AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3361
OFFERED BY MR. SENSENBERNNER OF
WISCONSIN

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "USA FREEDOM Act".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to the Foreign Intelligence Surveillance Act of 1978.

TITLE I—FISA BUSINESS RECORDS REFORMS

Sec. 101. Additional requirements for call detail records.
Sec. 102. Emergency authority.
Sec. 103. Prohibition on bulk collection of tangible things.
Sec. 104. Judicial review of minimization procedures for the production of tangible things.
Sec. 105. Liability protection.
Sec. 106. Compensation for assistance.
Sec. 107. Definitions.
Sec. 108. Inspector general reports on business records orders.
Sec. 109. Effective date.

TITLE II—FISA PEN REGISTER AND TRAP AND TRACE DEVICE REFORM

Sec. 201. Prohibition on bulk collection.

TITLE III—FISA ACQUISITIONS TARGETING PERSONS OUTSIDE THE UNITED STATES REFORMS

Sec. 301. Prohibition on reverse targeting.
Sec. 302. Minimization procedures.
Sec. 303. Limits on use of unlawfully obtained information.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT REFORMS

Sec. 401. Appointment of amicus curiae.
Sec. 402. Declassification of decisions, orders, and opinions.

TITLE V—NATIONAL SECURITY LETTER REFORM

Sec. 501. Prohibition on bulk collection.

TITLE VI—FISA TRANSPARENCY AND REPORTING REQUIREMENTS

Sec. 601. Additional reporting on orders requiring production of business records.
Sec. 602. Business records compliance reports to Congress.
Sec. 603. Annual report by the Director of the Administrative Office of the United States Courts on orders entered.
Sec. 604. Reporting requirements for decisions of the Foreign Intelligence Surveillance Court.
Sec. 605. Submission of reports under FISA.

TITLE VII—SUNSETS

Sec. 701. Sunsets.

SEC. 2. AMENDMENTS TO THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

TITLE I—FISA BUSINESS RECORDS REFORMS

SEC. 101. ADDITIONAL REQUIREMENTS FOR CALL DETAIL RECORDS.

(a) APPLICATION.—Section 501(b)(2) (50 U.S.C. 1861(b)(2)) is amended—
(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking “a statement” and inserting “in the case of an application other than an application described in subparagraph (C), a statement”;

and

(B) in clause (iii), by striking “; and” and inserting a semicolon;

(2) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (D), respectively; and

(3) by inserting after subparagraph (B) (as so redesignated) the following new subparagraph:

“(C) in the case of an application for the production of call detail records created on or after the date of the application, a statement of facts showing that—

“(i) there are reasonable grounds to believe that the call detail records sought to be produced based on the specific selection term required under subparagraph (A) are relevant to an authorized investigation (other than a threat assessment) conducted in accordance with subsection (a)(2) to protect against international terrorism; and
“(ii) there are facts giving rise to a reasonable, articulable suspicion that such specific selection term is associated with a foreign power or an agent of a foreign power; and”.

(b) ORDER.—Section 501(c)(2) (50 U.S.C. 1861(c)(2)) is amended—

(1) in subparagraph (D), by striking “; and” and inserting a semicolon;

(2) in subparagraph (E), by striking the period and inserting “; and”; and

(3) by adding at the end the following new sub-
paragraph:

“(F) in the case of an application described in subsection (b)(2)(C), shall—

“(i) authorize the production of call detail records for a period not to exceed 180 days;

“(ii) provide that an order for such production may be extended upon application under subsection (b) and the judicial finding under paragraph (1);

“(iii) provide that the Government may require the production of call detail records—
“(I) using the specific selection term that satisfies the standard required under subsection (b)(2)(C)(ii) as the basis for production; and

“(II) using the results of the production under subclause (I) as the basis for production;

“(iv) direct each person the Government directs to produce call detail records under the order to furnish the Government forthwith all information, facilities, or technical assistance necessary to accomplish the production in such a manner as will protect the secrecy of the production and produce a minimum of interference with the services that such person is providing to each subject of the production; and

“(v) direct the Government to destroy all call detail records produced under the order not later than 5 years after the date of the production of such records, except for records that are relevant to an authorized investigation (other than a threat assessment) conducted in accordance with
subsection (a)(2) to protect against international terrorism.”.

SEC. 102. EMERGENCY AUTHORITY.

