

Third, section 213 permits delayed notification even where the government seizes electronic information, so long as the court issuing the warrant finds “reasonable necessity” for the seizure. Thus, if officers get a warrant under federal wiretapping statutes, they still must comply with a complex set of safeguards. For all other warrants involving electronic communications—those involving video or Internet surveillance, for example—delayed notification under the PATRIOT Act applies.

Fourth, section 213 places no express limit on the length of the delay. Instead, it authorizes delay for a “reasonable period” of time and permits extensions of the delay for “good cause shown.” Section 213 opens the door for secret searches extending over months or even years without the knowledge of the target of the search. Such delays render notice meaningless. Although the judge in any particular case may impose a specific deadline by which notice must be given, the statute does not require such a deadline. Where the warrant itself does not impose specific time limits, judicial review of the necessity of continuing delay in notification is impaired. No concrete timeframe triggers a governmental duty to justify continued delay. Because the target of the search is, by definition, unaware of the search, he or she cannot be expected to seek review of the need for continued delay. Courts would have the opportunity to review the necessity of delay only after the fact, while also under the pressure to prosecute and admit evidence obtained through the notice-less search.

Finally, section 213 extends the availability of “sneak-and-peek” warrants far beyond the PATRIOT Act’s stated purpose of fighting terrorism. The provision contains no limitation on the types of cases in which a covert warrant could be used.

CONCLUSION

The threatening nature of section 213 is not obvious, and thus, it is more dangerous to the cause of preserving liberty. If the public is blinded by fear of terrorism or ignorance of what is at risk, section 213 has the potential to become the insidious mechanism of steady but discernible erosion in the foundation of our freedoms. Section 213 takes the exception and makes it the rule—in fact, makes it the law of the land. It gives broad statutory authority to secret searches in virtually any criminal case. Even if the Supreme Court upholds the constitutionality of such practices, Congress can—and should—limit them by statute. In such cases, justice delayed truly is justice denied.

Terrorism is a scourge that must be addressed. Government has a fundamental duty to protect its people from enemies, foreign or domestic. Fear of terrorism, or anything else, deprives us of free choice as surely as does tyranny; indeed, terrorism is an instrument of tyranny. We must not, however, allow fear to erode the constitutional foundation of our freedom. We can no more gain real security by being less free than we can gain wealth or wisdom or anything else of value. No such trade-off is possible. That is the definition of “unalienable”—rights with which we were endowed by our Creator, and which therefore cannot be repudiated or transferred to another. Our Constitution recognizes that higher law, and we ignore it at our peril.

We now are engaged in a national crisis, an unconventional war in which our surreptitious enemies use the camouflage of a free society’s commitment to privacy and diversity to achieve their goals. Our government is justified in adapting its law enforcement methods to the new threat, but we must take care to ensure those methods are consistent

with the timeless principles of our founding. To do less is to sanction a dangerous expansion of governmental authority and a corresponding reduction of personal privacy.

Our body of laws serves as both a connecting mortar and a protective barrier between the foundation of our Constitution and the structure of our government. Laws are necessary for applying constitutional principles to the endless variety of everyday life. They join the abstract and the concrete. They enable us to safely explore our freedom and realize the potential of liberty.

However, when laws reach beyond limits imposed by the Constitution, when they grant too much power to government and too little deference to the source of that power, they cease to connect or protect. If unchecked, these laws can destroy the foundation of individual rights. Proponents contend that we have nothing to fear from section 213 or any other provision of the PATRIOT Act. This may be true, as long as the public is as vigilant as the American colonists were after Otis inflamed their passions regarding the Writ of Assistance. But can we trust that the law will be used as judiciously, with as much care to protecting civil liberties, once the public’s attention has turned to other matters?

The concern is not new or unique to the PATRIOT Act. Few of our Founding Fathers had greater faith in his fellow man than Thomas Jefferson. Yet that faith had its limits. In the Kentucky Resolutions, Jefferson wrote:

[I]t would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is everywhere the parent of despotism-free government is founded in jealousy, and not in confidence; it is jealousy and not confidence which prescribes limited constitutions, to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which, and no further, our confidence may go

Due process. Probable cause. Those are the constitutional limits within which we “bind down those whom we are obliged to trust with power” and preserve our individual rights. A law that sets those limits aside, or obfuscates them in vague statutory language and legalistic definitions, has the potential for eroding the foundation of freedom as surely as terrorists have the potential for breaching the ramparts of our security. An informed people and a vigilant and responsive Congress are the keys to guaranteeing that our rights to security and freedom are ensured. They are essential to protecting the foundation of liberty and preserving each individual’s God-given role as the architect of his or her own destiny. As John Stuart Mill warned:

A people may prefer a free government, but if, from indolence, or carelessness, or cowardice, or want of public spirit, they are unequal to the exertions necessary for preserving it; if they will not fight for it when it is directly attacked; if they can be deluded by the artifices used to cheat them out of it; if by momentary discouragement, or temporary panic, or a fit of enthusiasm for an individual, they can be induced to lay their liberties at the feet even of a great man, or trust him with powers which enable him to subvert their institutions; in all these cases they are more or less unfit for liberty.

