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# U.S. Individuals' Perceptions of Government Electronic Surveillance After Passage of the USA Patriot Act

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Abstract

U.S. Individuals' Perceptions of Government Electronic Surveillance After Passage of  
the USA Patriot Act

by

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MS, Troy State University, 2000

BS, Troy State University, 1996

Dissertation Submitted in Partial Fulfillment  
of the Requirements for the Degree of  
Doctor of Philosophy  
Public Policy and Administration

Walden University

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## Abstract

Since the implementation of the USA Patriot Act in October 2001, public trust in the U.S. federal government to protect individuals' right to privacy has been affected negatively. Many studies have addressed this topic, but few have delved deeply into the reasons behind the distrust. The purposes of this qualitative study were, to explore the perceptions and attitudes of U.S. citizens regarding the effect of the USA Patriot Act on their right to privacy, to determine whether a loss of trust in the government occurred, and to identify the factors contributing to the lack of trust. The theoretical foundation for this study was Rawl's Social Perspective of Public Trust, Sax's Augmentation of Social Contract Theory, and Ajzen's Theory of Planned Behavior. The central research question pertained to the views of U.S. citizens about the federal government's use of electronic surveillance to monitor their communication without their knowledge. A generic qualitative study design was employed using purposeful, semi-structured interviews of 20 purposely sampled adult male and female U.S. citizens. Data from the interviews were coded and categorized for thematic analysis. When confronted with the lesser known specifics of the electronic surveillance provision of the USA Patriot Act, participants were more likely to reject the government interference as an invasion of privacy. This study can provide guidance for the democratic basis of policymaking designed to protect U.S. citizens. The implication for social change includes providing information to policymakers of both the US and organizations of various sizes regarding the polarized views and lack of trust pertaining to electronic surveillance among U.S. public. This information can be used to implement program or campaign to foster trust.

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## Dedication

I would like to dedicate this dissertation to my immediate Family, my Siblings and my Mom and Dad who are no longer with us; thank you for your support throughout my academic career

## Acknowledgments

This dissertation was made possible through the help, advice, and support of many individuals. I am immensely grateful to those individuals who have helped me on this project. Among them are friends and colleagues in the College of Social and Behavioral Sciences Department at Walden University, and others with whom I have interacted during the course of my dissertation. I was fortunate to get two leading scholars on my dissertation committee as my research supervisors: Dr. Patricia Ripoll as the committee chair, and Dr. Kathleen Schulin as a committee member. These scholars took a personal interest in my work, which became evident during the many discussions about this project, and they made me feel that my work was important. Dr. Ripoll had command of a vast range of literature, which was an invaluable resource for me. Dr. Schulin, whom I consider a trustworthy advisor, constantly reminded me of the importance of staying on task with my research.

The other scholars I met in the Public Policy and Administration program at Walden University have all had some influence on how my thoughts evolved. A very special thanks to Dr. Anthony Leisner and Dr. Mark Gordon for leaving their impressions on my thought processes. I would like to genuinely appeal for forgiveness to those whom I have failed to name above for the oversight.

## Table of Contents

Chapter 1: Introduction to the Study.....	1
Problem Statement.....	2
Purpose of the Study.....	5
Research Questions.....	6
Theoretical Framework.....	7
Nature of the Study.....	11
Definition of Terms.....	12
Assumptions.....	13
Scope and Delimitations.....	13
Limitations.....	14
Significance of the Study.....	15
Summary.....	16
Chapter 2: Literature Review.....	18
Introduction.....	18
Literature Search Strategy.....	20
Theoretical Foundation.....	21
Electronic Surveillance Defined.....	25
Current Government Electronic Surveillance.....	26
Four Controversial Provisions of the USA Patriot Act.....	33



Section 215.....	34
Section 505.....	36
Section 218.....	38
Section 206.....	39
Rulings and Constitutionality Under USA Patriot Act.....	40
NSA Leaks and the Constitutionality of the USA Patriot Act.....	44
Public Perceptions of the USA Patriot Act.....	47
NSA Leaks and Public Opinion of Data Surveillance.....	60
Conclusion and Deficiencies in the Data.....	61
Summary.....	63
Chapter 3: Research Method.....	65
Research Design and Rationale.....	66
Qualitative Studies.....	66
Generic Qualitative Approach.....	68
Role of the Researcher.....	69
Methodology.....	72
Participant Selection Logic.....	72
Sample Size.....	74
Instrumentation.....	77
Data Collection.....	79

Interview Questions .....	80
Data Analysis .....	82
Issues of Trustworthiness.....	84
Credibility .....	85
Transferability.....	85
Dependability .....	86
Confirmability.....	86
Ethical Procedures .....	87
Summary .....	88
Chapter 4: Results .....	90
Introduction.....	90
Setting .....	91
Demographics .....	91
Data Collection .....	93
Data Analysis .....	94
Issues of Trustworthiness.....	100
Credibility .....	100
Transferability.....	100
Dependability and Confirmability .....	101
Results.....	101

Views on Surveillance .....	101
Do We Need Security .....	106
Need for surveillance .....	106
Sacrificing privacy .....	109
Associated risks .....	110
Differing Opinions About Invasion of Privacy.....	113
Thinking About Media Influence.....	115
Using Surveillance and Government Control.....	119
Gathering information.....	121
Summary .....	123
Chapter 5: Discussions, Conclusions, and Recommendations .....	124
Introduction.....	124
Interpretation of the Findings.....	125
Theme 1: Views on Surveillance .....	125
Theme 2: The Need for Surveillance .....	127
Theme 3: Differing Opinions About Invasion of Privacy .....	129
Theme 4: Thinking About the Media.....	130
Theme 5: Using Surveillance and Government Control.....	132
Limitations of the Study.....	133
Recommendations.....	136

Implications.....	137
Methodological and Theoretical Implications .....	138
Implications for Practice.....	140
Positive Social Change .....	142
Conclusion .....	143
References.....	146
Appendix A: Surveillance Provisions of the USA Patriot Act .....	163
Appendix B: Example of Government Letter to Conduct Surveillance .....	165
List of Tables	
Table 1 Participant Demographics.....	92
Table 2 Raw data with Associated Commentary .....	95
Table 3 Most Frequently Used Words .....	96
Table 4 Raw Data and Associated Codes .....	98
Table 5 Categories and Associated Codes .....	99
Table 6 Sample Research Question, Theme, and Category.....	100

## List of Figures

Figure 1. Diagram of the Ajzen theory of behavior.....	9
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## Chapter 1: Introduction to the Study

The topic of this study was U.S. citizens' reaction of to the potential violation of privacy and due process after the passage of Public Law 107-56: H. R. 3162 (hereinafter referred to as the USA Patriot Act; 2001) and its amended version as of 2015, termed the USA Freedom Act. The USA Patriot Act provides the Central Intelligence Agency (CIA), the National Security Agency (NSA), the Internal Revenue Service, and other agencies the ability to surreptitiously monitor U.S. citizens' electronic communication without their knowledge or pursuant to warrants. The Act also allowed records to be probed without consent of the target of the surveillance and pursuant to court approval, which was met with intense criticism (Barnett, 2015). The 2015 amendments to the USA Freedom Act banned the most controversial aspects of the USA Patriot Act, namely bulk collection of data under Section 215. For clarity and recognition among participants, I referred to the reauthorization by its initial name, the USA Patriot Act.

Electronic surveillance of people in their homes or while on their cell phones without court approval, if abused, violates a person's constitutional rights, according to critics (Barnett, 2015). The trust between the U.S. people and federal government law enforcement agencies may have been severely damaged by the implementation of the law; however, my search of the literature revealed an incomplete and unbalanced body of empirical knowledge regarding the extent of any loss of trust. Research pertaining to the passage of the USA Patriot Act and public opinion were dated (e.g., Abdolian & Takooshian, 2002; Davis & Silver, 2004), and potentially biased by proximity to the

September 11 attacks and the extensive media coverage that ensued. Studies conducted more recently were either reliant on outdated data (e.g., Best & McDermott, 2007; Bonilla & Grimmer, 2013) or involved manipulating public opinion regarding the USA Patriot Act (e.g., Chong & Druckman, 2010, 2011; Druckman & Leeper, 2012a, 2012b). The present study was an effort to explore the perceptions and attitudes of ordinary U.S. citizens regarding the USA Patriot Act's effect, if any, on the right to privacy, and to determine whether a loss of trust had occurred.

The study was significant for several reasons. The results of this study showed a dissonance between public opinions and the USA Patriot Act, thus, providing guidance for the democratic basis of policymaking and implementation of other laws designed to protect U.S. citizens. In addition, it yielded insight about the factors that influenced this knowledge and that contributed to the willingness of some U.S. citizens to abdicate civil rights. The following chapter includes the problem that necessitated the study, the purpose of the study, the theoretical framework, and the research questions. I also provide a discussion of the parameters of the study, including its nature, scope, assumptions and limitations. Finally, the chapter concludes with a discussion of the study significance.

### **Problem Statement**

Since the implementation of the USA Patriot Act in October 2001, public trust in the U.S. federal government to protect individuals' right to privacy has been negatively affected. Some people have become suspicious of the federal government's use of surveillance tools to monitor activity on social media. When the USA Patriot Act was

passed, no clear indicators highlighted how much privacy an individual would have versus how much they would be giving up (Kerr, 2003). A Newsweek Poll conducted in May 2006 indicated 53% of U.S. citizens believed the NSA's surveillance program invaded people's privacy (Jefferson, 2006). However, as an outdated, informal poll, these data may not accurately represent current public opinion in the United States towards the USA Patriot Act and the factors that have influenced public opinion.

The USA Patriot Act was designed to protect U.S. citizens from further acts of terrorism (Barnett, 2015). However, its interpretation allows federal law enforcement agencies to monitor the activities of average U.S. citizens who have no connection to or affiliation with terrorist activities without the benefit of due process (Barnett, 2015). For instance, Brandon Mayfield, a Portland Oregon lawyer, was arrested and jailed for 2 weeks in 2004 after being mistakenly linked by the FBI to a terrorist attack on a passenger train in Spain (Eggen, 2007). Under the auspices of the USA Patriot Act, the FBI was able to copy Mayfield's computer files and tape his telephone conversations without court approval (Eggen, 2007). This type of action may be leading to the substantive degradation of public trust in their fundamental right to privacy.

In the case of *Mayfield vs. the United States* (Civil No. 04-1427-AA in the District Court of Oregon), the federal court ruled that the surveillance provision of the USA Patriot Act was unconstitutional (Civ No. 04-1427-AA, 2007). The ruling was based on the violation of Mayfield's Fourth Amendment right to due process, which required law enforcement to have reasonable grounds to believe the law was being violated (Civ No.



04-1427-AA, 2007). The court ruled the government must be subject to meaningful judicial review to maintain the constitutional principle of checks and balances, and separation of powers (Neumeister, 2007). Within the first 4 years of the Obama presidency, according to a Justice Department document released by the American Civil Liberties Union (ACLU), warrantless surveillance increased by 60% (Gilens, 2012). The report documented that the Justice Department increased the use of pen register and trap and trace surveillance to monitor and track phone calls, e-mail messages, and social networking website use (Sledge, 2012). According to the report, more than 37,000 phone calls were monitored in 2011, which was an increase of 47% from the 25,000 calls, which were monitored in 2009 (Sledge, 2012).

The perceived harm caused by the surveillance actions of federal law enforcement agencies may have led to the widespread popular mistrust and lack of confidence in the federal government. The fundamental rights of individuals deserve constitutional protection, which may be perceived by many U.S. citizens as eroding. A search of the literature revealed a robust discussion of the unconstitutionality of the USA Patriot Act (e.g., Banks & Tauber, 2014; Barnett, 2015; Donohue, 2013; Fox, 2013; Husain, 2014; McGowan, 2014; Witmer-Rich, 2014). Still, there seems to be a lack of recent scholarly assessments regarding its effect on public opinion without the influence of framing and manipulation (e.g., Abdolian & Takooshian, 2002; Chong & Druckman, 2010, 2011; Davis & Silver, 2004; Druckman & Leeper, 2012a, 2012b). Based on my review of the literature, no contemporary researchers have addressed the due process concerns of U.S.

citizens pertaining to their individual right to privacy in the wake of the USA Patriot Act, despite the reauthorization under the USA Freedom Act of several controversial provisions in 2015. In conducting this study, I addressed this significant gap existing in the literature.

### **Purpose of the Study**

The purpose of this qualitative study was to explore the perceptions and attitudes of ordinary U.S. citizens regarding the USA Patriot Act's effects on their right to privacy, to determine whether a loss of trust in the federal government had occurred, and identify the factors that contributed to the lack of trust. Data collection consisted of one-on-one interviews with a purposive selection of U.S. citizens. The experiences and perceptions of individuals provided policymakers and legislators increased understanding of public awareness and understanding of the application of the USA Patriot Act.

Results indicated possible social shifts in public trust regarding the federal government's use of electronic surveillance, and whether these opinions remained as the September 11 attacks became more temporally distant (see Davis & Silver, 2004; Huddy & Feldman, 2011). Results will help policymakers determine if U.S. citizens are as willing as Davis and Silver (2004) asserted to waive their constitutional right to privacy in times of crisis. The results of this study may also help legislative stakeholders identify whether the surveillance program should continue in its original form or if changes in policy are warranted. I engaged with Mill's (1859) discussion of the power that can be legitimately exercised by a government of the individual. The results of this study showed a dissonance

between public opinions and the USA Patriot Act, providing guidance for the democratic basis of policymaking and implementation of other laws designed to protect U.S. citizens.

### **Research Questions**

The overarching question I sought to answer in this empirical study was, Are U.S. citizens willing to sacrifice their right to privacy and personal freedom for increased security? If the need for safety and security is a more basic need than for self-actualization and freedom, as stated by Maslow (1954), it may be that individuals who enjoy broad civil liberties in a safe and secure society are willing to sacrifice some limitations on their personal freedom to maintain their way of life (see Abdolian & Takooshian, 2002; Davis & Silver, 2004; Fox, 2013). However, I assumed in the study that the willingness to accept the limitations to freedom imposed by the USA Patriot Act may have decreased as threats to safety have become less pressing. Moreover, my intent was to gain a broader understanding of the underlying factors that have affected U.S. citizens' perceptions of the USA Patriot Act and influenced their willingness to abdicate personal liberties in the face of the USA Patriot Act. The research questions are directly related to my study purpose. I posed the following specific research questions.

RQ1: What are the perceptions of U.S. citizens about the electronic surveillance provisions of the USA Patriot Act, which intended to counteract threats to the national security?

RQ2: What are the perceptions and attitudes of U.S. citizens about the government's need to collect individual electronic data without court approval?

RQ3: What are the perceptions and attitudes of U.S. citizens about the invasion of their privacy as a result of the electronic surveillance measures in the USA Patriot Act?

RQ4: What are the perceptions and attitudes of U.S. citizens about the media influence on their attitudes to support or not support surveillance provisions of the USA Patriot Act?

RQ5: What are the perceptions and attitudes of U.S. citizens about the federal government's argument that the collection of individual data helps law enforcement to better fight against terrorism?

### **Theoretical Framework**

The theoretical framework for my investigation of the publics' perceptions of surveillance provision under the USA Patriot Act was based on a social perspective of public trust, contingent on Rawls' (1999) augmentation of social contract theory, Sax's (1970) and Miller's (1974) conceptions of public trust, and Ajzen's (2011) theory of planned behavior. Individuals, Rawls (1999) argued, should not forgo their individual rights or civil liberties for increased public advantage, such as security. Rawls adjusted social contract theory to posit that individuals should make decisions regarding justice and society irrespective of gender, race, particular talents or disabilities, age, social status, or any other circumstantial factors. Increased interpersonal trust should be positively correlated with a willingness to concede civil liberties to the government because more trusting individuals grant higher allowances to authorities and less concern regarding

misused intrusive government surveillance (Davis & Silver, 2004). I used social contract theory to understand U.S. citizens' perceptions of the USA Patriot Act.

Trust serves as a governance mechanism that limits opportunistic activities and facilitates mechanisms for developing commitment (Morgan & Hunt, 1994). The federal government has declared war on terrorism, but because terrorists assume many guises and operate in many places, the USA Patriot Act is predicated on the assumption that the only way to ensure no terrorist escapes notice is to watch everyone, everywhere (Higgs, 2001). With the inability to focus surveillance on only the most likely suspects, all are regarded by the government as potential terrorists or as potential providers of aid and comfort to them (Higgs, 2001). However, this policy may also affect public trust.

In his public trust doctrine, Sax (1970) argued that in surveilling all without judicial process, the government acted in an enterprise mode. Miller (1974) stated a democratic political system cannot survive for long without the support of a majority of its citizens. When such support wanes, underlying discontent is the result, and the potential for revolutionary alteration of the political and social system is enhanced. In a democracy, such discontent may lead to political and social change or may result in the electoral practice of changing the political system (Miller, 1974). Increasing discontent with current U.S. federal government's electronic surveillance policy has contributed to the growth of political cynicism (Best & McDermott, 2007; Davis & Silver, 2004), but the decline in trusting responses to government may also reflect a higher level of political sophistication and realism among the general public (see Citrin, 1974). Miller and Sax enable an

understanding of the function of discontent within a democracy and its influence on public trust.

Along with the increased theoretical understanding of the underlying function of justice, discontent, and trust, the theory of planned behavior proposed by Ajzen (2011) allows for understanding public behavior related to the USA Patriot Act (see Figure 1). The theory of planned behavior applies to basic belief systems and attitudes, behavioral intentions, and behaviors in different areas of concentration (Ajzen, 2011) as may be illustrated by the surveillance provisions of the USA Patriot Act. Ajzen proposed three types of situations drive human behavior, as shown in Figure 1.

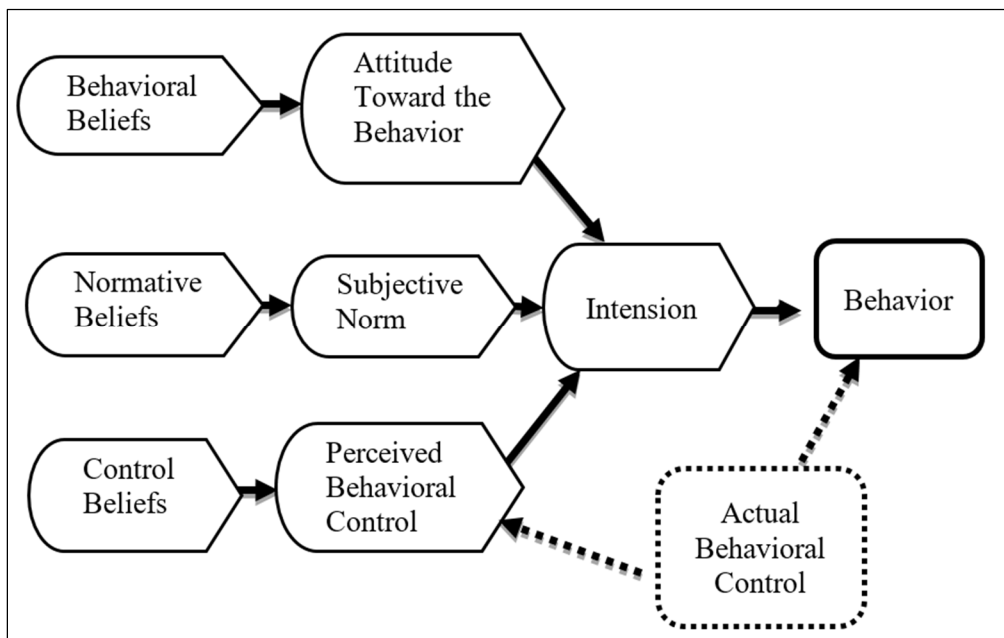


Figure 1. Diagram of the Ajzen theory of behavior. Adapted from “The theory of planned behavior: Reactions and reflections,” by I. Ajzen, 2011, *Psychology and Health*, 26(9), pp. 1113–1127. <https://doi.org/10.1080/08870446.2011.613995>

Ajzen (2011) defined the three belief systems as (a) behavioral belief, wherein all behaviors result in outcomes and the outcomes are subject to evaluation; (b) normative beliefs, wherein humans have certain normal expectations of others and are motivated to comply with these expectations; and (c) control beliefs, wherein beliefs are factors that often assist or reduce the presentation of certain behaviors. Thus, given a sufficient degree of control of a behavior, humans often carry out expectations when opportunity arises. In terms of terrorism, it was predictable that the U.S. federal government would react aggressively toward the threat of terror in the face of the attack on the World Trade Towers according to Ajzen's theory. Understanding the U.S. public's beliefs and the respective motivations through this framework may help to predict actions related to the Patriot Act.

Given the lack of terrorist attacks since September 11, 2001, on U.S. soil, U.S. citizens' perceptions regarding the federal government's use of the surveillance provision of the USA Patriot Act, and the factors that influenced perceptions about the violations of civil liberties under the act, may have changed, including diminished trust beliefs. Events, including the NSA leaks by Edward Snowden in 2013, may have further influenced public perceptions regarding the government surveillance provisions. The USA Patriot Act (see Brown, Halperin, Hayes, Scott, & Vermeulen, 2015; Donohue, 2013; Preibusch, 2015) and other national tragedies, such as the San Bernardino attacks and the Orlando massacre, may have increased people's perceptions of the need for increased national security. In the case of the present study, I examined the willingness of U.S. citizens to trade their civil

liberties for increased security as stated by Davis and Silver (2004), and the extent to which they are willing to do so years after the September 11 terrorist attack. Exploring the perceptions and attitudes of U.S. citizens helps to increase understanding of the factors underlying current opinions and the willingness to abdicate personal civil liberties in the name of the USA Patriot Act.

### **Nature of the Study**

The researcher employed the qualitative method with a generic qualitative approach for the collection and analysis of data. The qualitative research strategy was relevant to the issue under study and the approach to the collection and analysis of the data (Vanderstoep & Johnston, 2009). The qualitative research approach by its nature is dialectical and systemic, meaning it resembles a structured conversation (Creswell, 2012). Important to the generic qualitative approach is the exploration of how people perceive a particular phenomenon (Percy, Kostere, & Kostere, 2015). In generic qualitative research studies, the respondents are asked to describe verbally through interviews or in writing their perceptions of the phenomenon under investigation.

I considered other qualitative methodologies, but they were inappropriate for this study. A case study design was ruled out because the focus of this study was not to seek how or why answers regarding a single case phenomena. Ethnographic research was also not applicable because of its focus on the practice of a particular group or culture.

The rationale for selecting the method was based on the aspiration to explore a lack of understanding of the civil effect of the surveillance provision of the USA Patriot



Act. Denzin and Lincoln (1994) suggested qualitative researchers study things in their natural settings, attempting to make sense of or to interpret the phenomena in terms of the meanings people bring to them. The phenomenon under study was the perceptions and attitudes of people toward the surveillance provisions of the USA Patriot Act. The generic qualitative approach design helped me see how citizens from different backgrounds perceived the surveillance provision of the USA Patriot Act.

### **Definition of Terms**

Throughout the study, the following terminology was used and is defined here for consistency of understanding among readers.

*Electronic communication:* Any wire, radio, electromagnetic, photo-optical, or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications (Crimes and Criminal Procedure, 2011).

