

USA PATRIOT Act

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USA PATRIOT Act Titles

[Title I](#): [Enhancing Domestic Security against Terrorism](#)

[Title II](#): [Enhanced Surveillance Procedures](#)

[Title III](#): [International Money Laundering Abatement and Anti-terrorist Financing Act of 2001](#)

[Title IV](#): [Protecting the border](#)

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President [George W. Bush](#) signing the USA PATRIOT Act in the White House's East Room on [October 26, 2001](#).



USA PATRIOT Act

Full title	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001.
Acronym/Colloquial name	Patriot Act
Enacted by the	<u>107th Congress</u>
Effective Date	February 1, 2002

Citations

Public Law	<u>107-56</u>
U.S. Statutes at Large	115 Stat. 272 (2001)

Codification

Act(s) amended

Title(s) amended

United States Code sections created

United States Code sections substantially amended

Legislative history

- **Introduced in the** House of Representatives **as** H.R. 3162 **by** Frank James Sensenbrenner, Jr. **on** October 23, 2001
- **Committee consideration by:** Committee on the Judiciary; Permanent Select Committee on Intelligence; Committee on Financial Services; Committee on International Relations; Committee on Energy and Commerce (Subcommittee on Telecommunications and the Internet); Committee on Education and the Workforce; Committee on Transportation and Infrastructure; Committee on Armed Services
- **Passed the** House **on** October 24, 2001 (Yeas: 357; Nays: 66)
- **Passed the** Senate **on** October 25, 2001 (Yeas: 98; Nays: 1)
- **Signed into law by** President Bush **on** October 26, 2001

Major amendments

The **Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001** ([Public Law 107-56](#)), known as **USA PATRIOT Act** or simply the *Patriot Act*, is an [American act](#) which [President George W. Bush](#) signed into law on [October 26, 2001](#). The Act passed in the [Senate](#) by a vote of [98 to 1](#), and in the [House](#) by a vote of [357 to 66](#). Although the bill enjoyed widespread Congressional and Presidential support it is a very controversial [federal legislation](#).

Originally passed after the [September 11, 2001 attacks](#), the Act ([full text](#)) was formed in response to the terrorist attacks against the United States, and dramatically expanded the authority of American law enforcement for the stated purpose of fighting [terrorism](#) in the United States and abroad. It has also been used to detect and prosecute [other alleged potential crimes](#), such as providing false information on terrorism. Federal courts declared some sections unconstitutional because they interfere with civil liberties. It was renewed on [March 2, 2006](#) with a vote of 89 to 11 in the Senate and on [March 7](#) 280 to 138 in the House. The renewal was signed into law by President Bush on [March 9, 2006](#).

Some of the more controversial provisions of USA PATRIOT act were largely inspired by the [RICO act](#), which restricted due process for individuals involved in organized crime, racketeering, and drug trafficking. The USA PATRIOT Act essentially extended the qualifications to those involved in terrorism.

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Scope

Among laws which the USA PATRIOT Act has amended are immigration laws, banking laws, and money laundering laws. It also amended the [Foreign Intelligence Surveillance Act](#) (FISA).

With respect to terrorism definitions, for example, section 802 of the Act created the new crime category of "domestic terrorism." According to this provision, which is found in the U.S. criminal code at 18 [U.S.C. § 2331](#), domestic terrorism means activities that (A) involve acts dangerous to human life that are a violation of the criminal laws of the U.S. or of any state, that (B) appear to be intended (i) to intimidate or coerce a civilian population, (ii) to influence the policy of a government by intimidation or coercion, or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping, and (C) occur primarily within the territorial jurisdiction

of the U.S.

Section 2331 also includes the crime of international terrorism, which is identical to domestic terrorism, except that it transcends national boundaries. But this provision predates the Act.

Other terrorism definitions are found in section 411 of the Act, which amends sections 212 and 219 of the [Immigration and Nationality Act](#) (INA). 8 [U.S.C. § 1182](#) (which is INA sec. 212) relates to "Excludable Aliens." This is where the definitions of "terrorist activity" and "terrorist organization" may be found. 8 [U.S.C. § 1189](#) (INA s. 219) provides for the designation of foreign terrorist organizations.

These provisions interact with other provisions in the criminal code, for example, 18 [U.S.C. § 2339A](#) and 18 [U.S.C. § 2339B](#), which criminalize "material support" to terrorists and to foreign terrorist organizations, respectively, drawing on the INA terrorism definitions.

Related acts

The USA PATRIOT Act follows and amends a series of acts that are related to the investigations of foreign intelligence.

FISA

In 1978, the [Foreign Intelligence Surveillance Act](#) (FISA) was passed to produce legal guidelines for federal investigations of foreign intelligence targets. Among the rules put in place were regulations governing:

- Electronic Surveillance
- Physical Searches (Andrew Gottlieb)
- [Pen registers](#) and [Trap and trace devices](#) for Foreign Intelligence Purposes
- Access to certain Business Records for Foreign Intelligence Purposes

In addition to defining how foreign intelligence investigations were to be performed, FISA also defined who could be investigated. Only foreign powers or agents of foreign powers were to be

subject to FISA investigations. Thus, targets are primarily those foreign persons who are engaged in espionage or international terrorism. Section 6001 of the Intelligence Reform and Terrorism Prevention Act of 2004, expanded FISA to permit targeting of so-called "lone wolf" terrorists without requiring any showing that they are members of a terrorist group or agents of such a group or of any other foreign power.

USA Act

The USA Act (Public Law 107-56) was passed on October 12, 2001, and subsequently folded into the USA PATRIOT Act. Under the USA Act, a terrorist who was not an agent of a foreign power could be the target of a federal investigation of foreign intelligence.

