










## USA PATRIOT Improvement and Reauthorization Act of 2006

- I. The USA PATRIOT Act (“Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism”) of 2001 became law on October 26, 2001, with overwhelming bipartisan support (Senate passed it 98-1; House passed it 357-66). Outside the Scope
- A. Significant provisions of the USA PATRIOT Act were scheduled to “sunset” on December 31, 2005, including the following:
1. 
  2. 
  3. 
  4. 
  5. 
  6. Section 215 (access to business records under FISA);
  7. 
  8. 
- II. On December 14, 2005, the House passed the USA PATRIOT Improvement and Reauthorization Act of 2006 conference report. The Bill stalled when the Senate failed to invoke a cloture petition to end the debate on December 16, 2005. On December 22, 2005, Congress agreed to extend the USA PATRIOT Act until February 3, 2006. On February 2, 2006, Congress again extended the USA PATRIOT Act until March 10, 2006.
- III. During the debate on the USA PATRIOT Act renewal (between April 5, 2005, and June 10, 2005), Congress held 18 hearings
- A. Hearings included those before the Senate Select Committee on Intelligence (SSCI), the Senate Judiciary Committee (SJC), the House Judiciary Committee (HJC), and the House Permanent Select Committee on Intelligence (HPSCI).
- B. The list of executive branch witnesses included the Attorney General (with 22 other DOJ employees), the FBI Director, the FBI General Counsel, the

Assistant Director of Counterterrorism (with 3 other FBI employees), and officials of the NSA and the CIA.

IV. **On March 9, 2006, President Bush signed into law the USA PATRIOT Improvement and Reauthorization Act of 2006.** (The Senate passed the final version by a vote of 89-10; the House, by 280-138.)

V. **The following are highlights of the USA PATRIOT Improvement and Reauthorization Act of 2006:**

Outside the Scope

A. **Sunset Provisions:** Most of the expiring provisions became permanent. Congress imposed new “sunset” on some of the more controversial provisions. Section 206 (roving FISA surveillance), Section 215 (access to business records under FISA), and the “Lone Wolf” provision of IRTPA (Section 6001 of the Intelligence Reform and Terrorism Prevention Act of 2004) will sunset again on December 31, 2009.

B.

C.

D. **Section 215 (access to business records under FISA):** There are significant changes involving Section 215. The new law applies a 3-part “presumptively relevant” test to requests for business records. The records are presumptively relevant if they pertain to “(i) a foreign power or an agent of a foreign power, (ii) the activities of a suspected agent of a foreign power who is the subject of such authorized investigation, or (iii) an individual in contact with, or known to, a suspected agent of a foreign power who is the subject of such authorized investigation....”

Special categories of records requested under Section 215 now require special approval. The Director, Deputy Director, or the Executive Director for National Security have to sign requests for library records, book sales and book customer lists, firearm sales records, tax records, educational records, and medical records.

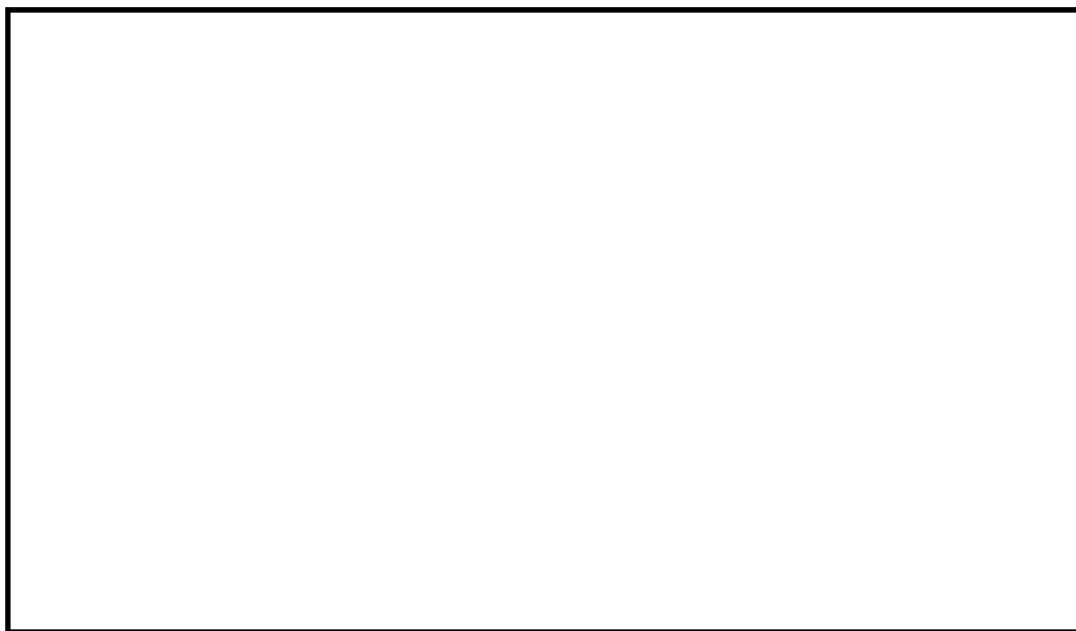
The law provides additional protection for Section 215 recipients, including the following: a reasonable time to produce records, authority to

disclose the request to an attorney, the right to challenge the request in the FISC, the requirement for the Order to describe the items requested with "sufficient particularity," and the requirement that the Government develop special minimization procedures.

The law includes enhanced Congressional oversight of Section 215. DOJ is required to report annually to the HJC, the HPSCI, the SJC, and the SSCI regarding the total Section 215 requests (unclassified report) and the requests for the special categories of business records. Additionally, the law directs DOJ's IG to audit the effectiveness and use of Section 215 for the years 2002 to 2006. Outside the Scope

V.

VI.



POC: SSA [redacted]  
Director's Research Group  
[redacted]

b6  
b7C

Information provided by: Assistant General Counsel [redacted]  
National Security Law Branch, Office of the General Counsel (OGC)

Approved by: Chief of Staff Patrick W. Kelley, OGC

Dated: 03/10/2006

EFF Section 215-1110