



Statement of Senator Dianne Feinstein on  
Sponsoring Legislation to Reauthorize the USA Patriot Act

July 13, 2005

*Washington, DC – U.S. Senator Dianne Feinstein (D-Calif.) today joined with Senate Judiciary Committee Chairman Arlen Specter to sponsor legislation reauthorizing the USA Patriot Act. The following is the text of Senator Feinstein's statement:*

"I'm pleased to join with Senator Arlen Specter in sponsoring legislation to reauthorize the USA Patriot Act. The bill that was signed into law included 16 provisions scheduled to sunset in December 2005. Under our new bill, 14 would be permanently reauthorized.

Two others, governing the Foreign Intelligence Surveillance Act, would be sunset in Dec. 2009:

- Section 206, which clarifies rules relating to multi-point (roving) wiretaps; and
- Section 215, which regulates the acquisition of business records in the course of foreign intelligence investigations by requiring that a judge determines the request is relevant to a national security intelligence investigation.

I previously voted against a separate USA Patriot Bill in Intelligence Committee because it includes two new controversial provisions:

- Administrative subpoenas, which contained inadequate safeguards against abuse; and
- An elimination of the effective distinction between intelligence and law enforcement by undermining the "significant purpose" test requiring there be an intelligence mission before using investigatory tools, which was in the original Patriot Act.

The Judiciary Committee bill does not contain these two provisions and I will urge my colleagues to support this version.

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."

## MAJOR PATRIOT PROVISIONS

**Section 206** (FISA Multi-Point Wiretaps): The bill extends the sunset date until December 31, 2009, adds new reporting requirements, and creates additional safeguards:

- For so-called “John Doe” wiretaps, the order must include “sufficient information to describe a specific target with particularity.”
- For all multi-point wiretaps, the bill requires the government to notify the FISC within 10 days after beginning surveillance of any new facilities or places. This notice must include:
  - The “nature and location” of the facility or place under surveillance;
  - The “facts and circumstances” relied upon to justify the belief that each new “facility or place” is “being used, or is about to be used,” by the target; and
  - The minimization procedures designed to protect the innocent.

**Section 213** (Delayed Notice “Sneak & Peek” Search Warrants): The bill adds new public reporting requirements, eliminates “unduly delaying a trial” as a basis for delay, and modifies the length of delay:

- Permits the court to determine the appropriate length of delay, but requires the court to set a “date certain” for notice to be provided.
- Permits extensions of the delay period, but only “upon an updated showing of the need for further delay.” Also, limits any extensions to 90 days each.

**Section 214** (FISA Pen Registers): The bill adds public reporting provisions and requires a factual basis for FISA pen register/trap and trace orders:

- Requires “a statement of the facts” showing that the information likely to be obtained is “foreign intelligence” not concerning a U.S. person or is “relevant” to an investigation to protect against terrorism or clandestine intelligence activities.
- Requires the FISC to find “sufficient facts” to support the application. Also, permits the FISC to issue a contemporaneous order for communication records (e.g., subscriber information) to deter over-reliance on the FISA Business Records provision.

**Section 215** (FISA Business Records): The bill extends the sunset date until December 31, 2009, and adds several safeguards:

- Requires applications to include “a statement of facts” showing “reasonable grounds to believe that the records or other things sought are relevant to an authorized investigation.”
- Includes an explicit right to consult counsel and to seek judicial review by the FISC.
- Requires approval of the FBI Director or Deputy Director for any orders concerning library records, book sales records, firearms sales records, or medical records.

- Orders must describe the tangible things sought with “particularity;” prescribe a reasonable return date; and provide “clear and conspicuous notice” of the non-disclosure requirements and the right to seek judicial review.
- Finally, it adds new reporting requirements, including public reporting of the aggregate use and annual reports to Congress that identify the number of times the provision has been used to obtain library records, book sales records, firearms sales records, health information or tax information.

**Sunsets:** The reauthorization bill retains sunsets for PATRIOT Sections 206 (Multi-Point Wiretaps) and 215 (FISA Business Records). The bill also extends the sunset date for the “Lone Wolf” provision added to FISA by last year’s Intelligence Reform and Terrorism Prevention Act until December 31, 2009.

### **OTHER PATRIOT PROVISIONS**

**Section 203** (Sharing Criminal Information with Intelligence Agencies): The bill requires notice to the authorizing court when foreign intelligence information gathered via a court-authorized criminal wiretap is disclosed to intelligence agencies.

**Section 207** (Duration of FISA surveillance of non-U.S. Persons): The bill extends surveillance periods for non-U.S. persons under FISA (120 days for original orders; up to one year for extensions). Also, extends the duration of FISA pen registers for non-U.S. persons (up to one year).

**Section 212** (Emergency Disclosure of Electronic Communications): The bill adds new reporting requirements to ensure the government is using this authority appropriately. The bill also makes technical corrections to harmonize the language permitting the emergency disclosure of contents and records.

**Section 505** (National Security Letters): The draft bill incorporates legislation introduced by Sen. Cornyn to address a 2004 federal district court decision holding a National Security Letter (NSL) served on an Internet Service Provider unconstitutional. This legislation permits disclosure to legal counsel; allows court challenges; and permits judicial enforcement of NSLs.

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