Financial Anti-Terrorism Act

The Financial Anti-Terrorism Act was passed on October 17, 2001 and also folded into the USA PATRIOT Act. It increases the federal government's powers to investigate and prosecute the financial supporters of terrorism.

Legislative history



Wikinews has news related to:

Bush declares immunity from Patriot Act oversight

Introduced into the House of Representatives as H.R. 3162 by Congressman James F. Sensenbrenner (R, WI), the Act swept through Congress remarkably quickly and with little dissent. House Resolution 3162 was introduced in the House of Representatives on October 23, 2001. Assistant Attorney General Viet D. Dinh and future Secretary of Homeland Security Michael Chertoff were the primary drafters of the Act. The bill passed in the House of Representatives on October 24, 2001, and in the Senate (Senator Russ Feingold (D-WI) cast the lone dissenting vote, and Senator Mary Landrieu (D-LA) was the sole non-voting member) on October 25, 2001. President George W. Bush signed the bill into law on October 26, 2001. The

original Act had a [sunset clause](#) to ensure that Congress would need to take active steps to reauthorize it. Like many sweeping reform laws, the people of the United States needed time to test and implement its measures before deciding what provisions to keep and which to modify. One of the challenges to the original Act had been perceived civil liberties intrusions. The reauthorization resolution passed in 2006 contained the following civil liberties protections ("Safeguards")^[1]:

1. **Requiring High-Level Approval and Additional Reporting to Congress for Section 215 Requests for Sensitive Information Such as Library or Medical Records:** Without the personal approval of one of these 3 officials (FBI Director, Deputy Director or Official-in-Charge of Intelligence), the 215 order for these sensitive categories of records may not be issued.
2. **Statement of Facts Showing Relevance to a Terrorism or Foreign Spy Investigation Required for Section 215 Requests:** The conference report requires that a Section 215 application must include a statement of facts demonstrating that the records sought are "relevant" to an authorized investigation to obtain terrorism or foreign intelligence information. This statement of facts civil liberty safeguard contained in the conference report does NOT exist under current law.
3. **Explicitly Allowing a United States Foreign Intelligence Surveillance Act (FISA) Court Judge to Deny or Modify a Section 215 Request:** The PATRIOT Act conference report explicitly provides a FISA Court judge the discretion to not only approve or modify a Section 215 application, but also to deny an application.
4. **Requiring Minimization Procedures to Limit Retention and Dissemination of Information Obtained About U.S. Persons From Section 215 Requests:** The PATRIOT Act conference report requires that the Attorney General create minimization procedures for the retention and dissemination of this data and that the FBI use these procedures. This civil liberty safeguard is not contained in current law and was requested by Senator Leahy.
5. **Explicitly Providing for a Judicial Challenge to a Section 215 Order:** Current law requires judicial review before a Section 215 can be issued. The pending PATRIOT Act conference report explicitly established a judicial review process after the 215 order has been issued, to allow the recipient of a 215 order to challenge the order before the FISA Court.
6. **Explicitly Clarifying that a Recipient of a Section 215 Order May Disclosure Receipt to an Attorney or Others Necessary to Comply with or Challenge the Order:** Current law is silent as to whether a 215 order recipient may disclose the receipt of such an order to an attorney to comply with the order. The pending PATRIOT Act conference report clarifies this issue by stating explicitly that the recipient of a 215 order may disclose receipt to an attorney or others necessary to comply with or challenge the order.
7. **Requiring Public Reporting of the Number of Section 215 Orders:** At the request of Senator Leahy and other Senate Democratic conferees, the PATRIOT Act Conference

report requires the Justice Department to report to the public annually the aggregate number of Section 215 applications submitted, approved, modified, and denied.

8. **Requiring the Justice Department's Independent Inspector General to Conduct an Audit of Each Justice Department Use of Section 215 Orders:** The PATRIOT Act conference report provides additional public information and congressional oversight by requiring the Justice Department's independent Inspector General to conduct an audit for each Justice Department use of Section 215 orders.
9. **Explicitly Providing for a Judicial Challenge to a National Security Letter (NSL):** Current Law does not specify that an NSL can be challenged in court and provides no process for challenging an NSL. The conference report provides explicit authority to challenge in court an NSL under all existing statutes authorizing NSLs. This civil liberty safeguard is stronger than the Senate-passed bill, which only addressed one of the NSL statutes, does not exist under current law, and was written by Rep. Jeff Flake (R-Ariz.).
10. **Explicitly Clarifying that a Recipient of a National Security Letter (NSL) May Disclose Receipt to an Attorney or Others Necessary to Comply with or Challenge the Order:** Current law is silent as to whether an NSL may disclose the receipt of such an order to an attorney to comply with or challenge the order. The pending PATRIOT Act conference report clarifies this issue by stating explicitly that the recipient of an NSL may disclose receipt to an attorney or others necessary to comply with or challenge the order.
11. **Providing that a Nondisclosure Order Does Not Automatically Attach to a National Security Letter (NSL):** Instead, a nondisclosure requirement will attach to an NSL only upon a certification by the government that disclosure could cause one of the harms specified in the conference report, such as endangering a witness or threatening national security.
12. **Providing Explicit Judicial Review of a Nondisclosure Requirement to a National Security Letter (NSL):** The NSL recipient may challenge the nondisclosure requirement in the U.S. district court for the district in which the recipient does business or resides.
13. **Requiring Public Reporting of the Number of National Security Letters (NSLs):** At the request of Senator Leahy and other Senate Democratic conferees, the PATRIOT Act conference report includes – for the first time – public reporting on the aggregate number of NSLs requested for information about U.S. persons.
14. **Requiring the Justice Department's Independent Inspector General to Conduct Two Audits of the Use of National Security Letters (NSLs):** The PATRIOT Act conference report provides additional public information and congressional oversight by requiring the Justice Department's independent Inspector General to conduct two audits on the use of NSLs during the years 2003 - 2006.
15. **Requiring Additional Reporting to Congress by the Justice Department on Use of National Security Letters (NSLs):** Specifically, the conference report requires the House and Senate Judiciary Committees to receive all classified reports regarding use of NSLs; currently these committees only receive classified reports under one of the five statutes authorizing NSLs.
16. **Requiring the Justice Department to Re-Certify that Nondisclosure of a National Security Letter (NSL) is Necessary:** If an NSL recipient challenges the prohibition on

disclosure more than a year after the NSL is issued, the Justice Department must re-certify that nondisclosure is necessary, or else the nondisclosure requirement lapses.

