

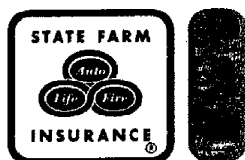
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Federal Judge Strikes Down Part of Patriot Act

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By Dan Whitcomb

LOS ANGELES (Reuters) - A federal judge in Los Angeles has struck down as too vague part of the Patriot Act that providing "expert advice and assistance" to foreign terrorist groups -- marking the first time a court has declared part unconstitutional.

The written ruling by U.S. District Judge Audrey B. Collins, came in a 2003 challenge to the Patriot Act by five organizations and two individuals who sought to support Kurds in Turkey and Tamils in Sri Lanka.

"The ruling is significant in that it strikes the statute down as being in violation of the Fifth and First Amendments," Georgetown University law professor who argued the case for the Humanitarian Law Project.

"It underscores what so many have said all along about the Patriot Act -- that Congress, in acting so hastily after 9/11, acted too broadly and didn't pay significant attention to constitutional rights and liberties," he said.

A U.S. Department of Justice ([news](#) - [web sites](#)) spokesman said in a written statement that attorneys there were in a split decision.

"The Patriot Act is an essential tool in the war on terror, and has played a key part -- and often the leading role -- in successful operations to protect innocent Americans from the deadly plans of terrorists dedicated to destroying an American way of life," Justice Department spokesman Mark Corallo said.

"The provision at issue in today's decision was a modest amendment to a preexisting anti-terrorism law that was designed to deal with real threats caused by support of terrorist groups," he said. "By targeting those who provide material support to terrorists, providing 'expert advice or assistance,' the law made clear that Americans are threatened as much by the person who provides support to a terrorist to build a bomb as by the one who pushes the button."

Collins, who was appointed to the federal bench by former President Bill Clinton ([news](#) - [web sites](#)), wrote in her 36-page opinion, which was made public on Monday, that the Patriot Act was too vague when it attempted to bar "expert advice or assistance" to groups designated as terrorist by the U.S. government.

"...The USA Patriot Act places no limitation on the type of expert advice and assistance which is prohibited and the provision of all expert advice and assistance regardless of its nature," Collins said in the ruling.

But Collins rejected arguments by the plaintiffs that the law was overbroad and that it gave the Secretary of State "unreviewable authority" to designate groups as terrorist.

Symposium airs pros and cons of the Patriot Act

By Mark D. Marotta

10/24/2003

An October 17 symposium on the Patriot USA Act and other aspects of the federal government's response to international terrorism drew an audience of about two dozen people to the Meetinghouse on George School campus in Middletown Township.

Speaking in favor of the federal legislation was Professor Jay Ting, a Harvard Law graduate who teaches courses in taxation and immigration law at the Beasley School of Law at Temple University. Perspectives critical of the law were offered by Jan O'Rourke, the current Coordinator of Public Services for the Bucks County Public Libraries system, and Tony Ortiz, who holds a law degree from Cornell and who is currently a public defender for the federal court in the Eastern District of Pennsylvania, which includes the Philadelphia area.

Ting offered a context for the program by noting that "quite fundamental" differences had arisen among Americans in the wake of the terrorist attacks on September 11, 2001.

On the one hand, Ting said, some people, such as filmmaker Michael Moore, had interpreted those events as merely the work of a group of individuals who should be prosecuted through the legal system. According to that perspective, taking any greater degree of action was inappropriate.

"I have to say I fundamentally disagree," Ting told the audience. Prior to the attacks in New York City, the Washington, D.C. area, and western Pennsylvania, he said, it was assumed that the backing of a nation-state was needed to assemble the resources and manpower to "inflict thousands of deaths" at a time. The events of September 11th demonstrated, to the contrary, that "a handful of people" could achieve such results, Ting said.

"That changes everything," he insisted.

While noting that Americans were divided over the propriety of the government's response to the events of 2001, Ting expressed support for President George W. Bush's view that his "Administration has no higher priority than preventing further terrorist acts against the American people."

One point of dispute, Ting said, was over the question of whether the country was currently at war, since Congress had not issued a formal declaration. Ting contended that the Constitution did not require that such a step be taken for war to be waged, and he pointed out that, over the past half-century, there had been a number of occasions in which the country had fought in conflicts without war having been declared.

Additionally, Ting noted, every recent President had been of the view that the powers of Commander-in-Chief granted to them under the Constitution entitled them to initiate military action without Congressional approval. On the other hand, Congress had repeatedly sought to protect its own constitutional role, such as by enacting the War Powers Act in the 1970s.

Commenting that, before the start of the current conflict in Iraq, the Bush Administration had gotten Congress to issue a joint resolution authorizing such action, Ting maintained that "we could not be more at war than we are."

Ting also addressed the legality of according citizens greater rights than others. Observing that, by their very nature, immigration laws did not apply to citizens, Ting concluded that the view that non-citizens must be entitled to the full range of legal rights and protections was incorrect.

He noted, however, that there were differences of opinion on the question of whether immigration laws should be enforced. While the view that immigration should be completely unrestricted was "a rational view to take," Ting said it was not one to which he subscribed, nor did he "think that the American people support that view." To the contrary, he contended, the United States was entitled, as a free society, to enact and enforce such laws.

Turning specifically to the Patriot USA Act, Ting said that the legislation had

Turning specifically to the Patriot Act itself, Ting said that the legislation had become the symbol of all the emergency steps taken by the Administration in light of the events of September 11th. But many of the acts taken by the federal government, such as the detention of enemy combatants at Guantanamo Bay in Cuba, or the rounding-up of young men fitting the profile of those involved in the terrorist attacks, had nothing to do with the Patriot Act, Ting noted. Ting placed the detention of individuals at the Guantanamo base in the context of what he said was well-established legal precedent for the treatment of prisoners of war (POWs). Such people "do not get a lawyer. POWs do not get a day in court," said Ting, and he urged Americans to remember that German and Italian soldiers captured by the United States were held for indefinite periods of time. Of course, Ting acknowledged, the Administration itself had said that those being held at Guantanamo Bay were not actually prisoners of war. He explained that, under international law, only those in uniform or with other indicia that they were combatants were entitled to such status and the resulting legal protections. Accordingly, Ting said, there was substantial legal precedent which led him to conclude that the Administration's course of conduct with respect to those held at Guantanamo would be sustained by any court reviewing it. As to the Patriot Act itself, Ting said, "It's an enormous bill," of which 95 percent "is completely uncontroversial," addressing issues such as relief for victims of the September 11th attacks. He attributed much of the dispute over the law to differences in views of what powers were held by the federal government. According to Ting, in many cases, practices condoned under the Patriot Act had already been used by law enforcement officials in limited circumstances in the past, against criminals such as drug traffickers or child pornographers. What the Patriot Act had done, said Ting, was simply resolve uncertainty over what the government was allowed to do, in favor of permitting it to exercise certain powers. And if business records searches were an appropriate tool for fighting child pornography, he contended, the same was true in responding to terrorists.

