

SECURITY AND FREEDOM ENSURED ACT (S. 1709)
Sen. Craig (R-ID) and Sen. Durbin (D-IL)

Supported by a bipartisan coalition of lawmakers and advocacy groups, the Security and Freedom Ensured Act (SAFE) seeks to correct some of the excesses in the hastily enacted USA PATRIOT Act, which granted broad new powers to law enforcement. SAFE aims to protect Americans' civil liberties by making modest but important changes to several of PATRIOT's most troublesome provisions. Specifically, SAFE:

- **Limits the use of “John Doe roving” wiretaps.** SAFE § 2 amends 50 U.S.C. 1805 to ensure that Foreign Intelligence Surveillance Act (FISA) wiretap orders meet the 4th Amendment's “particularity” requirement and clearly limit the scope of the wiretap. “Roving” wiretap orders that do not specify the facility or location to be tapped must at least identify the person whose communications are targeted, while “John Doe” wiretap orders that do not specify the targeted person must at least identify the facility or location to be tapped.
- **Limits the use of secret “sneak & peek” searches.** SAFE § 3 amends 18 U.S.C. 3103a to codify pre-PATRIOT standards for allowing delayed notice of a government search, limiting secret searches to those situations where notice would endanger life or limb, result in flight from prosecution, or result in evidence destruction/tampering.
- **Protects Americans' sensitive, personal information from government access without justification.** SAFE § 4 amends FISA to protect private records held by third parties. SAFE restores the pre-PATRIOT requirement that there exist specific and articulable facts giving reason to believe that the party whose records are sought is a foreign power or an agent of a foreign power, such as a spy or an international terrorist, before a court order for the records is issued.
- **Prevents the government from accessing library records without judicial approval.** SAFE § 5 amends 18 U.S.C. 2709 to prevent the use of “National Security Letters” to obtain library records. National Security Letters are administrative subpoenas that are issued directly by the Justice Department without any judicial oversight.
- **Expands PATRIOT's sunset provision**, such that the following PATRIOT sections will expire on December 31, 2005:
 - § 213. Authority for delaying notice of the execution of a warrant.
 - § 216. Modification of authorities relating to use of pen registers and trap and trace devices.
 - § 219. Single-jurisdiction search warrants for terrorism.
 - § 505. Miscellaneous national security authorities.

The Electronic Frontier Foundation respectfully urges swift passage of the Security and Freedom Ensured Act.