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(Original Signature of Member)

114TH CONGRESS  
1ST SESSION

# H. R.

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

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## IN THE HOUSE OF REPRESENTATIVES

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

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# A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. REPEAL OF USA PATRIOT ACT.**

7 The USA PATRIOT Act (Public Law 107–56) is re-  
8 pealed, and the provisions of law amended or repealed by

1 such Act are restored or revived as if such Act had not  
2 been enacted.

3 **SEC. 3. REPEAL OF THE FISA AMENDMENTS ACT OF 2008.**

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5 (Public Law 110–261; 122 Stat. 2477) is repealed, and  
6 the provisions of law amended or repealed by such Act  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

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

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

20 **SEC. 4. TERMS OF JUDGES ON FOREIGN INTELLIGENCE**  
21 **SURVEILLANCE COURT; REAPPOINTMENT;**  
22 **SPECIAL MASTERS.**

23 (a) TERMS; REAPPOINTMENT.—Section 103(d) of the  
24 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.  
25 1803(d)) is amended—

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

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

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

8 “(4) SPECIAL MASTERS.—

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

13 “(B) In this paragraph, the term ‘Special Mas-  
14 ter’ means an individual who has technological ex-  
15 pertise in the subject matter of a proceeding before  
16 a court established pursuant to subsection (a) or  
17 (b).”.

18 **SEC. 5. ELECTRONIC SURVEILLANCE OF SPECIFIED PER-**  
19 **SONS WITHOUT REGARD TO SPECIFIC DE-**  
20 **VICE.**

21 Section 105(c)(2)(B) of the Foreign Intelligence Sur-  
22 veillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amend-  
23 ed to read as follows:

24 “(B) that, upon the request of the appli-  
25 cant, any person or entity shall furnish the ap-

1           plicant forthwith all information, facilities, or  
2           technical assistance necessary to accomplish the  
3           electronic surveillance in such a manner as will  
4           protect its secrecy and produce a minimum of  
5           interference with the services that such carrier,  
6           landlord, custodian, or other person is providing  
7           that target of electronic surveillance;”.

8   **SEC. 6. ADDITIONAL PROVISIONS FOR COLLECTIONS**  
9                   **UNDER THE FOREIGN INTELLIGENCE SUR-**  
10                   **VEILLANCE ACT OF 1978.**

11           (a) IN GENERAL.—Title VII of the Foreign Intel-  
12           ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.),  
13           as amended by section 3 of this Act, is further amended  
14           to read as follows:

15                   **“TITLE VII—ADDITIONAL**  
16                   **PROVISIONS**

17           **“SEC. 701. WARRANT REQUIREMENT.**

18           “Notwithstanding any other provision of this Act, no  
19           information relating to a United States person may be ac-  
20           quired pursuant to this Act without a valid warrant based  
21           on probable cause.”.

22           (b) TABLE OF CONTENTS AMENDMENTS.—The table  
23           of contents in the first section of the Foreign Intelligence  
24           Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as  
25           amended by section 3 of this Act, is further amended by

- 1 striking the items relating to title VII and section 701 and  
2 inserting the following new items:

“TITLE VII—ADDITIONAL PROVISIONS

“701. Warrant requirement.”.

3 **SEC. 7. ENCRYPTION AND PRIVACY TECHNOLOGY OF ELEC-**  
4 **TRONIC DEVICES AND SOFTWARE.**

5 Notwithstanding any other provision of law, the Fed-  
6 eral Government shall not mandate that the manufacturer  
7 of an electronic device or software for an electronic device  
8 build into such device or software a mechanism that allows  
9 the Federal Government to bypass the encryption or pri-  
10 vacy technology of such device or software.

11 **SEC. 8. GAO COMPLIANCE EVALUATIONS.**

12 (a) IN GENERAL.—The Comptroller General of the  
13 United States shall annually evaluate compliance by the  
14 Federal Government with the provisions of the Foreign In-  
15 telligence Surveillance Act of 1978 (50 U.S.C. 1801 et  
16 seq.).

