The USA Patriot Act (October 24, 2001)

The USA PATRIOT Act was passed on October 24, 2001 in response to the terrorist attacks on September 11. This excerpt from the 324-page piece of legislation outlines the massive scope of the act's revision of criminal, immigration, and intelligence-gathering laws. Read the outline closely to determine which sections grant the federal government significant new powers or remove traditional protections such as *habeas corpus* from certain individuals. Ever since the passage of the PATRIOT act, critics and supporters have argued vehemently over where to draw the line between the competing demands of security and liberty.

PUBLIC LAW 107–56–OCT. 26, 2001

UNITING AND STRENGTHENING AMERICA BY

PROVIDING APPROPRIATE TOOLS REQUIRED

TO INTERCEPT AND OBSTRUCT TERRORISM

(USA PATRIOT ACT) ACT OF 2001

TITLE II--ENHANCED SURVEILLANCE PROCEDURES

SEC. 201. AUTHORITY TO INTERCEPT WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS RELATING TO TERRORISM.

Section 2516(1) of title 18, United States Code, is amended--

(1) by redesignating paragraph (p), as so redesignated by section 434(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1274), as paragraph (r); and

(2) by inserting after paragraph (p), as so redesignated by section 201(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–565), the following new paragraph:

"(q) any criminal violation of section 229 (relating to chemical weapons); or sections 2332, 2332a, 2332b, 2332d, 2339A, or 2339B of this title (relating to terrorism); or".

* * *

SEC. 203. AUTHORITY TO SHARE CRIMINAL INVESTIGATIVE INFORMATION.

(a) AUTHORITY TO SHARE GRAND JURY INFORMATION.--

(1) IN GENERAL.--Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure is amended to read as follows: "(C)(i) Disclosure otherwise prohibited by this rule of matters occurring before the grand jury may also be made--

"(I) when so directed by a court preliminarily to or in connection with a judicial proceeding;
"(II) when permitted by a court at the request of the defendant, upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury;

"(III) when the disclosure is made by an attorney for the government to another Federal grand jury;

"(IV) when permitted by a court at the request of an attorney for the government, upon a showing that such matters may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such law; or

"(V) when the matters involve foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), or foreign intelligence information (as defined in clause (iv) of this subparagraph), to any Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist the official receiving that information in the performance of his official duties.

"(ii) If the court orders disclosure of matters occurring before the grand jury, the disclosure shall be made in such manner, at such time, and under such conditions as the court may direct.

"(iii) Any Federal official to whom information is disclosed pursuant to clause (i)(V) of this subparagraph may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information. Within a reasonable time after such disclosure, an attorney for the government shall file under seal a notice with the court stating the fact that such information was disclosed and the departments, agencies, or entities to which the disclosure was made.

"(iv) In clause (i)(V) of this subparagraph, the term 'foreign intelligence information' means--

"(I) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against--

"(aa) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

"(bb) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

"(cc) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of foreign power; or

"(II) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to--

"(aa) the national defense or the security of the United States; or

"(bb) the conduct of the foreign affairs of the United States."

AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.--

(1) LAW ENFORCEMENT.--Section 2517 of title 18, United States Code, is amended by inserting at the end the following:

"(6) Any investigative or law enforcement officer, or attorney for the Government, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official to the extent that such contents include foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), or foreign intelligence information (as defined in subsection (19) of section 2510 of this title), to assist the official who is to receive that information in the performance of his official duties. Any Federal official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information.".

(2) DEFINITION.--Section 2510 of title 18, United States Code, is amended by--

(A) in paragraph (17), by striking "and" after the semicolon;

(B) in paragraph (18), by striking the period and inserting "; and"; and

(C) by inserting at the end the following:

"(19) 'foreign intelligence information' means--

"(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against--

"(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

"(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

"(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

"(B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to--

"(i) the national defense or the security of the United States; or

"(ii) the conduct of the foreign affairs of the United States.".
(c) PROCEDURES.--The Attorney General shall establish procedures for the disclosure of information pursuant to section 2517(6) and Rule 6(e)(3)(C)(i)(V) of the Federal Rules of Criminal Procedure that identifies a United States person, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)).

(d) FOREIGN INTELLIGENCE INFORMATION.--

(1) IN GENERAL.--Notwithstanding any other provision of law, it shall be lawful for foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)) or foreign intelligence information obtained as part of a criminal investigation to be disclosed to any Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist the official receiving that information in the performance of his official duties. Any Federal official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information.