17. **Narrowing the Deference Given to the Justice Department on a National Security Letter (NSL) Nondisclosure Certification:** At the request of Senator Leahy, this heightened degree of deference is only provided to certifications made by a few Senate-confirmed officials at the time the nondisclosure petition is filed.
18. **Requiring a Report to Congress on Any Use of Data-Mining Programs by the Justice Department:** The PATRIOT Act conference report enhances congressional oversight of data-mining programs by requiring the Justice Department to report to Congress on the use or development of any of these programs by the Justice Department.
19. **Requiring Notice Be Given on Delayed-Notice Search Warrants Within 30 Days of the Search:** The PATRIOT Act reauthorization conference report narrows and clarifies the reasonable amount of time standard by providing a Court the discretion to delay notice for up to 30 days after the search is executed.
20. **Limiting Delayed-Notice Search Warrants Extensions to 90 Days or Less:** The PATRIOT Act conference report narrows and clarifies the permissible delayed-notice extension period by providing a Court the discretion to extend the delay of notice for up to 90 days.
21. **Requiring an Updated Showing of Necessity in Order to Extend the Delay of Notice of a Search Warrant:** To ensure that a Court considering extending a delay of notice has the best and most up-to-date information, the PATRIOT Act conference report requires an updated show of necessity by the applicant in order to extend the delay of notice of a search warrant.
22. **Requiring Annual Public Reporting on the Use of Delayed-Notice Search Warrant:** Specifically, the annual public report will include the “number of applications for warrants and extensions of warrants authorizing delayed notice, and the number of such warrants and extensions granted or denied during the preceding fiscal year.”
23. **Requiring Additional Specificity from an Applicant Before Roving Surveillance May be Authorized:** The PATRIOT Act conference report addresses concerns about vagueness in applications for “roving” wiretaps in foreign spying and terrorism investigations by requiring additional specificity in these applications in order for a FISA Court judge to consider authorizing a “roving” wiretap.
24. **Requiring Court Notification Within 10 Days of Conducting Surveillance on a New Facility Using a “Roving” Wiretap:** The PATRIOT Act conference report addresses concerns the “roving” wiretap authority could be abused by requiring the investigators to inform the FISA Court within 10 days when the “roving” surveillance authority is used to target a new facility.
25. **Requiring Ongoing FISA Court Notification of the Total Number of Places or Facilities Under Surveillance Using a “Roving” Wiretap:** The PATRIOT Act conference report enhances judicial oversight to address any concerns that the “roving” wiretap authority could be abused. Specifically, the conference report requires the FISA Court to be informed on an ongoing basis of the total number of places or facilities under surveillance using a “roving” wiretap authority.

26. **Requiring Additional Specificity in a FISA Court Judge’s Order Authorizing a “Roving” Wiretap:** The PATRIOT Act conference report addresses concerns about vagueness about the target in a FISA Court judge’s order authorizing a “roving” wiretap in foreign spying and terrorism investigations by requiring additional specificity.
27. **Providing a Four-Year Sunset on FISA “Roving” Wiretap:** Despite no evidence that the FISA “roving” wiretap authority has been abused, the PATRIOT Act conference report aggressively attempts to avoid any potential abuse of FISA “roving” wiretaps by providing a four-year sunset of this authority.

The Library of Congress' legislative history website, THOMAS, tracks the 45-day passage of the 300-plus page act, including links to successive versions.

Organization

The Act has ten titles, each containing numerous sections. These are:

- **Title I: Enhancing Domestic Security against Terrorism** deals with measures that counter terrorism
- **Title II: Enhanced Surveillance Procedures** gave increased powers of surveillance to various government agencies and bodies. There were 25 sections, with one of the sections (section 224) containing a sunset clause.
- **Title III: International money laundering abatement and anti-terrorist financing act of 2001**
- **Title IV: Protecting the border**
- **Title V: Removing obstacles to investigating terrorism**
- **Title VI: Providing for victims of terrorism, public safety officers and their families**
- **Title VII: Increased information sharing for critical infrastructure protection**
- **Title VIII: Strengthening the criminal laws against terrorism**
- **Title IX: Improved intelligence**
- **Title X: Miscellaneous**

Provisions

The Act mostly incorporates the provisions of the earlier anti-terrorism USA Act (H.R. 2975 and S. 1510). The Senate passed the USA Act on October 11, 2001. The House passed it on October 12, 2001. The primary differences between the USA Act and the USA PATRIOT Act are:

- The inclusion of the [Financial Anti-Terrorism Act](#) (H.R. 3004), which expands money laundering abatement to international terrorism.
- Immunity against prosecution for the providers of wiretaps in accordance with the [Foreign Intelligence Surveillance Act of 1978](#).
- Request for a report on integrating automated fingerprint identification for ports of entry into the United States.
- Start of a foreign student monitoring program.
- Request for machine readable passports.
- Prevention of consulate shopping.
- Expansion of the Biological Weapons Statute.
- Clearer definition of "Electronic Surveillance"
- Miscellaneous benefits for victims of the September 11 attack and extra penalties for those who illegally file for such benefits.