*Electronic surveillance:* The acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto (Public Law 95-511, 1978).

*Intercept:* The aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other devices (Crimes and Criminal Procedure, 2011).

*Wiretapping:* The monitoring of phone or Internet conversation by a third party, often secretly (Public Law 107-56, 2001).

### **Assumptions**

Leedy and Ormrod (2010) defined research assumptions as self-evident truths.

Throughout the course of this study, I made several assumptions, including the following list.

1. The research participants in this study meet the criteria of the purposive selection process.
2. The participants are willing to participate and share their experience and answer all questions truthfully.
3. The semistructured interviews provided appropriate detail and data to understand the perceptions of the participants; otherwise, a follow up interview provided additional clarity.
4. All information obtained from the participants will be a consistent and accurate representation of each participant's point of view.
5. The sample size is sufficient to obtain reliable data and to draw conclusion.
6. The interviewer remains unbiased during the interviewing process.
7. The feedback on the pilot study was helpful in informing the study design.

### **Scope and Delimitations**

The study was confined to a subsegment of U.S. citizens. The sample included all ethnicities and U.S. citizens. The intent was to address a lack of understanding regarding perceptions and attitudes of U.S. citizens relating to the USA Patriot Act. The sample size of 20 participants was appropriate for a generic qualitative design. This study involved

purposive sampling, appropriate for this design. Participants were selected based on their knowledge of the surveillance provisions of the USA Patriot Act and U.S. citizenship status.

### **Limitations**

Creswell (2013) contended limitations of a study indicate inherent exceptions, reservations, and qualifications of a study. Therefore, limitations identify potential weaknesses (Triol, 2006). Data from the study may not be characteristic of all of the U.S. populace, particularly those who were not directly attacked on September 11. Researcher biases and perceptual misrepresentations are potential limitations (Yin, 2008). In addition, how the researcher reacts during the interview process to the discussion, or the way in which a question is posed may affect participant responses (Yin, 2008). I analyzed data resulting from the semistructured interviews with open-ended questions using qualitative methods.

The instrument, the interview protocol defined in Chapter 3, and participants were limited in a few ways. The first limitation is the assumption that all data collected were accurate and valid. Subjectivity exists in the form of self-reporting that cannot be eliminated through the interview process. Although the perceptions of the people are real to the individual, there may not be evidence to support them. Nonetheless, the perceptions and attitudes of the participants are important, although they may be susceptible to social desirability bias. Participants may consciously or subconsciously over-report behaviors

that they perceive as more socially acceptable or underreport behaviors they perceive as less acceptable.

### **Significance of the Study**

This study provided information regarding the issue of why public trust in the federal government to protect citizens' right to privacy may have diminished on a national level since the implementation of the USA Patriot Act. Results indicated that although some individuals tend to grant increased trust in authorities in times of perceived crisis, others were not willing to trade civil liberties for increased personal safety and security, as alluded to in a previous study by Davis and Silver (2004). Results also identified the underlying factors that influenced and swayed opinions on giving up civil liberties in the name of the USA Patriot Act, indicating significant division among the U.S. people with regards to their views of civil liberties and the federal government's infringement. Government stakeholders may use these data to better understand their constituents and the resulting perceptions and attitudes from the USA Patriot Act.

From communicating with some of my peers and from listening to some of the media conversation on television, I have discovered that few people discover that they have been subjected to electronic surveillance or that they could become a target for electronic surveillance in the future. In the absence of such knowledge, I believe it was important to conduct this study so that an increased understanding of the public's various contemporary perceptions of the USA Patriot Act were available to stakeholders. Of equal importance, this information could add to academic curricular decisions for higher

education pertaining to the federal government's use of electronic surveillance, which may be beneficial to help the public and public policy stakeholders understand the level of public trust in federal law enforcement use of electronic surveillance.

Furthermore, this study can help to educate service providers by highlighting public perceptions about collection of electronic data and information without due process or consent under the USA Patriot Act. Most people have a sense of trust in federal law enforcement to uphold their constitutional right to privacy as outlined in the Fourth Amendment; however, the behavior of law enforcement since implementation of the surveillance provision of the USA Patriot Act has affected that sense of trust for some U.S. citizens. This effect may suggest the need for changes in public policy to reinstate public trust in the federal government.

### **Summary**

The implementation of Public Law 107-56, the USA Patriot Act, may have affected public trust in the federal government to protect their right to privacy. Although some critics believe the policy goes against what the Constitution permits (Barnett, 2015; Fox, 2013), others believe it is within the constitutional boundaries (Baker & Kavanagh, 2005). Previous researchers have determined September 11 affected the public's perceptions of their rights (Abdolian & Takooshian, 2002; Davis & Silver, 2004; Huddy & Feldman, 2011), although these perceptions may have changed as proximity to the event wanes.

This qualitative study provided an understanding of U.S. citizens' opinions regarding the federal government's use of the surveillance provisions of the USA Patriot Act. The intent was to explore how people perceive whether the law crosses the line into an illegal action of conducting electronic surveillance without court approval and due process. Using the method of data collection and analysis helped me to examine the human experience through the descriptions provided by the people involved (Donalek, 2004). Results from this research can be shared through publications and in public educational forums to increase awareness about the perceptions and attitudes of U.S. citizens in the wake of the USA Patriot Act.

## Chapter 2: Literature Review

### **Introduction**

The purpose of this qualitative study was to explore the perceptions and attitudes of ordinary U.S. citizens regarding the USA Patriot Act's effects on their right to privacy, to determine whether a loss of trust in the federal government occurred, and to identify the factors that contributed to the lack of trust. Through my exploration of these perceptions, researchers may gain an updated understanding of how U.S. citizens perceive the federal government's use of electronic surveillance to monitor their daily communication. Previous literature regarding this topic (see Abdolian & Takooshian, 2002; Davis & Silver, 2004) has become dated, and findings may have changed considering the time that has elapsed since the September 11 attacks. Although many researchers have explored the opinions of the citizenry regarding the implications of the USA Patriot Act (see Best & McDermott, 2007; Chong & Druckman, 2010, 2011; Druckman & Leeper, 2012a, 2012b), their researcher tended to be based on opinion poll data rather than organized into themes to uncover the underlying factors that influenced public opinions.

Although critics have decried the effect of the surveillance provisions of the USA Patriot Act on the basic freedoms of U.S. citizens and claim the act has infringed on civil liberties (see Chang, 2001; Cole & Dempsey, 2006; Milaj & Mifsud Bonnici, 2014; Romano, 2012; Witmer-Rich, 2014), a review of the literature revealed little is known pertaining to contemporary public perceptions regarding the surveillance provisions afforded to the U.S. federal government under the USA Patriot Act and the themes

organizing the perceptions. What research does exist relates to the manipulation of public opinion on the USA Patriot Act through the use of framing (see Chong & Druckman, 2010, 2011; Druckman & Leeper, 2012a, 2012b). The present study may help to determine if the 2015 changes to the USA Patriot Act, namely the amendment of Section 215, are sufficient, or if additional changes are required to secure U.S. citizens' rights. The results reflect possible social shifts in public trust toward the federal government use of electronic surveillance.

The first section of the chapter includes information on the literature search strategy I used. The second section includes an overview of the theoretical foundation upon which this study was based. In the third section, I review previous literature on the surveillance provision of the USA Patriot Act. The review incorporates peer-reviewed journal articles that reflect historical themes and thinking about public trust and federal government surveillance from a constitutional perspective. This section includes a discussion of electronic surveillance, in which I define the concept and provide a historical overview and a contemporary discussion of surveillance practices. Following this content is information on four controversial provisions of the USA Patriot Act. This section of the chapter ends with a discussion of court rulings and academic discussions concerning the constitutionality of the USA Patriot Act. Finally, the chapter concludes with a discussion of previous research regarding public opinion and the USA Patriot Act, and the deficiencies in the data that necessitated the present research, followed by a concise summary of the literature review.



### **Literature Search Strategy**

I accessed scholarly books, scholarly articles, and research using online Walden University Library resources. Additional online sites included the National Defense University Library, Department of Homeland Security digital library, the U.S. Army Command and Staff College Combined Arms Research digital library, the Central Intelligence library, the JSTOR digital library via Walden University digital library, and the Library of Congress Law Library. Other organizational online resources examined included publications and articles from *New York Times*, *Information Management Journal*, *Yale Law Journal*, *Business Journal*, the National Security Agency Research Center, U.S. Department of Justice Resources Center, *Harvard Business Journal*, *Industrial Relations Journal*, and *Journal of Contemporary Criminal Justice*. I also searched relevant materials at the Federal Bureau of Investigation Resource Center, the Department of Defense Publication Center, the Department of State Policy, the National Security Council, the Department of Transportation Research, the U.S. Senate Committee on Judiciary Resource Center, the Army Research Institute for Behavioral and Social Science, and the Defense Intelligence Agency.

I conducted additional research at the local organizational websites of the Alexandria Virginia, District of Columbia Community Relations, the National Counter Terrorism Center, and the Islamic Community Center of Northern Virginia, reviewed for information pertaining to detention and surveillance activity following implementation of the USA Patriot Act. Additional databases searched included ABI/INFORM Complete,

Lexis-Nexis Academic, LegalTrac, Academic Search Complete/Premier, EBSCO HOST, Sage Journals, SocINDEX, ERIC, ProQuest, and ProQuest Dissertations and Theses @Walden University.

Google Scholar provided some pertinent information on literature pertaining to this study. Bibliographic and Reference listings were accessed from appropriate titles discovered during the review process. This review process yielded approximately 30 scholarly articles published within the past 5 years pertaining to USA Patriot Act, which were included in this literature review. Topic keywords used in the search included *terrorism, electronic surveillance, NSA secret surveillance, U.S. intelligence sharing, FISA, USA Patriot Act, U.S. terrorist attack, September 11, U.S. domestic surveillance, terrorism and civil liberty, Pearl Harbor attack, U.S. internment camp, Arab U.S. and September 11, ACLU civil liberty, Olmstead v. United States, Katz v. United States, CIA domestic spying, and Bush surveillance policy.*

### **Theoretical Foundation**

The theoretical foundation of this study was based on a social perspective of public trust (Lewis & Weigert, 1985). Lewis and Weigert (1985) proposed that trust, which underlies the social order, is comprised of cognitive and emotional aspects. Morgan and Hunt (1994) conceptualized trust as existing when one party has confidence in the exchange partner's reliability and integrity. This definition draws on Rotter's (1967) classic view that trust is a generalized expectancy held by an individual that the word of another can be relied on. The literature of trust suggests confidence on the part of the

trusting party results from the firm belief that the trustworthy party is reliable and has qualities including high integrity, consistency, honesty, fairness, responsibility, helpfulness, and benevolence (Larzelere & Huston, 1980; Rotter, 1971).

Previous theorists who have applied the concept of trust to the government have primarily done so in terms of the public trust doctrine, a policy that determines the government should protect certain resources that the public owns (Sun, 2011). Sax (1970) stated the public trust doctrine should not be restricted to its conventional role in protecting the right of commerce, but rather to the doctrine of a powerful legal tool for people to protect their rights (Sax, 1970). In the federal government's electronic surveillance program, the social perspective of public trust is based on the notion that certain rights will be protected. This notion could be correlated with one's willingness to concede civil liberties for increased protection. Individuals in times of crisis tend to grant more trust to authorities and may be less concerned about the intrusiveness that could affect or misuse that trust (Davis & Silver, 2004).

President Ronald Reagan once noted trust without verification serves as the mechanism for opportunistic activities, such as the federal government conducting electronic surveillance of private citizens without court approval (Morgan & Hunt, 1994). Miller (1974) evoked the language of trust as a corporate balance sheet, in that the cumulative outcome of exchanges between political authorities on the one hand and citizens on the other constitute trust. Political elites produce policies; in exchange, they receive trust from citizens satisfied with those policies and cynicism from those who are

disappointed. Miller's findings confirm the hypothesis that the higher the perceived discrepancy, the less likely one is to express a generalized sense of trust in government (Miller, 1974). Hetherington (1998) also conveyed low levels of trust makes it more difficult for the government to succeed.

The response to the terrorist attack on September 11, 2001 revealed a contestability of rights in which the commitment to civil liberties collided with other cherished values of U.S. citizens (Davis & Silver, 2004). The issue of trust not only parallels how individuals make normal civil liberties judgments, but also accounts for why support for abstract democratic norms is difficult to apply in practice (Davis & Silver, 2004). Because the assurance of liberty to some may be bane for the federal government's provision of protection of its citizens, the support for civil liberties should not be conceptualized in isolation from other values, such as trust (Davis & Silver, 2004). Individuals, Rawls (1999) argued, should not forgo their individual rights or civil liberties for increased public advantage, such as security. Rawls' position regarding social contract theory uncovers the role of trust in the nature of justice and what it requires of individuals and social institutions.

Liberty, according to McClosky and Brill (1985), is bedeviled by the need to strike a proper balance between freedom and control. This balance must be accomplished to the extent that the support for civil liberties is most reasonably understood as contingent on the relevance of other important values, as opposed to being the absolute measurement. Approaches need to encompass the continual play of competing forces that impinge on

civil liberties judgments (McClosky & Brill, 1985). Restrictions imposed on liberty could lead to the natural sentiment of pain, more or less, and independent of an infinite variety of inconveniences and sufferings that could depend on the particular manner of the restriction (Bentham, 1864). An increase of discontent with current federal government electronic surveillance policy would undoubtedly contribute to the growth of political cynicism, but the decline in trusting responses to government may also reflect a higher level of political sophistication and realism among the general public (Citrin, 1974).

The existence of a substantial degree of political discontent within a society at any one point in time does not necessarily signify a decaying of the social and political order. On the contrary, in a democracy, such discontent may lead to political and social change or may result in the electoral practice of changing the political system (Miller, 1974). Miller (1974) argued a democratic political system cannot survive for long without the support of a majority of its citizens. When such support wanes, underlying discontent is the result, and the potential for revolutionary alteration of the political social system is enhanced (Miller, 1974). Such discontent may be present regarding the infringement on civil liberties afforded to the federal government by the USA Patriot Act.

Analyzing U.S. National Election Survey and the National Opinion Research Center's General Social Survey data from 2000–2002, Huddy and Feldman (2011) concluded the September 11 attacks fundamentally altered the way in which U.S. citizens acted politically, but that alteration was dependent on the individual's experience with the terrorist attacks. Huddy and Feldman noted those individuals who felt the most threatened

by terrorist attacks were more likely to endorse a strong national security policy and to express anger or disgust for terrorists. Conversely, individuals who were directly affected by the September 11 attacks reported more anxiety regarding terrorism, which translated to decreased support for military action overseas. Those individuals who reported insecurity and perceived high future threats of terrorism post-September 11 supported strong foreign and domestic national security policies. Thus, Huddy and Feldman's research suggested increased feelings of threat resulted in increased trust and support for the federal government.

Huddy and Feldman's (2011) research may have implications for the state of the literature regarding surveillance under the USA Patriot Act, which is primarily comprised of opinion polls conducted in close proximity to the September 11 attacks (Abdolian & Takooshian, 2002; Best & McDermott, 2007; Davis & Silver, 2004). Lessened proximity to these attacks and perceptions of threat may have influenced public opinion to be less supportive of surveillance procedures that might infringe on civil liberties, resulting in decreased trust in the federal government. The following sections detail the definition of electronic surveillance and an overview of the legal precedence that has been set regarding this aspect of the USA Patriot Act.

### **Electronic Surveillance Defined**

Electronic surveillance, as defined by Public Law 95-511 (1978), refers to the acquisition of information by electronic, mechanical, or other surveillance devices. It also refers to the acquisition of information through any wire or radio communications sent by

or intended to be received by a particular person. Marx (2004) defined surveillance as scrutiny through technical means to extract or create personal or group data, whether from individuals or contexts. Marx's example included (a) video cameras; (b) computer matching, profiling, and data mining; (c) work, computer, and electronic location monitoring; (d) DNA analysis; (e) drug tests; (f) brain scans for lie detection; (g) various self-administered tests; and (h) thermal or other forms of imaging to reveal what is behind walls and enclosures.

Moor (2004) declared the practice of surveillance is common within the law enforcement community because of its use to assist in the monitoring of criminal activities. However, the implementation of electronic surveillance may violate the presumption of innocence afforded within legislative processes, thereby undermining the effectiveness of those processes (Milaj & Mifsud Bonnici, 2014). Surveillance goes far beyond its popular association with crime and national security; it occurs in varying degrees within many social systems, including the monitoring of people in the workplace.

### **Current Government Electronic Surveillance**

When the Foreign Intelligence Surveillance Act (FISA) was signed into law in 1978, its intent was to clarify how the government would execute its electronic surveillance policy (Taipale, 2007; Tsen Lee, 2006). The FISA legislation was implemented because of the congressional investigation into the federal surveillance program conducted during the 1960s under the auspice of national security (Public Law 95-511, 1978). It set out procedures for physical and electronic surveillance and collection

of foreign intelligence information (Public Law 95-511, 1978). FISA allowed for congressional and judicial oversight of foreign intelligence surveillance activities while maintaining the secrecy to effectively monitor national security threat (Public Law 95-511, 1978).

Tsen Lee (2006) believed the prescribed procedures for requesting judicial authorization for electronic surveillance and the physical search of individuals engaged in espionage or international terrorism against the U.S. were sufficient to combat threats against America (Tsen Lee, 2006). The FISA legislation required cooperation between the executive and judicial branches of the federal government. To maintain balance, Congress enacted the FISA Court (Taipale, 2007).

The Court provided judicial oversight to ensure the implementation of electronic surveillance within the guideline of the law. Any authorization of electronic surveillance by the Attorney General must be reported to the FISA court within 72 hours of its execution (Taipale, 2007). Fein (2007) explained the 72-hour buffer allows the President to execute his executive power during times of emergency when credible evidence reflects a threat to the country's national security. Following the September 11 attack, this was evident when President George W. Bush used his executive power to conduct electronic surveillance on suspected terrorists and terrorist collaborators (Fein, 2007).

The case of *Mayfield v. the United States*, Civil No. 04-1427-AA in the District Court of Oregon in 2007, as mentioned previously in Chapter 1, is another significant case that challenged the constitutionality of the Fourth Amendment right to due process under



the surveillance program of the USA Patriot Act (Civil No. 04-1427-AA, 2007). In this case, the federal court ruled that the surveillance provision of the USA Patriot Act was unconstitutional (Civ No. 04-1427-AA, 2007). The ruling was based on the violation of Mayfield's Fourth Amendment right to due process, which required law enforcement to have reasonable grounds to believe that the law was being violated (Civ No. 04-1427-AA, 2007). The court ruled the government must be subject to meaningful judicial review to maintain the constitutional principle of checks and balances, and separation of powers (Neumeister, 2007). Civil liberties and personal security were not necessarily at odds, but the base of contention and trust rest on the effort of government and law enforcement agencies' commitment to maintaining order or providing security (Davis & Silver, 2004).

Husain (2014) noted wiretapping in the United States and Pakistan has recently changed to accommodate for the war on terrorism. Specifically, Husain discussed various issues surrounding the surveillance program by examining and comparing Pakistan's Investigation Fair Trial Act of 2013 and the USA Patriot Act and the FISA. Although FISA gave the U.S. judiciary its power to grant warrants for wiretaps conducted by intelligence agencies, the USA Patriot Act altered wiretapping requirements and essentially limited the courts ability to supervise surveillance conducted by government entities (Husain, 2014). The Fair Trial Act of Pakistan is similar to that of the USA Patriot Act and was subject to the same criticism of disregard for the right to its citizens through encroachment with the use of its surveillance program (Husain, 2014). Husain concluded that although rules must be followed, both U.S. and Pakistan argued neither constitutional

nor humanitarian laws should apply to terrorism suspects (Husain, 2014). If the surveillance program is essential, as stated by both countries, then changes should be made so that it complies with the law.

Similar to its role in the 1960s and 1970s, following the September 11 attack, the NSA became the principal instrument of the President to conduct electronic surveillance on telephone conversations of certain people of interest within and outside the United States (Pfiffner, 2008). Working under the auspices of the USA Patriot Act, the NSA was able to use their most advanced technology to conduct warrantless electronic surveillance in secret on U.S. citizens without their knowledge (Pfiffner, 2008). This surveillance was possible because of the changes in Section 213 of the USA Patriot Act that allowed law enforcement to delay the notice of execution of the warrant that was mandated prior to September 11 under the FISA. Section 213 allowed law enforcement to delay with respect to the issuance of a warrant or court order to search for and seize property or material that constitutes evidence of a criminal offense in violation of U.S. laws, or the warrant that prohibits the seizure of any tangible property, any wire, or electronic communication (Public Law 107-56, 2001). The delay notification rule is significant for the executive branch because it allows federal law enforcement to act without delay to conduct electronic surveillance on suspected terrorists without a court order. Further discussion of the controversial provisions of the USA Patriot Act is provided later in the chapter.

Romano (2012) sought to trace the association between national security and democracy in the official discourse in the United States following the September 11

attacks. Romano stated the USA Patriot Act fostered an umbrella law that accounts for the diminishing of civil liberties in the United States with the principle aim to condemn any type of action associated with national or international terrorism. Although it was designed not to discriminate, the act targeted immigrants who were Muslims, Arabs, and U.S. citizens who fell within the scope of the act (Romano, 2012). Specifically, the public's perception was that without judicial intervention, the President's power gains unnecessary strength to conduct communication surveillance of domestic and international parties suspected of holding ties with Al-Qaeda or other identified terrorist organizations (Cole & Wedgwood, 2006). Resistance by U.S. citizens toward enforcing these types of rules, Romano (2012) argued, demonstrated the U.S. public did not uniformly agree with the false dichotomy proposed by the government in asserting the necessity to diminish civil liberties to guarantee their security.

This tension would later be evidenced in the public response to information regarding NSA surveillance procedures (Preibusch, 2015). Reporting by the media about NSA secret domestic surveillance programs, and information gained from Edward Snowden in what became known as the NSA leaks, fostered debates among the U.S. populace about the executive branch's use of power (Preibusch, 2015). Pfiffner (2008) stated the *New York Times* was one of the primary voices that began expressing concerns regarding the federal government surveillance program. In addition to NSA surveillance programs, Deflem and Dilks (2008) emphasized debates also raged pertaining to the

expanded opportunities afforded to the U.S. intelligence and law enforcement community under provisions of the USA Patriot Act.

Opposition to the surveillance provisions of the USA Patriot Act resulted in intense criticism and citizen-led protest movements across the United States (Herman, 2006). In 2004, a federal judge struck down a key surveillance provision of the USA Patriot Act, ruling that it violated the U.S. Constitution by giving federal authorities unchecked powers to obtain private information (Swartz, 2004). The district judge was the first federal judge to rule the antiterrorism bill unconstitutional. This civil case pitting personal liberties against national security was brought by the ACLU on behalf of an Internet provider whose name was kept secret by the court (Swartz, 2004). When the USA Today reported in May 2006 that the NSA kept a record log of billions of domestic calls, a program created following September 11, the announcement triggered a judicial hearing by the Senate to find out how the program operated without court approval (Deflem & Dilks, 2008). A lawsuit filed in California by the Electronic Frontier Foundation against the telephone companies AT&T and Verizon accused them of providing NSA with unfettered access to customer Internet and phone records, which they believed violated the Fourth Amendment as well as the Federal wiretap and communication law (Deflem & Dilks, 2008).

