

## Article

# Informants, Provocateurs, and Entrapment: Examining the Histories of the FBI's PATCON and the NYPD's Muslim Surveillance Program

**Sara Kamali**

Faculty of Oriental Studies, University of Oxford, UK.  
[sara.kamali@orinst.ox.ac.uk](mailto:sara.kamali@orinst.ox.ac.uk)

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## Abstract

Since September 11, 2001, the U.S. government as well as police departments across the United States, most notably the New York City Police Department (NYPD), have been collecting intelligence targeting Muslim American communities. The controversial surveillance practices include the use of confidential informants, undercover operations, and entrapment, and infringing upon civil rights and civil liberties in the name of national security. A decade before 9/11, however, the Federal Bureau of Investigation (FBI) conducted the same practices against a completely different demographic—Christian Right militants, through a program called PATCON, short for Patriot Conspiracy. Building upon the concept of surveillance as social sorting (Lyon 2013) and surveillance and terrorism (Monahan 2012), this article will compare the histories of surveillance practices as undertaken by the FBI on American Christian Right militants with the tactics used by the NYPD on non-militant Muslim Americans. This article will also assess the implications of these programs in the context of civil rights, arguing that the legacy of mistrust between the respective targeted groups and the federal government and agencies implementing the surveillance programs has undermined the national security interests of the United States.

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## Introduction

*“History teaches that grave threats to liberty often come in times of urgency, when constitutional rights seem too extravagant to endure.”*  
- U.S. Supreme Court Justice Thurgood Marshall 1989

On August 23, 2011, the *Associated Press* published an article, “With CIA help, NYPD moves covertly in Muslim areas,” exposing the New York Police Department (NYPD)’s aggressive surveillance program of Muslim American-owned businesses, Muslim student groups, and mosques after the attacks of September 11, 2001 (Apuzzo and Goldman 2011). In what would become a series of Pulitzer Prize-winning reports, the news articles detailed the systematic spying of Muslim neighborhoods through the use of “mosque crawlers” and “rakers” even when there was no evidence of a linkage to terrorism or a crime (Crary 2012). Further revelations detailed the warrantless surveillance of predominantly Muslim communities, including the monitoring of websites, blogs, and other online fora, by undercover officers. The reporting also brought to light the coercion tactics used to leverage Muslim Americans to inform on members of their local communities.

Indeed, infringing upon constitutionally-given freedoms in the name of national security is not limited to the Muslim Americans in the present day; rather, practices including the use of confidential informants, undercover operations, and entrapment are part of the history of surveillance operations conducted by U.S. law enforcement. From 1991 to 1993, almost a decade before the 9/11 attacks brought the word ‘terrorism’ into the cultural lexicon, the U.S. Federal Bureau of Investigation (FBI) was conducting the surveillance of “anti-government, racist, anti-Semitic and/or Christian” activists who viewed themselves as Patriots (Berger 2012). This ambitious infiltration program code-named PATCON, short for ‘Patriot Conspiracy’ would be an ominous precursor to the NYPD’s Muslim Surveillance Program (ibid.).

This article will provide a historical comparison of the respective surveillance programs by the FBI and the NYPD in light of news and media reports as well as first-hand accounts of experiences of surveillance practices through the documentary research method (Rapley 2007; Bowen 2009). Within the framework of this methodology, this article will discuss PATCON and the Muslim Surveillance Program and assess their implications in order to examine the following questions: How similar or dissimilar are the two programs in terms of their specific strategies? What legislation has emerged from the legacies of these two programs? What impact did these programs have on civil liberties? What are the implications of law enforcement cooperation in the future with regards to these two very different communities: The Christian Right militants who already harbor anti-government sentiments and the non-militant Muslim Americans who have been targeted because they share the same religion as the 9/11 attackers?

### **COINTELPRO-White Hate**

The first mention of a counter-intelligence program run by an American federal agency to monitor American citizens was made by J. Edgar Hoover, the first Director of the FBI. In a memo written in 1956, Hoover called for an initiative to track Americans who were perceived as enemies. In the decades to come, the scope and targets of the surveillance program would widen to encompass various tactics and many different types of American citizens, all of whom were viewed as a threat to the stability of the American government. Using the ancient military tactic of divide and conquer, the surveillance strategy preferred by Hoover was “not by harassment from the outside, which might only serve to bring the various factions together, but by feeding and fostering from within the internal fight currently raging (Churchill and Vander Wall 2002: 40).”