"We're engaged in a life and death struggle with international terrorism," Ting told the audience. He argued that the fact that foreign terrorists had not made any attacks in the United States over the past two years resulted from the government's "relentless war on every front" to locate their funding sources and to remove their adherents from the country.

On the other hand, O'Rourke said, the American Library Association was concerned about how certain sections of the Patriot Act would affect long-recognized rights of privacy and the confidentiality of library records. According to O'Rourke, Section 215 of the law permitted Federal Bureau of Investigation agents to compel the production of library records pertaining to book circulation and Internet usage, without having to show that such information was evidence that a crime had been committed. Additionally, O'Rourke expressed concern that the patrons whose records had been sought could not be told that the information had been turned over to the FBI.

Although "we are not anticipating this happening," O'Rourke said. She said that the county libraries system had taken steps to educate its staff about the Patriot Act, including teaching them how to respond to records requests under the statute, and was in the process of developing relationships with law enforcement personnel, as well. Additionally, she told the audience, the county libraries had also discontinued a plan to utilize computer technology that would have profiled individuals' reading preferences in order to identify materials that may be of interest to them.

Furthermore, O'Rourke noted that federal depository libraries had been directed to remove from circulation materials that could possibly provide information useful for future terrorist activities. Nonetheless, O'Rourke expressed some optimism that legislation currently before Congress, including the Freedom to Read Act introduced by Representative Bernie Sanders, would exempt libraries and booksellers from the reach of the Patriot Act. Additionally, she mentioned that litigation might successfully target Section 215 of the statute.

"There is still much to be alarmed about," warned O'Rourke. According to her, the Justice Department had been drafting comprehensive anti-

According to her, the Justice Department had been drafting comprehensive anti-terrorism legislation that, if enacted, would grant sweeping law enforcement powers to the federal government, including the authorization of wiretaps for up to 15 days without a warrant.

The proposed law would also expand the government's administrative subpoena power, allowing broad access to library records even without suspicion about the individual whose records were being searched, and permitting the FBI to compel testimony without a prosecutor's having convened a grand jury, O'Rourke claimed.

At about 354 pages in length, and affecting no fewer than 15 other federal laws, the Patriot Act "is a vast statute, and much of it I think isn't controversial," said Ortiz. Still, he criticized the act on the grounds that it was hastily passed in the wake of the September 11th attacks, without public hearings, and with many members of Congress not having read it before casting their votes. Ortiz noted that a number of legislators had since questioned the wisdom of their decision. The Patriot Act "affects your rights," Ortiz told the audience. He said that one area of concern was the law's effect on the 1978 Foreign Intelligence Act, which authorized several agencies to engage in spying. Through the Patriot Act, Congress had now allowed these organizations to share the information that they had gathered. Additionally, the law had lowered the standard that the government had to satisfy in order to be allowed to conduct spying activity, and the statutory language had "broadened the definition of people that they can spy on," as well, complained Ortiz. He added that the Patriot Act allowed law enforcement agencies to monitor individuals' Internet usage simply by certifying to a judge that the records so gathered would be relevant to an ongoing criminal investigation. Ortiz turned to the subject of the Patriot Act's consequences for immigrants and non-citizens, by noting that the law allowed the Attorney General to declare any foreign group a terrorist organization, without having to publish in the Federal Register.

"That may or may not be a good thing," Ortiz commented. He added that the act also expanded the definition of what constituted providing aid to a terrorist organization.

One part of the law that Ortiz said was particularly troubling were provisions allowing the Attorney General to detain any non-citizen determined to be a danger to the country's national security. After seven days, the person in custody must be charged with an immigration crime, after which they may held for up to six months without bail.

Beyond that time, the Department of Justice must conduct an internal review, but no standards had been established for determining whether the person would have the right to be released, Ortiz said.

Describing the United States as a "wonderful democracy," Ortiz expressed concern that the country's reaction to the 2001 terrorist attacks threatened to undermine the principles upon which it was founded.

"We have these rights, and you really should respect them," Ortiz concluded. During the question and answer period following the speakers' presentations, Ting challenged the correctness of Ortiz's description of the Patriot Act's passage. According to Ting, the law was supported by overwhelming majorities in both houses of Congress, following significant discussion by the legislators. In addition to noting that sunset provisions in the law would result in the expiration of at least some portions of the statute, Ting reminded the audience that Congress also retained the power to change the act if it wanted to.

Ting also noted that the Patriot Act contained no mention of library records, and that the business records searches permitted under the law could occur with a judge's permission only where no citizen or legal alien was affected, and in order to protect against terrorism or other clandestine activity.

"It's never been used against libraries," Ting pointed out. Likewise, with respect to the act's provisions expanding the Attorney General's powers to detain non-citizens, he commented, "It has never been used up to this point."

In rejoinder, O'Rourke said that, under the Patriot Act, the definition of business records had been indeed expanded to include library records.

For his part, Ortiz cautioned that, while the government had not done anything yet to undermine the confidentiality of information held by libraries, this might not always be true in the future.

always be true in the future.

"The government has always wanted this power," insisted Ortiz.

But Ting said that it might be necessary to give up some degree of personal privacy in order to protect Americans' liberty. Moreover, while he characterized some aspects of the proposed Patriot II legislation, such as one reported provision that would allow the Attorney General to revoke an individual's citizenship, as "screwball," Ting pointed out that these were merely ideas produced by brainstorming at the Justice Department, and did not reflect the official position of the Bush Administration.

On the other hand, O'Rourke pointed out that one controversial idea embraced by the Administration had been the Futures Trading market, by which it would have been possible to speculate where terrorist activity would occur in the future. Sponsored by the Wrightstown Friends Peace and Social Concerns Committee, the symposium was moderated by David A. Smith, who is to become the next clerk of the Bucks Quarterly Meeting, which conducts business on behalf of Quaker meetings in and around Bucks County.

In introducing the moderator to the audience, committee representative Bill Sharp indicated Smith would be the chief spokesperson of the entire Court, which consists of approximately a dozen meetings.