(2) DEFINITION.--In this subsection, the term "foreign intelligence information" means--

(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against--

(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to--

(i) the national defense or the security of the United States; or

(ii) the conduct of the foreign affairs of the United States.

* * *

SEC. 209. SEIZURE OF VOICE-MAIL MESSAGES PURSUANT TO WARRANTS.

Title 18, United States Code, is amended-- (1) in section 2510--

(A) in paragraph (1), by striking beginning with "and such" and all that follows through "communication"; and

(B) in paragraph (14), by inserting "wire or" after "transmission of"; and (2) in subsections (a) and (b) of section 2703--
(A) by striking "CONTENTS OF ELECTRONIC" and inserting "CONTENTS OF WIRE OR ELECTRONIC" each place it appears;

(B) by striking "contents of an electronic" and inserting "contents of a wire or electronic" each place it appears; and

(C) by striking "any electronic" and inserting "any wire or electronic" each place it appears.

SEC. 210. SCOPE OF SUBPOENAS FOR RECORDS OF ELECTRONIC COMMUNICATIONS.

Section 2703(c)(2) of title 18, United States Code, as redesignated by section 212, is amended--

(1) by striking "entity the name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber" and inserting the following: "entity the--

"(A) name;

"(B) address;

"(C) local and long distance telephone connection records, or records of session times and durations;

"(D) length of service (including start date) and types of service utilized;

"(E) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

"(F) means and source of payment for such service (including any credit card or bank account number), of a subscriber"; and

(2) by striking "and the types of services the subscriber or customer utilized,".

SEC. 212. EMERGENCY DISCLOSURE OF ELECTRONIC COMMUNICATIONS TO PROTECT LIFE AND LIMB.

(a) DISCLOSURE OF CONTENTS.--

(1) IN GENERAL.--Section 2702 of title 18, United States Code, is amended--

(A) by striking the section heading and inserting the following: "§ 2702. Voluntary disclosure of customer communications or records";

(B) in subsection (a)--
(i) in paragraph (2)(A), by striking "and" at the end;

(ii) in paragraph (2)(B), by striking the period and inserting "; and"; and

(iii) by inserting after paragraph (2) the following: "(3) a provider of remote computing service or electronic communication service to the public shall not knowingly divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by paragraph (1) or (2)) to any governmental entity.";

(C) in subsection (b), by striking "EXCEPTIONS.--A person or entity" and inserting "EXCEPTIONS FOR DISCLOSURE OF COMMUNICATIONS.-- A provider described in subsection (a)";

(D) in subsection (b)(6)--

(i) in subparagraph (A)(ii), by striking "or";

(ii) in subparagraph (B), by striking the period and inserting "; or"; and

(iii) by adding after subparagraph (B) the following: "(C) if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person requires disclosure of the information without delay."; and

(E) by inserting after subsection (b) the following: "(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER RECORDS.--

A provider described in subsection (a) may divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a)(1) or (a)(2))--

"(1) as otherwise authorized in section 2703;

"(2) with the lawful consent of the customer or subscriber;

"(3) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

"(4) to a governmental entity, if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information; or

"(5) to any person other than a governmental entity."

(2) TECHNICAL AND CONFORMING AMENDMENT.--The table of sections for chapter 121 of title 18, United States Code, is amended by striking the item relating to section 2702 and inserting the following: "2702. Voluntary disclosure of customer communications or records."

(b) REQUIREMENTS FOR GOVERNMENT ACCESS.--
(1) IN GENERAL.--Section 2703 of title 18, United States Code, is amended--

(A) by striking the section heading and inserting the following: "§ 2703. Required disclosure of customer communications or records";

(B) in subsection (c) by redesignating paragraph (2) as paragraph (3);

(C) in subsection (c)(1)--

(i) by striking "(A) Except as provided in subparagraph (B), a provider of electronic communication service or remote computing service may" and inserting "A governmental entity may require a provider of electronic communication service or remote computing service to"

(ii) by striking "covered by subsection (a) or (b) of this section) to any person other than a governmental entity. "(B) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to a governmental entity" and inserting ");

(iii) by redesignating subparagraph (C) as paragraph (2);

(iv) by redesigning clauses (i), (ii), (iii), and (iv) as subparagraphs (A), (B), (C), and (D), respectively;

(v) in subparagraph (D) (as redesignated) by striking the period and inserting "; or"; and

(vi) by inserting after subparagraph (D) (as redesignated) the following: "(E) seeks information under paragraph (2)."; and (D) in paragraph (2) (as redesignated) by striking "subparagraph (B)" and insert "paragraph (1)".

