AMENDMENT TO THE SENATE AMENDMENT TO
H.R. 6172
OFFERED BY MS. GABBARD OF HAWAII

Add at the end of amendment number 8 the following:

At the end of title IV, insert the following:

1 SEC. 409. LIMITATION ON AUTHORITIES IN FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.
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3 (a) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—
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5 (1) IN GENERAL.—The Foreign Intelligence
7 is amended by adding at the end the following:
8
“TITLE X—LIMITATIONS
9
“SEC. 1001. LIMITATIONS ON AUTHORITIES TO SURVEIL
10 UNITED STATES PERSONS AND ON USE OF INFORMATION CONCERNING UNITED STATES
11 PERSONS.
12
“(a) DEFINITIONS.—In this section:
13
“(1) PEN REGISTER AND TRAP AND TRACE DEVICE.—The terms ‘pen register’ and ‘trap and trace
device’ have the meanings given such terms in section 3127 of title 18, United States Code.

“(2) UNITED STATES PERSON.—The term ‘United States person’ has the meaning given such term in section 101.

“(b) LIMITATION ON AUTHORITIES.—Notwithstanding any other provision of this Act, an officer of the United States may not under this Act request an order for, and the Foreign Intelligence Surveillance Court may not under this Act order—

“(1) electronic surveillance of a United States person;

“(2) a physical search of a premises, information, material, or property used exclusively by, or under the open and exclusive control of, a United States person;

“(3) approval of the installation and use of a pen register or trap and trace device to obtain information concerning a United States person;

“(4) the production of tangible things (including books, records, papers, documents, and other items) concerning a United States person; or

“(5) the targeting of a United States person for the acquisition of information.
“(c) LIMITATION ON USE OF INFORMATION CONCERNING UNITED STATES PERSONS.—

“(1) DEFINITION OF AGGRIEVED PERSON.—In this subsection, the term ‘aggrieved person’ means a person who is the target of any surveillance activity under this Act or any other person whose communications or activities were subject to any surveillance activity under this Act.

“(2) IN GENERAL.—Except as provided in paragraph (3), any information concerning a United States person acquired under this Act shall not be used in evidence against that United States person in any criminal, civil, or administrative proceeding or as part of any criminal, civil, or administrative investigation.

“(3) USE BY AGGRIEVED PERSONS.—An aggrieved person who is a United States person may use information concerning such person acquired under this Act in a criminal, civil, or administrative proceeding or as part of a criminal, civil, or administrative investigation.

“(d) WARRANTS.—An officer of the United States seeking to conduct electronic surveillance, a physical search, installation and use of a pen register or trap and trace device, production of tangible things, or targeting
for acquisition of information with respect to a United States person as described in subsection (b) may only conduct such activities pursuant to a warrant issued using the procedures described in the Federal Rules of Criminal Procedure by a Federal court other than the Foreign Intelligence Surveillance Court.”.

(2) CLERICAL AMENDMENT.—The table of contents preceding section 101 is amended by adding at the end the following:

“TITLE IX—LIMITATIONS

“Sec. 1001. Limitations on authorities to surveil United States persons and on use of information concerning United States persons.”.

(b) LIMITATION ON SURVEILLANCE UNDER EXECUTIVE ORDER 12333.—

(1) DEFINITIONS.—In this subsection:

(A) AGGRIEVED PERSON.—The term “aggrieved person” means a person who is the target of any surveillance activity under Executive Order 12333 (50 U.S.C. 3001 note; relating to United States intelligence activities) or any other person whose communications or activities were subject to any surveillance activity under such Executive Order.

(B) PEN REGISTER; TRAP AND TRACE DEVICE; UNITED STATES PERSON.—The terms “pen register”, “trap and trace device”, and
“United States person” have the meanings given such terms in section 1001 of the Foreign Intelligence Surveillance Act of 1978, as added by subsection (a).

(2) LIMITATION.—Except as provided in paragraph (3), any information concerning a United States person acquired under Executive Order 12333 (50 U.S.C. 3001 note; relating to United States intelligence activities) shall not be used in evidence against that United States person in any criminal, civil, or administrative proceeding or as part of any criminal, civil, or administrative investigation.

(3) USE BY AGGRIEVED PERSONS.—An aggrieved person who is a United States person may use information concerning such person acquired under Executive Order 12333 in a criminal, civil, or administrative proceeding or as part of a criminal, civil, or administrative investigation.