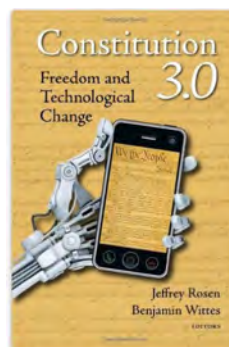
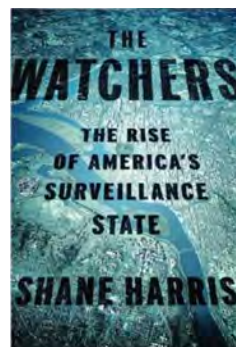
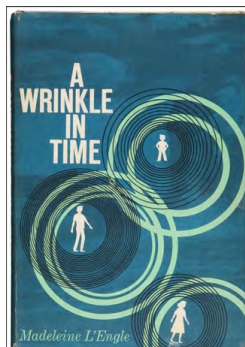
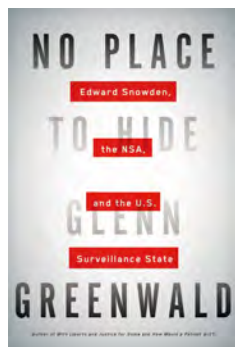


Federal Surveillance

Defense of the Realm or Suppression of Dissent?

Resolved: The United States federal government should substantially curtail its domestic surveillance.

Mackinac Center Debate Workshops Topic Study Guide, Fall, 2015

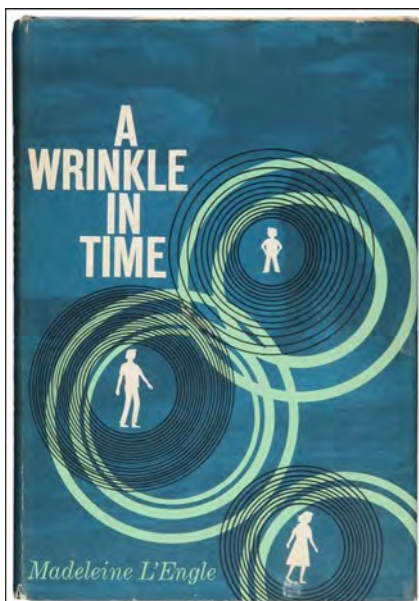


“Security is a most seductive thing”: A New Wrinkle in Time

The Wall Street Journal in "A New Wrinkle in Time" reports:

Madeleine L'Engle's 'A Wrinkle in Time' has sold 14 million copies since its publication in 1962. Now, a never-before-seen passage cut from an early draft is shedding surprising light on the author's political philosophy.

The passage from an earlier draft connects to this year's national high school debate topic on federal surveillance policy:



Her father proceeds to lay out the political philosophy behind the book in much starker terms than are apparent in the final version.

He says that yes, totalitarianism can lead to this kind of evil. (The author calls out examples by name, including Hitler, Mussolini and Khrushchev.) But it can also happen in a democracy that places too much value on security,

Mr. Murry says. "Security is a most seductive thing," he tells his daughter. "I've come to the conclusion that it's the greatest evil there is."

Critics argue the federal response to September 11, 2001 wrinkled the U.S. Constitution. The Fourth Amendment's restriction on federal search and seizure were soon set aside for fear of terrorism. Georgetown Law professor Randy Barnett, in the *Wall Street Journal*, argued "The NSA's Surveillance Is Unconstitutional: Congress or the courts should put a stop to these unreasonable data seizures." (July 11, 2013),

Data seizure began with national security justifications but soon expanded to financial information. Barnett argues that all of this violates the Fourth Amendment:

the Consumer Financial Protection Bureau, created by the 2010 Dodd-Frank financial reform, is compiling a massive database of citizens' personal information—including monthly credit-card, mortgage, car and other payments—ostensibly to protect consumers from abuses by financial institutions.

Continued on page 2.





Mackinac Center Debate Workshops Online

This year the Mackinac Center Debate Workshops are online and available to Michigan speech and debate students and teachers. Visit EconomicsinaCloud.org for information.

Constitutional principles, economics, and history are key for students researching this year's debate topic. When does federal surveillance violate the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures?

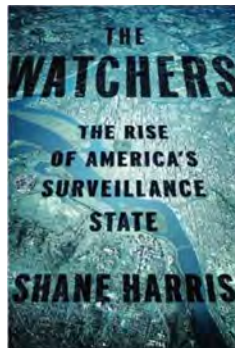
What legal principles apply to government surveillance?