In 2008, the ACLU filed a lawsuit challenging the constitutionality of the FISA Amendments Act of 1978, which authorized the wireless tapping program (Glover, 2002). The ACLU was concerned about the amount of power being given to the executive branch

of the federal government, which they believed violated the constitutionally framed mandate under the FISA guidelines implemented for judicial and congressional oversight (Glover, 2002). The ACLU questioned the shift in power towards the executive branch of the federal government in times of emergencies. In each U.S. generation, there has existed some form of tug-of-war between the need for openness and the need to suppress. The framers of the Constitution knew that without some form of control, well-intentioned actions could quickly lead to abuse of power (Leone & Arig, 2003).

Ryan and Falvey (2012) discussed the shift away from devices and into the cloud brings with it a shift in reliance on one's own ability to keep things safe to the ability of companies and organizations as trustees to keep their information safe. Consumer use of trusted third parties, however, generates the possibility of their data being susceptible to possible government seizure or unwarranted search (Ryan & Falvey, 2012). Regulation, such as the U.S. Patriot Act, allows for the access of certain types of data regardless of what country it is stored in (Ryan & Falvey, 2012). Because U.S. law, regardless of where the data is stored, governs the company storing the data, the federal government can require any company to turned in data to the government for inspection (Ryan & Falvey, 2012). Accessing data stored on the cloud servers of U.S. providers, regardless of where those servers are located, demonstrates how national security may trump personal privacy in the interest of fighting crime and terrorism.

Writing about electronic video surveillance introduced in New York City per the USA Patriot Act, Greer (2012) noted several issues with broad surveillance programs.

Included in these issues were the lack of efficacy in preventing and solving crime; lack of a legal system of accountability; and infringement on privacy rights of the U.S. public (Greer, 2012). Greer noted for all invasive surveillance programs, it was essential to include some kind of oversight to prevent the infringement of civil liberties and the unequal distribution of this surveillance based on prejudices, such as race or religion. These objections suggested citizens have at least a partial legal right to protection from biased surveillance.

Alternatively, the Bush administration passed four key provisions that suggested the federal government had a legal right to surveillance of all U.S. citizens, outlined in the USA Patriot Act. The four provisions included Section 215, which authorized government access to individual records; Section 505, which allows government to circumvent the judicial oversight when collecting information from third party custodians; Section 206, which allows the FISA court to authorize intercepts on any phone or computers that the target may use; and Section 218, which expanded the power of the government use of FISA warrants to conduct electronic surveillance (Herman, 2006). The next section will provide a more detailed reading of the four controversial provisions of the USA Patriot Act that caused concerns among the U.S. public.

#### **Four Controversial Provisions of the USA Patriot Act**

The USA Patriot Act was enacted with minimal Congressional deliberation. It covered more than 350 different subject areas, as well as 40 different agencies (McGuire, 2013). The act is considered one of the largest antiterrorism legislations ever tabled in the

United States. McGuire (2013) argued that although issues are generally debated for months before being put to a vote, the USA Patriot Act was pushed through Congress in less than a month because of deference theory, which posits that during a crisis, members of the House and Senate should defer to the executive. As a result, no final hearings occurred to allow dissenters to voice their concerns and no committee reports existed on the implications of the legislation (McGuire, 2013; Sweeny, 2014). Moreover, as Sweeny (2014) noted, the USA Patriot Act has overall remained stable and unrevised, despite dissension from academics, legislators, and the media. Specifically, in the time that has elapsed since its passage, four provisions have been determined to be controversial, as reviewed below.

**Section 215.** This section authorized the federal government to have access to individual records and other items. Herman (2006), a professor of law at the Brooklyn law school, highlighted Section 215 authorized the government to acquire, under court order, records and tangible items from custodians such as educational and financial institutions, Internet service providers, and indignant librarians. This policy was in place before September 11; it dates to the Oklahoma City domestic terrorist act, and the World Trade Center bombing in 1995 (Herman, 2006).

Under this policy, the government is allowed to obtain travel records of individuals to ascertain whether they have engaged in espionage or dealing with outside agents (USA Patriot Act, 2001). Section 215 also eliminated the requirement for the government to demonstrate individualized suspicion. Herman (2006) noted FISA's predicate showing

that the target was an agent of a foreign power was insufficient to meet the probable cause requirement, but it did provide an opportunity for a reviewing court to determine whether some convincing reason existed for the federal government to single out a target other than a foreign power (Herman, 2006). Under Section 215, the executive branch allowed federal law enforcement to circumvent the original requirements of FISA (USA Patriot Act, 2001).

To meet the requirements for probable cause, the affiant, who could be a highly placed designee of the director of the FBI, need only certify that he or she believed the information was relevant to an investigation (Herman, 2006; USA Patriot Act, 2001). Section 215 also contains a gag order prohibiting individuals or organizations from disclosing information about the federal government's interest in seeking information. The gag order prevented the custodians from informing the target of an investigation about the data collection by the government and from consulting with counsel (USA Patriot Act, 2001). The custodian cannot ask the court to lift the prohibition or report to the inspector general or the press that the government has made such request.

The federal government's position to enforce such a strong policy did not sit well with critics. They argued that Section 215 violates the Fourth Amendment principles of antecedent review by not requiring the court to find individualized suspicion before issuing the order (O'Donnell, 2005). The federal government argued Section 215 provides more process than constitutionally necessary. In the case of *Doe and ACLU v. Ashcroft* Case No. 04 Civ 2614 (VM; 2004), the Court concluded the compulsory, secret, and



unreviewable production of information required by the FBI violates the Fourth Amendment and the nondisclosure provision violates the First Amendment (No. 04 Civ 2614 [VM], 2004). If the Fourth Amendment does not apply, there is no requirement for prior judicial approval or showing of individualized suspicion.

In 2015, upon the expiration of provisions of the USA Patriot Act, Section 215 was amended based on the USA Freedom Act (USA Freedom Act, 2015). The USA Freedom Act removed the federal government's ability to collect bulk data (USA Freedom Act, 2015). The USA Freedom Act reauthorized all other controversial provisions of the USA Patriot Act, to be discussed in the following sections.

**Section 505.** This section allowed the federal government to circumvent judicial oversight when collecting information from third party custodians (Herman, 2006). Section 505 allowed the government to obtain records from communication providers by issuing administrative subpoenas, known as the 'national security letter,' to seek various types of information about the customers of communications providers. These custodians include telephone companies, Internet service providers, and libraries with computer terminals (Herman, 2006).

The USA Patriot Act eliminated the previous requirements for law enforcement to show that a suspected target was a member of a foreign power or an agent of a foreign power (Herman, 2006). The government only needed to certify that information relevant to a terrorism investigation may be obtained. Section 505 also addressed the nondisclosure provision; it is more broadly worded than the gag order of Section 215. The nondisclosure

provision prohibits the provider from disclosing to its client that the FBI has sought or obtained records pursuant to that authority (Herman, 2006).

Critics of Section 505 had a similar argument with the critics of Section 215. The critics argued the judicial role was inadequate, and the gag order was overly restrictive. The federal government defended its administrative subpoena power and sought to expand its use by explaining the national security letter is comparable to a grand jury subpoena (Herman, 2006). In November 2005, the Washington Post disclosed the rapidly growing practice of domestic spying by the FBI under the provisions of the USA Patriot Act (Deflem & Dilks, 2008). The public learned from the news article that the FBI secretly listened in on private telephone calls and reviewed financial records of suspected foreign agents (Deflem & Dilks, 2008). This spying included U.S. citizens and residents not suspected of any wrongdoing.

The first lawsuit challenging Section 505 was by an Internet service provider who received the national security letter. Instead of complying with the letter as all other recipients had, this provider consulted counsel despite the gag order (Herman, 2006). The ACLU filed a John Doe complaint claiming on behalf of the service provider that Section 505 of the USA Patriot Act violated the First, Fourth, and Fifth Amendments (Siegel, 2004). The secrecy surrounding the implementation of the national security letter meant the targeted subscriber, whose records were being sought, did not participate in the litigation.

The federal government stated the court should find Section 505 constitutional because the national security letter recipient had the right to consult with counsel (Herman, 2006). Because the recipient had not been informed that counsel could be consulted or that any form of judicial review might be available, the court rejected the government's argument (Herman, 2006). The court found the statute in the manner of its application that it was being applied and exerted an undue coercive effect on the national security letter recipients (Herman, 2006).

Focusing on the statute as applied, the court did not address the issue of whether the statute was a violation of the Fourth Amendment. Instead, it found that Section 505 could be used in a manner that infringed on the First Amendment rights of subscribers and that the board nondisclosure provision of Section 505 violated the First Amendment (Herman, 2006). This could be a significant setback for the federal government in future cases.

**Section 218.** Section 218 expanded the power of the federal government's use of FISA warrants to conduct electronic surveillance (USA Patriot Act, 2001). The actual provision in the USA Patriot Act enigmatically provides two specified sections of FISA (Herman, 2006). This seemingly trivial semantic amendment increased the government's authority to conduct electronic surveillance. The government needs only to persuade the FISA court that there is probable cause to believe the target is an agent of a foreign power, rather than persuading a regular court that there is probable cause to believe the target is involved in criminal activity (Herman, 2006).

**Section 206.** Section 206 authorizes the FISA court to authorize intercepts on any phone or computers that the target may use. This authority for roving wiretaps means that the police no longer need to list the phone numbers to be tapped: the police can listen to any phone that a person may use (Chemerinsky, 2004). Thus, law enforcement and federal agencies can listen to all phones where a person works, or shops, or visits. The argument for roving wiretaps is that suspected terrorists might repeatedly change cell phones.

The problem with this argument is that the federal government, by definition, cannot listen to a phone until they know that it exists (Chemerinsky, 2004). After the number is known, officials can add new numbers to an existing warrant. The supporting argument for adding new numbers is the amount of time it previously took to add new numbers to existing warrants: the FBI believed the process took too long (Chemerinsky, 2004). In contrast, Whitehead and Aden (2002) argued for faster procedures, not roving wiretaps. The federal government's action, these authors argued, has resulted in what can be viewed as the erosion of liberties. The increase of power for the federal government is not only reshaping the policies of national security, but also challenging the values that U.S. citizens have always placed on civil liberties (Whitehead & Aden, 2002).

Such provisions have been one of the federal government's most effective tools in its effort to fight against terrorism. The drawback has been that the provisions have inflamed the public and critics who attack the breadth of the provisions on the basis that not only could it lead to privacy violations, but it could also lead to guilt by association for anyone who comes into casual contact with the targeted suspect. After viewing the valid

arguments of both sides, it is clear these provisions help to enhance information sharing between law enforcement and the intelligence community, although they also cause for concern about privacy violations.

Although these provisions were controversial among academics and in courts, polls released immediately after the September 11 attacks suggested the general public supported the provisions of the USA Patriot Act (Davis & Silver, 2004). As a result, researchers examined how the context of September 11 affected views of civil liberties (Abdolian & Takooshian, 2002; Davis & Silver, 2004; Gandy, 2003). Researchers continued to highlight the issues with the USA Patriot Act's constitutionality, but in more recent studies, researchers have not examined the public's opinion of the USA Patriot Act to confirm how context affects civil liberties. The following two sections outline the rulings regarding the USA Patriot Act, discussions of the constitutionality of government acts committed under the act, and public opinion regarding that act.

### **Rulings and Constitutionality Under USA Patriot Act**

After passage of the USA Patriot Act, the judicial branch was charged with interpreting and upholding the act. Using logistic regression of case-based and political variables, Banks and Tauber (2014) analyzed federal court decisions in 108 USA Patriot Act cases ruled on between September 12, 2001 and January 31, 2011. Independent case-based variables included published opinion, terrorism threat, surveillance, funding, and immigration. Political variables included the judge's ideology, the government's partisan ideology, the Senate Intelligence Committee's ideology, interest group participation,

public opinion, and region. The dependent variable was case outcome. Results suggested judges defer to the government in 61.1% of cases, specifically adhering to the deference during wartime model. In other words, judges were more likely to uphold the controversial provisions of the USA Patriot Act rather than overturn them.

Though Banks and Tauber (2014) determined most judges had a liberal ideology, the Senate Intelligence Committee and the federal government had a more conservative overall ideology, which because of deference, resulted in more conservative, pro-security rulings. Significant case-based variables included terrorism cases (4.6 times more likely to result in complete deference to the government); immigration cases (4.8 times more likely to result in complete deference to the government); and published cases (0.44 times as likely as, or 56% less likely to result in complete deference to the government). Significant political variables included special interest groups' involvement (75% less likely to result in complete deference to the government) and the government ideology (for each 1-point increase in conservative nature of the Senate and the President, an increase in the likelihood of a deferential decision of by a factor of 8.7). Thus, Banks and Tauber noted judges' rulings in USA Patriot Act cases were disinclined to rule in the favor of civil rights and liberties after the September 11 attacks. One such example of the uneven balance between civil liberties is shown in the electronic surveillance provisions of the USA Patriot Act (Fein, 2007).

Reviewing policy in European Union countries, Milaj and Mifsud Bonnici (2014) noted mass electronic surveillance interferes with, and violates, the presumption of

innocence. When all citizens are open to being surveilled under policies like the USA Patriot Act, Milaj and Mifsud Bonnici suggested citizens may perceive that they are guilty until proven innocent by surveillance. As a result, mass surveillance may interfere with public perceptions of justice and interfere with legal processes, specifically regarding the admission of evidence from surveillance (Milaj & Mifsud Bonnici, 2014). Milaj and Mifsud Bonnici's position relates to that of the present study, which suggests public trust in the government may be diminished by the implementation of mass surveillance strategies, such as those implemented by the USA Patriot Act.

To address government secrecy regarding surveillance practices, Setty (2015) examined the nature and effect of national security-related surveillance and accountability measures constructed in the United States, United Kingdom, and India since the terrorist attacks on September 11, 2001. Specifically, Setty questioned whether accountability of government abuses in this area exists in an effective form, or if governments have constructed a post-September 11 legal architecture with regards to surveillance that engenders excessive secrecy and renders accountability mechanisms meaningless (Setty, 2015). Setty stated decision-making by the Bush and Obama administrations has been characterized by excessive secrecy that stymies most efforts to hold the government accountable for its abuses, particularly in the area of government surveillance. Meaningful oversight, Setty explained, has seemed impossible without the trigger of leaked information as in the case of Edward Snowden. The executive branch has consistently defended the legality and efficacy of these surveillance programs, insisting that the

administration act in accordance within the rules of law and that secrecy has been necessary, and that leaks by government insiders have been counterproductive (Setty, 2015). If judicial oversight is put in place to watch for privacy violations, Setty stated it would incentivize increased self-policing among the members of the intelligence community (Setty, 2015). The potential violation of constitutional privileges may decrease individuals' likelihoods to trust in the government as a protector of constitutional rights.

Assessing the constitutionality of the "sneak-and-peek" statute, Witmer-Rich (2014) examined the cost and benefits of covert searching with delayed notice search warrants, as well as the concepts of necessity and exigent circumstances, surveying their constitutional origins and differences and establishing a conceptual framework for evaluating the sneak-and-peek statute. Witmer-Rich stated covert searches and seizures must be effectively regulated because they impose serious privacy intrusions. Covert government searches of homes and business intrude into the heart of the Fourth Amendment protection of the privacy and sanctity of the home (Witmer-Rich, 2014). Witmer-Rich proposed the practice of covert searching diminished the privacy of the entire community because no one knows when or if the government has searched their private spaces. Thus, Witmer-Rich suggested the abolishment of covert searching, or its allowance only in select circumstances under careful oversight.

Fox (2013) also highlighted the discrepancy between the USA Patriot Act and the U.S. Constitution and proposed for changes to, rather than recall of, the USA Patriot Act. Instead of bolstering and unifying America into patriotic solidarity, Fox stated the Patriot



Act has resulted in political backlash, societal stratification, and created a rift within the academic community. By removing judicial oversight from the prosecutorial arena, Fox claimed the executive branch of the U.S. federal government has effectively appointed itself judge, jury, and executioner in matters pertaining to national security. Fox noted there would be longstanding consequences of government overreach if an appropriate amendment to the Patriot Act is not enacted to restore the sanctity of U.S. civil liberty. Fox recommend a bipartisan transformation of the USA Patriot Act to strengthen its intended purpose, including distinct security enhancement at airports, continued installment of on-board air marshals, and heightened scrutiny of tourist visas.

### **NSA Leaks and the Constitutionality of the USA Patriot Act**

Of particular notice in the recent literature regarding the USA Patriot Act are the NSA data seizures (Brown et al., 2015; Donohue, 2013). Below, the primary opinions against NSA data collection are reviewed as a sample of the outcry, which may have further damaged U.S. citizens' trust in the federal government regarding surveillance practices.

Barnett (2015) focused on NSA data collection programs and constitutional cases that challenged the collection of individual electronic data from private companies without due process to examine the constitutionality of these practices. According to Barnett, the public has a reasonable expectation that their electronic data stored by third-party companies is safe from government agencies, absent a warrant. Thus, Barnett concluded the data collection programs were not authorized by the statute under Section 215 of the

Foreign Intelligence and Surveillance Act, on which the government based its claim of legal authority. Specifically, Barnett noted the Foreign Intelligence Surveillance Act did not authorize a sweeping warrant for all communications data; therefore, the seizures were unconstitutional because of the lack of a warrant. Moreover, Barnett suggested the power to search all communication or all third-party records is a power too large to repose in the government's hands. Barnett therefore contended that all the bulk data seizure programs are both illegal under Section 215 of the USA Patriot Act and unconstitutional under the Fourth Amendment.

Similarly, Donohue (2013) protested against the NSA practices because of violations of the Fourth Amendment. According to Donohue, evolving technology has raised the question of how best to protect the privacy of U.S. persons in the context of digitization and international communication flows. Specifically, the use of information obtained through national security surveillance for law enforcement purposes, such as criminal prosecution, alters what protections are afforded to U.S. citizens under the Fourth Amendment, including the requirement of a warrant and reasonable doubt (Donohue, 2013). As a matter of public discourse, Donohue believed much remains unknown about how elements of the intelligence community are making use of Section 702 authorities. The most concerning aspect of the NSA's targeting practices under the FISA Amendment Act, according to Donohue, is the inclusion of to, from, or about (TFA). Under this standard, all communications sent to, from, or any communication about that person, is considered admissible under a single permission. Together with generous assumptions

with regard to foreignness and the vague requirements embedded in the foreign intelligence determination, TFA has allowed the NSA to collect data beyond what might otherwise be considered incidental (Donohue, 2013). To ensure that foreign intelligence collection can continue in a manner consistent with the right to privacy, Donohue noted efforts needed to be made to redraw the line between national security and criminal law.

McGowan (2014) also responded to the NSA leaks, examining the conflicting interpretations of “relevant” under Section 215 of the USA Patriot Act. McGowan concluded although the current state of the law permits bulk data collection, the power of the NSA to collect records on such a large scale must be reined in. McGowan focused on the metadata program, authorized by the Foreign Intelligence Surveillance Court under FISA, which was enacted as Section 215 of the USA Patriot Act. McGowan concluded that although the national security interests that the program seeks to protect are still important, the term relevant cannot reasonably be understood to include the phone records of all Americans. However, unlike Barnett (2015) and Donohue (2013), McGowan (2014) proposed rather than discontinuing the program, the U.S. federal government should impose limitations that clearly delineate when and how records should be collected and data may be used. According to McGowan, this change would help to create transparency of the program, fulfilling the metadata needs and sacrificing less privacy.

Because of the academic and public outcry against NSA practices, Brown et al. (2015) suggested now is the time to instigate international surveillance reform. Brown et al. particularly suggested the adoption of multilateral human rights-compliant standards

for government surveillance conducted against nationals of other countries. Despite the influence and public unease regarding surveillance following Edward Snowden's revelations regarding NSA practices, Brown et al. noted the public had applied limited political pressure for reform of foreign intelligence surveillance, contrasted with renewed public concerns of terrorism.

As the purpose of Brown et al.'s (2015) study was to review and propose policy, the researchers did not include empirical data to support these claims regarding public opinion. However, in research relating to political polarization regarding immigration and drilling, Druckman, Peterson, and Slothuus (2013) found increased polarization changed the way people made decisions, including intensified identification with party affiliations and stronger confidence in opinions that did not have substantive grounding. It is not known whether the time that has passed since the September 11 attacks and the passage of the USA Patriot Act has increased or decreased the polarity regarding this issue for the general public. Thus, a gap in the literature regarding contemporary public opinion about surveillance exists, as is highlighted in the following section.

### **Public Perceptions of the USA Patriot Act**

Despite the structural asymmetry in the protection of rights in the United States, the constitutional protection of individual rights suggests the law ought to recognize and defend interests fundamental to human development (Sun, 2011); thus, understanding public opinion should be a fundamental concern for lawmakers (Druckman & Leeper, 2012a). The competing issues in the civil liberties vs. security tradeoff are essential to the

idea of democracy as reflected in the Bill of Rights that highlights citizens should be protected from the government (Davis & Silver, 2004). As Gandy (2003) noted, public opinions are used to shape policy; however, the presence of contextual bias and assumptions among those conducting the polling may also significantly influence the public's opinion, thereby altering the course of policymaking decisions. Therefore, unbiased polling of contemporaneous views on the USA Patriot Act is necessary, although limited, in the research.

Moreover, few theorists have examined the role of context in determining U.S. citizens' likelihood of foregoing their civil liberties within the context of specific crises (Abdolian & Takooshian, 2002; Davis & Silver, 2004). Druckman and Leeper (2012a) examined the overall stability of public opinions and noted that although viewing a macrolevel percentage of public opinion tended to be stable, reviewing individual opinions at the microlevel shows a significant instability, fluctuating with incoming information and specifically with incoming frames via news media and polls, world events, and novel experiences, as well as based on the strength of the attitude. Thus, updated information regarding the contextual public perceptions of specific laws, policies, and events is necessary to understanding fluctuations in public opinion and maintaining democracy (Druckman & Leeper, 2012a).

One example of a review of public perceptions of the USA Patriot Act was conducted by Davis and Silver (2004), who contributed to the understanding of the importance of context on people's commitment to democratic principles. Analyzing

survey data collected from 1,448 respondents from November 14, 2001—January 15, 2002, Davis and Silver explored the willingness of U.S. citizens to trade off civil liberties and personal freedom for a higher sense of security, comparing value for an individual's civil liberties against government efforts to provide for the safety and security from terrorism, which are two important values. To test for those effects, Davis and Silver also considered other theoretically significant factors or variables, such as race, ethnicity, education, and age, which they believed confound those relationships (Davis & Silver, 2004). Davis and Silver found people tend to believe those who belong to or associate with terrorist organizations should be considered terrorists, regardless of their actual activities (Davis & Silver, 2004). The researchers also found U.S. citizens gave moderate support to civil liberties after September 11. Of the participants, 71% who answered the survey supported treating people as guilty based on their associations (Davis & Silver, 2004). Although people's willingness to judge people guilty by association reflects an extreme position, other applications of the value trade-offs reveal a similar, but lesser willingness to concede civil liberties for personal security (Davis & Silver, 2004).