For example, in the 1960s, the U.S. Justice Department grew increasingly concerned about the spread of Ku Klux Klan (KKK) activity and violence in the South (Churchill and Vander Wall 2002). In an internal security memo written in 1964, a program called COINTELPRO–White Hate stemming was outlined, with the express purpose to “expose, disrupt and otherwise neutralize the activities of the various Klans and hate organizations, their leadership and adherents (FBI 2014).” The directives in the memo continue as follows:

The activities of these groups must be followed on a continuous basis so we [the FBI] may take advantage of all opportunities for counterintelligence and also inspire action in instances where circumstances warrant. ... We must frustrate any efforts of the groups to consolidate their forces or to recruit new or youthful adherents. In every instance, consideration should be given to disrupting the organized activity of these groups and no opportunity should be missed to capitalize upon organizational and personal conflicts of their leadership.

Such stratagems were to be used in subsequent years against an array of domestic political groups. New surveillance measures targeting black nationalists, communists, and anti-war groups were instituted. A memo written by Hoover in 1967 highlighted the level of mistrust between federal agencies and various

groups of American citizens, not just members of the KKK: “The purpose of this new counterintelligence endeavor is to expose, disrupt, misdirect, discredit, or otherwise neutralize the activities of black nationalist, hate-type organizations and groupings, their leadership, spokesmen, membership, and supporters, and to counter their propensity for violence and civil disorder.” While Hoover may have called the endeavor “new,” the FBI was using the same tools to dismantle groups from within as it had since the organization’s inception. Its agents were further instructed to “frustrate every effort of these groups or individuals to consolidate their forces or to recruit new or useful adherents.” Agents were also advised to “take advantage of all opportunities for counter-intelligence to “inspire action where circumstances warrant,” and to disrupt “the organized activity of these groups (Nation of Islam 2014).” In a foreshadowing of what would become norm in the post-9/11 landscape, the criteria for investigating individuals widened to include not only persons with “a potential for violence,” but also anyone else who, in the judgment of the special agents in charge, should be subject to investigation due to extremist activities, such as political speeches.

As a result of what were widely regarded to be disproportionate surveillance measures, eight anti-war activists, calling themselves the Citizens’ Commission to Investigate the FBI, broke into the FBI’s office in Media, Pennsylvania in 1971 to take a cabal of documents detailing the history of COINTELPRO and the tactics used by the FBI (Medsger 2014). Subsequently, in 1975, the Church Committee in the U.S. Senate and the Pike Committee in the U.S. House of Representatives (so named after their respective chairs Senator Frank Church and Representative Otis Pike) concluded that federal organizations that had been given the powers to carry out domestic intelligence programs had “in an environment of lax oversight, political influences, and poor framing of their acceptable missions and activities, used those powers inappropriately and in some cases illegally (Treverton 2008: 7).” The Church and Pike committees’ stances on surveillance were not to be heeded, however, and were later regarded as unpatriotic by proponents of intelligence operations in the post-9/11 era.

### **Ruby Ridge and the Rise of the Militant Christian Right**

Just as the Department of Justice was concerned with the rising power of the KKK in the 1960s, the number of Christian Right militants and self-titled “sovereign citizens” and Patriots became a very real threat to the U.S. government beginning in the 1980s and 1990s. The most prominent of these groups was The Order, a splinter group of the Aryan Nation, named after a fictional terrorist group in the militant Christian Right tome *The Turner Diaries*, written by Christian Identity adherent William Pierce under the pseudonym Andrew Macdonald. Financing its white nationalist agenda with bank robberies in the Pacific Northwest, The Order would move from burglary to murder, taking responsibility for the killing of Jewish radio host Alan Berg in 1984. The 1990s would also see the dramatic increase in Christian Right militants instigated by anger at the federal government and the deaths of political dissenters at Ruby Ridge, Idaho in 1992 and in Waco, Texas in 1993. For many Christian Right militants, Ruby Ridge and Waco symbolized the encroaching and spiteful forces of the U.S. government, fueling their rise, whilst for federal agencies, these events led the government to further monitor their activities.