State and federal governments collect information electronically to catch criminals and to identify terrorists. However, federal officials have pursued critics of the government as well as suspected criminals and terrorists. This blurb on *The Watchers* book jacket notes:

Our government's strategy has made it harder to catch terrorists and easier to spy on the rest of us.

The Watchers also tells the story of how arbitrary federal regulations restricting surveillance of suspected terrorists contributed to the 9/11 attack.

Students researching privacy, national security, and federal surveillance policy will likely attract the interest of the NSA and other federal agencies with their Internet searches, emails, Facebook posts, and other online activity.



continued from page 1.

All of this dangerously violates the most fundamental principles of our republican form of government. The Fourth Amendment has two parts: First, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." Second, that "no warrants shall issue, but upon probable cause, supported by

oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." ([Source.](#))

Assigning legal responsibility for federal surveillance overreach was also a key part of the original Bill of Rights:

As other legal scholars, most notably Yale law professor Akhil Reed Amar, have pointed out, when the Fourth Amendment was ratified in 1791 as part of the Bill of Rights, government agents were liable for damages in civil tort actions for trespass. The Seventh Amendment preserved the right to have a jury composed of ordinary citizens pass upon the "reasonableness" of any searches or seizures. Because judges were not trusted to jealously guard the liberties of the people, the Fourth Amendment restricted the issuance of warrants to the heightened requirements of "probable cause" and specificity. ([Source.](#))

Later, federal government employees were granted immunity from civil suits and jury trial were set aside so judges could decide what was reasonable.

On the other side, this May 11, 2015 article in *National Review* "[NSA Data Collection: Necessary or Unconstitutional?](#)" claims:

Opponents of the 215 program claim it is an unconstitutional violation of privacy rights and say that it has played no role in protecting the United States from terrorist attacks. Both of these claims are untrue. ...

While its detractors refuse to admit it, the 215 program has been a successful tool in stopping terrorist attacks. It has been strongly defended by many intelligence officials and members of Congress

So there is a debate about how effective warrantless bulk collection and metadata analysis for stopping terrorist attacks. The Constitution, however, calls for specific warrants, in order for people to be secure from government:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Debaters try to distinguish between the message and the envelop in claiming NSA metadata collection doesn't violate the Fourth Amendment. But the NSA has been seizing telephone and email records from private firms like Yahoo with only general warrants, rather than warrants with: *probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*

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Debates Continue: Security, Privacy, and Federal Electronic Surveillance

A February, 2104 Independent Institute post, [Stop the Surveillance State](#) features Anthony Gregory's short video emphasizing the Fourth Amendment. Recorded in 2014 after the Edward Snowden revelations of broad federal electronic surveillance, Anthony argues:

The surveillance state has become totally integrated, as government at all levels—from federal regulatory agencies down to local law enforcement, and working with politically favored corporations—are coordinated in a wholesale attack on what is left of American privacy. Spy cameras on city streets, face-recognition software, Post Office tracking, government-mandated chips in our electronics, the government takeover of our cellphone microphones and laptop webcams—all of it points to an Orwellian future.

Local police departments and public schools have contributed to the erosion of our privacy. The NSA has spied shamelessly on foreign heads of state. The trajectory is most frightening—U.S. government spying and data collection directed at the entire world. We are on the cusp of arriving at the totalitarian dream of “total information awareness.”

[Link to video on federal surveillance and Fourth Amendment.](#) More about Anthony Gregory:

Research Fellow Anthony Gregory, author of [The Power of Habeas Corpus in America](#) wants a new national dedication to the Fourth Amendment to the Constitution, protecting Americans' rights against unreasonable searches and seizures. Gregory says we are on the cusp of... living in a society even more intrusive than George Orwell's 1984.

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Constitutional Foundations for Reducing Federal Surveillance

Most find Constitutional protection from federal surveillance in the Fourth Amendment: “The right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated...”

The Bill of Rights limits federal power in ways also

understood to limit federal surveillance:

- the privacy of beliefs (1st Amendment),
- privacy of the home against demands that it be used to house soldiers (3rd Amendment),
- privacy of the person and possessions as against unreasonable searches (4th Amendment), and,
- the 5th Amendment's privilege against self-incrimination, which [protects] the privacy of personal information.
- In addition, the 9th Amendment states that the “enumeration of certain rights” in the Bill of Rights “shall not

be construed to deny or disparage other rights retained by the people.” [source]

Bill of Rights (and 14th Amendment) Provisions Relating to the Right of Privacy

Amendment I (Privacy of Beliefs)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment III (Privacy of the Home)

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV (Privacy of the Person and Possessions)

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment IX (More General Protection for Privacy?)