17 (b) REPORT.—The Comptroller General shall annu-  
18 ally submit to Congress a report containing the results of  
19 the evaluation conducted under subsection (a).

20 **SEC. 9. WHISTLEBLOWER COMPLAINTS.**

21 (a) AUTHORIZATION TO REPORT COMPLAINTS OR  
22 INFORMATION.—An employee of or contractor to an ele-  
23 ment of the intelligence community that has knowledge of  
24 the programs and activities authorized by the Foreign In-

1 telligence Surveillance Act of 1978 (50 U.S.C. 1801 et  
2 seq.) may submit a covered complaint—

3 (1) to the Comptroller General of the United  
4 States;

5 (2) to the Permanent Select Committee on In-  
6 telligence of the House of Representatives;

7 (3) to the Select Committee on Intelligence of  
8 the Senate; or

9 (4) in accordance with the process established  
10 under section 103H(k)(5) of the National Security  
11 Act of 1947 (50 U.S.C. 3033(k)(5)).

12 (b) INVESTIGATIONS AND REPORTS TO CONGRESS.—  
13 The Comptroller General shall investigate a covered com-  
14 plaint submitted pursuant to subsection (b)(1) and shall  
15 submit to Congress a report containing the results of the  
16 investigation.

17 (c) COVERED COMPLAINT DEFINED.—In this sec-  
18 tion, the term “covered complaint” means a complaint or  
19 information concerning programs and activities authorized  
20 by the Foreign Intelligence Surveillance Act of 1978 (50  
21 U.S.C. 1801 et seq.) that an employee or contractor rea-  
22 sonably believes is evidence of—

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

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

4 **SEC. 10. PROHIBITION ON INTERFERENCE WITH REPORT-**  
5                           **ING OF WASTE, FRAUD, ABUSE, OR CRIMINAL**  
6                           **BEHAVIOR.**

7           (a) IN GENERAL.—Notwithstanding any other provi-  
8           sion of law, no officer or employee of an element of the  
9           intelligence community shall take any retaliatory action  
10          against an employee of or contractor to an element of the  
11          intelligence community who seeks to disclose or discloses  
12          covered information to—

13                   (1) the Comptroller General;

14                   (2) the Permanent Select Committee on Intel-  
15           ligence of the House of Representatives;

16                   (3) the Select Committee on Intelligence of the  
17           Senate; or

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

20          (b) ADMINISTRATIVE SANCTIONS.—An officer or em-  
21          ployee of an element of the intelligence community who  
22          violates subsection (a) shall be subject to administrative  
23          sanctions, up to and including termination.

24          (c) DEFINITIONS.—In this section:

1 (1) COVERED INFORMATION.—The term “cov-  
2 ered information” means any information (including  
3 classified or sensitive information) that an employee  
4 or contractor reasonably believes is evidence of—

5 (A) a violation of any law, rule, or regula-  
6 tion; or

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

10 (2) INTELLIGENCE COMMUNITY.—The term  
11 “intelligence community” has the meaning given the  
12 term in section 3 of the National Security Act of  
13 1947 (50 U.S.C. 3003).

14 **SEC. 11. PROHIBITION OF TARGETING UNITED STATES**  
15 **PERSONS UNDER EXECUTIVE ORDER 12333**  
16 **WITHOUT A WARRANT.**

17 (a) PROHIBITION ON TARGETING OF UNITED  
18 STATES PERSONS WITHOUT A WARRANT.—Notwith-  
19 standing any other provision of law, no United States per-  
20 son may be the target of an acquisition under Executive  
21 Order 12333 without a valid warrant based on probable  
22 cause.

23 (b) AUDIT OF COMPLIANCE WITH PROHIBITION.—

24 (1) AUDIT.—The Comptroller General of the  
25 United States shall annually conduct an audit of in-



1       telligence collection under Executive Order 12333 to  
2       ensure compliance with the requirement under sub-  
3       section (a).

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