

108TH CONGRESS
1ST SESSION

H. R. 3171

To provide for an appropriate review of recently enacted legislation relating to terrorism to assure that powers granted in it do not inappropriately undermine civil liberties.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2003

Mr. KUCINICH (for himself, Mr. PAUL, Mr. CONYERS, Mr. GEORGE MILLER of California, Mr. SERRANO, Ms. SCHAKOWSKY, Ms. BALDWIN, Ms. SOLIS, Mr. HONDA, Ms. WOOLSEY, Mr. McDERMOTT, Mrs. JONES of Ohio, Mr. MCGOVERN, Mr. ABERCROMBIE, Ms. LEE, Mr. STARK, Mr. FILNER, Mr. GRIJALVA, Ms. JACKSON-LEE of Texas, Mr. HINCHEY, and Mr. FARR) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Select Committees on Intelligence (Permanent Select), Education and the Workforce, Government Reform, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for an appropriate review of recently enacted legislation relating to terrorism to assure that powers granted in it do not inappropriately undermine civil liberties.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Benjamin Franklin
3 True Patriot Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Benjamin Franklin stated: “Those who
7 would give up essential Liberty, to purchase a little
8 temporary Safety, deserve neither Liberty nor Safe-
9 ty.”.

10 (2) The First, Fourth, Fifth, Sixth, Eighth,
11 and Fourteenth Amendments to the United States
12 Constitution were established to protect the civil
13 rights and liberties of all Americans in perpetuity.

14 (3) Federal policies adopted since September
15 11, 2001, including provisions in the USA PA-
16 TRIOT Act (Public Law 107–56) and related execu-
17 tive orders, regulations, and actions threaten funda-
18 mental rights and liberties, including the First,
19 Fourth, Fifth, Sixth, Eighth, and Fourteenth
20 Amendments to the Constitution by—

21 (A) authorizing the indefinite incarceration
22 of noncitizens based on mere suspicion, and the
23 indefinite incarceration of citizens designated by
24 the President as “enemy combatants” without
25 access to counsel or meaningful recourse to the
26 Federal courts;

1 (B) limiting the traditional authority of
2 Federal courts to curb law enforcement abuse
3 of electronic surveillance in antiterrorism inves-
4 tigations and ordinary criminal investigations;

5 (C) expanding the authority of Federal
6 agents to conduct so-called “sneak and peek” or
7 “black bag” searches, in which the subject of
8 the search warrant is unaware that his or her
9 property has been searched;

10 (D) granting law enforcement and intel-
11 ligence agencies broad access to personal med-
12 ical, financial, library, and education records
13 with little if any judicial oversight;

14 (E) chilling constitutionally protected
15 speech through overbroad definitions of “ter-
16 rorism”;

17 (F) creating divisions between immigrant
18 communities and the police that protect them
19 by encouraging involvement of State and local
20 police in enforcement of Federal immigration
21 law; and the police that protect them;

22 (G) permitting the FBI to conduct surveil-
23 lance of religious services, internet chatrooms,
24 political demonstrations, and other public meet-
25 ings of any kind without having any evidence

1 that a crime has been or may be committed;
2 and

3 (H) mandating the closure of certain immi-
4 gration removal hearings, including denying
5 judges the authority to reject stays of release
6 where bond has been ordered and denying non-
7 citizens the right to a bond hearing.

8 (4) Future legislation, such as legislation draft-
9 ed entitled the Domestic Security Enhancement Act
10 (DSEA) or PATRIOT II, contains a multitude of
11 new and sweeping law enforcement and intelligence
12 gathering powers many of which are not related to
13 terrorism, and would severely dilute and undermine
14 many basic constitutional rights as well as disturb
15 our unique system of checks and balances by—

16 (A) diminishing personal privacy by remov-
17 ing important checks on government surveil-
18 lance authority;

19 (B) reducing the accountability of govern-
20 ment to the public by increasing government se-
21 crecy;

22 (C) expanding the definition of “terrorism”
23 in a manner that threatens the constitutionally
24 protected rights of Americans; and

1 (D) seriously eroding the right of all per-
2 sons to due process of law.

3 (5) The above new and unprecedented powers
4 pose threats to all Americans and particularly to the
5 civil rights and liberties of the residents of our Na-
6 tion who are Arab, Muslim, or of South Asian de-
7 scent.

8 **SEC. 3. NINETY-DAY REVIEW PERIOD.**

9 Each provision of law, regulation, or other policy di-
10 rective listed in sections 4 through 10, and any amend-
11 ments made by that provision, shall cease to have effect
12 90 days after the date of the enactment of this Act. Dur-
13 ing this 90-day period, the Congress may, at the request
14 of the President, hold hearings to determine whether a
15 particular section should be removed from the list in sec-
16 tion 4.

17 **SEC. 4. PROVISIONS IN THE USA PATRIOT ACT.**

18 The provisions in the USA PATRIOT Act (Public
19 Law 107–56) to which section 3 applies are:

20 (1) Section 213, relating to “sneak and peak
21 searches”.

22 (2) Section 214, relating to the use of pen reg-
23 isters for foreign intelligence purposes.

24 (3) Section 215, relating to the obtaining by the
25 Government of certain business records.

1 (4) Section 216, relating to the use of pen reg-
2 isters in criminal cases.

3 (5) Section 218, relating to the Foreign Intel-
4 ligence Surveillance Act.

5 (6) Section 411, relating to new grounds for de-
6 portation.

7 (7) Section 412, relating to mandatory deten-
8 tion of certain aliens.

9 (8) Section 505, relating to national security
10 letters.

11 (9) Section 507, relating to educational records.

12 (10) Section 508, relating to collection and dis-
13 closure of individually identifiable information under
14 the National Education Statistics Act of 1994.

15 (11) Section 802, relating to the definition of
16 domestic terrorism.

17 **SEC. 5. PROVISIONS OF AVIATION SECURITY ACT EXCLUD-**
18 **ING PERMANENT RESIDENT ALIENS FROM**
19 **BEING BAGGAGE CHECKERS.**

20 Section 3 also applies to section 44935(e)(2)(A)(ii)
21 of title 49, United States Code.

22 **SEC. 6. HOMELAND SECURITY ACT OF 2002 PROVISIONS.**

23 Section 3 also applies to the following provisions of
24 the Homeland Security Act of 2002:

1 (1) Section 214, relating to an exemption from
2 the Freedom of Information Act.

3 (2) Section 871, relating to an exemption from
4 the Federal Advisory Committee Act.

5 **SEC. 7. IMMIGRATION REGULATIONS PROVISIONS.**

6 Section 3 also applies to the following provisions of
7 regulations:

8 (1) The regulation found at 66 Federal Reg-
9 ister 48334–35 (September 20, 2001) relating to
10 time held without charges.

11 (2) The regulation found at 66 Federal Reg-
12 ister 54909–12 (October 31, 2001) relating to auto-
13 matic stays for the Government in immigration
14 hearings.

15 (3) The so-called “Creppy memo” that man-
16 dates closed immigration hearings in certain cases,
17 and 67 Federal Register 54878 (August 26, 2002)
18 relating to restructuring appeals.

19 (4) Any legal opinion or regulation that in-
20 creases the powers of the Attorney General to au-
21 thorize State or local law enforcement officers to ex-
22 ercise Federal immigration enforcement beyond
23 those given in 8 CFR Part 2 or 28 CFR Part 65.

24 (5) The regulation found at 67 Federal Reg-
25 ister 52584 (August 12, 2002), relating to registra-