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Liberty Clause of the Fourteenth Amendment

No State shall... deprive any person of life, liberty, or property, without due process of law.

Bill of Rights
INSTITUTE

Educating Young People about the Constitution

Current Events and the Constitution: Snowden and the NSA

Snowden and the NSA

A mere nine months ago no one knew the name Edward Snowden. Now not a week goes by without a news story related to his revelations about the National Security Agency (NSA). No doubt your class has already begun to ponder the implications of NSA information gathering and what it says about our system of governance. Does the executive branch, which controls the NSA through the Department of Defense, have too much power? How do we resolve the tension between liberty and security? Is Snowden, who released classified information, a traitor or a whistleblower? Were his actions morally justified? Please click the download button to see the full lesson, resources, and discussion questions.

<http://billofrights.org/blog/2012/11/27/are-they-watching-you-eLesson/>

<http://billofrights.org/resources/educator-resources/lessons-plans/current-events-and-the-constitution/snowden-and-the-nsa/>

Bill of Rights
INSTITUTE

billofrights.org

Are They Watching You? eLesson

The Constitutional principle of due process, which holds that government must interact with citizens according to duly-enacted laws, balances the rights of suspects with public safety. The Fourth Amendment was added to the Constitution to ensure we would be protected from unreasonable searches and seizures. But do all searches require a judge-approved warrant? How do we know which ones do? Further, surveillance technology has posed challenges to the meaning and application of the Fourth Amendment, and understandings of “reasonable,” “papers and effects,” and “search” have changed over time. Understanding, analyzing, and applying the Fourth Amendment is vital to maintaining the freedom the Founders sought to protect and the principle of due process.

Download the [complete lesson](#) and find other resources including the companion [interactive game](#) for this lesson at [Due Process Central](#) section of our website.

Reduce Federal Surveillance: Move U.S. Post Office to Private Sector

(Plus save billions of dollars in annual losses)

Critics of the U.S. Postal Service complain about ongoing financial costs ("The Post Office Lost \$2 Billion In Just 3 Months"), mediocre service, and pension liabilities:

At the end of fiscal year 2013, USPS had about \$100 billion in unfunded liabilities: \$85 billion in unfunded liabilities for benefits, including retiree- health, pension, and workers' compensation liabilities, and \$15 billion in outstanding debt to the U.S. Treasury—the statutory limit. (GAO, March 13, 2014)

For debaters researching reducing federal surveillance policy, another reason to shift the U.S. Postal Service to non-government operation--perhaps by giving it to current employees, along with obligations to fund pensions or retired postal employees--would be to decrease federal surveillance.

The USPS can't help but surveil customers, businesses, and nonprofits. In every community federal postal workers know what kinds of letters everyday people are receiving. They can tell by delivering mail (and later gathering return envelopes) who supports environmental groups and who supports Tea Party groups. Other USPS programs record return addresses (without warrants, story below).

In this case, the USPS surveillance story is unsettling:

DENVER – Within an hour of FOX31 Denver discovering a hidden camera, which was positioned to capture and record the license plates and facial features of customers leaving a Golden Post Office, the device was ripped from the ground and disappeared.

FOX31 Denver investigative reporter Chris Halsne confirmed the hidden camera and recorder is owned and operated by the United State Postal Inspection Service, the law enforcement branch of the U.S. Postal Service.

This October 27, 2014 New York Times article "Report Reveals Wider Tracking of Mail in U.S."

outlines wider surveillance policies and problems:

In a rare public accounting of its mass surveillance program, the United States Postal Service reported that it approved nearly 50,000 requests last year from law enforcement agencies and its own internal inspection unit to secretly monitor the mail of Americans for use in criminal and national security investigations. ...

The surveillance program, officially called mail covers, is more than a century old, but is still considered a powerful

investigative tool. At the request of state or federal law enforcement agencies or the Postal Inspection Service, postal workers record names, return addresses and any other information from the outside of letters and packages before they are delivered to a person's home.