(a) Authority.—Section 501 (50 U.S.C. 1861) is amended by adding at the end the following new subsection:

“(i) Emergency Authority for Production of Tangible Things.—

“(1) Notwithstanding any other provision of this section, the Attorney General may require the emergency production of tangible things if the Attorney General—

“(A) reasonably determines that an emergency situation requires the production of tangible things before an order authorizing such production can with due diligence be obtained;

“(B) reasonably determines that the factual basis for the issuance of an order under this section to approve such production of tangible things exists;

“(C) informs, either personally or through a designee, a judge having jurisdiction under this section at the time the Attorney General requires the emergency production of tangible things.
things that the decision has been made to em-
ploy the authority under this subsection; and

“(D) makes an application in accordance
with this section to a judge having jurisdiction
under this section as soon as practicable, but
not later than 7 days after the Attorney Gen-
eral requires the emergency production of tan-
gible things under this subsection.

“(2) If the Attorney General authorizes the
emergency production of tangible things under para-
graph (1), the Attorney General shall require that
the minimization procedures required by this section
for the issuance of a judicial order be followed.

“(3) In the absence of a judicial order approv-
ing the production of tangible things under this sub-
section, the production shall terminate when the in-
formation sought is obtained, when the application
for the order is denied, or after the expiration of 7
days from the time the Attorney General begins re-
quiring the emergency production of such tangible
things, whichever is earliest.

“(4) A denial of the application made under
this subsection may be reviewed as provided in this
section.
“(5) If such application for approval is denied, or in any other case where the production of tangible things is terminated and no order is issued approving the production, no information obtained or evidence derived from such production shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such production shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

“(6) The Attorney General shall assess compliance with the requirements of paragraph (5).”.

(b) CONFORMING AMENDMENT.—Section 501(d) (50 U.S.C. 1861(d)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “pursuant to an order” and in-
serting “pursuant to an order issued or an emergency production required”; 

(B) in subparagraph (A), by striking “such order” and inserting “such order or such emergency production”; and

(C) in subparagraph (B), by striking “the order” and inserting “the order or the emergency production”; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking “an order” and inserting “an order or emergency production”; and

(B) in subparagraph (B), by striking “an order” and inserting “an order or emergency production”.

SEC. 103. PROHIBITION ON BULK COLLECTION OF TANGIBLE THINGS.

(a) Application.—Section 501(b)(2) (50 U.S.C. 1861(b)(2)), as amended by section 101(a), is further amended by inserting before subparagraph (B), as redesignated by such section 101(a), the following new subparagraph:

“(A) a specific selection term to be used as the basis for the production of the tangible things sought;”.

May 7, 2014 (10:31 a.m.)
(b) ORDER.—Section 501(c) (50 U.S.C. 1861(c)) is amended—

(1) in paragraph (2)(A), by striking the semi-
colon and inserting “, including each specific selec-
tion term to be used as the basis for the produc-
tion;”; and

(2) by adding at the end the following new
paragraph:

“(3) No order issued under this subsection may au-
thorize the collection of tangible things without the use
of a specific selection term that meets the requirements
of subsection (b)(2).”.

SEC. 104. JUDICIAL REVIEW OF MINIMIZATION PROCE-
DURES FOR THE PRODUCTION OF TANGIBLE
THINGS.

Section 501(c)(1) (50 U.S.C. 1861(c)(1)) is amended
by inserting after “subsections (a) and (b)” the following:
“and that the minimization procedures submitted in ac-
cordance with subsection (b)(2)(D) meet the definition of
minimization procedures under subsection (g)”.

SEC. 105. LIABILITY PROTECTION.

Section 501(e) (50 U.S.C. 1861(e)) is amended to
read as follows:

“(e) No cause of action shall lie in any court against
a person who produces tangible things or provides infor-
motion, facilities, or technical assistance pursuant to an
order issued or an emergency production required under
this section. Such production shall not be deemed to con-
stitute a waiver of any privilege in any other proceeding
or context.”.

SEC. 106. COMPENSATION FOR ASSISTANCE.

Section 501 (50 U.S.C. 1861), as amended by section
102 of this Act, is further amended by adding at the end
the following new subsection:

“(j) COMPENSATION.—The Government shall com-
pensate, at the prevailing rate, a person for producing tan-
gible things or providing information, facilities, or assist-
ance in accordance with an order issued or an emergency
production required under this section.”.

