

September 17th, 2009

EFF Supports JUSTICE Bill to Reform the USA PATRIOT Act and Repeal Telecom Immunity

Legislative Analysis by [Kevin Bankston](#)

On December 31, three provisions of the USA PATRIOT Act that broadly expanded government surveillance authority in the wake of 9/11 are set to expire.¹ The Obama Administration made clear in a [letter](#) this week to Senate Judiciary Committee Chairman Patrick Leahy that although the Justice Department supports reauthorization of those provisions, it is also open to discussing modifications to the law “to provide additional protection for the privacy of law abiding Americans.”

Today, Senators Russ Feingold and Dick Durbin — along with eight other Senators — have taken the Administration up on its offer by introducing the JUSTICE Act, which would rein in the worst excesses of PATRIOT and last year’s FISA Amendments Act (FAA). The announcement of the bill’s introduction, along with a fact sheet outlining the bill’s details, is [here](#); the text of the JUSTICE Act is [here](#) (the “JUSTICE”, if you’re wondering, stands for Judiciously Using Surveillance Tools In Counterterrorism Efforts”).

The JUSTICE Act would renew two of the three expiring PATRIOT provisions, PATRIOT sections [206](#) (John Doe roving wiretaps) and [215](#) (FISA orders for any tangible thing), but would also add strong new checks and balances to those provisions and to the PATRIOT Act in general, especially those provisions dealing with the government’s authority to issue [National Security Letters](#). If passed, the bill would also establish critically important protections for Americans against surveillance authorized under the FAA. Of particular importance to EFF’s clients in the [Hepting v. AT&T](#) case and to the preservation of the rule of law, PROTECT would completely repeal the FAA provision intended to legally immunize telecoms like AT&T that illegally assisted in the National Security Agency’s [warrantless wiretapping program](#). Last summer when Congress passed the FAA, Senate Majority Leader Harry Reid stated his intention to revisit that law as part of the PATRIOT renewal debate, and we’re very glad that Senators Feingold and Durbin have kick-started that process.

We’ll be blogging more about the JUSTICE Act and other PATRIOT-related proposals in anticipation of the Senate Judiciary Committee’s [hearing next week](#) on PATRIOT reauthorization, and we’ll alert you when the time is ripe for you to contact Congress through our [Action Center](#) and voice your support for PATRIOT reform. In the meantime, EFF applauds Senators Feingold and Durbin, as well as cosponsoring Senators Akaka, Bingaman, Menendez, Merkley, Sanders, Tester, Udall, and Wyden, for their continuing hard work to protect

Americans' civil liberties. EFF would prefer that none of the expiring PATRIOT provisions be renewed, but if they are, they absolutely must be accompanied by meaningful new checks and balances like those introduced today. It's time that JUSTICE was restored.

1. 1. Actually, although the three expiring provisions are commonly referred to in the press as being PATRIOT provisions, one of the expiring provisions — the so-called "lone wolf" wiretapping provision allowing the government to target for foreign intelligence surveillance individuals that have no link to any foreign power or terrorist organization — was actually passed as part of the Intelligence Reform and Terrorism Prevention Act of 2004.