Much criticism against the 2001 Act had been directed at the provisions for Sneak-and-Peek searches — a term coined by the FBI. Critics argued that Provision 213 authorizes "surreptitious search warrants and seizures upon a showing of *reasonable necessity* and eliminates the requirement of Rule 41 of the [Federal Rules of Criminal Procedure](#) that immediate notification of seized items be provided."^[2]

In special cases covered by [FISA](#) (amended by the USA PATRIOT Act), the warrants may come from the [Foreign Intelligence Surveillance Court](#) (FISC) instead of a common Federal or State Court. FISC warrants are not public record and therefore are not required to be released. Other warrants must be released, especially to the person under investigation.

A second complaint against Sneak-and-Peek searches is that the owner of the property (or person identified in business/library records) does not have to be told about the search. There is a special clause that allows the Director of the FBI to request phone records for a person without ever notifying the person. For all other searches, the person must be notified, but not necessarily before the search. The judge providing the warrant may allow a delay in notification when there is risk of:

- endangering the life or physical safety of an individual;
- flight from prosecution;
- destruction of or tampering with evidence;
- intimidation of potential witnesses; or
- otherwise seriously jeopardizing an investigation or unduly delaying a trial.

The delays are on average 7 days, but have been as long as 90 days. ^[1] Section 213, which federal agencies report they have used 155 times since 2001, does not expire later this year like other USA PATRIOT Act provisions.

The American Civil Liberties Union argues that the term "serious jeopardy" is too broad "and must be narrowly curtailed."^[3]

However, "sneak and peek" searches have been in use for a long time in criminal cases. Title II of the USA PATRIOT Act was intended to bring the monitoring of foreign powers and the agents of foreign powers into line with such criminal legislation. The main difference between criminal and FISA delayed notification on search warrants is that FISA warrants use a different legal standard when approving such orders (they use reasonable cause, not probable cause).

See also: [United States Foreign Intelligence Surveillance Court](#)

Government access to library records

Perhaps the most controversial section of the original Act was Section 215, dealing with a very narrow, implied right of federal investigators to access library and bookstore records. Section 215 allows FBI agents to obtain a warrant *in camera* (in secret) from the [United States Foreign Intelligence Surveillance Court](#) for library or bookstore records of anyone connected to an investigation of international terrorism or spying. On its face, the section does not even refer to "libraries," but rather to business records and other tangible items in general.^[4] Civil libertarians and librarians in particular, argue that this provision violates patrons' human rights and it has now come to be called the "library provision." The Justice Department defends Section 215 by saying that because it requires an order to be issued by a FISA Court judge, it provides better protection for libraries.

On [August 26, 2005](#), [The New York Times](#) reported that according to the [ACLU](#), the [FBI](#) is demanding library records from a Connecticut institution as part of an intelligence investigation. This would be the first confirmed instance in which the [Federal Bureau of Investigation](#) has

sought library records, federal officials and the ACLU said. Interestingly, though, the government did not seek the records under section 215, but instead used "National Security Letters," which are the FISA equivalent of grand jury subpoenas and do not require a court order and thus are easier to use than section 215. ^[5]

Enforcement

It is uncertain how many individuals or organizations have been charged or convicted under the Act. Throughout 2002 and 2003, the Department of Justice refused to release numbers. Former Attorney General John Ashcroft in his 2004 statement *The Department of Justice: Working to Keep America Safer* reported that there have been 368 individuals criminally charged in terrorism investigations, and later used the numbers 372 and 375. Of these he stated that 194 (later 195) resulted in convictions or guilty pleas. (The original statement ^[6]; the statement is reduced to a bullet list in 2004 Criminal Division Annual Report on page 9.). In June 2005, President Bush stated terrorism investigations yielded over 400 charges, more than half of which resulted in convictions or guilty pleas. In some of these cases, federal prosecutors chose to charge suspects with non-terror related crimes for immigration, fraud and conspiracy.

On September 11, 2005 the American Civil Liberty Union reports^[7]:

30,000 National Security Letters Issued Annually Demanding Information about Americans: USA PATRIOT Act Removed Need for FBI to Connect Records to Suspected Terrorists

[...] According to the Washington Post, universities and casinos have received these letters and been forced to comply with the demands to turn over private student and customer information. Anyone who receives an NSL is gagged - forever - from telling anyone that the FBI demanded records, even if their identity has already been made public.

In New York and Connecticut, the ACLU has challenged the NSL provision that was dramatically expanded by Section 505 of the USA PATRIOT Act. The legislation amended the existing NSL power by permitting the FBI to demand records of people who are not connected to terrorism and who are not suspected of any wrongdoing. [...]

U.S. Congress

On July 31, 2003, Senators Lisa Murkowski (R-AK) and Ron Wyden (D-OR), introduced the "Protecting the Rights of Individuals Act" (S. 1552) ^[8]. This bill would revise several provisions of the Act to increase judicial review. For example, instead of PEN/Trap warrants to track Internet usage being based on the claims of law-enforcement, they would be based on "specific and articulable facts that reasonably indicate that a crime has been, is being, or will be committed, and that information likely to be obtained by such installation and use is relevant to the investigation of that crime." However, the Protecting the Rights of Individuals Act doesn't address the portion of Sec. 216 of the Act which allows unnamed persons to be subject to a PEN/Trap warrant based on law-enforcement certifying that those individuals should have been named.

