

Back Talk — Patriotism

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The Patriot Act — too familiar for comfort.

It was suggested that I might want to weigh in on the **Patriot Act**. I was tempted to be totally flippant and observe that one patriot is your uncle Howard who served in Vietnam and 500,000 patriots constitute imperialist army intent on finding some place to invade. But I decided I should take this seriously.

As I looked around for materials on **USA Patriot** and the **Homeland Security** acts I found a very useful article entitled *Civil Privacy and National Security Legislation: A Three-dimensional View* by **Tracy Mitrano** in the November/December 2003 issue of the *Educause Review* (<http://www.educause.edu/pub/er/erm03/erm036.asp>). He indicated that the goals of the **Patriot Act** are to improve communication among government agencies; to “allow government surveillance and to encourage private entities to share information with the government;” and to “create and expand existing criminal law designed to fight terrorism.” (p. 56) The **Homeland Security Act** is to “reorganize a significant chunk of the federal law enforcement and immigration and naturalization bureaucracy under the roof of one central federal agency.” (p. 59).

These goals resonate well here with the government in Beijing. While China might be thought of as a well-organized totalitarian state, the divisive provincial and regional legacies of its imperial, warlord era, Republican China, post-war reconstruction, Cultural Revolution, and the push and pull of the explosive Chinese economic miracle, have rendered it barely governable and much in need of the **Patriot** and **Homeland Security** acts. Unfortunately, China has also had too much experience with what can happen when government powers of surveillance are total and even family members felt the need to share information with the govern-

ment about the misdeeds of their parents, brothers, and sisters.

A little over a year ago a half million of Hong Kong's citizens joined together to protest the implementation of the **Patriot Act** like controls — called **Article 23** in our context. This year, a similar number of Hong Kong's adults and children again marched but this time for universal suffrage. While on the surface these acts of defiance seemed to divide Hong Kong, there were also signs that the ideologues on both sides were quietly beginning to listen to each other because the stakes are too important to really loose control.

And then, on July 24, officers of the government's **Independent Commission Against Corruption (ICAC)** agency, which enjoys nearly total arrest and investigative powers, launched an investigation into who leaked to the press the identify of a woman being held in the agency's own witness protection program — supposedly against her will. They not only arrested the two lawyers who had filed a writ of habeas corpus to determine if the woman was voluntarily in the program, but they also swooped in on the offices of six newspaper in search of evidence against the two lawyers. The **ICAC** was reported to have threatened the reporters with prison to secure their help. The newspapers complied and allowed the agency to interview the reporters and go through their files and notebooks. After questioning the reporters and lawyers they were all released. But what this case showed was what a government agency can do when it is imbued with exceptional powers to be used presumably only in exceptional circumstances.

This is what worries librarians about the **Patriot Act** I suppose. It gives the U.S. government exceptional powers to fight terrorists, but

these same powers can be used at other times by law enforcement officers as well. Indeed, if one looks at the **U.S. Department of Justice's** own July 2004 *Report From the Field: The USA Patriot Act At Work*, of the many examples of how the Act had been used to combat terrorism using new technologies (*Updating the Law to Reflect New Technology*), most cases dealt with terrible but non-terrorist activities including child molestation, child pornography, kidnapping, wife abduction, student violence, school bomb threats, and threats using a white powder to threaten one town's leaders (pp. 18-28). There were also cases related to gun running, hacking into government computer sites, and the threatened destruction of a mosque — but these were in the minority of the cases discussed.

These worries have been only strengthened by the administration's militancy about these matters. **Attorney General Ashcroft** was reported to have said that “Under FISA, FBI officials can gather any relevant tangible items, including book purchase records, library records and even some educational and genetic records” to further their work.¹ In another case it was reported that

In June, a committee of the House of Representatives asked the Justice Department how often it had sought records from libraries, bookstores or newspapers. The government supplied the figures but marked them classified. In October, the Freedom to Read Foundation, the ACLU and others sued in federal court to try to get the figures. Plaintiffs' lawyers expect the government to respond by saying the figures involve national security and so are exempt from disclosure under the Freedom of Information Act.²

So, should we be worried? Am I worried? In a perverse way I must say I am a bit relieved. I had thought that perhaps only Hong Kong or Afghanistan's librarians were under fire. It's nice to know that things back home are so familiar. On the other hand, I hope I am not the only one thinking *something is wrong!* Watching the effects of 9/11 from afar is strange. I can understand why America has become so defensive, but I have a difficult time explaining it to people here. I hope it is a phase that we must go through, like when we were teenagers, and that it will soon be over and we will be better for the experience. Will we? 🌿

Endnotes

1. Michael, Sarah. (2003, June 5). “Ashcroft defends search of library records.” FCW.COM. Retrieved 30 July, 2004) from <http://www.fcw.com/fcw/articles/2003/0602/web-fisa-06-05-03.asp>.
2. Kasindorf, Martin. (2002, December 16). “FBI's reading list worries librarians.” *USA Today*. Retrieved 30 July, 2004 from http://www.usatoday.com/news/nation/2002-12-16-librarians-usat_x.htm.