

Section 12 - Domestic Counterterrorism and Civil-Liberties

64. Introduction - Kim Taipale

1. Thomas Powers, "Can We Be Secure and Free?" Public Interest 151:3 (Spring 2003): 5.
2. Pennsylvania Assembly: Reply to the Governor, 11 November 1755. See Leonard W. Labaree (ed.), *The Papers of Benjamin Franklin*, Vol. 6 (1963), p. 242.
3. U.S. Department of Justice, "Fact Sheet: Shifting from Prosecution to Prevention, Redesigning the Justice Department to Prevent Future Acts of Terrorism" (29 May 2002).
4. See the following: Amitai Etzioni, *The Spirit of Community: Rights, Responsibilities, and the Communitarian Agenda* (New York: Crown Publishers, 1993), 323 pp. George Bernard Shaw, *Man and Superman and Maxims for Revolutionists: Liberty and Equality* (Cambridge, Mass.: The University Press, 1903). ("Liberty means responsibility. That is why most men dread it.")

65. Thinking About Civil Liberty and Terrorism - Paul Rosenzweig

1. William Rehnquist, "All the Laws But One: Civil Liberties in Wartime," Online Newshour (11 November 1998);

www.pbs.org/newshour/gergen/november98/gergen_11-11.html

2. See USA PATRIOT Act, P.L. 107-56, 115 Stat. 272 (26 October 2001).
3. According to the inspector general for the Department of Justice, there have been no instances in which the PATRIOT Act has been invoked to infringe on civil rights or civil liberties. See Report to Congress on Implementation of Section 1001 of the USA PATRIOT Act (27 January 2004). See also "Report Finds No Abuses of PATRIOT Act," Washington Post (28 January 2004): A2.
4. For more details, see Paul Rosenzweig, "Civil Liberties and the Response to Terrorism," *Duquesne Law Review* 42 (2004): 63.
5. This summary is based on Geoffrey Stone, "Civil Liberties in Wartime," *J.S. Ct. Hist* 28 (2003): 215. However, Stone reaches different conclusions.

6. See Fifth Congress, Second Session: An Act Concerning Aliens, 1 Stat 570-72; An Act Concerning Enemy Aliens, 1 Stat 577-78 (the Alien Acts); An Act for the Punishment of Certain Crimes against the United States, 1 Stat. 596-97 (the Sedition Act).
7. Roy P. Balsler et al. (eds.), *The Collected Works of Abraham Lincoln* (Newark, N.J.: Rutgers University Press, 1953–1955), pp. 436–7.
8. Mark E. Neely, Jr., *The Fate of Liberty: Abraham Lincoln and Civil Liberties* (New York: Oxford University Press, 1991), pp. 113–38.
9. *Ex parte Milligan*, 71 U.S. 2, 1866.
10. Act of 15 June 1917, chap. 30, title I, x3, 40 Stat. 219.
11. For example, *Schenck v. U.S.*, 249 U.S. 47, 1919; *Debs v. U.S.*, 249 U.S. 211, 1919.
12. For example, *Brandenburg v. Ohio*, 395 U.S. 444, 1969.
13. *Federal Register*, Vol. 7, 1942, p. 1407.
14. *Korematsu v. United States*, 323 U.S. 214, 1944.
15. Civil Liberties Act of 1988, 102 Stat. 903, P.L. 100-383 (10 August 1988).
16. Stone, 2003, p. 215.
17. *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 160, 1963. Justice Goldberg was quoting Justice Robert Jackson, who made the same observation in *Terminello v. Chicago*, 337 US. 1, 1949.
18. See, e.g., Harry V. Jaffa, *A New Birth of Freedom: Abraham Lincoln and the Coming of the Civil War* (New York: Rowman and Littlefield, 2000), p. 364; and William Rehnquist, "Civil Liberty and the Civil War," Gauer Lecture, NLCPIS (1997).
19. See Neely (1991); Rehnquist (1991).
20. See Don Fehrenbacher (ed.), *Speeches and Writings: 1859–1865* (1989), pp. 246–62.
21. See James G. Randall and David Donald, *The Civil War and Reconstruction*, 2nd ed. (1961), p. 361.
22. Neely (1991), pp. 69–70.
23. An Act relating to Habeas Corpus, and Regulating Judicial Proceedings in Certain Cases, chap. 81, x1, 12 Stat. 755, 1863.
24. See Neely (1991), p. 72, for the text.

