

## CIVIL LIBERTIES AND THE PRESIDENTIAL CANDIDATES

Since the terrorist attacks of September 11, 2001, government officials and the public generally have been wrestling with difficult questions related to liberty and security. Those issues, analyzed in The Century Foundation book published by Public Affairs, *The War on Our Freedoms: Civil Liberties in An Age of Terrorism*, are critical to the nation's future but have received relatively little attention in the media. During the course of the 2004 presidential campaign, we will keep track of what the candidates have been saying about challenges related to liberty and security. Compiled here are the candidates' statements, policies, and proposals as found in press reports, speeches listed on [Project Vote Smart's](#) database, the candidates' websites, and a questionnaire sponsored by the Internet-based political organization [MoveOn.org](#).

	 <small>Courtesy U.S. Sent.</small>			 <small>White House photo by Eric Drax</small>
<a href="#"><u>Senator John Edwards</u></a>	<a href="#"><u>Senator John Kerry</u></a>	<a href="#"><u>Reverend Al Sharpton</u></a>	<a href="#"><u>Congressman Dennis Kucinich</u></a>	<a href="#"><u>President George W. Bush</u></a>
<a href="#"><u>Recent Statements</u></a>	<b>*NEW*</b> <a href="#"><u>Recent Statements</u></a>	<a href="#"><u>Recent Statements</u></a>	<a href="#"><u>Recent Statements</u></a>	<a href="#"><u>Recent Statements</u></a>
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**Compiled by Tova Wang, Senior Program Officer and Democracy Fellow, The Century Foundation**

\*The website [MoveOn.org](#) asked the following question of all candidates: The enactment of Patriot Act I is a dangerous erosion of civil liberties in the United States. The proposed Patriot Act II is even more frightening. The purpose of both pieces of legislation seems to be the stifling of dissent rather than improving security in the U.S. If elected would you revisit the Patriot Act with the view of revising or repealing it? If we cannot speak without fear, we aren't living in a democracy.

### **Recent Statements:**

In an appearance on CNN, Senator Edwards engaged in the following exchange:

BLITZER: All right. We're out of time, but a quick question on the Patriot Act. The president wants to renew all of the provisions of the Patriot Act when they come up. Some of them expire, as you well know. You voted for the Patriot Act.

EDWARDS: I did.

BLITZER: What will be your position when some of the more controversial aspects of it come up for renewal?

EDWARDS: It has to be changed. The Patriot Act needs to be changed. There are provisions in the Patriot Act that never get any attention that are very good, allowing us to do a better job of going after terrorist money laundering, bringing the law up to date with technology.

So, you know, it used to be, way even before this law, that if you go get the search warrant, you'd get an answering machine but you couldn't get to voicemail. Well, we obviously need to update the law to comply with technology.

And better information sharing. Those are all good things.

The provisions that need to be changed are the sneak and peak provisions that allow the government to go into someone's house, search, without, in my view, adequate safeguards in place, and leave and never tell you that they were there, allowing the government to go into libraries, book stores without adequate safeguards. Those things, I think, need to be changed. (CNN Late Edition with Wolf Blitzer Transcript, Transcript, January 25, 2004)

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At a recent Democratic debate, the following exchange occurred:

SEN. EDWARDS: I want to go back for just a minute though to this whole discussion about our liberties and about what we see happening in America today, because I think it is so fundamental. First, I want to say that this idea that the FBI is increasing surveillance of anti-war protestors, which Reverend Sharpton just made reference to, is outrageous. What kind of McCarthyism is that?

And, on top of that—on top of that, they have a policy that allows them to arrest an American citizen on American soil, label them an enemy combatant, put them in prison, keep them there indefinitely—they never see a lawyer, never see a judge, never get a hearing. These violate the very heart and soul of this country. These folks will change the fabric of America if we let them, and we have got to stand up and speak out.

MR. BROKAW: But, Senator Edwards, as I remember, your colleague Russ Feingold was the only senator who said just that when this bill was before your chamber, and you voted for the Patriot Act as a lawyer. You knew what was in it.

SEN. EDWARDS: Well, I—here's the reality about the Patriot Act. There are provisions in the Patriot Act which never get any attention which do good things. Al Gore recognized those. A lot of the commentators since then have; for example, information sharing among government agencies, being able to go after money laundering, bringing our laws up to date with the technology that exists today.

But what we now know, that it is in the hands of this attorney general, the ability to go into book stores and libraries, find out what books are being bought, what books are being checked out—the ability to do what they call “sneak-and-peek” searches, which means going into people’s homes without notice, without adequate procedural safeguards in place. We cannot give John Ashcroft this kind of authority, which is the reason we need to change the Patriot Act. (Democratic Presidential Debate, NBC, Des Moines, Iowa, November 24, 2003)

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The following exchange took place recently between CNN correspondent Wolf Blitzer and Senator Edwards:

BLITZER: Do you regret the vote that you cast in favor of the PATRIOT Act shortly after 9/11 that former Vice President Al Gore condemned in recent days as a bitter blow to civil liberties in the United States?

EDWARDS: Well, I think actually Vice President Gore and I are pretty much in the same place on this. There are provisions in the PATRIOT Act, Wolf, that should stay in place, that don’t get any attention. Things like provisions that allow us to go after money- laundering operations, provisions that bring our law up to date with existing technology, solving some of the information-sharing between the government and law enforcement that existed before September the 11th. Those were all good provisions. They need to be there.

But there are provisions that need to be changed, for example, the sneak-and-peek provisions which allow searches without notice to the people who are being searched without, I believe, adequate safeguards, with the provisions that allow the attorney general to go into book stores and libraries, again, I believe without adequate safeguards in place. So there are things in the PATRIOT Act that clearly need to be changed.

And I also think that there are other issues that aren’t directly related to the PATRIOT Act, such as the administration’s policy on enemy combatants, that allows them to arrest an American citizen on American soil and put them in prison, keep them there indefinitely and they never see a lawyer or a judge, never get a hearing, never get a chance to prove that they did nothing wrong. I mean, these kind of policies go to the heart of what America is about.

BLITZER: So you’re saying Jose Padilla, who’s been held as an enemy combatant, a United States citizen, should be allowed to meet with a lawyer.

EDWARDS: Absolutely. I think any American citizen arrested on American soil, even someone like Jose Padilla—I mean, you always have to look at the big picture, and the question is, 20, 25 years from now, how will we feel about whether we were strong enough and had the backbone to stand up for the very rights and liberties that make America great?

And that is the test at the end of the day, and I believe these kind of policies and some of these provisions in the PATRIOT Act run contrary to that.

BLITZER: So why did you vote for it?

EDWARDS: Because I think it had some good—remember, the timing of this is, the vote was about 30 days after September the 11th. We did need to move quickly to fix some of these problems that existed in the law, the things that I talked about a few minutes ago.

But that doesn’t mean, Wolf, that there aren’t provisions that need to be changed. There are. (CNN Late Edition with Wolf Blitzer, Des Moines, IA, 11/16/2003)

The following is an excerpt from an interview with Senator Edwards on “Meet the Press”:

MR. RUSSERT: Let me turn to the Patriot Act, because this is an issue that—I’ve been listening to your comments very, very carefully, and it’s something that I want to have a chance to talk about.

SEN. EDWARDS: Sure.

MR. RUSSERT: At the Congressional Black Caucus Fox News debate in September, this is what you said:

(Videotape, Fox News, September):

SEN. EDWARDS: I support dramatic revision of the Patriot Act. The last thing we should be doing is turning over our privacy, our liberties, our freedom, our constitutional rights, to John Ashcroft.

The notion that they are going to libraries to find out what books are checking out, going to bookstores to find out what books are being purchased...

(End videotape)

MR. RUSSERT: Those are very serious charges. It prompted The Washington Post to write this editorial: “I support dramatic revision of the Patriot Act. The last thing we should be doing is turning over our privacy, our liberties, our freedom, our constitutional rights to John Ashcroft.’ So said North Carolina Senator John Edwards... Surely, then, Mr. Edwards voted against the anti-terrorism law rushed through Congress after September 11. Well, no. When he rose on the Senate floor...he said, ‘The bill’s not perfect, but it is a good bill. It’s important for the nation, and I’m pleased to support it.’ Indeed, Mr. Edwards voted against all four amendments offered by Democratic Senator Russell Feingold to ameliorate some of the civil liberties concerns that Mr. Edwards now seems to feel so keenly--and that the Democratic audiences he is wooing respond to with such fervor... Democrats have enough to run on against President Bush. They don’t need to ignore their records, stray from the facts or take such cheap shots to make their case.”

Do you regret your vote for the Patriot Act?

SEN. EDWARDS: No, I think there are provisions in the Patriot Act which never get any attention, Tim, that were very good provisions: for example, provisions to deal with some of the information-sharing deficiencies that existed before September 11, provisions that, in fact, bring the law up to date with technology, that allow us to deal in an effective way with some of the money laundering that’s gone on.

But I do believe there are provisions in the Patriot Act that can be changed. I can give you a couple of examples. For example, we are now allowing what is called sneak-and-peek searches without notice to the person who’s being searched, in my view, without adequate due process safeguards in place. The same thing is true--and I mentioned this in the statement you just showed--about the ability to go into libraries and bookstores without--and, again, in my judgment--adequate procedural safeguards in place.

