380 F.3d 1134, 1142-48, (9th Cir. 2005).

67 See Brief of Amicus Curiae [illegible] 05-56753, 05-56846 (9th Cir. July 19, 2006), available at http://www.[illegible]894 25628.pdf

68 Implementation of the USA Patriot Act: Prohibition of Material Support Under Sections 805 of the USA Patriot Act and 6603 of the Intelligence Reform and Terrorism Prevention Act of 2004: Hearing Before the H. Subcomm. on Crime, Terrorism and Homeland Security of the H. Comm. on the Judiciary, 109th Cong. 23-28 (2005) (statement of [illegible]) [illegible] 0 0 9 90 323.09 [illegible] 0 0 9 229.595

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