Law enforcement officials say this deceptively old-fashioned method of collecting data provides a wealth of information about the businesses and associates of their targets, and can lead to bank and property records and even accomplices. (Opening the mail requires a warrant.)

Two separate problems with the USPS, according to this article and others. First, USPS employees routinely surveil U.S. citizens without warrants:

The audit, which was reported on earlier by Politico, found that in many cases the Postal Service approved requests to monitor an individual's mail without adequately describing the reason or having proper written authorization.



*"You have to sign for the package."
From Three Days of the Condor*

Second, in the cases where there is a genuine police or national security concern, the USPS does a poor job or tracking requests:

In addition to raising privacy concerns, the audit questioned the efficiency and accuracy of the Postal Service in handling the requests. Many requests were not processed in time, the audit said, and computer errors caused the same tracking number to be assigned to different surveillance requests.

On DownsizingGovernment.org, Tad DeHaven, makes the case for "Privatizing the U.S. Postal Service." DeHaven points to the success of moving postal services to private firms, and the success of allowing competition (Nov. 2010):

In many countries, reforms have been pursued through the commercialization and corporatization of the postal service. Under such reforms, the government retains full or partial ownership but introduces modern practices...

In some countries the private sector has taken large ownership stakes. For example, 69 percent of Germany's formerly government post office Deutsche Post is now privately owned. In the Netherlands, 100 percent of its formerly government post office is privately owned as TNT Post ... (Footnotes in Source.)

Mysterious spy cameras collecting data at post offices

POSTED 3/3/2014, MARCH 11, 2015 BY CHRIS HALSNE. UPDATED AT 10:04AM, MARCH 12, 2015.

Renewing Federal Powers for Domestic Spying

The Hill, June 19, 2015, reports "[Spy court clears path to renewing NSA powers.](#)"

The secretive federal court that oversees the nation's spies is laying the groundwork for temporarily reauthorizing the National Security Agency's (NSA) sweeping collection of U.S. phone records.

In an order released on Friday, the Foreign Intelligence Surveillance Court said that a brief lapse in some Patriot Act provisions would not bar the court from renewing the NSA's powers.

Although the court asserted its ability to renew the controversial NSA program, it has yet to issue an order giving a green light to the spy agency.

The June signing of the U.S. Freedom Act turned on the clock giving the NSA six months to stop bulk data collection. The Hill article reports on steps the NSA is taking to get around this constraint on bulk data collection.

[Just Security](#) posted "[Reforming the FISA Court](#)" By [Faiza Patel](#) and [Elizabeth Goite](#):

There has been much discussion, on the pages of [Just Security] and elsewhere (here, here, and here to name just a few), about the procedural shortcomings of the FISA Court — the lack of any party opposing the government's position and the secrecy of the court's decisions. Proposals to fix the court have focused on establishing a special advocate and requiring disclosure of redacted or summarized versions of court rulings. A new Brennan Center report suggests that the problem with the court goes much further, and that fixing the FISA Court will require fixing FISA itself.

The Brennan Center report "[What Went Wrong with the FISA Court](#)" argues that FISA Court searches are expanding beyond original cases of suspected terrorism:

The pool of permissible targets is no longer limited to foreign powers — such as foreign governments or terrorist groups — and their agents. Furthermore, the government may invoke the FISA Court process even if its primary purpose



Ways to View Privacy...

- Fear of companies gathering more and more data on everyday people: Google, Target, insurance companies.
- Fear of terrorists, so surveillance to uncover terrorists plots before they happen.

Economic freedom & terrorism?

- Government/IRS looking for income to tax.
- Party in power tracking/suppressing donations to political opponents (of same and other parties).
- Federal government history of using surveillance to weaken political opponents and to cover up mistakes.

is to gather evidence for a domestic criminal prosecution rather than to thwart foreign threats.

The introduction to the What Went Wrong study argues reform is needed:

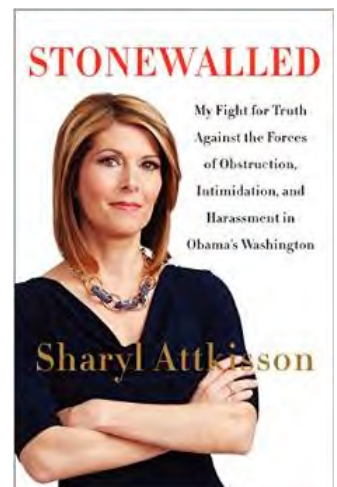
Under today's foreign intelligence surveillance system, the government's ability to collect information about ordinary Americans' lives has increased exponentially while judicial oversight has been reduced to near- nothingness. This report concludes that the role of today's FISA Court no longer comports with constitutional requirements, including the strictures of Article III and the Fourth Amendment. The report lays out several steps Congress should take to help restore the FISA Court's legitimacy.

