



## U.S. Senate Approves Patriot Act July 29, 2005

*Washington, DC – The U.S. Senate tonight approved the USA-Patriot Act, sponsored by Senators Arlen Specter (R-Penn.) and Dianne Feinstein (D-Calif.), without controversial administrative subpoenas and with a four-year sunset on two significant provisions. The following is a statement entered into the Congressional Record by Senator Feinstein:*

Mr. President, I am pleased to rise today in support of the USA PATRIOT Improvement and Reauthorization Act of 2005.

I understand that the Senate will shortly pass this legislation by unanimous consent, and I want to take this opportunity to thank Chairman Specter and Ranking Member Leahy for the efforts to move this bill forward in a careful, collegial and effective matter. I believe the bill we pass today strikes a good balance between our nation's need to defend against terrorism, and maintaining our deeply held civil liberties.

The USA Patriot Act is one of the most consequential laws that has ever been passed by Congress. It made wide ranging, and necessary changes to our intelligence and law-enforcement communities, giving them the tools they need to defeat this nation's most dangerous and insidious enemies.

When we passed the Patriot Act shortly after September 11th, 2001, we recognized that this was very significant legislation, providing new authorities to the Government. That's why we committed ourselves to vigorous and in-depth oversight of the implementation of the Act. In fact, sixteen of the most controversial provisions came with "sunset clauses," which would cause them to expire in December of this year.

Since 2001 I have worked, along with my colleagues on both the Judiciary and Intelligence Committees, to carry out that oversight. The result has been literally hundreds of hours of hearings, briefings, and document reviews. We asked tough questions, and got answers. We did extensive research, and consulted with a wide array of experts.

As part of my effort to oversee the implementation of the USA-Patriot Act, I asked the ACLU, in a letter dated March 25, 2005, to provide an update of their October 2003 statement that they did not know of any abuses of the USA-Patriot Act.

On April 4, 2005, the ACLU published a reply to my letter, in which they listed what they described as 'abuses and misuses' of the Act. I carefully reviewed each of the examples provided in the letter. I also reviewed information provided to me by the Department of Justice about each of the examples. And while I understand the concerns raised by the ACLU, it does not appear that these charges rose to the level of 'abuse' of the Patriot Act.

This conclusion has been borne out by numerous inquiries, hearings and briefings. Simply put, there have been no sustainable allegations of serious abuse of the Act.

That said, I believe that we can, and should, make some changes to the Patriot Act to ensure it is less likely to be abused in the future.

Furthermore, I am confident that the expiring USA-Patriot Act provisions should be retained. The sixteen sunsetted provisions are generally working well, and should be reauthorized with some of the modifications reflected in the bill we take up today.

The bottom line is that the Judiciary Committee was able to do its work, and reach appropriate compromises. This allowed the Committee to favorably report this bill by a vote of 18-0. This type of consensus and bipartisanship is welcome, and bodes well for our continued work on these critical issues.

This nation faces difficult times. We know that there are those already in our country or trying to enter our country who would do us grievous injury and harm unless we can stop them – and to stop them, we must find them first – before they act – not after they act. Therefore, this bill is necessary and prudent.

This legislation would permanently reauthorize 14 of the 16 provisions scheduled to sunset in December 2005 and extend two other provisions (multi-point (roving) wiretaps and the acquisition of business records) until December 2009.

I believe it was important to extend, rather than eliminate, the sunsets on these two most controversial provisions – they warrant continued scrutiny

But this legislation does not merely extend the sunsets -- it makes improvements to key portions of the act. The bill approved by Committee, and which take up today, went even further in strengthening the USA Patriot Act and protecting the civil liberties of Americans. It included the following modifications:

- Clarifying the rules governing multi-point wiretaps as well as regulating the acquisition of business records in the course of foreign intelligence investigations by requiring that a judge determine that the request is relevant to a national security intelligence investigation.
- Increasing the amount of information that must be provided to Congress to ensure adequate and effective oversight.
- Changing Section 215 of the USA Patriot Act (FISA Tangible Item Orders or the so-called “library provision”), tightening the requirement to make it clear that investigators must not only show relevance but also that the request pertains to a known or suspected agent of a foreign power or their associates.
- Changing Section 213 of the USA Patriot Act (Delayed Notification of Search Warrants

or “Sneak and Peak”), to include a “7-day default” for delayed notice search warrants. Extension of this delay is permitted to dates certain (limited to 90 days or less unless the facts of the case justify a longer period of delay), but only upon showing of facts supporting that request.

- Changing Section 212 of the USA Patriot Act, so that electronic service providers (Verizon, Comcast, etc.) are authorized to voluntarily (i.e., without a warrant) disclose customer records and the content of communications in an emergency situation -- where delay could be harmful, but without a need to show “immediacy.”
- Changing Section 214 of the USA Patriot Act (FISA Pen Registers/Trap and Trace Devices) in a way that makes them consistent with those used in criminal cases.
- Changing Section 505 of the USA Patriot Act (National Security Letter Protections), clarifying that any person contesting an order to produce a tangible thing, can not only challenge the order, but also any gag-order accompanying it.

Taken as a whole, these changes help ensure that these key provisions are used responsibly, in a focused and effective manner, and against our nation’s enemies, not against ordinary Americans. They provide critical additional civil liberties protections, without sacrificing the safety of Americans.

I strongly believe that Congress’s responsibility does not end when it passes a law. We have an obligation to carry out vigorous oversight. We have an obligation to adjust and fine-tune laws to fit changing circumstances. We have an obligation to see that the law accomplishes its aims and remains balanced and appropriate.

I believe the bill before us represents the result of fulfilling those obligations, strikes a careful balance and should be approved.