AMENDMENT TO
RULES COMMITTEE PRINT 117–54
OFFERED BY MS. JACOBS OF CALIFORNIA

At the end of subtitle G of title X, add the following:

SEC. 10. REPORT ON PURCHASE AND USE BY DEPARTMENT OF DEFENSE OF LOCATION DATA GENERATED BY AMERICANS’ PHONES AND THEIR INTERNET METADATA.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees and make available to the public on an internet website of the Department of Defense a report that—

(1) identifies each covered entity that is currently, or during the five year period ending on the date of the enactment of this Act was, without a court order—

(A) obtaining in exchange for anything of value any covered records; and

(B) intentionally retaining or intentionally using such covered records; and

(2) for each covered entity identified pursuant to paragraph (1), identifies—
(A) each category of covered record the
covered entity, without a court order, is obtain-
ing or obtained, in exchange for anything of
value;

(B) whether the covered entity inten-
tionally retained or is intentionally retaining
each category of covered records pursuant to
subparagraph (A);

(C) whether the covered entity inten-
tionally uses or used each category of covered
records identified pursuant to subparagraph
(A); and

(D) whether such obtaining, retention, and
use ceased before the date of the enactment of
this Act or is ongoing.

(b) FORM.—The report submitted under subsection
(a) shall be submitted in unclassified form.

(c) DETERMINATION OF PARTIES TO A COMMUNICA-
TION.—In determining under this section whether a party
to a communication is likely to be located inside or outside
the United States, the Secretary shall consider the Inter-
net Protocol (IP) address used by the party to the commu-
ication, but may also consider other information known
to the Secretary.

(d) DEFINITIONS.—In this section:
(1) The term “covered entities” means the Defense Agencies, Department of Defense activities, and components of the Department that—

(A) are under the authority, direction, and control of the Under Secretary of Defense for Intelligence and Security; or

(B) over which the Under Secretary exercises planning, policy, funding, or strategic oversight authority.

(2) The term “covered records” includes the following:

(A) Location data generated by phones that are likely to be located in the United States.

(B) Domestic phone call records.

(C) International phone call records.

(D) Domestic text message records.

(E) International text message records.

(F) Domestic netflow records.

(G) International netflow records.

(H) Domestic Domain Name System records.

(I) International Domain Name System records.
(J) Other types of domestic internet metadata.

(K) Other types of international internet metadata.

(3) The term “domestic” means a telephone or an internet communication in which all parties to the communication are likely to be located in the United States.

(4)(A) The term “international” means a telephone or an internet communication in which one or more parties to the communication are likely to be located in the United States and one or more parties to the communication are likely to be located outside the United States.

(B) The term “international” does not include a telephone or an internet communication in which all parties to the communication are likely to be located outside the United States.

(5) The term “obtain in exchange for anything of value” means to obtain by purchasing, to receive in connection with services being provided for consideration, or to otherwise obtain in exchange for consideration, including an access fee, service fee, maintenance fee, or licensing fee.
(6)(A) Except as provided in subparagraph (B), the term “retain” means the storage of a covered record.

(B) The term “retain” does not include the temporary storage of a covered record that will be, but has not yet been, subjected to a process in which the covered record, which is part of a larger compilation containing records that are not covered records, are identified and deleted.

(7)(A) Except as provided in subparagraph (B), the term “use”, with respect to a covered record, includes analyzing, processing, or sharing the covered record.

(B) The term “use” does not include subjecting the covered record to a process in which the covered record, which is part of a larger compilation containing records that are not covered records, are identified and deleted.