But if I could just for a moment step back from the Patriot Act, I think this issue’s a lot bigger than that. I think, for example, the administration’s pursuing a policy on what they call enemy combatants that allows them to arrest an American citizen on American soil, put them in prison, keep them there indefinitely. They never see a lawyer, never see a judge, or even get a chance to prove that they’re innocent. You know, to me, this violates absolutely everything we believe in as a nation. So I think there are provisions in the Patriot Act that need to be changed. There are provisions that need to stay in place. And I think there are other policies of this administration that run completely contrary to our civil liberties.

MR. RUSSERT: But Senator Feingold tried to amend the Patriot Act dealing with the library provisions, and voted against it.

SEN. EDWARDS: And here's why. The problem with what Russ was doing was he was imposing on the national government, the federal government, a requirement that they meet individual state law requirements. The way to deal with this issue—it's a national issue. We're talking about federal law enforcement. The way to deal with this issue is to have national legislation. So if we fixed, for example, the provisions that I just talked about at the national level, that's the effective response. The response is not to require our national law enforcement agencies to have to meet procedural requirements that exist in 50 different states.

MR. RUSSERT: When you go before a Democratic audience and say, "The notion they're going to libraries to find out what books are being read" or bookstores, what books are being purchased—the Justice Department actually was asked whether that had ever been done, and here's the response. "The Justice Department, which has repeatedly been accused of encroaching on civil liberties in its war on terrorism, has never actually used a controversial provision of the act that allows it to seek records from libraries, according to a confidential memo from Ashcroft... 'The number of times the provision's been used to date is zero.'"

So it's wrong for you to say that that's being done.

SEN. EDWARDS: No. I think that—well, first of all, I have no way of knowing everything that the Justice Department is doing. What I do know is that based on testimony they provided to Congress, they have been—and I think I'm using something close to their language—they have been in touch with libraries and bookstores around the country. Now, what provision they were using to do that, whether it was the Patriot Act or something else, I have no way of knowing. But what I do know, is when the United States Justice Department is contacting libraries and bookstores, it has an enormous chilling effect. And that's what my concern is about this provision in the Patriot Act. I still believe it needs to be changed.

MR. RUSSERT: Some Democrats have a different view: "Joe Biden of Delaware called criticism of the Patriot Act. Dianne Feinstein, (Democrat, California), mounted a strong defense of the Patriot Act, saying she believes that there is substantial uncertainty and perhaps some ignorance about what this bill actually does do and how it's employed. ...I have never had a single abuse of the Patriot Act reported to me."

Have you?

SEN. EDWARDS: To me, personally? No. But the independent inspector general in the Justice Department has found 34 credible complaints under the Patriot Act. I think in the first—if I've got the timing right, the first six months of this year, I think it's a serious issue. I respect Joe Biden and Dianne very much, but I think we know that there have been abuses, and the inspector general's findings would show that. (Meet the Press (10:00 AM ET) – NBC, November 9, 2003, "Senator John Edwards discusses Iraq and the 2004 presidential election")

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At a recent Democratic presidential debate, the following exchange took place:

SEN. EDWARDS: Second, on the Patriot Act, which I, along with—(laughter)—which I, along with almost the entire United States Senate, voted for—here's the reality of the Patriot Act. There are some provisions in the Patriot Act, most of which get no attention, which did good things, which updated the law, which allowed us to go after money laundering, which allowed information-sharing, some of the problems that existed before September 11th.

The problem with the Patriot Act and the reason we need to make changes is because it gave entirely too much discretion to an attorney general who does not deserve it. It's that simple. (Applause.) And I want to –

MR. CAMERON: But Senator –

SEN. EDWARDS: (Inaudible.)

MR. CAMERON:—wasn't the legislation written by the lawmakers providing that very latitude? Didn't you create that latitude in the legislation that you wrote?

SEN. EDWARDS: Yes. And the attorney general of the United States came before us and told us that he would not abuse his discretion. He has abused his discretion. He has consistently abused his discretion. We all know that now. These provisions need to be changed.

I want to add something to this, though, since you stopped me in mid-answer. I want to add something to this, because I think there's something more at stake here than the Patriot Act. I mean, the very liberties and freedoms that we're supposed to be fighting for are in danger every single day this administration is in office.

It's not just the Patriot Act. You know, they have a policy that allows them to arrest American citizens on American soil, put them in prison, keep them there indefinitely. They never see a lawyer. They never see a judge. This is not the America that we believe in. (Applause.)

(Democratic Presidential Candidates Debate Sponsored by the Congressional Black Caucus Institute and Fox News Channel, Detroit, MI, 10/26/2003)

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In answering a question on Fox News Sunday about civil liberties issues, Senator Edwards said, “[W]hat I actually have been critical of is the overall administration policy, including the attorney general, on a whole range of civil liberties questions, things like their policy on enemy combatants that allows an American citizen to be arrested on American soil and kept indefinitely without seeing a lawyer or a judge, some of the relaxation of the rules that allow agents to go into political meetings or into synagogues, mosques, churches.

I think those are very serious questions.

And I think we need to be very careful that, in this process of fighting the war on terrorism, which is important, that we don't take away the very things we're supposed to be fighting for...And I would add to that, Tony, there's also the potential for a real chilling effect, because, when the American people hear that the attorney general of the United States, government agents can in fact go to libraries, find out what they're checking out, go to bookstores, find out what books are being bought, whether they're doing it or not, those are things that worry people.

And I think we have to be very careful, particularly in this environment, where people are worried about the potential for a terrorist attack, and understandably so, that we protect those very liberties that make America what it is.” (Interview with Tony Snow, Fox News Sunday, September 28, 2003)

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“Calling for a repeal of certain provisions of the Patriot Act, Sen. John Edwards spoke and answered questions for more than an hour during a town hall style meeting in Abbie Griffin Park last night. With Attorney General John Ashcroft speaking in New Castle earlier in the day, Edwards focused his remarks on civil liberties and accused the attorney general of abusing the power entrusted to him by Congress. Edwards, who voted for the USA Patriot Act in 2001, did not say whether he regretted voting for the measure, but said he regrets that the attorney general has “violated our most fundamental values.” “The whole idea of going into libraries and finding out what books people are checking out – it's contrary to everything that we believe in,” he told the crowd of nearly 90 last night. “We cannot let John Ashcroft take away our freedom,” the Democrat from North Carolina said, calling for the repeal of some portions of the Patriot Act. Edwards acknowledged that aspects of the anti-terror legislation, which encourage the sharing of information between the intelligence agencies are valuable, but is clear that he wants to repeal provisions he believes encroach on civil liberties. The Presidential hopeful also proposed the creation of a Office of Civil Liberties and Civil Rights. The office, he said, would not be a cabinet level position, but would act as a watchdog agency and report directly to the Congress and the President “on what is happening with respect to the erosion or potential erosion of people's

privacy and civil liberties.” As one example, Edwards wants to know how many wiretaps have been authorized under the Foreign Intelligence Surveillance Act. (Dan McLean, “Sen. Edwards: Ashcroft Abused Power,” *The Union Leader* (Manchester NH), September 9, 2003, pg. B8)

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“I support dramatic revision of the PATRIOT Act. The last thing we should be doing is turning over our privacy, our liberties, our freedom, our constitutional rights to John Ashcroft. Let me speak about this quickly. First, the very notion that this administration can arrest American citizens on American soil, label them an enemy combatant, put them in prison, keep them there indefinitely—they never see a lawyer, never see a judge, never even get an opportunity to prove that they’re innocent and they did nothing wrong—this runs contrary to everything we believe in this country.

The notion that they are going to libraries to find out what books people are checking out, going to book stores to find out what books are being purchased.

What we have to remember—and I will when I am president of the United States—is what it is we are supposed to be fighting for, what it is we are supposed to be protecting.

These very liberties, this privacy, these constitutional rights—that’s what’s at stake in this fight. And we cannot let people like John Ashcroft take them away in an effort to protect ourselves.” (Congressional Black Caucus Democratic Presidential Candidates Debate, Baltimore, MD, September 9, 2003)

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In a recent Democratic presidential debate, Senator Edwards said, “I know the American people are worried about their safety and security, I’m also worried about it, and I don’t take a backseat to anybody in what needs to be done to keep America safe. But we can’t ever forget what it is we’re supposed to be fighting for. And in this effort to protect ourselves and fight our war on terrorism, we cannot allow people like John Ashcroft to take away our rights, our freedom and our liberties. Those things are under assault, and we have—we have to stand—it’s easy to stand up for those things when times are easy. Now, after September 11th, it’s much harder. And the real test will be 20 years from now.” (CNBC/Wall Street Journal Democratic Candidates Debate, New York, NY, September 25, 2003)

In a conference call with reporters on August 21, 2003, Edwards said, “In this country, we depend on checks and balances and the public having information in order to hold the government accountable. The truth is that President Bush and Attorney General Ashcroft are attacking those checks and balances, because they want more power for themselves, less power for judges and less information for the public.” (Dan Eggen, “Prosecutors are Urged to Press Congress; Opponents of Patriot Act Are Targeted,” *The Washington Post*, August 22, 2003, pg. A19)