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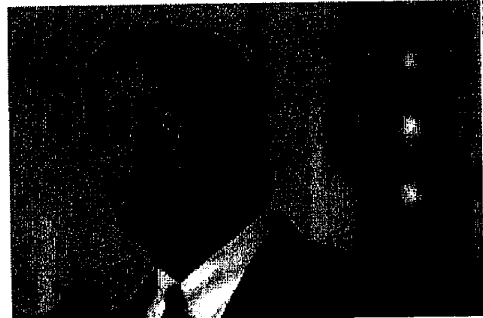
Justice Dept. Drafts Sweeping Expansion of Anti-Terrorism Act

Center Publishes Secret Draft of 'Patriot II' Legislation

By Charles Lewis and Adam Mayle

(WASHINGTON, Feb. 7, 2003) -- The Bush Administration is preparing a bold, comprehensive sequel to the USA Patriot Act passed in the wake of September 11, 2001, which will give the government broad, sweeping new powers to increase domestic intelligence-gathering, surveillance and law enforcement prerogatives, and simultaneously decrease judicial review and public access to information.

The Center for Public Integrity has obtained a draft, dated January 9, 2003, of this previously undisclosed legislation and is making it available in full text (12 MB). The bill, drafted by the staff of Attorney General John Ashcroft and entitled the Domestic Security Enhancement Act of 2003, has not been officially released by the Department of Justice, although rumors of its development have circulated around the Capitol for the last few months under the name of "the Patriot Act II" in legislative parlance.



Attorney General John Ashcroft in a file photo

"We haven't heard anything from the Justice Department on updating the Patriot Act," House Judiciary Committee spokesman Jeff Lungren told the Center. "They haven't shared their thoughts on that. Obviously, we'd be interested, but we haven't heard anything at this point."

Senior members of the Senate Judiciary Committee minority staff have inquired about Patriot II for months and have been told as recently as this week that there is no such legislation being planned.

Mark Corallo, deputy director of Justice's Office of Public Affairs, told the Center his office was unaware of the draft. "I have heard people talking about revising the Patriot Act, we are looking to work on things the way we would do with any law," he said. "We may work to make modifications to protect Americans," he added. When told that the Center had a copy of the draft legislation, he said, "This is all news to me. I have never heard of this."

After the Center posted this story, Barbara

RELATED DOCUMENTS

- The draft of the Domestic Security Enhancement Act of 2003 (12 MB)
Note: Due to high traffic volume, downloading the whole document might take several minutes. To download it in parts, click the links below:
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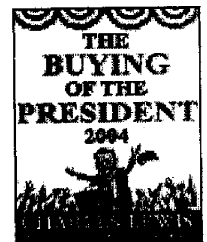
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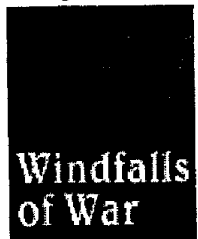


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Comstock, director of public affairs for the Justice Dept., released a statement saying that, "Department staff have not presented any final proposals to either the Attorney General or the White House. It would be premature to speculate on any future decisions, particularly ideas or proposals that are still being discussed at staff levels."

Mirror Location of Document:

- www.ire.org
- The Office of Legislative Affairs "control sheet" which shows that a copy of the bill was sent to Speaker Hastert and Vice President Cheney (157 KB)
- Read the Justice Department's response to this report. (230 KB)

An Office of Legislative Affairs "control sheet" that was obtained by the PBS program "Now With Bill Moyers" seems to indicate that a copy of the bill was sent to Speaker of the House Dennis Hastert and Vice President Richard Cheney on Jan. 10, 2003. "Attached for your review and comment is a draft legislative proposal entitled the 'Domestic Security Enhancement Act of 2003,'" the memo, sent from "OLP" or Office of Legal Policy, says.

Comstock later told the Center that the draft "is an early discussion draft and it has not been sent to either the Vice President or the Speaker of the House."

RELATED LINKS

For additional information, visit the web site of PBS' "Now With Bill Moyers". Read the transcript of Moyers' interview with Charles Lewis.

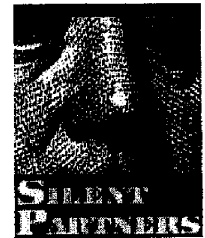
Dr. David Cole, Georgetown University Law professor and author of *Terrorism and the Constitution*, reviewed the draft legislation at the request of the Center, and said that the legislation "raises a lot of serious concerns. It's troubling that they have gotten this far along and they've been telling people there is nothing in the works." This proposed law, he added, "would radically expand law enforcement and intelligence gathering authorities, reduce or eliminate judicial oversight over surveillance, authorize secret arrests, create a DNA database based on unchecked executive 'suspicion,' create new death penalties, and even seek to take American citizenship away from persons who belong to or support disfavored political groups."

Some of the key provision of the Domestic Security Enhancement Act of 2003 include:

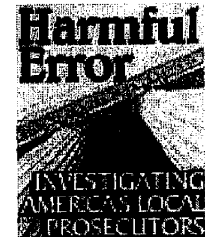
Section 201, "Prohibition of Disclosure of Terrorism Investigation Detainee Information": Safeguarding the dissemination of information related to national security has been a hallmark of Ashcroft's first two years in office, and the Domestic Security Enhancement Act of 2003 follows in the footsteps of his October 2001 directive to carefully consider such interest when granting Freedom of Information Act requests. While the October memo simply encouraged FOIA officers to take national security, "protecting sensitive business information and, not least, preserving personal privacy" into account while deciding on requests, the proposed legislation would enhance the department's ability to deny releasing material on suspected terrorists in government custody through FOIA.

Section 202, "Distribution of 'Worst Case Scenario' Information": This would introduce new FOIA restrictions with regard to the Environmental Protection Agency. As provided for in the Clean Air Act, the EPA requires private companies that use potentially dangerous chemicals must produce a "worst case scenario" report detailing the effect that the release of these controlled substances would have on the surrounding community. Section 202 of this Act would, however, restrict FOIA requests to these reports, which the bill's drafters refer to as "a roadmap for terrorists." By reducing public access to "read-only" methods for only those persons "who live and work in the geographical area likely to be affected by a worst-case scenario," this subtitle would obfuscate an established level of transparency between private industry and the public.

Section 301-306, "Terrorist Identification Database": These sections would authorize creation of a DNA database on "suspected terrorists," expansively defined to include association with suspected terrorist groups, and noncitizens suspected of certain crimes or of having supported any group designated as



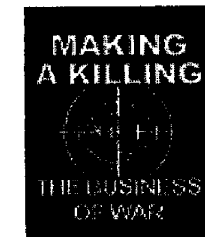
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terrorist.

Section 312, "Appropriate Remedies with Respect to Law Enforcement Surveillance Activities": This section would terminate all state law enforcement consent decrees before Sept. 11, 2001, not related to racial profiling or other civil rights violations, that limit such agencies from gathering information about individuals and organizations. The authors of this statute claim that these consent orders, which were passed as a result of police spying abuses, could impede current terrorism investigations. It would also place substantial restrictions on future court injunctions.

