



Senator Dianne Feinstein Urges Senate Support for USA-Patriot Act Reauthorization

*Legislation includes measures to crack down on methamphetamine production
and bolster seaport security*
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Washington, DC – U.S. Senator Dianne Feinstein (D-Calif.) made the following floor statement today announcing her support for the USA-Patriot Act reauthorization bill:

“Today the Senate will take up the Conference Report on the USA-Patriot Reauthorization and Improvement Act, as modified by an agreement reached last week.

I am the original Democratic co-sponsor of the unanimously-passed Senate bill, as well as a co-sponsor of the “Combating Methamphetamine Epidemic Act” and the “Reducing Crime and Terrorism at America’s Seaports Act”, both of which are incorporated into the Conference Report.

I will vote in favor of cloture on this bill, and will vote in favor of the bill when and if it comes to a vote.

At the end of last year, after careful consideration, I voted against cloture on the conference report. I took this step because of two basic concerns, both of which have been substantially diminished by the agreement which is before us today -- these changes, and the fact that a consensus agreement has been reached, is why I am changing my position.

My first concern was with some of the provisions of the Conference Report. Specifically, the Conference report did not provide adequate judicial review of so-called “gag orders” associated with the issuance of National Security Letters, and required those who wanted to contest these orders before a court to disclose information about their legal counsel to the FBI. This was unnecessary and inappropriate, and it has been changed.

The revised Conference Report clarifies that a gag order will be reviewed by a Federal Court, and ensures that this review will include an inquiry into whether the government is acting in “bad faith.” The compromise also eliminates the onerous requirement of prior notification to the FBI about legal counsel.

On the other hand, the revised Conference Report does not go as far as I would have preferred. It does not adopt the original Senate language with respect to the standard to be applied for granting a Foreign Intelligence Surveillance Act warrant for physical items (including business records). This issue, usually referred to by its Patriot Act section number, “215”, remains very controversial, and I believe the language could permit inappropriate “fishing expeditions” if not carefully monitored. However, the agreed-upon language does make clear that libraries performing “traditional functions” are largely exempt from the more intrusive aspects of the law.

Importantly, the Conference Report retains and extends sunset provisions on the most controversial provisions, including section 215. This is critical, as these sunset provisions, which expire in 2009, are an important element of the continued vigorous oversight necessary to ensure this law is carried out in an appropriate manner.

The second concern I had was that it appeared that efforts to forge a compromise bill had fallen apart, with acrimony and rancor marking the progress of negotiations. This was, in my view, tragic.

I have long been a supporter of the USA-Patriot Act. I believe it is a critical tool in defending the nation against terrorism. But I believe that it is a tool that is most effective when it is accepted as a bipartisan, non-political, effort. Simply put, if there is one area where partisan debate and petty politics have no place, it is in the area of national defense against terrorism.

So I believed strongly that a compromise bill, supported by members of both parties, was essential. I recognize that achieving consensus means, almost by definition, that nobody will be completely happy with the outcome. As I noted, there are changes I would have made to this law, and I am sure most of my colleagues, Democrats and Republicans, would like other changes. But compromise and consensus require concessions and flexibility. That is why I will vote today against cloture, and why I plan to vote for the bill itself.

I explained my views in a letter I sent to the Attorney General in December. In that letter I explained, and I quote:

“It was clear to me that Senate and House negotiators had come very close to reaching agreement on the Conference Report. I believe this was critical, because only through such a consensus approach can we ensure that the Patriot Act does not continue to be polluted with partisan rancor. This law is extremely important to the safety of America, and its effectiveness depends in large part on ordinary Americans believing it is a product not of partisan politics, but of reasoned debate and compromise. Because I believed consensus was so close at hand, and so important, I voted to provide Congress additional time to resolve the last points of disagreement.

Thus I was disheartened to hear that the Administration has determined not to encourage further discussion on improving and refining the Conference Report – rather, to stand fast, and urge Senators to change their votes. I hope that this is not the case....

With that hope, I ask that you direct your staff to work with both Republicans and Democrats to address the few remaining issues. I am confident that good-faith discussion, honest debate, and careful drafting can reduce, perhaps even eliminate, some of the points of disagreement. ...

It is critical that the Congress and the Administration demonstrate our ability to work towards consensus and agreement. I hope you will work with me to that end.”

I ask unanimous consent that the full text of the letter be printed in the record.

The USA-Patriot Act has come to be terribly misunderstood. Some think it is related to Guantanamo Bay, and the detention of prisoners. Others are convinced that it authorizes torture, or the secret arrest of Americans. It does none of these things.

At the same time, some have irresponsibly sought to characterize anyone who seeks to improve, or criticize, the law as somehow “playing into the hands of the terrorists.” They have implied that the USA-Patriot Act would expire in its entirety, and that we would be left with no defenses against terrorist attacks. This too is untrue.

When I spoke on this floor in December, advocating working together, I said that, quote “Congress has a long, and honorable, tradition of putting aside party politics when it comes to national security... it is critical that this approach be carried forward to the end, and that Congress reauthorize the USA-Patriot Act in a way that Americans can be confident is not the product of politics.”

I am pleased that we followed that tradition and that we put aside our differences and reached agreement. The fact that the White House and the Attorney General backed down from their intransigence, and were willing to discuss and compromise, is also a welcome change, and hopefully a sign of a more open approach to these issues in the future.

I expect this bill will pass into law. I believe it will make America safer. It is the responsibility of the Congress to “provide for the Common Defense,” and I believe we live up to that duty in this bill.

But our job will not end here. We must immediately turn to our oversight responsibilities. For instance, I understand that Senator Specter will be continuing his inquiry into the NSA Surveillance Program, and tomorrow the Senate Intelligence Committee will hopefully agree to take up their oversight responsibilities with respect to this program. The Judiciary Committee will also soon be holding a hearing designed to look at the FBI’s progress in accepting its newly expanded intelligence missions, and assess whether these efforts have been successful, and whether they conform with the rule of law.

I look forward to expanding on the spirit of compromise that this bill represents.

Thank you, Mr. President.”

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