25. Michael Chertoff, 'Law, Loyalty, and Terror,' *Weekly Standard* (1 December 2003), pp. 15, 16.
26. Rehnquist (1998). See also Jeffrey Rosen, *The Naked Crowd* (New York: Random House, 2004), p. 131.
27. Remarks by Akhil Reed Amar, Heritage Foundation (9 July 2002). See also Cass Sunstein, 'A Hand in the Matter,' *Legal Affairs* (March–April 2003).
28. For example, the Supreme Court has already reviewed executive decisions relating to the detention of 'enemy combatants.' See *Hamdi v. Rumsfeld*, 124 S.Ct. 2633, 2004; *Rumsfeld v. Padilla*, 124 S.Ct. 2711, 2004; *Rasul v. Bush*, 124 S.Ct. 2686, 2004; *Ex parte Milligan*, 1866.
29. See Michael Kinsley, 'An Incipient Loss of Freedom,' *Washington Post* (15 June 2003): B07.
30. See Dennis Bailey, *The Open Society Paradox: Why the Twenty-First Century Calls for More Openness, Not Less* (Brassey, 2004). See also David Birn, *The Transparent Society* (Perseus Books Group, Philadelphia, PA, 1999), p. 378.
31. See Amatai Etzioni and Deidre Mead, *The State of Society: A Rush to Pre-9/11*. They cite evidence from surveys that fewer respondents now think it necessary for average citizens to give up civil liberties.
32. There may also be technological factors. See, e.g., K. A. Taipale, 'Data Mining and Domestic Security: Connecting the Dots to Make Sense of Data,' *Columbia Science and Technology Law Review* 5:2 (2003).
33. U.S. Constitution, Article I, x8.
34. *Katz v. U.S.*, 389 U.S. 347, 1967.
35. *U.S. v. White*, 401 U.S. 745, 1971.
36. *U.S. v. Karo*, 468 U.S. 705, 1984.
37. *Florida v. Riley*, 488 U.S. 445, 1989.
38. *California v. Greenwood*, 486 U.S. 35, 1988.
39. *SEC v. O'Brien*, 467 U.S. 735, 1984. See also 743, citing *U.S. v. Miller*, 425 U.S. 435, 443, 1973.
40. For example, James X. Dempsey, 'Communications Privacy in the Digital Age: Revitalizing the Federal Wiretap Laws to Enhance Privacy,' *Albany Law Journal of Science and Technology* 8 (1997): 65.
41. For example, 12 U.S.C. x3402, x3403, x3407.
42. For example, 13 U.S.C. x8, x9, x214.
43. See, e.g., EO 12333, 3 C.F.R. 200, 1982; reprinted at 50 U.S.C. x401 note; *U.S. v. U.S. District Court (Keith)*, 407

U.S. 297, 1972; In re Sealed Case, 310 F.3d 717.

44. Eric Lichtblau, "Administration Creates Center for Master Terror Watch List," New York Times (17 September 2003): p. A20, col. 01.

45. See remarks by U.S. Senator Bob Graham, Meet the Press (13 July 2003) (televised interview).

46. Terence Hunt, "Bush Shows Resolve by Visiting Bali," Chicago Sun-Times (22 October 2003): 36.

47. Bill Gertz, "5,000 in U.S. Suspected of Ties to al Qaeda," Washington Times (11 July 2002).

48. See Graham Allison, Nuclear Terrorism: The Ultimate Preventable Catastrophe (Times Books, 2004).

49. For example, William Langewische, "Anarchy at Sea," Atlantic (September 2003).

50. "Asia Pirates Training for Terrorist Attack," Lloyd's List International (15 October 2003).

51. For example, Dana Dillon, "War on Terrorism in Southeast Asia: Developing Law Enforcement," Background, No. 1720, Heritage Foundation (22 January 2004).

52. Peter Slevin, "U.S. Pledges Not to Torture Terror Suspects," Washington Post (27 June 2003): A01.

53. Francis Taylor, "State Dept Official Says War against Terrorism Continues," (9 June 2003) (transcript).

54. For example, *Furman v. Georgia*, 408 U.S. 238, 367 n. 158, 1972 (J. Marshall, concurring). For the aphorism, Blackstone, Commentaries, Vol. 4 (Wait, 1907), chap. 27, p. 358.