Section 405, "Presumption for Pretrial Detention in Cases Involving Terrorism": While many people charged with drug offenses punishable by prison terms of 10 years or more are held before their trial without bail, this provision would create a comparable statute for those suspected of terrorist activity. The reasons for presumptively holding suspected terrorists before trial, the Justice Department summary memo states, are clear. "This presumption is warranted because of the unparalleled magnitude of the danger to the United States and its people posed by acts of terrorism, and because terrorism is typically engaged in by groups – many with international connections – that are often in a position to help their members flee or go into hiding."

Section 501, "Expatriation of Terrorists": This provision, the drafters say, would establish that an American citizen could be expatriated "if, with the intent to relinquish his nationality, he becomes a member of, or provides material support to, a group that the United States has designated as a 'terrorist organization'." But whereas a citizen formerly had to state his intent to relinquish his citizenship, the new law affirms that his intent can be "inferred from conduct." Thus, engaging in the lawful activities of a group designated as a "terrorist organization" by the Attorney General could be presumptive grounds for expatriation.

The Domestic Security Enhancement Act is the latest development in an 18-month trend in which the Bush Administration has sought expanded powers and responsibilities for law enforcement bodies to help counter the threat of terrorism.

The USA Patriot Act, signed into law by President Bush on Oct. 26, 2001, gave law enforcement officials broader authority to conduct electronic surveillance and wiretaps, and gives the president the authority, when the nation is under attack, to confiscate any property within U.S. jurisdiction of anyone believed to be engaging in such attacks. The measure also tightened oversight of financial activities to prevent money laundering and diminish bank secrecy in an effort to disrupt terrorist finances.

It also changed provisions of Foreign Intelligence Surveillance Act, which was passed in 1978 during the Cold War. FISA established a different standard of government oversight and judicial review for "foreign intelligence" surveillance than that applied to traditional domestic law enforcement surveillance.

The USA Patriot Act allowed the Federal Bureau of Investigation to share information gathered in terrorism investigations under the "foreign intelligence" standard with local law enforcement agencies, in essence nullifying the higher standard of oversight that applied to domestic investigations. The USA Patriot Act also amended FISA to permit surveillance under the less rigorous standard whenever "foreign intelligence" was a "significant purpose" rather than the "primary purpose" of an investigation.

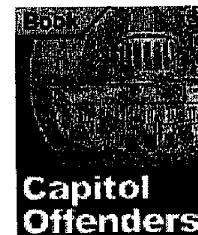
The draft legislation goes further in that direction. "In the [USA Patriot Act] we have to break down the wall of foreign intelligence and law enforcement," Cole said. "Now they want to break down the wall between international terrorism and domestic terrorism."

In an Oct. 9, 2002, hearing of the Senate Judiciary Subcommittee on Technology, Terrorism, and Government Information, Deputy Assistant Attorney General Alice Fisher testified that Justice had been, "looking at potential proposals on following

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up on the PATRIOT Act for new tools and we have also been working with different agencies within the government and they are still studying that and hopefully we will continue to work with this committee in the future on new tools that we believe are necessary in the war on terrorism."

Asked by Sen. Russ Feingold (D-Wis.) whether she could inform the committee of what specific areas Justice was looking at, Fisher replied, "At this point I can't, I'm sorry. They're studying a lot of different ideas and a lot of different tools that follow up on information sharing and other aspects."

Assistant Attorney General for Legal Policy Viet Dinh, who was the principal author of the first Patriot Act, told *Legal Times* last October that there was "an ongoing process to continue evaluating and re-evaluating authorities we have with respect to counterterrorism," but declined to say whether a new bill was forthcoming.

Former FBI Director William Sessions, who urged caution while Congress considered the USA Patriot Act, did not want to enter the fray concerning a possible successor bill.

"I hate to jump into it, because it's a very delicate thing," Sessions told the Center, without acknowledging whether he knew of any proposed additions or revisions to the additional Patriot bill.

When the first bill was nearing passage in the Congress in late 2001, however, Sessions told internet site NewsMax.Com that the balance between civil liberties and sufficient intelligence gathering was a difficult one. "First of all, the Attorney General has to justify fully what he's asking for," Sessions, who served presidents Reagan and George H.W. Bush as FBI Director from 1987 until 1993, said at the time. "We need to be sure that we provide an effective means to deal with criminality." At the same time, he said, "we need to be sure that we are mindful of the Constitution, mindful of privacy considerations, but also meet the technological needs we have" to gather intelligence.

Cole found it disturbing that there have been no consultations with Congress on the draft legislation. "It raises a lot of serious concerns and is troubling as a generic matter that they have gotten this far along and tell people that there is nothing in the works. What that suggests is that they're waiting for a propitious time to introduce it, which might well be when a war is begun. At that time there would be less opportunity for discussion and they'll have a much stronger hand in saying that they need these right away."

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Text of the President's speech

Text of President Bush's State of the Union address Tuesday as released by the White House:

Mr. Speaker, Vice President Cheney, members of Congress, distinguished guests and fellow citizens:

America this evening is a nation called to great responsibilities. And we are rising to meet them.

As we gather tonight, hundreds of thousands of American servicemen and women are deployed across the world in the war on terror. By bringing hope to the oppressed, and delivering justice to the violent, they are making America more secure.

Each day, law enforcement personnel and intelligence officers are tracking terrorist threats; analysts are examining airline passenger lists; the men and women of our new Homeland Security Department are patrolling our coasts and borders. And their vigilance is protecting America.

Americans are proving once again to be the hardest working people in the world. The American economy is growing stronger. The tax relief you passed is working.

Tonight, members of Congress can take pride in great works of compassion and reform that skeptics had thought impossible. You are raising the standards of our public schools and you are giving our senior citizens prescription drug coverage under Medicare.

We have faced serious challenges together and now we face a choice. We can go forward with confidence and resolve or we can turn back to the dangerous illusion that terrorists are not plotting and outlaw regimes are no threat to us. We can press on with economic growth, and reforms in education and Medicare or we can turn back to the old policies and old divisions.

We have not come all this way through tragedy, and trial, and war only to falter and leave our work unfinished. Americans are rising to the tasks of history, and they expect the same of us. In their efforts, their enterprise and their character, the American people are showing that the state of our Union is confident and strong.

Active defense

Our greatest responsibility is the active defense of the American people. Twenty-eight months have passed since Sept. 11, 2001 over two years without an attack on American soil and it is tempting to believe that the danger is behind us. That hope is understandable, comforting and false. The killing has continued in Bali, Jakarta, Casablanca, Riyadh, Mombassa, Jerusalem, Istanbul and Baghdad. The terrorists continue to plot against America and the civilized world. And by our will and courage, this danger will be defeated.