In 1992, Aryan Nations-supporter Rudy Weaver was wanted for weapons violations. U.S. Marshals went to his ranch in Idaho. A contested series of events resulted in one federal agent being shot and killed along with Weaver’s son in an exchange of fire; also killed was Weaver’s wife, shot while standing in the doorway of her home holding their infant daughter. Further fueling the anger, distrust, and disillusionment of the United States government already harbored by Christian Right militants was also the incident at Waco, occurring one year later in 1993 (Gray 1995). It was in this small town in Texas that federal forces would encamp outside the religious Branch Davidian compound for 51 days, ultimately killing over 80 men, women, and children, including the compound’s spiritual leader, David Koresh (Heymann 1998: xxvi).

In addition to agitating resentment and mistrust harbored by certain Christian Right militants who viewed themselves at war with the American government, Ruby Ridge and Waco also increased expanded operations for the FBI. In response to the rise of militias and anti-government groups, three FBI agents created a fictional Christian Right militant group called the Veteran Aryan Movement in order to “broadly collect intelligence on the Patriot movement’s members and activities” (Berger 2014). As defined by J.M. Berger, whose work sheds light on the PATCON program, “‘Patriot’ is an umbrella label for a loosely defined movement of antigovernment, racist, anti- Semitic, and/or Christian extremists (Berger 2012: 2).” This operation would be called PATCON, short for Patriot Conspiracy, and primarily targeted the three following militant Christian Right groups: Civilian Material Assistance, the Texas Light Infantry, and the American Pistol and Rifle Association. Coming to light in 2007, PATCON was used in the 1990s as an intelligence tool, predicated upon a “series of suspected crimes” (Berger 2012: 3). Yet the program not only served to reinforce grievances against the American government already harbored by these groups, but also bred dissent and suspicion between them as well, fulfilling Hoover’s mission to develop a counter-intelligence program that dismantled America’s perceived enemies within by internal divisions.

### **The Deadliest Incident of Terrorism**

Despite the tactics used to monitor these groups, the FBI failed to prevent the Oklahoma City bombing on April 19, 1995, perpetrated by Christian Identity activist, Timothy McVeigh, the deadliest terrorist attack perpetrated by an American citizen on U.S. soil to date. The FBI was, in fact, monitoring Timothy McVeigh long before he perpetrated the atrocities in Oklahoma City.

At an April 1993 gun show in Tulsa, for example, McVeigh met Andreas Strassmeir, the grandson of a founder of the Nazi party and then the head of security for Elohim City, a 400-acre compound on the Arkansas-Oklahoma border founded by a white supremacist. (There is interesting, but inconclusive, evidence suggesting that Strassmeir might have been a federal undercover operative.) In Kingman, Arizona, McVeigh renewed his friendship with army buddy Michael Fortier, an anti-gun control protester with a passion for far-right politics. In the fall of 1993, McVeigh and Terry Nichols made their first visit to Elohim City, a hotbed of anti-government activity—including a plot to blow up a federal building in Oklahoma City. (For McVeigh, it would be the first of at least two, and most likely four or more visits to the compound.)

In 1994, McVeigh’s activities became overtly criminal. According to FBI reports, it is probable that McVeigh participated in a series of bank robberies around the Midwest with a gang from Elohim City in an effort to raise money for projects involving anti-government violence. McVeigh cased banks, and most likely drove the getaway car in some of the heists. He also plotted and carried out, with the help of either Nichols or Elohim City residents, an armed robbery of an Arkansas gun dealer that he had befriended at various gun shows. Joined by Michael Fortier, he stole various items from an Arizona National Guard armory. Despite the contact that various law enforcement agencies had with these perpetrators, they were not stopped.

Years earlier, *The Turner Diaries* inspired The Order and the anti-Semitic murder of Jewish radio host Alan Berg. This same book would inspire Timothy McVeigh’s act of terrorism in Oklahoma City in 1995. In it, Earl Turner, the eponymous character and anti-government Patriot, is finally forced to take action after the government passes gun control legislation. The fictional Turner and his very real disciple McVeigh were Christian Right activists spurned by what they viewed as the U.S. government’s attempts to usurp the United States.