Davis and Silver (2004) also determined the majority of U.S. citizens were willing to concede some civil liberties and freedoms, but the majority favors safeguarding certain liberties. When asked about the habeas corpus issue of detaining noncitizens suspected of belonging to a terrorist organization for a long time without being formally charged with a crime, 53.4% were in favor and 46.6% supported the civil libertarian position that it was unconstitutional and violated the Sixth Amendment right to a speedy public trial by an

impartial jury (Davis & Silver, 2004). In a trade-off of the right to privacy by allowing the monitoring of telephone conversations and e-mail communications, 66.1% were in favor and 33.9% took the pro-civil liberties position that it violated the right to privacy (Davis & Silver, 2004).

The strength of Davis and Silver's (2004) analysis is focused on the effects of trust in government, which was believed to be contingent on the amount of threat people perceived by terrorists and the sense of threat to civil liberties. Davis and Silver's analysis, however, failed to address several important contested challenges to the civil liberties issue that arose as a result of law enforcement surveillance, such as government law enforcement circumventing the due process procedure, law enforcement elimination of probable cause before conducting searches of someone's record, and loss of privacy as a result of the government use of electronic surveillance. In addition, the proximity of survey responses to the September 11 attacks may have influenced the opinions of participants, which are subject to change over time (Chong & Druckman, 2011). Similar to Davis and Silver (2004), Abdolian and Takooshian (2002) found mixed results regarding public opinion towards terrorism and civil liberty tradeoffs post-September 11, which were determined to be tied to media reporting of the events surrounding September 11. Reviewing polls from secondary sources, including Pew Research Center, Kaiser Family Foundation, and CBS news, Abdolian and Takooshian noted immediately following the September 11 attacks and passage of the USA Patriot Act, public opinion was highly favorable towards media coverage of the events. During the week of the

attacks, for example, a Pew Research Center report determined 89% of those polled rated the coverage of the September 11 attacks as good (33%) or excellent (56%). Polls conducted the same week by CBS news showed 98% of respondents had been following the news, and attention was maintained when the Kaiser Family Foundation conducted polls during September 28–October 1, 2001; 95% of respondents continued to monitor the news, and 85% monitored very closely.

Abdolian and Takooshian (2002) noted the reliance on and satisfaction with news coverage drastically shaped public opinion, because 80% of news coverage of the attacks and the passage of the USA Patriot Act were positive. At the same time, however, according to Abdolian and Takooshian's analysis, news outlets failed to provide fundamental information about U.S. policy, the USA Patriot Act, and the federal government's insistence on secrecy. Moreover, the coverage did not address the issues with pushing aside civil liberties for national security, and support for the USA Patriot Act was lauded as a unified nation's response to the events, with little criticism of the act evident until months after its passage (Abdolian & Takooshian, 2002).

Though Abdolian and Takooshian (2002) noted the press turned a more critical eye on the civil liberties beginning in 2002, little was known regarding public opinion about terrorism and security vs. individual liberties. Therefore, Abdolian and Takooshian, along with researchers at Fordham University, disseminated an anonymous survey to 308 adults residing in New York City in 2002 to assess attitudes regarding terrorism and individual liberties. Results regarding terrorism showed the participants were more likely to respond



to a terrorism survey compared with results from 1990 public opinion data, and that on a 0–20 terrorism scale, ranging from 0 (*no acceptance*) to 20 (*total acceptance*), respondents' mean response was a 6.8, with ranges across the scale (11% rating acceptance as 0, 3% rating acceptance as 19 or 20). On responses regarding support for al-Qaeda, results demonstrated a mean of 5.8, again with a wide range of responses (12% reporting 0 acceptance to 3% reporting 15–16 acceptance).

Regarding the sacrifice of civil liberties for security, Abdolian and Takooshian (2002) also found significant variance in responses on a 20-point scale, ranging from 0 (*pro-security*) to 20 (*pro-liberties*), with mean responses at 9.5. More than 50% of respondents clustered at 7–13 points, demonstrating mixed feelings, whereas 12% scored 16 or more, demonstrating strong support for civil liberties, and 16% scored 4 or less, indicating strong support for security. Thus, more than a year after the September 11 attacks and a year after the passage of the USA Patriot Act, Abdoolian and Takooshian found public responses were mixed. However, it is not known whether this mixed response to civil liberties has swayed to either support more security or more liberty, because more than a decade has elapsed since Abdolian and Takooshian conducted their study.

In an attempt to determine what swayed public and government opinion regarding the USA Patriot Act, Tomescu-Dubrow, Dubrow, and Slomczynski (2014) examined variables that influenced local government opposition to the USA Patriot Act. The study employed a multilevel mix models on a merged data set that constructed a list of places

that opposed the USA Patriot Act, the U.S. Census 2000, and aggregated CBS News/New York Times national polls. In 2005, approximately 45 counties, and four states passed some form of resolution regarding perceived negative aspects of the USA Patriot Act (Tomescu-Dubrow et al., 2014). Tomescu-Dubrow et al. found social and political variables that increased a local government's likelihood of opposing the USA Patriot Act included classification as an urban area, Arab presence, college education, and average political ideology in the state. Alternatively, variables that decreased this likelihood included larger proportions of nonHispanic whites and location in a state that had already passed a resolution. Thus, Tomescu-Dubrow et al.'s research suggests a connection may exist between social, structural, ethnic, and political affiliations, and opinions regarding the USA Patriot Act. However, like Abdolian and Takooshian (2002) and Davis and Silver (2004), Tomescu-Dubrow et al. (2014) relied on outdated data.

More recent research regarding public opinion of the USA Patriot Act and surrounding issues has pertained to the misinformation, or lack of information, that people have toward this issue (Best & McDermott, 2007; Bonilla & Grimmer, 2013; Chong & Druckman, 2010; Chong & Druckman, 2011). To assess the influence of framing of questions when coupled with the general public's lack of knowledge regarding the USA Patriot Act, Best and McDermott (2007) conducted a series of random dialed surveys conducted among adult populations in Connecticut and the United States between 2001–2005, comprised of split-ballot designs in which respondents were randomly assigned to one of several versions of a question. The differences in question wording were based on

actual item structure discrepancies employed by the major polling organizations in questions regarding the USA Patriot Act.

In the first survey, participants were given a description of the USA Patriot Act and asked whether they agreed or disagreed with the act. One group responded to a general description, and the other three groups responded to descriptions that outlined (a) the sneak-and-peek provision, whereby citizens were monitored by the government for an unspecified amount of time; (b) the hospital and library search provision, whereby businesses, such as hospitals or libraries, were required to turn in information about citizens; or (c) the national security letters provision, whereby those engaged in investigations of terrorism could retrieve information from financial institutions about people in ongoing investigations (Best & McDermott, 2007). When the wording of the question was changed, statistically significant results were garnered from Pearson correlations for different responses. Whereas 62% supported the general description of the USA Patriot Act, that number dwindled to 40% when the sneak-and-peek provision was outlined. Of the participants, 53% reported supporting the act when the hospital and library search provision was provided, and 66% supported it when the national security letters provision was the example. Thus, Best and McDermott (2007) found providing participants with additional information, especially regarding the personally invasive aspects of the USA Patriot Act, led to decreased support.

For another group of participants, Best and McDermott (2007) also found adding a no opinion option, stated as “or have you not read or heard enough information about the

Patriot Act to have an opinion?” (p. 10) led to a statistically significant difference in results ( $p = .02$ ) with the number of participants reporting having no opinion nearly doubling, from 24% to 41%. Best and McDermott noted nearly all of the people who noted that they did not have an opinion gravitated from seeming support of the USA Patriot Act; when a no opinion option was offered, 46% of participants reported support for the act, whereas when that option was not offered, support reached 62%.

In a third experiment, Best and McDermott (2007) outlined how question bias could affect the outcome of polls. Half of participants were provided with an unbalanced statement, asking,

the USA Patriot Act makes it easier for the federal government to collect information on suspicious U.S. citizens in order to reduce the threat of terrorism.

Based on what you have read or heard, do you support or oppose the Patriot Act? (Best & McDermott, 2007, p. 12),

The other half were given a balanced description,

the USA Patriot Act makes it easier for the federal government to collect information on suspicious U.S. citizens, at the expense of people losing some civil liberties, in order to reduce the threat of terrorism. Based on what you have read or heard, do you support or oppose the Patriot Act? (Best & McDermott, 2007, p. 12).

When the mention of civil liberties was added, a statistically significant influence occurred on support for the Patriot Act ( $p < .01$ ). Of the respondents, 77% supported the Patriot Act when it was framed in an unbalanced manner, and support fell to 54% when civil

liberties were mentioned. Thus, Best and McDermott's (2007) research suggested that public opinion might be swayed by the awareness of the USA Patriot Act's potential infringement on personal civil liberties; however, the researchers were not specifically focused on the infringement of surveillance techniques.

Using information processing research, Chong and Druckman (2010) attempted to develop an approach that would allow for the measuring of shifting opinions during the course of an election or policy debate. Chong and Druckman examined public opinion surveys within two experiments; (a) the renewal of the USA Patriot Act, and (b) the issue of urban growth and conservation. In the first experiment, Chong and Druckman disseminated a survey through the Internet regarding their support or opposition to the USA Patriot Act, resulting in 1,302 participants at 2 points in 2009, 10 days apart. The initial survey consisted of demographic and political information, as well as a framed description of the USA Patriot Act that was either highly supportive of the act, emphasizing terrorism, or strongly against the act, emphasizing civil liberties. The second survey asked for the participants' opinions, with half of participants receiving no additional frame, and half of participants receiving the opposite frame from what they had received previously. In addition, a portion of the sample was asked to respond through memory-based techniques, and another portion was asked to respond through online techniques. A control group was also provided with no frames, and asked only to respond to demographic questions and to give their opinions regarding the USA Patriot Act (Chong & Druckman, 2010).

Results suggested “framing” significantly ( $p = < .01$ ) affected people’s rating of the USA Patriot Act for both the pro-security and pro-civil liberties frames (Chong & Druckman, 2010). When participants received both frames, the effects were neutral compared to the control group. These effects were true for both memory-based and online processors; however, participants required to rely on memory-based processing systems tended to place more weight on the information regarding the USA Patriot Act that they had received most recently. Alternatively, in the online processing, where participants were asked to systematically review a series of statements and agree or disagree with each of them, more weight was placed on information received previously (Chong & Druckman, 2010). Thus, like Best and McDermott (2007), Chong and Druckman (2010) found public opinions regarding the USA Patriot Act were easy to manipulate and were dependent on framing.

In a follow up study with 1,107 participants from the same sample four days after the second test, Chong and Druckman (2011) attempted to further assess the differential effects of framing on support for or opposition to the USA Patriot Act. The sample of individuals who had received framing at the first test was divided so that there was (a) no exposure to additional frames at the second test, but exposure to a competing frame at the third test; and (b) exposure to a competing frame at both the second and third tests. Results suggested that overall, support or opposition was stable, with means for the three tests respectively 4.41 ( $SD = 1.79$ ;  $N = 794$ ), 4.39 ( $SD = 1.71$ ;  $N = 794$ ), and 4.40 ( $SD = 1.73$ ;  $N = 794$ ). However, at an individual level, a significant number of opinion changes existed,

with correlations of .57 (test 1-test 2), .51 (test 2-test 3), and .38 (test 1-test 3). Specifically, those who responded with memory-based techniques tended to adopt the frame provided at the second test, while those with online techniques were resistant to change. Conversely, when online respondents were exposed to a counter frame at the third test, they were likely to change their opinions. Thus, Chong and Druckman posited the passage of time reduces resistance to counterframing effects, even among those who initially formulate strong opinions. Subsequent research replicating these conditions among 647 college students at Northwestern university showed similarly high responses to framing among those expected to use memory-based recall, though the effects were not demonstrated among those participants encouraged to initially form strong opinions through online, paragraph-by-paragraph responses (Druckman & Leeper, 2012b). These findings may have significance for the support or opposition to the USA Patriot Act, resulting in the necessity for up-to-date information regarding public opinion in this matter.

In a related study, Bonilla and Grimmer (2013) found public opinion regarding the USA Patriot Act and similar issues was not affected by context. To assess these effects, Bonilla and Grimmer reviewed news coverage in response to terrorist alerts to assess its effects on public opinion regarding policy. In the initial stages of research, the researchers reviewed 51,766 newspaper stories and transcripts from ABC, CBS, and NBC News pulled from 2 days before an alert, the day of the alert, and 2 days after the alert. Although effects were limited among newspaper coverage, Bonilla and Grimmer found that on

newscasts, the usage of the words, *alert* (0.07–0.81/newscast), *threat* (0.2–0.8/newscast), *terror* (0.2–0.8/newscast), and *police* (0.1–0.4/newscast) spiked on the day of the terror alert, and the use of the word *nation* spiked the day immediately following the alert.

However, on the second day, the use of these words returned to baseline. Bonilla and Grimmer concluded through the use of statistical modeling and coding that media outlets shifted their attention during a terror alert, focusing more on terrorism items. For example, after the December 21, 2001 alert, media outlets allocated 6.3% more of their space to terror articles than before the alert had occurred. This shift resulted in less coverage of policy, such as policy on the wars in Iraq and Afghanistan, and national, state, and local elections.

Once this difference in news coverage was determined, Bonilla and Grimmer (2013) attempted to assess how this media coverage influenced opinions on public policy by reviewing archival surveys conducted by Roper during the same time period as the news coverage (i.e., 2 days before the alert, the day of the alert, and 2 days following the alert). The findings suggested that after a terror alert, there was a 7% increase in people reporting that there would be a terrorist attack in the next couple of weeks, and a 3.8% increase in participants reporting that terrorism was the most pressing issue facing the United States. However, the change in this opinion, according to Bonilla and Grimmer, did not result in statistically significant differences in policy opinions, including support for President Bush, the Iraq war, or the USA Patriot Act. The one area that did seem to be increased by the terror alert was economic pessimism, or the belief that the economy



would be worse in the coming year (Bonilla & Grimmer, 2013). However, despite the more recent nature of the study, Bonilla and Grimmer's use of archival data resulted in replicating the issue of a lack of updated information regarding support for the USA Patriot Act in the media, and the use of poll information may be biased through leading questions, as demonstrated by Chong and Druckman (2010, 2011).

### **NSA Leaks and Public Opinion of Data Surveillance**

Preibusch (2015) analyzed longitudinal Internet user behavior from 2013–2014 after information about the NSA leaks, particularly the use of PRISM—a mass data collection tool that garnered information from web behavior—and found Internet behavior among U.S. users showed no significant long-term changes in behavior.

Siegel (2013) conducted a similar study and examined social networks and the new challenges to privacy. Siegel's study was comprised of 883 registered voters in the United States, focusing on individuals' views toward privacy and the monitoring of individuals on social media by the government. Siegel found individuals' concern for security led to an increased willingness to accept government actions that jeopardize privacy, but frequent users of social media websites, such as Facebook, are less likely to be swayed by prompted security concerns. Siegel suggested the aftermath of the September 11 attacks correlates with individuals' increased acceptance for governmental monitoring and diminished concern about their civil liberties. By framing the surveillance policy as a terrorism prevention policy, individuals are less opposed to governmental monitoring. In contrast, Siegel argued, it might instead be the case that frequent users of social network

websites are quite thoughtful about privacy and concerned about the potential cost of a loss of privacy, but still choose to share information anyway to garner the benefit of doing so, with the lowest costs to their privacy.

Alternatively, Reddick, Chatfield, and Jaramillo (2015) showed that opinions regarding surveillance were potentially shifting, with the most concentrated anti-surveillance positions being posed on social media. Reddick et al. conducted a discourse analysis of all posts to Twitter using the hashtag #nsa throughout the month of June 2013 ( $n = 5809$ ), when the NSA surveillance practices were revealed, and found that the public was generally favorable of Edward Snowden's behavior, and that strong support for Snowden was mirrored by increased distrust in the federal government. Alternatively, Reddick et al.'s analysis of Pew Center Data conducted from July 17-21, 2013 demonstrated an overall favorable view of NSA data collection (52.7% approval; 47.3% disapproval). These conflicted results suggest more information is needed regarding public opinion of data seizures following the NSA leaks.

### **Conclusion and Deficiencies in the Data**

In this chapter, I reviewed trust theory to provide some insight into the way people respond to the implementation of the surveillance provision of the USA Patriot Act. The United States' response to the terrorist attacks reveals a contestability of rights in which commitment to civil liberties collides with other cherished values (Davis & Silver, 2004). The issue of tradeoffs between civil liberties and the threat of personal security not only parallels how individual make normal civil liberties judgments, but it accounts for why

people find it difficult to apply abstract democratic norms to practical situations. A search of prior literature revealed outdated studies of public opinion following September 11 (Abdolian & Takooshian, 2002; Davis & Silver, 2004; Tomescu-Dubrow et al., 2014), or studies pertaining to the influence of hypothetical polls on the public's opinion of the USA Patriot Act (Best & McDermott, 2007; Chong & Druckman, 2010; Chong & Druckman, 2011). However, some researchers suggested the NSA leaks may have influenced the public's opinion regarding electronic surveillance, though the results are conflicted (Preibusch, 2015; Reddick et al., 2015). The perceived harm caused by the surveillance actions of federal law enforcement agencies, evidenced in the recent NSA leaks, may have caused widespread mistrust and lack of confidence in the federal government (Brown et al., 2015; Reddick et al., 2015). Further studies, such as the present study, are needed to help address how the citizenry regards the fundamental due process rights of individuals who deserve constitutional protection.

Previous research regarding straightforward public perceptions of the USA Patriot Act has been conducted primarily through the use of survey data from the time period surrounding the September 11 attacks (Abdolian & Takooshian, 2002; Bonilla & Grimmer, 2013; Davis & Silver, 2004). However, as Best and McDermott (2007) and Chong and Druckman (2010, 2011) noted, these previously conducted polls may contain biased and leading questions that affect participants' responses, thereby affecting the outcomes of the study. The present study consisted not only of an opinion poll study, but also a thematic arrangement of reasons for the abdication of civil liberties under the USA

Patriot Act. Moreover, the information presented in Abdolian and Takooshian's (2002), Bonilla and Grimmer's (2013), and Davis and Silver's (2004) studies may not reflect the evolving opinions on the USA Patriot Act, which may have been influenced by contemporary events regarding NSA surveillance practices (Brown et al., 2015; Donohue, 2013). In addition, prior researchers did not organize the information into various themes to indicate the underlying factors that led to individuals' decision making and opinion forming regarding the act. One aspect that may have influenced public opinion regarding the USA Patriot Act is the increased polarization of the issue between civil liberties and national security (Druckman et al., 2013). Therefore, a gap exists in the literature on public opinion about the USA Patriot Act, which the present researcher addressed.

Previous researchers examining this issue have primarily utilized either previous archival polling data (Abdolian & Takooshian, 2002; Bonilla & Grimmer, 2013; Davis & Silver, 2004; Reddick et al., 2015) or primary research conducted through random dialing surveys (Best & McDermott, 2007) or conducted online (Chong & Druckman, 2010, 2011; Preibusch, 2015). Through the present study, I followed a similar methodology with careful attention to the survey instrument to avoid introducing bias that may influence participants' opinions (Best & McDermott, 2007; Chong & Druckman, 2010, 2011). I present further discussion of the methodology in Chapter 3.

### **Summary**

This chapter included a discussion of the history of surveillance and its legitimacy from a constitutional perspective. I began with the discussion of the literature search

strategy for scholarly articles and the definition of surveillance. The theoretical framework and the type of variables used were also discussed to understand the various theorists' view of trust and the federal government's use of surveillance throughout the decades. Finally, the chapter concluded with a review of the relevant literature on the public's opinion of the USA Patriot Act, and a discussion of the deficiencies in the data that necessitated this study. The next chapter is a description of the methods I used to collect and analyze data relevant to the purpose of the present study.

### Chapter 3: Research Method

This section provides the research design used in the study. My analysis focused on gauging the perceptions and attitudes of a cross section of the U.S. populace regarding the federal government's use of electronic surveillance under the provisions of the USA Patriot Act. I also investigated the reasons why this sample would abdicate their rights to privacy and allow government intrusion. I posed five research questions to guide the research study:

RQ1: What are the perceptions of U.S. citizens about the electronic surveillance provisions of the USA Patriot Act, which intended to counteract threats to the national security?

RQ2: What are the perceptions and attitudes of U.S. citizens about the government's need to collect individual electronic data without court approval?

RQ3: What are the perceptions and attitudes of U.S. citizens about the invasion of their privacy as a result of the electronic surveillance measures in the USA Patriot Act?

RQ4: What are the perceptions and attitudes of U.S. citizens about the media influence on their attitudes to support or not support surveillance provisions of the USA Patriot Act?

RQ5: What are the perceptions and attitudes of U.S. citizens about the federal government's argument that the collection of individual data helps law enforcement to better fight against terrorism?

In this section, I describe the research design and rationale; explain the role of the researcher; describe the methodology used in selecting the participants, designing the instrument, and collecting the data; and provide an explanation of the issue of trustworthiness on the collected data.

### **Research Design and Rationale**

I implemented a qualitative methodology with a generic qualitative approach. A generic qualitative approach was deemed appropriate after consideration of the purpose and goal of the research study. Generic qualitative research is used by qualitative researchers who want a flexible approach to a research topic (Kennedy, 2016). The methodology used in this study included open-ended interviews with a sample of participants. I selected the open-ended interview approach because it enabled the participants and me to engage more deeply in themes that would surface during the interview.

### **Qualitative Studies**

The dialectical model, which posits that knowledge is the result of investigating or discussing, underpins qualitative methodology (Sandage, Cook, Hill, Strawn, & Reimer, 2008). Qualitative research strategy was relevant to the issue under study and the approach to the collection and analysis of the data (Vanderstoep & Johnston, 2009). The qualitative research approach used in this study was dialectical and systemic and resembled a structured conversation (Creswell, 2012). Qualitative methods are techniques associated with the gathering, analysis, interpretation, and presentation of narrative information

(Teddlie & Tashakkori, 2009). The qualitative approach enables the collection of perceptions and attitudes of participants through interviews (Kroll & Taylor, 2003).

Using a qualitative method facilitated a detailed investigation that provided a more expansive picture of the federal government's use of electronic surveillance. Qualitative work is intense as the researcher must probe the depths of the phenomenon to come to a significant finding. In-person interviews helped to enhance my ability to cover complex issues. Face-to-face interviews are useful when requirements include a significant amount of information. Face-to-face interviews (a) allowed a maximum degree of probing, (b) yielded a higher and more valid response rate than virtual medium interviews, (c) provided flexibility, and (d) facilitated clarification of terminology and questions. The open-ended interview approach enabled the participants to explain, at length, their thoughts about the phenomenon of interest.