Inside the United States, where the war began, we must continue to give homeland security and law enforcement personnel every tool they need to defend us. And one of those essential tools is the PATRIOT Act, which allows federal law enforcement to better share information, to track terrorists, to disrupt their cells and to seize their assets. For years, we have used similar provisions to catch embezzlers and drug traffickers. If these methods are good for hunting criminals, they are even more important for hunting terrorists. Key provisions of the PATRIOT Act are set to expire next year. The terrorist threat will not expire on that schedule. Our law enforcement needs this vital legislation to protect our citizens you need to renew the PATRIOT Act.

America is on the offensive against the terrorists who started this war. Last March, Khalid Shaikh Mohammed, a mastermind of Sept. 11, awoke to find himself in the custody of U.S. and Pakistani authorities. Last August 11th brought the capture of the terrorist Hambali, who was a key player in the attack in Indonesia that killed over 200 people. We are tracking al-Qaida around the world and nearly two-thirds of their known leaders have now been captured or killed. Thousands of very skilled and determined military personnel are on a manhunt, going after the remaining killers who hide in cities and caves and, one by one, we will bring the terrorists to justice.

As part of the offensive against terror, we are also confronting the regimes that harbor and support terrorists, and could supply them with nuclear, chemical or biological weapons. The United States and our allies are determined: We refuse to live in the

shadow of this ultimate danger.

Taliban broken

The first to see our determination were the Taliban, who made Afghanistan the primary training base of al-Qaida killers. As of this month, that country has a new constitution, guaranteeing free elections and full participation by women. Businesses are opening, health care centers are being established, and the boys and girls of Afghanistan are back in school. With help from the new Afghan Army, our coalition is leading aggressive raids against surviving members of the Taliban and al-Qaida. The men and women of Afghanistan are building a nation that is free, and proud, and fighting terror and America is honored to be their friend.

Since we last met in this chamber, combat forces of the United States, Great Britain, Australia, Poland and other countries enforced the demands of the United Nations, ended the rule of Saddam Hussein and the people of Iraq are free. Having broken the Baathist regime, we face a remnant of violent Saddam supporters. Men who ran away from our troops in battle are now dispersed and attack from the shadows.

These killers, joined by foreign terrorists, are a serious, continuing danger. Yet we are making progress against them. The once all-powerful ruler of Iraq was found in a hole, and now sits in a prison cell. Of the top 55 officials of the former regime, we have captured or killed 45. Our forces are on the offensive, leading over 1,600 patrols a day, and conducting an average of 180 raids every week. We are dealing with these thugs in Iraq, just as surely as we dealt with Saddam Hussein's evil regime.

The work of building a new Iraq is hard, and it is right. And America has always been willing to do what it takes for what is right. Last January, Iraq's only law was the whim of one brutal man. Today our coalition is working with the Iraqi Governing Council to draft a basic law, with a bill of rights. We are working with Iraqis and the United Nations to prepare for a transition to full Iraqi sovereignty by the end of June. As democracy takes hold in Iraq, the enemies of freedom will do all in their power to spread violence and fear. They are trying to shake the will of our country and our friends but the United States of America will never be intimidated by thugs and assassins. The killers will fail, and the Iraqi people will live in freedom.

Taking responsibility

Month by month, Iraqis are assuming more responsibility for their own security and their own future. And tonight we are honored to welcome one of Iraq's most respected leaders: the current President of the Iraqi Governing Council, Adnan Pachachi. Sir, America stands with you and the Iraqi people as you build a free and peaceful nation.

Because of American leadership and resolve, the world is changing for the better. Last month, the leader of Libya voluntarily pledged to disclose and dismantle all of his regime's weapons of mass destruction programs, including a uranium enrichment project for nuclear weapons. Col. Gadhafi correctly judged that his country would be better off, and far more secure, without weapons of mass murder. Nine months of intense negotiations involving the United States and Great Britain succeeded with Libya, while 12 years of diplomacy with Iraq did not. And one reason is clear: For diplomacy to be effective, words must be credible and no one can now doubt the word of America.

Different threats require different strategies. Along with nations in the region, we are insisting that North Korea eliminate its nuclear program. America and the international community are demanding that Iran meet its commitments and not develop nuclear weapons. America is committed to keeping the world's most dangerous weapons out of the hands of the world's most dangerous regimes.

When I came to this rostrum on Sept. 20, 2001, I brought the police shield of a fallen officer, my reminder of lives that ended, and a task that does not end. I gave to you and to all Americans my complete commitment to securing our country and defeating our enemies. And this pledge, given by one, has been kept by many. You in the Congress have provided the resources for our defense, and cast the difficult votes of war and peace. Our closest allies have been unwavering. America's intelligence personnel and diplomats have been skilled and tireless.

And the men and women of the American military they have taken the hardest duty. We have seen their skill and courage in armored charges, and midnight raids, and lonely hours on faithful watch. We have seen the joy when they return, and felt the sorrow when one is lost. I have had the honor of meeting our servicemen and women at many posts, from the deck of a carrier in the Pacific to a mess hall in Baghdad. Many of our troops are

listening tonight. And I want you and your families to know: America is proud of you. And my administration, and this Congress, will give you the resources you need to fight and win the war on terror.

A real war

I know that some people question if America is really in a war at all. They view terrorism more as a crime a problem to be solved mainly with law enforcement and indictments. After the World Trade Center was first attacked in 1993, some of the guilty were indicted, tried, convicted and sent to prison. But the matter was not settled. The terrorists were still training and plotting in other nations, and drawing up more ambitious plans. After the chaos and carnage of Sept. 11, it is not enough to serve our enemies with legal papers. The terrorists and their supporters declared war on the United States and war is what they got.

Some in this chamber, and in our country, did not support the liberation of Iraq. Objections to war often come from principled motives. But let us be candid about the consequences of leaving Saddam Hussein in power. We are seeking all the facts already the Kay report identified dozens of weapons of mass destruction-related program activities and significant amounts of equipment that Iraq concealed from the United Nations. Had we failed to act, the dictator's weapons of mass destruction programs would continue to this day. Had we failed to act, Security Council resolutions on Iraq would have been revealed as empty threats, weakening the United Nations and encouraging defiance by dictators around the world. Iraq's torture chambers would still be filled with victims terrified and innocent. The killing fields of Iraq where hundreds of thousands of men, women and children vanished into the sands would still be known only to the killers. For all who love freedom and peace, the world without Saddam Hussein's regime is a better and safer place.

Some critics have said our duties in Iraq must be internationalized. This particular criticism is hard to explain to our partners in Britain, Australia, Japan, South Korea, the Philippines, Thailand, Italy, Spain, Poland, Denmark, Hungary, Bulgaria, Ukraine, Romania, the Netherlands, Norway, El Salvador and the 17 other countries that have committed troops to Iraq. As we debate at home, we must never ignore the vital contributions of our international partners or dismiss their sacrifices. From the beginning, America has sought international support for operations in Afghanistan and Iraq, and we have gained much support. There is a difference, however, between leading a coalition of many nations and submitting to the objections of a few. America will never seek a permission slip to defend the security of our people.

