

EXAMPLE ARGUMENTATIVE THEME WITH A COUNTERCLAIM, VERSION 2¹

Prompt: The U.S.A. Patriot Act is highly controversial because some people think it impinges on citizens' constitutional rights. Choose at least three sections of the Act, explain why people think that these parts of the Act are problematic and that the Act should be repealed, and explain why other people accept those parts of the Act. In other words, support the claim that the Act should be repealed while also providing reasons why it should remain in force. Be sure to have at least five paragraphs in your theme. Include in-text citations where needed and a reference list. Use the MLA style.

TITLE OF PAPER: The Patriot Act: Do Not Judge a Book by its Cover

¹ Please note: This theme demonstrates how two three paragraphs can be written for each subtopic. In this case, the subtopics are the three sections of the Patriot Act (Sections 213, 214, and 215). For each section, a paragraph has been written to describe the section, explain the problems associated with that section, and to provide a counterargument related to keeping the Act intact. In addition, the Introduction and Conclusion are comprised of more than one paragraph.

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The Patriot Act: Do Not Judge a Book by its Cover

Congress six weeks after 9/11: The mood is tense, thousands of Americans have died in a horrible tragedy, and the terrorists responsible (yet to be captured) are expected to use other methods of terrorism, such as sending anthrax through the mail. The Bush administration is pressuring congressmen and women to pass a bill immediately that will expand on the government's surveillance powers and therefore help prevent future terrorist attacks right away. Because of this pressure, the Senate and House of Representatives created a bill and rushed it to the floor to be voted on without holding a discussion or giving Congress an ample amount of time to read and analyze the 342 pages. The bill, called the U.S.A. Patriot Act, passed the Senate with a 98 to 1 vote and was later passed by the House of Representatives with a 357 to 66 vote.

As described above, the U.S.A. Patriot Act (H.R. 3162, 2001) was pushed through both houses of Congress within a short time period without allowing congressmen and women enough time to read and analyze it. Because of this timeline, the members of Congress voted for the Patriot Act based upon the intentions associated with it (i.e., to make the U.S. safe from terrorism), and did not digest the fine print of the Act. In a sense, they judged the Act "by its cover." If they had read and analyzed the Patriot Act, the members of Congress would have discovered that it creates new policies and procedures that allow for the surveillance of suspected terrorists by impinging on citizens'

constitutional rights, without necessarily making Americans safe from terrorism. For a variety of reasons associated with Sections 213, 214, and 215 of the Act, this act should be repealed or at least allowed to lapse in 2005 as specified in the law.

One of the reasons that this law needs to be repealed and that the members of Congress might have voted against the Patriot Act, if they had analyzed it, is that the policies in Section 213 take away citizens' constitutional rights to privacy. Indeed, Section 213 of the Patriot Act gives the government the ability to conduct secret searches and seizures of property. In essence, this section allows public officials to search an individual's private property without notice before hand. This means that police and government officials can enter and search a home or a car without warning. They do not need a search warrant. Sometimes, individuals are not notified until long after the search has taken place, and they may never be notified.

Indeed, Section 213 directly conflicts with the Fourth Amendment to the U.S. Constitution, which protects citizens from unreasonable search and seizure. According to this amendment, a citizen must be given a written warrant that proves probable cause that he or she has committed or will commit a crime before a search can take place and before property can be seized by government agents. Because of Section 213 of the Patriot Act, however, officials are able to search private property without a warrant and even without notice by providing the excuse that the search is part of an ongoing terrorism or foreign intelligence investigation. Thus, in addition to violating Fourth Amendment rights, this section also violates Fifth Amendment rights to due process because individuals cannot contest a loss of property if they do not know that a search and has taken place and that property has been removed. Also, if officials find evidence of a criminal offense (and not

terrorist activities) while doing their search for terrorist links, Section 213 of the Patriot Act allows them to pursue a criminal investigation. In such a case, the rights of citizens to privacy and due process are being violated in a way that Congress did not intend. That is, the purpose of the Patriot Act was to fight terrorism, not to discover typical law violators.

In contrast to this way of thinking, some individuals might argue against the repeal of this Act. They might argue that the rights of U.S. citizens, like the rights to privacy and due process, must be sacrificed in order to find the terrorists in our midst. Indeed, they might argue that protecting the general populace of the nation against terrorism, which typically is a surprise attack demonstrating disapproval of a society's customs and beliefs in a violent way, is a tall order that might require special measures. They might also argue that putting a few more criminals in jail will not hurt the nation. However, opponents of the Patriot Act might counter this argument by stating that the Patriot Act goes too far with regard to violating rights when it allows officials to extend its use beyond terrorist acts to common criminal activities and that the Fourth and Fifth Amendments were added to the Constitution to protect the rights of parties who are not guilty.

A further reason why the Patriot Act should be repealed is that another one of its sections, Section 214, contains policies that violate additional rights of the general citizen population. This section expands upon a 1978 law, called the Foreign Intelligence Surveillance Act, which allows for the use of wiretaps to collect foreign intelligence data. Under Section 214 of the Patriot Act, the government is able to use what is known as the "pen register" or "trap and trace searches" to access information. For example, officials can use a pen register to find out the names of people a person called by phone and when he or she called them. Other example uses of the pen register include looking at addresses on

incoming and outgoing mail and email messages and checking the Internet addresses that a person has accessed.