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“North Carolina Sen. John Edwards said that in passing the Patriot Act, justice officials have rolled over our rights for the last two years. What they have done isn’t cause for celebration, it should cause us to slam on our brakes.” (Dan Eggen, “Prosecutors are Urged to Press Congress; Opponents of Patriot Act Are Targeted,” *The Washington Post*, August 22, 2003, pg. A19)

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Last October Edwards stated, “[On domestic security we now have] the worst of all worlds: an FBI that has done a poor job of securing vital domestic intelligence, led by an attorney general who’s doing an even worse job of protecting our civil liberties.” (Dan Balz, “Edwards to Criticize Bush Foreign Policy; N.C. Senator Decries Unilateralism,” *Washington Post*, October 7, 2002, P. A4)

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At a South Carolina debate Edwards said, “I mean, one of the, one of the things that you see happening in America today, and it’s not just, George, on this issue of the right to privacy, is we see people like John Ashcroft, in the name of protecting America, in the name of fighting a war on terrorism, eroding our rights to

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privacy, eroding our civil liberties, eroding the very heart and soul of what makes this country great. And what ought to give us the moral authority to lead around the world, and this is, it all happens just like this, all around the edges. It's creeping, but we have to be so careful and so vigilant to make sure that America does not lose what makes America great." (May 3, 2003, ABC News Debate at University of South Carolina's Drayton Hall)

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"In our American tradition, it is the responsibility of leaders to promote the free exchange of ideas, not to stifle them. That responsibility carries over from peacetime to wartime. We don't encourage different ideas because we owe it to critics. We encourage different ideas because we owe it to ourselves." (Mark Jurkowitz, "The Big Chill," *Boston Globe Magazine*, January 27, 2002)

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"One of the things I have proposed is taking domestic intelligence away from the FBI and setting up a more effective intelligence agency. And if that were done I'd also set up an individual civil rights and civil liberties watchdog to monitor what's happening with that agency. It would require record-keeping of data, whether what they're doing on the Internet or if they're monitoring religious entities like mosques or churches. It would make sure there are no constitutional and no civil liberties violations by this agency.

One of the things going on right now that I think is unacceptable is the way the Bush administration is dealing with those they call enemy combatants. I know my position on this is not popular, but it's my belief that designating someone, an American citizen, an enemy combatant, and putting them in jail, where they do not have access to a lawyer, where they cannot get a hearing, or go before a judge, where they are not given a chance to prove that they did nothing wrong—it violates everything we believe in America. I think it's just wrong." (Jake Tapper, "The Salon Interview: John Edwards," *Salon*, January 14, 2003)

### **MoveOn Question**

America must always be safe and free. This administration has sacrificed our freedoms—without even advancing our security. While they are not taking needed steps for our homeland security, they have taken steps that endanger our most fundamental liberties.

Here is one example: President Bush and Attorney General Ashcroft are now asserting the right to arrest a United States citizen, label him an "enemy combatant," deny him access to a lawyer, deny him the chance to offer evidence he is innocent, and then keep him in jail for as long as they want. This is not how we do things in America. I have personally questioned John Ashcroft about these measures, and I will continue to criticize them as long as this administration presses them.

I supported the PATRIOT Act because it contained provisions needed to strengthen our security, but I also believe this administration has abused its powers in implementing the law. One key provision of the act requires Congress to revisit key provisions of the law. I opposed efforts to repeal that "sunset," and I believe Congress must rigorously review the PATRIOT Act—as well as any new legislation—to see whether it advances our security and honors our values.

I agree with you that we must be able to speak without fear. A few months after September 11, John Ashcroft came to Congress and suggested that people who criticize the government are aiding terrorists. That statement violated our most fundamental values as a people, and I said so then.

### **Web site**

In a speech in Iowa, Senator Edwards said, "[A]s President Bush said in his recent speech at that the National Endowment for Democracy, we can never defeat violent terror so long as hundreds of millions of people in the Muslim world are denied the right to express themselves peacefully and democratically. This is the right message, but he is the wrong messenger.

Because you can't promote freedom without the support of free countries around the world. You can't promote

freedom if you're not respected by the dissidents and democrats who are struggling to be free. Right now democrats in the Arab world simply do not see the U.S. as a credible champion of their cause. They know the Bush administration itself has set a miserable example on civil liberties and human rights here at home; they have seen us abandon America's traditional as a peacemaker in the Middle East." ("Strategy of Prevention, Not Preemption," Des Moines, IA, December 15, 2003)

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In his formal announcement speech, Senator Edwards said, "We need to give our firefighters and police officers the resources and equipment they need to protect us. We need to secure our ports and borders, our chemical plants and nuclear power plants. And we need a new domestic intelligence agency. But we cannot, in the name of the war on terrorism, let people like John Ashcroft take away our rights, take away our liberties, and take away our freedom!" (September 16, 2003, Robbins, NC)

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On August 19, 2003, Senator Edwards released the following statement:

Edwards Says Ashcroft Speeches Won't Change The Fact The Administration Has Rolled Over Our Rights

John Ashcroft and this administration can get on a bus and spin their wheels all they want about the Patriot Act. They can roll from battleground state to battleground state, and make as many speeches as they want, but that won't change the fact that they have rolled over our rights for the last two years. What they have done isn't cause for celebration; it should cause us to slam on their brakes.

One of my top priorities is defending this nation and stopping the terrorists who continue to plot and plan to harm our country, our citizens, and our democracy. We must never forget that their tactics are unlike any enemy this nation has encountered, and they must be stopped, prosecuted, and prevented from doing any harm.

That is why I have proposed a new domestic intelligence agency that will both protect our country and safeguard our freedoms, with a new, independent office dedicated to protecting our civil liberties. Unlike this administration, I will never lock away an American citizen indefinitely without access to a lawyer and without a chance to go before a judge and make the case he is innocent. And I will make sure the Department of Justice is accountable in the courts and to the public.

We must continue to strengthen our domestic defense and stop terrorists in our midst, and we must protect our rights as Americans. But I do not believe in John Ashcroft's and this administration's America where we must sacrifice one to do the other.

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In a speech at the Brookings Institution, Edwards said, "Finally, I am troubled that this administration often seems most animated when it is curtailing basic freedoms for no good reason. They've claimed arbitrary power to arrest any American, label him an "enemy combatant," and then lock him up as long as they want, without a lawyer, without a chance to show he's innocent. They have allowed government agents to observe political meetings and prayer groups without real oversight. And they have another plan straight out of 1984, a "total information awareness" program that could collect and maintain detailed, personal files on every single American. These steps undercut our liberty without advancing our security and they are wrong."

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On a new "homeland intelligence agency" that he has proposed, Edwards stated, "Because the focus will be intelligence, the new agency's officers don't even need arrest powers. Those responsibilities should remain with law enforcement. Trying to combine incompatible missions is the reason we have this problem in the first place. This agency's activities must be reconciled with legitimate concerns about our liberty and privacy. The creation of a new homeland intelligence agency will give us a fresh chance to strengthen our freedom as well as our security.

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“A recent study by a bipartisan commission at the Markle Foundation points the way. Strong guidelines should indicate what, when, and where investigations can occur. Particularly intrusive investigations should be held to special standards. Rigorous internal auditing, together with enhanced public reporting, should provide accountability. A special office for civil rights, headed by an independent director, should ensure the agency obeys the law. The task is stopping terrorists, not monitoring political dissent.” (December 8, 2002, Brookings Institution, Washington, D.C.)

### **Policies/Proposals:**

Edwards has proposed establishing a separate domestic intelligence agency outside of the FBI that also has a civil liberties watchdog to monitor the agency.

Concerned about the impact of security technology, Edwards and Senator Charles Schumer proposed Congress establish a commission to study privacy issues.

Voted for the Patriot Act.

## **Senator John Kerry**

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### **Recent Statements**

“The problem with the Patriot Act are two words: John Ashcroft. If we had an attorney general of the United States who respected the Constitution, there's no reason in the world that you can't do the things necessary.

I will change the Patriot Act. And we have the good common sense, may I add, to put in the Patriot Act a sunset clause so it dies automatically at the end of this year and we'll change it.” (Wisconsin Presidential Candidates Debate sponsored by Journal Communications, WTMJ-TV and the Milwaukee Journal Sentinel, Milwaukee, WI, February 15, 2004)

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In an interview after the president's State of the Union address, Senator Kerry said the following:

“I think, with respect to the Patriot Act, 99 United States Senators voted for the Patriot Act because we needed to make some changes to respond to our nation's needs. But this Administration has administered it, as they have implemented the “no child left behind” act, in a way that is punitive and disrespects both the law and the process. I think there's a better way to do it.

PETER JENNINGS

(Off Camera) Will you vote to renew it, as the President asked tonight?

SENATOR JOHN KERRY

I would not leave it in the way that it is. I think there are good parts of it and there are bad parts of it. You know, governing this nation is not as simplistic as some people want to make it. Certainly, not as easy as the President pretends by just saying, it's this, all or nothing. There are some good parts of the Patriot Act. There are some terrible, egregious overreaches, with respect to sneak and -peek searches. And this Attorney General, regrettably, has proven himself unwilling to be sensitive to it. And even his own Inspector General at the Justice Department has said so. I believe we can have protection of our homeland security and still live up to our Constitutional obligations. And I intend to do that as President.” (ABC News Transcript, “Special Report, January 20, 2004)

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In a speech devoted to the issue of civil liberties at Iowa State University, Senator Kerry said the following:

Iowans who use the public library are used to signs being posted on the wall. They might point to the reference desk or remind people to be quiet while inside the building. But, recently, residents of Iowa City who have visited the public library have been greeted with a new sign. It is a sign that tells us that some of what is fundamental to this country – and that we are right to hold dear – is in danger of being taken from us.