Mideast democracy

We also hear doubts that democracy is a realistic goal for the greater Middle East, where freedom is rare. Yet it is mistaken, and condescending, to assume that whole cultures and great religions are incompatible with liberty and self-government. I believe that God has planted in every heart the desire to live in freedom. And even when that desire is crushed by tyranny for decades, it will rise again.

As long as the Middle East remains a place of tyranny, despair and anger, it will continue to produce men and movements that threaten the safety of America and our friends. So America is pursuing a forward strategy of freedom in the greater Middle East. We will challenge the enemies of reform, confront the allies of terror, and expect a higher standard from our friends. To cut through the barriers of hateful propaganda, the Voice of America and other broadcast services are expanding their programming in Arabic and Persian and soon, a new television service will begin providing reliable news and information across the region. I will send you a proposal to double the budget of the National Endowment for Democracy, and to focus its new work on the development of free elections, free markets, free press and free labor unions in the Middle East. And above all, we will finish the historic work of democracy in Afghanistan and Iraq, so those nations can light the way for others, and help transform a troubled part of the world.

America is a nation with a mission and that mission comes from our most basic beliefs. We have no desire to dominate, no ambitions of empire. Our aim is a democratic peace a peace founded upon the dignity and rights of every man and woman. America acts in this cause with friends and allies at our side, yet we understand our special calling: This great Republic will lead the cause of freedom.

In these last three years, adversity has also revealed the fundamental strengths of the American economy. We have come through recession, and terrorist attack, and corporate scandals, and the uncertainties of war. And because you acted to stimulate our economy with tax relief, this economy is strong, and growing stronger.

You have doubled the child tax credit from \$500 to a thousand dollars, reduced the marriage penalty, begun to phase out the death tax, reduced taxes on capital gains and stock dividends, cut taxes on small businesses, and you have lowered taxes for every American who pays income taxes.

Dollars at work

Americans took those dollars and put them to work, driving this economy forward. The pace of economic growth in the third quarter of 2003 was the fastest in nearly 20 years. New home construction: the highest in almost 20 years. Home ownership rates: the highest ever. Manufacturing activity is increasing. Inflation is low. Interest rates are low. Exports are growing. Productivity is high. And jobs are on the rise.

These numbers confirm that the American people are using their money far better than government would have and you were right to return it.

America's growing economy is also a changing economy. As technology transforms the way almost every job is done, America becomes more productive, and workers need new skills. Much of our job growth will be found in high-skilled fields like health care and biotechnology. So we must respond by helping more Americans gain the skills to find good jobs in our new economy.

All skills begin with the basics of reading and math, which are supposed to be learned in the early grades of our schools. Yet for too long, for too many children, those skills were never mastered. By passing the No Child Left Behind Act, you have made the expectation of literacy the law of our country. We are providing more funding for our schools a 36 percent increase since 2001. We are requiring higher standards. We are regularly testing every child on the fundamentals. We are reporting results to parents, and making sure they have better options when schools are not performing. We are making progress toward excellence for every child.

But the status quo always has defenders. Some want to undermine the No Child Left Behind Act by weakening standards and accountability. Yet the results we require are really a matter of common sense: We expect third-graders to read and do math at third grade level and that is not asking too much. Testing is the only way to identify and help students who are falling behind.

This nation will not go back to the days of simply shuffling children along from grade to grade without them learning the basics. I refuse to give up on any child and the No Child Left Behind Act is opening the door of opportunity to all of America's children.

Jobs plan

At the same time, we must ensure that older students and adults can gain the skills they need to find work now. Many of the fastest-growing occupations require strong math and science preparation, and training beyond the high school level. So tonight I propose a series of measures called Jobs for the 21st Century. This program will provide extra help to middle and high school students who fall behind in reading and math, expand advanced placement programs in low-income schools, and invite math and science professionals from the private sector to teach part-time in our high schools. I propose larger Pell grants for students who prepare for college with demanding courses in high school. I propose increasing our support for America's fine community colleges, so they can train workers for the industries that are creating the most new jobs. By all these actions, we will help more and more Americans to join in the growing prosperity of our country.

Job training is important, and so is job creation. We must continue to pursue an aggressive, pro-growth economic agenda.

Congress has some unfinished business on the issue of taxes. The tax reductions you passed are set to expire. Unless you act, the unfair tax on marriage will go back up. Unless you act, millions of families will be charged \$300 more in federal taxes for every child. Unless you act, small businesses will pay higher taxes. Unless you act, the death tax will eventually come back to life. Unless you act, Americans face a tax increase. What the Congress has given, the Congress should not take away: For the sake of job growth, the tax cuts you passed should be permanent.

Our agenda for jobs and growth must help small business owners and employees with relief from needless federal regulation, and protect them from junk and frivolous lawsuits. Consumers and businesses need reliable supplies of energy to make our economy run so I urge you to pass legislation to modernize our electricity system, promote conservation

I urge you to pass legislation to modernize our electricity system, promote conservation and make America less dependent on foreign sources of energy. My administration is promoting free and fair trade, to open up new markets for America's entrepreneurs, and manufacturers, and farmers, and to create jobs for America's workers. Younger workers should have the opportunity to build a nest egg by saving part of their Social Security taxes in a personal retirement account. We should make the Social Security system a source of ownership for the American people.

Shepherding dollars

And we should limit the burden of government on this economy by acting as good stewards of taxpayer dollars. In two weeks, I will send you a budget that funds the war, protects the homeland and meets important domestic needs, while limiting the growth in discretionary spending to less than four percent. This will require that Congress focus on priorities, cut wasteful spending and be wise with the people's money. By doing so, we can cut the deficit in half over the next five years.

Tonight I also ask you to reform our immigration laws, so they reflect our values and benefit our economy. I propose a new temporary worker program to match willing foreign workers with willing employers, when no Americans can be found to fill the job. This reform will be good for our economy because employers will find needed workers in an honest and orderly system. A temporary worker program will help protect our homeland allowing border patrol and law enforcement to focus on true threats to our national security. I oppose amnesty, because it would encourage further illegal immigration and unfairly reward those who break our laws. My temporary worker program will preserve the citizenship path for those who respect the law, while bringing millions of hardworking men and women out from the shadows of American life.

Our nation's health care system, like our economy, is also in a time of change. Amazing medical technologies are improving and saving lives. This dramatic progress has brought its own challenge, in the rising costs of medical care and health insurance. Members of Congress, we must work together to help control those costs and extend the benefits of modern medicine throughout our country.