On September 24, 2003, Congressman Dennis Kucinich (D-Ohio), Co-Chair of the Progressive Caucus, introduced legislation into the U.S. House of Representatives to repeal more than ten sections of the Act. The bill, titled the "Benjamin Franklin True Patriot Act", looks to review certain sections of the Act, including those that authorize sneak and peek searches, library, medical, and financial record searches, and the detention and deportation of non-citizens without full judicial review. Beyond the Act, the bill cements the right of attorney/client privilege and attempts to restore transparency in the Department of Justice and Department of Homeland Security by revoking FOIA secrecy orders, along with other important provisions.

Bernie Sanders (I-VT) with Reps. Jerrold Nadler (D-NY), John Conyers Jr. (D-Mich.), C. L. Otter (R-Idaho), and Ron Paul (R-Texas) proposed an amendment to the **Commerce, Justice, State Appropriations Bill of 2005** which would cut off funding to the Department of Justice for searches conducted under Section 215. The amendment initially failed to pass the House with a tie vote, 210–210. Although the original vote came down in favor of the amendment, the vote was held open and several House members were persuaded to change their votes. ^[2]

On June 15, 2005, a second attempt to limit Section 215 was successful in the House of Representatives. The House voted 238-187 in favor of the Sanders amendment to an appropriations bill. The Sanders amendment prevents the funds provided by the bill from being used by the FBI and the Justice Department to search library and book store records as authorized

by Section 215 of FISA. This vote was misreported in many media outlets as a vote against Section 215. ^[9]

The Security and Freedom Ensured Act (SAFE) is legislation proposed by Senators Larry Craig (R-ID), John Sununu (R-NH) and Richard Durbin (D-IL) which would add checks and balances to the Act. This legislation, which was introduced in the House on April 6, 2005, would curtail some powers of the Act by requiring court reviews and reporting requirements.

Courts

Section 805 ruled unconstitutionally vague

January 23, 2004, U.S. District Judge Audrey Collins ruled that Section 805 (which classifies "expert advice or assistance" as material support to terrorism) was vague and in violation of the First and Fifth Amendments, marking the first legal decision to set a part of the Act aside^[10]. The lawsuit against the act was brought by the Humanitarian Law Project, representing five organizations and two U.S. citizens who wanted to provide expert advice to Kurdish refugees in Turkey. Groups providing aid to these organizations had suspended their activities for fear of violating the Act, and they filed a lawsuit against the Departments of Justice and State to challenge the law, claiming the phrase "expert advice or assistance" was too vague. ^[11]

Collins granted the plaintiff's motion that "expert advice or assistance" is impermissibly vague, but denied a nationwide injunction against the provision. The plaintiffs were granted "enjoinment" from enforcement of the provision.

Section 505 ruled unconstitutional

On September 29, 2004, U.S. District Judge Victor Marrero struck down Section 505—which allowed the government to issue "National Security Letters" to obtain sensitive customer records from Internet service providers and other businesses without judicial oversight—as a violation of the First and Fourth Amendment. The court also found the broad gag provision in the law to be an "unconstitutional prior restraint" on free speech. ^[3]

ACLU v. Ashcroft

On [April 9, 2004](#) the [ACLU](#) filed a lawsuit challenging the national security letter (NSL)[4] provisions of the Electronic Communications Privacy Act, which allows the [Director of the FBI](#) (or a designee not below Deputy Assistant Director of the FBI) to obtain customer records from phone and Internet companies in terrorism investigations. The ACLU successfully argued that phone companies and [Internet Service Providers](#) should be able to disclose receiving a subpoena from the Director of the FBI, and that doing so outweighs the Director's need for secrecy in counter-terrorism investigations. The Act is only affected indirectly by this lawsuit because the case is about a terrorism investigation and the Act extends the use of NSLs to non-terrorism investigations, but the ACLU's argument would apply to investigations of both types.

On [August 30, 2004](#), the [ACLU](#) ran a \$1.52 million ad campaign against the Act. The ad claimed, "So the government can search your house... My house... Our house... Without notifying us. Treating us all like suspects. It's part of the USA PATRIOT Act."

While a district court subsequently found section 2709 of the Electronic Communications Privacy Act unconstitutional, the Act itself has been affirmed to be constitutional, and has since been reaffirmed by the congress.

The resistance of state and local governments

Eight states ([Alaska](#), [California](#), [Colorado](#), [Hawaii](#), [Idaho](#), [Maine](#), [Montana](#) and [Vermont](#)) and 396 cities and counties (including [New York City](#); [Los Angeles](#); [Dallas](#); [Chicago](#); [Eugene, Oregon](#); [Philadelphia](#); and [Cambridge, Massachusetts](#)) have passed resolutions condemning the Act for attacking civil liberties. [Arcata, California](#) was the first city to pass an ordinance that bars city employees (including police and librarians) from assisting or cooperating with any federal investigations under the Act that would violate civil liberties ([Nullification](#)). The [Bill of Rights Defense Committee](#) is helping coordinate local efforts to pass resolutions. Pundits question the validity of these ordinances, noting that under the Constitution's supremacy clause, federal law overrides state and local laws. However, others have opined that the federal employees, in using

such procedures for investigations, violate the Constitution's clauses in the fourth amendment, and in these cases, the Constitution overrides the USA PATRIOT Act's provisions.

Public opinion

According to a [Gallup poll](#), the public is wary about the Act. In January 2002, 47% of Americans wanted their government to stop terrorism even if it reduced civil liberties. By November 2003 this number had dropped to 31%, indicating increasing concern about expanding government powers and/or reduced fear of terrorism. From 2003 to 2004, nearly a quarter of all Americans felt that the Act went too far, while most felt that it was either just right or did not go far enough. By 2005, the people polled were statistically divided half and half for and against the Act.

