

USA PATRIOT Act

United States [2001]

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Alternative Title: Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001

USA PATRIOT Act, also called **PATRIOT Act**, in full **Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001**, U.S. legislation, passed by [Congress](#) in response to the [September 11, 2001, terrorist attacks](#) and signed into [law](#) by Pres. [George W. Bush](#) in October 2001, that significantly expanded the search and surveillance powers of federal law-enforcement and [intelligence](#) agencies. The USA PATRIOT Act, as [amended](#) and reauthorized from 2003, made numerous changes to existing statutes relating to the privacy of [telephone](#) and electronic communications, the operation of the [Foreign Intelligence Surveillance Court](#), [money laundering](#), immigration, and other areas. It also defined a host of new crimes and increased penalties for existing ones.

History

In the wake of the [September 11 attacks](#), the Bush administration submitted to Congress draft legislation designed to expand the powers of the government to surveil, investigate, and detain suspected terrorists. The eventual [Senate](#) bill, the Uniting and Strengthening [America](#) (USA) Act, was passed (96–1) on October 11. The House measure, which included much of the text of the Senate’s USA Act, was passed (337–79) on October 12 as the Uniting and Strengthening America (USA) Act. On October 23 the House introduced a compromise bill, the USA PATRIOT Act, which was passed (357–66) the following day. The Senate adopted (98–1) the House bill without [amendment](#) on October 25, and the following day Bush signed the measure into law.

Provisions

Some key provisions of the legislation consisted of [amendments](#) to the Wiretap Act (1968; amended 1986 and 1994), which had prohibited [eavesdropping](#) by the government on private face-to-face, telephone, and electronic communications except as authorized by [court order](#) in narrowly defined circumstances in cases of serious crimes. Sections 201 and 202 of the USA PATRIOT Act added computer and terrorist crimes to the list of serious offenses in connection with which law-enforcement officials could seek a court order to conduct eavesdropping. Section 209 established that [voice mail](#) was not entitled to the same protections that governed telephone conversations but only to the weaker safeguards applicable to telephone records and [e-mail](#) stored with third parties (usually an [Internet service provider](#)). In Section 210 the act added individual subscribers’ [credit card](#) or [bank](#) account numbers to records that could be obtained from a communication services provider through a [subpoena](#).

Section 216 permitted the use of trap-and-trace devices and pen registers—which record the source and destination, respectively, of calls made to and from a particular telephone—to monitor electronic communications, understood to include e-mail and [Web](#) browsing. Court orders for such surveillance did not require [probable cause](#) (a showing of facts that would lead a reasonable person to believe that the surveillance would be likely to uncover evidence of criminal activity by the target) but only a certification by the government that the information sought was likely to be relevant to a [criminal investigation](#).

To [facilitate](#) cooperation between law-enforcement and intelligence agencies in cases involving [terrorism](#), Section 203 allowed government attorneys to disclose matters before a federal [grand jury](#) (whose investigations are generally secret) to “any Federal law enforcement, intelligence, protective, immigration, national defense, or national security official” when such matters concerned “foreign intelligence or counterintelligence.” Section 213 authorized so-called “sneak and peek” searches, in which notification of the target is delayed until after the search has been executed. (The length of the delay must be “reasonable” but could be extended indefinitely for “good cause shown.”)

Other provisions of the act made changes to the operation of the [Foreign Intelligence Surveillance Court](#) (FISC), which was established by the 1978 [Foreign Intelligence Surveillance Act](#) (FISA) to authorize electronic surveillance (and later physical searches) targeting foreign powers or their agents. Section 218 removed the requirement that the government certify in its applications for surveillance authority that “the” purpose of the surveillance was to collect foreign intelligence information. Instead, it was sufficient that the government state that collecting such information was “a significant purpose.” In other changes, Section 215 removed a FISA provision that limited the types of records that the government, with a FISA court order, could require certain businesses to produce, replacing it with a general authority to demand “any [tangible](#) things” of any third party, including “books, records, papers, documents, and other items.” This section also imposed a gag order that generally prohibited third parties from disclosing the fact that the [Federal Bureau of Investigation](#) (FBI) had sought or obtained such things.