Bipartisan accord

Meeting these goals requires bipartisan effort and two months ago, you showed the way. By strengthening Medicare and adding a prescription drug benefit, you kept a basic commitment to our seniors: You are giving them the modern medicine they deserve.

Starting this year, under the law you passed, seniors can choose to receive a drug discount card, saving them 10 to 25 percent off the retail price of most prescription drugs and millions of low-income seniors can get an additional \$600 to buy medicine. Beginning next year, seniors will have new coverage for preventive screenings against diabetes and heart disease, and seniors just entering Medicare can receive wellness exams.

In January of 2006, seniors can get prescription drug coverage under Medicare. For a monthly premium of about \$35, most seniors who do not have that coverage today can expect to see their drug bills cut roughly in half. Under this reform, senior citizens will be able to keep their Medicare just as it is, or they can choose a Medicare plan that fits them best just as you, as members of Congress, can choose an insurance plan that meets your needs. And starting this year, millions of Americans will be able to save money tax-free for their medical expenses, in a health savings account.

I signed this measure proudly, and any attempt to limit the choices of our seniors, or to take away their prescription drug coverage under Medicare, will meet my veto.

On the critical issue of health care, our goal is to ensure that Americans can choose and afford private health care coverage that best fits their individual needs. To make insurance more affordable, Congress must act to address rapidly rising health care costs. Small businesses should be able to band together and negotiate for lower insurance rates, so they can cover more workers with health insurance. I urge you to pass association health plans. I ask you to give lower-income Americans a refundable tax credit that would allow millions to buy their own basic health insurance. By computerizing health records, we can avoid dangerous medical mistakes, reduce costs, and improve care. To protect the doctor-patient relationship, and keep good doctors doing good work, we must eliminate wasteful and frivolous medical lawsuits. And tonight I propose that individuals who buy catastrophic health care coverage, as part of our new health savings accounts, be allowed to deduct 100 percent of the premiums from their taxes.

Cost control

A government-run health care system is the wrong prescription. By keeping costs under control, expanding access and helping more Americans afford coverage, we will preserve the system of private medicine that makes America's health care the best in the world.

We are living in a time of great change in our world, in our economy, and in science and medicine. Yet some things endure courage and compassion, reverence and integrity, respect for differences of faith and race. The values we try to live by never change. And they are instilled in us by fundamental institutions, such as families, and schools, and religious congregations. These institutions the unseen pillars of civilization must remain strong in America, and we will defend them.

We must stand with our families to help them raise healthy, responsible children. And when it comes to helping children make right choices, there is work for all of us to do.

One of the worst decisions our children can make is to gamble their lives and futures on drugs. Our government is helping parents confront this problem, with aggressive education, treatment and law enforcement. Drug use in high school has declined by 11 percent over the past two years. Four hundred thousand fewer young people are using illegal drugs than in the year 2001. In my budget, I have proposed new funding to continue our aggressive, community-based strategy to reduce demand for illegal drugs. Drug testing in our schools has proven to be an effective part of this effort. So tonight I propose an additional \$23 million for schools that want to use drug testing as a tool to save children's lives. The aim here is not to punish children, but to send them this message: We love you, and we don't want to lose you.

To help children make right choices, they need good examples. Athletics play such an important role in our society, but, unfortunately, some in professional sports are not setting much of an example. The use of performance-enhancing drugs like steroids in baseball, football and other sports is dangerous, and it sends the wrong message that there are short cuts to accomplishment, and that performance is more important than character. So tonight I call on team owners, union representatives, coaches and players to take the lead, to send the right signal, to get tough and to get rid of steroids now.

To encourage right choices, we must be willing to confront the dangers young people face even when they are difficult to talk about. Each year, about 3 million teenagers contract sexually transmitted diseases that can harm them, or kill them, or prevent them from ever becoming parents. In my budget, I propose a grass-roots campaign to help inform families about these medical risks. We will double federal funding for abstinence programs, so schools can teach this fact of life: Abstinence for young people is the only certain way to avoid sexually transmitted diseases. Decisions children make now can affect their health and character for the rest of their lives. All of us parents, schools, government must work together to counter the negative influence of the culture, and to send the right messages to our children.

Valuing marriage

A strong America must also value the institution of marriage. I believe we should respect individuals as we take a principled stand for one of the most fundamental, enduring institutions of our civilization. Congress has already taken a stand on this issue by passing the Defense of Marriage Act, signed in 1996 by President Clinton. That statute protects marriage under federal law as the union of a man and a woman, and declares that one state may not redefine marriage for other states. Activist judges, however, have begun redefining marriage by court order, without regard for the will of the people and their elected representatives. On an issue of such great consequence, the people's voice must be heard. If judges insist on forcing their arbitrary will upon the people, the only alternative left to the people would be the constitutional process. Our nation must defend the sanctity of marriage.

The outcome of this debate is important and so is the way we conduct it. The same moral tradition that defines marriage also teaches that each individual has dignity and value in God's sight.

It is also important to strengthen our communities by unleashing the compassion of America's religious institutions. Religious charities of every creed are doing some of the most vital work in our country mentoring children, feeding the hungry, taking the hand of the lonely. Yet government has often denied social service grants and contracts to these groups, just because they have a cross or Star of David or crescent on the wall. By executive order, I have opened billions of dollars in grant money to competition that includes faith-based charities. Tonight I ask you to codify this into law, so people of faith can know that the law will never discriminate against them again.

Helping prisoners

In the past, we have worked together to bring mentors to the children of prisoners, and provide treatment for the addicted, and help for the homeless. Tonight I ask you to consider another group of Americans in need of help. This year, some 600,000 inmates will be released from prison back into society. We know from long experience that if they can't find work, or a home, or help, they are much more likely to commit more crimes and return to prison. So tonight, I propose a four-year, \$300 million Prisoner Re-Entry Initiative to expand job training and placement services, to provide transitional housing, and to help newly released prisoners get mentoring, including from faith-based groups. America is the land of the second chance and when the gates of the prison open, the path ahead should lead to a better life.

For all Americans, the last three years have brought tests we did not ask for, and achievements shared by all. By our actions, we have shown what kind of nation we are. In grief, we found the grace to go on. In challenge, we rediscovered the courage and daring of a free people. In victory, we have shown the noble aims and good heart of America. And having come this far, we sense that we live in a time set apart.

America's character

I have been a witness to the character of the American people, who have shown calm in times of danger, compassion for one another, and toughness for the long haul. All of us have been partners in a great enterprise. And even some of the youngest understand that we are living in historic times. Last month a girl in Lincoln, Rhode Island, sent me a letter. It began, "Dear George W. Bush: If there is anything you know, I, Ashley Pearson, age 10, can do to help anyone, please send me a letter and tell me what I can do to save our country." She added this P.S.: "If you can send a letter to the troops please put, 'Ashley Pearson believes in you.'"

