

FROM: Timothy Edgar <tedgar@dcaclu.org>

TO: [REDACTED]

DATE: Fri, 17 Oct 2003 17:05:50 -0400

RE: Patriot Act -- overreaching in California

[REDACTED] -- I understand Senator Feinstein is interested in any information we may have about Patriot Act overreaching in California.

As you know, of course, most of the authorities granted by the Patriot Act (e.g., changes to FISA, etc.) have been implemented in secret. Some of the authorities (e.g., immigration detention) that are not secret have not been used. There clearly have been a number of serious civil liberty abuses, including in California, but does not appear that these abuses necessarily involved authorities granted under the Patriot Act.

The short answer to your question, then, is that we do not know whether the Patriot Act has been abused. However, I would want to point out two things -- (1) since the hearing is not limited to the Patriot Act, there is no reason to limit our concern about government overreaching just to the Patriot Act, and (2) in Senator Larry Craig's (R-ID) statement at the press conference this week introducing a bill to cut back on parts of the Patriot Act, Craig indicated he believed the potential for abuse was an entirely valid reason for adjusting Patriot Act powers.

Two documents should be helpful to you in briefing Senator Feinstein:

1. The ACLU of Northern California did a report profiling abuses in California primarily of South Asian and Arab Californians. Some of these involve overreaching by federal authorities investigating terrorism, although I do not believe they involve the USA PATRIOT Act. For human stories, these would be the place to start. We can contact these individuals through our affiliate. Here is the link:  
<http://acluweb.best.vwh.net/911/backlash.pdf>
2. I wrote an interested persons memo on the DOJ's answers (and non-answers) to the questions posed by the House Judiciary Committee (attached). Unsurprisingly, the answers did not include a catalog of abuses, but they certainly revealed the sweeping nature of how DOJ is using its new authority. This document is not California-specific.