55. In re *Winship*, 397 U.S. 357, 372, 1970 (J. Harlan, concurring).

56. See William Stuntz, "Local Policing after the Terror," Yale Law Journal 111 (2002): 2137, 2183-4.

57. See Phillip Kurland, "The Private I," University of Chicago Magazine (Autumn 1976): 8; quoted in *Whalen v. Roe*, 429 U.S. 589, 599 n. 24, 1977.

58. For example, 26 U.S.C. x7213.

59. See Paul Rosenzweig, "Privacy and Consequences: Legal and Policy Structures for Implementing New Counterterrorism Technologies and Protecting Civil Liberty," in Robert Popp and John Yen (eds.), *Emergent Information Technologies and Enabling Policies for Counter Terrorism* (IEEE Press, forthcoming).

60. See Taipale (2003), p. 31.

61. Thomas Powers, "Can We Be Secure and Free? The Public Interest" (Spring 2003).

62. See Paul Rosenzweig, "Principles for Safeguarding Civil Liberties in an Age of Terrorism," Executive Memorandum, No. 854, Heritage Foundation (January 2003).

63. Speech to the Virginia Ratifying Convention, 16 June 1788, reprinted in Matthew Spalding (ed.), *The Founders' Almanac*, Heritage Foundation (2002), p. 133.

66. Security and Freedom of Speech - Abraham H. Foxman

1. Healy v. James, 408 U.S. 169, 188 (1972), quoting Communist Party v. Subversive Activities Control Board, 361 U.S. 1, 137 (1961, J. Black, dissenting).

2. Abrams v. United States, 250 U.S. 616, 630 (1919, J. Holmes, dissenting).

3. Terminello v. City of Chicago, 375 U.S. 1 (1949, J. Jackson, dissenting); see 31, 37.

4. Healy v. James, 192.

5. Marilyn H. Karfeld, "Tape Shows Local Imam Supported Terror Groups: The Spiritual Leader of a Parma Mosque Once Raised Funds for the Palestine Islamic Jihad," Cleveland Jewish News (26 September 2001): 18. The quotations from Damra are all from this source. When interviewed for this article, he denied that he was in any way involved in Palestine Islamic Jihad.

6. Ibid.

7. Terminiello v. City of Chicago, 37.

8. Kennedy v. Mendoza-Martinez, 372 U.S. 144, 160 (1963).

9. Commonly known as the "Alien and Sedition Acts," They were passed by the Fifth Congress in 1798, lapsed by their own terms, and were not reenacted. The Supreme Court never ruled on their constitutionality.

10. Espionage Act of 1917 and the Sedition Act of 1918.

11. 39 U.S. 247 (1919). The subsequent quotation is from 249 and 252.

12. *Abrams v. United States*, 250 U.S. 616, 617 (1919). Subsequent quotations are from 621.
13. For example, *American Communications Association v. Douds*, 339 U.S. 382 (1950); *Dennis v. United States*, US. 494 (1951).
14. 341 U.S. 494. Subsequent quotations are from 561, 579–81, and 585.
15. 395 U.S. 444 (1969). Subsequent quotations are from 447.
16. 34 408 U.S. at 169 (1972), holding that the right to establish a campus branch of Students for a Democratic Society could not be abridged because of disagreement with the group’s beliefs about the appropriateness of lawbreaking absent overt illegal activity.
17. *Yates v. United States*, 354 U.S. 298, 344 (1957).
18. *Dennis*, 341 U.S. 575.
19. *Wisconsin v. Mitchell*, 508 U.S. 476, 489 (1983).
20. *Ibid.*, 476, citing *Roberts v. U.S. Jaycees*, 468 U.S. 609 (1984).
21. 18 U.S.C.A. x2339A, B (2004).
22. *United States v. Al-Arian*, 308 F. Supp. 2d 1322, 1342 (M.D. Fla. 2004).
23. *United States v. Sattar* 272 F. Supp. 2d 348, 359 (S.D.N.Y. 2003).
24. *Reno v. A.C.L.U.*, 521 U.S. 844, 870 (1997).
25. *Southeastern Promotions, Ltd. v. Conrad*, 420 U.S. 546, 557 (1975).
26. *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 386 (1969).
27. *Bartnicki v. Vopper*. 532 U.S. 514, 541 (2001 J. Breyer, concurring).
28. *Universal City Studios, Inc. v. Coreley*, 273 F.3d 429, 451-52 (2d Cir. 2001), rejecting a First Amendment challenge to Digital Millennium Copyright Act.
29. U.S. Department of Justice, The Attorney General’s Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations, 22 (USDOJ, 2002);