TO HONOR MR. JIM BRODIE

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. GRIJALVA. Mr. Speaker, It is with great honor that I recognize Jim Brodie. Jim was a respected member of the community, providing tireless hours to the youth, community and Habitat for Humanity.

Jim was a lifelong union ironworker, working in industrial and commercial construction. Upon retirement, he continued his service to our community by assisting Habitat for Humanity of Tucson in the construction and later supervision of projects throughout the Old Pueblo.

The energy and expertise he provided for Habitat for Humanity, its volunteers and its clients was unprecedented. He was a gifted leader, working on multiple projects and at various stages of the products. Among his many talents was the ability to work with young and old alike. This is especially noted with his success in working on the High School Build Program, proving to be a mentor, role model, and friend to the students he supervised.

For the last 8 years of his life, Jim’s work with the Habitat High School Build programs inspired the youth, their parents, and their teachers. Although initially hesitant to work the students, his ability to motivate and provide guidance came to him second nature. He was a natural teacher, impacting multiple lives and instilling pride in the lives that he impacted.

Jim’s role in supervising the Habitat High School Build programs, which included five schools and the State Prison programs, was unique. Furthermore, it was a true gift to our community and youth. He worked closely with the high school teachers to develop important mentoring relationships with students. His dedication went well beyond the building projects and will influence students for years to come.

His legacy includes the 40 families that now live in Habitat homes built by students participating in the High School Build program. Jim was admired by all who met or heard of him. His life and work is an inspiration to us all.

THE FAIR MINIMUM WAGE ACT OF
2005

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. GEORGE MILLER of California. Mr. Speaker, today, together with 100 of my colleagues, we are introducing legislation to raise the Federal minimum wage from \$5.15 to \$7.25 over 2 years. Senator EDWARD KENNEDY is introducing identical legislation in the Senate. Two reports that are also being released today, one by the Center for Economic and Policy Research and one by the Children’s Defense Fund, make obvious the importance of raising the minimum wage for workers, children, and families.

American workers are long overdue for a raise. Real wages are actually declining for the first time in more than a decade, while

prices for healthcare, gasoline, and other necessities are rising, making it even more urgent that we raise the minimum wage now. The minimum wage has been stuck at \$5.15 per hour since 1997—\$5.15 per hour. These days, a gallon of milk can cost half that much in some parts of the country. Imagine working for the better part of an hour and only being able to afford a gallon of milk—how do you ever make ends meet? The answer is: you don't.

One of the reports issued today, from the Center for Economic and Policy Research, shows that most minimum wage workers make significant contributions to their total family income. Half of them are between the ages of 25 and 54. The report also shows the importance of increasing the minimum wage to prevent families from falling further into poverty. Too often minimum wage jobs are not transitional. As the report makes clear, many workers find themselves trapped in minimum wage jobs; more than one-third of 25- to 54-year-old workers in minimum wage jobs are still earning the minimum wage after three years. The report is entitled "Not Up, Not Out: Few Prime-Age Workers Move Out of Minimum Wage Jobs" and is available at http://www.cepr.net/publications/label_markets_2005_05.pdf.

The other report, from the Children's Defense Fund, shows that importance of increasing the minimum wage for more than 10 million children. The report, entitled "Increasing the Minimum Wage: An Issue of Children's Well-Being," states: "The annual income of an individual working full-time, with two children, at the \$5.15 an hour minimum wage leaves them \$4,500 below the poverty level. An increase in the minimum wage to \$7.25 would benefit many of the 9.7 million children who live in households where at least one worker earns between the current minimum wage and \$7.25 per hour. Furthermore, 1.2 million of these children live in households where two or more workers earned less than the proposed minimum wage." At \$5.15 per hour, a worker who works 40 hours a week for 52 weeks a year earns \$10,712. In 2003, the poverty level for a family of two (a parent and a child) was \$12,682. The Children's Defense Fund report is available at <http://www.childrensdefense.org/familyincome/obs/minimumwagereport2005.pdf>.

Every American deserves a decent wage for the work they do, and most Americans agree that we should raise the minimum wage. Congress disrespects workers and violates the will of the people when it refuses to increase the minimum wage. We ought to respect workers by guaranteeing them a fair wage. Work should be the path out of poverty, but millions of Americans work fulltime and still live in poverty.