The sign reads: “Attention: Under Section 215 of the USA Patriot Act...records of all books and materials you borrow from this library, and of Internet sites you visit on library computers, may be obtained by federal agents. This law prohibits librarians from informing you if federal agents have obtained records.”

In the past two years, speaker after speaker in this lecture series has focused on the impact of the September 11th attacks. They are right to do so. The War on Terror is the defining issue of our time. It is testing us daily. Testing our strength. Testing our resolve. Testing our patience. Testing our vision. And it is testing our faith in the ideals our nation was founded on.

Equality for every American. Liberty and justice for all. We teach our children that these rights are inalienable. But under the Bush Administration, we are being shown how fragile they really are – and how much they must be defended.

Today, I'd like to speak with you about how I will fight the dangers of terrorism here at home without surrendering the very rights and liberties we are fighting to defend. Because I believe campaigns should be about telling people what they're going to get when they cast their vote for President.

Americans deserve more than a campaign of slogans and sound bites. They deserve substance. They deserve real answers, not just anger. You see, this election is not just about replacing George Bush – it's about changing the direction of our country. People in Iowa don't go to caucus just because they support a candidate. You do it because you love America – and want it to be better. And you deserve to know what I – and every other candidate – would do to make this nation all it should be.

As I talk to people around the country, it's clear there is a broad based fear that the ideologues of this Administration will stop at nothing to get dissenters out of the way. Already, they are summoning the full-power of their communications network – the attack ads, the Ann Coulters, the Sean Hannitys, the Rush Limbaughs – to try to stifle dissent. In the name of the War on Terror, they are attempting to diminish the very rights that define us. They turn civil debate into a shouting match of personal mudslinging that does a disservice to the quality of our democracy. These pretender protectors of our Constitution are trying to intimidate those who dare to speak out. We will not be silenced. We will be heard.

In my first hundred days, I will restore our commitment to civil rights and individual rights. And that will begin with the appointment of an Attorney General whose commitment to and understanding of the Constitution is as great as that of all Americans. An Attorney General who knows we can fight the war on terrorism without attacking America's freedoms. An Attorney General whose name is not John Ashcroft. If I am President, this government will protect individual rights not roll them back. We will protect equal rights, privacy rights, and a woman's right to choose. And we will restore the constitutional foundation of this nation.

Clearly in the War on Terror, we need to be prepared. Information is the most critical weapon we have. We need to be able to get and coordinate that information in a real way. And that means we need a President and an Attorney General who are ready to do that in ways that are consistent with who we are. Americans deserve to know there is some buffer between them and the unbridled power of our government.

After September 11th, this Administration gathered and used broad new powers to investigate the private lives of people in this country. The powers were supposed to be used to fight the War on Terror. But George Bush and John Ashcroft have gone beyond that. They have used police powers in secret ways and for political purposes. John Ashcroft has authorized his agents to monitor church meetings and political rallies without any cause and without the need to get approval. Thirteen FAA employees and a high-tech Homeland Security

tracking system were used to help Tom Delay track down Texas State Legislators who were resisting his plan to give Republicans more seats in Congress.

And the FBI investigated peaceful demonstrators who spoke out against this Administration's policies in Iraq. I know what it's like to be spied on by the government because it happened to me under Nixon when I came home from Vietnam and said that war was wrong. And one thing we don't need in this country is an Attorney General who spies on Americans.

Consider the story of Barry Reingold. Barry is 61 – a retired phone-company employee who lives in Oakland, California. One day in July of last year, while at his local gym, he got into a heated discussion about George Bush. He didn't say a threatening word and all he did was criticize the President's policies. But soon thereafter he was visited at home by two FBI agents who were investigating his criticisms of the President.

An America that creates a secret police power which can by its secret discretion invade the privacy of Americans and intimidate them is a far cry from what our Founders envisioned and from what we have fought to protect for 228 years.

A country where you are visited by the authorities for thinking or voicing an unpopular idea smacks more of the Taliban than Thomas Jefferson. Trading in our basic rights for the false facade of security is not worth it – and it is not worthy of a great nation such as America.

We are a nation of laws and liberties, not of a knock in the night. So it is time to end the era of John Ashcroft.

That starts with replacing the Patriot Act with a new law that protects our people and our liberties at the same time. I've been a District Attorney and I know that what law enforcement needs are real tools not restrictions on American's basic rights.

Much of what is in Patriot Act are good ideas. The Act increased penalties for terrorists, limited the statute of limitations for terrorist crimes, and allowed for greater prosecution of overseas acts against America. I fought to include important money laundering restrictions to clamp down on the cash flowing to terrorist enterprises. I had been pushing for these ideas since the late nineties – and after September 11th they were more important than ever.

I voted for the Patriot Act right after September 11th – convinced that – with a sunset clause – it was the right decision to make. It clearly wasn't a perfect bill – and it had a number of flaws – but this wasn't the time to haggle. It was the time to act.

But George Bush and John Ashcroft abused the spirit of national action after the terrorist attacks. They have used the Patriot Act in ways that were never intended and for reasons that have nothing to do with terrorism. That's why, as President, I will propose new anti-terrorism laws that advance the War on Terror while ending the assault on our basic rights.

This Administration has shown a pattern of abusing civil liberties. At this very moment, an FBI agent could be rifling through every website you've ever visited – and you would never know it. A Justice Department official in Washington could be reading every email you've sent in the last few months – and they wouldn't need a judge's permission or even a reason to do so. School librarians could be being placed under gag orders to keep them from speaking out. Federal investigators could be demanding and receiving upon request your private hospital medical records. Law enforcement officers could be entering your house while you are gone – rifling through your possessions – and leaving without even letting you know they had been there.

While the Administration assures us that some of these things have not occurred, no one feels comfortable with these possibilities. It doesn't take a cynic to wonder about how far

George Bush and John Ashcroft will go.

Many of the victims of the Bush Administration's civil liberties violations are of Arab-descent – but our Constitution is color-blind. An assault on one person's rights is an assault on this nation's fabric and on all our rights. The Americans threatened when basic rights become treated as disposable are not just those from the Mid East. They're Americans from the Midwest and all over our country.

If I'm elected President, we will put an end to "sneak and peak" searches which permit law enforcement to conduct a secret search and seize evidence without notification. Agents can break into a home or business to take photos, seize property, copy computer files, or load a secret keystroke detector on a computer. These searches should be limited only to the most rare circumstances. And law enforcement should provide notice of the search within seven days, unless a court extends the period of notification.

We will eliminate the potential of fishing expeditions into people's library and business records. If the FBI wants to make these kinds of investigations, they will need a warrant issued by a judge and evidence that they are looking into an agent of a foreign power.

We will provide Americans with protections from wiretaps, prevent local police officers from spying on innocent people, and that ensures our courts guarantee appropriate national security protections.

At the same time, we need to strengthen the laws that actually do help us combat terrorism and keep America safe. This is some of the hard-work of fighting terrorism which the Administration has all too often failed to do. In the months leading up to September 11th, two of the hijackers were arrested for drunk driving—and another was stopped for speeding and then let go even though he was the subject of an arrest warrant in a neighboring county and was on a federal terrorist watch list. Firefighters and law enforcement must have access to critical data so they can connect the dots. And we need to simplify and streamline the 58 national terrorist watch lists and make sure they're available to the right people on the frontlines.

Four of the five terrorists who crashed an airliner into the Pentagon had false IDs. If teenagers trying to buy beer can falsify IDs, can we be surprised when terrorists can fake driver's licenses and visas? It's time for a new generation of smart driver's licenses and IDs that use encrypted technology so they can't be forged. Instead of the assault on our civil liberties that John Ashcroft is waging, we need to rely on new technology that can protect our privacy and our country at the same time. We need to reform our intelligence agencies so they collect, analyze and share all the relevant information they can about the terrorist threat.

Many of this Administration's abuses of civil liberties have nothing to do with the Patriot Act. That's especially true of the hundreds of people that have been detained without explanation and without real cause. John Ashcroft's Justice Department has been so arrogant and reckless in detaining people that even the Department's Inspector General has cried foul. 762 people – Arabs and Muslims – were detained, sometimes for many months, regardless of the evidence. Most were never charged with a real crime. Not one was charged in relation to the terrorism probe. But the average wait for the FBI to clear a detainee for deportation was 80 days, with some waiting as long as eight months. In numerous cases, people not accused of any crime were locked down 23 hours a day, sometimes in solitary confinement, and shackled when outside their cells.

Nacer Fathi Mustafa and his father, American citizens of Palestinian descent, were stopped by immigration agents in Houston on their way back home from a business trip to Mexico. They were arrested and charged with altering their passports. The authorities finally decided that there, in fact, was nothing wrong with their passports. After they had been held in a Texas jail for 67 days. John Ashcroft calls the policy "hold until cleared." That's just a fancy way of saying "guilty until proven innocent." It is at odds with everything America's justice system should be about – and it is wrong.

