H. R.      

To repeal the USA PATRIOT Act and the FISA Amendments Act of 2008, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. POCAN introduced the following bill; which was referred to the Committee
on ____________________

A BILL

To repeal the USA PATRIOT Act and the FISA Amendments Act of 2008, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Surveillance State Re-
peal Act”.

SEC. 2. REPEAL OF USA PATRIOT ACT.

(a) REPEAL.—The USA PATRIOT Act (Public Law
107–56) is repealed, and the provisions of law amended
or repealed by such Act are restored or revived as if such Act had not been enacted.

(b) DESTRUCTION OF CERTAIN INFORMATION.—The Director of National Intelligence and the Attorney General shall destroy any information collected under the USA PATRIOT Act (Public Law 107-56) and the amendments made by such Act, as in effect the day before the date of the enactment of this Act, concerning a United States person that is not related to an investigation that is actively ongoing on such date.


(a) REPEAL.—The FISA Amendments Act of 2008 (Public Law 110–261; 122 Stat. 2477) is repealed, and the provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted.

(b) EXCEPTION.—Subsection (a) of this Act shall not apply to sections 103 and 110 of the FISA Amendments Act of 2008 (Public Law 110–261; 122 Stat. 2477).

(c) DESTRUCTION OF CERTAIN INFORMATION.—The Director of National Intelligence and the Attorney General shall destroy any information collected under section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), as in effect the day before the date of the enactment of this Act, concerning a United States person
that is not related to an investigation that is actively ongo-
ing on such date.

SEC. 4. TERMS OF JUDGES ON FOREIGN INTELLIGENCE
SURVEILLANCE COURT; REAPPOINTMENT;
SPECIAL MASTERS.

(a) TERMS; REAPPOINTMENT.—Section 103(d) of the
Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
1803(d)) is amended—

(1) by striking “maximum of seven” and insert-
ing “maximum of ten”; and

(2) by striking “and shall not be eligible for re-
designation”.

(b) SPECIAL MASTERS.—Section 103(f) of such Act,
as amended by section 3 of this Act, is further amended
by adding at the end the following new paragraph:

“(4) SPECIAL MASTERS.—

“(A) The courts established pursuant to sub-
sections (a) and (b) may appoint one or more Spe-
cial Masters to advise the courts on technical issues
raised during proceedings before the courts.

“(B) In this paragraph, the term ‘Special Mas-
ter’ means an individual who has technological ex-
pertise in the subject matter of a proceeding before
a court established pursuant to subsection (a) or
(b).”.
SEC. 5. ELECTRONIC SURVEILLANCE OF SPECIFIED PERSONS WITHOUT REGARD TO SPECIFIC DEVICE.

Section 105(c)(2)(B) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amended to read as follows:

“(B) that, upon the request of the applicant, any person or entity shall furnish the applicant forthwith all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing that target of electronic surveillance;”.


(a) In General.—Title VII of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by section 3 of this Act, is further amended to read as follows:
“TITLE VII—ADDITIONAL PROVISIONS

“SEC. 701. WARRANT REQUIREMENT.

“Notwithstanding any other provision of this Act, no information relating to a United States person may be acquired pursuant to this Act without a valid warrant based on probable cause.”.

(b) Table of Contents Amendments.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by section 3 of this Act, is further amended by striking the items relating to title VII and section 701 and inserting the following new items:

“TITLE VII—ADDITIONAL PROVISIONS

“701. Warrant requirement.”.

SEC. 7. ENCRYPTION AND PRIVACY TECHNOLOGY OF ELECTRONIC DEVICES AND SOFTWARE.

Notwithstanding any other provision of law, the Federal Government shall not mandate that the manufacturer of an electronic device or software for an electronic device build into such device or software a mechanism that allows the Federal Government to bypass the encryption or privacy technology of such device or software.

SEC. 8. GAO COMPLIANCE EVALUATIONS.

(a) In General.—The Comptroller General of the United States shall annually evaluate compliance by the
Federal Government with the provisions of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

(b) REPORT.—The Comptroller General shall annually submit to Congress a report containing the results of the evaluation conducted under subsection (a).

SEC. 9. WHISTLEBLOWER COMPLAINTS.

(a) AUTHORIZATION TO REPORT COMPLAINTS OR INFORMATION.—An employee of or contractor to an element of the intelligence community that has knowledge of the programs and activities authorized by the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) may submit a covered complaint—

(1) to the Comptroller General of the United States;
(2) to the Permanent Select Committee on Intelligence of the House of Representatives;
(3) to the Select Committee on Intelligence of the Senate; or
(4) in accordance with the process established under section 103H(k)(5) of the National Security Act of 1947 (50 U.S.C. 3033(k)(5)).

(b) INVESTIGATIONS AND REPORTS TO CONGRESS.—The Comptroller General shall investigate a covered complaint submitted pursuant to subsection (b)(1) and shall
submit to Congress a report containing the results of the investigation.

(c) COVERED COMPLAINT DEFINED.—In this section, the term “covered complaint” means a complaint or information concerning programs and activities authorized by the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) that an employee or contractor reasonably believes is evidence of—

(1) a violation of any law, rule, or regulation;

or

(2) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

SEC. 10. PROHIBITION ON INTERFERENCE WITH REPORTING OF WASTE, FRAUD, ABUSE, OR CRIMINAL BEHAVIOR.

(a) IN GENERAL.—Notwithstanding any other provision of law, no officer or employee of an element of the intelligence community shall take any retaliatory action against an employee of or contractor to an element of the intelligence community who seeks to disclose or discloses covered information to—

(1) the Comptroller General;

(2) the Permanent Select Committee on Intelligence of the House of Representatives;
(3) the Select Committee on Intelligence of the Senate; or

(4) the Office of the Inspector General of the Intelligence Community.

(b) ADMINISTRATIVE SANCTIONS.—An officer or employee of an element of the intelligence community who violates subsection (a) shall be subject to administrative sanctions, up to and including termination.

(e) DEFINITIONS.—In this section:

(1) COVERED INFORMATION.—The term “covered information” means any information (including classified or sensitive information) that an employee or contractor reasonably believes is evidence of—

(A) a violation of any law, rule, or regulation; or

(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(2) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the meaning given the term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).
SEC. 11. PROHIBITION OF TARGETING UNITED STATES PERSONS UNDER EXECUTIVE ORDER 12333 WITHOUT A WARRANT.

(a) PROHIBITION ON TARGETING OF UNITED STATES PERSONS WITHOUT A WARRANT.—Notwithstanding any other provision of law, no United States person may be the target of an acquisition under Executive Order 12333 without a valid warrant based on probable cause.

(b) AUDIT OF COMPLIANCE WITH PROHIBITION.—

(1) AUDIT.—The Comptroller General of the United States shall annually conduct an audit of intelligence collection under Executive Order 12333 to ensure compliance with the requirement under subsection (a).

(2) REPORT.—The Comptroller General shall annually submit to Congress a report containing the results of each audit conducted under paragraph (1).

(c) DESTRUCTION OF CERTAIN INFORMATION.—The Director of National Intelligence and the Attorney General shall destroy any information collected under Executive Order 12333 without a valid warrant based on probable cause concerning a United States person that is not related to an investigation that is actively ongoing on the date of the enactment of this Act.