SEC. 107. DEFINITIONS.

Section 501 (50 U.S.C. 1861), as amended by section
106 of this Act, is further amended by adding at the end
the following new subsection:

“(k) DEFINITIONS.—In this section:

“(1) CALL DETAIL RECORD DEFINED.—The
term ‘call detail record’—

“(A) means session identifying information
(including originating or terminating telephone
number, International Mobile Subscriber Iden-
tity number, or International Mobile Mobile Station
Equipment Identity number), a telephone calling card number, or the time or duration of a call; and

“(B) does not include—

“(i) the contents of any communication (as defined in section 2510(8) of title 18, United States Code);

“(ii) the name, address, or financial information of a subscriber or customer; or

“(iii) cell site location information.

“(2) Specific selection term.—The term ‘specific selection term’ means a term used to uniquely describe a person, entity, or account.”.

SEC. 108. INSPECTOR GENERAL REPORTS ON BUSINESS RECORDS ORDERS.

Section 106A of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 120 Stat. 200) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting “and calendar years 2012 through 2014” after “2006”; 

(B) by striking paragraphs (2) and (3); 

(C) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively; and
(D) in paragraph (3) (as so redesignated)—

(i) by striking subparagraph (C) and inserting the following new subparagraph:

“(C) with respect to calendar years 2012 through 2014, an examination of the minimization procedures used in relation to orders under section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) and whether the minimization procedures adequately protect the constitutional rights of United States persons;”;

and

(ii) in subparagraph (D), by striking “(as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)))”;

(2) in subsection (c), by adding at the end the following new paragraph:

“(3) CALENDAR YEARS 2012 THROUGH 2014.—Not later than December 31, 2015, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of
Representatives a report containing the results of
the audit conducted under subsection (a) for cal-
endar years 2012 through 2014.”;

(3) by redesignating subsections (d) and (e) as
subsections (e) and (f), respectively;

(4) by inserting after subsection (c) the fol-
lowing new subsection:

“(d) INTELLIGENCE ASSESSMENT.—

“(1) IN GENERAL.—For the period beginning
on January 1, 2012, and ending on December 31,
2014, the Inspector General of the Intelligence Com-
munity shall assess—

“(A) the importance of the information ac-
quired under title V of the Foreign Intelligence
seq.) to the activities of the intelligence commu-
nity;

“(B) the manner in which that information
was collected, retained, analyzed, and dissemi-
nated by the intelligence community;

“(C) the minimization procedures used by
elements of the intelligence community under
such title and whether the minimization proce-
dures adequately protect the constitutional
rights of United States persons; and
“(D) any minimization procedures proposed by an element of the intelligence community under such title that were modified or denied by the court established under section 103(a) of such Act (50 U.S.C. 1803(a)).

“(2) Submission date for assessment.—
Not later than December 31, 2015, the Inspector General of the Intelligence Community shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the results of the assessment for calendar years 2012 through 2014.”;

(5) in subsection (e), as redesignated by paragraph (3)—

(A) in paragraph (1)—

(i) by striking “a report under subsection (c)(1) or (c)(2)” and inserting “any report under subsection (c) or (d)”;

(ii) by striking “Inspector General of the Department of Justice” and inserting “Inspector General of the Department of Justice, the Inspector General of the Intelligence Community, and any Inspector
General of an element of the intelligence community that prepares a report to assist the Inspector General of the Department of Justice or the Inspector General of the Intelligence Community in complying with the requirements of this section”; and

(B) in paragraph (2), by striking “the reports submitted under subsections (c)(1) and (c)(2)” and inserting “any report submitted under subsection (c) or (d)”;

(6) in subsection (f), as redesignated by paragraph (3)—

(A) by striking “The reports submitted under subsections (c)(1) and (c)(2)” and inserting “Each report submitted under subsection (c)”; and

(B) by striking “subsection (d)(2)” and inserting “subsection (e)(2)”;

(7) by adding at the end the following new subsection:

“(g) DEFINITIONS.—In this section:

“(1) INTELLIGENCE COMMUNITY.—The term ‘intelligence community’ has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).
“(2) UNITED STATES PERSON.—The term ‘United States person’ has the meaning given that term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).”.