Americans have a right to expect more from their government. And a right to know what is happening in their country. We are a democracy after all – and in this country it is the people that rule. Yet, President Bush first resisted the pleas to appoint the bipartisan 9/11 commission and now that it is at work, the commission's leaders – Republicans and Democrats alike – are reporting that the President, John Ashcroft, and other officials are blocking their requests for essential information. Each additional day of stonewalling is another day that all Americans are at increased risk. Our very security is at stake and this isn't the time for the same-old political cover-up. It's time to find the truth, face the truth, and tell the truth. If I am President, we will end this Administration's reign of secrecy and inform the American people about what actions are being taken to fight the War on Terror.

The story of America is the story of people like Fawaz Ismail. His Palestinian parents came to America from Jordan when he was nine years old. Twenty-five years ago, he began selling American flags from the back of his Volkswagen bus because he loved what the flag stood for. Today, he is the largest retailer of flags in America.

After September 11th, people lined up for half a mile outside his stores. He sold half a million flags in a week and donated a portion of the earnings to the families of the victims.

But a few days after the attack, he was leaving a restaurant on a Saturday afternoon when sirens began to scream. The police officer told him it was just a routine check. But he knew that the only reason he was pulled over was because of his ethnicity. When law enforcement wastes resources on those who have done nothing wrong – it makes it harder to track down those who are truly dangerous.

America deserves leaders that are more concerned with prosecuting the War on Terror, than persecuting those who disagree with them or those of a certain ethnic background. No one will be stronger in defending this nation than I, but we are better than secret and indefinite detentions. We are better than the physical abuse of prisoners who don't have the slightest connection to terrorism. And there is a better way to security than racial or religious or ethnic profiling.

This debate is not just about laws on the books or the abuses of one official. It is about who we are as a people. When the President runs attack ads claiming Democrats are opposed to the War on Terror it is an assault on our very patriotism. When a hero like Max Cleland – who lost three limbs in Vietnam – is defeated for reelection to the Senate with Republican ads that say he lacks courage, it is an assault on basic decency. The America we believe in doesn't quiet dissent – it encourages it. That's the America I and others fought for. The America so many of us have marched for. We won't let them keep us quiet. We will speak up. We will stand up. We will never give up on the fight for the America we deserve.

America deserves more from its leaders. They deserve leadership equal to the courage Americans show everyday. That courage can change this country and transform the world. It can give us a government that values democracy and preserves our rights. It can protect our country and our liberties. It can end the era of John Ashcroft and renew our faith in the Constitution. Fawaz Ismail's flags fly on posts all over America. Let's join together to make sure that flag represents the best of us – and that it represents all of us. Thank you.

(Ending the Era of John Ashcroft, Remarks by Senator John Kerry, Iowa, December 1, 2003)

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At the Arab-American Institute National Leadership Conference, Senator Kerry said, "America is not a nation of secret knocks at the door in the dead of night. No one will be stronger in defending this nation, but we are better than secret and indefinite detentions. We are better than the physical abuse of prisoners who don't have the slightest connection to terrorism. And there is a better way to security than racial or religious or ethnic profiling. When law enforcement wastes resources on those who have done nothing wrong – it makes it harder to track down those who are truly dangerous." (Remarks at Arab American Institute National Leadership Conference, Dearborn, MI, 10/18/2003)

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"My position on judicial nominations is clear: I will oppose, and filibuster if necessary, any Bush Supreme Court nominee who would turn back the clock on civil rights and protections against discrimination, on the right to privacy and the right to choose, on individual liberties and on the laws protecting workers and the environment. I have applied and will apply a similar standard to lower court judges. The stakes cannot be any higher." (Remarks by John Kerry—"The Case of the Bush Majority vs. Justice and Opportunity," National Council of Negro Women, Washington, DC, October 3, 2003)

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In response to a question about the case of Jose Padilla at a New Hampshire Town Hall Meeting, Kerry stated,

“Let me just tell you something, ladies and gentlemen. The smart thing that we did when we passed the PATRIOT Act, most of which in the PATRIOT Act, most of it has to do with improving the transfer of information between CIA and FBI, and it has to do with things that really were quite necessary in the wake of what happened on September 11th.

But there have been abuses of that act. The inspector general of the Justice Department wrote a report talking about the way in which John Ashcroft and the Justice Department have overreached.

And, in fact, they have, I’ve heard, I mean, I met a man, he came up to me in the airport, has a green card, he’s legitimately in the United States, was working down in a flight school in Florida, the FBI descended on the school, inspected him, did everything, he checked out, he went home to Illinois, gets to Illinois and the FBI locally there jumps all over him, puts him into confinement, gives him a lie- detector test, 24, 48 hours after he’s been deprived of food and sleep and whatever, don’t like the way he responds on it, slap him in the can for 88 days until Senator Richard Durbin of Illinois intervened and managed to get him out.

There’s another example. Now, we cannot be the United States of America, the country that we are, if we allow terrorists to walk us back on the freedoms and on the constitutional rights of Americans themselves.

And there are ways to protect those rights if you’re really concerned about them. There are ways to create screening boards, review boards, appellate systems, get judges reviewing it, have access to lawyers, even if it has to be, you know, secret and careful because of security risk, there are absolutely ways to guarantee the rights of Americans.

And I believe this country puts a greater premium on preserving what we are as a nation and who we are as a people, and what that Constitution means, and to some degree you got to be prepared to take some risks to do it.”

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“I am prepared to filibuster, if necessary, any Supreme Court nominee who would turn back the clock on a woman’s right to choose or the Constitutional right to privacy, on civil rights and individual liberties, and on the laws protecting workers and the environment.” (Adam Nagourney, “Senator Ready to Filibuster over Views of Court Pick,” *New York Times*, June 21, 2003, p. A13)

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At the Campaign for America’s Future Conference, he said, “It’s imperative that we have a president who will appoint an attorney general who respects the Constitution.” (Michelle Goldberg, “We Don’t Need a Second Republican Party,” *Salon*, June 7, 2003)

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“Our nation must be secure, but need not become so at the expense of our freedoms, our rights, and our liberties. Republicans and Democrats came together in the months after the attacks to pass legislation that provides the FBI and CIA with the tools necessary to punish the perpetrators of the terrorist attacks and to prevent future attacks.

“The law also contains an initiative I authored that will provide the tools the US needs to crack down on international money laundering havens and protect the integrity of the US financial system from the influx of tainted money from abroad. I am glad that the final legislation included a sunset provision that puts an expiration date on the expanded powers of law enforcement. I think that it is critically important that expanded surveillance powers included in the anti-terrorism bill be evaluated in the next few years as our national security needs will continue to change rapidly.” (“Voters Guide to US Senate” *Boston Globe*, October 29, 2002)

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At the International Association of Firefighters Legislative Conference Senator Kerry said: “Instead of the assault on civil liberties that John Ashcroft is waging, we need to rely on new technology that can protect our privacy and our country at the same time.” (March 18, 2003, Washington, D.C.)

### **MoveOn Question**

We must never forget that the rights guaranteed us in the Constitution are precious, and one of the very first things that the terrorists we’re fighting would destroy. We do not need to give away our personal liberties to protect our country. We must defend our freedoms and defend ourselves against terrorism.

John Ashcroft has taken away far more liberties than this act ever authorized and that is wrong.

For example, the Bush Administration does not have the authority to indefinitely detain U.S. citizens as “enemy combatants” without charging them with a crime and without allowing them access to an attorney or any judicial review. I am outraged that the Justice Department’s has required tens of thousands of Muslim and Arab visa holders—students, workers, researchers, and tourists—to register with the government and be fingerprinted and photographed. This sweeping plan, proposed without any consultation with Congress, does little to provide real protection against terrorism. Instead it stigmatizes innocent Muslims and Arabs who pose no danger, and discourages those who want to support our law enforcement and counter-terrorism efforts.

I strongly supported including a sunset provision in the Patriot Act, which will cause the Act to expire unless Congress reauthorizes it. The Bush Administration reportedly plans to introduce a second “Patriot Act”—we have learned from the first Patriot Act that the last thing we need is John Ashcroft rewriting the Bill of Rights. I am alarmed by what has been reported to be part of “Patriot Act II” and I will very carefully review any new proposal and fight to ensure that it does not violate civil liberties. As President I would fight hard to win the War on Terrorism. But in the process, I would never forget the liberties and freedoms that we are fighting for in the first place.

### **Web site**

From a speech to the Campaign for America’s Future Convention: “And one other thing: If this nation stands for democracy in Iraq, as we say we do, then we ought to honor and safeguard democracy at home. And that means we have to elect a new President and remove John Ashcroft as Attorney General—and stop turning the Department of Justice into the Department of Injustice. It’s the terrorists who win if we undermine, deny, and destroy the basic rights of Americans.” (June 3, 2003, Washington, D.C.)

### **Policies/Proposals**

Plan to Protect Individual Liberties and Improve Security: ‘Ending the Era of Ashcroft’

**I. REASONABLE APPROACHES FOR DETAINEES.** John Ashcroft’s Justice Department has been so reckless and arrogant with detainees that even the Department’s Inspector General has cried foul. The Inspector General criticized the Justice Department for detaining 762 Arab and Muslim non-citizens, sometimes for many months, regardless of lack of evidence. Some were arrested in chance encounters or on flimsy leads, but all were sucked into the FBI’s September 11-related investigation. Most were never charged with a crime and not one was charged in relation to the terrorism probe. The average wait for the FBI to clear a detainee for deportation was 80 days, with some waiting as long as eight months. In numerous cases, people not accused of any crime were locked down 23 hours a day, sometimes in solitary confinement, and shackled when outside their cells.