The research strategy I used was in accordance with my study objectives and the availability of resources. According to Thomas (2006), the data collection strategy should focus on developing a picture of the population from information collected from a random sample of participants. Agrawal and Mandelker (1987) contended exploratory research is conducted when the overall objective of the study is to clarify and explore the research issues; in the case of this study, my intent was to identify the effect of the surveillance measures of the USA Patriot Act on the U.S. populace. My aim was to explore participants' perceptions and attitudes about those surveillance measures and organize the perceptions and attitudes into themes. This process was accomplished by analyzing the



language used by the participants as they reflected on the act. The goal was to grasp and understand the factors underlying the relationship of participants to surveillance measures in the USA Patriot Act and its intrusiveness.

### **Generic Qualitative Approach**

I implemented this qualitative study using a generic qualitative approach. The generic qualitative approach allowed me to uncover the depth and breadth of participant perceptions and attitudes about the use of electronic surveillance by law enforcement with or without court approval or due process. Generic qualitative research was defined as a research approach that sought to explore and understand the perspectives about a phenomenon outside one's self (Bellamy, Ostini, Martini, & Kairuz, 2016). For the purpose of this research study, the phenomenon is the perceptions and attitudes about the surveillance provision of the USA Patriot Act.

The interactive process began with questions I developed to explore the participants' perceptions and attitudes to determine the meaning of their experience, as suggested by Creswell (2012). The open-ended interview process was a method employed to generate the necessary data to analyze for the research study. This interview process incorporates asking interview questions and utilizing probes to gather in-depth responses to those interview questions (Jertfelt, Blanchin, & Li, 2016). The open-ended interview questions were designed to elicit data about participants' perceptions and attitudes regarding the security provisions established by the USA Patriot Act.

The interviews involved an informal, interactive process and open-ended comments and questions (Creswell, 2012). To guide the interview, I began with a set of questions that helped individuals to describe their understanding of the USA Patriot Act, the role of surveillance, and its need. This approach is reflected in the qualitative method, as the focus of research is to search for meaning and the essence of experiences rather than for measurement and explanation (Creswell, 2012). The goal of this research was to fill the void from Davis and Silver's (2004) research, which had marginalized and ignored the people's perspectives on the issues surrounding the federal government's use of electronic surveillance without due process. I chose the qualitative design because it offered flexibility and room to consider judgment and connection with the social world, which were integral to the study.

### **Role of the Researcher**

One particular challenge faced by researchers is knowing how much attention should be paid to bringing the respondent's experience to the foreground and reflexively exploring the participant's embodied subjectivity (Finlay, 2009). My role during this study was to describe as accurately as possible the respondents' perceptions, to refrain from any preconceived frameworks, and to remain true to the facts. I had sole responsibility for conducting this study, which included selecting the participants, gaining participant informed consent, conducting the interviews, collecting and analyzing the data with the use of NVivo 11, and for preparing the report of the findings. I asked participants to describe their experiences, including their thoughts, feelings, images, sensations, and

memories without directing or suggesting their description in any way (Willig, 2007). The intent was to encourage the participants to describe their experience of the electronic surveillance provision, rather than their knowledge about or attitude towards it.

As the principal data collector, the researcher's responsibility during the data collection process is to help facilitate trust and confidence in the researcher-participant relationship. This relationship enabled me to establish rapport with the participants early in the data gathering process. I coded specific jargon that was hard to understand or needed further clarification (Fontana & Frey, 2000). I then reflected on the meaning of situations rather than accepting their preconceptions and interpretations at face value (van Manen, 1997). When clarification was needed, I asked follow-up questions for further description of the detail, without suggesting what I specifically sought.

I approached this study with self-awareness of personal preexisting beliefs, which made it possible to examine and question those beliefs in light of new evidence (Halling, Leifer, & Rowe, 2006). Qualitative researchers need to be aware of personal subjectivity, vested interests, predilections, or assumptions, and to be conscious of how these might affect the research process and findings (Finlay, 2009). My aim was to bracket my previous understanding, past knowledge, and assumptions about the electronic surveillance provision to focus on the participants' perceptions of this phenomenon. Giorgi (2009) asserted novice researchers often misunderstand this process of bracketing as an initial first step where subjective bias is acknowledged as part of the project to establish the rigor and validity of the research. Bracketing involves a process whereby one

refrains from positing altogether; one looks at the data with the attitude of relative openness (Giorgi, 2009).

Qualitative researchers need to set aside three particular areas of presupposition: (a) scientific theories, knowledge, and explanation; (b) truth or falsity of claims being made by the participants; and (c) personal views and experiences that may cloud descriptions of the phenomenon itself (Ashworth, 1996). Self-reflection constituted an important step of the research process as a result of possible preconceived biases and presuppositions that need to be brought into awareness to separate them from participants' descriptions (Colaizzi, 1973). Researchers need to be aware of their personal biases so the text can present itself and thus assert its truth against one's own meaning (Gadamer, 1996). I annotated all transcripts of the data, including the review of the transcripts for the pilot study.

I established a confidential agreement before executing the study. All data collected were stored to ensure confidentiality and safekeeping. I had no affiliation with the sample participants who participated in the study. Sample participants had the opportunity to review the findings and conclusions before publication. To reach a broader audience, I planned to share the findings and conclusions with governmental agencies, professional associations, and public policy journals after publication.

## **Methodology**

### **Participant Selection Logic**

The selection of participants was the initial step in the data gathering process (Englander, 2012). The participants were purposively selected using the Walden participant pool without regard to ethnicity. Participants were selected based on the following criteria: individuals from various ethnic and religious background who (a) were aware of the provisions of the USA Patriot Act, which was asked on the consent form; (b) were U.S. citizens working in the United States; (c) were 18 years or older; and (d) spoke the English language fluently.

Data were collected from both male and female U.S. citizens, aged 18 and above, without regard to ethnicity or cultural background. The individuals were selected from Walden University's alumni database. The Walden University alumni database has a wide demographic and culturally diverse population of students and past students from across the United States. Although the Walden alumni database limits the research to a subset of the populace that includes educational achievement, it still allowed me to target a cross section of the population. In this manner, the demographic and cultural diversity of the population was broad, leading to increased generalizability of the results. The alumni have a high concentration of cultural and ethnic backgrounds, some of which were indirectly affected by the implementation of the USA Patriot Act.

I audio recorded and transcribed the interviews. The use of a semistructured interview protocol with open-ended questions allowed for the generation of candid

responses from the participants (Creswell, 2013; Cooper & Schindler, 2008; Neuman, 2006). Data analysis and data collection occurred simultaneously (Moustakas, 1994). Data collection occurred through a combination of personal interviews and a self-administered demographic questionnaire. Thematic analysis revealed themes within responses to participant interview questions. Thematic analysis offers an accessible and theoretically-flexible approach to analyzing qualitative data (Braun & Clarke, 2006). Analysis can minimally shape and define data in rich detail, and it advances understanding several aspects of the research topic (Braun & Clarke, 2006).

Each recorded interview was transcribed with Dragon transcription software Version 12. Each recorded transcript was then coded for themes with software NVivo 11. NVivo 11 allowed me to upload files (audio, video, text, or websites) into a program that codes the documents for themes and patterns into words. The audio-recorded data is transcribed, coded, sorted, classified, and finally, studied through inductive reasoning (Richards, 1999).

I used phone, Skype, or other electronic means to interview participants as needed because of time or distance considerations and constituted the primary means of data collection. The interview instrument was forwarded to the participants in advance to help facilitate responses during the interview process. Face-to-face interviews also served as a means of data collection where possible. The informed consent form and the procedure and conditions of the study were reviewed prior to the start of the interviews.

Interviewees were assured that the interviews are voluntary and that their

responses would be used for research purposes only. Follow-up contact was pursued as needed. Stressing the importance of the study and the effect it may have in influencing social change in government policy implementation helped secure participants' consent and completion of the study.

To avoid attrition, the interviewing process was limited to three interview rounds. I did not offer any honorarium to participants as a means of encouragement to participate in the study. Multiple people were interviewed from the same cultural and ethnic background to help promote balance and to reduce the risk of bias of a respondent overstate or understate that can skew the data. I took caution to guard against creating biased responses, which could become problematic in the development of the open-ended questionnaire, as explained by Creswell (2013). I considered my personal knowledge of the surveillance provision of the USA Patriot Act and its potential to influence the study. This study was not empirical research to show which ethnicity is most affected by the surveillance provision of the USA Patriot Act, such as Arab U.S. citizens.

### **Sample Size**

Qualitative studies typically involve specific sampling techniques in which participants are chosen based on carefully established criteria (Russell & Gregory, 2003). Information gained, however, may not be the same based on the environment of other samples of participants (Toor, 2000). For a study to be perceived as legitimate and scientific, the question of the size of the sample must not turn into an alleged or persistent problem (Kvale, 1994).

The sampling technique for the study was based on the purposive selection of individuals meeting the identified broad-based criteria. Kuzel (1999) believed 5 to 20 participants could represent a sufficient sample for a qualitative study. Creswell, Hanson, Clark, and Morales, (2007) suggested 10 to 12 participants may prove sufficient in qualitative inquiries involving the understanding of experiences and perceptions of participants. Suzuki, Ahluwalia, Kwong-Arora, and Mattis (2007) asserted the decision regarding the number of participants in a study is a reflection the study's purpose. Creswell (2012) noted a successful, purposeful sample in a qualitative study could range from 1 to 40, and Polkinghorne (1989) suggested 5 to 25 participants would be sufficient to meet the needs of data collection. Based on this information, I chose 20 participants as the sample size for this study.

When considering the sample size, I considered the breadth and depth of the interviews and interviewees, as suggested by Russell and Gregory (2003). Qualitative researchers need to understand the common misconception that a large sample size is a prerequisite for being able to generalize the result to the population at large (Englander, 2012). The sample size for the study was 20 because it met the successful requirement for a purposeful sample.

Solicitation of individuals occurred via the Walden University participant pool, which is an electronic bulletin board where researchers can post information about their study and individuals who are interested in participating in the study contact the researcher. Approximately 45 individuals were randomly selected from the interested



contacts. A letter of invitation and demographic questionnaire was sent to these individuals to provide me with some background information. All selected individuals were notified whether or not they were selected to participate in the study. Individuals not selected were sent an e-mail thanking them for their interest in participating.

An informed consent form was sent to 40 prospective participants who met a wide range of selection criteria, which included gender, ethnicity, employment or nonemployment, military or nonmilitary, citizen or noncitizen, or other various characteristics. Prospective participants were not included in the sampling until I received their form agreeing to participate in the interview. From the resulting pool of participants who met the criteria and returned their consent form, 20 individuals were randomly selected for participation in the interview.

Appendix A includes a letter of permission to include participants. Appendix B includes the letter of invitation and informed consent sent to prospective participants. For participants who resided within the general area of residence of the researcher, appointments were made for 1 hour or more at a location that was quiet and comfortable, such as a public library conference room or other location. I conducted interviews with participants outside the area using Skype or other forms of electronic communication.

The process of data collection began when the informed consent form and the procedure and conditions of the study were reviewed. Interviewees were assured that the interviews were voluntary and that their responses would be used for research purposes only. Respondents were advised they could withdraw from the interview process at any

time without negative recourse. The participants were informed that no foreseeable risk or harm was associated with the interview, and advised that their identities would remain confidential. I asked the participants for permission to audio record their responses. For those who needed a reminder of the surveillance provision of the USA Patriot Act, a page providing details of the critical four sections was offered (see Appendix C). I administered a demographic survey (see Appendix D) orally. The results were used to develop a picture of each respondent relevant to the qualitative approach and theory of the study design.

### **Instrumentation**

The research instrument is a tool designed to measure the variable(s), characteristic(s), or information of interest being studied (Pierce, 2009). In this study, interviews were used for data collection. The interview served as a means for exploring and gathering of narratives of the participants' perceptions and attitudes. The interview process is a vehicle through which researchers can develop a conversational relationship with the participant about the meaning of his or her experience (Ajjawi & Higgs, 2007). The interview was semistructured with open-ended questions. Semistructured interviews provide richness in data and allow participants the freedom to respond to questions and probes and to narrate their experiences without being tied to specific answers (Morse & Field, 1995).

The interviews contained open-ended questions, consistent with the goals of the research study. The interviews proceeded according to the interview protocol (Appendix C), which was implemented to assist in keeping all interviews focused and consistent.

Using more than one round of interviews helped me to clarify or ask any questions I may have missed after the interview was transcribed. The first interview was in-depth and semistructured and lasted approximately 45 to 60 minutes. The second and third rounds of interviews served as a followed-up to the first set of in-depth interviews. This began after I read the transcripts to determine the respondent understood the questions clearly. If necessary, a shorter follow-up was scheduled to help clarify anything I did not understand. Follow-up interviews lasted approximately 30 minutes. In the first round of the interviews, participants were asked to describe, in as much detail as possible, their perception of the surveillance provisions of the USA Patriot Act and the effect it had on the right to privacy.

The questionnaire used in this study included questions seeking feedback from participants representing a segment of the population. The questionnaire was designed to measure the understanding of the participants' experiences and the meaning they made of that experience. Respondents were offered the chance to review the transcription of their remarks to ensure there is no miscommunication.

Previously validated instruments for the study were used to provide researchers' opinions on the surveillance provision of the USA Patriot Act. These existing instruments were obtained from the Pew Research Center, the Gallup poll, and the Newsweek poll. Using these existing instruments strengthened the study. The existing instruments also saved time and increased the credibility of the study.

I conducted a pilot study involving two participants randomly from among my peers. I employed the pilot study to ascertain if the questions were ambiguous or leading,

or in need of change to increase clarity, as suggested by Creswell (2012). Feedback from the pilot study aided in modifying the interviewing instrument and process. Resulting interview questions were used in the primary interview. Questions for the second and third rounds were based on the findings from the proceeding rounds.

Initial contact with these potential participants was made through e-mail or telephonic communication. Although mailing the potential participants was an option, it was not used because e-mail is a more efficient means of communication. An invitation message (see Appendix A) was sent out introducing me and informing the participants about this study. Participants who consented to participate in the interview were e-mailed the interview instrument along with some potential dates to schedule the interview. Follow-up interviews were conducted via telephone and, if necessary, by e-mail.

### **Data Collection**

Data collection in this study proceeded in the following manner. Permission to use pre-existing data did not require clearance from the Walden Institutional Review Board (IRB) because no participants were involved; only secondary data was recovered from secondary sources. I obtained permission from the Walden University IRB pursuant to the U.S. Department of Health and Human Services (2009) regulation 45 CFR § 46.10. This regulation provides the policy for the protection of human research subjects. There was no probability of harm or discomfort anticipated in this study.

Data collection during Rounds 1, 2 and 3 of the interview process involved an audio recorder. This allowed me to transcribe verbatim the respondent responses for

coding, categorizing the data into major themes, and for future reference if needed. At the end of the interview respondents were offered the chance to review the transcription of their remarks before data analysis took place to ensure the accuracy of the transcription.

This study relied heavily on the work of Davis and Silver (2004), who investigated the willingness of people to concede some civil liberties and freedoms in return for increased security. Other data that influenced the development of the interview questions were polls conducted by the Pew Research Center, the Gallup poll, and the Associated Press National Opinion Research Center (NORC) for Public Affairs Research poll. The data from these studies showed the participants' answers were generalized and split along the Democrats and Republican Party line. Although I developed the interview questions from these earlier works, the idea was to ensure that the questions to this study were not affiliated with any political party.

Interview Questions 1 to 4 related to the first research question. Interview Questions 5 to 7 focused on the second research question. Interview Questions 8 to 10 elicited information regarding the third research question. Interview Questions 11 to 13 gathered the necessary information to the fourth research question, and the remaining Interview Questions 15 and 16 addressed the fifth research question.

### **Interview Questions**

Interview Question 1: How do you view the surveillance provision of the USA Patriot Act in defending national security?

Interview Question 2: Do you view the surveillance provision of the USA Patriot Act as a success in defending against further acts of terrorism? Please explain why or why not?

Interview Question 3: Do you feel confident that Federal law-enforcement agencies are taking sufficient precautions not to violate individuals' civil liberty? Please explain.

Interview Question 4: Describe your overall satisfaction with the surveillance provision of the USA Patriot Act.

Interview Question 5: Do you see the surveillance provision of the USA Patriot Act as added protection to national security? Please explain.

Interview Question 6: What do you view as the greatest risk to national security? Please explain.

Interview Question 7: How much of your privacy are you willing to sacrifice in order to protect national security? Please explain.

Interview Question 8: Do you feel that the needs for security should outweigh the needs for privacy?

Interview Question 9: What would be your primary reason to be satisfied or dissatisfied with the government's use of the surveillance measures under the auspice of the USA Patriot Act? Please explain

Interview Question 10: What do you believe are the benefits of the federal government's use of monitoring devices to listen in on telephone conversations? Please explain.

Interview Question 11: How have your experiences with the media influenced your decision regarding the surveillance provision of the USA Patriot Act? Please explain.

Interview Question 12: What is your view of the media in discussing federal government's increased use of surveillance during times of crisis?

Interview Question 13: How much of a role do you feel the media played in the debates over the implementation of the surveillance provision of the USA Patriot Act? Please explain.

Interview Question 14: Do you see the implementation of the surveillance provision of the USA Patriot Act as an increase in governmental control? Please explain.

Interview Question 15: What is your view on federal law-enforcement officials obtaining information from third parties (e.g., individual travel or telephone records) without court approval?

Interview Question 16: What is your view on the federal government's argument that the surveillance provision of the USA Patriot Act is necessary to protect against future acts of terrorism? Please explain.

### **Data Analysis**

Data analysis is defined as a systematic search for meaning, organizing, and integrating the data to identify common patterns, themes, relationships, or explanations

(Hatch, 2002). The data analysis for this study followed an integrated qualitative approach to allow the method of analysis to follow the nature of the data itself (Ajjawi & Higgs, 2007). This data analysis followed six basic stages.

The first stage was the immersion stage. During this stage, I organized the data set from the interview transcript field notes and audio recording into texts, conducted iterative reading of the texts for clarity, and completed preliminary interpretation of the texts to facilitate coding. The second stage was the understanding stage. I identified the first order of participants and constructed the participants' ideas they expressed in their words or phrases for appropriateness and completeness, as suggested by Titchen and McIntyre (1993). The data were analyzed and coded using the NVivo 11 software. There was no coding scheme or framework used to code the data; instead, I identified important words, phrases, and sentences that related to the research questions. After identifying these, I labeled each unique words, phrases, or sentences with a name that summarized the essence of the experience described.

The third stage was the abstraction stage. During this stage, I identified the second order of participants' transcripts and grouped them to create themes and subthemes (e.g., Ajjawi & Higgs, 2007). The fourth stage was the synthesis and theme development stage. During this stage, the themes and subtheme relationships were clarified through my reading and re-reading of all the data. The fifth stage was the illumination and illustrations of any phenomena. I linked the literature to the themes identified in the entire data set and reconstructed the participants' stories in their words to highlight key findings from the



data. The sixth stage was the integration and critique stage, in which I critiqued the themes and presented the final interpretation of the research findings to include a final review of the literature for key developments that increase understanding of the effect of the USA Patriot Act surveillance provision.

### **Issues of Trustworthiness**

In this study, trustworthiness was established through a variety of techniques and strategies employed by qualitative researchers. The aim is to strengthen the researcher's argument that attention needs to be given to the credibility, transferability, dependability, and confirmability of the study's findings (Lincoln & Guba, 1985). Qualitative research is trustworthy when it accurately represents the experience of the study participants (Streubert & Carpenter, 1999). Trustworthiness of the data is demonstrated through the researcher's attention to the confirmation of information discovery (Streubert & Carpenter, 1999). A rigorous use of a systematic method of data collection, analysis, transparency in documenting these methods, and consistency is needed to accurately represent the study participants' experiences (Streubert & Carpenter, 1999).

Data adequacy in this study refers to the amount of data obtained and whether or not saturation occurred (see Morse & Field, 1995). Confirming the result of this study with secondary sample ensured the adequacy of the data. Data trustworthiness was measured by credibility transferability, dependability, and confirmability.

**Credibility**

Credibility refers to the believability of the findings and is enhanced by evidence, such as confirming evaluation of conviction by research participants, convergence of multiple sources of evidence, control of unwanted influences, and theoretical fit (Miles & Huberman, 1994). Maximum confidence in the believability of conclusions came from the support provided by participants' agreement, analysis of multiple sources of data, others' interpretations, and prediction based on relevant theoretical models. Credibility is related to the construct validity uncovered by evidence revealing that the issue being studied was the same one theory presumes exists. The concept of credibility is also close to the idea of internal validity, as used in quantitative designs (Miles & Huberman, 1994).

**Transferability**

Transferability refers to evidence supporting the generalization of findings to other contexts across different participants, groups, situations, and so forth (Lincoln & Guba, 1985). Transferability was enhanced by detailed descriptions that enable judgment about a fit with other contexts. Comparison across cases or other units of analysis that yielded similar findings also increased transferability. In this study, I ensured transferability of the findings by sharing the results with various colleagues who were familiar with the electronic surveillance provision of the USA Patriot Act for constructive criticism. During this process, I assessed, given the data prospective and situation, if colleagues would arrive at the same or comparable conclusions.

**Dependability**

Dependability relates to the concept of reliability in qualitative research (Lincoln & Guba, 1985; Streubert & Carpenter, 1999). Dependability supports the notion that similar findings would be obtained if the study were repeated using the gathered evidence. Naturally, one should understand that even if the study were repeated in the same context with the same participants, it would be considered a new study, given the changing environment and perceptual shift that occurs with change in society's social events. There can be no validity without reliability and no credibility without dependability (Lincoln & Guba, 1985). In this study, I assessed dependability by an independent auditor to see if I had failed in conceptualizing the study, collecting the data, interpreting the findings, or reporting the result. I also made sure to maintain an audit trail to ensure dependability and trustworthiness were not diminished.

**Confirmability**

Confirmability refers to the neutrality and the control of the researcher's bias (Lincoln & Guba, 1985). Researcher bias in a qualitative study is an ever-present concern, but unbiased interpretations are more likely after the researcher recognizes them overtly and factors them in the design. Confirmability is also enhanced by the consistency with quantitative research findings from the evidence, such as peer review that reaches similar conclusions. In this study, I achieved confirmability through corroboration with peers who played the role of the devil's advocate and challenged the findings. This process was documented to enable me to check and recheck the data for potential bias and distortion.

## **Ethical Procedures**

Ethical issues are common in the data collection and reporting phases of research projects (Creswell, 2012). Cozby (2004) stated that ethical concerns are paramount when planning, conducting, and evaluating research. Merriam (2002) conveyed consideration must be given to ensure participants are not subject to harm during research. The Nuremberg Code and the Declaration of Helsinki provided the ethical foundations that U.S. legislators relied on when promulgating regulations for human research subjects (Derrickson, 1997).

Informed consent includes eight basic elements. I ensured that the informed consent document contained: (a) a statement that the study involved research; (b) an explanation for the purposes of the research and the expected duration of the subjects' participation; (c) a description of the procedures to be followed, and the identification of any procedures that were experimental; (d) descriptions of any reasonably foreseeable risks, benefits, and alternative treatments available; (e) an explanation that participation was voluntary and consent may be withdrawn at any time without penalty; (f) a description of the extent of confidentiality with respect to the patient's records; (g) an explanation of the proper person to contact for questions about the research and whom to contact in the event of an injury; and (h) an explanation of any compensation and medical treatments available to the subject if the study involved more than a minimal risk (Derrickson, 1997). These elements were focused on the trusting relationship between me and the research participants.

