

AMENDMENT TO H.R. 10
OFFERED BY MS. HARMAN

At the end of subtitle B of title I, insert the following new section (and conform the table of contents accordingly):

1 **SEC. 1023. PRIVACY AND CIVIL LIBERTIES OVERSIGHT**
2 **BOARD.**

3 (a) IN GENERAL.—There is established within the intel-
4 ligence community a Privacy and Civil Liberties Oversight
5 Board (referred to in this title as the “Board”).

6 (b) PURPOSE.—The Board shall ensure that concerns with
7 respect to civil liberties and privacy are appropriately consid-
8 ered in the development and implementation of laws, regula-
9 tions, and policies related to efforts of the intelligence commu-
10 nity to protect the Nation against terrorism.

11 (c) FUNCTIONS.—

12 (1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT
13 AND IMPLEMENTATION.—The Board shall—

14 (A) review the implementation of new and existing
15 legislation, regulations, and policies related to efforts of
16 the intelligence community to protect the Nation from
17 terrorism, including the implementation of intelligence
18 information sharing pursuant to section 102A(g) of the
19 National Security Act of 1947 (as amended by section
20 1011(a));

21 (B) advise the National Intelligence Director and,
22 through the National Intelligence Director, the heads of
23 the Federal executive departments and agencies to en-
24 sure that privacy and civil liberties are appropriately
25 considered in the development and implementation of
26 such legislation, regulations, policies, and guidelines;
27 and

1 (C) review proposed legislation, regulations, and
2 policies to ensure—

3 (i) that the proposals materially enhance secu-
4 rity; and

5 (ii) that there is adequate supervision of the
6 use of the power to ensure protection of civil lib-
7 erties and privacy.

8 (2) OVERSIGHT.—The Board shall continually
9 review—

10 (A) the regulations, policies, and procedures and
11 the implementation of the regulations, policies, proce-
12 dures, and related laws pertaining to the intelligence
13 community to ensure that privacy and civil liberties are
14 protected; and

15 (B) the intelligence information sharing practices
16 of the intelligence community to determine whether
17 they appropriately protect privacy and civil liberties
18 and adhere to the intelligence information sharing
19 guidelines promulgated under such section 102A(g) and
20 to other governing laws, regulations, and policies re-
21 garding the protection of privacy and civil liberties.

22 (d) REPORTS.—

23 (1) IN GENERAL.—The Board shall—

24 (A) receive and review reports from the Civil Lib-
25 erties Protection Officer described in section 1022; and

26 (B) periodically submit, not less than annually, re-
27 ports to the National Intelligence Director and the
28 Congress.

29 (2) CONTENTS.—Each report submitted under para-
30 graph (1)(B) shall include—

31 (A) a description of the major activities of the
32 Board during the reporting period; and

33 (B) information on the findings, conclusions, and
34 recommendations of the Board resulting from its advice
35 and oversight functions under subsection (c).

36 (e) INFORMING THE PUBLIC.—Subject to the direction
37 of the National Intelligence Director, the Board may hold

1 public forums, publish public reports, and otherwise inform
2 the public of its activities, as appropriate and in a manner
3 consistent with the protection of classified information and
4 applicable law.

5 (f) ACCESS TO INFORMATION.—If determined by the
6 Board to be necessary to carry out its responsibilities under
7 this section, the Board may—

8 (1) request the National Intelligence Director to se-
9 cure directly from any element of the intelligence commu-
10 nity and other Federal agencies, all relevant records, re-
11 ports, audits, reviews, documents, papers, or recommenda-
12 tions, including classified information consistent with appli-
13 cable law; and

14 (2) interview, take statements from, or take testimony
15 from personnel of any element of the intelligence commu-
16 nity.

17 (g) MEMBERSHIP.—

18 (1) MEMBERS.—The Board shall be composed of a
19 chairman and 4 additional members, who shall be ap-
20 pointed by the President, upon the recommendation of the
21 National Intelligence Director.

22 (2) QUALIFICATIONS.—Members of the Board shall be
23 selected solely on the basis of their professional qualifica-
24 tions, achievements, public stature, and relevant experience,
25 and without regard to political affiliation.

26 (3) INCOMPATIBLE OFFICE.—An individual appointed
27 to the Board may not, while serving on the Board, be an
28 elected official, an officer, or an employee of the Federal
29 Government, other than in the capacity as a member of the
30 Board.

31 (h) COMPENSATION AND TRAVEL EXPENSES.—

32 (1) COMPENSATION.—

33 (A) CHAIRMAN.—The chairman shall be com-
34 pensated at a rate equal to the daily equivalent of the
35 annual rate of basic pay in effect for a position at level
36 III of the Executive Schedule under section 5314 of
37 title 5, United States Code, for each day during which

1 the chairman is engaged in the actual performance of
2 the duties of the Board.

3 (B) MEMBERS.—Each member of the Board shall
4 be compensated at a rate equal to the daily equivalent
5 of the annual rate of basic pay in effect for a position
6 at level IV of the Executive Schedule under section
7 5315 of title 5, United States Code, for each day dur-
8 ing which that member is engaged in the actual per-
9 formance of the duties of the Board.

10 (2) TRAVEL EXPENSES.—Members of the Board shall
11 be allowed travel expenses, including per diem in lieu of
12 subsistence, at rates authorized for persons employed inter-
13 mittently by the Government under section 5703(b) of title
14 5, United States Code, while away from their homes or reg-
15 ular places of business in the performance of services for
16 the Board.

17 (i) STAFF.—

18 (1) APPOINTMENT AND COMPENSATION.—The Chair-
19 man, in accordance with rules agreed upon by the Board,
20 shall appoint and fix the compensation of an executive di-
21 rector and such other personnel as may be necessary to en-
22 able the Board to carry out its functions, without regard
23 to the provisions of title 5, United States Code, governing
24 appointments in the competitive service, and without regard
25 to the provisions of chapter 51 and subchapter III of chap-
26 ter 53 of such title relating to classification and General
27 Schedule pay rates, except that no rate of pay fixed under
28 this subsection may exceed the equivalent of that payable
29 for a position at level V of the Executive Schedule under
30 section 5316 of title 5, United States Code.

31 (2) DETAILEES.—The National Intelligence Director
32 may detail any Federal employee within an element of the
33 intelligence community to the Board without reimburse-
34 ment from the Board, and such detailee shall retain the
35 rights, status, and privileges of the detailee's regular em-
36 ployment without interruption.

1 (3) CONSULTANT SERVICES.—The Board may pro-
2 cure, through the National Intelligence Director, the tem-
3 porary or intermittent services of experts and consultants
4 in accordance with section 3109 of title 5, United States
5 Code, at rates that do not exceed the daily rate paid a per-
6 son occupying a position at level IV of the Executive Sched-
7 ule under section 5315 of such title.

8 (j) SECURITY CLEARANCES.—The appropriate Executive
9 agencies shall cooperate with the Board to expeditiously provide
10 the Board members and staff with appropriate security clear-
11 ances to the extent possible under existing procedures and re-
12 quirements, except that no person shall be provided with access
13 to classified information under this section without the appro-
14 priate security clearances.

15 (k) APPLICATION OF FACA.—The Board is not an advi-
16 sory committee (as defined in section 3(2) of the Federal Advi-
17 sory Committee Act (5 U.S.C. App.)) for purposes of that Act.

18 (l) AUTHORIZATION OF APPROPRIATIONS.—There are au-
19 thorized to be appropriated such sums as may be necessary to
20 carry out this section.