

# Unintended Consequences

**Spitzer got snagged by the fine print of the Patriot Act.**

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When Congress passed the Patriot Act in the aftermath of the 9/11 attacks, law-enforcement agencies hailed it as a powerful tool to help track down the confederates of Osama bin Laden. No one expected it would end up helping to snag the likes of Eliot Spitzer. The odd connection between the antiterror law and Spitzer's trysts with call girls illustrates how laws enacted for one purpose often end up being used very differently once they're on the books.

The Patriot Act gave the FBI new powers to snoop on suspected terrorists. In the fine print were provisions that gave the Treasury Department authority to demand more information from banks about their customers' financial transactions. Congress wanted to help the Feds identify terrorist money launderers. But Treasury went further. It issued stringent new regulations that required banks themselves to look for unusual transactions (such as odd patterns of cash withdrawals or wire transfers) and submit SARs—Suspicious Activity Reports—to the government. Facing potentially stiff penalties if they didn't comply, banks and other financial institutions installed sophisticated software to detect anomalies among millions of daily transactions. They began ranking the risk levels of their customers—on a scale of zero to 100—based on complex formulas that included the credit rating, assets and profession of the account holder.

Another element of the formulas: whether an account holder was a "politically exposed person." At first focused on potentially crooked foreign officials, the PEP lists expanded to include many U.S. politicians and public officials who were conceivably vulnerable to corruption.

The new scrutiny resulted in an explosion of SARs, from 204,915 in 2001 to 1.23 million last year. The data, stored in an IRS computer in Detroit, are accessible by law-enforcement agencies nationwide. "Terrorism has virtually nothing to do with it," says Peter Djinis, a former top Treasury lawyer. "The vast majority of SARs filed today involve garden-variety forms of white-collar crime." Federal prosecutors around the country routinely scour the SARs for potential leads.

One of those leads led to Spitzer. Last summer New York's North Fork Bank, where Spitzer had an account, filed a SAR about unusual money transfers he had made, say law-enforcement and industry sources who asked not to be identified because of the sensitivity of the probe. One of the sources tells NEWSWEEK that Spitzer wasn't flagged because of his public position. Instead, the governor called attention to himself by asking the bank to transfer money in someone else's name. (A North Fork spokesperson says the bank does not discuss its customers.) The SAR was not itself evidence that Spitzer had committed a crime. But it made the Feds curious enough to follow the money.

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