SEC. 109. EFFECTIVE DATE.

The amendments made by sections 101 through 103 shall take effect on the date that is 180 days after the date of the enactment of this Act.

TITLE II—FISA PEN REGISTER AND TRAP AND TRACE DEVICE REFORM

SEC. 201. PROHIBITION ON BULK COLLECTION.

(a) Prohibition.—Section 402(c) (50 U.S.C. 1842(c)) is amended—

(1) in paragraph (1), by striking ‘‘; and’’ and inserting a semicolon;

(2) in paragraph (2), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

“(3) a specific selection term to be used as the basis for selecting the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied; and’’.
(b) DEFINITION.—Section 401 (50 U.S.C. 1841) is amended by adding at the end the following new paragraph:

“(4) The term ‘specific selection term’ has the meaning given the term in section 501.”.

SEC. 202. MINIMIZATION PROCEDURES.

(a) DEFINITION.—Section 401 (50 U.S.C. 1841), as amended by section 201 of this Act, is further amended by adding at the end the following new paragraph:

“(5) The term ‘minimization procedures’ means—

“(A) specific procedures that are reasonably designed in light of the purpose and technique of an order for the installation and use of a pen register or trap and trace device to minimize the retention and prohibit the dissemination of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

“(B) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in section 101(e)(1), shall not be disseminated in a man-
ner that identifies any United States person, without such person’s consent, unless such per-
son’s identity is necessary to understand foreign intelligence information or assess its impor-
tance; and

“(C) notwithstanding subparagraphs (A) and (B), procedures that allow for the retention and dissemination of information that is evi-
dence of a crime which has been, is being, or is about to be committed and that is to be re-
tained or disseminated for law enforcement pur-
poses.”.

(b) APPLICATION.—Section 402(c) (50 U.S.C. 1842(c)), as amended by section 201 of this Act, is further amended by adding at the end the following new para-
graph:

“(4) a statement of proposed minimization pro-
cedures.”.

(c) ORDER.—Section 402(d) (50 U.S.C. 1842(d)) is amended—

(1) in paragraph (1), by inserting “and that the proposed minimization procedures meet the defini-
tion of minimization procedures under this title” before the period at the end; and

(2) in paragraph (2)(B)—
(A) in clause (ii)(II), by striking "; and"
and inserting a semicolon; and

(B) by adding at the end the following new
clause:

“(iv) the minimization procedures be fol-
lowed; and”.

(d) COMPLIANCE ASSESSMENT.—Section 402 (50
U.S.C. 1842) is amended by adding at the end the fol-
lowing new subsection:

“(h) At or before the end of the period of time for
which the installation and use of a pen register or trap
and trace device is approved under an order or an exten-
sion under this section, the judge may assess compliance
with the minimization procedures by reviewing the cir-
cumstances under which information concerning United
States persons was retained or disseminated.”.

TITLE III—FISA ACQUISITIONS
TARGETING PERSONS OUT-
SIDE THE UNITED STATES RE-
FORMS

SEC. 301. PROHIBITION ON REVERSE TARGETING.

Section 702(b)(2) (50 U.S.C. 1881a(b)(2)) is amend-
ed by striking “the purpose” and inserting “a purpose”.

(A) in clause (ii)(II), by striking “; and”
SEC. 302. MINIMIZATION PROCEDURES.

Section 702(e)(1) (50 U.S.C. 1881a(e)(1)) is amended—

(1) by striking “that meet” and inserting the following: “that—

“(A) meet’’;

(2) in subparagraph (A) (as designated by paragraph (1) of this section), by striking the period and inserting “; and”; and

(3) by adding at the end the following new sub-

paragraph:

“(B) consistent with such definition, mini-
mize the acquisition, and prohibit the retention
and dissemination, of any communication as to
which the sender and all intended recipients are
determined to be located in the United States
and prohibit the use of any discrete, non-target
communication that is determined to be to or
from a United States person or a person who
appears to be located in the United States, ex-
cept to protect against an immediate threat to
human life.”.

SEC. 303. LIMITS ON USE OF UNLAWFULLY OBTAINED IN-
FORMATION.

