

PATRIOT ACT SUNSETS

January 27, 2004

1634 I Street, NW Suite 1100
Washington, DC 20006
202.637.9800
fax 202.637.0968
<http://www.cdt.org>

The PATRIOT Act itself does not sunset – of over 150 provisions in the PATRIOT Act, only 16 provisions are covered by the sunset. Some of those covered are uncontroversial, while some of the most controversial provisions in the Act are not slated to sunset. The sunset does not apply to pending investigations. The sunset date is December 31, 2005, over a year after the election, under a new Congress.

Here's what the sunset covers – **bold** indicates those that are controversial in CDT's view – we have no objections to the others:

- Sec. 201 – certain terrorism crimes as wiretap predicates
- Sec. 202 – computer fraud as wiretap predicate
- Sec. 203(b) – sharing criminal wiretap information w/ intelligence agencies**
- Sec. 204 – technical clarification of no conflict between Title III and FISA
- Sec. 206 – roving taps under FISA**
- Sec. 207 – extending duration of FISA taps of non-us persons
- Sec. 209 – seizure of voice mail pursuant to warrant
- Sec. 212 – emergency disclosures of email w/o a court order**
- Sec. 214 – lowering standard for pen registers and trap and trace devices under FISA**
- Sec. 215 – access to business records under FISA (the “library records” provision)**
- Sec. 217 – interception of computer trespasser communications w/o a court order**
- Sec. 218 – the “significant purpose” provision**
- Sec. 220 – nationwide service of search warrant for electronic evidence**
- Sec. 223 – civil liability for unauthorized disclosures of wiretap info
- Sec. 224 – the sunset provision itself
- Sec. 225 – immunity for compliance with FISA wiretap

A number of highly controversial PATRIOT provisions are not covered by the sunset, and deserve to be reconsidered by Congress, including:

- Sec 203(a) – sharing grand jury information
- Sec. 213 – sneak and peek searches
- Sec. 216 – pen registers for the Internet
- Sec. 358 – exceptions to the financial privacy laws
- Sec. 505 – “National Security Letter” exceptions to privacy laws
- Sec. 802 – definition of domestic terrorism

Many of even the controversial provisions that are due to sunset should not expire entirely. Instead, the sunset debate should focus on amending the Act to include the checks and balances that were left out in the haste to enact the law. Keep the tools, make sure they are under control.