At the same time, only half of the people polled claimed to know some of the provisions of the Act. After the 2004 elections, the number of people claiming to know some of the provisions fell sharply.

Gallup Poll statistics[\[5\]](#)[\[6\]](#):

Does the USA PATRIOT Act go too far?

Date	Too Far	Not Too Far*
25 August-26 August 2003	22%	69%
10 November-12 November 2003	25%	65%
16 February-17 February 2004	26%	64%
13 April-16 April 2005	45%	49%

*Responded as it is a Necessary Tool, About Right, or Not Far Enough

What do you know about the USA PATRIOT Act?

Date	A Lot	Some	Not Much	Nothing
25 August-26 August 2003	10%	40%	25%	25%
10 November-12 November 2003	12%	41%	25%	22%
16 February-17 February 2004	13%	46%	27%	14%
13 April-16 April 2005	13%	28%	28%	29%

Around 2003, NBC or CBS did another poll that indicated 52% of Americans are concerned that their civil liberties are being infringed by the administration's war on terrorism.^[7]

Expiration and reauthorization

Under section 224, several of the surveillance portions (200-level sections) of the Act were originally to expire on December 31, 2005. The date was later extended to February 3, 2006. This extension was later extended again to March 10, 2006. The sunset provision excludes investigations that began before the expiration date. Those investigations may continue with the original Act's full powers.

The United States Senate voted to renew the Act on March 2, 2006. On March 7, 2006, the House gave its final vote in approval of renewing the act. ^[8] *The legislation to extend the statute will make all but two of its provisions permanent. The provisions in question are the authority to conduct "roving" surveillance under the Foreign Intelligence Surveillance Act (FISA) and the authority to request production of business records under FISA (USA PATRIOT Act sections 206 and 215, respectively). These provisions will expire in 4 years.*

Bush signed the reauthorization of the Act on March 9, 2006. After the public ceremony, he issued a "signing statement" to the effect that he would not feel bound to comply with some of the provisions of the law if they conflicted with other Constitutional laws. ^[9] This statement, though common throughout his Presidency, has been negatively covered by the media ^[10] and criticized for an apparent intention to withhold information that the Act required him to provide to Congress. ^[11]

Provisions that would expire (original version)

- §201. Authority To Intercept Wire, Oral, And Electronic Communications Relating To Terrorism.
- §202. Authority To Intercept Wire, Oral, And Electronic Communications Relating To Computer Fraud And Abuse Offenses.
- §203(b), (d). Authority To Share Criminal Investigative Information.
- §206. Roving Surveillance Authority Under The Foreign Intelligence Surveillance Act Of

1978.

- §207. Duration Of FISA Surveillance Of Non-United States Persons Who Are Agents Of A Foreign Power.
- §209. Seizure Of Voice-Mail Messages Pursuant To Warrants.
- §212. Emergency Disclosure Of Electronic Communications To Protect Life And Limb.
- §214. Pen Register And Trap And Trace Authority Under FISA.
- §215. Access To Records And Other Items Under FISA.
- §217. Interception Of Computer Trespasser Communications.
- §218. Foreign Intelligence Information. (Lowers standard of evidence for FISA warrants.)
- §220. Nationwide Service Of Search Warrants For Electronic Evidence.
- §223. Civil liability For Certain Unauthorized Disclosures.
- §224. Sunset. (self-cancelling)
- §225. Immunity For Compliance With FISA Wiretap.

Provisions that are permanent (original version)

- §203(a), (c). Authority To Share Criminal Investigative Information.
- §205. Employment of Translators by the Federal Bureau of Investigation.
- §208. Designation Of Judges.
- §210. Scope Of Subpoenas For Records Of Electronic Communications.
- §211. Clarification Of Scope (privacy provisions of Cable TV Privacy Act overridden for communication services offered by cable providers, but not for records relating to cable viewing.)
- §213. Authority For Delaying Notice Of The Execution Of A Warrant—"Sneak and Peek"
- §216. Modification Of Authorities Relating To Use Of Pen Registers And Trap And Trace Devices.
- §219. Single-Jurisdiction Search Warrants For Terrorism.
- §221. Trade sanctions.
- §222. Assistance To law enforcement agencies.

Congressional action

On June 10, 2005, during testimony at a House Judiciary Committee hearing on the reauthorization of the Act, Chairman James Sensenbrenner (one of the Act's authors) abruptly gaveled the proceedings to a close after Congressional Democrats and their witnesses launched into a broad denunciations of President Bush's war on terror and the condition of detainees at Guantanamo Bay. In frustration, Sensenbrenner declared, "We ought to stick to the subject. The USA PATRIOT Act has nothing to do with Guantanamo Bay. The USA PATRIOT Act has

nothing to do with enemy combatants. The USA PATRIOT Act has nothing to do with **indefinite detentions**." He then gaveled the meeting to a close and walked out with the gavel. However, Congressman Jerrold Nadler and other witnesses continued speaking despite Sensenbrenner's departure, and C-SPAN cameras continued to roll after microphones in the hearing room had been turned off. [12]

On July 21, 2005, the House of Representatives passed HR3199, the USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005, which would have removed certain sunset clauses entirely rather than renewing them or allowing them to be enacted. The act was introduced by Representative F. James Sensenbrenner (R-Wisconsin).

On December 16, 2005, the Senate refused to end debate on legislation to renew the Act. The Senate fell seven votes short of invoking closure on the matter, leaving the future of the Act in doubt. The vote went as follows: Fifty Republicans as well as two Democrats voted unsuccessfully to end debate; Five Republicans, 41 Democrats and one independent voted to block.

