AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3361
OFFERED BY MS. DELBENE OF WASHINGTON

Page 32, line 1, insert “AND NATIONAL SECURITY LETTER” after “FISA”.

Strike section 606 and insert the following new sections:

SEC. 606. GOVERNMENT REPORTING ON FISA ORDERS.

(a) ELECTRONIC SURVEILLANCE.—

(1) REPORT OF ELECTRONIC SURVEILLANCE.—

Section 107 (50 U.S.C. 1807) is amended—

(A) by redesignating subsections (a) and (b) as paragraphs (1) and (2), respectively;

(B) in the matter preceding paragraph (1) (as redesignated by subparagraph (A) of this paragraph)—

(i) by striking “In April” and inserting “(a) In April”; and

(ii) by striking “Congress” and inserting “the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives...
and the Select Committee on Intelligence
and the Committee on the Judiciary of the
Senate’’;

(C) in subsection (a) (as designated by
subparagraph (B) of this paragraph)—

(i) in paragraph (1) (as redesignated
by subparagraph (A) of this paragraph),
by striking ‘‘; and’’ and inserting a semi-
colon;

(ii) in paragraph (2) (as so redesig-
nated), by striking the period and inserting
a semicolon; and

(iii) by adding at the end the fol-
lowing new paragraphs:

‘‘(3) a good faith estimate of the total number
of individuals who were subject to electronic surveil-
ance conducted under an order entered under this
title, rounded to the nearest 100; and

‘‘(4) a good faith estimate of the total number
of individuals located in the United States who were
subject to electronic surveillance conducted under an
order entered under this title, rounded to the nearest
100.’’; and

(D) by adding at the end the following new
subsection:
“(b)(1) Each report required under subsection (a) shall be submitted in unclassified form.

“(2) Not later than 7 days after a report is submitted under subsection (a), the Attorney General shall make such report publicly available.”.

(2) CONGRESSIONAL OVERSIGHT.—Section 108(a)(1) (50 U.S.C. 1808) is amended by striking “the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, and the Committee on the Judiciary of the Senate” and inserting “the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate”.

(b) PHYSICAL SEARCHES.—Section 306 (50 U.S.C. 1826) is amended—

(1) in the first sentence, by striking “Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, and the Committee on the Judiciary of the Senate” and inserting “Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives
and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate”; and

(2) in the second sentence, by striking “and the Committee on the Judiciary of the House of Representatives”.

(c) Pen Register and Trap and Trace Devices.—Section 406 (50 U.S.C. 1846) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking “; and” and inserting a semicolon;

(B) in paragraph (3), by striking the period and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

“(4) each department or agency on behalf of which the Government has made application for orders approving the use of pen registers or trap and trace devices under this title;

“(5) for each department or agency described in paragraph (4), a breakdown of the numbers required by paragraphs (1), (2), and (3);

“(6) a good faith estimate of the total number of individuals whose information was obtained through the use of a pen register or trap and trace
device authorized under an order entered under this title, rounded to the nearest 100;

“(7) a good faith estimate of the total number of individuals located in the United States whose information was obtained through the use of a pen register or trap and trace device authorized under an order entered under this title, rounded to the nearest 100; and

“(8) a good faith estimate of the total number of individuals located in the United States whose information was obtained through the use of a pen register or trap and trace device authorized under an order entered under this title and whose information acquired by such pen register or trap and trace device was subsequently reviewed or accessed by a Federal officer, employee, or agent, rounded to the nearest 100.”; and

(2) by adding at the end the following new subsection:

“(c)(1) Each report required under subsection (b) shall be submitted in unclassified form.

“(2) Not later than 7 days after a report is submitted under subsection (b), the Attorney General shall make such report publicly available.
“(3) In any case where it is not reasonably possible to report an estimate required under paragraph (6), (7), or (8) or of subsection (b) with respect to the total number of individuals, such estimate may be reported with respect to the total number of unique identifiers.”.

(d) ACCESS TO CERTAIN BUSINESS RECORDS AND OTHER TANGIBLE THINGS.—Section 502 (50 U.S.C. 1862) is amended—

(1) in subsection (a), by striking “Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate” and inserting after “Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Committees on the Judiciary of the House of Representatives and the Senate”;

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “to the preceding calendar year—” and inserting “to the preceding calendar year the following:”; 

(B) in paragraph (1)—

(i) by striking “the total” and inserting “The total”; and
(ii) by striking the semicolon and inserting a period;

(C) in paragraph (2)—

(i) by striking “the total” and inserting “The total”; and

(ii) by striking “; and” and inserting a period;

(D) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking “the number” and inserting “The number”; and

(ii) by adding at the end the following new subparagraphs:

“(F) Records concerning electronic communications.

“(G) Records concerning wire communications.

“(H) Information described in subparagraph (A), (B), (C), (D), (E), or (F) of section 2703(c)(2) of title 18, United States Code.”;

and

(E) by adding at the end the following new paragraphs:

“(4) A description of all other tangible things sought by an application made for the production of
any tangible things under section 501, and the num-
ber of orders under such section 501 granted, modi-
fied, or denied, for each tangible thing.

“(5) A description of each order under section
501 granted, modified, or denied for the production
of tangible things on an ongoing basis.

“(6) Each department or agency on whose be-
half the Director of the Federal Bureau of Investiga-
tion or a designee of the Director has made an ap-
plication for an order requiring the production of
any tangible things under section 501.