(2) TECHNICAL AND CONFORMING AMENDMENT.--The table of sections for chapter 121 of title 18, United States Code, is amended by striking the item relating to section 2703 and inserting the following: "2703. Required disclosure of customer communications or records."

SEC. 213. AUTHORITY FOR DELAYING NOTICE OF THE EXECUTION OF A WARRANT.

Section 3103a of title 18, United States Code, is amended--

(1) by inserting "(a) IN GENERAL.--" before "In addition"; and

(2) by adding at the end the following: "(b) DELAY.--With respect to the issuance of any warrant or court order under this section, or any other rule of law, to search for and seize any property or material that constitutes evidence of a criminal offense in violation of the laws of the United States, any notice required, or that may be required, to be given may be delayed if--"'

"(1) the court finds reasonable cause to believe that providing immediate notification of the execution of the warrant may have an adverse result (as defined in section 2705);"
"(2) the warrant prohibits the seizure of any tangible property, any wire or electronic communication (as defined in section 2510), or, except as expressly provided in chapter 121, any stored wire or electronic information, except where the court finds reasonable necessity for the seizure; and

"(3) the warrant provides for the giving of such notice within a reasonable period of its execution, which period may thereafter be extended by the court for good cause shown."

* * *

SEC. 414. VISA INTEGRITY AND SECURITY.

(a) SENSE OF CONGRESS REGARDING THE NEED TO EXPEDITE IMPLEMENTATION OF INTEGRATED ENTRY AND EXIT DATA SYSTEM.--

(1) SENSE OF CONGRESS.--In light of the terrorist attacks perpetrated against the United States on September 11, 2001, it is the sense of the Congress that--

(A) the Attorney General, in consultation with the Secretary of State, should fully implement the integrated entry and exit data system for airports, seaports, and land border ports of entry, as specified in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), with all deliberate speed and as expeditiously as practicable; and

(B) the Attorney General, in consultation with the Secretary of State, the Secretary of Commerce, the Secretary of the Treasury, and the Office of Homeland Security, should immediately begin establishing the Integrated Entry and Exit Data System Task Force, as described in section 3 of the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–215).

(2) AUTHORIZATION OF APPROPRIATIONS.--There is authorized to be appropriated such sums as may be necessary to fully implement the system described in paragraph (1)(A).

(b) DEVELOPMENT OF THE SYSTEM.--In the development of the integrated entry and exit data system under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), the Attorney General and the Secretary of State shall particularly focus on--

(1) the utilization of biometric technology; and

(2) the development of tamper-resistant documents readable at ports of entry.

(c) INTERFACE WITH LAW ENFORCEMENT DATABASES.--The entry and exit data system described in this section shall be able to interface with law enforcement databases for use by Federal law enforcement to identify and detain individuals who pose a threat to the national security of the United States.

(d) REPORT ON SCREENING INFORMATION.--Not later than 12 months after the date of enactment of this Act, the Office of Homeland Security shall submit a report to Congress on the
information that is needed from any United States agency to effectively screen visa applicants and applicants for admission to the United States to identify those affiliated with terrorist organizations or those that pose any threat to the safety or security of the United States, including the type of information currently received by United States agencies and the regularity with which such information is transmitted to the Secretary of State and the Attorney General.

* * *

SEC. 416. FOREIGN STUDENT MONITORING PROGRAM.

(a) FULL IMPLEMENTATION AND EXPANSION OF FOREIGN STUDENT VISA MONITORING PROGRAM REQUIRED.--The Attorney General, in consultation with the Secretary of State, shall fully implement and expand the program established by section 641(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(a)).

(b) INTEGRATION WITH PORT OF ENTRY INFORMATION.--For each alien with respect to whom information is collected under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), the Attorney General, in consultation with the Secretary of State, shall include information on the date of entry and port of entry.