**STOP HOLDING DETAINEES INDEFINITELY WITHOUT CAUSE.** John Kerry believes that we should stop indefinitely detaining people without charging them and without a judicial determination that they should be detained.

**RIGHT TO CONSULT A LAWYER.** John Ashcroft has designated American citizens as “enemy combatants,” and has incarcerated them indefinitely without charging them with a crime, without allowing them to appear in court, without allowing them to consult with counsel or communicate in any way with the

outside world. John Kerry believes citizens should have the right to a lawyer and that foreign citizens should be given the right to hearings to determine their status.

**NO NEW LAWS THAT PREVENT DISCLOSING INFORMATION ABOUT DETAINEES.** Abuses of detainees under John Ashcroft's watch have been meticulously detailed. Yet John Ashcroft wants to make it easier for the Justice Department to deny releasing material on suspected terrorists in government custody. John Kerry will ensure that there are no new laws preventing disclosure of detainee information.

**NO SECRET MONITORING OF ATTORNEY-CLIENT CONVERSATIONS.** John Ashcroft has issued regulations that allow him to grant permission for secret monitoring of attorney-client conversations, without the normal judicial review, including those individuals who were detained but not charged with a crime. Detainees have long had a constitutional right to speak with their attorneys on a confidential basis. This regulation was put in place without any public comment. Kerry believes that this should not be simply left to the judgment of John Ashcroft.

**II. TOUGH NEW LAWS ON TERRORISM.** The Bush's Administration war on terror has limited freedom and civil liberties, but has done little to actually prevent terrorism and increase security. In addition to his comprehensive plan to improve homeland security, John Kerry will champion strong new anti-terrorism measures that respect the Constitution, personal privacy, and our shared freedoms.

**KEEP PROVISIONS THAT HELP THE WAR ON TERRORISM.** The Patriot Act gave law enforcement some important new tools after 9/11, including: increasing penalties for terrorism, adding new federal crimes on terrorism, limiting statute of limitations for investigating terrorist crime, and permits prosecution of Federal crimes committed overseas. John Kerry believes we must keep these types of provisions.

**ENHANCE EFFORTS TO END MONEY-LAUNDERING.** John Kerry has been a leader in efforts to combat money-laundering and ensure it is not a tool available to terrorists. Kerry will build on his efforts and the money-laundering provisions he championed that are part of the Patriot Act. He will complete the placement of all non-bank financial institutions within U.S. anti-money laundering regulations, so that criminals cannot avoid our money laundering laws by using hedge funds and other unregulated forms of financial institution. He will also freeze assets of foreign banks known to hold funds of terrorist groups.

**IMPROVE INFORMATION SHARING BETWEEN THE INTELLIGENCE COMMUNITY AND LOCAL LAW ENFORCEMENT.** The Patriot Act took some steps to improve communication between law enforcement, including developing a national network of electronic crime task forces to share information. However, despite its expectations that those on the frontlines protect our cities and communities from terrorism the Federal government does not adequately share information with local law enforcement to keep us safe. Kerry will improve information sharing between Federal intelligence officials and local law enforcement officers, including:

Giving appropriate state and local authorities immediately access to the 58 national terrorist lists;

Creating a 24-hour operations center in each state to provide a real time intergovernmental link between local and federal law enforcement.

**III. STOP THE ASHCROFT ABUSES: ASSURING TERRORISM LAWS ARE USED FOR TERRORISM.** The Ashcroft Justice Department has abused his role as Attorney General and undermined the spirit of any new authority he was given in the wake of September 11th by using anti-terrorism authority to be used to stop anti-war protestors and aid political goals.

**STOP ALLOWING FBI TO ATTEND ANY MEETING WITHOUT CAUSE.** John Ashcroft has granted permission to FBI agents to attend church meetings, anti-war protests, rallies and other political organizing simply on their own initiative without requiring approval from a supervisor or showing that the meeting is connected to any type of investigation.

**STOP USING TERRORISM LAWS FOR POLITICAL PURPOSES.** Ashcroft and his Republican friends in Congress even used the Department of Homeland Security to locate a number of Democratic legislators, whose presence was necessary to push through a controversial redistricting plan that would assure more

Republican seats. To search for the missing legislators, Republicans used thirteen FAA employees and a new tracking system that was put in place to find terrorists.

**STOP USING TERRORISM AS AN ASSAULT ON IMMIGRATION:** John Ashcroft has revamped the immigration process, weakening the immigration review and appeals process. He has also detained more than 1,400 individuals, including some 650 apprehended abroad and held at Guantanamo Bay, Cuba and more than 750 arrested in the U.S. who were arbitrarily classified and detained either at a maximum security federal prison or at an INS detention facility. Most of these immigrants are guilty only of routine visa violations that carry no penalties aside from deportation.

**IV. PREVENT UNCHECKED AND UNREASONABLE INVASIONS OF PRIVACY.** The Patriot Act took some important steps against terrorism in the wake of September 11th, including increasing information sharing among law enforcement and creating important tools and mechanisms to cut off terrorist financing. However the spirit of the law has been abused by the Ashcroft Justice Department, which has taken every opportunity to limit freedom and civil liberties. Given these abuses, John Kerry believes it is necessary to scale back several provisions in the Patriot Act to assure our enhanced security does not come at the expense of our civil liberties.

**MORE OVERSIGHT OF “SNEAK AND PEEK” SEARCHES.** John Ashcroft has used new authority under the Patriot Act to perform “sneak and peek” searches without ever notifying anyone and without any judicial oversight. Agents can break into a home or business to take photos, seize physical property, examine and copy computer files, load a secret keystroke detector on a computer, or download the information from a previously loaded keystroke detector. Kerry believes there must be strong oversight to assure the authority can only be used in cases where notice of the warrant would endanger a person’s life or safety, result in flight from prosecution, or result in the destruction of evidence. Kerry will also require that law enforcement provide notice of the covert search within seven days, unless a court extends the period of notification if the need for secrecy continued.

**NO UNWARRANTED SEIZURE OF LIBRARY OR BUSINESS RECORDS.** The Patriot Act enables law enforcement to obtain a vast array of library and business records with minimal judicial oversight. This provision permits the FBI to conduct fishing expeditions regardless of lack of suspicion. For example, an FBI agent could walk into a library and ask for records – a list of who has checked out what book – without having any clear suspicions of terrorism. Kerry believes that this broad authority to scrutinize the subject of library patrons’ interests is a threat to free speech and free thought. He will require a court order for the information and require the FBI to show that there are specific reasons to believe that the person is an agent of a foreign power.

**STOP UNCHECKED ROVING WIRETAPS.** Under the authorities of the Patriot Act, the Justice Department can use roving wiretaps without adequate checks or safeguards. This roving wiretap authority threatens personal privacy and increases the likelihood that the conversations of innocent people wholly unrelated to the intelligence target will be intercepted. John Kerry will require law enforcement to identify the place or the target to be wiretapped and require that surveillance be conducted only when the presence of the target is ascertained. These are the requirements for use of roving wiretaps under the criminal code.

**NO BLANKET PREEMPTION OF EXISTING CHECKS ON LOCAL LAW ENFORCEMENT.** In their proposed Patriot Act II, George W. Bush and John Ashcroft want to do away with important locally-determined consent decrees that prevent police officers from spying on citizens. Bush and Ashcroft proposed to terminate all state law enforcement consent decrees before Sept. 11, 2001. John Kerry will ensure that actions are not taken that make it easier for Federal or local law enforcement officers to spy on innocent people.

**V. ALL INFORMATION AVAILABLE TO THE PEOPLE – UNLESS IT’S A NATIONAL SECURITY RISK.** A government for the people should make information available to the people. The Bush Administration has failed to provide basic information about the war against terror at every step. They have withheld information about 9/11 that would have provided us with critical information to prevent another

attack. John Kerry will require that information be released unless it explicitly undermines national security or the war on terrorism.

### **BUSH ADMINISTRATION HAS FAILED TO RELEASE CRITICAL INFORMATION ABOUT 9/11.**

The Bush Administration has refused to release critical information to the 9/11 Commission. In fact, the Commission even issued a subpoena to Secretary Rumsfeld because of his unwillingness to share information that will help the nation learn how to prevent another terrorist attack. The Bush Administration also requested that the Republican leadership shut down the Intelligence Committee's investigation of 9/11 over trivial disputes.

**STOP WITHHOLDING INFORMATION ON KEY GOVERNMENT DECISIONS.** John Ashcroft has issued a new policy on the Freedom of Information Act that encourages agencies to fully consider any reason for not disclosing information, even if there is no indication the information will be harmful. The Freedom of Information Act is a critical part of assuring that the people can understand what their government is doing and John Kerry will restore it to assure this information is available.

