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Assignment Prompt Sheet

USA PATRIOT Improvement and Reauthorization Act of 2005

Overview

Act Title: USA PATRIOT Improvement and Reauthorization Act of 2005

Congress: 109th Congress (2005-2006)

Session/Sessions: 1-2

Statute Nos: 120 Stat. 192-246

Public Law Nos: 109 PL 177; 109 PL 178

Eid: 1090177; 1090178

Gid: 211-002

Bills: [HR 3199](#); [S 2271](#)

Sponsors: [Rep. F. James Sensenbrenner, Jr. \(R-WI\)](#); [Sen. John Sununu \(R-NH\)](#)

House Committees: Judiciary; Intelligence (Permanent Select);
Financial Services

Senate Committees: Judiciary; Intelligence (Select)

Companion Bill: [S 1389](#)

Related Bills: S 1266

House Rules: Hres 369; Hres 595

Past Bills:

Introduced Date- Law Date: July 11, 2005-March 9, 2006

House Floor Days: 3

Senate Floor Days: 4

Roll Call Votes: 26 (14 in the House on HR 3199; 5 in the Senate on HR 3199; 2 in the House on Hres 369; 4 in the Senate on S 2271; 1 in the House on S 2271)



(Above) Rep. James Sensenbrenner, Jr. (R-WI). First elected to the House in 1979, Sensenbrenner announced his retirement at the end of the 116th Congress. He was the second most senior House member. Also pictured is Tinker, his Dalmatian.

Source: [New York Times \(2019\)](#).

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Legislative History Comments

Passed in the wake of the September 11th Attack, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (“USA” Patriot Act), provided the executive branch with “sweeping new authority to track, arrest and prosecute suspected terrorists ([CQ Almanac 2001](#)).” Concerns over potential impacts to civil liberties led Congress to include “sunset” clauses that on many of the provisions related to surveillance. Accordingly, in 2005, sixteen of those provisions needed to be reauthorized by Congress. By that time, controversy over the law had increased, making passage of the USA PATRIOT Improvement and Reauthorization Act of 2005 even more challenging. [CQ Almanac \(2006\)](#) described its passage as “an arduous, yearlong struggle.”

From a process standpoint, the primary difficulty of this measure stems from the fact that Congress had to pass two separate public laws. Initial passage of the reauthorization was not overwhelmingly difficult until a number of moderate Republicans defected on the vote on the conference report in December of 2005. Rather than reject the conference report and agree to a new bill, an agreement was reached in March of 2006 in which they passed the original conference report, but then adopted a subsequent law (S 2271; 109 PL 178) that amended the law. As [CNN \(2006\)](#) noted, the compromise “somewhat limits the government's power to compel information from people targeted in terror investigations.”

Assignments

For the sections below, you’re going to want to answer the questions and write-up the process sections that correspond to your assigned number.

#1.

#2.

#3.

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Background Questions

#1. What is the PATRIOT Act? What specifically does it do? Why was it originally enacted? Discuss the September 11th Attack here and the congressional response that led to its passage. How was the act going to help prevent future terror attacks? This CRS report should be helpful in describing the bill and the reauthorization:

- <https://fas.org/sgp/crs/intel/RL33332.pdf>

#2. How was the law viewed after it was enacted? Why was it so controversial? The original bill moved through Congress at breakneck speed. What impact did this have on the legislative content? Political scientists have found the faster a bill gets through a Congress, the more likely it's going to have errors. Were there any here?

#3. What provisions needed to be reauthorized in 2005? Why did they need to be reauthorized? Explain the concept behind sunset provisions here. Again, both CRS and CQ should be helpful here:

- <https://fas.org/sgp/crs/intel/RL33332.pdf>
- <http://library.cqpress.com.proxy-remote.galib.uga.edu/cqalmanac/document.php?id=cqal05-766-20097-1042102#12-3>
- <http://library.cqpress.com.proxy-remote.galib.uga.edu/cqalmanac/document.php?id=cqal06-1421258&type=hitlist&num=3>

Finally, discuss the political context the 2005-2006 bill was considered in. Who controlled the House? The Senate? By how many? Who was President? Was this part of the President's agenda? What other pieces of legislation were being considered/passed in this Congress? Stathis (2014) might worth a citation here.

Process Sections

Please write-up the sections that correspond to your number.

(#1) House Consideration of HR 3199 (July 21, 2005)

Considered under Hres 369, a structured rule.

(#2) Senate Consideration of S 1389 & HR 3199 (July 29, 2005)

Seems to be quite quick. The Senate inserts their own bill and passes HR 3199 by voice. Give me a paragraph on the Committee consideration.

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(#3) Initial Senate Consideration of the Conference Report on HR 3199 (December 9, 2005)

The Senate rejects a cloture vote on the conference report. What was in the report? What was so controversial?

(#1) House Consideration of the Conference Report on HR 3199 (December 14, 2005)

Considered under Hres 595, the House adopted the conference report here.

(#2) Final Senate Consideration of the Conference Report on HR 3199 (March 1, 2006)

What deal was reached here?

