

Think tank: Chances dimming for Patriot Act reform

By [David Edwards](#)

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The USA PATRIOT Act is up for renewal in February, but civil libertarians wanting major changes shouldn't get their hopes up just yet, says a libertarian think tank.

In [a letter \(.pdf\)](#) to Sen. Patrick Leahy (D-VT) last week, Attorney General Eric Holder promised to implement oversight policies designed to curb abuses of the Patriot Act.



Leahy [praised Holder's decision](#) to adopt provisions of the USA PATRIOT Act Sunset Extension Act, a bill which was approved by the Senate Judiciary Committee in October 2009 but never passed by the full Senate.

"We must remain vigilant to ensure that law enforcement has the necessary tools to protect our national security, without compromising the personal privacy of Americans," Leahy said in a statement. "I still believe that these important oversight and accountability provisions should be enacted in law, but I appreciate that by implementing key measures in the bill, the Department of Justice has embraced the need for oversight and transparency."

Writing for the libertarian CATO institute, Julian Sanchez [reminded his readers](#) that the new policies weren't all good news.

"Last year, the fight over the reauthorization of several expiring PATRIOT provisions [opened the door to the comprehensive reform](#) that sweeping legislation sorely needs to better balance the legitimate needs of intelligence and law enforcement against the privacy and freedom of Americans," Sanchez wrote. "Despite [serious abuses](#) of PATRIOT powers uncovered by the Justice Department's Office of the Inspector General, no such major changes were made."

"Many of the milder reforms proposed during the last reauthorization debate now appear to have been voluntarily adopted by Holder. Unfortunately, this may make it politically easier for legislators to push ahead with a straight reauthorization that avoids locking in those reforms via binding statutory language—and entirely bypasses the vital discussion we should be having about a more comprehensive overhaul," he said.

Sanchez points to [a 2004 Legal Affairs column](#) where Chris Mooney argues "sunset" provisions like the the ones used in the Patriot Act often create a kind of policy inertia that means that unpopular "temporary" laws will never be allowed to expire.

"Just after Bush signed his capital gains and dividend tax break into law, the conservative columnist George Will noted that because Democrats fear being accused of raising taxes, 'the sun will set on few, if any, of these cuts,'" Mooney wrote.

"Sunsetting a tax cut can be characterized as a tax hike, and sunsetting a bill like the Patriot Act can be said to reduce the government's ability to fight terrorism. Their efforts to remove sunset provisions notwithstanding, conservatives seem confident that ending the tax cuts or the Patriot Act will never be politically viable," Mooney added.

What's worse is that civil libertarians may have lost their biggest champion in the Senate.

With the loss of Wisconsin Sen. Russ Feingold, "the prospects for placing more than cosmetic limits on the sweeping powers granted since 2001 appear to have dimmed," Sanchez worried.