

Opening Statement
Manager's Amendment
F. James Sensenbrenner
May 7, 2014

I want to thank the Members of the Committee for coming together to reach this agreement—Particularly, Chairman Goodlatte, for his steady, responsible leadership; Ranking Member Conyers, and Congressmen Nadler, Scott, and Forbes for their passion and considerable expertise.

It's no secret that Congress has grown more divisive, so it's gratifying—even nostalgic—for me to see this committee come together to address one of the most challenging and important issues facing our country.

I remember this committee similarly cooperating after September 11. I was Chairman of the Committee at the time of those horrific attacks. We were asked, in short order, to fundamentally restructure how the government operated to protect our national security.

The intensity of that debate exceeded anything I've experienced in my career. Then-Speaker Dennis Hastert was under considerable pressure to bring a bill to the floor. As with today's debate, leadership threatened to bypass the Committee's jurisdiction. I pleaded for patience and asked him to have faith in this Committee. To his credit, he agreed, and gave me one month to broker a deal.

The Committee banded together and passed the USA PATRIOT Act with unanimous, bipartisan support. I believe this Committee's actions made the country safer, while protecting the cherished civil liberties that distinguish us from our enemies. We're here today, however, because the government has misapplied the law we passed.

The Administration's interpretation of Section 215 is wrong. Under current law, the government can acquire tangible things if they are relevant to an authorized terrorism investigation. In a feat of legal gymnastics, the Administration convinced the FISA court that, because some records in the universe of every phone call Americans make are relevant to counterterrorism, the entire universe of those calls must be relevant. The decision opened the floodgates to a practice of bulk collection that was never before possible—let alone legal—in our country's history.

After the revelations of abuse surfaced last summer, I knew Congress had to act to protect the civil liberties of innocent Americans. As a result, in October of last year, I introduced the USA FREEDOM Act with Senate Judiciary Chairman Patrick Leahy.

Since the bill's introduction, I have worked with members of Congress in both chambers from across the political spectrum. We have had input from privacy groups, legal experts, tech companies, allied governments, and the American people. The result is a very strong compromise that the Committee will vote on today.

Today's bill unequivocally ends bulk collection across all the FISA authorities and under National Security Letters.

It creates a new process for the collection of call detail records, pursuant to the Administration's proposal. For counterterrorism purposes only, the government can use a specific selection term to get call detail records when it has a reasonable articulable suspicion that the selection term is associated with a foreign power or an agent of a foreign power.

The bill prohibits the government from intentionally targeting Americans under Section 702 and codifies procedures to minimize the retention and dissemination of nonpublic information about U.S. persons.

To increase transparency and ensure the FISC properly weighs privacy protections, presiding judges of the FISA court will designate five individuals who are eligible to serve as amicus curiae. This is intended to serve the same purpose as a special advocate. These individuals will be experts in privacy and civil liberties, intelligence collection, telecommunications, or any other area of law that may lend legal or technical expertise to the courts. Further, the Attorney General must conduct a declassification review of each decision, order, or opinion of the FISA court that includes a significant construction or interpretation of law.

It also aligns the sunset of the three sun-setting provisions of the USA PATRIOT Act with the sunset of the FISA Amendment Act on December 31, 2017, which will allow the committee the opportunity to conduct proper oversight and verify the law is being properly interpreted and applied.

The bottom line is the amended Freedom Act makes it crystal clear that Congress does not endorse bulk collection and ensures Americans' civil liberties are protected.

On a technical note, today's amendment includes a few changes from the bill noticed on Monday. The Chairman has agreed to these changes with the concurrence of the Ranking Member. They include:

- Adding a definition of "specific selection term" to strengthen the prohibition on bulk collection
- Striking the long title of the bill
- Making technical changes to the emergency authority provisions of Section 215
- Including the Lone Wolf provisions in the revised sunsets; and
- Clarifying that the Administration's collection of call detail records is limited to "two hops" from the original target.

I urge my colleagues to support this amendment, and I yield back the balance of my time.

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