Reporter Sharyl Attkisson says feds hacked computer, CBS protected Obama

Upcoming book recounts her 'fight for truth'

Stonewalled (HarperBooks), in which Ms. Attkisson recounts the conflicts over coverage with network executives leading up to her resignation in March...

The most incendiary charge: that Ms. Attkisson's personal computer and CBS laptop were hacked after she began filing stories about Benghazi that were unflattering to the Obama administration. A source who checked her laptop said the hacker used spyware "proprietary to a government agency," according to a Monday article in the New York Post.



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economic thinking
Understanding and Creating Prosperity

SURVEILNOMICS

POLITICAL ECONOMIC POSTS ON REDUCING FEDERAL SURVEILLANCE

With PDF, click on images to open post on
Astounding Ideas Electronic Surveillance page.

Wednesday, November 19, 2014

Time for Cameras to Look Back at the 40 Federal Agencies' Undercover Police and Courts

Expanded use of body cameras can both protect police from false allegations of unnecessary violence and protect citizens from unnecessary police violence. Federal legislation has been proposed to mandate body camera be used by state and local police. But what is good for the goose is good for the gander.

The U.S. federal government has dozens of federal agencies with police powers. The New York Times article, "More Federal Agencies Are Using Undercover Operations," reports on the expanding undercover operations of "at least 40 agencies".

U.S. More Federal Agencies Are i Undercover Operations

By ERIC LICHTBLAU and WILLIAM M. ARSEN NOV. 15, 2014

U.S. Law Lets I.R.S. Seize Accounts on Suspicion, No Crime Required

By SHARLA DEWAN OCT. 25, 2014

Money flowing in and out of bank accounts could also be linked to terrorist activities. Federal surveillance of money transfers, in search of possible terrorist connections occupies the time of some percentage of the 854,000 federal national security employees discussed in this Washington Post report, "A hidden world, growing beyond control." (I thought I read the number of federal agencies or employees monitoring financial transactions looking for terrorist-related activity, but now can't find the reference.)

Also mentioned include financial transactions in the new Consumer Financial Protection Bureau. This

TOP SECRET AMERICA

A Washington Post Investigation



Tuesday, November 18, 2014

Electronic Surveillance: Turn On Cameras When Police Tasers Are Turned On

Taser International says lives are saved when police use Tasers instead of guns. According to Taser's website, some 133,845 lives have been saved by Tasers so far.

As people on the receiving end of police Taser began to sue, Taser added cameras to its Tasers to document incidents. However, that turned out to be a less than ideal solution, according to a recent Forbes article:

Taser has been selling video cameras since 2006, when it started putting them on its



MAN JAILED FOR PAPERWORK



Former orchid importer George Norris on being sent to prison for missing paperwork for his business.

Friday, November 14, 2014

Electronic Surveillance For Countering Terrorism And Stifling Dissent

It would be handy to burn a bright line between countering foreign espionage and stifling domestic dissent. That line turns out to be difficult to draw and maintain when governments under stress confuse critics with enemies. Sharyl Attkisson's claim that her laptop was compromised and surveilled by a U.S. federal government agency provides another chapter in this long running American story.

Ex-CBS reporter's book reveals how liberal media protects Obama

Sharyl Attkisson's book 'Stonewalled' reveals how liberal media protects Obama.



Attkisson was cheered by mainstream media for her exposés targeting the Bush Administration. But when her reports looked into Obama Administration's mishaps like Fast and Furious and Benghazi, her stories ran into opposition and were apparently blocked or spiked by CBS. Attkisson tells her side of the story in her new book Stonewalled.

Thursday, September 25, 2014

Presentation Notes: The Systematic Federal Surveillance of Ordinary Americans

Charlotte Teigh's article, "Watching You" in The Independent Review offers a deeply critical review of federal policies monitoring and collecting data on everyday people. Full title: "Watching You: The Systematic Surveillance of Ordinary Americans"

In this 1999 journal article, Dr. Teigh, an economist at Boise State University,



"[E]very ... government office could have the tracking system."