In this study, the procedures for the protection of human participants were observed. Walden University IRB approved the consent form, which the participants received prior to the start of this study. The informed consent was documented in writing by the researcher. All responses to the demographic survey and interviews remained confidential. I maintained sole access to the data entered by the participants and used for data analysis. A pseudonym was assigned to each participant to ensure the confidentiality of their responses throughout the research process.

I ensured that the participants fully understood the nature of the study and the fact that participation was voluntary. I allowed participants to ask questions, and presented the information to participants in a language that was understandable to them. No sanctions were applied to participants who declined or withdrew from the study. No information regarding participation of any individual was disclosed. Confidentiality of data was maintained at all times, and the identity of participants was protected during the study and afterwards. These conditions were communicated to all participants at the start of the interview protocol. All data pertinent to the study will be stored in a secure location for a period of 3 years after the dissertation is published, and after that, destroyed in its entirety.

### **Summary**

This chapter contained descriptions of the research design and rationale, the role of the researcher, the methodology, and the issue of trustworthiness during the data collection. A qualitative approach was deemed the most appropriate method to launch an inquiry into the research problem.

A generic qualitative research approach with iterative interviews was the preferred method to conduct this study. Data collection included open-ended questions to search for emerging themes or patterns in the data. Participants were selected from the Walden University Participant Pool. I conducted a pilot study to identify if adjustments were needed to the study's questions or process to improve the veracity of the data collection. A summary of the population sample, data collection, analysis procedure, reliability, and validity were also recited in this chapter. Chapter 4 provides a discussion of the research findings and the secondary analysis.

## Chapter 4: Results

### **Introduction**

The purpose of this qualitative study was to explore the perceptions and attitudes of ordinary U.S. citizens regarding the USA Patriot Act's effects on their right to privacy, to determine whether a loss of trust in the government had occurred, and to identify the factors that contributed to the lack of trust. I present the findings of the generic research inquiry and included (a) a description of the natural setting where the study occurred, (b) a description of the pertinent characteristics for the participants, (c) characteristics of the research design, (d) participants' stories, (e) presentation of the essential themes, and (f) a summary of the essential themes.

I posed five research questions to guide this study.

RQ1: What are the perceptions of U.S. citizens about the electronic surveillance provisions of the USA Patriot Act, which intended to counteract threats to the national security?

RQ2: What are the perceptions and attitudes of U.S. citizens about the government's need to collect individual electronic data without court approval?

RQ3: What are the perceptions and attitudes of U.S. citizens about the invasion of their privacy as a result of the electronic surveillance measures in the USA Patriot Act?

RQ4: What are the perceptions and attitudes of U.S. citizens about the media influence on their attitudes to support or not support surveillance provisions of the USA Patriot Act?

RQ5: What are the perceptions and attitudes of U.S. citizens about the federal government's argument that the collection of individual data helps law enforcement to better fight against terrorism?

### **Setting**

I conducted interviews in Alexandria, Virginia, from May through September 2016. I employed a semistructured interview format to encourage respondents to freely express their views in their own terms, and to engage in a two-way conversation between me and the participant. To ensure their comfort, participants were allowed to choose the setting for the interview. The interviews were conducted via Skype and lasted approximately a half hour.

### **Demographics**

The sample for this study consisted of 20 U.S. citizens who were willing to share their opinions about the USA Patriot Act and the reasons underlying their abdication of privacy rights (see Table 1). The participants' ages ranged from 18 to 55. All participants had at least a bachelor's degree. African U.S. citizens were over-represented in the sample when compared to the general population of the United States. Participants were selected based on the following criteria: individuals from various ethnic and religious backgrounds who (a) were aware of the provisions of the USA Patriot Act as asked on the consent form, (b) were U.S. citizens working in the United States, (c) were 18 years or older, and (d) spoke the English language fluently.



Table 1

*Participant Demographics*

Participant demographics	<i>N</i>	%
Gender		
Male	8	40
Female	12	60
Age Range		
18–25	6	30
26–35	2	10
36–45	8	40
46–55	4	20
56–65	0	0
66 +	0	0
Ethnicity		
Caucasian	5	25
African American	11	55
Hispanic or Latino	0	0
Native U.S.	0	0
Asian/Pacific Islander	2	10
Other	2	10
Highest level of education completed		
Some high school	0	0
High school	0	0
Some college	0	0
Trade/technical/vocational training	0	0
Bachelor's degree	11	55
Some postgraduate work	6	30
Post graduate degree	3	15
U.S. citizenship		
Yes	20	100
No	0	
Years lived in the United States		
Less than 3	0	0
3–5	0	0
6–10	0	0
More than 10	20	100
Years worked in the United States		
Less than 3	2	10
3–5	5	25
6–10	1	5
More than 10	12	60

\*Note. *N* = 20.

### **Data Collection**

Using the Walden Participant Pool aided in the recruitment of participants. I began by sending out an e-mail with a brief description of the study and the selection criteria. Included in the e-mail was a copy of the informed consent form and my contact information. After individuals responded to the e-mail, I contacted them to screen for inclusion, answer any questions about the study, and set up a time for the interview to occur. Many prospective participants cancelled with short notice, while some individuals who initially agreed to take part ceased responding to e-mail, which created delays in data collection. Still, I was able find and interview a sufficient number of participants to reach saturation in the study. I established saturation in my sample after transcripts and participant responses revealed no new codes or themes. Saturation was reached with a sample size of 20 participants.

I used Skype to contact participants. The interviews began with a check-in to ensure the respondents still wished to take part in the study and to offer them an opportunity to ask any questions. I used the interview protocol to guide the interviews and hand recorded all responses. After completing the interviews, I thanked participants for their time, answered any questions, and informed the participants they would receive copies of the interview to verify responses were recorded accurately, as well as a summary of the results of the study for review and commentary.

### **Data Analysis**

In this study, I employed Braun and Clarke's (2006) thematic analysis to analyze the gathered data. After the interviews were completed and transcribed, analysis began with my initial reading and rereading of the transcripts repeatedly to gain familiarity with the interviews and to gain an understanding of the predominate messages. In this first step, familiarization with the data helped me gain and an understanding of the attitudes and perceptions of the participants.

During the second stage, I began to identify and highlight statements and phrases that pertained to the participants' thoughts and ideas about the USA Patriot Act. During this process, I found and began to note statements that carried significance or meaning. These commentary statements are a summary of the meaning of each excerpt. Table 2 includes samples of this process. After this process was completed, the documents were uploaded into NVivo 11 for the next stage of analysis.

Table 2

*Raw data with Associated Commentary*

Raw Data	Commentary
It's a game. The government will hold a news conference and tell the media what they want them to know in an effort to satisfy the media's curiosity.	Government used the media to get its own ideas across.
The media attempts to read between the lines and puts their own spin on the information provided. Then the media snoops find an insider that is willing to talk, believe they now have a reliable source and fail to properly vet their information.	Participant believes that the information in the media is inaccurate – not enough fact checking and care.
I believe that cybersecurity is the greatest risk to national security. Technology is a double-edge sword. Hackers and organized criminal groups attempt to disrupt the critical infrastructure that is vital to our economy, public safety and military.	Although we need technology, it can easily be used against us.
From my experience, yes, they do the best they can to not violate citizens' rights; there are policy and procedures in place that they have to follow.	Law enforcement tries to do right and follow rules.

In the third step, I began to carefully analyze the data. First, I used NVivo to find the most frequently used words. I set the following parameters: (a) find 25 words; (b) the minimum word length was four characters; (c) commonly used words that carried little meaning, such as, also, need, and take, were removed; and, (d) synonyms used by the participants were identified. Table 3 reports these words.

Table 3

*Most Frequently Used Words*

Word	Similar Words
question	interview, question, questionable, questioned, questions, wondering
patriot	nation, national, nationalist, patriot
respondent	answer, replied, respondent, responder
surveillance	follow, surveillance, surveilled, surveilling
security	depending, depends, ensure, ensuring, good, guaranteed, protect, protected, protecting, protection, protects, safe, secure, security, strongly
government	authorities, authority, control, controlled, government, governments, governments', order, orders, organizations, organized, political, regular, rule, rules
provision	plan, planned, planning, provision, provisions
think	believe, believing, believes, considered, guess, intelligence, intended, mean, means, reason, reasonable, reasoning, reasons, remember, suppose, think, thinking, thinks, thought
national	communicate, communicating, communication, communications, communities, countries, country, home, internally, international, land, nation, national, state, stated, states, subjected
view	aspect, aspects, catch, catching, considered, opinion, opinions, position, positions, positive, regarding, screen, seeing, show, showing, thought, view, viewed, watch, watched, watching
feel	experience, experiences, feel, feeling, feelings, feels, find, finding, look, looking, notions, opinion, opinions, sense
media	media, medias'
terrorism	panic, terror, terrorism, threat, threats
populace	populace, public, world
information	conversation, conversations, data, information, informed, informing, source, sources
American	American, U.S. citizens

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individual	identity, individual, individuals, individuals', person, personal, private, several, severity, someone
privacy	privacy, private, secrecy
federal	Federal
protect	auspice, protect, protected, protecting, protection, protects, save, saved, saving
acts	acting, acts, bits, move, play, played, plays, representatives, turn, work, works
perceptions	insight, perception, perceptions, sense
section	part, section
attitudes	attitudes, position, positions, positive
enforcement	applied, apply, enforcement, implement, implementation, implemented
cross	cross, crosses, foiled, thwarted, track
measures	care, careful, caring, evaluated, measure, measures, standard, step, value
argument	argument, debate, debated, debates, line, lines
much	Much
necessary	essential, necessary

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Using these words, as well as the notes and observations made while reading the transcripts, I began to parse the data line-by-line, breaking the information into chunks, and assigning a code that described the meaning of the pieces of data. This process continued until all data were explored and assigned a code. Table 4 displays examples of the coded data.

Table 4

*Raw Data and Associated Codes*

Codes	Raw Data
Cybersecurity	<p>Technology, we have so much confidence that our information is safe, when it is at a lot of risk.</p> <p>Hackers, there will always be someone who can figure out how to get into information.</p> <p>Cyber-attacks are the greatest threat to national security. Terrorists and other adversaries can attack our infrastructure, banks, electrical grids or power plants without actually being in the US.</p> <p>I believe that cybersecurity is the greatest risk to national security. Technology is a double-edge sword. Hackers and organized criminal groups attempt to disrupt the critical infrastructure that is vital to our economy, public safety and military.</p>
Media causes panic	<p>The media blows things out of proportion and create more tension then what is needed. The media uses a lot of propaganda which places fear in a lot of U.S. citizens. Many of my colleagues tend to agree with things based off of what they hear through media rather than being told the truth.</p> <p>They do a really good job of tricking people into thinking it's necessary.</p> <p>The media over exaggerates things. It's a game. The government will hold a news conference and tell the media what they want them to know in an effort to satisfy the media's curiosity. The media attempts to read between the lines and puts their own spin on the information provided. Then the media snoops find an insider that is willing to talk, believe they now have a reliable source and fail to properly vet their information.</p>
Not sure of success level	<p>It is too early to say.</p> <p>Little too early to give an opinion about it.</p> <p>I cannot answer this question with certainty, but I think it has in some incidents.</p> <p>Not sure.</p> <p>Not sure because I haven't heard anything saying it is successful.</p>

In the next stage, I examined the coded data for commonalities and relationships. Data with commonalities were gathered into categories until no further reduction was possible (see Table 5). The next step involved searching the categories for links and

connections with like and related categories joined. For example, the codes (a) *Give up a lot of privacy*; (b) *Give up as much privacy as needed*; (c) *Sacrifice some privacy*; and, (d) *Unwillingness to sacrifice privacy* were responses associated with participants' thoughts regarding the amount of privacy they were willing to sacrifice to gain feelings of safety and security. I categorized these codes together and this category was named *Sacrificing privacy*.

Table 5

*Categories and Associated Codes*

Categories	Codes
Sacrificing privacy	Give up a lot of privacy Give up as much privacy as needed Sacrifice some privacy Unwilling to sacrifice privacy
Media influence on debate about surveillance	Does not remember if media had influence Media was main source of information Media had little influence

In the final stage of data analysis, I examined the categories for completeness. Next, I examined the categories and sorted them by research question. Last, I conducted a final search for relationships or connections between categories. The categories were assigned a final descriptor and became the themes and subthemes used to provide answers for the research questions (see Table 6).



Table 6

*Sample Research Question, Theme, and Category*

Research Question	Theme	Category
What are the perceptions of a cross section of the U.S. populace about the surveillance provisions of the USA Patriot Act intended to counteract threats to the national security?	Views on Surveillance	Can be beneficial
		Thoughts about law enforcement use of surveillance
		Not sure of success of the use of surveillance
		Satisfied with the results of surveillance
		Sees little benefit to the use of surveillance

**Issues of Trustworthiness****Credibility**

Credibility in a qualitative study refers to the degree to which results reflect the true and correct experiences of the participants. Participants were asked to review a summary of results and asked if the information correctly reflected their experiences to member check the information. Any anomalies or contradictory data were identified employing negative case analysis, and the resulting information was incorporated into a discussion of the results to ensure that the results represented the breadth of all the participant perspectives in this study.

**Transferability**

In qualitative studies, transferability lies with the reader and his or her interpretation regarding whether the findings apply to other settings. To ensure that any reader had ample information from which to infer the transferability of this study, I

included information about the demographic composition of the sample, as well as an explanation of the setting for the study. In addition, a rich, detailed description of the thematic findings was included in the results section of this study.

### **Dependability and Confirmability**

I ensured dependability by employing an audit trail. This step occurred after completion of the data analysis. I kept a detailed log of each step of data collection and analysis. This enables future research to examine the entire study process to assess the dependability of the results.

## **Results**

The results of this study are organized by research question and presented in this section. The analysis was supported using selected data excerpts, and some responses were conflated to protect the confidentiality of the participants.

RQ 1: What are the perceptions of a cross section of the U.S. populace about the surveillance provisions of the USA Patriot Act, which intended to counteract threats to the national security?

### **Views on Surveillance**

Participants in this study shared mixed feelings regarding the surveillance provisions of the USA Patriot Act intended to counteract threats to national security. Responses to the surveillance provisions specifically fell into two areas with some participants holding contradictory feelings about the use of surveillance. On one side, they felt the use of surveillance was important in the fight against terrorism, and on the other

side, they worried about the misuse of power during this process. Other participants were wholly supportive or wholly against the use of surveillance. Participants either felt the use of surveillance was beneficial or saw little to no benefit to the use of surveillance. The theme used to provide an answer to this research question was titled *Views on Surveillance*.

Eleven of the participants in the study believed in using surveillance. They felt it increased security and helped provide protection to citizens of the United States.

Participant 7 spoke about the USA Patriot Act and said, “It is a good law because it protects U.S. citizens from terrorists.” Participants felt it was important to ensure safety and found the USA Patriot Act necessary, Participant 10 stated,

I totally agree with the Patriot Act. As a prior Antiterrorism Officer, I see the great need for this act. If this act prevents possible terrorist incidents and protects U.S. citizens in a long run, then I think it is needed.

The participants believed the need for protection to be of the utmost importance. Participant 12 stated, “it is beneficial when it is used to prevent 911 acts.” The participants believed the threats from around the world were steadily increasing and wanted to “ensure security of the country.” The participants believed the law was good and it helped, “gather information needed in criminal cases and to confirm terrorist activity” (Participant 6). One of the participants indicated the law “makes sense, because we would be able to track their [terrorists] phone conversation[s] and even their location using GPS.” They saw the increasing use of technology as a part of terrorist activity, and felt the most effective way

to fight terrorism was to use surveillance to monitor and help prevent further acts of terrorism.

Of the participants, 11 spoke against the use of surveillance or had concerns with potential abuses of power. The participants listed a variety of issues associated with surveillance. Six of the participants worried about the inherent invasion of privacy caused by broadly based surveillance. These participants keenly felt the implied loss of privacy associated with the USA Patriot Act. Participant 19 stated, “Now there is nothing that is truly private anymore and individual are supposed to be given the right to privacy.” Other participants agreed that the country had changed since the implementation of the USA Patriot Act.

Participant 9 spoke about civil liberties and remarked, “We have become a nation of ‘Yes!’ Which means anything they [the government] do, violates individual’s civil liberty.” Despite this observation, this participant did believe surveillance was necessary and indicated he felt it was a situation where no clear correct answer existed. Participant 9 was one of the few participants who spoke about both sides of this debate. The remaining individuals who spoke about a loss of privacy were strongly opposed to the loss of civil liberties and had issues with the loss of privacy. Several participants mentioned concerns that the USA Patriot Act enabled the surveillance of innocent citizens. Participant 12 summed, “most people believe it is a used to probe into law abiding citizens’ lives.”

Five of the participants said they believed the USA Patriot Act violated the constitution. Participant 1 believed it placed her in a position where she was exposed to

“unwarranted search and seizure.” She went on to indicate it was “a violation of her constitutional rights.” Participant 16 agreed and said the USA Patriot Act surveillance was, “unconstitutional when watching U.S. Citizens. Very Orwellian.” However, she did believe that it was appropriate to use surveillance, “[when] watching other countries, it’s fine.”

Participants felt the power inherent in the Patriot act was “troubling” (Participant 12) and were “not exactly comfortable with them [the government] being able to view anyone’s information anytime.” Participant 2 was also disturbed and believed the surveillance provision was “too broad and needs to be rewritten. Three of the participants simply believed the USA Patriot Act gave the government too much power. Two others agreed and stated that data collection should be limited. Some of the specific words used to describe the act included “hate it,” “flawed,” and “scary.”

Many of the participants questioned the results of surveillance and were not satisfied. They felt despite the monitoring, terrorist acts continued and people were harmed. Participant 2 said she, “worried everyday of where they are going to strike next.” Participant 8 agreed and stated, “I haven’t seen any arrest that is related to surveillance that is seen as successful.” Participants spoke about ongoing terrorist activity within the United States, such as the San Bernardino shooting, and questioned the effectiveness of the surveillance program. Some participants believed it was difficult to truly judge the success of the program because they received little information regarding how it functioned, while a few others believed it was too soon to judge.

One of the primary areas of concern mentioned by the participants was with law enforcement agencies. Of the 20 participants, 14 were concerned with potential abuses of surveillance within the law enforcement system. Participant 2 said, “Law enforcement is gathering too much information through monitoring that they can later use against US citizens without due process.” This participant believed law enforcement agencies were over stretching their bounds and spying on U.S. citizens. Participant 6 agreed and said she was, “not confident that Federal law-enforcement agencies are taking sufficient precautions not to violate an individual’s civil liberty.” She went on to state, “there can be instances where federal organizations can over reach their authority to close cases or collect evidence.” Participant 17 described a feeling of constantly “being watched.” He went on to say, “If the government is determined enough, they will do anything and go to any level to achieve it.” They were not confident of the government or law enforcement agencies self-policing and worried about infringement on themselves and others. Participant 18 spoke in more detail and said:

Every agency possesses policies, processes, and procedures (compliance guidelines). Unfortunately, I believe there is a small population of law-enforcement personnel who are prone to violate the rules, and this is where the question of protecting civil liberties comes into question. It seems that personnel in key positions are more apt to violate policy than personnel serving in a non-management role. There is a lack of accountability for those who hold key

positions. Until they are held accountable, compliance guidelines will continue to be challenged and refined.

Although this participant believed not every person would infringe on the liberties of others, she felt a few individuals would disregard the rules and believed the lack of accountability inherent in the USA Patriot Act created situations ripe for abuses. Other participants in the study agreed and stated their concerns.

RQ2: What are the perceptions and attitudes of a cross section of the U.S. populace about the need for national security?

### **Do We Need Security**

The participants spoke about three main areas pertaining to the need for national security. The participants focused on their perceptions of the need for surveillance, sacrificing privacy, and some of the perceived risks associated with the need for national security. When speaking about the need to use surveillance, the participants were split on their opinions. Eighteen of the participants spoke about this topic. The overarching theme used to answer this research question was *Do We Need Security*. This theme consisted of three subthemes titled: (a) *need for surveillance*, (b) *sacrificing privacy*, and, (c) *associated risks*.

**Need for surveillance.** Nine participants believed the use of surveillance aided in increasing levels of national security. Participant 5 believed it was “one of many tools” needed to protect the United States. Participant 4 felt using surveillance allowed, “Them [the government] to monitor people who could become potential threats to national

security.” This was important to prevent terrorist activities from occurring. Participant 6 agreed with the perception of surveillance as a toll and elaborated on others’ responses stating:

It is a tool that can be useful in the protection of national security. . . terrorists and other illegal organizations use various methods to communicate and plan attacks . . . some of the methods of surveillance can give the U.S. government an advantage to eliminate or reduce the threats or attacks.

Generally, the participants believed using surveillance helped increase national security and was one of many effective tools that could be used to reduce terrorist activity.

Participant 18 explained how surveillance was helpful and remarked, “It [surveillance] expanded federal agencies’ powers in intercepting, sharing, and using private incriminating telecommunications.” Not only could agencies gather more information, the provisions of the USA Patriot Act enabled them to share data and coordinate responses which, in turn, led to higher levels of national security.

Seven of the participants disagreed and believed using surveillance did not help increase national security levels. Participant 1 said, “it is not effective . . . many attacks have occurred which could have been prevented by the government.” This participant questioned why, with all the provisions of the USA Patriot Act and the increased levels of surveillance, terrorist acts continued to occur on U.S. soil. She believed the use of surveillance did not improve security and had little faith that the provisions of the USA



Patriot Act did anything to help protect U.S. citizens. Participant 12 felt similarly and remarked,

I don't think it's designed to protect the citizens as much as it is used to take our personal freedoms away. The overall agreement amongst U.S. citizens are the policies in place do little defend national security, and maybe some terrorist acts are allowed just so the Government can take away some of the U.S. freedoms.

This participant questioned the use of the information gathered using surveillance and believed the high levels of surveillance allowed through the provisions of the USA Patriot Act curtailed U.S. citizens' freedoms rather than aided in catching terrorists. Participant 12 thought these actions or lack of actions were deliberate.

The participants expressed concern about the lack of transparency connected with the use of surveillance. Participant 8 stated, "I haven't seen anything showing that added protection helped to protect national security." Participant 9 agreed and said, "haven't seen anything showing the effectiveness." These participants were highly critical and worried that the use of surveillance did not increase national security. Many of them believed these tools were used to spy on U.S. citizens, under the guise of increased protection from terrorist acts. Participant 16 was highly critical of information shared by the government on the effectiveness of surveillance. She said, "As it stands, they [the government] wait for an attack, they say oh yeah, we know about that guy. They need to get warrants for those they watch and take action before something happens." Participant 16 expressed obvious

frustration with the knowledge people who had been under surveillance were still able to commit terrorist acts.