Section 702(i)(3) (50 U.S.C. 1881a(i)(3)) is amended
by adding at the end the following new subparagraph:
“(D) LIMITATION ON USE OF INFORMATION.—

“(i) IN GENERAL.—Except as provided in clause (ii), no information obtained or evidence derived from an acquisition pursuant to a certification or targeting or minimization procedures subject to an order under subparagraph (B) concerning any United States person shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from the acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of the United States person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.
“(ii) EXCEPTION.—If the Government corrects any deficiency identified by the order of the Court under subparagraph (B), the Court may permit the use or disclosure of information acquired before the date of the correction under such minimization procedures as the Court shall establish for purposes of this clause.”.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT REFORMS

SEC. 401. APPOINTMENT OF AMICUS CURIAE.

Section 103 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

“(i) AMICUS CURIAE.—

“(1) AUTHORIZATION.—A court established under subsection (a) or (b), consistent with the requirement of subsection (c) and any other statutory requirement that the court act expeditiously or within a stated time—

“(A) shall appoint an individual to serve as amicus curiae to assist such court in the consideration of any application for an order or review that, in the opinion of the court, presents a novel or significant interpretation of the law,
unless the court issues a written finding that
such appointment is not appropriate; and

“(B) may appoint an individual to serve as
amicus curiae in any other instance as such
court deems appropriate.

“(2) DESIGNATION.—The presiding judges of
the courts established under subsections (a) and (b)
shall jointly designate not less than 5 individuals to
be eligible to serve as amicus curiae. Such individ-
uals shall be persons who possess expertise in pri-
vacy and civil liberties, intelligence collection, tele-
communications, or any other area of law that may
lend legal or technical expertise to the courts and
who have been determined by appropriate executive
branch officials to be eligible for access to classified
information.

“(3) DUTIES.—An individual appointed to serve
as amicus curiae under paragraph (1) shall carry
out the duties assigned by the appointing court.
Such court may authorize the individual appointed
to serve as amicus curiae to review any application,
certification, petition, motion, or other submission
that the court determines is relevant to the duties
assigned by the court.
“(4) NOTIFICATION.—The presiding judges of the courts established under subsections (a) and (b) shall notify the Attorney General of each exercise of the authority to appoint an individual to serve as amicus curiae under paragraph (1).

“(5) ASSISTANCE.—A court established under subsection (a) or (b) may request and receive (including on a non-reimbursable basis) the assistance of the executive branch in the implementation of this subsection.

“(6) ADMINISTRATION.—A court established under subsection (a) or (b) may provide for the designation, appointment, removal, training, or other support for an individual appointed to serve as amicus curiae under paragraph (1) in a manner that is not inconsistent with this subsection.”.

SEC. 402. DECLASSIFICATION OF DECISIONS, ORDERS, AND OPINIONS.

(a) DECLASSIFICATION.—Title VI (50 U.S.C. 1871 et seq.) is amended—

(1) in the heading, by striking “REPORTING REQUIREMENT” and inserting “OVERSIGHT”; and

(2) by adding at the end the following new section:
"SEC. 602. DECLASSIFICATION OF SIGNIFICANT DECISIONS, ORDERS, AND OPINIONS.

(a) DECLASSIFICATION REQUIRED.—Subject to subsection (b), the Attorney General shall conduct a declassification review of each decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review (as defined in section 601(e)) that includes significant construction or interpretation of any provision of this Act and, consistent with that review, make publicly available to the greatest extent practicable each such decision, order, or opinion.

(b) REDACTED FORM.—The Attorney General may satisfy the requirement under subsection (a) to make a decision, order, or opinion described in such subsection publicly available to the greatest extent practicable by making such decision, order, or opinion publicly available in redacted form.

(c) NATIONAL SECURITY WAIVER.—The Attorney General may waive the requirement to declassify and make publicly available a particular decision, order, or opinion under subsection (a) if the Attorney General—

(1) determines that a waiver of such requirement is necessary to protect the national security of the United States or properly classified intelligence sources or methods; and
“(2) makes publicly available an unclassified summary of such decision, order, or opinion.”.

(b) Table of Contents Amendments.—The table of contents in the first section is amended—

(1) by striking the item relating to title VI and inserting the following new item:

“TITLE VI—OVERSIGHT”; AND

(2) by inserting after the item relating to section 601 the following new item:

“Sec. 602. Declassification of significant decisions, orders, and opinions.”.

TITLE V—NATIONAL SECURITY

LETTER REFORM

SEC. 501. PROHIBITION ON BULK COLLECTION.