Tonight, Ashley, your message to our troops has just been conveyed. And yes, you have some duties yourself. Study hard in school, listen to your mom and dad, help someone in need, and when you and your friends see a man or woman in uniform, say "thank you." And while you do your part, all of us here in this great chamber will do our best to keep you and the rest of America safe and free.

My fellow citizens, we now move forward, with confidence and faith. Our nation is strong and steadfast. The cause we serve is right, because it is the cause of all mankind. The momentum of freedom in our world is unmistakable and it is not carried forward by our power alone. We can trust in that greater power Who guides the unfolding of the years. And in all that is to come, we can know that His purposes are just and true.

May God bless the United States of America. Thank you.

Panel debates pros, cons of Patriot Act

By NIKKI PATRICK

Morning Sun Family Living Editor

The Patriot Act is either vital to safeguarding the nation's security and liberty or is a threat to basic rights and freedoms.

Speakers on both sides of the issue spoke Sunday during "Civil Liberties: The Patriot Act," a forum sponsored by Interfaith Alliance of Southeast Kansas.

Panelists were Dick Kurtenbach, executive director for Kansas and Western Missouri of the American Civil Liberties Union based in Kansas City, Mo.; Eric Melgren, U.S. Attorney for the District of Kansas based in Wichita; Chuck Olcese, International Affairs at Pittsburg State University; and Robert Walter, PSU dean of learning resources and past president of the Kansas Library Association.

Donald Hight served as moderator.

The USA Patriot Act is the nickname for the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act. The 342-page act, with around 1,000 sections, was signed into law by President George W. Bush about seven weeks after the Sept. 11, 2001, terrorist attacks.

Critics of the act charge that it provides for increased governmental surveillance powers with less or no meaningful congressional or judicial oversight; enhances ability of government to track e-mails, telephone records, monitor financial transactions and conduct nationwide roving wiretaps; broadens the definition of "domestic terrorism" so that it could include domestic protest groups; and allows the U.S. Department of Justice to indefinitely detain noncitizen immigrants with criminal charges.

Panelists were asked what they believe should be changed in the Patriot Act.

"I think we need to change these misconceptions about the act, and the misconception that the concepts of liberty and security are in conflict," Melgren said. "The liberty of 300 people to fly and the liberty of 3,000 people to go to work destroyed by a loss of security on Sept. 11, 2001."

He added that most people, by and large, have no idea what is actually in the Patriot Act.

"Nothing in the Patriot Act changes the American standards for search and seizure," Melgren said. "Wire taps or e-mails still must have court approval."

Out of all the sections of the act, he said, Section 215 is probably the most controversial, and many have the misconception that it deals with libraries being forced to disclose their records.

"The word 'library' doesn't even appear in Section 215," Melgren said.

"If the act is so innocuous, why was Attorney General John Ashcroft in such a hurry to get it accepted?" Kurtenbach asked.

He noted that the attorney general recently charged that critics of the act are aiding the enemy. "He is trying to marginalize critical voices," Kurtenbach said.

The ACLU noted past cases when the nation reacted in times of crisis by curtailing civil liberties, including the internment of more than 20,000 Japanese Americans after the bombing of Pearl Harbor.

"After 9-11, 1,000 Muslim men were detained, but not one indictment has come out of that," Kurtenbach said.

He also brought up Section 215, which requires that "any tangible thing," such as books, records and so on, must be turned over to the FBI.

The Foreign Intelligence Surveillance Act established secret courts in 1978 that would approve search warrants in related to foreign powers.

"The Patriot Act expands the jurisdiction of FISA courts," Kurtenbach said.

He said that if the FBI has even a suspicion of wrongdoing related to terrorism and applies for a search warrant, the Act provides that the FISA judge shall approve the search.

Kurtenbach spoke of a naturalized American citizen, a Muslim, who is currently preparing an academic paper on bombers. A package addressed to this man, containing materials on suicide bombers, accidentally came open in office.

"Two FBI agents went to this man's place of employment, and later to his home," Kurtenbach said.

No charges were brought against him, but the man and his wife were intimidated.

"I don't deny that, when the FBI shows up at the door, your heart may skip a beat," Melgren responded, "but that's enforcement."

Olcese spoke of how his work as director of international affairs at PSU has been impacted by provisions of the P

"A very small part of the act calls for a system to track and report about international students," he said, adding that or possibly two of the 18 or 19 terrorists involved in the 911 attacks had entered the United States on student visa

"These are among the hardest visas to obtain, because you must first show that you have been accepted by a U.S. and that you have finances to support you for at least a year," Olcese explained.

It is now required that schools must report "a myriad of identifying and personal information of a student accepted school," Olcese said. "We had that data before and it was available on request, but now we must electronically report the government. High schools, colleges and universities have spent millions of dollars to get ready to report, including purchasing the software needed for this electronic format."

However, he added, the federal government apparently didn't do the same preparation.

"We at PSU got 10 to 12 calls from students who had gone to consulates in their countries to obtain their student they were denied because their information was not in the database," Olcese said. "We had to call and ask that the government push this data through to the consulates. I don't think the government is prepared to use all the data sending them."

Walter also spoke of past instances from American history when efforts to protect national security had questioned including the McCarthy era.

"Most people will agree that what we did was not well thought out, and contradicted our civil liberties," he said. "The Act was hurriedly passed with no hearings. I think we need to sit back now and take a good look at some of the provisions with the act, such as Section 215."

Walter said that he is concerned with two things about the act.

"First, democracy is based on a system of checks and balances, not on the government's good intentions," he said.

He said that he is concerned about possible loss of congressional oversight and judicial review with the act.

"Libraries have, in the past, released records with a subpoena based on probable cause," Walter said. "But with Section 215, we have FISA courts where the judge shall approve a search. Before 9-11, FISA involved foreign powers, and it applies to those in the United States."

He is also troubled by the secrecy required in the act. "If I am asked to release records, I cannot tell anyone that I received that order, not even a colleague at the library," he said.

Melgren replied that all persons who are the subject of a search warrant must be informed of the fact - but that disclosure may be delayed for certain reasons. Main reasons for this, he said, include the fact that a suspect might flee to avoid prosecution, or might destroy evidence or tamper with witnesses.

"We had one person who learned that he had been the subject of a search, and he fled to Cuba," Melgren said. "I'm not going to be able to get him back from Cuba."

Kurtenbach said he was concerned because Section 215 does not require probable cause as the basis for a search or wire tap, but only suspicion. Also, the FISA judge is required by the Patriot Act to approve the search request.

"I feel this country is less free than it was before 9-11," he said.

"A congressman recently said that he was willing to give up a little liberty for security," Melgren noted. "When repeatedly asked the attorney general what freedoms he was willing to give up, he answered that he would not give up any of them."

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