

# WHITE HOUSE SUPPORTS USA FREEDOM ACT, WITH BATES-CLAPPER CAVEATS ABOUT AMICUS

The White House has come out with an [enthusiastic statement](#) supporting USA Freedom Act.

The Administration strongly supports Senate passage of S. 2685, the USA FREEDOM Act. In January, the President called on Congress to enact important changes to the Foreign Intelligence Surveillance Act (FISA) that would keep our Nation safe, while enhancing privacy and better safeguarding our civil liberties. This past spring, a broad bipartisan majority of the House passed a bill that answered the President's call. S. 2685 carefully builds on the good work done in the House and has won the support of privacy and civil liberties advocates and the private sector, including significant members of the technology community. As the Attorney General and the Director of National Intelligence stated in a letter dated September 2, 2014, the bill is a reasonable compromise that enhances privacy and civil liberties and increases transparency.

The bill strengthens the FISA's privacy and civil liberties protections, while preserving essential authorities that our intelligence and law enforcement professionals need.

It says the bill ends bulk collection which

might be a useful record if the President used a definition besides “without any discriminator,” but that is what he is on the record as meaning by “bulk.”

The bill would prohibit bulk collection through the use of Section 215, FISA pen registers, and National Security Letters while maintaining critical authorities to conduct more targeted collection. The Attorney General and the Director of National Intelligence have indicated that the bill will retain the essential operational capabilities of the existing bulk telephone metadata program while eliminating bulk collection, based on communications providers’ existing practices.

Perhaps the most troubling part of Obama’s statement, however, is its endorsement of John Bates’ language about the amicus as echoed by James Clapper and Eric Holder, which among other things [said](#) that the amicus could not be required to represent the interests of civil liberties and privacy.

The bill also authorizes an independent voice in significant cases before the Foreign Intelligence Surveillance Court (FISC) – *the Administration is aware of the concerns with regard to this issue, as outlined in the letter from the Attorney General and the Director of National Intelligence, and the Administration anticipates that Congress will address those concerns.* Finally, the bill will enhance transparency by expanding the amount of information providers can disclose and increasing public reporting requirements.

In sum, this legislation will help strengthen Americans’ confidence in the Government’s use of these important national security authorities. Without passage of this bill, critical

authorities that are appropriately reformed in this legislation could expire next summer. The Administration urges Congress to take action on this legislation now, since delay may subject these important national security authorities to brinksmanship and uncertainty. The Administration urges the Senate to pass the USA FREEDOM Act and for the House to act expeditiously so that the President can sign legislation into law this year. [my emphasis]

As I said [here](#), the designed impotence of the amicus is not a reason to oppose the bill; it's just a reason to expect to have to wait 9 years before it becomes functional, as happened with PCL0B. Still, it is very very troubling that given all the evidence that the Executive has been abusing the process of the FISC for a decade, the Executive is moving to ensure they'll still be able to do so.