



**Committee on the Judiciary
U.S. House of Representatives**

**Oversight Hearing on "Reauthorization of the USA Patriot Act"
June 10, 2005**

**Statement by Chip Pitts
Chair of the Board, Amnesty International USA**

On behalf of Amnesty International USA, I would like to thank you, distinguished Chairman, Ranking Member, and Members of the Committee, for the opportunity to be here today.

Amnesty International's millions of activists -- in the U.S. and over 100 countries -- call human rights violations as we see them, based on rigorous research and regardless of the government or armed group committing them.

Our touchstone is international law, including the Universal Declaration of Human Rights and the Geneva Conventions -- international instruments the United States championed and helped create half a century ago.

Amnesty vigorously condemns terrorist attacks like the horrific crime against humanity that took place on September 11, 2001.

We also see history's clear lesson that preserving human rights and the rule of law is the indispensable prerequisite, and preferred route, to true security for all.

We are concerned that the USA Patriot Act, along with other, related, post-9/11 laws, executive orders, and policies, seriously undermines the human rights of Americans and non-citizens in this country, weakens the framework for promoting human rights internationally, and contributes to a climate conducive to human rights violations as well as *increased* terrorist incidents.

The USA Patriot Act, as it exists today, is out of step with the legal requirement and critical need to preserve core principles, constitutional freedoms, and adherence to human rights even in times of crisis.

The mere *existence* of the Patriot Act and related measures has a chilling effect on fundamental freedoms, including speech and association, religion and belief, privacy, due process, and equal protection. These are U.S. Constitutional rights; but they are also binding international legal treaty obligations.

Encouraging a presumption of guilt rather than innocence, the Patriot Act sweeps innocent people within its ambit. It has inspired a cascade of similar laws around the world that weaken the rule of law so essential to protecting human rights, *including the right to be defended against terrorist attacks*.

The Patriot Act has allowed abusive governments around the world to cite the United States as an example to justify their own violations. With active U.S. encouragement, almost every country in the world now has new anti-terror legislation, often modeled on the Patriot Act. Human rights violators globally -- including China, Zimbabwe, Colombia, Cuba, Syria, Egypt, and Uzbekistan -- now invoke U.S. actions to justify their own violations.

We urge Congress to correct the deficiencies of the Patriot Act by restoring checks and balances, fact-based individualized suspicion, and independent judicial review. Provisions of special concern to Amnesty International include the following:

- Section 802's broad definition of "domestic terrorism" that discourages the right to free expression and association. Already, the Patriot Act has emboldened some school administrators to discourage participation in free speech activities, and has discouraged some peaceful dissenters from protesting.
- Section 412's provision allowing potentially indefinite detention of non-citizens merely upon the U.S. Attorney General's view that there are "reasonable grounds" to believe the person threatens national security. This runs counter to U.S. and international rights to due process and to non-discrimination.
- The diminished or eliminated judicial review over law enforcement and intelligence activities in sections like 215 and 505, the so-called library and national security letter provisions. These allow the government to scrutinize peoples' reading materials and other personal information without probable cause, harming freedom of thought, belief, religion, expression, press, as well as privacy.
- Section 213's provision allowing "sneak and peek" search warrants to conduct physical searches of property and computer records without providing prior notification, as well as other provisions allowing wiretapping and monitoring of e-mail, and access to financial and educational records, among other areas. The right to be free from arbitrary interference with individual privacy is protected in both the US Constitution and the International Covenant on Civil and Political Rights (to which the United States is a party).

Amnesty International urges the U.S. Congress to enforce the sunset provisions currently in the USA Patriot Act, or modify them significantly to protect individual rights, and eliminate, modify, or place sunsets on other provisions that infringe on individual rights of all Americans and non-citizens.

We urge the U.S. Congress, in exercising its important oversight role, to more closely examine implementation of the *entire* USA Patriot Act, and not just the provisions that sunset. In

particular, Amnesty International is concerned by abuses against Muslim and Arab communities in the United States, and the generally hostile climate against immigrants. Amnesty International last year released a report on racial profiling in the United States and found that racial profiling practices by law enforcement have expanded in the government's "war on terror" and threaten to effect an estimated 87 million individuals in the United States. The report, "Threat and Humiliation: Racial Profiling, Domestic Security, and Human Rights in the United States" finds that law enforcement's use of race, religion, country-of-origin, or ethnic and religious appearances as a proxy for criminal suspicion undermines national security. Racial profiling blinds law enforcement to real criminal threats and creates holes in the national security net.

Congressional oversight should also evaluate Justice Department compliance with Section 1001 of the law, regarding complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice. Congress must ensure that department policies prevent racial profiling and abuse. This is a matter of upholding civil and human rights, applying the rule of law, and enhancing national security by protecting the human rights and freedoms of all.