**Sacrificing privacy.** Participants spoke about sacrificing privacy to increase national security. They shared a range of responses when they spoke about this. Eight of the participants were not willing to give up their privacy. Participant 14 spoke about privacy and said she did not want to give up any of her rights. She explained that she, “became an U.S. citizen in 2005. . . [I don’t] think it is necessary to give it [privacy] up, because giving up civil liberty is not fighting terror it is giving in to terror.” Participant 14 felt that the sacrifices the government expected U.S. citizens to make to increase national security were too significant. Participant 12 agreed and said, “people that are not citizens have more rights to their privacy than U.S. Citizens.” These participants felt asking them to sacrifice their privacy would not help increase national security levels, and felt upset with the perceived loss of privacy that occurred because of the USA Patriot Act.

Of the participants, 11 were not as adamant about keeping their privacy. Their comments regarding a willingness to give up privacy to increase protection varied from a lot to some. Participant 5 willingly sacrificed privacy because “[I have] nothing to hide.” Participant 4 did not worry about losing privacy because “I am not a threat to national security.” Participant 15 agreed and said, “I’m willing to sacrifice as much privacy as needed as long as it’s necessary to protect national security.” These participants were not troubled about losing privacy because they had more concern about safety and security. For them, preventing acts of terrorism ranked higher than any perceived sense of privacy.

The remaining participants varied in their thoughts about privacy. They were willing to sacrifice some of their rights, but indicated it depended on the situation. Participant 15 said, “It depends on the level of threat.” Participant 17 quantified his response and stated, “[I] like [my] privacy, but [my] country comes first, so [I] would sacrifice about 20 percent of [my] privacy.” Participant 5 provided even more detail about personal parameters and said,

I don't care if they [the government] monitor my computer or cell phone, but my personal security...what happens inside my home is private. There are too many common-sense approaches to this problem without having to give up privacy within the confines of my own home.

These participants felt it was more important to have safety and were willing to give up some of their rights to privacy.

**Associated risks.** The participants also shared some thoughts on the highest risks to national security. All participants spoke about the risks with some listing more than one response. The three most common types of risk were cybersecurity, immigration, and the political system. Four of the participants spoke about cybersecurity risks. Participant 4 mentioned this topic and said, “hackers, there will always be someone who can figure out how to get into information.” This participant worried about the weaknesses inherent in technology, and felt this was an area that was easy to attack. Participant 3 agreed and spoke about the risks of overconfidence. Participant 3 added, “We have so much confidence that our information is safe, when it is at a lot of risk.” The participants

believed overconfidence was a risk that most people succumbed to because they did not understand how easily attacks on information occurred. Participant 6 spoke to this point and remarked, “cyber-attacks are the greatest threat to national security . . . terrorists and other adversaries can attack our infrastructure, banks, electrical grids or power plants without actually being in the US.” This participant pointed out how terrorists can attack without ever entering the United States.

Another area of risk identified by the participants was immigration and immigration policy. Four participants spoke about this topic. They believed the United States was increasing security risks because of how the federal government handled immigration. Participant 18 explained,

Failure to implement our own laws due to a lack of funding has and will continue to put the US in jeopardy of future terrorist attacks. Cutting funding to

Immigration and Customs Enforcement is putting this country at risk, high risk. This participant believed effective policies are in place, but are not being implementing correctly. Other participants who spoke about immigration agreed. Participant 8 said, “Immigration is the greatest risk, because it is not difficult for someone to come to the US and we don’t have a good background check on them.” This participant did not feel current policies were stringent enough and worried about people who entered the country. Participant 5 also worried about checking backgrounds and said illegal immigration was an issue because many people were in the United States with no background check.

Another risk mentioned by four of the respondents was the U.S. political system. The participants worried about the dysfunction they saw occurring and worried that it put national security at risk. Participant 14 summed up these responses:

Our congress is not functioning and our three branches of government are not finding common ground to cooperate with each other; that makes us weaker [to a perceived] terrorist threat from abroad. We are broken at home and that is more of a threat for us even from the outside. That is the message . . . we are sending to the outside world and it does not help, it makes us more vulnerable to the outside threat.

Because of the issues the country faces internally, the respondent believed national security was at risk because the country is perceived to be weak by adversaries, such as Iran and ISIS. The participants worried that internal terrorism is increasing because of the communication issues between political parties.

Other areas of risk to national security included terrorism—both international and domestic—violation of constitutional rights, and information that falls into the wrong hands. Participant 20 said, “Information in the wrong hands can be manipulated for nefarious purposes.” This participant worried that terrorists could use the information they gathered to attack the United States. Other participants worried about balancing individual rights and freedom with protecting national security. Terrorism was an ongoing concern. Participants mentioned worrying about international terrorist organizations, domestic terrorist groups, such as White Nationalists, as well as lone wolf attackers.

RQ3: What are the perceptions and attitudes of a cross section of the U.S. populace about the invasion of privacy by the government as a result of surveillance measures in the USA Patriot Act?

### **Differing Opinions About Invasion of Privacy**

Participants spoke passionately about issues with invasion of privacy. Of the participants, 11 believed it was more important to protect the country from national security threats than to maintain privacy. Three participants were willing to sacrifice privacy with no questions to increase security. They believed the need for security outweighed the need for privacy. Eight other participants agreed security was important but believed some limits exist on what they would sacrifice. The participants generally felt, “it depends on the situation, and who needs monitored.” Participant 10 agreed and offered more detail:

It depends, for law abiding citizens should have a right to privacy. Privacy is necessary for us to develop who we are, for an identity that is not dictated by social conditions that directly or indirectly influence our thinking, decisions and behaviors.

This participant believed privacy was important but the need for privacy needed to be balanced against the need for safety. Although this group of participants believed privacy was important, they were willing to sacrifice some in return for increased security.

Eight of the participants disagreed with this stance and believed privacy was more important than safety. Most did not elaborate other than to say privacy was more

important. Participant 12 offered some detail and said, “It is an invasion of personal rights and freedoms.” These participants believed the government had more than enough ways to gather information and prevent terrorism without interfering in citizens’ personal rights.

When asked their opinions about the federal government’s use of surveillance measures, the majority of participants were dissatisfied and strongly believed the measure was an invasion of privacy and it was not working. Participant 16 said, “I am dissatisfied because it crosses too many privacy lines without any return on investment.” Like others in the study, this participant believed the measures were not particularly effective. She did not know of any positive results and agreed with the other participants who felt they were being asked to relinquish their right to privacy with no visible positive outcome. Other areas participants reported dissatisfaction with included perceived targeting of Muslims, unsecured personal information, abuse of the law, and mistakenly persecuting innocent victims.

Four participants indicated they were satisfied with the government’s efforts to balance privacy and security. Participant 5 said, “It can help to save lives.” Participant 20 agreed and spoke at length:

Secrecy is paramount in terms of the Patriot Act surveillance procedures which have provided satisfying results in preventing possible incidents from occurring. I am satisfied because the results of the Patriot Act are a deterrent to those contemplating harm to US citizens.

This participant believed the USA Patriot Act was working to keep U.S. citizens safer. He was not concerned with the secrecy surrounding surveillance or possible invasion of privacy because for him, being safe trumped privacy concerns. Feeling safe was important to this group of participants, with three of them speaking about the topic. Participant 7 summed this feeling up and stated surveillance gives her a sense of security and safety.

RQ 4: What are the perceptions and attitudes of a cross section of the U.S. populace about the effect of the media's influence on individual attitudes toward the surveillance provision of the USA Patriot Act?

### **Thinking About Media Influence**

Nine of the participants reported the media had a significant influence on their perceptions of the surveillance part of the USA Patriot Act. Even those who were skeptical of what the media reported acknowledged the influence. They identified the media as their main source of information. Participant 11 said, "Fox News and conservative radio has played a huge role." Participant 19 spoke about his view of the media and stated, "Media plays a huge part. I tend to believe what I see." In this he confirmed Participant 20's belief about the role of the media. Participant 20 said, "The U.S. public gets a majority of their information from the media, so if there is a debate, the public's curiosity came because the concern was raised." Participant 7 also believed the media had an outsized role in public perception and said, "It [the media] plays a huge role, because people who don't know about national security chose to listen to what the media is saying and it influenced what they think." This participant continued to speak about herself and said, "Based on what I



have seen from the media I can understand why the surveillance provision was implemented, although I do not want my privacy to be invaded.” She made a decision regarding what to believe based on media information.

Four of the participants spoke about their concern that the media was biased and how that bias effected what people thought. Participant 15 said, “I think the media is very biased in its reporting.” Participant 6 spoke about media bias related to the USA Patriot Act and said, “Sometimes the media can negatively influence individual's decisions about different things. The media has only to shown the negative aspects of surveillance and not enough on the good surveillance has done.” For her, others’ negative views of the USA Patriot Act could be tied back to the media’s presentation of the information.

Several participants indicated the media had no influence on their thoughts. Participant 8 said, “It doesn’t affect my opinion, anything I hear in the media I don’t take it as face value. I think the media may try to portray it as a positive thing but people are dissatisfied.” She was one of the participants who had issues with the provisions of the USA Patriot Act, and was clear that she did not trust what the media reported. Participant 17 agreed and said the media did not influence him because he paid no attention to it.

During the debates about the USA Patriot Act, 16 of the participants reported they received most of their information from the media. Participant 8 said, “They play[ed] a big role in the issue.”

Participant 1 spoke about the debate and said,

I feel the media played a major role in the debated over the implementation of the surveillance provision in order to get a lot of U.S. to agree that this policy is needed in order to keep the country safe from future attacks.

This participant believed the media helped convince people that surveillance was necessary for prevention of terrorist activities. Participant 6 believed “the media directly caused some of the debates.” This participant thought the media brought up differing views and information, which caused people to think about the implications of the USA Patriot Act.

Overall many of the participants had a negative view of the media’s role in sharing information about surveillance during. Although some people believed the media shared important information, most stated the media overshared information and incited panic.

One of the main critiques offered was sharing information that could cause harm. Participant 4 said, “they [the media] should be careful about putting too much of that information out there, because they are making these people [terrorists] aware of it.” Participant 12 agreed and said, “I think they warn the real enemies.” Participant 15 spoke in more detail and remarked, “I think the media provides too much information at a time when the government is attempting to protect its citizens.” This participant believed, as others did, the media’s sharing of information put people at risk.

Five of the participants believed in addition to oversharing information, the media sometimes incited panic. Participant 1 spoke about this at length and said,

The media blows things out of proportion and creates more tension than what is needed. The media uses a lot of propaganda which places fear in a lot of U.S. citizens. Many of my colleagues tend to agree with things based on what they hear through the media.

She went on to say that the information shared by the media was not always correct, and led to erroneous conclusions. Participant 20 summed up many participants' overall impressions and said, "I feel it perpetuates panic in the public on practices and methods which are assumed on misconceptions."

A few positive remarks were made, including the belief that the media acted as a watchdog. Participant 19 said, "The media is always willing to tell me about the evils of the government." He believed media reported helped reign in government surveillance. A few other participants felt the media offered important information and was "doing a good job informing the public of the government use of surveillance" (Participant 5). Participant 13 felt it was important to have media cover and said it was "A good idea." Participant 2 believed in media coverage and stated, "[I] always turn to the media to get information during a crisis. I rely on them because it helps me to make my decision."

RQ5: What are the perceptions and attitudes of a cross section of the U.S. populace about the federal governments' argument that the surveillance provisions of the USA Patriot Act is a necessary measure to prevent further acts of terrorism?

### **Using Surveillance and Government Control**

The participants' responses focused on two major areas. They spoke about the implementation of surveillance and debated if this provision amounted to an increase in government control. The participants then focused on the use of gathering information from third parties, such as telephone companies, without a court order. They expressed many concerns with this process and were not sure that the results justified the means. This theme was made up of two subthemes: *thoughts on government implementing surveillance* and *gathering information*.

Of the participants, 19 believed using surveillance marked an increase in government control. Participant 19 said, "It is a huge increase." This participant gave no further details and did not attribute this increased level of control as a deliberate act. Participant 1 also felt the surveillance provision of the Patriot Act marked increased levels of control but was more detailed: "the reason the government wants to implement this policy is to have more control." Participant 15 represented the majority of participant responses and stated, "Yes, [it is an increase in control] because the government has the right to listen to and gather any information from all sources on anyone it desires."

Participants were divided in opinion regarding whether this increased control was a positive development. Participant 15 found the increased control to be positive and stated, "Information is key to preventing future attacks." This participant believed safety and preventing further terrorist activity was of paramount importance, thus the increased control equated better intelligence, which reduced the likelihood of successful terrorist

activity. Participant 6 agreed and said, “Some type of surveillance is necessary to assist the government to protect against future acts of terrorism.” For the participants who felt the increased control was positive, preventing terrorism was paramount. They did not wish to see acts, such as 9/11, repeated.

Seven of the participants believed the increased levels of surveillance were positive. They felt the use of surveillance was a good deterrent and helped reduce illegal activities. Participant 20 said,

Surveillance procedures have provided satisfying results in preventing possible incidents from occurring is a way to protect citizens from a majority of terrorist acts (Not All). I am satisfied because the results of the Patriot Act are a deterrent to those contemplating harm to US citizens.

This participant firmly believed preventing harm was of utmost importance. By increasing surveillance, the government was able to focus on preventing terrorist activities, and the knowledge that these levels of surveillance existed stopped potential terrorist activity.

Participant 18 agreed and represented the view of others in this group. This participant said, “I believe it is necessary to protect the nation against future acts of terrorism. Several terrorist plots have been thwarted, but only because we have the USA Patriot Act in place.” Participant 18 attributed a relative lack of major terrorist activity to the implementation of the USA Patriot Act and was fully in support of all measures.

Many of the participants believed the increased levels of control were unwarranted. Participant 11 spoke about his feelings and said, “It’s big brother asserting

control over us. One step closer to a totalitarian state like Russia.” This participant believed the levels of surveillance permitted by the provisions of the USA Patriot Act were undemocratic. Participant 11 worried that the United States was slipping into a country where citizens had few rights. Participant 12 spoke about losing rights because of surveillance and said, “no freedom to speech - you can be targeted for having the wrong opinion.” Participant 13 went even further and said, “My dissent may lead me to be a terrorist suspect.” The participants worried that the increased levels of surveillance would interfere with their right to free speech. They did not feel as if they could disagree or comment on the government without being labeled as a potential terrorist.

Many participants believed the USA Patriot Act increased the levels of surveillance, which Participant 19 said was, “a step in the wrong direction because government can do what they want without being liable.” This participant believed the USA Patriot Act did not have enough checks and balances. He saw no way to measure accountability and worried that citizens’ rights could be easily infringed upon. Participant 14 agreed and stated, “[I] see it as an infringement of liberty,” while Participant 13 stated, “It a smoke screen to discriminate.” These participants believed the lack of oversight into surveillance programs put U.S. citizens in the position where their civil rights were being infringed upon.

**Gathering information.** When reflecting on the gathering of information from third-party providers, such as telephone companies, many of the participants in the study were disturbed. Of the participants, 11 felt gathering information of any kind without a

warrant or any form of due process was in direct violation of their constitutional rights.

Participant 1 said, “It’s a violation of my rights as [a] citizen. If law enforcement does not have court approval, then they should not be allowed to invade in our personal space.” She worried about the boundaries of the law and felt the lack of due process was wrong.

Participant 18 spoke about this in detail:

I take exception to Federal law-enforcement obtaining information from third parties without court approval. They are circumventing the system to obtain information that otherwise they’d never receive. They are utilizing third parties because they don’t have a legitimate reason to obtain the information, and any request to the court would be denied. Honestly, I believe that the third parties providing this information should be held liable for violation of illegally probing individual’s travel and phone records, and selling the information for profit.

This participant felt strongly that the collection of information on citizens was wrong.

Court approval was a necessary step and companies who complied with government requests for data without the court oversight should be held responsible. Participant 12 felt it was “An invasion [of privacy]” and wondered “Why are you collecting US citizens’ information when you know who is doing the terror acts.” This participant did not understand the need to access data unless it was specifically tied to an individual and a specific investigation. Participant 12 believed the broad collection of general information was wrong.

Overall, the participants believed gathering this type of data was a violation of their trust in the government and further, that it was all too easily abused. Participant 6 summed up this point of view and did not think federal law-enforcement officials should be able to obtain information from third parties. This participant thinks there is too much room for abuse of power and misuse of the information.

### **Summary**

Chapter 4 presented a report of the results of this study, which followed an exploration of the perceptions and attitudes of ordinary U.S citizens regarding the USA Patriot Act. I determined whether a loss of trust had occurred. Also discussed was the report of the participant demographics, participant selection, data collection, issues of trustworthiness, data analysis, and the results of the analysis. This chapter included the participants' viewpoints on surveillance, the need for security, the invasion of privacy, the media influence, and the federal government's role in implementing the surveillance provision of the USA Patriot Act. Generally, the participants had mixed views toward the use of surveillance, the role of the media, and issues of privacy, but the majority believed using surveillance marked an increase in government control. Chapter 5 will contain a discussion of the results, implications for current practices, recommendations for future research, and limitations of the study.



## Chapter 5: Discussions, Conclusions, and Recommendations

### **Introduction**

The purpose of this qualitative study was to explore the perceptions and attitudes of ordinary U.S. citizens regarding the effect of the USA Patriot Act on their right to privacy, to determine whether a loss of trust in the federal government had occurred, and identify the factors that contributed to the lack of trust. The choice of thematic analysis stemmed from analysis of previous studies, which revealed outdated public opinions following September 11 (e.g., Abdolian & Takooshian, 2002; Davis & Silver, 2004; Tomescu-Dubrow et al., 2014), or studies of the influence of hypothetical polls on the public's opinion of the USA Patriot Act (e.g., Best & McDermott, 2007; Chong & Druckman, 2010; Chong & Druckman, 2011). Poll data includes a limited purview into individuals' opinions regarding the USA Patriot Act (e.g., Best & McDermott, 2007; Chong & Druckman, 2011); thus, I designed this qualitative study to seek the opinions of those participants and identify the factors underlying the participants' abdication of personal rights of privacy. Moreover, the dated information presented in Abdolian and Takooshian's (2002), Bonilla and Grimmer's (2013), and Davis and Silver's (2004) studies may not reflect the evolving opinions on the USA Patriot Act. These opinions likely changed because of contemporary events and threats to security, such as NSA surveillance practices (Brown et al., 2015; Donohue, 2013). Participants in this study felt the use of surveillance was important in the fight against terrorism, but they also worried about the misuse of power during the process.

In this chapter, I provide interpretation of these findings in accordance with the literature review. Next, I outline the limitations of the study and makes recommendations grounded in the limitations and in the findings of the study. I conclude the dissertation with a discussion of the various implications of the findings.

### **Interpretation of the Findings**

Qualitative thematic analysis of the interviews resulted in five overarching themes, which corresponded to my research questions. The themes included views on surveillance, the need for surveillance, differing opinions about invasion of privacy, thinking about the media, and using surveillance and government control. I have interpreted the findings by theme.

#### **Theme 1: Views on Surveillance**

Regarding the view of surveillance and to counteract threats to national security, participants shared mixed feelings. Half of the participants noted the need for surveillance, specifically citing security requirements that necessitated surveillance. Such participants saw terrorism activity as constantly escalating, requiring increased provisions for surveillance on the part of the government to ensure security. None of the participants referenced the surveillance of their own data in their responses; instead, they referred to “terrorists” and “criminals” whom the government needed to surveil. These perceptions were consistent with Huddy and Feldman’s (2011) findings that those with higher perceptions of terrorist threat were more likely to trust the federal government and allow them to make decisions, regardless of their personal rights.

One potential interpretation of these attitudes is that they reflect a significant amount of trust in the federal government. The focus on terrorists and criminal threat among this group was consistent with Davis and Silver's (2004) observation that the amount of trust placed in government is contingent on perceived terrorist threat. Morgan and Hunt (1994) stated such trust without verification serves as the mechanism for opportunistic activities, such as the government conducting electronic surveillance of private citizens without court approval. However, another interpretation is that these individuals merely noted the necessity of surveillance as the lesser evil when faced with perceived terrorist threats.

Conversely, half of the participants noted that surveillance infringed on civil liberties and their personal right to privacy. Unlike the pro-surveillance group, these individuals referenced their own privacy and rights, as well as those of innocent civilians, being infringed on by the federal government as a result of surveillance. When referring to this side of the debate, individuals thought of their personal information and data, but when discussing security, they seem focused outwards. Five of these participants referenced data mining as unconstitutional, and participants on this side of the debate noted a lack of outcomes, despite increasing surveillance. This group demonstrated a significant lack of trust in the government as stewards of their information. This lack of trust may be the result of the perceived failure of the government to protect certain civil liberties under the public trust doctrine (Sax, 1970).

The majority of participants were polarized on this issue; that is, they were either for security or against infringement on civil liberties. Only a few participants were willing and able to see both sides of the debate. Compared to Davis and Silver's (2004) research, conducted after September 11, participants in this sample were more likely to reject infringement on their personal liberties, with approximately 65% reporting willingness to do so in Davis and Silver's research and only 50% in the present study. The change was consistent with Davis and Silver's note that proximity to threat changes opinions and contradicts the idea of a macro-stability in opinion regarding the USA Patriot Act (Druckman & Leeper, 2014). The intense feeling on either side of the USA Patriot Act surveillance provision was consistent with Druckman et al.'s (2013) observation that an increasing polarization exists in the tension between civil liberties and national security.

### **Theme 2: The Need for Surveillance**

When speaking about the need to use surveillance, the participants were split on their opinions. Factors participants considered in discussing the need for surveillance included national security, personal privacy, and associated risks. These perceptions are similar to McClosky and Brill's (1985) argument that there needs to be a proper balance between freedom and control. Bentham (1864) stated restrictions imposed on liberty could lead to strife among the citizens of the United States relating to the nature of the restriction. An increase in discontent with current government electronic surveillance policy would undoubtedly contribute to the growth of political cynicism, but the decline in

trusting responses to the federal government may also reflect a high level of political sophistication and realism among the public (Citrin, 1974).

Individuals referenced national security as both a reason why surveillance must continue and why it should discontinue. Nine participants referenced surveillance as an essential tool for maintaining national security, while seven participants noted surveillance was ineffective for increasing national security. The first group spoke of surveillance in matter-of-fact terms, referring to surveillance as a necessity. These feelings were consistent with Davis and Silver's (2004) observation that U.S. citizens' responses to the September 11 terrorist attacks revealed a contestability of rights in which commitment to civil liberties collides with a commitment to other cherished values, such as the right to privacy. On the other hand, the second group was more subjective and demonstrated a lack of trust in the government. Namely, they were skeptical of the federal government's ability to protect them from attacks and off-put by the lack of transparency in surveillance processes under the USA Patriot Act. Some participants even suspected that the government allowed for terrorist attacks to continue to reduce the personal freedoms. These attitudes showed a significant lack of trust in the government.

Regarding privacy, attitudes were again primarily polarized. Eight participants felt that it was their duty as U.S. citizens to resist the infringements on their civil liberties, while 11 participants conversely noted relinquishing their personal liberties was a sacrifice to their nation. In the latter group, a common sentiment was that failing to allow surveillance constituted that a person had something to hide. Only three participants felt

they would sacrifice some of their privacy, depending on the situation. In a particular interview, Participant five stated she felt her cell phone and computer should be subject to a higher degree of surveillance than her home activities. The open-ended nature of the interview provided some information regarding the underlying beliefs surrounding the tension between privacy and security noted in the literature (Davis & Silver, 2004).