On December 21, 2005, the U.S. Senate came to a bipartisan agreement (S.2167) to extend by six months the expiring provisions of the Act. Under House rules, the House Judiciary Committee Chairman James Sensenbrenner had the authority to block enactment of the six-month extension. On the following day, December 22, 2005, the House rejected the six-month extension and voted for a one-month extension, which the U.S. Senate subsequently approved later that night. Pending President Bush's signature, the provisions of the USA PATRIOT Act will remain in effect until February 3, 2006.

On February 17, 2006, the *Washington Times* reported:

"Last week, Republican Sens. John E. Sununu of New Hampshire, Larry E. Craig of Idaho, Lisa Murkowski of Alaska and Chuck Hagel of Nebraska, all dropped their opposition to the bill after modifications were made that they said appeased their concerns about protecting civil liberties." [13]

Comparisons to historical laws

- The Sedition Act of 1918 is sometimes compared to the USA PATRIOT Act because of the latter's perceived chilling effect on free speech. However, the Sedition Act had the explicit and specific purpose of quelling anti-government speech while the nation was at war. The Sedition Act was repealed in 1921.
- Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA)

The AEDPA is the direct predecessor of the USA PATRIOT Act and contains many provisions that were maintained and expanded by the USA PATRIOT Act, including those relating to terrorism, FISA, immigration, and so on. See David Cole's book, listed below in the critics section.

- COINTELPRO is thought of as similar to the USA PATRIOT act in that it was allowed because of fear of an enemy (the Soviet Union in this case) and permitted actions that would not be acceptable during peacetime. The primary similarity in content was that invasion of privacy could be carried out in secrecy without probable cause if the investigator felt that it was necessary for national security.

See also

- U.S. governmental response to the September 11 attacks
- Homeland security
- Alien and Sedition Acts
- Benjamin Franklin True Patriot Act
- Domestic Security Enhancement Act of 2003, also known as PATRIOT II.
- ACLU v. Ashcroft (2004) - the court opinion mentions PATRIOT Act three times but provisions of the PATRIOT Act were not adjudicated. 14
- Red Squad
- Security and Freedom Ensured Act
- Bank Secrecy Act
- Ohio Patriot Act
- Patriot Debates
- Mass surveillance

Notes

1. ^ <http://judiciary.house.gov/Printshop.aspx?Section=232>

2. ^ http://talkleft.com/new_archives/000279.html
3. ^ http://newstandardnews.net/content/?action=show_item&itemid=1776
4. ^ <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2003/03/10/MN14634.DTL>
5. ^ <http://www.nytimes.com/2005/08/26/politics/26patriot.html>
6. ^ http://permanent.access.gpo.gov/websites/usdojgov/www.usdoj.gov/ag/speeches/2004/ag_successes_110904.htm Working to Keep America Safer
7. ^ <http://www.aclu.org/natsec/warpowers/21261prs20051107.html>
8. ^ http://www.fas.org/irp/congress/2003_cr/s1552.html
9. ^ <http://clerk.house.gov/floorsummary/floor.html?day=20050615>
10. ^ <http://files.findlaw.com/news.findlaw.com/cnn/docs/terrorism/hlpash12304ord.pdf>
11. ^ <http://www.cnn.com/2004/LAW/01/27/patriot.act/>

External links and references



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Government sources

- **The Act began as House Resolution (H.R.) 3162.**
 - [H.R. 3162, full text](#)
 - [H.R. 3162, Bill Summary and Status](#)
 - [H.R. 3162, all information](#)
 - [H.R. 3162, Vote Summary \(House\)](#)
 - [H.R. 3162, Vote Summary \(Senate\)](#)
- ["The USA PATRIOT Act: Preserving Life and Liberty"](#) by the Department of Justice
- **2005 renewal:**
 - [H.R. 3199, Bill Summary and Status](#)
 - [Section-by-section summary](#) by Senator Patrick Leahy

Supportive views

- [The Patriot Act and Related Provisions: The Heritage Foundation's Research](#)
- [Patriot Hysteria](#) - The Zacarias Moussaoui Protection Act, article by Rich Lowry, [National Review](#)
- [In Defense of the Patriot Act](#) by Senator [Orrin Hatch](#) (R-UT)
- [Patriot Act: 101](#) by Jon Thibault, [FrontPage Magazine](#)
- [The Patriot Act under Fire](#) by law professors John Yoo and Eric Posner, [December 23, 2003](#)
- [The Patriot Act, Reauthorized](#), [JURIST](#)

Critical views

- [PATRIOT Games: Terrorism Law and Executive Power](#), [JURIST](#)
- ["Domestic Security Enhancement Act of 2003" also known as "PATRIOT Act II"](#) by Timothy H. Edgar
- [ACLU: 7 State Governments and over 389 Local Governments Pass Resolutions Denouncing The USA Patriot Act](#)
- [American Library Association's Resolution on the PATRIOT Act](#)
- ["War on Terror" Human Rights Issues](#) *Amnesty International USA* - Denial Of Rights: Amend the USA PATRIOT Act Now!
- [Jennifer Van Bergen, Repeal the Patriot Act](#) A six-part series analyzing the Act.
- [Beware of the "Domestic Security Enhancement Act"](#) by activist group ReclaimDemocracy.org
- [Bill of Rights Defense Committee: community-level initiatives opposing the Act](#)
- [Electronic Frontier Foundation's detailed analysis of the Act](#), [October 27, 2003](#)
- [Moveon.org Voter Fund: Video contest entry criticizing the Patriot Act](#)
- [Patriot Raid](#), by Jason Halperin, [AlterNet](#), [April 29, 2003](#) — alleged account of raid and detention under auspices of the Act
- [Should you be scared of the Patriot Act?](#) — analysis by Dahlia Lithwic, [Slate](#)
- [Statement Of U.S. Senator Russ Feingold On The Anti-Terrorism Bill](#), [October 25, 2001](#)
- [Protecting the Rights of Individuals Act 2003: Proposed Senate bill to limit USA PATRIOT Act](#)
- [Thousands dead, millions deprived of civil liberties?](#), by [Richard Stallman](#), [September 17, 2001](#)
- [Analysis of the Patriot Act: PEN American Center](#)
- T.J. Rodgers. [U.S. gets closer to Orwell's Big Brother](#), *San Jose Mercury News*, [December 29, 2005](#).
- [League of Women Voters' Resources on the Patriot Act and Individual Liberties](#)