www.usdoj.gov/olp/generalcrimes2.pdf

30. See Lininger, ‘‘Sects, Lies, and Videotape: The Surveillance and Infiltration of Religious Groups,’’ Iowa Law Review, 89:1201 (2004).

31. Ibid, 1233–4.

32. Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 543 (1993).

33. Brandenburg, 395 U.S. 449.

34. See Lininger, 1283–4.

35. Cantwell v. Connecticut, 310 U.S. 296, 306 (1940).

67. Principled Prudence: Civil Liberties and the Homeland Security Practitioner in Post-9/11 America Laura W. Murphy

1. However, the ACLU does oppose a national identification card, including a federally standardized driver’s license. See Hearing on Driver’s License Security Issues, 107th Congress, 2002 (statement of Katie Corrigan, ACLU legislative counsel). The ACLU also takes a position on the issues represented by the other two cases; but I will present the arguments pro and con.

2. Patrick M. Hughes, ‘‘Future Conditions: The Character and Conduct of War, 2010 to 2020,’’ guest presentation for Program on Information Resources Policy (July 2003);).

3. Justin Rood, ‘‘Homeland Intelligence Chief Hughes Warned Civil Rights Would Have to Be ‘Abridged’ to Prevent Another Terror Attack,’’ Congressional Quarterly (28 October 2004).

4. The Final Report of the National Commission on Terrorist Attacks upon the United States (9/11 Commission Report) (2004), pp. 394–5. For subsequent quotations from this source, page numbers are given parenthetically).

5. Prepared Statement of Richard Ben-Veniste and Slade Gorton, National Commission on Terrorist Attacks upon the United States, before the Subcommittee on National Security, Emerging Threats, and International Relations of the House Committee on Government Reform, 108th Congress, 2004.

6. Bill Maher, Victory Begins at Home, HBO television broadcast (July 2003).

7. ‘‘Anti-Terrorism Efforts, Civil Liberties, and Civil Rights,’’ testimony of Paul Rosenzweig, Senior Fellow at the Heritage Foundation, before the United States Commission on Civil Rights (19 March 2004); see

www.heritage.org/Research/LegalIssues/tst031904a.cfm

8. See Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, S. Rep. 94-755, 94th Congress, 1976.

9. Testimony by Professor Ben Schneiderman, U.S. Public Policy Committee of the Association for Computing Machinery, to the House Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, 107th Congress, 2001; see:

www.acm.org/usacm/National.htm

10. Committee on Authentication Technologies and Their Privacy Implications, National Research Council, *IDs—Not That Easy: Questions about Nationwide Identity Systems*, Stephen T. Kent and Lynette I. Millett (eds.) (2002), pp. 34–35; see

www.nap.edu/books/030908430X/html

11. For example, Alan Dershowitz, *'Identification, Please,'* Boston Globe (11 August 2002): 14.

12. Edwin Black, *IBM and the Holocaust: The Strategic Alliance between Nazi Germany and America's Most Powerful Corporation* (Three Rivers Press, 2001), p. 346.

13. Audrey Hudson, *'Census Bureau Restricts Release of Arabic Analysis,'* Washington Times (31 August 2004): A04.

14. See Robert A. Rosenblatt, *'Fraud-Proof Cards for Social Security Pegged at \$10 Billion,'* Los Angeles Times (23 September 1997).

15. ACLU Policy Guide, *'Communicable Diseases and HIV/AIDS,'* Policy No. 268.

16. Heather MacDonald, *'The Hunt for Terrorists Runs Up Against Political Correctness,'* New York Sun (5 November 2002).

17. George Will, *'A Defense of Racial Profiling,'* Seattle Post-Intelligencer (19 April 2001) B7.

18. King E. Davis and Tricia B. Bent-Goodley (eds.), *The Color of Social Policy* (Council on Social Work Education, 2004), p. 111.