Ultimately, it was Timothy McVeigh, a 27-year-old Army veteran, who had been awarded the Bronze Star during the first Gulf War, who was found guilty of a conspiracy to use a weapon of mass destruction. As the evidence clearly showed, McVeigh had driven the truck bomb to Oklahoma City and detonated it. The

second conspirator arrested was Terry Nichols, a 40-year-old farmer who had befriended McVeigh in the Army and who had helped him prepare and arm the truck bomb. McVeigh was sentenced to death and executed on June 11, 2001. Mr Nichols was sentenced to life imprisonment with no possibility of parole. The only other person charged in the conspiracy was Michael Fortier, who pleaded guilty to not warning authorities of the attack; he was sentenced to 12 years and is now in the witness-protection program, having testified for the prosecution in the McVeigh and Nichols cases (Gumbel and Charles 2013).

### **The Legacy of PATCON**

Despite the FBI's PATCON program—it collected a vast amount of data, including 13 million hotel and motel records—it may have missed the bigger picture by not pursuing, or dismissing, evidence that would have captured Timothy McVeigh and Terry Nichols before the Oklahoma City bombing. While PATCON was abandoned without any fanfare in 1993, because the operation failed to produce any tangible results—save one trial “based almost exclusively on evidence gathered by the Army's investigation and by FBI informants not associated with PATCON” (Berger 2014)—the legacy of PATCON remains. The tactics of FBI agents infiltrating militias, as well as paid informants being coerced into spying on these groups, and, in some instances, even providing the means and encouragement to carry out violent plots before being arrested, have been criticized as constituting entrapment by using *agent provocateurs*—agents posing as criminals to justify the financial and social expenses of counter-terrorism.

From COINTELPRO-White Hate to PATCON to current surveillance measures against American citizens, the FBI and law enforcement agencies not only serve to reinforce already-harbored grievances against federal agencies, but the use of informants bordering on entrapment has also bred dissent and suspicion between these groups as well. Because law enforcement agencies are becoming increasingly concerned with monitoring American citizens to determine whether or not they will commit acts of violence before they do so, surveillance techniques have become ubiquitous with the express purpose of preventative policing measures seemingly taken from the film, *Minority Report* (Weber 2007). These preemptive measures not only infringe upon certain civil liberties, but they also serve to create rifts amongst the targeted community that did not exist before, exacerbating tensions between law enforcement and citizens as with the case of self-styled Patriots, or obstructing the relationship between law enforcement and citizens as with the case of non-militant Muslim Americans.

### **The NYPD's Muslim Surveillance Program**

Almost two decades after the closure of PATCON, and almost ten years after the 9/11 attacks, the United States intelligence agencies shifted their focus to a different demographic: Muslim Americans. As with the infiltration tactics used to surveil perceived threats posed by American citizens in the decades prior, American federal, state, and local law enforcement agencies similarly coalesced to position undercover informants posing as Muslims to gain access to what would be labeled as “terrorism enterprises” (Apuzzo and Goldstein 2014). These included mosques, Muslim Students Associations at universities in various states, and businesses owned or frequented by Muslims (Apuzzo and Goldstein 2014).

In 2012, American journalists, Matt Apuzzo, Adam Goldman, Chris Hawley, and Eileen Sullivan, were awarded the Pulitzer Prize for Investigative Reporting for their months-long series outlining the New York Police Department (NYPD)'s surveillance of Muslim Americans since 9/11. Their reporting revealed that the NYPD had become one of the nation's most aggressive domestic intelligence agencies and its undercover operations were conducted with the advice and guidance of the Central Intelligence Agency (CIA)—sending undercover officers into minority neighborhoods, student groups and houses of worship, though there was no indication they harbored criminals or terrorists (Associated Press 2012). In 2013, Muslim American civil liberties groups released a new report today, *Mapping Muslims: NYPD Spying and*

*Its Impact on American Muslims*, documenting the NYPD's extensive surveillance program that targeted Muslim Americans throughout the Northeast (CLEAR 2013).