(#2) Senate Consideration of S 2271 (March 1, 2006)

(#3) House Consideration of S 2271 (March 7, 2006)

Passes under suspension.

Member Spotlight

Choose one of the following for your member spotlight:

#1. Rep. James Sensenbrenner (R-WI); Sen. Arlen Specter (R-PA); Rep. Dennis Kucinich (D-OH); Sen. Jon Kyl (R-AZ)

#2. Sen. Bill Frist (R-TN); Rep. Jeff Flake (R-AZ); Sen. Bernie Sanders (I-VT); Rep. Sheila Jackson-Lee (D-TX); [Sen. John Sununu \(R-NH\)](#)

#3. Sen. Russ Feingold (D-WI); Rep. Dana Rohrabacher (R-CA); Sen. Patrick J. Leahy (D-VT); Sen. Pat Roberts (R-KS); Rep. Phil Gingrey (R-GA)

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Aftermath

#1. How was the reauthorization viewed at the time? What has been the legacy of this bill from a civil liberties standpoint? How have scholars viewed it? Are some provisions more or less controversial than others?

#2. Has this law been impacted by Supreme Court rulings or subsequent congressional actions? How difficult were later battles over reauthorizing the act?

#3. The 2006 reauthorization is also notable for the inclusion of a provision that stripped out a 120 day limit on interim attorney generals. This essentially provided the President with a loophole to bypass Senatorial approval of U.S. attorney nominees and led to the [2006 attorney general firings scandal](#).

Discuss this provision and the impact it has had moving forward (it led to the U.S. Attorney Independence Act of [2007](#)).

Suggested Sources

Scholarly Articles:

Kerr, Orin S. "Internet surveillance law after the USA Patriot Act: The big brother that isn't." *Nw. UL Rev.* 97 (2002): 607.

Etzioni, Amitai. *How patriotic is the Patriot Act?: freedom versus security in the age of terrorism*. Routledge, 2005.

Howell, Beryl A. "Seven weeks: The making of the USA PATRIOT Act." *Geo. Wash. L. Rev.* 72 (2003): 1145.

McCarthy, Michael T. "USA patriot act." (2002): 39 *Harv. J.* 435.

Wong, Kam C. "The making of the USA Patriot Act I: The legislative process and dynamics." *International Journal of the Sociology of Law* 34.3 (2006): 179-219.

Seamon, Richard Henry, and William Dylan Gardner. "The Patriot Act and the wall between foreign intelligence and law enforcement." *Harv. JL & Pub. Pol'y* 28 (2004): 319.

Domke, David, et al. "Going public as political strategy: The Bush administration, an echoing press, and passage of the Patriot Act." *Political Communication* 23.3 (2006): 291-312.

Sinnar, Shirin. "Patriotic or unconstitutional? The mandatory detention of aliens under the USA Patriot Act." *Stanford Law Review* (2003): 1419-1456.

Commented [AJM1]: The provision in the PATRIOT Act reauthorization that was put into place during the previous Congress had a really murky origin. As *CO Almanac* notes:

"The language, contained in the reauthorization of the anti-terrorism law known as the Patriot Act ([PL 109-177](#)), had not been part of either chamber's versions of the legislation, but was added by conferees and included in the conference report."

That CQ piece is definitely worth a read. Among other things, it highlights that AG Gonzales' testimony was undercut by a former Deputy Attorney General named James Comey (yep, that one). The whole Ashcroft intensive care unit story (that also features Robert Mueller) is pretty fantastic.

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Alshrari, Abdullah. "Patriot Act, Section 206: It's Impact on Muslim Populations in the US (With Special Reference to Roving Wiretap Policy)." Public Policy and Administration 7.1 (2019): 15-21.

Newspaper Pieces:

- <https://www.nytimes.com/topic/subject/usa-patriot-act>
- <https://www.nytimes.com/2015/05/29/opinion/let-patriot-act-provisions-expire.html>
- <https://www.washingtonpost.com/news/the-watch/wp/2014/10/29/surprise-controversial-patriot-act-power-now-overwhelmingly-used-in-drug-investigations/>
- <https://www.nytimes.com/roomfordebate/2011/09/07/do-we-still-need-the-patriot-act/theres-still-a-need-for-the-patriot-act>
- https://www.washingtonpost.com/politics/patriot-act-debate-highlights-stark-differences-between-2001-2015-views/2015/06/03/a716e2d6-0961-11e5-95fd-d580f1c5d44e_story.html
- <https://www.vox.com/2015/6/2/8701499/patriot-act-explain>
- <https://www.washingtonpost.com/news/the-switch/wp/2013/10/11/patriot-act-author-there-has-been-a-failure-of-oversight/>
- <https://www.cnn.com/2006/POLITICS/03/07/patriot.act/>
- <https://www.vox.com/recode/2020/5/13/21257481/wyden-freedom-patriot-act-amendment-mcconnell>
- <https://www.jurist.org/archives/feature/the-patriot-act-and-civil-liberties/>
- <https://www.jurist.org/news/2006/03/breaking-news-bush-signs-patriot-act/>
- <https://www.cnn.com/2006/POLITICS/03/07/patriot.act/>