

# PATRIOT ACT II

Secret proposals in  
Ashcroft's anti-terror war  
strike yet another blow at  
fundamental rights

## "A Dreadful Act"

By Jack M. Balkin

Just as the Bush administration is preparing a preemptive strike on Iraq, its Justice Department has been preparing yet another preemptive strike -- a new assault on our civil liberties.

For months, Atty. Gen. John Ashcroft and his staff have been secretly drafting the Domestic Security Enhancement Act of 2003, designed to expand even further the new government powers for domestic surveillance created by the 2001 USA Patriot Act. Justice Department officials have repeatedly denied the existence of the draft bill, dubbed the "Patriot Act II," but a copy leaked out recently and has been posted on a Web site, [www.publicintegrity.org](http://www.publicintegrity.org).

Since Sept. 11, 2001, the government has rounded up hundreds of people in secret and refused to disclose even their names, on the spurious grounds that this protects their privacy. As drafted, the measure would remove existing protections under the Freedom of Information Act, making it easier for the government to hide whom it is holding and why, and preventing the public from ever obtaining embarrassing information about government overreaching.

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Another section would nullify existing consent decrees against state law enforcement agencies that prevent the agencies from spying on individuals and organizations. These consent decrees were crafted because state and local governments illegally invaded the privacy of American citizens and repeatedly violated their civil rights. To make matters worse, the proposed bill prevents courts from issuing injunctions to block future abuses.

Perhaps the most troubling section would strip U.S. citizenship from anyone who gives "material support" to any group that the attorney general designates as a terrorist organization. Citizenship is the most basic right for all Americans, one from which other rights -- such as the right to vote, to participate in politics and even to live in this country -- all flow. Under our Constitution, Americans can't be deprived of their citizenship, and the rights that go with it, unless they voluntarily give it up.

The measure would get around that constitutional guarantee through a legal loophole. It presumes that anyone who provides "material support" to an organization on the attorney general's blacklist -- even if that support is otherwise lawful -- has intended to relinquish citizenship and therefore may be immediately expatriated.

The McCarthy era demonstrated that the attorney general could wield enormous power to harass

innocent Americans by designating legal organizations as subversive. The proposed act creates a similar danger: Give a few dollars to a Muslim charity Ashcroft thinks is a terrorist organization and you could be on the next plane out of this country.

The Bush administration claimed last year that the original Patriot Act gave it the tools it needed to fight the war on terror at a minimal cost to civil liberties. These new proposals show, however, that the administration still is not satisfied. It now seems clear that there is no civil right -- even the precious right of citizenship -- that this administration will not abuse to secure ever-greater control over American life. The Bush administration and Ashcroft have become addicted to secrecy and are drunk on power; the more they obtain, the more they demand.

We are fortunate that these proposals came to light now. Otherwise, the administration probably would have revealed them only after it began its war with Iraq, when political opposition would be inhibited by support for our troops. The proposals would not help our war with Iraq, but they would help our government cover up its mistakes.

It is frightening to think that our leaders would try to undermine our civil liberties through a cynical manipulation of public opinion in time of war. It would be even more frightening if they succeeded.

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