

May 2, 2005     When Congress passed the Patriot Act in the emotional aftermath of the September 11th terrorist attacks, a sunset provision was inserted in the bill that causes certain sections to expire at the end of 2005. But this begs the question: If these provisions are critical tools in the fight against terrorism, why revoke them after five years? Conversely, if these provisions violate civil liberties, why is it acceptable to suspend the Constitution for any amount of time? Congress is scheduled to review those sections this year, but there is little chance any portion of the Act will be allowed to lapse. If anything, many members of Congress are eager to expand federal police powers. Supporters of the Patriot Act argue that its provisions have not been abused since its passage in 2001. In essence, Justice Department officials are claiming, "Trust us-- we're the government and we say the Patriot Act does not threaten civil liberties." But this argument misses the point. Government assurances simply are not good enough in a free society. The overwhelming burden always must be placed on government to justify any new encroachment on our liberty. Now that the emotions of September 11th have cooled, the American people are less willing to blindly accept terrorism as an excuse for expanding federal surveillance powers. Many of the most constitutionally offensive measures in the Act are not limited to terrorist offenses, but apply to any criminal activity. In fact, some of the new police powers could be applied even to those engaging in peaceful protest against government policies. The bill as written defines terrorism as acts intended "to influence the policy of a government by intimidation or coercion." Under this broad definition, a scuffle at an otherwise peaceful pro-life demonstration might subject attendees to a federal investigation. We have seen abuses of law enforcement authority in the past to harass individuals or organizations with unpopular political views. Congress has given future administrations a tool to investigate pro-life or gun rights organizations on the grounds that fringe members of such groups advocate violence. The Patriot Act waters down the Fourth amendment by expanding the federal government's ability to use wiretaps without judicial oversight. The requirement of a search warrant and probable cause strikes a balance between effective law enforcement and civil liberties. Any attempt to dilute the warrant requirement threatens innocent citizens with a loss of their liberty. This is particularly true of provisions that allow for issuance of nationwide search warrants that are not specific to any given location, nor subject to any local judicial oversight. The Act makes it far easier for the government to monitor your internet usage by adopting a lower standard than probable cause for intercepting e-mails and internet communications. I wonder how my congressional colleagues would feel if all of their e-mail headings and the names of the web sites they visited were available to law enforcement upon a showing of mere "relevance." It's easy for elected officials in Washington to tell the American people that government will do whatever it takes to defeat terrorism. Such assurances inevitably are followed by proposals either to restrict the constitutional liberties of the American people or spend vast sums from the federal treasury. We must understand that politicians and bureaucrats always seek to expand their power, without regard to the long-term consequences. If you believe in smaller government, ask yourself one simple question: Does the Patriot Act increase or decrease the power of the federal government over your life? The answer is obvious to those who understand that freedom cannot be exchanged for security.