Undercover informants were also used to spy on Muslim Student Associations across America. In one well-known case, documented by the *Mapping Muslims* report and brought to media attention through the *Associated Press* reporting, an undercover agent was sent on a white-water rafting trip, documenting 18 Muslim students from the City College of New York on their trip to upstate New York on April 21, 2008 (Hawley 2012). Among other information recorded were the students' names and how many times they prayed, even though performing five daily prayers is the prescribed practice in Islam. Many of the techniques were spearheaded by the NYPD's first civilian intelligence chief in 2002, David Cohen, who was then a 35-year veteran of the CIA.

## Technology and Surveillance

Beginning in 2009, the NYPD, the nation's largest police department, partnered with Microsoft Corporation to produce the Domain Awareness System, also known as "the dashboard," allowing for the police department's voluminous arrest records, 911 calls, more than 3,000 security cameras citywide, license plate readers and portable radiation detectors to be easily accessed. The Domain Awareness System began when the NYPD approached Microsoft initially about building software to help mine data for the Lower Manhattan Security Initiative, a network of private and public cameras and other tools monitored by the department's counterterrorism bureau. The Domain Awareness System is similar to what is called "domain management," which is publically available information and government data, such as immigration records. The system uses hundreds of thousands of pieces of information. Security camera footage can be rewound five minutes so that officers can see suspects who may have fled. Sensors pick up whether a bag has been left sitting for a while. When an emergency call comes in, officers can check prior 911 calls from that address to see what they might be up against.

Domain management began with Philip Mudd, who was once Deputy Director of the Office of Terrorism Analysis at the CIA, and Associate Executive Director of the FBI's National Security Branch. In an interview with *The New York Times*, Mudd described how he transitioned from "chasing criminal cases and start[ed] gathering intelligence," (Shane and Bergman 2006) in order to preemptively deal with terrorism cases, rather than prosecute them (Frontline 2006). Drawing on commercial marketing software and the National Security Agency's eavesdropping without warrants, domain management is supposed to identify threats, for FBI agents to then "hunt" for informants (op. cit. Shane and Bergman). For example, when the program was first being developed in 2005, Mudd displayed a map of the San Francisco area, pocked with data showing where Iranian immigrants were clustered—and where, he said, an FBI squad was actively searching for Muslim Americans to be flipped into informants (op. cit. Shane and Bergman). Domain management systems are currently being used to compile data that then pinpoint where Muslim Americans live, and understand the makeup of Muslims in the United States, in order to allocate informants accordingly (Aaronson 2011).

## Inter-Agency Cooperation to Create Informants

With inter-agency cooperation at an all-time high, practices such as these are widespread tactics in trying to get Muslim Americans to become informants within their respective communities (Mickadeit 2006). For example, the FBI and Joint Terrorism Task Forces (JTTF) have also relied heavily on Immigration and Customs Enforcement (ICE) with which it has worked closely as part of increased interagency coordination. A typical scenario will play out as follows: an FBI agent trying to get someone to cooperate will look for evidence that the person has immigration troubles. If they do, he can ask ICE to begin or expedite deportation proceedings. If the immigrant then chooses to cooperate, the FBI will tell the court that he is a valuable asset, averting deportation. Congress has tried to devolve this authority from the

federal level to the state and local levels (Wishnie 2001: 493). Furthermore, because “the threat of terrorism is vaguely define, based on intent, and confounded with conventional crimes committed according to U.S. law, it has an umbrella effect suggesting danger” from Muslim Americans (Manning 2006: 204).

The coercive methods to recruit informants by the FBI diverges from the methods used in organized crime where “you get someone on a lower level offense and flip them, isn’t really that useful in Muslim communities,” according to journalist Trevor Aaronson (C-SPAN 2013). Because Muslim Americans in the U.S. have immigrated there in recent decades, they are also vulnerable with regards to their own immigration status or that of their family members. The FBI then leverages this to turn members of Muslim American communities into informants. Thus, the incentive is created, either under the pressure of deportation or not having a family member allowed to entry the country, to find “terrorists” (ibid.).

