

CRS Report for Congress

Terrorism: Section by Section Analysis of the USA PATRIOT Act

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Introduction

The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act, Public Law 107-56, is part of the Congressional response to September 11. It is the merger of two similar bills. S.1510 passed the Senate on October 11, 147 *Cong.Rec.* S10604, and H.R.2975 passed the House on October 12 after substituting the language of H.R.3108 for its text, 147 *Cong.Rec.* H6775. Having informally resolving their differences, the House enacted the measure in final form on October 24, 147 *Cong.Rec.* H7282, and the Senate on October 25, 147 *Cong.Rec.* S11059.

The report of the House Committee on the Judiciary, H.Rept. 107-236 on H.R.2975, and the report of the House Committee on Financial Services, H.Rept. 107-250 on H.R. 3004, each explain some of the issues ultimately resolved in the Act.

This is a section by section analysis of the Act as enacted. The analysis borrows the explanations of the House Committee of the Judiciary, in a number of those instances where the language of the Committee bill and the language of the Act are identical.

Section 1. Short Title and Table of Contents.

The Act may be cited as the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001."

Section 2. Construction; Severability.

Section 2 confirms that the Act's provisions should be given maximum effect and that should any provision be found invalid or unenforceable it should be severed and the remainder the Act allowed to remain in effect.

Title I – Enhancing Domestic Security Against Terrorism

Section 101. Counterterrorism Fund.

Congress created a Counterterrorism Fund to reimburse the Department of Justice for the costs of reestablishing operating capacity lost as a consequence of the destruction of the Alfred P. Murrah Federal Building in Oklahoma City and for other

Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) permits the Secretary to designate as terrorist organizations any foreign group which he finds to have engaged in terrorist activities. A second subsection 411(c) permits him to designate groups which as subnational groups or clandestine agents, engage in "premeditated, politically motivated violence perpetrated against noncombatant targets," or groups which retain the capacity and intent to engage in terrorism or terrorist activity, 8 U.S.C. 1189(a)(1)(B).

Section 412. Mandatory Detention of Suspected Terrorists; Habeas Corpus; Judicial Review.

Section 412 permits the Attorney General to detain alien terrorist suspects for up to seven days, 8 U.S.C. 1226a. He must certify that he has reasonable grounds to believe that the suspects either are engaged in conduct which threatens the national security of the United States or are inadmissible or deportable on grounds of terrorism, espionage, sabotage, or sedition. Within seven days, the Attorney General must initiate removal or criminal proceedings or release the alien. If the alien is held, the determination must be reexamined every six months to confirm that the alien's release would threaten national security or endanger some individual or the general public. The Attorney General's determinations are subject to review only under writs of habeas corpus issued out of any federal district court but appealable only to the United States Court of Appeals for the District Columbia. The Attorney General must report to the Judiciary Committee on the details of the operation of section 412.

Uncertain is the relationship between section 412 and the President's Military Order of November 13, 2001, which allows the Secretary of Defense to detain designated alien terrorist suspects, within the United States or elsewhere, without express limitation or condition except with regard to food, water, shelter, clothing, medical treatment, religious exercise, and a proscription on invidious discrimination, 66 *Fed.Reg.* 57833, 57834 (Nov. 16, 2001).

Section 413. Multilateral Cooperation Against Terrorists.

State Department records concerning its processing of visa applications are confidential and generally available only for court and law enforcement purposes, 8 U.S.C. 1202(f). Section 413 authorizes the Secretary of State to share the information with other countries in order to combat terrorism, drug trafficking, gun running, smuggling of immigrants, or other criminal activity, either on a case by case basis or pursuant to a general agreement.

Section 414. Visa Integrity and Security.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1365a, instructed the Attorney General to implement an integrated entry and exit data system for airports, seaports and land border ports of entry. Section 414 expresses the sense of Congress that he should do so expeditiously and authorizes such appropriations as are necessary.

The section also directs the Attorney General and the Secretary of State to focus particularly on the use of biometric technology and tamper-resistant documents