In The Economist's October 16, 2014 "Yes, prima minister" article, Stos debaters will find an interesting federal electronic surveillance policy. A problem in India and other countries is monitoring government workers who may or may not show up for work. New electronic tracking systems both monitor government employees make that information available to the public:

Last year in Jharkhand state in eastern India Mr Sharma installed a system to track the daily attendance of nearly 14,000 officials. Each day at the office they log in and out by scanning a fingerprint or iris. The data

More monitoring than needed, however, says the Economist.

Watching India's prime minister

More monitoring than needed, however, says the Economist.

For much of our nation's history, the federal government was quite small. In 1790 it had just 1,000 nonmilitary workers. In 1962, there were 2,515,000 federal employees. Today, we have 2,840,000 federal workers in 15 departments, 69 agencies and 383 nonmilitary sub-agencies.

This exponential growth has not to increasing power and independence for agencies. The shift of authority has been staggering. The fourth branch now has a larger practical impact on the lives of citizens than all the other branches combined.



FEBRUARY 11, 2013 12:36 AM

And Your Little Dog, Too

It's time to control government's guns, to protect business...and canines.

By Dorey Murdoch

News, Politics, Business, Law, Crime, Sports, Tech



134 Comments

As Washington politicians aim to restrict the Second Amendment, they should look in the mirror. The time to control government's guns is now.

Tuesday, November 11, 2014

LearnLiberty.org Electronic Surveillance Videos

For students researching federal electronic surveillance policy, LearnLiberty.org offers a number of archive videos. Here is one with Jim Ottis on the Fourth Amendment, Does the NSA Violate Your Constitutional Rights? Learn Liberty

Thursday, April 30, 2015

"Security is a most seductive thing": A New Wrinkle in Time

"Security is a most seductive thing," he tells his daughter. "I've come to the conclusion that it's the greatest evil there is."

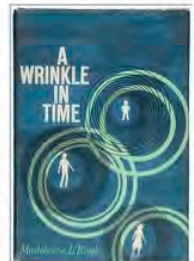
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He says that yes, totalitarianism can lead to the kind of evil. (The author calls out examples by name, including Hitler, Mussolini and Khrushchev.) But it can also happen in a democracy that places too much value on security, Mr. Murphy says. "Security is a most seductive thing," he tells his daughter. "I've come to the conclusion that it's the greatest evil there is."



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FEE Foundation for
Economic Education

Anything Peaceful

Controlling Immigration Means Controlling Everyone

Cracking down on immigration means invading every aspect of natives' lives

CHANDRAN KUKATHAS

Thursday, October 01, 2015

The governments of most European states are eager for foreigners to enter their countries and often boast of their success in attracting people to come in as tourists, whose spending boosts certain industries and swells state treasuries. They want high fee paying students, or wealthy investors willing to set up businesses, or specialist workers in short supply, be they engineers or footballers or nurses.

Foreigners are welcome, if they are of the right kind, come for the right reasons, and stay for the right length of time. The more the merrier. Provided everything is kept under control. But control—even attempted control—comes at a cost. One of those costs is the freedom of citizens and residents.

Here's where immigration controls in liberal democracies and apartheid in South Africa after 1948 share some similarities. In both cases the effectiveness of the policies depends in the end on controlling not just outsiders but also insiders—citizens and residents.

It is widely assumed that immigration control is a matter of keeping people from entering a country, and the rhetoric of control encourages this impression. Cities, public facilities, and social services are routinely described as bursting at the seams or stretched to the limit, unable to cope with sudden influxes of large numbers of foreigners, or the growth of a population swelling steadily because of a positive rate of net migration.

But a little reflection should tell us that the key is to control not so much movement across borders as what people do within borders. It's really not simply about numbers, and certainly not about foreigners crossing borders.

Regulating immigration is not just about how people arrive, but about what they do once they have entered a country. It is about controlling how long people stay, where they travel, and what they do. Most of all, it means controlling whether or not and for whom they work (paid or unpaid), what they accept in financial remuneration, and what they must do to remain in employment, for as long as that is permitted.

Yet this is not possible without controlling citizens and existing residents, who must be regulated, monitored and

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policed to make sure that they comply with immigration laws.

This should come as no surprise. Immigrants are not readily discernible from citizens, or from residents with "Indefinite Leave to Remain", especially in a multi-ethnic and multi-cultural society. So any effort to identify and exclude or penalize immigrants will generally require stopping or searching or questioning anyone.