The Miller-Kennedy legislation also extends the minimum wage to the Commonwealth of the Northern Mariana Islands, a U.S. territory in the Pacific Ocean. For years, the Congress has allowed basic labor standards to be denied to workers in the Marianas. We cannot continue to allow workers to be trapped in virtual involuntary servitude under sweatshop working conditions, indebted by usurious recruitment fees, paid inadequate wages and too often cheated out of what little they are owed. I have introduced legislation, H.R. 2298, to protect workers from recruitment abuses and to hold recruiters and employers respon-

sible for the working conditions they have promised. This bill goes a step further to ensure a decent minimum wage.

Among the 7.5 million workers earning between \$5.15 and \$8 an hour—the people this bill is intended to help—84 percent of them are adults over the age of 20. Nearly half of them are married or have children. Over half of them are women; 59 percent are white; 13 percent are black; and 23 percent are Hispanic. Sixty percent of them work full-time.

The inflation-adjusted value of the minimum wage has declined 20 percent since 1997. The legislation we are introducing today, the Fair Minimum Wage Act of 2005, increases the minimum wage from \$5.15 to \$5.85 within 60 days; then to \$6.55 1 year after the first increase; and finally to \$7.25 1 year after that.

I urge my colleagues to support this vital legislation.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

SPEECH OF

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes:

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in support of H.R. 2360, the Homeland Security Appropriations Act for Fiscal Year 2006. As a member of the Homeland Security Subcommittee, it has been an honor to work with Chairman HAL ROGERS and our Ranking Member, MARTIN SABO, in drafting this bill. I would like to commend them both, for their efforts to address our Nation's security needs despite the severe budget constraints forced upon them.

Mr. Chairman, this bill provides \$30.85 billion for operations and activities of the Department of Homeland Security, DHS, in fiscal year 2006, an increase of \$1.37 billion above the fiscal year 2005 enacted levels. Although the bill does not fully fund many initiatives critical to securing the homeland, I am pleased that this legislation does provide adequate funding for several programs of importance to urban communities such as my own in Los Angeles.

For instance, State and local emergency managers will be happy to learn that although the President continues to zero out the funding in his budget request for the Emergency Management Performance Grants, the committee has appropriated \$180 million for this grant program. Congress has rightly called this program "the backbone of the Nation's emergency management system." In California, emergency managers use these grants to develop plans to help prepare our residents for disasters such as earthquakes, fires, floods, or terrorist attacks.

The bill also provides \$750 million for Statewide formula grants which are distributed on a per capita basis to first responders. The current population-based formula is under review by the Homeland Security Authorization Com-

mittee which is determining whether or not funds should go to States based solely on population. In lieu of any changes by the authorizing committee to the formula, this bill directs DHS to maintain a minimum allocation of .75 percent per State and to allocate the rest based on threats and need versus population. I strongly agree that targeting funds based on the assessment of actual vulnerability is a much more effective use of limited resources than population alone. Furthermore, the committee recognizes that DHS must still establish a national preparedness goal which will help our States develop appropriate homeland security funding goals.

Our firefighters were among the first to respond to the tragic events of September 11th, and they will likely be the first to respond in the event of a future attack. The fire grant program helps local fire departments deal with these and other needs by allocating funds for equipment and staff. Unfortunately, the President proposed cutting funding for these programs by \$215 million, or 30 percent. This bill restores most of the president's cuts by providing \$600 million for fire grants and \$50 million for firefighter staffing grants. This is critical funding because only 13 percent of fire departments are prepared to respond to a hazardous material incident and an estimated 57,000 firefighter's lack personal protective clothing for a chemical or biological attack. I would hope that by the time this bill goes to the President, these programs will be fully funded at last year's level of \$715 million at a minimum.

In addition, the bill strengthens the committee's direction that port security grants, for the 55 ports of national significance, should be based on vulnerability assessments. This means that limited resources for port grants will be used where they are needed most. While we are dedicating \$150 million to both the port and the transit security programs, the Administration had proposed no funding for these critical programs. This is inexcusable particularly when the Coast Guard and the transit industry have indicated \$7 billion and \$6 billion in security needs in their respective industries to improve security. I am also pleased that Congress dedicated \$50 million for the security of chemical plants.

I thank Chairman ROGERS and Ranking Member SABO for including in the Homeland Security report several items I requested to address serious issues raised during subcommittee hearings with representatives of the Department of Homeland Security.

For example, the report expresses deep concern about reports that children, even as young as nursing infants, apprehended by Immigration and Customs Enforcement (ICE) are being separated from their parents and placed in shelters operated by the Department of Health and Human Services while parents are held in separate jail-like facilities. The Committee's report language directs DHS to release families or use alternatives to detention whenever possible, and when detention of family units is necessary, the Committee directs DHS to use appropriate detention space to house them together.

The report also addresses the need to expand the use of Legal Orientation Programs to additional ICE detention centers in the country. Legal Orientation Programs consist of legal presentations made by nongovernmental