

HON. RON PAUL OF TEXAS BEFORE THE US HOUSE OF REPRESENTATIVES July 21, 2005

Don't Reauthorize the Patriot Act

Mr. Speaker, the USA PATRIOT Act and Terrorism Prevention Act (HR 3199) in no way brings the PATRIOT Act into compliance with the Constitution or allays concerns that the powers granted to the government in the act will be used to abuse the rights of the people. Much of the discussion surrounding this bill has revolved around the failure of the bill to extend the sunset clauses.

However, simply sunseting troublesome provisions does not settle the debates around the PATRIOT Act. If the PATRIOT Act is constitutional and needed, as its proponents swear, why include sunset provisions at all? If it is unconstitutional and pernicious, why not abolish it immediately?

The sunset clauses do perform one useful service in that they force Congress to regularly re-examine the PATRIOT Act. As the people's representatives, it is our responsibility to keep a close eye on the executive branch to ensure it does not abuse its power. Even if the claims of HR 3199's supporters that there have been no abuses of PATRIOT Act powers under this administration are true, that does not mean that future administrations will not abuse these powers. HR 3199 continues to violate the constitution by allowing searches and seizures of American citizens and their property without a warrant issued by an independent court upon a finding of probable cause. The drafters of the Bill of Rights considered this essential protection against an overreaching government. For example, Section 215 of the PATRIOT Act, popularly known as the library provision, allows Foreign Intelligence Surveillance Courts, whose standards hardly meet the constitutional requirements of the Fourth Amendment, to issue warrants for individual records, including medical and library records. HR 3199 does reform this provision by clarifying that it can be used to acquire the records of an American citizen only during terrorist investigations. However, this marginal change fails to bring the section up to the constitutional standard of probable cause.

Requiring a showing of probable cause before a warrant may be issued will in no way hamper terrorist investigations. For one thing, federal authorities still would have numerous tools

available to investigate and monitor the activities of non-citizens suspected of terrorism. Second, restoring the Fourth Amendment protections would in no way interfere with the provisions of the PATRIOT Act removing the firewalls that prevented the government's law enforcement and intelligence agencies from sharing information.

The probable cause requirements will not delay a terrorist investigation. Preparations can be made for the issuance of a warrant in the event of an emergency, and allowances can be made for cases where law enforcement does not have time to obtain a warrant. In fact, a requirement that law enforcement demonstrate probable cause may help law enforcement focus their efforts on true threats, thus avoiding the problem of information overload that is handicapping the government's efforts to identify sources of terrorist financing.

The requirement that law enforcement demonstrate probable cause before a judge preserves the Founders' system of checks and balances that protects against one branch gathering too much power. The Founders recognized that one of the chief dangers to liberty was the concentration of power in a few hands, which is why they carefully divided power among the three branches. I would remind those of my colleagues who claim that we must set aside the constitutional requirements during war that the founders were especially concerned about the consolidation of power during times of war and national emergencies. My colleagues should also keep in mind that PATRIOT Act powers have already been used in non-terrorism related cases, most notably in a bribery investigation in Nevada.

Mr. Speaker, HR 3199 does take some positive steps toward restoring respect for constitutional liberties and checks and balances that the original PATRIOT Act stripped away. However, it still leaves in place large chunks of legislation that threaten individual liberty by giving law enforcement power to snoop into American citizens' lives without adequate oversight. This power is unnecessary to effectively fight terrorism. Therefore, I urge my colleagues to reject this bill.