As journalist Sam Black reported in 2012 on the prevalence of coercion tactics used by the FBI to create informants within the Muslim American communities across the U.S.:

One retired agent who had more than twenty years experience in the Bureau, said that there are people all over the country being approached by the FBI and pressured [to become informants against their own communities]. He laughed when we asked him about it. It was like asking a plumber if he used a wrench. He says it happens at every level of law enforcement. He told us, ‘It sounds like a terrible thing guys, but it’s the way business is done. It’s the way the American people get protected. You’ve got to find people who can lead you to the bad guys.’ (*This American Life* 2012)

The FBI maintains a roster of 15,000 informants, “many of them tasked with infiltrating Muslim communities in the United States” (op. cit. Aaronson 2011). This is ten times the number of informants the FBI had in the 1960s, during the height of the Cold War and during Hoover’s tenure as FBI Director (Aaronson 2013). In addition to these official informants, “there are as many as three unofficial ones” for every informant recorded (Office of the Inspector General 2005). These unofficial informants are known as “hip pockets,” who run “in contravention of FBI and Guidelines mandates so they will not have to complete the paperwork, obtain required approvals, or risk disclosing their informants’ identities to prosecutors or others (ibid).”

## **Deportation and Al Capone**

The FBI also uses deportation as a leveraging tool to recruit Muslims to spy on their own communities, giving them the ultimatum of working with the FBI or facing deportation, or having a member of their families not being able to come to the U.S. (Maher 2013). In “a radical disjunction between [pre- and post-9/11] conditions of policing (McArdle 2006: 187),” the NYPD uses taxi shields as leverage to recruit informants from within New York City Muslim communities under duress. The NYPD asked the taxi commission to run a report on all the city’s Pakistani cab drivers, looking for those who got licenses fraudulently and might be susceptible to pressure to cooperate, according to former officials who were involved in or briefed on the effort (Apuzzo and Goldman 2011). Other police officers were dispatched in the New York City area to Pakistani neighborhoods with the instructions “to look for reasons to stop cars: speeding, broken tail lights, running stop signs, whatever (ibid).” The traffic stop gave police an opportunity to search for outstanding warrants or look for suspicious behavior. An arrest could be the leverage the police needed to persuade someone to become an informant.

This is called the “Al Capone approach” as explained by Wayne Gross, chief of the U.S. Attorney’s Office in Orange County, named after Al Capone, the American gangster who rose to fame during the U.S. Prohibition in the early 20<sup>th</sup> century and was prosecuted for tax violations (Breinholt 2005). Referring to

Title 18, Section 1001 of the federal criminal code, which covers the crime of lying to federal agents (Cornell University Law School n.d.), if a terrorist charge does not apply, then the officer “works with other agencies to find something like a tax charge, immigration violation, or making false statements to federal officials” (Mother Jones 2011). Many Muslim American terrorist defendants “whose crimes or affiliations it couldn’t prove in court” (op. cit. Aaronson 2011) have been charged with violating Title 18, Section 1001 (Ashcroft 2001).

### **The Legacy of the Muslim Surveillance Program**

What would come to be known as the NYPD’s Muslims Surveillance Program, has also been viewed as violations of the civil rights and liberties of Muslim Americans who were targeted. Specifically, the U.S. Constitution’s Fourteenth Amendment’s Equal Protection Clause, which protects against “illegal, unreasonable search and seizure policies” (Chowdhury 2015), and the First Amendment rights to free speech and freedom exercise of one’s religious beliefs (ACLU, *Raza v. City of New York*) were infringed upon.

Some steps to protect the civil liberties of Muslim Americans have been made. Since the election of Bill de Blasio as Mayor of New York City in 2014, the Demographics Unit of the NYPD which conducted much of the surveillance has been disbanded (op. cit. Apuzzo and Goldstein 2014). In 2016, there was also a landmark settlement reached in two separate lawsuits brought against the NYPD; both in *Raza v. City of New York* and *Handschu v. Special Services Division*, whereby the New York City Police Department has agreed to reforms designed to protect New York Muslims and others from discriminatory and unjustified surveillance. As a further safeguard, the settlement installs a civilian representative within the NYPD to act as a check on investigations involving political or religious activity (NYCLU 2016).