If immigrants must show their passports at borders, everyone will have to, including returning citizens. If immigrants must present their credentials at internal checkpoints, then everyone, including citizens, will have to do so — if only to prove that they are not immigrants.

But the extent of the intrusion must go deeper. Prime Minister David Cameron promised to strengthen the UK's internal borders through deportation and a crackdown on housing entitlements.

"Since I have become Prime Minister," he said, "we have made it harder to get a driving license, to get a bank account, to get a council house. We have removed more people. All of these actions — the internal border — matter, as it were, as well as the external border."

Yet making these things harder for immigrants must also make things harder for existing residents and citizens. If an immigrant must prove that he or she has a right to rent, so must a citizen prove that he or she is not an immigrant who lacks that right. And the landlord must assume the burden of verifying that his tenants are entitled to rent — and that the right has not expired in the course of the tenancy.

Immigration controls are controls on people, and it is difficult to control some people without also controlling others. Sometimes it is because it is not easy to distinguish those over whom control is sought from those who are considered exempt. At other times it may be because it is not possible to restrict particular persons save by coopting others without whose cooperation success would be impossible. And on occasion it may be necessary in order to control a few to put the liberty of almost everyone into abeyance. Immigration controls are not unique in this respect — the logic of human control is everywhere the same. ...

In the South African case, controlling black Africans necessitated building an institutional structure that involved controlling blacks, coloureds and whites alike. In the end, it meant monitoring white newspapers, prohibiting intermarriage, conscripting white men to strengthen the security arms of government, controlling the local as well as the foreign media, censoring books, films and music, strong-arming the courts, and using force against all citizens.

When immigration controls fail to achieve their ends, governments are invariably pressured or tempted to extend

Continued on next page

that control in a way that bites into the freedom of ordinary residents and citizens. Employers, landlords, and educational institutions are subjected to harsher punishments for hiring, housing or hosting would-be immigrants, and are in the process turned into agents of the state, obliged while trying to run their own affairs also to do the work of regulating, monitoring and reporting to the government in order to preserve their right to operate — or to stay out of jail.

People will find their relatives deported for babysitting their children upaid but unauthorized (as happened to Mrs Wang in Yorkshire in 2009); men and women will find themselves unable to bring their spouses into the country even when married with children (as happened to Elizabeth Celi-Parr, who was refused permission to sponsor her Ecuadorian husband to enter the UK because her earnings were too low); and universities will find themselves unable to operate when their licenses to admit foreign students are withdrawn for failure to monitor closely enough classroom attendance and visa compliance (as happened to London Metropolitan University in 2013).

As the pressure to maintain or reduce immigration numbers in accordance with stated targets increases, so will the likelihood of injustice against residents and citizens. Since 1930 more than one million U.S. citizens have been deported from their own country — most of them wrongly assumed to be undocumented Mexicans when they were simply Americans who, as citizens, have never been under any obligation to carry any documentation.

Chandran Kukathas is Professor of Political Theory and Convenor (Head of Department) in the Department of Government, LSE. He previously worked at the University of Utah, Oxford and in Australia. Chandran is the author of *The Liberal Archipelago: A Theory of Diversity and Freedom*. He is currently working on a book entitled *Immigration and Freedom*.

<http://fee.org/anythingpeaceful/controlling-immigration-means-controlling-everyone/>



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FEATURE

The Dawn of the Surveillance State

America has been spying on its citizens for a hundred years

SEPTEMBER 17, 2014 by GARY MCGATH

Dawn of the Surveillance State

- [L]arge-scale spying on Americans got its real start in 1917, when the United States entered World War I.
- President Wilson claimed ... Germany had “filled our unsuspecting communities with vicious spies and conspirators and sought to corrupt the opinion of our people in their own behalf.”
- The next day, Congress gave teeth to his warning with the Espionage Act, which criminalized opposition to the war. In 1918, the Sedition Act made prohibitions on dissent even broader.
- The Bureau of Investigation (later called the FBI)...creating the American Protective League (APL)...The APL ... was nominally private, ... 1,200 branches put local public schools under surveillance,
- APL members [detained](#) over 40,000 people, opened mail, and raided factories, union halls, and private homes.

Watch leading surveillance experts and government officials debate proposed federal policy reforms at Intelligence Squared.

