

# Media Regulation and Surveillance by the U.S. Government

A Discussion of the Laws and Governing Bodies that Regulate and Monitor  
Mass Media in the United States and Their Recent Scrutiny

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# Introduction

The United States federal government contains numerous departments and bureaus whose sole purpose is to monitor and maintain the country's mass media. Changes in the atmosphere in which the United States finds itself and the ways in which the government chooses to react to these changes often blurs the lines between protection and invasion of privacy, and between censorship and limiting free speech. Both of these rights have been manipulated for the sake of security, through the U.S. Government's monitoring and screening public speech. Citizens of the United States and other countries around the world find themselves questioning which practices are acceptable in the name of safety and defense and which ones cross the line of privacy and infringe upon freedom of speech.

## The Federal Government's Role in Governance and Surveillance

### WELCOME TO 2016, GEORGE ORWELL

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In his famous novel, 1984, George Orwell predicts a future in which citizens are monitored constantly by their government and are forced to check in and follow strict rules (Orwell, 2008). All of this is justified by the government's insistence that this is for the good and protection of its citizens. Some say that this sounds a little too much like the book should have been titled "2016" (e.g. Beale, 2013).



In light of the events impacting American security in the last two decades—the September 11<sup>th</sup> terror attacks, numerous mass shootings, Edward Snowden's famous whistle blow—many Americans are left divided or unsure about their take on government surveillance and censorship. Much of this uncertainty

is due to sheer lack of knowledge about the regulatory forces at hand, the most controversial of which being the Patriot Act, the Fourth Amendment, the Federal Communications Commission, and the First Amendment.

## THE PATRIOT ACT

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Laws and regulations like the Patriot Act were put in place following surge of terror threats and attacks against the United States in the beginning of the 21<sup>st</sup> Century. The Patriot Act, as it was first enacted in 2001, permitted law enforcement to conduct certain electronic surveillance to investigate what the full range of what they consider terrorism-related crimes without obtaining judicial permission or notifying those being surveilled (U.S. Department of Justice, 2001). This act of Congress also makes it easier for law enforcement to obtain warrants for terror-related crimes, to protect victims of hacking, and to increase the maximum penalties for those found guilty of terrorism. Because of the multi-faceted nature of the Patriot Act, formally known as the Protect America Act, most people are unsure of whether or not they should support the act. Meanwhile, those who do have strong opinions about it are at no shortage of people with whom they disagree.

## FREEDOM FROM SEARCH AND SEIZURE

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According to the Fourth Amendment to the United States Constitution, “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized” (U.S. Const. amend. IV). Many people fear that certain aspects of the Patriot Act, as previously discussed, may directly contradict the rights outlined by the Fourth Amendment, as it permits not only the seizure of private information under certain circumstances, but also permits the seizure of public information without disclosure. At the same time, many are comfortable with the idea of relinquishing a few privacies for the sake of national security.



## THE FEDERAL COMMUNICATIONS COMMISSION

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The Federal Communications Commission (FCC) is responsible for a lot of things. The FCC's advisory committee spends most of their time ensuring competitive, innovative, fair, and high quality broadcasting over radio, television, wire, satellite, and cable in the United States, which means they cover a lot of ground (Federal Communications Commission, 2016). Part of this ground, however, deals with the censorship of publicly broadcast media and the reduction of "obscene programming at any time or indecent programming or profane language from 6 a.m. to 10 p.m." (Federal Communications Commission, 2015). Some like to argue that the regulatory actions made by the FCC often infringe upon the parts of the First Amendment that grant freedom of speech and freedom of the press, while others argue that the commission simply protects the public from what it does not desire to see or hear.



## FREEDOM OF SPEECH AND THE PRESS

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The First Amendment to the United States Constitution states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances" (U.S. Const. amend. I). Many people believe that this law is as clear as it needs to be, and that people have the freedom to speak and publish whatever they deem fit. Others disagree. Naturally, when it comes to mass media broadcasting, there are certain audiences and certain topics that the U.S. government hopes to protect. Given that the Bill of Rights was written in a time long before media could ever reach the audiences that are now possible, the lines are once again

blurred. The United States Supreme Court has attempted to work with this amendment in modern times by deeming certain speech to have “low First Amendment value” (Stone, 2013). Expression that falls into this category is chosen at the discretion of the Supreme Court, but often consists of defamation, obscenity, and threats. This “low value” speech can therefore be exempted from the laws outlined in the First Amendment, according to the Supreme Court’s rulings.

## Censorship and Monitoring of Social Media

### THE GOVERNMENT FOLLOWS YOU ON TWITTER

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According to the Electronic Privacy Information Center, the Department of Homeland Security started a hardly-known surveillance program in 2011 that monitors social media sites like Facebook and Twitter for more than 500 key words and phrases that may be signs of a threat to national security (Obeidallah, 2012). These key words vary from terms like “toxic” and “cocaine” to words that are as innocent as “cloud” and “wave” (U.S. Department of Homeland Security, 2011). Any individual use or combination of these words, depending on their priority level, are enough to get your post or tweet flagged by the department and get you even further surveilled for suspicious activity. Many people seem to hold in their heads the image of a man sitting at a desk, watching every click you make on a computer, listening to every word you say into a microphone or telephone, and watching every move you make that can be recorded by an accessible camera. Contrarily, while this information proves that the government does surveil your public postings, it also shows that your *public* postings are simply sent through filtering systems provided by third-party contractors and only actually reviewed and documented when certain “alarming” criteria are met.



## TAKING IT FURTHER

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While the large majority of the American public are able to accept the fact that their public internet postings are, in fact, public, there are many citizens, myself included, that fear what the government's next step will be. Those who question the security of their constitutional rights are anxious that this metaphorical inch we give will lead the government to take a mile and begin surveilling our private internet interactions. Facebook already screens private messages based on their sender and content and decides whether to deliver or hide certain incoming communications (Gynn, 2016). Rumors currently circulate that Snapchat's Selfie Lenses are used to build facial profiling databases (Bergado, 2016). There are tech geniuses that cover their webcams when they are not in use based on suspicions of remote access. CNN's Dean Obeidallah compares the Department of Homeland Security's Twitter filtering program to the Chinese government's surveillance of internet use.

The simple reality is that while media and technology's prevalence in society increase, so must their regulation. The extent to which the government should be allowed to surveil media usage and intervene in media publishing is still a hot topic across the country. The alternative to this, however, would be a lack of regulation, which would be nearly impossible in the 21<sup>st</sup> century, a time of high political and legislative involvement by both citizens and governments (e.g. Feintuck & Varney, 2006). The imperative, however, is to decide where one's own boundaries lie. Legislation must progress to adapt the First Amendment to the 21<sup>st</sup> century while protecting it.

The purpose of the United States Government, being by, of, and for the people, is to keep its citizens safe while respecting their constitutional rights. Unfortunately, the Constitution and most of the legislation that accompanies it leave room for interpretation. It is therefore the duty of the citizen to decide where one's priorities lie and which compromises one is willing to make and to be aware and knowledgeable on the laws and governing bodies that exist and may affect their rights.

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