**REGULAR REPORTING ON ANTI-TERRORISM ACTIVITIES.** John Ashcroft and George W. Bush have fought to keep all information about the Administration's actions to combat terrorism secret, limiting the ability of Congress and the public to hold the Administration accountable. Ashcroft has refused to provide information to Congress or to the public about his use of the Patriot Act, his manipulation of the immigration laws, and his use of the enemy combatant status. Ashcroft's secrecy is particularly troubling given the semi-annual reports of the Department of Justice Inspector General that reveal complaints about Patriot Act-related civil rights and civil liberties violations. John Kerry will:

Mandate regular reporting to Congress of all anti-terrorism activities. He will protect privacy and security by following the protocols for classified information that the military and intelligence agencies follow when reporting to Congress.

No more will the Federal government's actions – and the actions of the Justice Department – be unchecked or shrouded in secrecy. Lawmakers will be equipped with information to protect against abuse.

(Press release, December 1, 2003)

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Voted for the Patriot Act.

## **Reverend Al Sharpton**

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### **Recent Statements**

At a forum of the NAACP Reverend Sharpton referred to the Patriot Act as “an absolute move toward fascism and totalitarianism.” He further stated, “There is nothing more unpatriotic than the Patriot Act.” (Jim Morrill, Scott Dodd, “Democrats Join Forces to Take Digs at Bush; Candidates Woo S.C. NAACP Members with Anti-GOP Stance,” Charlotte Observer, October 11, 2003. Pg. 1A)

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At a National Press Club luncheon, Sharpton stated, “I attended the Senate Judiciary hearings where John Ashcroft came to deal with anti-terrorist legislation and the Patriot Act. And he, in effect, raised the notion that if one disagreed with them, the inference was that one was unpatriotic. In fact, he said, ‘Are you with them or us?’ never clearly defining who ‘them’ were or who ‘us’ was. And the suggestion has become, in my opinion, that patriotism now is, ‘Are you a right-wing Republican that supports Bush?’—not whether you believe in doing what is good and what is protective of America.

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“Let me say from the outset: There is nothing that I would support to harm this country, because we are an intricate part of this country. We fought in the civil rights movement because we wanted rights in the nation. And we fought to make this a more perfect union. But not questioning foreign or domestic policy does not make one patriotic. In my judgment, it makes one unpatriotic, because to submit to the kind of mindless type of behavior that we’re being asked to now is to validate those that are around the world saying that America does not represent what it should represent, in terms of free thought and the electoral process and democratic views.

“I think to have a nation that stifles questions and punishes dissent is to justify those that have given this nation a bad name all over the world. Now I might add for the point of disclosure—and it was already stated in the introduction—that I’m certainly biased when it comes to Mr. Ashcroft, since he was my landlord for three months last year, when I was, courtesy of his department, a guest at the Metropolitan Detention Center, better known as the federal jail in Brooklyn.

“So I don’t pretend to be objective about Mr. Ashcroft silencing dissent. He silenced me for about 90 days, or at least I had to talk through the bars. But even then, one has to question when you give the legislative power to the attorney general that based on his sole discretion, he can eavesdrop on lawyer-client conversations, based on his discretion, he can detain people without charges and the name that is justified is that this is all in the name of protecting us against terrorism.

“Well, the question that becomes—that comes to mind is, why do we have to sacrifice the civil liberties and civil rights of American citizens—all American citizens because Mr. Ashcroft has said that this is the way to protect us? Is it not dangerous for a political appointee to have the right to determine who they’re going to deem as terrorists and whose lawyer can have a private conversation or not at their sole discretion? Is it not dangerous to the principles of this country to have a political appointee have the ability to detain people and charge them later, if at all? Isn’t it dangerous to have in this time overtly what Dr. King and others had to fight covertly?

“When I look in this audience and see people—like Yvonne Scruggs Leftwich, who heads the civil rights community, and I look and see attorney Laura Murphy of the Washington bureau of ACLU—who have been attacked and in some cases demonized for just raising the question of whether or not these laws are in line with the Constitution, so we are now where we cannot even argue on behalf of the Constitution of the United States and the Democratic Party that I think should be leading the opposition, and has come down with a bad case of political laryngitis.

“There has been utter silence in many of these cases.” (May 2, 2002, Washington, D.C.)

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He has stated that the Patriot Act is used to profile people of color. (Thulani Davis, “Post 9-11 Civil Rights,” *Village Voice*, December 24, 2002)

### **MoveOn Question**

Yes, I would definitely revisit them. They seem to be a throw-back to the COINTELPRO days of J. Edgar Hoover, Dr. Martin Luther King, Jr., and the Black Panthers—making legal today what was illegal then. These “Patriot Acts” appear to be using the legitimate fear of 9/11 to pass illegitimate legislation. This legislation is unpatriotic in the most patriotic sense.

### **Web site**

No direct mention.

### **Policies/Proposals**

None reported.

### Recent Statements

In a speech to the Urban League, Representative Kucinich said, “The Patriot Act is not what American patriots have fought and died for. To allow our Bill of Rights to be nullified without judicial supervision invites tyranny. The attorney general has been handed unfettered power to wiretap, search, jail and invade our most sacred right to privacy. The government must not be allowed, without probable cause or warrant, to snoop on our communications, medical records, library records and student records.” (James O’ Toole, “Kucinich is confident public will support his views,” Scripps Howard News Service, December 29, 2003)

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At the Arab American Institute National Leadership Conference, Representative Kucinich said, “And I’d like to conclude by saying that as president, I’ve already introduced legislation to cancel the PATRIOT bill, if it’s not done by then, as president I will cause the Justice Department to sue in federal court to overturn the PATRIOT Act as being unconstitutional. This is a time to lift our country up, lift it out of fear, lift it out of violation of our civil liberties, lift it out of war, and reclaim America as a nation we can call our own.” (Remarks at Arab American Institute National Leadership Conference, Dearborn, MI, 10/18/2003)

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In formally announcing his candidacy, Representative Kucinich said, “We stand strongest in challenging terrorism when we do not give up an inch of our civil liberties.” (Jennifer S. Lee, “Kucinich, Declaring for President, Takes Populist Stance, The New York Times, October 14, 2003, Page A21)

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When the House voted to repeal a portion of the Patriot Act allowing “sneak and peek” searches which allowed searches without notification of the target, Representative Kucinich stated, “The vote last night in the House is a historic step forward for the House, the US Constitution and the civil liberties of all Americans.”

“Congress is joining the American people and coming to its senses. This is just the beginning of a crusade to which more and more of our colleagues are rallying. We are committed to restoring freedoms for which generations of American heroes have died.”

“The USA PATRIOT Act was well intentioned, especially during a time of fear and uncertainty. However, now that we have had a chance to step back and examine it objectively, the legislation deserves serious re-evaluation.”

“Notice with a warrant is a crucial check on the government’s power. It forces authorities to operate in the open, and allows citizens to protect their Constitutional rights.”

“American citizens, whom the government has pledged to protect from terrorist actions, now find themselves the victims of the very weapon designed to uproot their enemies. Being secure at the expense of our freedoms is no real security. Last night, with passage of our amendment, we have begun the process of regaining the civil liberties that are the foundation of our nation.” (Washington, D.C., July 23, 2003)

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In a statement released June 19, 2003, Kucinich said, “The USA Patriot Act represents an attack on the Bill of Rights. Over 100 communities have expressed opposition to the Patriot Act. The Patriot Act permits the government to punish people for innocent associations and constitutionally protected free speech. It has permitted people to be held in jail without charges.

“The government now monitors conversations between detainees and their lawyers. It permits widespread wiretapping, searches without warrants, and enables the government to get information concerning what people read, what they watch, their financial transactions, and personal health information. As a Congressman, I led the fight against the Patriot Act in Congress and will also lead the efforts against Patriot Act 2 which

would permit even more surveillance, more spying, and the cover-up of information about environmental problems caused by corporations.

“It would even allow for sampling and indexing of genetic information of innocent Americans without a court order! As president, I will lead the effort to repeal the Patriot Act. There is nothing patriotic about the loss of our civil liberties. I applaud the efforts of all those organizations who have joined to fight it.” (Washington, D.C.)

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At a meeting of the Democratic National Committee, Kucinich said, “Democrats can move this country forward from the destructive Patriot Act to restore for Americans the rights protected under the Constitution, the rights to free speech, the rights to be free in our persons from unreasonable search and seizure.” (February 22, 2003, Washington, D.C.)

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“The U.S. has taken a serious turn against the interests of civil liberties with the passage of the Patriot Act, and the Administration continues to revise, through fiat, established criminal justice procedures. We have the right to defend ourselves as a nation, but we have to defend those human rights and constitutional protections that make the condition of nationhood something we celebrate. Terrorists win when they create conditions which lead our government to roll back constitutional freedoms.” (“An Interview with Congressman Dennis Kucinich: An American Vision,” *Tikkun magazine*, April 1, 2003)

### **MoveOn Question**

I am the only presidential candidate to vote against the misnamed “Patriot Act.” I am proud of that vote. As President, I will push to revoke it. And I will challenge any Patriot II sequel, because I know that America is a great country when Americans feel free to dissent, to advocate for reform—Americans like Tom Paine, the abolitionists, the suffragists, the early union organizers, Cesar Chavez, Rachel Carson, the women’s movement, Rosa Parks and Dr. Martin Luther King, Jr.

