



The American Jewish Committee

Office of Government and International Affairs

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Dear Senator:

As the expiration of the short-term extension of the USA PATRIOT Act draws near, the American Jewish Committee urges you to work to maintain the 2001 law's national security enhancements while incorporating additional civil liberties protections. On behalf of our 150,000 members and supporters represented by 33 regional chapters, we urge Congress to seize this opportunity to incorporate into the reauthorization legislation (H.R.3199) crucial Senate- and House-passed provisions that were stripped from the conference report.

In the wake of September 11, 2001, AJC applauded Congress' expeditious passage of the PATRIOT Act, reflecting the urgent need to strengthen the ability of law enforcement and intelligence authorities to respond to terrorism with increased surveillance and investigative powers. At that time, even while endorsing the PATRIOT Act's passage, we noted that, in order to protect national security while maintaining the civil liberties and due process that all Americans cherish, Congress would need to engage in an ongoing review of the PATRIOT Act's provisions.

While we commend Congress for moving to extend expiring provisions of the PATRIOT Act in order to preserve heightened security and enforcement capabilities, we also urge that this extension incorporate enhanced due process and privacy protections. The bipartisan Security and Freedom Ensured (SAFE) Act of 2005 (H.R.1526/S.737) (the two bills are similar, but not identical) serves as a worthy model in drawing this balance; the reauthorization bill, passed by the Senate—and, to a lesser extent, the reauthorization bill initially passed by the House—appropriately addressed many of the same concerns as the SAFE Act.

We urge you to incorporate into the conference report provisions of the initial Senate-passed reauthorization bill addressing standards for the issuance of national security letters, safeguards for "sneak-and-peek" search warrants, and criteria for obtaining FISA record orders. Regarding notice of "sneak-and-peek" search warrants, the Senate bill maintained the ability to delay notice, but established a reasonable time limit on the length of the delay, while allowing for additional extensions. The conference report, in contrast, provides for an effectively unlimited delay. Similarly, the Senate-passed bill created a standard for obtaining FISA record orders that, while not as stringent as that outlined in the SAFE Act, was still more protective of privacy concerns than the House bill standard. The Senate bill required the FBI, when seeking to obtain library or other personal records, to demonstrate that it has reason to believe the person to whom the records pertain is a foreign power or an agent of a foreign

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power. While the conference report requires the Director of the FBI to personally approve any requests for records from a library or bookstore, the Senate-passed bill went further. The Senate bill allowed the Deputy Director of the FBI to also give that approval, and required personal review for firearms or medical records as well as for library and bookstore records.

We urge that two specific sections of the initial House-passed reauthorization bill—dealing with sharing of electronic, wire, and oral communication, and defining domestic terrorism—also be incorporated into the final conference report. With regard to information obtained in the course of a criminal investigation, the House version of the legislation required that, within a reasonable time after disclosure of such information to other agencies, a government attorney must file notice with the judge who authorized the wiretap that the contents were so disclosed. In addition, similar to the Senate SAFE Act, the House bill’s assets forfeiture section was triggered by crimes that may be defined as a “Federal crime of terrorism,” as opposed to crimes falling under the broader and vaguer standard of “domestic terrorism.”

As longtime advocates of the need to strike the delicate balance between national security and civil liberties, we urge you to pursue this balance as you move forward in reauthorizing this important legislation.

Thank you for considering our views on this crucial matter.

Respectfully,



Richard T. Foltin
Legislative Director and Counsel