(c) EXPANSION OF SYSTEM TO INCLUDE OTHER APPROVED EDUCATIONAL INSTITUTIONS.--Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372) is amended--

1 in subsection (a)(1), subsection (c)(4)(A), and subsection (d)(1) (in the text above subparagraph (A)), by inserting "other approved educational institutions," after "higher education" each place it appears;

2 in subsections (c)(1)(C), (c)(1)(D), and (d)(1)(A), by inserting "or other approved educational institution," after "higher education" each place it appears;

3 in subsections (d)(2), (e)(1), and (e)(2), by inserting "other approved educational institution," after "higher education" each place it appears; and

4 in subsection (h), by adding at the end the following new paragraph: "(3) OTHER APPROVED EDUCATIONAL INSTITUTION.--The term 'other approved educational institution' includes any air flight school, language training school, or vocational school, approved by the Attorney General, in consultation with the Secretary of Education and the Secretary of State, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act."

(d) AUTHORIZATION OF APPROPRIATIONS.--There is authorized to be appropriated to the Department of Justice $36,800,000 for the period beginning on the date of enactment of this Act and ending on January 1, 2003, to fully implement and expand prior to January 1, 2003, the program established by section 641(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(a)).
SEC. 417. MACHINE READABLE PASSPORTS.

(a) AUDITS.--The Secretary of State shall, each fiscal year until September 30, 2007--

(1) perform annual audits of the implementation of section 217(c)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(2)(B));

(2) check for the implementation of precautionary measures to prevent the counterfeiting and theft of passports; and

(3) ascertain that countries designated under the visa waiver program have established a program to develop tamper-resistant passports.

(b) PERIODIC REPORTS.--Beginning one year after the date of enactment of this Act, and every year thereafter until 2007, the Secretary of State shall submit a report to Congress setting forth the findings of the most recent audit conducted under subsection (a)(1).

(c) ADVANCING DEADLINE FOR SATISFACTION OF REQUIREMENT.


(d) WAIVER.--Section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)) is amended--

(1) by striking "On or after" and inserting the following: "(A) IN GENERAL.--Except as provided in subparagraph (B), on or after"; and

(2) by adding at the end the following: "(B) LIMITED WAIVER AUTHORITY.--For the period beginning October 1, 2003, and ending September 30, 2007, the Secretary of State may waive the requirement of subparagraph (A) with respect to nationals of a program country (as designated under subsection (c)), if the Secretary of State finds that the program country--

"(i) is making progress toward ensuring that passports meeting the requirement of subparagraph (A) are generally available to its nationals; and

"(ii) has taken appropriate measures to protect against misuse of passports the country has issued that do not meet the requirement of subparagraph(A).".

* * *

SEC. 1002. SENSE OF CONGRESS.

(a) FINDINGS.--Congress finds that--

(1) all Americans are united in condemning, in the strongest possible terms, the terrorists who planned and carried out the attacks against the United States on September 11, 2001, and in pursuing all those responsible for those attacks and their sponsors until they are brought to justice;
(2) Sikh-Americans form a vibrant, peaceful, and law-abiding part of America's people;

(3) approximately 500,000 Sikhs reside in the United States and are a vital part of the Nation;

(4) Sikh-Americans stand resolutely in support of the commitment of our Government to bring the terrorists and those that harbor them to justice;

(5) the Sikh faith is a distinct religion with a distinct religious and ethnic identity that has its own places of worship and a distinct holy text and religious tenets;

(6) many Sikh-Americans, who are easily recognizable by their turbans and beards, which are required articles of their faith, have suffered both verbal and physical assaults as a result of misguided anger toward Arab-Americans and Muslim-Americans in the wake of the September 11, 2001 terrorist attack;

(7) Sikh-Americans, as do all Americans, condemn acts of prejudice against any American; and

(8) Congress is seriously concerned by the number of crimes against Sikh-Americans and other Americans all across the Nation that have been reported in the wake of the tragic events that unfolded on September 11, 2001.

(b) SENSE OF CONGRESS.--Congress--

(1) declares that, in the quest to identify, locate, and bring to justice the perpetrators and sponsors of the terrorist attacks on the United States on September 11, 2001, the civil rights and civil liberties of all Americans, including Sikh-Americans, should be protected;

(2) condemns bigotry and any acts of violence or discrimination against any Americans, including Sikh-Americans;

(3) calls upon local and Federal law enforcement authorities to work to prevent crimes against all Americans, including Sikh-Americans; and

(4) calls upon local and Federal law enforcement authorities to prosecute to the fullest extent of the law all those who commit crimes.