(a) Counterintelligence Access to Telephone Toll and Transactional Records.—Section 2709(b) of title 18, United States Code, is amended in the matter preceding paragraph (1) by striking “may” and inserting “may, using a specific selection term as the basis for a request”.

(b) Access to Financial Records for Certain Intelligence and Protective Purposes.—Section 1114(a)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(2)) by striking the period and inserting “and a specific selection term to be used as the basis for the production and disclosure of financial records.”.
(c) DISCLOSURES TO FBI OF CERTAIN CONSUMER RECORDS FOR COUNTERINTELLIGENCE PURPOSES.—Section 626(a) of the Fair Credit Reporting Act (15 U.S.C. 1681u(a)) is amended by striking “that information,” and inserting “that information that includes a specific selection term to be used as the basis for the production of that information.”.

(d) DISCLOSURES TO GOVERNMENTAL AGENCIES FOR COUNTERTERRORISM PURPOSES OF CONSUMER REPORTS.—Section 627(a) of the Fair Credit Reporting Act (15 U.S.C. 1681v(a)) is amended by striking “analysis.” and inserting “analysis and a specific selection term to be used as the basis for the production of such information.”.

(e) DEFINITIONS.—

(1) COUNTERINTELLIGENCE ACCESS TO TELEPHONE TOLL AND TRANSACTIONAL RECORDS.—Section 2709 of title 18, United States Code, is amended by adding at the end the following new subsection:

“(g) SPECIFIC SELECTION TERM DEFINED.—In this section, the term ‘specific selection term’ has the meaning given the term in section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861).”.
(2) Access to financial records for certain intelligence and protective purposes.—

Section 1114 of the Right to Financial Privacy Act (12 U.S.C. 3414) is amended by adding at the end the following new subsection:

“(e) In this section, the term ‘specific selection term’ has the meaning given the term in section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861).”.

(3) Disclosures to FBI of certain consumer records for counterintelligence purposes.—Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) is amended by adding at the end the following new subsection:

“(n) Specific Selection Term Defined.—In this section, the term ‘specific selection term’ has the meaning given the term in section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861).”.

(4) Disclosures to governmental agencies for counterterrorism purposes of consumer reports.—Section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is amended by adding at the end the following new subsection:

“(g) Specific Selection Term Defined.—In this section, the term ‘specific selection term’ has the meaning
given the term in section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861).”.

TITLE VI—FISA TRANSPARENCY AND REPORTING REQUIREMENTS

SEC. 601. ADDITIONAL REPORTING ON ORDERS REQUIRING PRODUCTION OF BUSINESS RECORDS.

Section 502(b) (50 U.S.C. 1862(b)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (5), (6), and (7), respectively; and

(2) by inserting before paragraph (5) (as so redesignated) the following new paragraphs:

“(1) the total number of applications described in section 501(b)(2)(B) made for orders approving requests for the production of tangible things;

“(2) the total number of such orders either granted, modified, or denied;

“(3) the total number of applications described in section 501(b)(2)(C) made for orders approving requests for the production of call detail records;

“(4) the total number of such orders either granted, modified, or denied;”.

May 7, 2014 (10:31 a.m.)
SEC. 602. BUSINESS RECORDS COMPLIANCE REPORTS TO CONGRESS.

(a) BUSINESS RECORDS PRODUCTIONS.—Section 502(b) (50 U.S.C. 1862(b)), as amended by section 601 of this Act, is further amended—

(1) by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively; and

(2) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

“(1) any compliance reviews conducted by the Federal Government of the production of tangible things under section 501;”.

(b) FISA AUTHORITIES IN GENERAL.—Section 601(a) (50 U.S.C. 1871(a)) is amended—

(1) in paragraph (4), by striking “; and” and inserting a semicolon;

(2) in paragraph (5), by striking the period and inserting “; and”;

(3) by adding at the end the following new paragraph:

“(6) any compliance reviews conducted by the Federal Government of electronic surveillance, physical searches, the installation of pen register or trap and trace devices, access to records, or acquisitions conducted under this Act.”.
SEC. 603. ANNUAL REPORT BY THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS ON ORDERS ENTERED.