An advocate of the Patriot Act might argue that the knowledge of address information is not an invasion of privacy because many telephone numbers and addresses are publicly available. However, drawing the line between access to public address information and other associated information is a tricky business. For example, an email header includes the subject line, which, although it contains a minimal amount of information, can be comprised of personal information that should not be viewed by the government. Also, the ability to view the online sites a person has visited can give the government private information about that person, like what the person's personal characteristics are, what the person likes, what the person is shopping for, what the person is thinking about, and when the person was thinking about it. Finally, some people might argue that the ability to review the names of people with whom a person communicates is none of the government's business, even if officials do not know the topic of conversation. All of these activities might be considered an infringement on privacy and therefore a violation of citizens' constitutional rights.

Those who support the Patriot Act might argue that these measures are critical if terrorists are going to be caught. Clearly, obtaining the phone numbers, addresses, and email addresses of individuals who communicate with suspected terrorists is important if terrorist cells are to be found and plots are to be thwarted. Such people need to be identified before and after terrorist incidents occur. Moreover, the subject line of emails can provide information about terrorist activities and terrorist connections. Additionally, knowing the interests of suspected terrorists might help prevent terrorist attacks if the

suspects are frequently visiting known terrorist websites, buying weapons, or buying supplies for building bombs. Such activities could be red flags for law officers who can arrest these suspects.

Nevertheless, another reason why the Patriot Act should be repealed is that Section 215 of the Act extends the U.S. government's power even further than Sections 213 and 214. It allows officials the right to view records such as books, papers, digital data, and other documents. Again, the government only has to provide the reason that the records are needed for terrorist or foreign intelligence reasons in order to view them. Normally, a judge's signature on a warrant has been required before viewing records. Imagine, because of the Patriot Act, the government has the authority to view any records, including records in libraries, bookstores, schools, colleges, doctors' offices, credit card companies, telephone companies, health insurance companies, and Internet service providers without a warrant. This is another surveillance policy that takes away citizens' rights to privacy. Most of the records that are covered are supposed to be between individuals or between individuals and companies.

Clearly, making so much information available can cause problems. Information like this is typically confidential information, like contracts and other legal documents. It is not supposed to be disclosed to third parties, like the government. Another type of information that should be kept confidential is health information, like if a person has a certain disease. If this information becomes public, it can affect a lot of people. Indeed, a law was recently enacted that prohibits health agencies from divulging information about a patient to third parties unless they are given explicit and written permission to do so by the patient. Also, documents about new ideas and new inventions can be very important to a company's

future. If that information is made public, the company's competitors can steal the ideas and use them for their own products.

Again, proponents of the Patriot Act might indicate that they are willing to give up the right to the privacy of their records in order to be guaranteed safety from terrorism. They might claim that government agents can be trusted to review records and to keep them safe and confidential. They might claim that government agents are looking for signs of terrorism such as expenses for weapons and terror gear. They will not focus on personal records related to grades in school, new inventions and cancer treatments.

In conclusion, despite these arguments by proponents of the Patriot Act, several sections of the Act are problematic, and it should be repealed. Basically, the U.S. Constitution protects U.S. citizens from infringements on their freedom and privacy. These protections are basic tenets associated with Democracy. If the Patriot Act takes away citizens' right to the sanctity of their homes and property, their right to associate with others and pursue interests without fear, and their right to keep documents and agreements private, many of the protections of a Democracy are lost. Truth be told, although U.S. citizens have traded off their rights for more safety from terrorists, they are not much safer as a result of the enactment of Patriot Act policies. According to Ramona Ripston, Executive director of the ACLU of Southern California, "Government security specialists were able to smuggle guns, bombs, and paper cutters into 15 airports last year alone" ("One day..." 1). In other words, sacrificing civil rights does not make much sense if people are not going to be much safer. If government security specialists are able to penetrate airport security, than surely terrorists would be able to do so as well. Airplanes are not the only places that people might feel unsafe. They also might feel unsafe in public

places like sports arenas. Any football stadium is a prime example of a place that can be an easy target for terrorists because it can be filled to capacity with 40,000 to 90,000 people, some of whom can smuggle weapons into the arena since everyone is not frisked at the entrance gates. The government cannot guarantee citizens' safety with the use of the Patriot Act, so why should citizens give up constitutional rights if they are not safer?

Without a doubt, the Patriot Act only deals with the safety issue in a partial way because terrorism is not the only threat to Americans' safety. If the government's overall goal is to create laws that make Americans safer, lawmakers should worry about other issues as well as terrorism (which has only accounted for the loss of 3,207 lives in the U.S. in the past three years) (Ravinus 1). The government should spend more time and resources focusing on problems such as tobacco use (which in the U.S. alone has accounted for 400,000 cancer-related deaths annually) (Jemal et al. 2), improper use of firearms (which accounts for about 29,000 American deaths annually) (Committee on Law and Justice 55), and alcohol-related car accident deaths (which account for the loss of about 17,000 American lives annually) ("2004 Drunk driving..." 11). All three of these issues are huge safety threats and many of these deaths could be prevented if the government acted. Nevertheless, although the figures are there, the government has not yet acted in a productive way against these threats. In other words, these threats are much worse threats to the lives and welfare of American citizens than terrorism, and citizens should not have to give up their constitutional rights for uncertain protection against terrorism while other threats loom much larger. Thus, the Patriot Act was a "book that was judged by its cover." Its purpose has not been fulfilled while citizens' rights have been sacrificed. It should be repealed or allowed to lapse.

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