

Sensenbrenner- Leahy USA FREEDOM ACT
H.R. 3361/ S. 1599
Talking Points

The ACLU supports the Sensenbrenner-Leahy surveillance reform bill known as the USA FREEDOM Act. This bipartisan House and Senate bill will begin to correct the many abuses of post-9/11 authorities to collect information on innocent people. It's not a cure-all, but it's a good bill that makes major improvements.

We are asking all members of the House and Senate to cosponsor this legislation. Most importantly, the bill:

Reins in bulk collection of American records under the Patriot Act

- The bill limits section 215 of the Patriot Act so it can no longer collect the phone or other records of every American. Instead, the government would only be able to request records of terrorists and spies, records of people in contact with terrorists and spies, and/or records about the activities of a terrorist or spy under investigation.
- The bill also amends the national security letter statutes, which allow the FBI to request communication, financial, and credit data without a warrant. Investigations in the mid-2000s found that this tool was used to collect records on tens of thousands of people every year, many of them in the US. It would limit NSLs to the same three categories of records as 215 described above.
- The bill amends the pen register statute, which allows the government to collect phone, email, and internet records in real time. Leaked documents show that for a decade this was used for a vast dragnet of American email records. It would be limited to the three categories described above.

Amends the FISA Amendments Act of 2008 (aka "Prism" and "Upstream") to include more privacy protections

- The USA FREEDOM ACT prevents the government from searching for US person information collected under this law unless there is an emergency or it gets a court order.
- The bill limits the type of information collected under this program. Right now, government can collect foreign intelligence to, from, or about a "target", as long as it doesn't intentionally target Americans abroad or people here in the U.S. The legislation would limit the "about" category only to counterterrorism purposes.

- The bill makes sure that if information is collected or maintained in violation of the privacy rules, it cannot be used against people in court or other government actions.
- The bill moves the scheduled expiration of the law from 2017 to 2015 to align it with the next Patriot Act reauthorization.

Begins to amend the secret FISA Court process for expanded judicial review and participation

- The USA FREEDOM Act creates a Public Advocate, appointed by the Privacy and Civil Liberties Oversight Board, which would promote privacy interests before the secret court. The advocate would be able to appeal new interpretations of law to the Court of Review and the Supreme Court. It could also file documents before the court.

Provides more transparency for domestic spying programs

- The bill requires the Attorney General to disclose, or write summaries for, all significant FISA Court decisions written since 2003 and going forward. The Public Advocate would also have the ability to petition the court directly to release the opinions itself.
- The bill amends the gag orders that come with national security information requests so that judges would have discretion to decide whether a gag is necessary for national security purposes and require that it be limited in duration.
- It allows companies that receive national security information requests to release information about the number of requests it receives and the number of users or accounts.