

#USA Freedom Act

HOUSE JUDICIARY COMMITTEE | Chairman Bob Goodlatte

USA Freedom Act - What's Different in the New Bill? More protections for civil liberties while protecting national security

113th Congress - H.R. 3361 <i>Good</i>	114th Congress - H.R. ____ <i>Even Better</i>
<p align="center">Protects Americans' Privacy</p> <ul style="list-style-type: none"> • Ends bulk collection. 	<p align="center">Strengthens Privacy Protections</p> <ul style="list-style-type: none"> • Ends bulk collection <i>and</i> strengthens the definition of "Specific Selection Term" to prohibit the government from seeking large-scale, indiscriminate collection, such as all records from an entire state, city, or even zip code. • Requires notice and opportunity to suppress information acquired under Section 215.
<p align="center">Increases Transparency</p> <ul style="list-style-type: none"> • Creates an amicus curiae in the FISA Court. This amicus would be chosen from a panel of legal experts to help ensure the court adequately considers privacy concerns and the constitutional rights of Americans when reviewing the government's request for records. • Allows American tech companies to disclose information about FISA orders. • Requires additional government reporting to Congress. 	<p align="center">Even More Transparency</p> <ul style="list-style-type: none"> • Provides for amicus curiae when presented with a novel or significant interpretation of law, and allows for amici guidance on privacy and civil liberties, communications technology, and other technical or legal matters. Requires the FISC to report to Congress when it chooses not to appoint an amicus. • Allows American tech companies to disclose even more information to the public about FISA orders, including an additional band of reporting. Also gives tech companies a range of options for describing how they respond to national security orders, all consistent with national security needs. • Expands government reporting of national security process to provide greater detail about how FISA authorities are used, including more information about how Americans are impacted under these authorities.
<p align="center">National Security Letter Reform</p> <ul style="list-style-type: none"> • Required a "Specific Selection Term" be used as the basis for seeking records under the various National Security Letter statutes. 	<p align="center">Additional NSL Reform</p> <ul style="list-style-type: none"> • Strengthens the "Specific Selection Term" definition for each NSL statute. • Addresses constitutional concerns and codifies procedures for challenging NSL nondisclosure. Requires the government to periodically review standing NSL nondisclosure orders to determine if they are still necessary.
<p align="center">Protects National Security</p> <ul style="list-style-type: none"> • The bill provides for the emergency use of Section 215. 	<p align="center">Even Stronger National Security Provisions</p> <ul style="list-style-type: none"> • The bill allows for continued monitoring of a foreign national for up to 72 hours under certain limited circumstances when he or she initially enters the United States. This ensures that potential national security threats, such as ISIL terrorists, won't be able to "go dark" in the U.S. • Increases the statutory maximum prison sentence to 20 years for providing material support or resources to a designated foreign terrorist organization. • Protects United States' maritime activities from nuclear, weapons of mass destruction, and other threats by implementing the obligations of various treaties to which the United States is a party. • The bill preserves the traditional operational use of intelligence-gathering authorities by the FBI and other intelligence agencies. • Reauthorizes Section 215, roving wiretaps and lone wolf definition to December 2019.

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Protects Civil Liberties

- Ends bulk collection: Prohibits bulk collection of ALL records under Section 215 of the PATRIOT Act, the FISA pen register authority, and national security letter statutes.
- Prevents government overreach: The bulk collection prohibition is strengthened by prohibiting large-scale, indiscriminate collection, such as all records from an entire state, city, or zip code.
- Allows challenges of national security letter gag orders: NSL nondisclosure orders must be based upon a danger to national security or interference with an investigation. Codifies procedures for individual companies to challenge nondisclosure orders. Requires periodic review of nondisclosure orders to determine necessity.

Improves Transparency and Better Information-Sharing with the American People

- Expertise at the FISA court: The bill creates a panel of amicus curie at the FISA court to provide guidance on matters of privacy and civil liberties, communications technology, and other technical or legal matters.
- Declassified FISA opinions: All significant constructions or interpretations of law by the FISA court must be made public. These include all significant interpretations of the definition of "specific selection term," the concept at the heart of the ban on bulk collection.
- Robust government reporting: The Attorney General and the Director of National Intelligence will provide the public with detailed information about how they use these national security authorities.
- Robust company reporting: Tech companies will have a range of options for describing how they respond to national security orders, all consistent with national security needs.

Strengthens National Security

- Gives the government the tools it needs: Creates a new call detail records program that is closely overseen by the FISA court.
- Contains an additional tool to combat ISIL: The bill closes a loophole in current law that requires the government to stop tracking foreign terrorists when they enter the U.S. This provision gives the government 72 hours to track foreign terrorists when they initially enter the United States (it does not apply to U.S. persons) – enough time for the government to obtain the proper authority under U.S. law.
- Increases the statutory maximum prison sentence to 20 years for providing material support or resources to a designated foreign terrorist organization.
- Protects United States' maritime activities from nuclear threats, weapons of mass destruction, and other threats by implementing the obligations of various treaties to which the United States is a party.
- Provides strictly limited emergency authorities: Creates new procedures for the emergency use of Section 215 but requires the government to destroy the information it collects if a FISA court application is denied.