19. Ibid.

20. Steve Fainaru, *'Report: 9/11 Detainees Abused,'* Washington Post (3 June 2003): A1.

21. Jim McGee, *'Ex-FBI Officials Criticize Tactics on Terrorism,'* Washington Post (28 November 2001): A1.

68. Data Mining and Privacy - Fred Cate and Newton Minow

1. Data Mining: Federal Efforts Cover a Wide Range of Uses, GAO-04-548 (May 2004), pp. 3, 27–64, tables 2-25; see

www.gao.gov/new.items/d04548.pdf

.

2. DOD Technology and Privacy Advisory Committee, Safeguarding Privacy in the Fight against Terrorism (March 2004), pp. 15–20;

www.sainc.com/tapac/finalReport.htm

.

3. See ic-arda.org.

4. Department of Homeland Security (DHS) Privacy Office, Report to the Public on Events Surrounding JetBlue Data Transfer—Findings and Recommendations (20 February 2004); available at

www.dhs.gov/interweb/assetlibrary/privacy_rpt_jetblue.pdf

.

5. Privacy Act; System of Records, 68 Fed. Reg. 45,265, 2003, DHS, TSA (interim final notice). See also GAO, Computer-Assisted Passenger Prescreening System Faces Significant Implementation Challenges, GAO-04-385 (February 2004).

6. Transactions and Customer Identification Programs, 68 Fed. Reg. 25,089 (2003).

7. Thomas C. Greene, ‘‘A Back Door to Poindexter’s Orwellian Dream,’’ The Register (24 September 2003); Robert O’Harrow, Jr., ‘‘U.S. Backs Florida’s New Counterterrorism Database,’’ Washington Post (6 August 2003): A1.

8. Fred H. Cate, Privacy in the Information Age, (Brookings Institution Press, Washington, D.C., 1997), pp. 49–66.

9. Coolidge v. New Hampshire, 403 U.S. 443, 1971.

10. U.S. v. Edwards, 415 U.S. 800, 1974.

11. Jeffrey H. Smith and Elizabeth L. Howe, “Federal Legal Constraints on Electronic Surveillance,“ in Markle Foundation Task Force, *Protecting American’s Freedom in the Information Age* (2002), p. 136, n.16;.
12. 389 U.S. 347, 361, 1967.
13. The Court has found “reasonable“ expectations of privacy in homes (*Camara v. Municipal Court*, 387 U.S. 523, 1967); businesses (*G.M. Leasing Corp. v. United States*, 429 U.S. 338, 1977); sealed luggage and packages (e.g., *United States v. Chadwick*, 433 U.S. 1, 1977); and even drums of chemicals (*United States v. Knotts*, 460 U.S. 276, 1983)—but no “reasonable“ expectations of privacy in voice or writing samples (*United States v. Dionisio*, 410 U.S. 1, 1973), phone numbers (*Smith v. Maryland*, 442 U.S. 735, 1979), conversations recorded by concealed microphones (*United States v. White*, 401 U.S. 745, 1971), and automobile passenger compartments (*New York v. Belton*, 453 U.S. 454, 1981), trunks (*United States v. Ross*, 456 U.S. 798, 1982), and glove boxes (*South Dakota v. Opperman*, 428 U.S. 364, 1976).
14. 425 U.S. 435, 443 (emphasis added).
15. Right to Financial Privacy Act, 12 U.S.C. xx3401—3422.
16. 18 U.S.C. xx3121, 1841.
17. *U.S. v. U.S. District Court for the Eastern District of Michigan*, 407 U.S. 297, 1972 (commonly referred to as the Keith decision).
18. Smith and Howe, *op. cit.*, p. 133.
19. See *U.S. v. Bin Laden*, 126 F. Supp. 2d 264, 271—72, S.D.N.Y., 2000.
20. 429 U.S. 589, 599—600, 1977.
21. *Tavoulareas v. Washington Post Company*, 724 F.2d 1010 (D.C. Cir.), 1984; *Barry v. City of New York*, 712 F.2d 1554 (2d Cir.), 1983; *Schacter v. Whalen*, 581 F.2d 35 (2d Cir.), 1978; *Doe v. Southeastern Pennsylvania Transportation Authority*, 72 F.3d 1133 (3d Cir.), 1995; *United States v. Westinghouse Electric Corporation*, 638 F.2d 570 (3d Cir.), 1980; *Plante v. Gonzalez*, 575 F.2d 1119 (5th Cir.), 1978; *Doe v. Attorney General*, 941 F.2d 780 (9th Cir.) 1991.
22. *J.P. v. DeSanti*, 653 F.2d 1080 (6th Cir.), 1981; *Walls v. City of Petersburg*, 895 F.2d 188, 192 (4th Cir.), 1990.
23. *Doe v. Attorney General*, 941 F.2d, 796.
24. 5 U.S.C. xx552a(e)(1)—(5). For the three exceptions cited below see x552a(b), (b)7, and (b)3.
25. Sean Fogarty and Daniel R. Ortiz, “Limitations upon Interagency Information Sharing: The Privacy Act of 1974,“ in Markle Foundation Task Force, *op. cit.*, pp. 127, 128.
26. *Ibid.*, pp. 129—30. See also “Guidance on the Privacy Act: Implications of “Call Detail“ Programs to Manage Employees“ Use of the Government“s Telecommunications Systems,“ 52 Fed. Reg. 12,900, 12,993, 1987 (OMB).
27. *2U.S. v. Miller*, 643 F.2d 713 (10th Cir.), 1981, x 552a(a)(5). See also Fogarty and Ortiz, *op. cit.*, p. 128.