### **Sunlight and Civil Liberties**

In 1932, U.S. Supreme Court Justice Louis D. Brandeis wrote, “Sunlight is said to be the best of disinfectants; electric light the most efficient policeman (Brandeis 1932).” Decades later, in 2013, Edward Snowden, then a 29 year old American computer analyst, provided *The Guardian* and the *Washington Post* with top-secret N.S.A. documents leading to revelations about U.S. intelligence gathering of phone and internet communications around the world. Snowden’s greatest fear is of what he called “turnkey tyranny,” explaining to Greenwald in a video-recorded interview:

The greatest fear that I have regarding the *outcome* for America, of these disclosures, is that nothing will change. People will see, in the media, all of these disclosures. They’ll know the lengths that the government is going to grant themselves powers, *unilaterally*, to create greater control over American society and global society. But they won’t be willing to take the risks necessary to stand up and fight to change things, to force their representatives to actually take a stand in their interests. And the months ahead, the years ahead, it’s only going to get worse, until, eventually, there will be a time where policies will change because the *only* thing that restricts the activities of the surveillance state are policy [original emphases]. (Poitras and Greenwald 2013)

Whether one considers Edward Snowden a traitor or a hero vigilante, his concerns, which some dismiss as conspiracy theories, are actually valid, according to Bruce Schneier, an American computer security specialist: “All of us [are] being watched, all the time, and that data being stored forever. This is what a surveillance state looks like, and it’s efficient beyond the wildest dreams of George Orwell” (Schneier 2012, 2013).



Because of this increasingly complex circuitry between transparency, secrecy, and intelligence creating counter-terrorism policies in the U.S., transparency and accountability are needed now, perhaps more than ever. As part of good governance, the integrity of the government is an important aspect of homeland security and effective counter-terrorism policies. The same communities being targeted are also needed for support and intelligence. The use of informants by law enforcement and federal agencies to catch and display alleged or would-be terrorists are an integral component, however unseemly, to counter-terrorism strategies today. Providing incentives to recruit informants, pitting community members against each other, and wielding egregious entrapment tactics, threatening a myriad of charges from immigration violations to tax fraud, to justify the war on terrorism make up the reality of how terrorists are created and caught in the post-9/11 world. Domestic counter-terrorism intelligence capabilities should therefore focus on reinstating civil liberties as well as reinforcing judicial and congressional oversight of intelligence operations.

Government is made up of many elected officials who are supposed to be held accountable at all levels. The issue of transparency is also what is needed to build trust, because so often, much of government goings-on are not transparent, nor easily accessible or understandable. As John Adams, second President of the United States, wrote, “Liberty cannot be preserved without a general knowledge among the people, who have a right ... and a desire to know (Hill 2007: 42).” A “trust culture,” (Sztompka 1999) then, is an essential ingredient in the building of a well-governed state, because citizens are able to debate and question government policies, and have a sense of making a difference in decision-making processes (Lewicki and Tomlinson 2003). Democracy functions at its best when citizens trust the process, creating an environment of care and investment, with the realization that the process of democracy, representation works. This heightens participation, because citizens trust the government and thus expect results in policy-making and politics. Establishing much-needed trust between American citizens and the U.S. government can only happen when there is transparency between officials and the people as well as accountability. American citizens, like all citizens, need to trust their government, because citizens and government, just like trust and good governance, are in a mutually reciprocal relationship. Trust is the *sine qua non* of good governance. Without good governance, or a participatory, transparent, and accountable government, in which the state, civil society, and the private sector work effectively together, democracy cannot function, nor can national security, civil liberties, or economic prosperity be ensured.

As the 20<sup>th</sup> century Anglo-American poet T.S. Eliot wrote in *The Four Quartets*, “We had the experience, but missed the meaning” (Eliot 1941). Throughout the experiences of PATCON and the Muslim Surveillance Program, American citizens may have been willing to scale back some of their civil liberties for national security purposes, but history has taught that this is detrimental to the core of what it means to be American. Indeed, given the current climate of anxiety towards Muslim Americans as well as racial/ethnic minorities who are now becoming the majority, history need not repeat itself to blight American values. The fear of Japanese Americans led to their internment during World War II. The suspicions many have of Christian Right militants, anti-government Patriots, or Muslim Americans cannot lead to the same violations of civil liberties being repeated. Ultimately, current surveillance policies must be re-thought for strengthening national security, ensuring economic prosperity, and upholding the legacy of civil rights, which has drawn immigrants to America’s shores even long before Lady Liberty raised her welcoming torch in New York Harbor.

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