Amnesty International also urges the U.S. Congress to exercise its important oversight role in examining the performance of the U.S. Government in implementing Section 804 of the Patriot Act. Section 804 amended the definition of "special maritime and territorial jurisdiction of the United States" to include "offenses committed by or against a national of the United States" on diplomatic, consular or military premises. The U.S. government has failed to date to support a truly independent and comprehensive investigation into abuses against detainees in U.S. custody.

That is why Amnesty International continues to call on the U.S. Congress to establish a truly *independent* commission, which has not happened yet, and to urge the Attorney General to appoint a Special Counsel to investigate reports of torture and ill-treatment of detainees held in U.S. custody in Guantanamo, Bagram, Abu Ghraib, and detention centers – including secret detention centers – around the world. For over three years, over 500 individuals have been held in indefinite detention in Guantanamo in conditions that spurred the International Committee of the Red Cross to break its tradition of silence and protest publicly U.S. mistreatment of detainees. General Richard Myers has indicated that at least 68,000 individuals have been detained around the world in the so-called "war on terror". We have all seen the photographs taken at Abu Ghraib, but we may not know that there have been over 100 deaths in custody, of which at least 28 have been ruled "homicides".

Amnesty International recently released its 2005 Annual Report which summarized human rights conditions in 149 countries and territories. Upon releasing the report, Amnesty International noted that the images of detainees tortured in Abu Ghraib shocked the world. As evidence of torture and ill-treatment of detainees in US custody in other countries continues to emerge, the United States is sending an unequivocal and severely damaging message to the world that human rights may be sacrificed in the name of security. The rest of the world is watching, and views all this as an egregious abuse of power and denial of fundamental rights.

Human rights are an integral part of true security. They are the product of historic wisdom regarding how to order safe, prosperous, peaceful societies. They help determine the truth, instead of relying on methods like censorship, stereotyping, rumor, innuendo, or torture as deeply flawed means of finding truth and making correct social decisions.

The secretive, overbroad, and preemptive measures of the Patriot Act, reversing the presumption of innocence and allowing surveillance, profiling, and detention of individuals without any proof of a crime, parallel the secretive, overbroad, and preemptive “enemy combatant” policy, which similarly allows sweeping up, “disappearing,” and arbitrarily detaining people on mere suspicion of terrorist activity, without any meaningful checks and balances, requirements of individual proof, or independent judicial review.

Incredibly, the U.S. actually continues to assert a right to snatch up anyone, anywhere in the world, and detain them indefinitely and perhaps for their lifetimes in what is, after all, an indefinite “war on terror.” By casting its actions in the context of a global war with no foreseeable end, the U.S. has shown disdain for fundamental principles of international law – including the absolute ban on torture, and the prohibition on “rendering” people to other countries where it is known to be likely that they would face torture.

The torture ban is a *jus cogens* preemptory norm of international law, constraining conduct even in the absence of a specific treaty binding the United States. But the U.S. is a party to several treaties (including the Convention Against Torture, the Geneva Conventions, and the International Covenant on Civil and Political Rights) banning torture and cruel, inhuman, and degrading treatment. Even as it has attempted to suspend human rights protections under the rubric of war, the U.S. government has also failed to adhere to the laws of war as reflected in core humanitarian law instruments like the Geneva Conventions. The result is that detainees in Guantanamo, Iraq, Afghanistan, in other foreign countries and in secret facilities all around the world are left in limbo, without the most fundamental human rights.

In adopting the incorrect mantra that customary international law doesn’t bind the President when he acts as Commander-in-Chief, and that these treaties can be ignored or reinterpreted not to apply when the U.S. unilaterally decides they need not apply, the administration undermines both the rule of law and the interests of its inhabitants.

Amnesty International, the International Committee of the Red Cross, and other organizations and individuals have pointed out that the violations are similar from detention facility to detention facility, and on the evidence and documentary record cannot be viewed as anything other than systematic: in fact the early 2002 memos reference the global detention system operated by the United States. Yet when confronted by this evidence, the administration’s response is to call the criticism “absurd,” and to completely deny the possibility that the U.S. government is implicated in torture or human rights violations.

If in fact the U.S. has nothing to hide, it should welcome the investigation by independent commission called for by Amnesty International. The administration’s continued denials and obfuscation merely confirm allegations of hypocrisy and double-standards, undermine U.S. credibility, undercut incentives of other nations and groups to cooperate in the fight against terror, and serve those who fuel the flames of anti-Americanism and move toward the most extreme end of the spectrum and to commit terrorist acts.

It is essential that Congress act to reverse this message, ensure an independent investigation into abuses, and help restore the rule of law. Policies that facilitate torture, at Guantanamo and elsewhere, make us less safe.

True security **cannot** be achieved without respect for human rights. We are not safer when we abuse others. But we are safer when we promote conditions that allow every person to exercise their human rights under the rule of law.

Thank you.