

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:

1 **SEC. 10 ____ . REPORT ON PURCHASE AND USE BY DEPART-**
2 **MENT OF DEFENSE OF LOCATION DATA GEN-**
3 **ERATED BY AMERICANS' PHONES AND THEIR**
4 **INTERNET METADATA.**

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

10 (1) identifies each covered entity that is cur-
11 rently, or during the five year period ending on the
12 date of the enactment of this Act was, without a
13 court order—

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

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

18 (2) for each covered entity identified pursuant
19 to paragraph (1), identifies—

1 (A) each category of covered record the
2 covered entity, without a court order, is obtain-
3 ing or obtained, in exchange for anything of
4 value;

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

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

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

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

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

25 (d) DEFINITIONS.—In this section:

1 (1) The term “covered entities” means the De-
2 fense Agencies, Department of Defense activities,
3 and components of the Department that—

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

7 (B) over which the Under Secretary exer-
8 cises planning, policy, funding, or strategic
9 oversight authority.

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

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

15 (B) Domestic phone call records.

16 (C) International phone call records.

17 (D) Domestic text message records.

18 (E) International text message records.

19 (F) Domestic netflow records.

20 (G) International netflow records.

21 (H) Domestic Domain Name System
22 records.

23 (I) International Domain Name System
24 records.

1 (J) Other types of domestic internet
2 metadata.

3 (K) Other types of international internet
4 metadata.

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

9 (4)(A) The term “international” means a tele-
10 phone or an internet communication in which one or
11 more parties to the communication are likely to be
12 located in the United States and one or more parties
13 to the communication are likely to be located outside
14 the United States.

15 (B) The term “international” does not include
16 a telephone or an internet communication in which
17 all parties to the communication are likely to be lo-
18 cated outside the United States.

19 (5) The term “obtain in exchange for anything
20 of value” means to obtain by purchasing, to receive
21 in connection with services being provided for con-
22 sideration, or to otherwise obtain in exchange for
23 consideration, including an access fee, service fee,
24 maintenance fee, or licensing fee.

1 (6)(A) Except as provided in subparagraph (B),
2 the term “retain” means the storage of a covered
3 record.

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

10 (7)(A) Except as provided in subparagraph (B),
11 the term “use”, with respect to a covered record, in-
12 cludes analyzing, processing, or sharing the covered
13 record.

14 (B) The term “use” does not include subjecting
15 the covered record to a process in which the covered
16 record, which is part of a larger compilation con-
17 taining records that are not covered records, are
18 identified and deleted.