In the wake of the terrorist attacks of 9/11, America appropriately mobilized and increased security. But we must never repeal our precious Bill of Rights, or hand the Attorney General unfettered power to jail, wiretap and monitor our private communications and personal records. In a December 2001 speech, I argued that the “Patriot Act” and related measures had effectively revoked half of the ten amendments in the Bill of Rights: the First, Fourth, Fifth, Sixth and Eighth Amendments. In Congress, I am now drafting a bill to repeal the “Patriot Act” and restore civil liberties essential to a functioning democracy. As someone who participated with MoveOn in building the current antiwar movement, I couldn’t agree with you more that “if we cannot speak without fear, we aren’t living in a democracy.”

### **Web site**

In response to the administration’s plans to require airlines compile more data on airline passengers, Representative Kucinich released a statement in which he said, in part, the following:

“The Bush Administration is diverting resources to measures that appear to make us safer but actually make our lives more difficult and violate our privacy... The Administration is turning every airline ticket counter into a Big Brother Booth. Our freedoms and our liberties are on the line. This Administration is moving with breathtaking speed to demolish the Bill of Rights and privacy protections. In a democratic society we have a right to live free and they’re taking that right away.

What conceivable right does the government have to develop these database profiles? What else will the government do with the information? The FBI is already collecting information on people who attend peace demonstrations. What purposes will all of this data be put to? Once someone is deemed a threat to air travel, will they also be denied a driver’s license? Will they be denied admittance to large public events?

These are serious questions. Big Brother is here. This is absolutely unacceptable in a democracy. We have to live free, or it's not America anymore. I will work quickly to repeal the 'PATRIOT Act,' to repeal the intelligence authorization bill that slipped in sections of Patriot Act II, and to rescind all practices that mine data for the purpose of profiling." ("Kucinich Responds to Bush Administration's Latest Profiling of All Airline Passengers, Location Unknown, January 14, 2004)

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Representative Kucinich released the following press statement on his website:

"Kucinich will introduce legislation to repeal a section of the FY '04 Intelligence Authorization Act that expands powers granted to the federal government in the USA PATRIOT Act, allowing the government greater power to acquire financial records without judicial oversight from car dealers, pawnbrokers, travel agencies, and many other businesses. Traditional financial institutions like banks and credit unions are already subject to such demands, but this dramatic expansion of government authority will mean that records created by average citizens who purchase cars, plan vacations, or buy gifts will be subject to government seizure and analysis without the important requirements of probable cause or judicial review. This provision initially appeared in a leaked draft of the so-called "PATRIOT II", a proposal the American public and Members of Congress on both sides of the aisle in the House and Senate rejected.

"If we allow this Administration to continue this trend of expanding governmental powers at the expense of our civil rights our very democracy is at stake. Today, I join with over 229 communities in 35 states that represent over 29 million citizens, that have passed resolutions opposed to the law, in standing up to this abuse of power. It is now clear the administration's strategy is to pass PATRIOT II in separate pieces with little public debate, in secret, and surreptitiously attached to other legislation. This is far from an appropriate or democratic way to handle issues that affect the fundamental liberties and freedoms of Americans." ("Kucinich to Speak on PATRIOT Act and War," 12/29/2003)

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In his remarks regarding the House Appropriations Act, Representative Kucinich said, "Finally, last July this Congress took a giant step forward in overwhelmingly voting to eliminate funding for section 213 of the PATRIOT Act, a provision what allows for so-called "sneak and peak" searches, or searches of property without the advanced notification of the person being searched. This action spoke to the anxiety of millions of Americans who believe the PATRIOT Act must be repealed or revised to restore fundamental civil liberties in this Nation. Again, the result of this bi-partisan vote is starkly absent from the Omnibus.

Not only does the Omnibus cut education, it defies the will of the House on overtime pay and civil liberties. Our children and our families suffer and the integrity of the U.S. Constitution remains at risk. Vote against the Omnibus Conference Report."

(Congressional Record, Page H12766, Conference Report on H.R. 2673, Consolidated Appropriations Act, 2004, Washington, D.C., December 8, 2003)

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Kucinich Joins Board of National Coalition to Repeal the Patriot Act

"It is with great pride and also with great dedication that I have accepted a position on the Board of the National Coalition to Repeal the 'PATRIOT Act.' It will be an honor to work with the many talented individuals and organizations making up this grassroots effort, whose mission-to protect our civil liberties from the PATRIOT Act, the Homeland Security Act, and other executive orders-is in better touch with the American people than is the Congress of the United States. I am committed to working through NCRPA to defeat the efforts of the Bush administration to strip us of the rights we hold under the First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments." (December 2, 2003)

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Lists civil liberties fourth in his “10 most important issues”: “[4] *Repeal of the ‘Patriot Act.’* The ‘Patriot Act’ is not what American patriots have fought and died for. To allow our Bill of Rights to be nullified without judicial supervision invites tyranny. The Attorney General has been handed unfettered power to wiretap, search, jail, and invade our most sacred right to privacy. The government must not be allowed, without probable cause or warrant, to snoop on our communications, medical records, library records, and student records.”

Notes in his biography that “[h]e is the only presidential candidate who voted against the civil liberties-shredding ‘Patriot Act.’”

Devotes a separate issue brief to civil liberties: “The unfolding of the promise of democracy in our nation paralleled the striving for civil rights. That is why we must challenge the rationale of the Patriot Act. We must ask why should America put aside guarantees of constitutional justice?”

“We all agree that terrorists should be brought to justice, but what kind of justice? The American jurisprudence system is the envy of the free world with its emphasis on due process. Yet a recent Executive Order of this administration substitutes our American justice system for military tribunals where officers sit as judge and jury, with secret evidence, secret witnesses, secret verdicts and even secretly handed down death sentences.

“We cannot justify widespread wiretaps and internet surveillance without judicial supervision, let alone with it. We cannot justify secret searches without a warrant. We cannot justify giving the Attorney General the ability to designate domestic terror groups. We cannot justify giving the FBI total access to any type of data that may exist in any system anywhere such as medical records and financial records.

“We cannot justify giving the CIA the ability to target people in this country for intelligence surveillance. We cannot justify a government that takes from the people our right to privacy and then assumes for its own operations a right to total secrecy.

“This is not reflective of Jeffersonian Democracy. This is Kafka’s “The Trial”, writ large. We should not let the actions of terrorists cause us to reject our American system of justice. The ultimate terror in a democracy is the destruction of constitutional principles. Let us defend against terrorism. And may we always remain “one nation, under God, indivisible with liberty and justice for all.”

### **Policies/Proposals:**

Representative Kucinich co-authored the “Benjamin Franklin True Patriot Act.” The bill would “roll back 10 main points of the 2001 Patriot Act—including secret property seizures, expanded grounds for deportation of terrorist suspects and a broadened definition of domestic terrorism... The bill also seeks to mandate a review period before Congress can enact new sections of the 2001 act and challenges federal policies calling for local law authorities to enforce immigration law.” (Andrew Kaplan, “Officials push bill to repeal provisions of USA PATRIOT Act,” Michigan Daily via U-Wire, October 2, 2003)

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Voted against the Patriot Act.

## **President George W. Bush**

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### **Recent Statements**

Inside the United States, where the war began, we must continue to give homeland security and law enforcement personnel every tool they need to defend us. And one of those essential tools is the PATRIOT Act, which allows Federal law enforcement to better share information, to track terrorists, to disrupt their cells, and to seize their assets. For years, we have used similar provisions to catch embezzlers and drug

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traffickers. If these methods are good for hunting criminals, they are even more important for hunting terrorists. Key provisions of the PATRIOT Act are set to expire next year. The terrorist threat will not expire on that schedule. Our law enforcement needs this vital legislation to protect our citizens - you need to renew the PATRIOT Act. (State of the Union Address, Washington, D.C., January 20, 2004)

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Days after the 9/11 attacks, President Bush, visiting the Islamic Center in Washington, said, "The face of terror is not the true face of Islam...In our anger and emotion, our fellow Americans must treat each other with respect." He went on to say that "Moms who wear cover must not be intimidated in America. That's not the America I know. That's not the America I value." (Alfredo Corchado, "Intimidation stops here—Bush's plea for US Muslims," *Daily Telegraph*, September 19, 2001, P. 9)

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When President Bush signed the Patriot Act into law on October 26, 2001, he said, "This bill met with an overwhelming—overwhelming agreement in Congress, because it upholds and respects the civil liberties guaranteed by our Constitution."

### **MoveOn Question**

Not applicable.

### **Web site**

Bush/Cheney '04: No mention.

White House: At the swearing in of Tom Ridge as secretary of the Department of Homeland Security, President Bush said, "We will defend our country; and while we do so, we will not sacrifice the freedoms that make our land unique." (October 8, 2001, Washington, D.C.)

### **Policies/Proposals**

President Bush advocated implementing a three-point plan for expanding the law. According to The New York Times, "Patriot Act II would give the government broad powers to seize documents and force testimony without a court order, expand use of the death penalty and make it harder to be released on bail. The most troubling part of the new plan is the call for expanding government access to private data, allowing federal agents to issue subpoenas for private medical, financial and other records, without a court order. The lack of judicial oversight removes an important check on government misconduct. Record holders would be required to comply, or face prison, and would be barred from telling anyone about the subpoena." (Editorial Desk, "Patriot Act, Part II," The New York Times, September 22, 2003, PG. A16)

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See <http://www.waronourfreedoms.com>.

**Updated February 19, 2004**