Other

- [Pros vs. Cons Examination of the Patriot Act](#)
- [Patriot Act news and resources, JURIST](#)
- Video Debate: [Howard Dean and Governor Bill Owens \(R-CO\), debate the USA PATRIOT Act, August 9, 2004](#) (Real Player required)
- [More on Wikipedia and its PATRIOT Act overview](#); Volokh Conspiracy, Orin Kerr
- 1996: [Laws proposed by ADL and AIPAC that were later incorporated into the Patriot Act](#)
- [Read Congressional Research Service \(CRS\) Reports regarding the USA Patriot Act](#)
- [PATRIOT Act at Wikia](#)
- [Is the Patriot Act Unconstitutional? - Encarta](#)


Law Review Articles

- Robert M. Chesney, [The Sleeper Scenario: Terrorism Support Laws and the Demands of Prevention](#), Harvard Journal on Legislation (2005)
- Daniel J. Solove, [Fourth Amendment Codification and Professor Kerr's Misguided Call for Judicial Deference](#), 74 Fordham L. R. (2005).
- Orin Kerr, [Digital Evidence and the New Criminal Procedure](#), Columbia L. R. (2005).
- Jennifer Van Bergen, [In the Absence of Democracy: The Designation and Material Support Provisions of the Anti-Terrorism Laws](#), 2 Cardozo Pub. L. Pol'y & Ethics J. 107 (2003).
- Eric J. Gouvin, [Bringing Out the Big Guns: The USA Patriot Act, Money Laundering and the War on Terrorism](#), 55 Baylor L. Rev. 955 (2003).

Books

- C. William Michaels, [No Greater Threat: America Since September 11 and the Rise of the National Security State](#) (Algora Publishing, 2002) [ISBN 0-87586-155-5](#) — covers all ten titles of the PATRIOT Act; an updated version, including discussion of amendments and complements to the Act, is just completed but not yet available.
- David Cole & James X. Dempsey, [Terrorism and the Constitution; Sacrificing Civil Liberties in the Name of National Security](#) (W. W. Norton & Co., 2nd Ed., 2002) [ISBN 1-56584-782-2](#) &mdash full discussion of prior legislative history of the Act, going back more than ten years.
- Jennifer Van Bergen, [The Twilight of Democracy: The Bush Plan for America](#) (Common Courage Press, 2004) [ISBN 1-56751-292-5](#) &mdash a constitutional analysis for the general public of the PATRIOT Act and other administrative measures, with the first half of the book spent on principles of democracy and constitutional law

[War on Terrorism](#)^[hide]

Main events	Specific articles	Main participants
<p><i>2001:</i></p> <ul style="list-style-type: none"> ● September 11, 2001 attacks ● War in Afghanistan (Oct 2001 - current) ● Operation Enduring Freedom (October 2001 - current) ● Operation APOLLO (October 2001 - October 2003) ● Operation Active Endeavour (October 2001 - current) 	<ul style="list-style-type: none"> ● Allegations of state terrorism by the US ● Axis of Evil ● 2000 al-Qaeda Summit ● Extraordinary rendition ● Extrajudicial prisoners of the US ● Guantanamo Bay detainment camp ● NSA call database ● NSA electronic surveillance program ● Oplan Bojinka ● Unlawful combatant ● USA PATRIOT Act 	<p><i>Participants in Operations</i></p> <ul style="list-style-type: none"> ●  Afghanistan ● Afghan Northern Alliance ●  Australia ●  Canada ●  Ethiopia ●  France ●  Germany ●  Iraq (New Iraqi Army) ● NATO ●  Pakistan ●  Philippines ●  Poland ●  Somalia Transitional Federal Parliament ●  Turkey ●  United Kingdom ●  United Nations ●  United States
<p><i>2002:</i></p> <ul style="list-style-type: none"> ● OEF - Philippines (January 2002 - current) ● OEF - Pankisi Gorge (February 2002 - current) ● OEF - Horn of Africa (October 2002 - current) ● 1st Bali bombing (October 12, 2002) 		
<p><i>2003:</i></p> <ul style="list-style-type: none"> ● Iraq War (March 19, 2003 - current) ● Insurgency in Saudi Arabia (May 12, 2003 - current) ● Marriott Hotel bombing (August 5, 2003) 		<p><i>Targets of Operations</i></p> <ul style="list-style-type: none"> ● Abu Sayyaf ● Al-Qaeda ● Jemaah Islamiyah ● Taliban ● Iraqi insurgency ● Islamic Courts Union

2004:

- [Waziristan War](#) (March 2004 - September 2006)
- [Madrid train bombings](#) (March 11, 2004)
- [Jakarta embassy bombing](#) (September 9, 2004)

2005:

- [1st London bombings](#) (July 7, 2005)
- [2nd London bombings](#) (July 21, 2005)
- [2nd Bali bombings](#) (October 1, 2005)
- [Amman bombings](#) (November 9, 2005)

2006:

- [Mumbai train bombings](#) (July 11, 2006)
- [2006 Israel-Lebanon conflict](#) (12 July 2006 — 14 August 2006)
- [Ethiopian war in Somalia](#) (December 20, 2006-current)

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