(a) In General.—Title VI (50 U.S.C. 1871 et seq.), as amended by section 402 of this Act, is further amended by adding at the end the following new section:

“SEC. 603. ANNUAL REPORT ON ORDERS ENTERED.

“The Director of the Administrative Office of the United States Courts shall annually submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and make publicly available on an Internet website—

“(1) the number of orders entered under each of sections 105, 304, 402, 501, 702, 703, and 704;

“(2) the number of orders modified under each of those sections;

“(3) the number of orders denied under each of those sections; and

“(4) the number of appointments of an individual to serve as amicus curiae under section 103, including the name of each individual appointed to serve as amicus curiae.”.

(b) Table of Contents Amendment.—The table of contents in the first section, as amended by section 402
of this Act, is further amended by inserting after the item
relating to section 602, as added by such section 402, the
following new item:

“Sec. 603. Annual report on orders entered.”

SEC. 604. REPORTING REQUIREMENTS FOR DECISIONS OF
THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.

Section 601(c)(1) (50 U.S.C. 1871(c)) is amended to
read as follows:

“(1) not later than 45 days after the date on
which the Foreign Intelligence Surveillance Court or
the Foreign Intelligence Surveillance Court of Re-
view issues a decision, order, or opinion that in-
cludes a significant construction or interpretation of
any provision of this Act or a denial of a request for
an order or a modification of a request for an order,
or results in a change of application of any provision
of this Act or a new application of any provision of
this Act—

“(A) a copy of such decision, order, or
opinion and any pleadings, applications, or
memoranda of law associated with such deci-
sion, order, or opinion; and

“(B) with respect to such decision, order,
or opinion, a brief statement of the relevant
background factual information, questions of
law, legal analysis, and decision rendered; and”.

SEC. 605. SUBMISSION OF REPORTS UNDER FISA.

(a) ELECTRONIC SURVEILLANCE.—Section 108(a)(1)
(50 U.S.C. 1808(a)(1)) is amended by striking “the
House Permanent Select Committee on Intelligence and
the Senate Select Committee on Intelligence, and the
Committee on the Judiciary of the Senate,” and inserting
“the Permanent Select Committee on Intelligence and the
Committee on the Judiciary of the House of Representa-
tives and the Select Committee on Intelligence and the
Committee on the Judiciary of the Senate”.

(b) PHYSICAL SEARCHES.—Section 306 (50 U.S.C.
1826) is amended—

(1) in the first sentence, by striking “Perma-
nent Select Committee on Intelligence of the House
of Representatives and the Select Committee on In-
telligence of the Senate, and the Committee on the
Judiciary of the Senate,” and inserting “Permanent
Select Committee on Intelligence and the Committee
on the Judiciary of the House of Representatives
and the Select Committee on Intelligence and the
Committee on the Judiciary of the Senate”; and
(2) in the second sentence, by striking “and the Committee on the Judiciary of the House of Representatives”.

(c) Pen Register and Trap and Trace Devices.—Section 406(b) (50 U.S.C. 1846(b)) is amended—

(1) in paragraph (2), by striking “; and” and inserting a semicolon;

(2) in paragraph (3), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(4) each department or agency on behalf of which the Government has made application for orders approving the use of pen registers or trap and trace devices under this title; and

“(5) for each department or agency described in paragraph (4), a breakdown of the numbers required by paragraphs (1), (2), and (3).”.

(d) Access to Certain Business Records and Other Tangible Things.—Section 502(a) (50 U.S.C. 1862(a)) is amended by striking “Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate” and inserting “Permanent
Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Committees on the Judiciary of the House of Representatives and the Senate’.

TITLE VII—SUNSETS

SEC. 701. SUNSETS.

(a) USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005.—Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (50 U.S.C. 1805 note) is amended by striking “June 1, 2015” and inserting “December 31, 2017”.

