



Fact Sheet: The USA FREEDOM Act of 2014 (S. 2685)

The USA FREEDOM Act of 2014 will give the Intelligence Community an updated legal framework to strengthen national security while also protecting the privacy rights of Americans. This legislation will end the bulk collection of Americans' private records, provide the Intelligence Community the authority it needs to collect phone records in a targeted manner, and require more transparency about government surveillance activities. It has broad bipartisan support among the Intelligence Community, the technology industry, and privacy and civil liberties advocates.

Banning Bulk Collection of Americans' Private Records

Banning bulk collection. This bill bans bulk collection by requiring the government to use a specific selection term as the basis for collection to narrowly limit the scope of its collection, and makes clear that the government may not collect all information relating to a particular service provider or to a broad geographic region, such as a city, zip code or area code. Under current law, the Foreign Intelligence Surveillance Court has approved the bulk data collection of phone records under Section 215 of the USA PATRIOT ACT (P.L. 107 – 56, as amended). Various panels of legal, national security, and industry experts have called for an end to the bulk collection of phone records, calling into question its constitutionality and effectiveness:

- The President's Review Group on Intelligence and Communications Technology called for an end to bulk collection, concluding that, “the information contributed to terrorist investigations by the use of section 215 telephony meta-data was not essential to preventing attacks and could readily have been obtained in a timely manner using conventional section 215 orders.” [[Washington Post](#), 12/18/13]
- The Privacy and Civil Liberties Oversight Board has also called for an end to bulk collection, concluding that the program “lacks a viable legal foundation under Section 215, implicates constitutional concerns under the First and Fourth Amendments, raises serious threats to privacy and civil liberties as a policy matter, and has shown only limited value. As a result, the board recommends that the government end the program.” [[NYTimes](#), 1/23/14]
- A federal judge in the United States District Court of Columbia ruled that the Section 215 bulk phone record collection program violates Americans' reasonable expectation of privacy and constitutes an unreasonable search or seizure under the Fourth Amendment. In his opinion, Judge Richard Leon also questions the efficacy of the program in protecting Americans, stating that “the Government does not cite a single instance in which analysis of the NSA's bulk metadata collection actually stopped an imminent

attack, or otherwise aided the Government in achieving any objective that was time sensitive in nature.” [\[United States District Court for the District of Columbia, 12/16/13\]](#)

Using a targeted approach. To replace the bulk collection of telephone records, the bill creates a new authority under Section 215 that allows the government to obtain two hops of “call detail records” on a daily basis, if the government can demonstrate reasonable, articulable suspicion that its search term is associated with a foreign terrorist organization.

Strengthening Oversight and Privacy Protections

Imposing new privacy protections for FISA pen registers and trap and trace devices. The bill ensures that the FISA pen register / trap and trace statute and National Security Letters (NSL) statutes cannot be used to justify bulk collection.

Providing more transparency about government surveillance activities. The bill requires the government to report the number of individuals whose information has been collected using various authorities, the number of those individuals who were likely Americans, and the number of searches run on Americans in certain databases, subject to certain exceptions. It also requires the declassification of significant interpretations of law by the FISA Court. It also gives private companies four options for reporting public information about the number of FISA orders and national security letters they receive. [\[Chairman Leahy, 7/29/14\]](#)

Reforming the FISA Court process. The bill requires the FISA Court to appoint a panel of special advocates who can serve as amicus curiae when the Court confronts significant or novel legal issues and expands the opportunity to appeal FISA Court decisions. [\[Chairman Leahy, 7/29/14\]](#)

Bringing Section 215 and National Security Letter nondisclosure orders into compliance with the First Amendment. This legislation improves the judicial review procedures for nondisclosure orders that accompany Section 215 and national security letters. These changes respond to decisions by Federal courts finding that such provisions violate the First Amendment. [\[Chairman Leahy on introduction of USA Freedom Act of 2014 before Senate Judiciary Committee, 7/29/14\]](#)

Support for the USA FREEDOM Act

The USA FREEDOM Act of 2014 is supported by the Intelligence Community and law enforcement. In a letter to Chairman Patrick J. Leahy, Attorney General Eric H. Holder and Director of National Intelligence James R. Clapper expressed support for the bill, writing that “the Intelligence Community believes that your bill preserves the essential Intelligence Community capabilities ... and ... that it is a reasonable compromise that enhances privacy and civil liberties and increases transparency.” [\[Letter from Attorney General Eric Holder and Director of National Intelligence James Clapper to Chairman Leahy, 9/2/14\]](#)

The USA FREEDOM Act of 2014 is supported by an expansive group of privacy, civil liberties and technology groups and companies. The USA FREEDOM Act of 2014 is supported by privacy and civil liberties advocates and technology organizations such as: the

American Civil Liberties Union (ACLU); the Bill of Rights Defense Committee; the Brennan Center for Justice; the Business Software Alliance (BSA); the Campaign for Digital Fourth Amendment Rights; the Campaign for Reader Privacy; the Center for Democracy and Technology (CDT); the Center for National Security Studies (CNSS); the Charity & Security Network; Citizen Outreach; the Competitive Enterprise Institute; the Computer and Communications Industry Association (CCIA); the Constitution Alliance; the Freedom of the Press Foundation; the Government Accountability Project (GAP); Human Rights Watch; the Information Technology Industry Council (ITI); the James Madison Project; the Liberty Coalition; Media Alliance; the Medical Library Association; the National Coalition Against Censorship; the National Rifle Association (NRA); National Security Counselors; the New America Foundation's Open Technology Institute (OTI); OpenMedia.org; OpenTheGovernment.org; the Project On Government Oversight (POGO); Public Knowledge; R Street Institute; Reform Government Surveillance (AOL, Apple, Dropbox, Facebook, Google, LinkedIn, Microsoft, Twitter, and Yahoo!); the Republican Liberty Caucus; the Rutherford Institute; the Software and Information Industry Association (SIIA); the Student Net Alliance; TechFreedom; and The Constitution Project. [[New America Coalition letter in support of USA Freedom Act of 2014](#), 9/4/14]