28. Henke v. United States DOC, 83 F.3d 1453, 1461 (D.C. Cir.), 1996, quoting Bartel v. F.A.A., 725 F.2d 1403, 1408 n.10 (D.C. Cir.) 1984.

29. Op. cit., p. 129, citing Bowyer v. United States Department of Air Force, 804 F.2d 428 (7th Cir.), 1986; Chapman v. NASA, 682 F.2d 526 (5th Cir.), 1982.

30. Stewart A. Baker, 'The Regulation of Disclosure of Information Held by Private Parties,' in Markle Foundation Task Force, op. cit., pp. 161, 167.

31. See Internet Security and Privacy, hearing before the Senate Judiciary Committee, 25 May 2000 (statement of James X. Dempsey, Senior Staff Counsel, Center for Democracy and Technology);

www.cdt.org/testimony/000525dempsey.shtml

32. Administrative Office of the United States Courts, 2003 Wiretap Report, table 7;

www.uscourts.gov/wiretap03/contents.html

. See also Electronic Privacy Information Center, Title III Electronic Surveillance 1968–2002;

www.epic.org/privacy/wiretap/stats/wiretap_stats.html

33. 18 U.S.C. x2703(d).

34. Baker, op. cit., p. 163.

35. Center for Democracy and Technology, 'The Nature and Scope of Governmental Electronic Surveillance Activity' (June 2004);

www.cdt.org/wiretap/wiretap_overview.html

. See also Electronic Privacy Information Center, Foreign Intelligence Surveillance Act Orders 1979–2002;

www.epic.org/privacy/wiretap/stats/fisa_stats.html

. See generally Smith and Howe, op. cit. pp. 140–1.

36. U.S. Department of Justice, Office of Legal Policy, Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations (2002), pp. 21–2;

www.usdoj.gov/ag/readingroom/generalcrimea.htm

37. U.S. Department of Justice, Office of Legal Policy, Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (2003);

www.usdoj.gov/olp/nsiguilines.pdf

. The quotation is from p. 1.38. A 'national security system' is defined as 'an

information system operated by the federal government, the function, operation or use of which involves: (a) intelligence activities, (b) cryptologic activities related to national security, (c) command and control of military forces, (d) equipment that is an integral part of a weapon or weapons systems, or (e) systems critical to the direct fulfillment of military or intelligence missions, but does not include systems used for routine administrative and business applications, such as payroll, finance, logistics and personnel management.’’

39. National Center for Health Statistics, National Vital Statistics Reports, 51:8 (19 May 2003): 1, table A.

40. U.S. Postal Service Department of Public Affairs and Communications, Latest Facts Update (24 June 2002).

41. Amitai Etzioni, ‘‘Reliable Identification for Homeland Protection and Collateral Gains,’’ in Markle Task Force Report, op. cit, appendix A.

42. Paul Rosenzweig, Proposals for Implementing the Terrorism Information Awareness System, Heritage Foundation Legal Memorandum 8, 2003;

www.heritage.org/Research/HomelandDefense/lm8.cfm

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