(b) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—Section 6001(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 1801 note) is amended by striking “June 1, 2015” and inserting “December 31, 2017”.
AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3361

OFFERED BY MS. NEGRENE, MR. GOODLATTE &
MR. SENSENBERGER

At the appropriate place in title VI, insert the following new section:

1 SEC. __. PUBLIC REPORTING BY PERSONS SUBJECT TO
2 FISA ORDERS.
3
4 (a) IN GENERAL.—Title VI (50 U.S.C. 1871 et seq.),
5 as amended by section 603 of this Act, is further amended
6 by adding at the end the following new section:
7
8 "SEC. 604. PUBLIC REPORTING BY PERSONS SUBJECT TO
9 ORDERS.
10 "(a) REPORTING.—A person may semiannually pub-
11 licly report the following information with respect to the
12 preceding half year using one of the following structures:
13 "(1) A report that aggregates the number of or-
14 ders or directives the person was required to comply
15 with in the following separate categories:
16 "(A) Criminal process, subject to no re-
17 strictions.
18 "(B) The number of national security let-
19 ters received, reported in bands of 1000 start-
20 ing with 0-999.
(C) The number of customer accounts affected by national security letters, reported in bands of 1000 starting with 0-999.

(D) The number of orders under this Act for content, reported in bands of 1000 starting with 0-999.

(E) With respect to content orders under this Act, in bands of 1000 starting with 0-999—

(i) the number of accounts affected under orders under title I; and

(ii) the number of customer selectors targeted under orders under title VII.

(F) The number of orders under this Act for non-content, reported in bands of 1000 starting with 0-999.

(G) With respect to non-content orders under this Act, in bands of 1000 starting with 0-999—

(i) the number of accounts affected under orders under—

(I) title I;

(II) title IV;
“(III) title V with respect to applications described in section 501(b)(2)(B); and

“(IV) title V with respect to applications described in section 501(b)(2)(C); and

“(ii) the number of customer selectors targeted under orders under title VII.

“(2) A report that aggregates the number of orders or directives the person was required to comply with in the following separate categories:

“(A) Criminal process, subject to no restrictions.

“(B) The total number of all national security process received, including all national security letters and orders under this Act, reported as a single number in a band of 0-249 and thereafter in bands of 250.

“(C) The total number of customer selectors targeted under all national security process received, including all national security letters and orders under this Act, reported as a single number in a band of 0-249 and thereafter in bands of 250.
“(3) A report that aggregates the number of orders or directives the person was required to comply with in the following separate categories:

“(A) Criminal process, subject to no restrictions.

“(B) The number of national security letters received, reported in bands of 500 starting with 0-499.

“(C) The number of customer accounts affected by national security letters, reported in bands of 500 starting with 0-499.

“(D) The number of orders under this Act for content, reported in bands of 500 starting with 0-499.

“(E) The number of customer selectors targeted under such orders, in bands of 500 starting with 0-499.

“(F) The number of orders under this Act for non-content, reported in bands of 500 starting with 0-499.

“(G) The number of customer selectors targeted under such orders, reported in bands of 500 starting with 0-499.
“(b) NATIONAL SECURITY LETTER DEFINED.—The term ‘national security letter’ means any of the following provisions:

“(1) Section 2709 of title 18, United States Code.


“(3) Subsections (a) or (b) of section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u(a), 1681u(b)).

“(4) Section 627(a) of the Fair Credit Reporting Act (15 U.S.C. 1681v(a)).”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section, as amended by section 603 of this Act, is further amended by inserting after the item relating to section 603, as added by section 603 of this Act, the following new item:

“604. Public reporting by persons subject to orders.”.
AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3361
OFFERED BY MR. GOHMERT

Page 17, after section 109 insert the following:

"SEC. 110 CLANDESTINE INTELLIGENCE ACTIVITIES

(a) Section 501(a)(1) (50 USC 1861(a)(1)) is amended—

by striking ‘clandestine intelligence activities’ and inserting ‘clandestine
intelligence activities by foreign individuals, foreign entities or foreign
governments.’"

Page 20, after section 202 insert the following:

"SEC. 203 CLANDESTINE INTELLIGENCE ACTIVITIES

(a) Section 402(c) (50 USC 1842(a)(1) is amended—

by striking ‘clandestine intelligence activities’ and inserting ‘clandestine
intelligence activities by foreign individuals, foreign entities or foreign
governments.’"

Page 30, after section 501 insert the following:

"SEC. 502 CLANDESTINE INTELLIGENCE ACTIVITIES

(a) Section 2709(a)(1) of title 18, United States Code, is amended—

by striking ‘clandestine intelligence activities’ and inserting ‘clandestine
intelligence activities by foreign individuals, foreign entities or foreign
governments.’"
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
113th CONGRESS
FINAL PASSAGE OF H.R. 3361

☑ Passed
☐ Failed

By a Vote of
32-0

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