



Department of Justice

USA PATRIOT ACT OVERVIEW: **WHAT IS THE PATRIOT ACT?**

The Department of Justice's first priority is to prevent future terrorist attacks. Since its passage following the September 11th attacks, the PATRIOT Act has played a key role in a number of successful operations to protect innocent Americans from terrorists. In passing the PATRIOT Act, Congress provided for modest, incremental changes in the law. Congress took existing legal principles and adapted them to preserve the lives and liberty of the American people given the challenges posed by global terrorist threats.

- ✓ **Congress enacted the PATRIOT Act by overwhelming, bipartisan margins, arming law enforcement, intelligence, and homeland security officers with new tools to detect and prevent terrorism:** The USA PATRIOT Act was passed nearly unanimously by the Senate 98-1, and 357-66 in the House of Representatives, with bi-partisan support.

THE ACT IMPROVES OUR COUNTER-TERRORISM EFFORTS IN SEVERAL SIGNIFICANT WAYS:

1. The PATRIOT Act facilitates information sharing and cooperation among government agencies so that they can better “connect the dots.” The Act removed the major legal barriers that prevented the law enforcement, intelligence, and national defense communities from talking and coordinating their work to protect the American people and our national security. Now FBI agents, Federal prosecutors, and intelligence officials can protect our communities by “connecting the dots” to uncover terrorist plots before they are completed while respecting constitutional rights.

2. The PATRIOT Act allows terrorism investigators to use the tools that were already available to investigate organized crime and drug trafficking. Many of the tools the Act provides to law enforcement to fight terrorism have been used for decades to fight organized crime and drug dealers, and have been reviewed and approved by the courts. Specifically, the PATRIOT Act:

- **Allows law enforcement to use surveillance against more crimes of terror, such as use of chemical weapons and other weapons of mass destruction.**
- **Allows Federal agents to follow sophisticated terrorists trained to evade detection.** For years, Federal judges across America have authorized law enforcement to use “roving wiretaps” to investigate non-terrorism crimes, including drug offenses and racketeering. A roving wiretap can be authorized by a Federal judge to apply to a particular suspect, rather than a particular phone or communications device. Because international terrorists are sophisticated and trained to thwart surveillance by rapidly changing locations and communication devices, the Act authorized agents to seek court permission to use the same techniques in national security investigations to track terrorists.
- **Allows law enforcement to conduct investigations without tipping off terrorists.** If criminals are tipped off too early to an investigation, they are likely to flee, destroy evidence, intimidate or kill witnesses, cut off contact with associates, or take other action to evade arrest. Therefore, Federal courts in narrow circumstances long have allowed law enforcement to delay for a limited time when the subject is told that a judicially-approved search warrant has been executed. Notice is always provided, but the reasonable delay gives law enforcement time to identify the criminal's associates, eliminate immediate threats to our communities, and coordinate the arrests of multiple individuals without tipping them off beforehand. These delayed-notification search warrants have been used for decades, have proven crucial in drug and organized crime cases, and have been upheld by courts as fully constitutional. The Act simply codified the procedure for obtaining them.

- **Allows Federal agents to ask a court for an order to obtain business records in national security terrorism cases.** Examining business records often provides the key that investigators are looking for to catch terrorists, and, traditionally, to solve a wide range of crimes. Investigators might seek specific records from a hardware store or chemical wholesaler, for example, to determine the identity of a suspected terrorist who purchased materials to construct a bomb, or specific bank records to identify the source of money used to finance terrorist attacks. Law enforcement authorities have always been able to obtain business records in criminal cases through grand jury subpoenas, and for example, via administrative subpoenas in drug investigations. Previously -- in national security cases where use of the grand jury process was too risky or otherwise not appropriate (e.g., because disclosure of the fact that the subpoena had been issued could potentially tip off suspected terrorists to the existence of the investigation) -- investigators had limited tools to obtain certain business records. Under Section 215 of the Act, the government can now ask a Federal court to order production of the same type of records that are available through grand jury subpoenas (which typically do not require specific court approval). This Federal court, however, can issue these orders only after: (1) the government demonstrates that the records concerned are sought for an authorized investigation to obtain foreign intelligence information not concerning a U.S. person; or (2) to protect against international terrorism or clandestine intelligence activities, provided that any such investigation of a U.S. person is not conducted solely on the basis of activities protected by the First Amendment.

3. The PATRIOT Act updates the law to reflect new technologies and new threats. The Act brought the law up-to-date with the new technologies actually used by terrorists, so America no longer has to fight a digital-age battle with legal authorities left over from the era of rotary telephones.

- **Allows law enforcement officials to move more quickly to prevent attacks by asking a Court to authorize a nationwide search warrant.** Before the PATRIOT Act, law enforcement personnel were required to obtain a series of search warrants, one-by-one, from a series of different judges everywhere suspected terrorists may be hiding documents about planned attacks or other evidence. Today, however, terrorism investigations often span a number of districts, and obtaining multiple warrants in multiple jurisdictions can create risky and unnecessary delays. Now warrants can be obtained in any district in which terrorism-related activities occurred, regardless of where they will be executed.

4. The PATRIOT Act increases the penalties for those who commit terrorist crimes. Americans are threatened as much by the terrorist who pays for a bomb as by the one who detonates it. That's why the PATRIOT Act imposed tough new penalties on those who commit and support terrorist operations, both at home and abroad. In particular, the Act:

- **Prohibits individuals from knowingly harboring terrorists** who have committed or are about to commit a variety of terrorist offenses, such as: destruction of aircraft; use of nuclear, chemical, biological, or other weapons of mass destruction; bombing of government property; sabotage of nuclear facilities; and aircraft piracy.
- **Enhances the maximum penalties for various crimes likely to be committed by terrorists:** including arson, destruction of energy facilities, material support to terrorists and terrorist organizations, and destruction of national-defense materials.
- **Enhances a number of conspiracy penalties,** including for arson, killings in Federal facilities, attacking communications systems, material support to terrorists, sabotage of nuclear facilities, and interference with flight crews.
- **Punishes terrorist attacks on mass transit systems; punishes bioterrorists; and eliminates or lengthens the statutes of limitations for certain terrorism crimes.**

Congress should renew those provisions of the PATRIOT Act set to sunset in December 2005.