A related provision, Section 505, authorized the FBI to issue subpoenas based on a certification that the information sought is relevant to a foreign intelligence or international terrorism investigation. Orders for such information, known as National Security Letters (NSLs), also imposed gag orders on their recipients. Other sections of the act permitted the FISC to authorize “roving” electronic surveillance, which could be carried out in any location and with any equipment (Section 206), and increased the number of judges on the FISC from 7 to 11 (Section 208).

In other titles, the USA PATRIOT Act increased the powers of the Secretary of the [Treasury](#) to combat money laundering; tripled the number of border patrol, customs service, and Immigration and Naturalization Service (INS) personnel along the northern U.S. border; established new terrorism-related grounds for detaining or deporting foreign nationals or denying them admittance to the United States; expanded the definition of “material support” for terrorist organizations to include “expert advice or assistance”; and created new terrorist crimes, including attacking a [mass transit](#) system. Finally, to allay the concerns of legislators who had

questioned the constitutionality of some provisions, Section 224, titled “Sunset,” [stipulated](#) that 16 sections and two subsections of the act would cease to have effect on December 31, 2005.

Reauthorizations

In 2005–06 the provisions scheduled to sunset were extended to February 2006 and then to March 2006 as the Senate considered a proposal to [reconcile](#) House and Senate versions of the USA PATRIOT Act Improvement and Reauthorization Act of 2005. The eventual compromise, signed into law by Bush on March 9, 2006, made 14 of the original sunset provisions permanent and extended two others, sections 206 and 215, to December 31, 2009. The act also extended the “lone wolf” provision of the Intelligence Reform and Terrorism Prevention Act of 2004, which permitted the FISC to authorize surveillance and physical searches aimed at foreign nationals who are “engaged in international terrorism or activities in preparation for international terrorism.”

As the new sunset date approached in 2009, various measures designed to curb or eliminate the authorities granted in the provisions were introduced, though none succeeded. After extending the provisions to February 2010 and then to February 2011, Congress adopted further extensions to May (sections 206 and 215) and December 2011 (the lone wolf provision). All three provisions were finally extended to June 1, 2015, by the PATRIOT Sunsets Extension Act of 2011, which was passed by Congress and signed into law by Pres. [Barack Obama](#) on May 26.

On June 2, 2015, Obama signed the Senate-approved [USA Freedom Act](#) into law, which replaced the USA PATRIOT Act and curtailed the government’s authority to collect data. This revision was largely in response to [Edward Snowden](#)’s exposure in 2013 of the government’s bulk collection of phone and Internet records. The USA Freedom Act stipulated that the government can access such data only after submitting public requests to the FISA Court.

Criticism

Critics of the USA PATRIOT Act charged that several parts of the statute were unconstitutional or invited abuse by federal authorities. Section 215, for example, allegedly violated the privacy protections of the [Fourth Amendment](#) because it permitted warrantless searches and did not require notification of the target, even after the search had taken place. Similarly, Section 218 effectively allowed the [FBI](#) to conduct surveillance of U.S. citizens without showing probable cause of criminal activity. In addition, according to critics, the sneak-and-peek searches authorized by Section 213 were clearly “unreasonable” as that term had been interpreted in Fourth Amendment case law.

Critics also charged that Section 215 undermined the [First Amendment](#) freedoms of speech and association because it permitted searches to be conducted partly on the basis of the target’s exercise of these rights and because the section’s gag order applied even when there was no need for secrecy. Section 505 violated First Amendment rights even more egregiously, it was argued, because it authorized searches partly based on First Amendment activity and imposed gag orders without requiring any form of [judicial review](#).

From 2001 various provisions of the USA PATRIOT Act were challenged in court. In *Holder v. Humanitarian Law Project* (2010), the [U.S. Supreme Court](#) held that the act's definition of "material support" as including expert advice or assistance did not violate the freedoms of speech and association.