Participants further discussed risks to the United States as a part of their broader discussion, demonstrating significant lack of confidence and trust in the federal government's ability to protect them. The main threats cited were cyberterrorism, immigration, and a divided political system. Participants noted the United States was likely overconfident with regards to their electronic data. The participants also identified immigration as a key concern that constituted a risk to safety; namely, participants suggested lax immigration standards threatened the United States. Finally, participants noted a division within politics among the Democratic and Republican parties that resulted in a weakened government, which made the United States vulnerable to attack from outside powers.

### **Theme 3: Differing Opinions About Invasion of Privacy**

In response to the third research question for the study, participants were asked to weigh in on the relative importance of national security in relation to personal privacy, and the findings revealed a spectrum of feelings regarding this area. Responses ran the gamut from national security being unequivocally more important than privacy (11 participants) to privacy being unequivocally more important than national security (8 participants).

Regarding the security of the spectrum, less people were willing to sacrifice all privacy without question (3 participants) than people who felt this sacrifice was contingent on the situation. Conversely, those who felt privacy was more important than security were unwilling to make any further sacrifices of their personal liberties, believing the government had sufficient information as is.

The perceptions of these individuals were consistent with Miller's (1974) definition of trust as a balance sheet. The cumulative outcome of exchanges between political authorities on the one hand and citizens on the other constitute trust. The higher the perceived discrepancy, the less likely one is to express a generalized sense of trust in government (Miller, 1974). For some individuals, they felt that the balance sheet described by Miller was already heavily weighted against them, while others felt they could contribute more. Only four participants believed the United States was doing well balancing the need for national security with the need for personal privacy. Critiques included perceived targeting of Muslims, unsecured personal information, abuse of the law, and mistakenly persecuting innocent victims. These perceptions demonstrated a lack of trust in the government. Participants may question the ends to which their data is being used, considering their general lack of faith in government activities.

#### **Theme 4: Thinking About the Media**

The participants reported various views of the media and its influence on their and others' opinions. Participants tended to attribute media influence to others, with 16 participants suggesting the media shaped the conversation surrounding the USA Patriot

Act. Specifically, participants noted the media had influenced people post-September 11 to believe that surveillance was required to maintain national security. Participants noted the media had potentially overshared information and incited panic. This belief is interesting considering approximately half of the participants called for increased transparency on the part of the government. Only three participants cited the positive role of the media as a watchdog or information source. Individuals on this side of the debate held the government to higher standards regarding information sharing than the media.

On the other hand, those individuals concerned with security noted the media might provide information to “enemies” of the United States. This belief speaks to the us vs. them narrative constructed to discuss issues of national security that researchers have largely traced to the media post-September 11 (Abdolian & Takooshian, 2002; Best & McDermott, 2007; Bonilla & Grimmer, 2013; Chong & Druckman, 2010, 2011; Davis & Silver, 2004). The intense focus on national security, which coincided with willingness to be surveilled under the USA Patriot Act, was shaped by the media, even as the same individuals were intensely critical of that media’s purpose and participation in the federal government’s activities.

Fewer participants were willing to acknowledge the role the media played in their own perceptions. Nine individuals stated the media played a role in their perceptions of surveillance, while several others suggested the media had no influence on what they thought. This perception clearly contradicts with statistics discussed in the literature (Abdolian & Takooshian, 2002; Bonilla & Grimmer, 2013; Chong & Druckman, 2010,



2011). One interpretation is that people have difficulty assessing the media's influence on their own opinions. Another interpretation is that individuals have become more wary regarding the media based on current events. Four participants cited significant concerns with media bias and its influence on other people.

### **Theme 5: Using Surveillance and Government Control**

The overwhelming majority of participants (19 out of 20) contested or conceded that surveillance constituted an increase in government control of private citizens. Responses to the increased control were polarized. Seven participants believed this increased control was positive, because it deterred terrorist and criminal behaviors. Of the participants, 13 contradictorily thought the increased control was unwarranted and signaled backward progress with respect to civil liberties.

Discussing the specifics of the USA Patriot Act created a more visceral response among the majority of participants. When asked about the provision of information to the government by third-party providers, 11 participants protested, suggesting using this information without due process was a violation of constitutional rights. The participants noted such action by the federal government was used too commonly and violated their trust in the government. The changed opinion when presented with specifics of the USA Patriot Act was consistent with the effect observed by Best and McDermott (2007) in their sample when discussing the sneak-and-peek provision of the USA Patriot Act. The reaction to this specific question suggested the interview protocol may have needed more specificity to get past the preconceived notions and political predispositions of the

participants. These perceptions were consistent with the notion of the public trust doctrine, which Sax (1970) applied to the government's responsibility to safeguard citizens' civil liberties in its actions.

### **Limitations of the Study**

In Chapter 1 of this study, I considered the limitation of trustworthiness that may have affected this study. Those limitations were the researcher's bias, the accuracy of collected data, and the possibility of the participants to over-report behavior they perceived more socially acceptable or underreport behavior they perceived less acceptable. The following section details how these limitations of trustworthiness were originally to be handled and how they were actually handled during the study process.

Researcher biases and perceptual misrepresentations were potential limitations (Yin, 2008). In the case of the researcher's bias, Colaizzi (1973) noted subjectivity in the form of self-report that cannot be eliminated through the interviewing process. Although the perceptions of the people are real to the individual, there may not be evidence to support them. Colaizzi stated the researcher's self-reflection constitutes an important step of the research process as a result of possible preconceived biases and presuppositions that need to be brought into awareness to separate them from participants' descriptions. The important element is being aware of one's bias so the text can present itself and thus assert its truth against one's own fore-meaning (Gadamer, 1996).

In Chapter 1, I noted how his reaction during the interview process or my presentation of the questions could affect the participants' responses. In Chapter 4, I took

caution to guard against creating biased responses which could have become problematic in the development of the open-ended questionnaire (Creswell, 2013). Awareness about the researcher's personal knowledge of the surveillance provision of the USA Patriot Act and its potential to influence the study was also considered to guard against my bias. Generally, an interview consists of open-ended questions consistent with the qualitative design (Englander, 2012). The interviews proceeded with the interview protocol that was implemented to assist in keeping all interviews focused and consistent. Open-ended questions allowed the participants to generate a broader array of responses without framing (Chong & Druckman, 2010, 2011; Druckman & Leeper, 2012a, 2012b).

The second limitation presented in Chapter 1 of the study was the accuracy of collected data. In Chapter 1, I stated the data resulting from the semistructured interviews with open-ended questions would be analyzed using qualitative methods, which might be subject to other interpretations. In Chapter 4 of this study, I employed Braun and Clarke's (2006) thematic analysis to analyze the gathered data. After completing and transcribing the interviews, the analysis began with reading and rereading of the transcripts to gain familiarity with the interviews and to gain an understanding of the predominate messages. The first step was the familiarization with the data to help gain an understanding of the attitudes and perceptions of the participants. During the second stage, I began to identify and highlight statements and phrases that pertained to the participants' thoughts and ideas about the USA Patriot Act. Through this process, I found and began to note statements that carried significance or meaning.

Next, I uploaded the documents into NVivo 11 for the next stage of analysis. In the third step, I began to carefully analyze the data. NVivo allowed me to find the most frequently used words. I set the following parameters: (a) find 25 words; (b) include minimum word length of four characters; (c) remove commonly used words that carried little meaning, such as also, need, and take; and, (d) identify synonyms used by the participants. In the final stage of data analysis, I examined the categories for completeness. Then, I examined the categories and sorted them by research question. A final search for relationships or connections between categories was conducted. The categories were assigned a final descriptor and became the themes and subthemes used to provide answers for the research questions that guided this study. Following Braun and Clarke's (2006) thematic analysis helped to bolster the accuracy of the collected data.

The third limitation presented in Chapter 1 of the study was the assumption that participants may consciously or subconsciously over-report behaviors they perceive as more socially acceptable or underreport behaviors they perceive as less acceptable. An additional potentially interfering effect was that Druckman and Leeper (2012a) noted although viewing a macrolevel percentage of public opinion tends to be stable, reviewing individual opinions at the microlevel shows a significant instability, fluctuating with incoming information and specifically with incoming frames via news media and polls, world events, and novel experiences, as well as based on the strength of the attitude. The perceptions and attitudes of the participants comprise data in qualitative studies, although they may be susceptible to social desirability bias. Depending on the interaction of the

content of a question and attributes of the situation in which the report is made, misrepresentation of the response can occur. Furthermore, respondents may have the innate desire to please the researcher in charge of the study and as a result have the tendency to answer questions the way the researcher may want instead of answering honestly. In this study, the respondents were given an opt-out choice to relieve pressure, and I created a research protocol with open-ended questions to preempt such effects.

### **Recommendations**

Some recommendations for future studies can be made because of the limitations of the present study. The main limitations stemmed from researcher bias and the potential for researcher influences. Thus, a potential recommendation for a future study could include conducting an online interview without the presence of the researcher. This type of interview may reduce any potential researcher bias by removing the researcher's physical presence in the room, which eliminates nonverbal or verbal signals to the participants. Although I employed bracketing to attempt to limit researcher bias, an online survey may further address potential issues of bias. Additionally, a similar qualitative study could be conducted among a group of researchers, which would also allow for a larger sample to improve the transferability of the study. Future researchers may also eliminate the issues with researcher biases through quantitative methodology; however, future researchers need to recognize the easily biased nature of survey questions and responses regarding this topic (Chong & Druckman, 2010, 2011; Druckman & Leeper, 2012a, 2012b), and maintain neutrality in their surveys. To gain a more stable view of

public opinion and avoid microlevel fluctuations, as noted by Druckman and Leeper (2012a), longitudinal research may be ideal.

Based on the result of the study and the literature reviewed, the following includes recommendations for further research regarding the effectiveness of conducting electronic surveillance without due process. Further research should be conducted on the usefulness of the federal government's stern response to the terrorist attack on September 11, 2001. I specifically focused on the implications of Public Law 107-56, USA Patriot Act, and how it may have affected public trust in the government to protect their right to privacy. I provided an understanding of the opinions of U.S. citizens pertaining to the federal government's use of the surveillance provision of the USA Patriot Act. Through this study, I did not address the effectiveness of the government response. No measured response exists to show how effective the surveillance law was in preventing further acts of terrorism. Participants' mixed responses during the survey insinuate further research is needed to determine how many major terrorism cases were cracked as a result of the surveillance provision of the USA Patriot Act, and if it prevented further acts of terrorism. Further research should also be conducted regarding freedom and security to see if the two can coexist without prejudice of one's interest, which may alter his or her understanding.

### **Implications**

Since the implementation of the USA Patriot Act in October 2001, public trust in the federal government to protect its right to privacy has been affected, based on the present findings. The present study was guided by my informal investigation, which

revealed that my peers were unaware that they were subjected to electronic surveillance. For this study, I collected data from both male and female U.S. citizens, age 18 and older, without regards to ethnicity and background, to assess the perceptions and attitudes with relation to the USA Patriot Act, privacy, and trust. The study has implications for researchers, for practice, and for positive social change.

### **Methodological and Theoretical Implications**

Future researchers should consider using qualitative methodologies, or at least open-ended questions, when studying the USA Patriot Act to avoid biasing participants' responses. This study followed a qualitative methodology. The methodology for the research is based on knowledge obtained from the review of related academic literature in Chapter 2, the nature of the research subject, and intended objectives of the research and the research questions. Open-ended questions resulted in a broad range of opinions regarding the USA Patriot Act that were not subject to manipulation by guided questions, which was a potential issue in understanding citizens' perceptions of the USA Patriot Act (Chong & Druckman, 2010, 2011; Druckman & Leeper, 2012a, 2012b). The present study also demonstrated that asking open-ended questions regarding the USA Patriot Act revealed the same tensions between security and privacy that previous researchers noted could be used to manipulate survey results (Chong & Druckman, 2010, 2011; Druckman & Leeper, 2012a, 2012b). However, the qualitative format revealed, rather than subverted, this tension. Future researchers should attempt to keep this same openness, even in survey research.

The study also had some implications for theory. First, the findings lent credence to Sax's (1970) notion that the public trust doctrine could be applied to the federal government's responsibility to uphold civil liberties. For many individuals, the United States violated their trust when they surveilled them beyond the bounds of their civil liberties. The present study shows the need for researchers to further develop the theory that addresses the tension between security and privacy in electronic surveillance, as well as a conception of how people view their electronic rights to privacy. The theoretical framework used in this study was based on the social perspective of public trust, contingent on Rawls' (1999) augmentation of social contract theory, Sax's (1970) and Miller's (1974) conceptions of public trust, and Ajzen's (2011) theory of planned behavior. U.S. society is based on the notion that certain rights ought to be specially protected. Rawls (1999) argued individuals should not forgo their individual rights or civil liberties for increased public advantage, such as security. Nevertheless, the results of the present study suggest some citizens and the federal government may have differing views on rights to privacy of electronic data.

The study also revealed changing opinions regarding the USA Patriot Act, which researchers should continue to investigate. The literature pertaining to surveillance under the USA Patriot Act was primarily comprised of opinion polls conducted in close proximity to the September 11 attacks (Abdolian & Takooshian, 2002; Best & McDermott, 2007; Davis & Silver, 2004). Based on the findings, lessened proximity to these attacks and perceptions of threat may have influenced public opinion to be less



supportive of surveillance procedures that may infringe on civil liberties, resulting in decreased trust in the federal government. Compared to previous studies, the participants in this study were much less likely to agree with surveillance procedures, especially when confronted with specifics of the USA Patriot Act. Accordingly, an implication of the present research is a need for more empirical data on the actual responses of the respondents as they experience the USA Patriot Act without manipulation or discussion of media framing. This information is significant given that the only other comparable study involved data collected directly after September 11, 2001. In this sense, the research was especially timely in the aftermath of the Edward Snowden revelation of the federal government data mining program and with the beginning of a new political term under President Donald Trump, as the entrance of a new administration may provide opportunities for policy changes relative to the USA Patriot Act.

### **Implications for Practice**

The present study revealed some potential implications for personal and federal government practice. The researcher investigated the unique situation of the lack of knowledge of the participants regarding how their electronic data were being collected and stored by the government without court approval or their consent. The findings point to a specific set of capabilities, use of social media, and attitudes toward sharing information without regards to who may be watching. Citizens should be apprised of federal government surveillance to maintain their constitutional rights to privacy, even online.

For the federal government, the present study demonstrated citizens have a distinct lack of trust in their government, considering Morgan and Hunt's (1994) definition of trust as existing when one party has confidence in the exchange partner's reliability and integrity. Participants had significant doubts regarding the government's ability to protect them from threats and to use integrity with regards to surveillance. The U.S. government should seek out opportunities to increase trust among its citizenry. Moreover, governmental bodies may need to revisit what the constitutional rights of U.S. citizens are when using the Internet. The lack of information may also stem from the minimal congressional deliberation, which resulted in no final hearing to allow dissenters to voice opinions that could have allowed the public to address their concern about the implementation of the surveillance provision of the USA Patriot Act.

The study may also have implications for relationships beyond the government-citizen interaction. For example, this study was critical in helping to shape trust issues in my organization. Technology plays an important role in the manner in which my organization operates. There is an assumption from many of my colleagues that the government is collecting their personal information about their activities, which can be used against them in the future. To soothe their fear, my organization implemented an information awareness campaign to assure the workforce that their information will not be stored for more than a period of 24 months and it will not be shared with any other organization. This change in behavior by leadership soothed most of the workforce's

perspective and potentially fractured view of mistrust between the employees and the organizational leadership.

### **Positive Social Change**

The existence of a substantial degree of political discontent within a society at any one point in time does not necessarily signify a decaying of the social and political order. Miller (1974) and Sax (1970) presented an understanding of the function of discontent within a democracy and its influence on public trust. On the contrary, in a democracy, such discontent may lead to political and social change or may result in the electoral practice of changing the political system (Miller, 1974). Miller (1974) stated a democratic political system cannot survive for long without the support of a majority of its citizens. When such support wanes, underlying discontent is the result, and the potential for revolutionary alteration of the political and social system is enhanced (Miller, 1974). In a democracy, such discontent may lead to political and social change or may result in the electoral practice of changing the political system (Miller, 1974). Increasing discontent with current government electronic surveillance policy undoubtedly has contributed to the growth of political cynicism, but the decline in trusting responses to the federal government may also reflect a higher level of political sophistication and realism among the general public (Citrin, 1974).

This study serves as an example to inform the U.S. federal government that although the technological future has arrived, people are still concerned about privacy and security. Some people appreciate the use of technology, but they are reluctant to store their

information with third-party organizations because they do not know what is going to happen to their data. The future has arrived since the breaking case of *Olmstead v. United States* that challenged the federal government's use of surveillance, but the concern about privacy is still prevalent. This study showed that although people are willing to use their electronic devices to communicate, they are still reluctant about the government's behavior when it comes to their privacy. Because people are not sure what is happening to their collected data, most respondents believe the information age has turned out differently than they expected.

### **Conclusion**

The purpose of this qualitative study was to explore the perceptions and attitudes of ordinary U.S. citizens regarding the effect of the USA Patriot Act on their right to privacy, to determine whether a loss of trust in the federal government had occurred, and identify the factors that contributed to the lack of trust. The onus for the study was based in Davis and Silver's (2004) finding that people were willing to sacrifice their right to privacy for increased security during times of crisis, specifically post-September 11. Results suggested distance from terrorist attacks on U.S. soil increased the likelihood that citizens would reject surveillance provisions under the USA Patriot Act through citation of their right to privacy. However, roughly half of participants remained concerned about national security and used that belief to justify government surveillance under the USA Patriot Act. Participants either felt the use of surveillance was beneficial or saw little to no benefit to its use, with few individuals holding moderate opinions. This division reflects

on the intense polarization in political opinions currently experienced within the United States under President Trump's administration.

Overall, the interviews suggested that for both groups of people, a lack of trust exists in the federal government. The lack of trust ranged from believing the government could not protect them from terrorist attacks to believing that the government could not be trusted with the right to surveil citizens without overstepping bounds. The lack of trust also extended to the media. The lack of trust, according to Sax (1970), is a result of discontent with the government. Davis and Silver (2004) found U.S. citizens' response to the terrorist attacks revealed a contestability of rights in which commitment to civil liberties collides with other cherished values. The issue of tradeoffs between civil liberties and the threat of personal security not only parallels how individual make normal civil liberties judgments, but it also accounts for why people find it difficult to apply abstract democratic norms to practical situations. However, the present study revealed that given time, or adding extenuating circumstances that may lessen trust in the federal government, some individuals may return to the belief in democratic ideals.

Several key takeaways exist from the present study. One lesson learned from this study was that the government's use of computer and communication technology will continue to alter the balance between security and liberty and citizens' perceptions of that balance. It also teaches that people find it difficult to trust the federal government when governmental decisions on surveillance are being made in secret behind the veil of government classification and third-party organization's confidentiality. Even when

individuals were willing to sacrifice their personal liberties for security, they remained distrustful in the government. The divided sentiment among the participants exemplifies the ongoing struggle to find the appropriate balance in the tradeoff between liberty and security.

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## Appendix A: Surveillance Provisions of the USA Patriot Act

### **Section 215**

Section 215 allows access to records and other items such as records and tangible items from custodians including educational and financial institutions, internet service providers, and librarians. The policy also allows the government to obtain travel records on the basis of specific and facts giving reason to believe that the person to whom the records pertain is a foreign power or agent of a foreign power. It eliminates the requirement that the government demonstrate any form of individualized suspicion.

### **Section 505**

Section 505 allows the government to obtain records from communication providers by issuing its own administrative subpoenas, known as the 'national security letter,' to seek various types of information about the customers of communication providers. This provision includes telephone companies, internet service providers, and libraries with computer terminals. No requirement is needed to show that the target is a foreign power or agent of a foreign power.

### **Section 218**

Section 218 expands the power of the government to conduct electronic surveillance. The government needs only probable cause that the target is an agent of a foreign power rather than persuading a regular court that there is probable cause to believe that the target is involved in criminal activity.

### **Section 206**



Section 206 authorizes intercepts on any phone or computers that the target may use. This authority for roving wiretaps means that the police no longer need to list the phone numbers to be tapped: the police can listen to any phone that a person might use. Law enforcement and Federal agencies can listen to all phones where a person works, or shops, or visits. The argument for roving wiretaps is that suspected terrorists might repeatedly change cell phones.

## Appendix B: Example of Government Letter to Conduct Surveillance

Page 1            SDS and other student activist groups

OCI produced in December 1967 at Walt Rostow's request a 30-page typescript study of the SDS and its foreign ties.

In the summer of 1968 OCI produced--again at Rostow's request-- a paper on Restless Youth. The first, and most sensitive section, was a philosophical treatment of student unrest, its motivation, history, and tactics. It drew heavily on overt literature and FBI reporting on SDS and affiliated groups. The second section comprised 19 chapters on foreign student dissidence.

Pages 11 & 12   Black radicalism

OCI began following Caribbean black radicalism in earnest in 1968. Two papers were produced on the subject, one in August 1969 and the other in June 1970.

OCI was asked in June 1970 to write a memo with special attention to links between black radicalism in the Caribbean and advocates of black power in the US. The memo was produced in typescript and given to the DCI.

OCI in 1968 wrote periodic typescript memos on Stokely Carmichael's travels abroad during a period when he had dropped from public view.

29 May 1973

## MEMORANDUM FOR THE RECORD

SUBJECT: Possible Agency Involvement in Outside Activities  
on Basis of Information Provided by [redacted]  
[redacted]

On 29 May 1973 I talked to Mr. [redacted] who was a classmate of [redacted] and [redacted] at the Advanced Intelligence Seminar No. 6 held on 8-24 September 1971. Mr. [redacted] said that each student was asked to describe and talk about his work in the Agency and he recalled that Mr. [redacted] had talked about the Office of Security's liaison with, and assistance given to and received from, the Police Departments in the Washington Metropolitan area. He said he could not recall specifically what was said, but to the best of his memory Mr. [redacted] described training given to either the Prince George's or Montgomery County Police concerning surveillance methods and electronic techniques. He said that he did not recall any discussion of the "Ballou case" and that he had no knowledge of that case other than what he had read in the newspapers.

[redacted]  
F. P. DISNOB

00654

~~SECRET/SENSITIVE~~  
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~~TOP SECRET~~

1 June 1973

MEMORANDUM FOR: Mr. William E. Colby  
 SUBJECT: Special Activities

1. Following our recent conversation, I have searched my memory and Mr. McCone's files for examples of activities which to hostile observers or to someone without complete knowledge and with a special kind of motivation could be interpreted as examples of activities exceeding CIA's charter.

2. First, as we discussed, on 7 March 1962, DCI McCone, under pressure from Attorney General Robert F. Kennedy, agreed to tap the telephones of columnists Robert S. Allen and Paul Scott in an effort to identify their sources for classified information which was appearing in their columns. Because the primary source appeared to be in the Department of Defense, McCone ordered me personally to brief General Joe Carroll, Director of DIA, orally, which I did. I understand more complete information on this operation is available from the Director of Security. I, personally, managed to avoid gaining any knowledge of what precise actions were taken, what information was gained, what was done with it, and when the operation was terminated.

3. 

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