“(7) For each department or agency described
in paragraph (6), a breakdown of the numbers and
descriptions required by paragraphs (1), (2), (3),
(4), and (5).”; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “; and” and inserting a semicolon;

(ii) in subparagraph (B), by striking the period and inserting a semicolon; and

(iii) by adding at the end the fol-
lowing new subparagraphs:

“(C) a good faith estimate of the total number
of individuals whose tangible things were produced
under an order entered under section 501, rounded
to the nearest 100;

“(D) a good faith estimate of the total number
of individuals located in the United States whose
tangible things were produced under an order en-
tered under section 501, rounded to the nearest 100;
and

“(E) a good faith estimate of the total number
of individuals located in the United States whose
tangible things were produced under an order en-
tered under section 501 and subsequently reviewed
or accessed by a Federal officer, employee, or agent,
rounded to the nearest 100.”; and

(B) by adding at the end the following new
paragraphs

“(3) Not later than 7 days after the date on which
a report is submitted under paragraph (1), the Attorney
General shall make such report publicly available.

“(4) In any case where it is not reasonably possible
to report an estimate required under subparagraph (C),
(D), or (E) of paragraph (1) with respect to the total num-
ber of individuals, such estimate may be reported with re-
spect to the total number of unique identifiers.”.

(e) ADDITIONAL PROCEDURES REGARDING CERTAIN
PERSONS OUTSIDE THE UNITED STATES.—Section 707
of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881f) is amended by adding at the end the following new subsection:

“(c) ADDITIONAL ANNUAL REPORT.—

“(1) REPORT REQUIRED.—In April of each year, the Attorney General shall submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate a report setting forth with respect to the preceding year—

“(A) the total number of—

“(i) directives issued under section 702;

“(ii) orders granted under section 703; and

“(iii) orders granted under section 704;

“(B) good faith estimates of the total number of individuals, rounded to the nearest 100, whose electronic or wire communications or communications records were collected pursuant to—
“(i) a directive issued under section 702;
“(ii) an order granted under section 703; and
“(iii) an order granted under section 704;
“(C) good faith estimates of the total number, rounded to the nearest 100, of individuals located in the United States whose electronic or wire communications or communications records were collected pursuant to—
“(i) a directive issued under section 702, provided that such estimate may rely on statistical sampling with a sample of not more than 1,000 individuals or unique identifiers;
“(ii) an order granted under section 703; and
“(iii) an order granted under section 704; and
“(D) a good faith estimate of the total number of individuals located within the United States whose electronic or wire communications or communications records were collected pursuant to a directive issued under section 702
and subsequently reviewed or accessed by a Federal officer, employee, or agent, rounded to the nearest 100, provided that such estimate may rely on statistical sampling with a sample of not more than 1,000 individuals or unique identifiers.

“(2) FORM.—Each report required under paragraph (1) shall be submitted in unclassified form.

“(3) PUBLIC AVAILABILITY.—Not later than 7 days after the date on which a report is submitted under paragraph (1), the Attorney General shall make such report publicly available.

“(4) ESTIMATES.—In any case where it is not reasonably possible to report an estimate required under subparagraph (B)(i), (C)(i), or (D) of paragraph (1) with respect to the total number of individuals, such estimate may be reported with respect to the total number of unique identifiers.”.

SEC. 607. GOVERNMENT REPORTING ON NATIONAL SECURITY LETTERS.

Section 118(c) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (18 U.S.C. 3511 note) is amended to read as follows:

“(c) REPORT ON REQUESTS FOR NATIONAL SECURITY LETTERS.—
“(1) CLASSIFIED FORM.—

“(A) IN GENERAL.—Not later than March 1, 2015, and every 180 days thereafter, the Attorney General shall submit to the Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Financial Services of the House of Representatives a report fully informing the committees concerning the requests made under section 2709(a) of title 18, United States Code, section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(A)), section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u), or section 802 of the National Security Act of 1947 (50 U.S.C. 3162) during the applicable period.

“(B) CONTENTS.—Each report under subparagraph (A) shall include, for each provision of law described in subparagraph (A)—

“(i) authorized requests under the provision, including requests for subscriber information; and
“(ii) the number of authorized requests under the provision—

“(I) that relate to a United States person;

“(II) that relate to a person that is not a United States person;

“(III) that relate to a person that is—

“(aa) the subject of an authorized national security investigation; or

“(bb) an individual who has been in contact with or otherwise directly linked to the subject of an authorized national security investigation; and

“(IV) that relate to a person that is not known to be the subject of an authorized national security investigation.

“(2) UNCLASSIFIED FORM.—

“(A) IN GENERAL.—Not later than March 1, 2015, and every 180 days thereafter, the Attorney General shall submit to the Select Committee on Intelligence, the Committee on the
Judiciary, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Financial Services of the House of Representatives a report fully informing the committees concerning the aggregate total of all requests identified under paragraph (1) during the applicable period. Each report under this paragraph shall be in unclassified form.

“(B) CONTENTS.—Each report under subparagraph (A) shall include the aggregate total of requests—

“(i) that relate to a United States person;

“(ii) that relate to a person that is not a United States person;

“(iii) that relate to a person that is—

“(I) the subject of an authorized national security investigation; or

“(II) an individual who has been in contact with or otherwise directly linked to the subject of an authorized national security investigation; and
“(iv) that relate to a person that is not known to be the subject of an authorized national security investigation.

“(3) DEFINITIONS.—In this subsection:

“(A) APPLICABLE PERIOD.—The term ‘applicable period’ means—

“(i) with respect to the first report submitted under paragraph (1) or (2), the period beginning 180 days after the date of enactment of the USA FREEDOM Act and ending on December 31, 2014; and

“(ii) with respect to the second report submitted under paragraph (1) or (2), and each report thereafter, the 6-month period ending on the last day of the second month before the date for submission of the report.

“(B) UNITED STATES PERSON.—The term ‘United States person’ has the meaning given that term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).”.