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Combating Terrorism and the Lessons of 1798

By [William J. Watkins Jr.](#) | Posted: Thu. December 6, 2001

James Madison once observed that “it is a universal truth that the loss of liberty at home is to be charged to the provisions against danger, real or pretended, from abroad.” Fear of foreign perils, Madison realized, can easily persuade a freedom-loving people to voluntarily part with liberties they would otherwise consider indispensable. In Thomas Jefferson’s words, the people are “made for a moment to be willing instruments in forging chains for themselves.”

In making such statements on the forfeiting of precious rights during times of foreign danger, Madison and Jefferson were speaking from experience. In the 1790s, a number of Americans feared that the democratic excesses of the French Revolution would be exported to the U.S. They believed French agents were plotting to destroy the Constitution and overthrow the federal government. Wild rumors spread that Jefferson, Madison, and other members of their Republican Party planned to offer assistance to a French invasion force supposedly sailing across the Atlantic. To make matters worse, an undeclared naval war soon erupted between the U.S. and France.

This environment of fear and distrust led to the passage of the most illiberal legislation of the early national period: The Alien and Sedition Acts. Enacted by Congress in the summer of 1798, the Acts prohibited criticism of the federal government and gave President John Adams the power to deport any alien he viewed as suspicious. This legislation made a mockery of the First Amendment and deprived aliens of basic due process of law.

To combat the Acts, Jefferson and Madison drafted the Kentucky and Virginia Resolutions. In these Resolutions, Madison and Jefferson accused Congress of exceeding its powers and declared the Alien and Sedition Acts void. Times were so tense that Madison and Jefferson hid the fact of their authorship because they feared prosecution under the dreaded Sedition Act. Although the American people originally applauded the Acts, in the elections of 1800 they threw out of office many of the Acts’ supporters. Jefferson was also elected to the presidency and he suspended all prosecutions brought under these shameful measures. This so-called “Revolution of 1800” brought the crisis of the Alien and Sedition Acts to a close.

Today, similar to the 1790s, Americans sense a threat of danger from abroad. In the aftermath of the Sept. 11th attacks and the anthrax scare, Americans are concerned that terrorism will claim more innocent lives. Consequently, few voices of opposition were heard when Congress in late October passed the USA PATRIOT Act of 2001. Under this legislation, government investigators can more easily eavesdrop on Internet activity, FBI agents are charged with gathering domestic intelligence, Treasury Department officials

are charged with creating a financial intelligence-gathering system for use by the CIA, and the CIA is permitted use of evidence garnered by federal grand juries and criminal wiretaps. In addition,

President Bush signed an Executive Order providing for secret military tribunals to try suspected foreign terrorists. These courts will not apply the principles of law and rules of evidence that are used in the trial of criminal cases in U.S. district courts.

Fortunately, these measures are rather mild when compared to the Alien and Sedition Acts of 1798. For example, nothing in the measures infringes on freedom of speech like the Sedition Act. Americans are free to applaud, criticize, or vilify government officials. Nevertheless, federal authorities have augmented their power to pry into the affairs of innocent Americans. With regard

to the Internet, Big Brother will be monitoring our e-mail communications and where we surf on the Web. Moreover, under President Bush’s Executive Order non-citizens suspected of terrorism are denied the safeguards of due process of law—the very principles that form the foundation of the American justice system. Inasmuch as these tribunals are such a departure from the high standards of our system, the procedures employed by these military tribunals should concern citizen and non-citizen alike.

Without a doubt, the Sept. 11th attacks changed the U.S. forever. Terrorists can’t take our freedoms away, but our politicians will continue to make America a more regimented society if we let them. Although action is required to deal with the threat of terrorism, let us not forget the lessons of the Alien and Sedition Acts and Madison’s

aphorism about the loss of liberty at home in the face of danger from abroad. Let us also be mindful of our freedoms, but, at the same time, take the necessary actions to vanquish this new foe. Such a balance is delicate, but also essential.

William J. Watkins, Jr. is a Research Fellow at the Independent Institute and author of [Reclaiming the American Revolution](#). He received his J.D.



Federal Surveillance: Defense of the Realm or Suppression of Dissent? is a study guide for the Mackinac Center Debate Workshops, for students researching the national resolution on reducing federal surveillance. Prepared by Gregory Rehmke, Economic Thinking, and member of the Mackinac Center’s Board of Scholars.

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The Kentucky and Virginia Resolutions: Guideposts of Limited Government

By William J. Watkins Jr.

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